

# Memorandum of Common Provisions

## Section 91A Transfer of Land Act 1958



Lodged by:

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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 subsequently lodged for registration.

#### 1. INTRODUCTION

- 1.1. This MCP has been prepared by or on behalf of Exford Road Properties Pty Ltd (**ERP**) in order to regulate the use, siting, form and design of residential development at the Seventh Bend Estate, so as to create a high level of amenity for owners and residents of allotments within the Plan.
- 1.2. The provisions of this MCP are incorporated into the restrictions created by any plan of subdivision expressed to be subject to the terms of this MCP (**Plan**).
- 1.3. The Plan and this MCP restrict certain owners from developing an allotment other than in accordance with this MCP.
- 1.4. This MCP is retained by the Registrar of Titles pursuant to section 91A of the Transfer of Land Act 1958.
- 1.5. A reference to "Land" in this MCP means an allotment on the Plan.
- 1.6. A copy of the Seventh Bend Design Guidelines can be obtained from the Seventh Bend Design Assessment Panel by request to email [mike@urbtech.com.au](mailto:mike@urbtech.com.au) or by post to Urbtech Pty Ltd PO Box 394, Donvale, Victoria 3111.

#### 2. APPROVAL REQUIRED FROM SEVENTH BEND DESIGN ASSESSMENT PANEL

- 2.1. The registered proprietor/s of the Land must not commence construction of any improvements (including a dwelling) on the Land unless copies of building plans, elevations, site plans, landscaping plans and a schedule of colours and materials (**the Works Plans**), have been submitted to ERP or the Seventh Bend Design Assessment Panel (**DAP**) and ERP or the DAP has given its written approval to the Works Plans prior to the commencement of any building works.
- 2.2. The Works Plans must be consistent and comply with the Seventh Bend Design Guidelines.
- 2.3. The Works Plans must be endorsed by ERP or the DAP as complying with this MCP and being consistent with the Seventh Bend Design Guidelines before a building permit is applied by or on behalf of the registered proprietor/s of the Land.
- 2.4. Where it is known that an additional planning permit or other approval is required for the proposed construction on the Land, ERP or the DAP will only consider endorsing the plans after these permits or approvals have been obtained from the relevant authority.
- 2.5. Endorsement by ERP or the DAP does not warrant, imply or in any way suggest that the endorsed

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Land Victoria, 570 Bourke Street, Melbourne, 3000. Phone: 8636-2010

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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development plans comply with the Melton Planning Scheme or the Building Regulations 2006 in force at the time of the endorsement.

- 2.6. The approval required from ERP or the DAP in accordance with this clause 2 may be given or refused at the absolute discretion of ERP or the DAP.

### 3. FENCING

The registered proprietor/s of the Land must not:

- 3.1. construct on the Land any fence not in accordance with the Seventh Bend Design Guidelines as maintained and amended from time to time by ERP or the DAP;
- 3.2. construct on the Land any fence that is constructed of any material other than capped timber palings with a plinth and exposed posts (except where permitted by the Seventh Bend Design Guidelines);
- 3.3. construct on the Land any fence not equal to a height of 1.8 metres from the natural ground level (except where permitted by the Seventh Bend Design Guidelines); or
- 3.4. remove or in any way alter any fence that has been constructed on the Land or in any way interfere with or attempt to change or modify the colour of such fence.

### 4. SINGLE DWELLING ONLY

No more than one dwelling may be constructed on any single allotment on the Plan.

### 5. NO FURTHER SUBDIVISION

The registered proprietor/s of the Land must not further subdivide the Land following registration of the Plan.

### 6. RETAINING WALLS

The registered proprietor/s of the Land must not carry out any site-works, excavation, filling or construct any fencing or retaining walls or remove, interfere with or compromise or do anything that may tend to or interfere with or compromise any batter or retaining wall on the Land or any adjoining or nearby land without the prior written consent of ERP or the DAP.

### 7. CONDITION OF LAND

The registered proprietor/s of the Land must not allow the Land to be kept other than in a neat and tidy condition and to the satisfaction of ERP or the DAP at all times.

### 8. TIMING OF COMPLETION OF WORKS

The registered proprietor/s of the Land must not:

- 8.1. delay or permit to be delayed the commencement or completion of any works on the Land that have been approved by ERP or the DAP; or
- 8.2. allow the Land to remain vacant and unimproved for a period that exceeds 18 months from registration of the Plan by the Registrar of Titles.

### 9. VARIATION OF WORKS OR LANDSCAPING

The registered proprietor/s of the Land must not vary or allow any variation to any building, works or landscaping that has been approved by ERP or the DAP.

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### 10. SALE OF UNIMPROVED PROPERTY

Except where the registered proprietor of the Land is ERP, the registered proprietor/s of the Land must not erect or allow others to erect a "for sale" sign on the Land prior to the issuing of an occupancy permit for a dwelling constructed on the Land.

### 11. PROHIBITED CONSTRUCTION

The registered proprietor/s of the Land must not:

- 11.1. erect or construct any pool, tennis court, external sign, hoarding, tank, clothes line, letter box, mast, pole, landscaping or fence of any description or television antenna or radio aerial on the Land or upon any building constructed upon the Land without the prior written consent of ERP or the DAP;
- 11.2. 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 ERP or the DAP;
- 11.3. construct or allow the construction of any buildings over a registered easement or allow any buildings to remain over a registered easement unless:
  - 11.3.1. such construction is provided for by that easement; or
  - 11.3.2. the written consent of all parties who receive the benefit of the easement or whose land receives the benefit of the easement has been obtained.

### 12. USE OF LAND

The registered proprietor/s of the Land must not:

- 12.1. use the Land for any purpose except a dwelling and/or a home occupation as defined in the Melton Planning Scheme without the prior written consent of ERP or the DAP;
- 12.2. use the Land or any part of the Land for any purpose or use unless such purpose or use is permitted (either unconditionally or subject to consent of Melton City Council) by the Melton Planning Scheme; or
- 12.3. apply for any permit to use or develop the Land without the prior written consent of ERP or the DAP.

### 13. COVENANT

Each registered proprietor of an allotment on the Plan (**Burdened Land**), their executors, administrators and assigns covenant for the benefit of the registered proprietor or proprietors and their executors, administrators and assigns of all other allotments on the Plan (other than the Burdened Land) to comply with the terms set out in this MCP.

### 14. EXPIRY OF PROVISIONS

Each registered proprietor of the Land must comply with the terms set out in this MCP:

- 14.1. until the date that is 10 years from the date of registration of the Plan (**Sunset Date**); or
- 14.2. unless that registered proprietor has obtained the prior written consent of ERP or the DAP before the Sunset Date (which may be provided by ERP or the DAP subject to any conditions).

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### Certifications

1. The Certifier has taken reasonable steps to verify the identity of the applicant.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of EXFORD ROAD PROPERTIES PTY LTD ACN 618 510 302

Signer Name MARK LESLIE DONALDSON

Signer Organisation BECK LEGAL

Signer Role AUSTRALIAN LEGAL PRACTITIONER

Signature



Execution Date 16/10/2017

**Mark Leslie Donaldson**

**Beck Legal**

**177 View Street, Bendigo**

**An Australian Legal Practitioner within  
the meaning of the Legal Profession  
Uniform Law (Victoria)**

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