

# Memorandum of Common Provisions

## Section 91A Transfer of Land Act 1958

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Lodged by:

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This memorandum (containing 8 pages) contains provisions which are intended for inclusion in instruments and plans to be subsequently lodged for registration.

The following restrictions are to be created upon registration of the Plan of Subdivision:

### 1 Definitions

For the purposes of the restrictions:

- (1) **"Building Envelope"** means the building envelope shown in the Building Envelope Plan. The building envelope applies to the ground floor level only and is limited in height to 3.60 metres. Additional setbacks will apply to upper floors in accordance with *Building Regulations 2018* (Vic).
- (2) **"Building Envelope Plan"** means the building envelope plan shown in this MCP.
- (3) **"D.A.P."** is the Design Assessment Panel (being Australand Residential No. 156 Pty Ltd ACN 107 356 543) (**"Fraser's"**) or the person, entity or group who are from time to time nominated by Fraser's as the Design Assessment Panel.
- (4) **"Front Setback Zone"** means the land located between the Building Envelope and the Primary Frontage of the Lot.
- (5) **"Lot"** means a lot on the Plan of Subdivision.
- (6) **"MCP"** means this memorandum of common provisions and includes all diagrams, plans and annexures attached to this memorandum of common provisions.
- (7) **"Minimum Front Boundary Setback"** means, in respect of each Lot, the distance between the Primary Frontage and the front of the Building Envelope Plan.
- (8) **"Plan of Subdivision"** means the plan of subdivision that includes the restriction that incorporates this MCP.
- (9) **"Primary Frontage"** means:
  - (a) in the case of any lot where only one boundary of that lot abuts a road, the boundary which abuts the road;
  - (b) in the case of lot 631 (if shown on the Plan of Subdivision), the boundaries fronting Crosswater Boulevard and Moorside Crescent;

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# MCP

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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- (c) in the case of lot 709 (if shown on the Plan of Subdivision), the boundary fronting Laceflower Crescent; and
  - (d) in the case of any other lot where two boundaries of that lot each abut a road, the shorter boundary which abuts the road; and where there is a splayed corner on a lot, that part of the boundary which is created by the splay shall be disregarded.
- (10) **"Rear Setback Zone"** means the land located between the Building Envelope and the relevant rear boundary of the Lot.
- (11) **"Side Setback Zone"** means the land located between the Building Envelope and the relevant side boundary of the Lot.
- (12) **"Small Lot Code"** is the Small Lot Housing Code published by the Metropolitan Planning Authority August 2014.
- (13) All distances are to be measured at right angles to the respective boundary.

## 2 Creation of Restriction A

### Description of Restriction:

The registered proprietor or proprietors for the time being of a burdened Lot to which this restriction applies shall not, unless with the consent of the Responsible Authority:

- (1) Construct any building outside the land shown hatched on the Building Envelope Plan other than:
- (a) a porch, portico or verandah no more than 3.6 metres in height and encroaching no more than 1.0 metre into the Front Setback Zone;
  - (b) deck, steps or landing no more than 500mm in height encroaching no more than 1.0 metre into the Front Setback Zone;
  - (c) a pergola, eaves, fascia and/or gutters encroaching no more than 1.0 metre into the Front Setback Zone;
  - (d) a balcony not more than 4.5 metres high encroaching no more than 1.0 metre into the Front Setback Zone;
  - (e) encroachments into the nominated Side and Rear Setback Zone as provided for under Regulation 79(4) of the *Building Regulations 2018* (Vic) except to where a wall is on a boundary.

Further setback restrictions may apply where a Lot is affected by an easement or easements.

- (2) Construct any garage with openings that occupy more than 40% of the width of the primary frontage, unless the building is two or more storeys and on a Lot with an area between 250 to 300 square metres whereby the garage opening must not exceed 30% of the area of the front

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façade of the dwelling (**Front Façade**) with the area of the Front Façade measured from a two dimensional elevation plan of the façade excluding the area of the roof of the dwelling.

