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

**AA8078**

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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.

**Operative words including words to bind the burdened land and words of annexation must not be included.**

Provisions to apply to the transfer:

**Burdened land:** THE LAND BEING TRANSFERRED

**Benefited land:** EVERY OTHER LOT OR ROAD SHOWN ON PLAN OF SUBDIVISION 830935M, WITH THE EXCEPTION OF LOT A

**Covenants:** 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.

**Reserve**

The public land abutting lots 11, 12, 13, 14 and 15.

**Front Building Line**

Means the front wall of any room of the dwelling (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.

**Facade**

Means a wall of a building running parallel (or mostly parallel) to the street boundary and comprising floor to ceiling or full-length windows in at least one Habitable Living Area allowing active surveillance of the public realm, and designed to front the street.

**Primary Facade**

Means the facade which is parallel (or mostly parallel) to the street boundary which Council defines as the street address of the lot.

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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.

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

### Secondary Facade

Means the facade on a corner lot which is located parallel (or mostly parallel) to a secondary street (i.e. not the street address for the lot).

### Battle Axe Block

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

### Covenants:

#### 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 Benalla Rural City Council (as the relevant Planning Authority), where applicable.
- 1.2 Other than lots 5 and 11, which are designated as a multiple dwelling lot and may be further subdivided into two lots, all other lots must not be further subdivided.
- 1.3 Other than lots 5 and 11, which are permitted to be developed as multiple dwelling lots, no building may be erected or permitted to remain on the lot, except a single, private, residential dwelling.
- 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).
- 1.6 The external walls of any main residence 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 No rooms in the main residence may have a ceiling height of 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 main residence 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.

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Should a secondary garage be required it must be set back 500mm 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 The main residence (including the garage) on a lot, must not be erected or permitted to remain unless it has the following minimum setbacks from the title boundary:
  - 1.11.1 Front building line - Set back from the title boundary of the main street frontage - 6.0 metres.
  - 1.11.2 Set back from the rear boundary abutting another residential lot - 3.0 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.
- 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 No fences connecting to the main residence and running parallel to the main street frontage, may be built of colours and materials other than those of the perimeter fence, being Colorbond, colour "Grey Ridge" or "Woodland Grey".
- 1.16 The following restrictions apply to lots 1 to 15 and prevail to the extent of any inconsistencies herein:
  - 1.16.1 Benalla Rural City Council, as the relevant planning authority, requires minimum floor levels, which are as follows:

Lot No.	Minimum Floor Level (AHD)
1	169.10 m
2	169.05 m
3	169.10 m
4	169.10 m
5	169.05 m
6	168.95 m
7	168.95 m
8	169.05 m
9	169.00 m
10	168.90 m
11	169.10 m
12	169.05 m
13	169.05 m
14	169.00 m
15	169.00 m

## Memorandum of common provisions

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- 1.17 The following restrictions apply to all corner allotments and prevail to the extent of any inconsistencies herein:
- 1.17.1 Buildings and fencing must not be erected or permitted to remain unless they have the following minimum setbacks from the title boundary:
- 1.17.1.1 Main street frontage - 6.0 metres
- 1.17.1.2 Secondary frontage - 4.0 metres
- 1.17.2 No main residence may be erected or permitted to remain on the lot, unless it has a primary and secondary façade, both of which must contain articulation to create depth by using features such as columns, verandas, recessed windows or window bays.
- 1.17.3 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:
- 1.17.3.1 plans, specifications and designs of the fence have been previously submitted to and approved by the Transferor;
- 1.17.3.2 Such fence is constructed in front of only one façade;
- 1.17.3.3 Such fence is constructed using either a combination of brick pillars and horizontal aluminium infill fencing in slats or powder coated aluminium posts with horizontal aluminium infill fencing in slats;
- 1.17.3.4 Such fence is set back at least one metre from the title boundary;
- 1.17.3.5 Such bricks pillars must be 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 and match the colour of the dwelling and spaced between 2 to 3 metres apart;
- 1.17.3.6 Such powder coated aluminium posts must be a minimum 10 cm x 10 cm, and spaced between 2 to 3 metres apart;
- 1.17.3.7 Such aluminium slats must be the same colour as the perimeter fence, being Colorbond colour "Grey Ridge" or "Woodland Grey", be a minimum width of 6.5 cm and have either an 8mm or 10mm spacing between each slat;
- 1.17.3.8 Such fence must not exceed 1.8 metres in height when measured from ground level.
- 1.18 The following restrictions apply to lots 2 and 8 and prevail to the extent of any inconsistencies with other restrictions herein:
- 1.18.1 No main residence may be erected or permitted to remain on the lot, unless the garage is built on the façade fronting Mayfair Drive.
- 1.18.2 Dwellings constructed on these lots must be constructed as ranch style homes, with their primary façade fronting Piccadilly Court.
- 1.19 The following restrictions apply to lots 5, 6 and 10 and prevail to the extent of any inconsistencies with other restrictions herein:
- 1.19.1 Fencing to the eastern boundary of these lots may be constructed in accordance with clause 1.14 or alternatively may be constructed of farm fencing.
- 1.20 The following fencing requirements are to apply to lots which adjoin the reserve being lots 11, 12, 13, 14 and 15 and prevail to the extent of any inconsistencies with other restrictions herein:
- 1.20.1 No fence shall be erected or permitted to remain on the rear boundary adjoining the reserve unless:
- 1.20.1.1 Such fence has a brick pillar at the intersection on the side boundaries and tubular fencing (powder coated steel or



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- 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.
- 3.3.9 Garbage and/or recycling bins.

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.

**Expiry:**

31<sup>st</sup> January 2032

*Optional.*

*Specify the date the covenants are to expire or if the covenants are to expire on the happening of a particular event, specify the event. If the expiry only applies to particular covenants or specific lots/folios, this must be clearly specified.*