- (3) Construct or allow to be constructed any more than one dwelling per Lot.
- (4) With the exception of Lots less than 300m<sup>2</sup>, construct any garage closer than 5.5 metres from the Primary Frontage unless:
  - (a) a Building Envelope allows a Primary Frontage setback of 3 metres, whereby the garage must not be setback less than 5 metres from the Primary Frontage; or
  - (b) a Building Envelope provides for an alternative garage setback whereby the garage must not be setback between 3 and 5 metres from the Primary Frontage, in accordance with the alternative garage setback.

This restriction shall expire on 30 June 2030.

The *Building Regulations 2018* (Vic) as amended from time to time apply to all matters which are not addressed in this restriction.

### 3 Creation of Restriction B

#### Description of Restriction:

The registered proprietor or proprietors for the time being of any Lot to which the following restriction applies shall not, unless with the consent of the D.A.P:

- (1) Construct or cause or permit to be constructed or remain erected on any burdened Lot any building forward of the Minimum Front Boundary Setback except as provided by Restriction A(1).
- (2) Construct or cause or permit to be constructed on any Lot:
  - (a) any building other than one dwelling house with the usual outbuildings such dwelling house having a minimum floor area (excluding any verandah, carport or garage) of:
    - (i) 170 square metres excluding garage for allotments with an area 600 square metres or greater;
    - (ii) 150 square metres excluding garage for allotments with an area between 500 and 599 square metres;
    - (iii) 120 square metres excluding garage for allotments with an area of between 400 and 499 square metres; or
    - (iv) 100 square metres excluding garage for allotments with an area of 399 square metres or less;
  - (2)(a) does not apply to any lot created upon further subdivision of Lots;

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- (b) any dwelling (including garage and carport) of which less than fifty percent (50%) of the external walls (excluding windows) is constructed of brick, brick veneer, stone, masonry or masonry veneer;
  - (c) any outbuildings other than a garage or carport having external walls constructed of materials other than brick, stone, rendered concrete, concrete sheet, timber or coloured non-reflective metal;
  - (d) any dwelling with a roof of other than masonry or terracotta tiles or coloured non-reflective metal roofing material;
  - (e) any dwelling which has any external plumbing apparatus, pipes and conduits (stormwater drainage excepted) which are visible from an adjoining street or reserve on the plan;
  - (f) any dwelling on an allotment with an area of less than 300 square metres other than one that complies with the Small Lot Code for type A or B dwellings as noted on the Building Envelope Plan;
  - (g) any dwelling abutting a Reserve with less than one habitable room window orientated towards the Reserve at each level;
  - (h) any dwelling or commercial building unless the dwelling or building incorporates plumbing for recycled water supply for toilet flushing and garden watering.
- (3) Erect or cause to be erected:
- (a) on either side boundary or the rear boundary of any burdened Lot any fence of a height more than 2 metres;
  - (b) any fence on either side boundary or the rear boundary of any burdened Lot except:
    - (i) a fence of timber palings with a timber cap; or
    - (ii) where a fence is being erected by or on behalf of Frasers, a fence of a combination of timber and steel with possible stone elements;
  - (c) any fence on the burdened Lot between the front boundary and the front of the building envelope that is the closer to the front boundary of the adjoining allotments;
  - (d) any fence along the front boundary;
  - (e) for corner lots where the lot depth (excluding the corner lot splay) is:
    - (i) greater than 21 metres, a fence located on the secondary frontage unless such fence:
      - (A) terminates a minimum of 6 metres behind the Front Façade; or
      - (B) from a minimum of 6 metres behind the Front Façade, transitions down over a distance of 2 metres to a height of 1.2 metres or less, from which point such fence can then continue at that height to the Front Façade;

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- (ii) 21 metres or less, a fence located on the secondary frontage unless such fence:
  - (A) does not exceed 60% of the depth of the lot (excluding the corner splay) taken from the rear boundary towards the Primary Frontage; or
  - (B) from a distance of no more than 60% of the depth of the lot (excluding the corner splay) taken from the rear boundary towards the Primary Frontage, transitions down over a distance of 2 metres to a height of 1.2 metres or less, from which point such fence can then continue at that height to the Front Façade;
- (f) for corner lots, a fence located on the secondary frontage unless:
  - (i) for a fence where there is no transition down to a height of 1.2 metres or less, such fence returns to the dwelling at 90 degrees at the point of termination of the side fence; or
  - (ii) for a fence where there is a transition down to a height of 1.2 metres or less, a fence is erected, and runs at 90 degrees, from the point of the side fence immediately before the side fence starts transitioning down, and returns to the dwelling.
- (4) At any time keep, place or maintain any outside clothes drying or airing facility on any burdened Lots so as to be visible from any street adjacent to or abutting that Lot.
- (5) Erect, display or exhibit or allow to be erected, displayed or exhibited or to remain erected, displayed or exhibited any advertising signage advertising the Lot for sale without written consent of Frasers.

Notwithstanding paragraph (3) of Restriction B, nothing shall prevent Frasers in its absolute discretion from erecting any fence of any type or description in locations where it considers it is necessary to do so in the interests of public safety and/or visual amenity.

The restrictions in paragraphs (1) to (5) (inclusive) shall expire on 30 June 2030.

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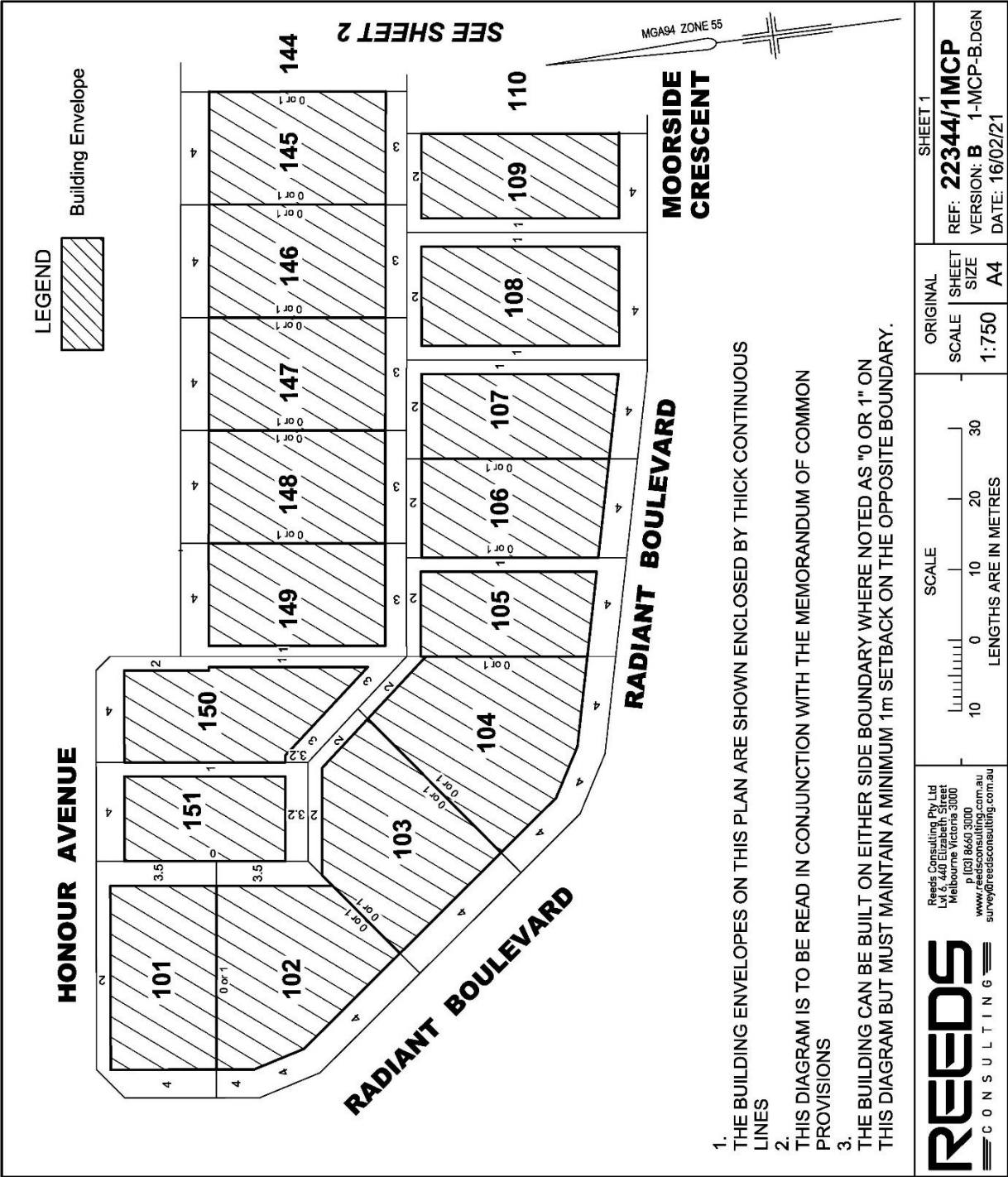
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4 Building Envelope Plans



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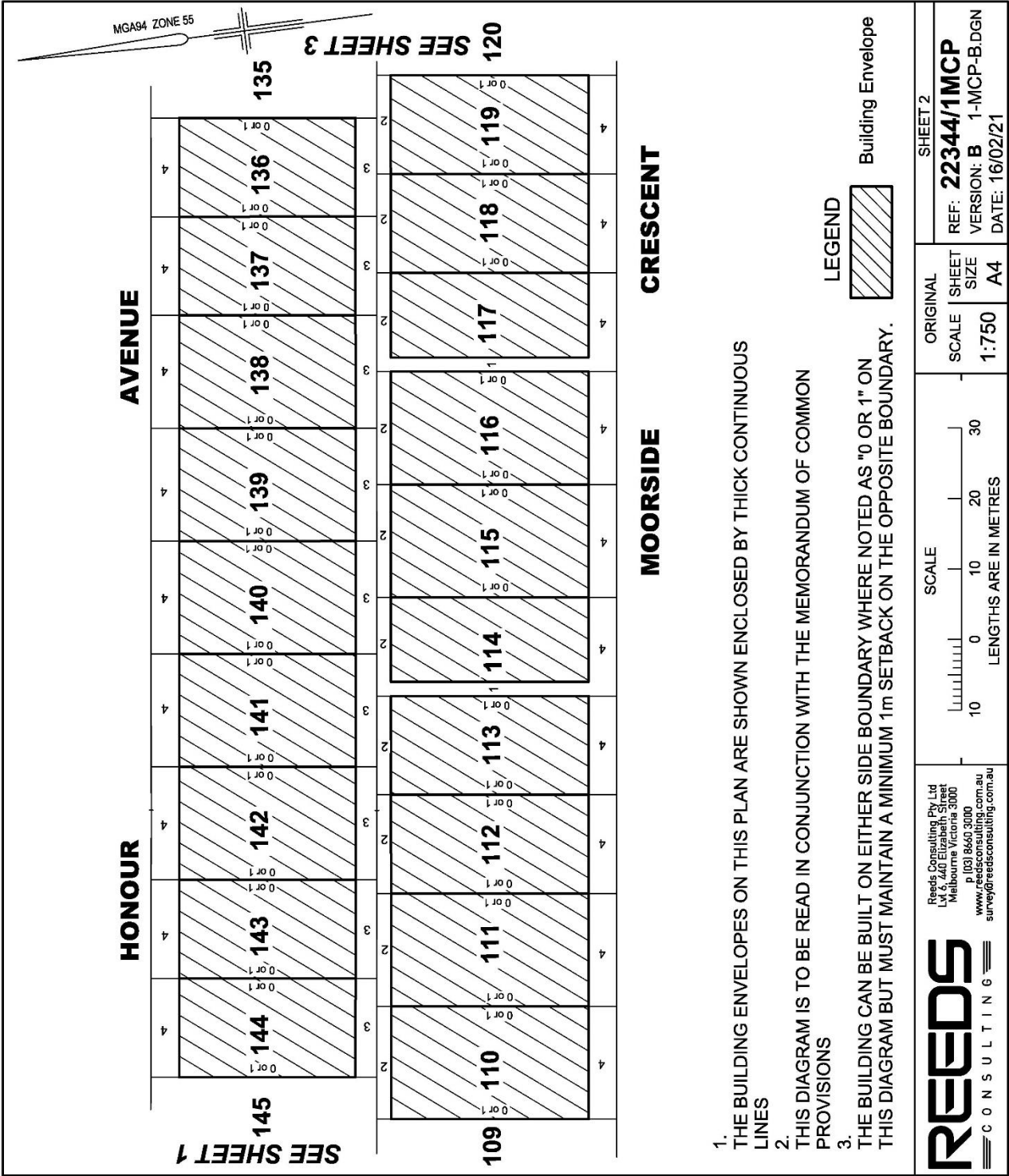
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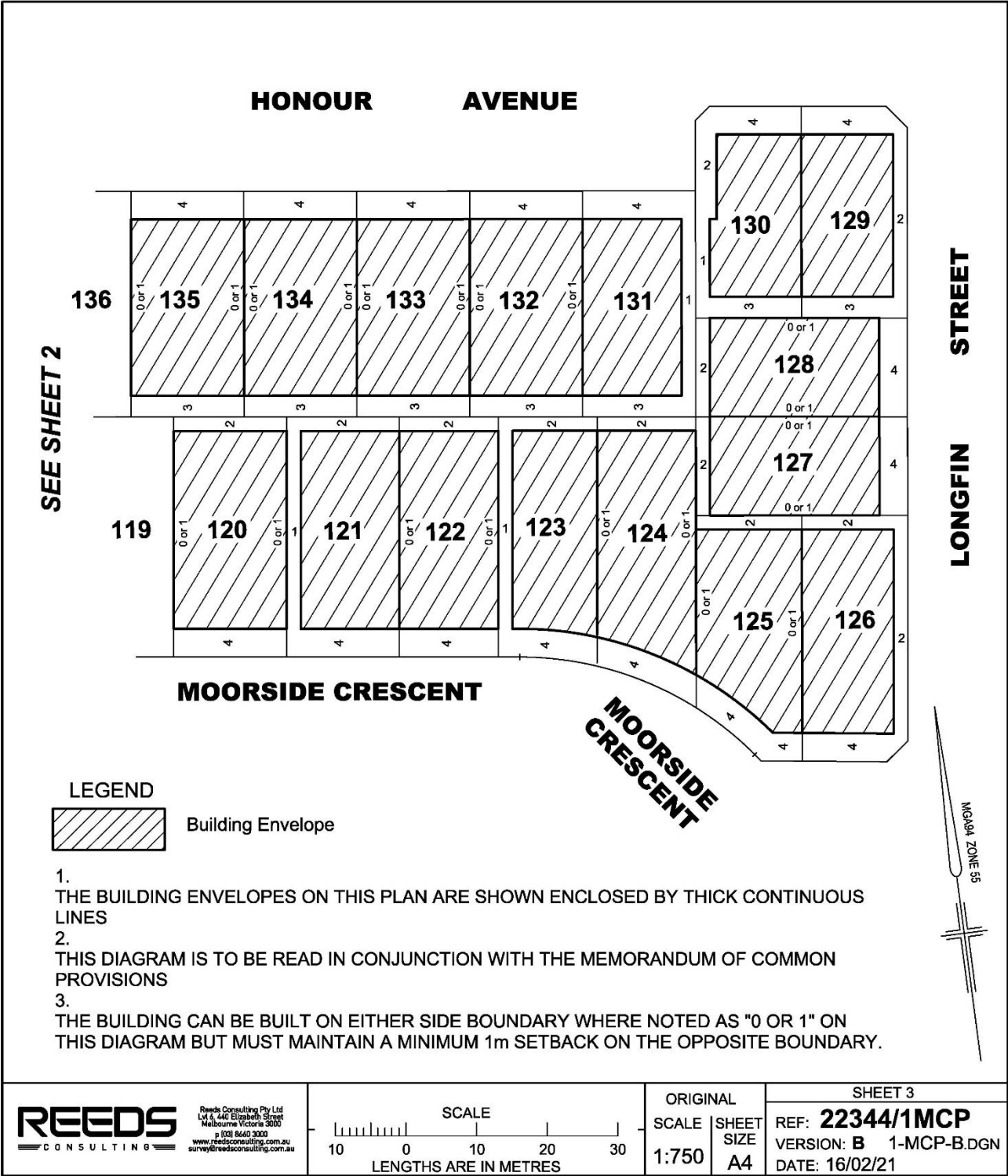
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