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Memorandum of Common Provisions

Section 91 Transfer of Land Act 1958

Lodged By:

Name: XXXXXX

Phone: XXXXXXXX

Address: XXXXXXXXXXXX

Reference: XXXXXXXXXXXX

Customer Code: XXXXX

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This memorandum contains provisions which are intended for inclusion in instruments and plans to be subsequently lodged for registration.

Provisions

PRELIMINARY

- A. This MCP has been prepared by or on behalf of Greenridge in order to regulate the siting, form and design of residential development in accordance with the Highgrove Estate Design Guidelines.
- B. This MCP, in conjunction with the plan of subdivision and building envelope plan, provides the information necessary to interpret the approved building envelopes.
- C. Some of the matters addressed in this MCP are not covered by or are amendments to the Regulations and Scheme or Code (as they may apply to each particular lot).
- D. This MCP is retained by the Registrar of Titles pursuant to section 91(A) of the Transfer of Land Act.

PROVISIONS

1. Small Lot Housing Code

Lots identified as Type A or Type B on the building envelope plans are lots to which the Code applies.

2. Any building:

- a) to be constructed on lots to which this MCP applies; and
- b) for which the construction would require a building permit,

must be sited within the approved building envelope subject to:

- c) any specific encroachments allowed outside the approved building envelope pursuant to this MCP; and
- d) the restrictions imposed by this MCP, the plan of subdivision and any other applicable control.

TEXT OF RESTRICTIONS

1. Edge Lots (Regulation 406 and clause 56.04-2)

Regulation 406 in Part 4 of the Regulations and clause 56.04-2 in the Scheme, apply to each Edge Lot irrespective of Sections 2 to 6 of this MCP.

2. Minimum street setbacks (regulation 409 in Part 4 of the Regulations and clause 54.03-1 of the Scheme or Clause 2 of Part 1 of the Code)

- 2.1. The building on a lot must be set back from a street frontage boundary in accordance with the applicable setback identified in the building envelope plans

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- 2.2. Where a side boundary abuts a street or public open space, a building may encroach up to 300 millimetres into the setback specified in the building envelope plan for maximum length of 10 per cent of the building wall facing that side street.
- 2.3. Balconies, pergolas, verandahs, porches, covered walkways and porticos not exceeding a height of 6.5m above natural ground level may encroach up to 1.0 metre into the minimum front setback specified in the building envelope plan.
- 2.4. Where a side boundary abuts a street or public open space, pergolas, verandahs, porches, covered walkways and porticos not exceeding a height of 3.6m above natural ground level may encroach up to 1.0 metre into the minimum setback specified in the building envelope plan.
- 2.5. Eaves, fascias and gutters not exceeding 600mm in total width may encroach into the setback specified in the building envelope plan for a front boundary and/or a boundary which abuts a street or public open space.

Garages

- 2.6. For **rear loaded lots** any garage or carport must be constructed to allow vehicle access from the boundary so marked on the building envelope plan.
- 2.7. For all lots other than **rear loaded lots**:
 - 2.7.1. garage openings may not occupy:
 - 2.7.1.1. with respect to lots with an area between 250 and 300 square metres and on which a double storey dwelling is constructed, more than 30% of the area of the front façade of the dwelling, with the area of the front façade measured from a two-dimensional (2-D) elevation plan excluding any area of the roof of the dwelling;
 - 2.7.1.2. with respect to all other lots, 40% of the width of the lot frontage;
 - 2.7.2. unless clause 2.7.3 applies:
 - 2.7.2.1. for lots with a building envelope which allows a front setback of 3 metres, the garage or carport must be set back a minimum of 5 metres from the front boundary; and
 - 2.7.2.2. all other lots the garage or carport must be set back a minimum of 5.5 metres from the front boundary;
 - 2.7.3. if a building envelope plan for a lot allows for an alternate garage/carport set back to clause 2.7.2., garages on those lots must not be setback between 3 and 5 metres from the front boundary;
 - 2.7.4. garages and/or carports must be setback a minimum of 840 millimetres behind the front wall of the dwelling.

3. Side and rear setbacks (regulation 414 in Part 4 of the Regulations and clause 54.04-1 in the Scheme or Clause 7 of Part 1 of the Code)

- 3.1. The building on a lot must be set back from side and rear boundaries in accordance with the applicable setback profiles as identified in the building envelope plans.
- 3.2. If a lot is shown with a profile identifier codes A and B on opposite boundaries, the codes may be interchanged.
- 3.3. Not used.
- 3.4. the following building elements may encroach up to 500 millimetres into the minimum side and rear setbacks specified in the building envelope plans:
 - 3.4.1. verandahs, porches, covered walkways;
 - 3.4.2. masonry chimneys, flues and pipes;
 - 3.4.3. sunblinds and screens (to the extent necessary to protect the neighbouring property from a direct view);

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- 3.4.4. fuel tanks and water tanks; and
3.4.5. heating and cooling equipment and other services
- 3.5. The following building elements may encroach into the minimum side and rear setback specified in the building envelope plans:
- 3.5.1. pergolas and shade sails;
 - 3.5.2. landings with a maximum area of 2 square metres and a maximum height of 1 metre;
 - 3.5.3. unroofed stairways and ramps;
 - 3.5.4. outbuildings not exceeding 12 square metres in area and 2.5 metres in height; and
 - 3.5.5. eaves, fascias and gutters not exceeding 600mm in total width.
- 4. Walls on boundaries (regulation 415 in Part 4 of the Regulations and clause 54.04-2 in the Scheme or Clause 8 of Part 1 of the Code)**
- 4.1. Construction within 200mm of a boundary is only permitted where the setback profiles identified in the building envelope plans indicate a building area on the boundary.
 - 4.2. For lots to which the Code applies, a wall constructed on a side or rear boundary of a lot can extend a maximum total length of:
 - 4.2.1. 60% of the total length of the side boundary; or
 - 4.2.2. the length of any simultaneously constructed abutting wall,whichever is the greater.
- 5. Overlooking (regulation 419 in Part 4 of the Regulations and clause 54.04-6 in the Scheme or Clause 12 of Part 1 of the Code)**
- 5.1. If a habitable room window, deck or raised open space is within an overlooking control area shown on the applicable setback profiles identified in the building envelope plans, it must be screened to 1.7m above finished floor level.
- 6. Fencing**
- 6.1. Fencing plans must be submitted to and approved by the DRC as part of the design approval process set out in the Highgrove Design Guidelines.
 - 6.2. All boundary fencing must be constructed prior to occupancy of any dwelling constructed on the Lot
 - 6.3. **Front Fencing**
 - 6.3.1. Except for lots marked with a front fence identifier code on the building envelope plans, front fences are prohibited.
 - 6.3.2. For lots marked with a front fence identifier code on the building envelope plans, front fencing approved by the DRC may be erected.
 - 6.3.3. If the lot is being used as a Display Home at the time of DRC approval, the front fence must be removed and any necessary remedial works performed to the front landscaping at the conclusion of the legal use of the lot as a Display Home.
- 6.4. Side and Rear Fencing**
- 6.4.1. For all lots, side and rear fencing (except for rear fences on rear loaded lots where the rear boundary abuts a reserve) must:
 - 6.4.1.1. be constructed from capped timber palings with exposed timber posts (75mm x 125mm);
 - 6.4.1.2. not exceed 1.95 metres in height;

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finish a minimum of 1 metre behind each side of the front façade (not including the entry feature/porch);

- 6.4.2. return from the side boundary at 90 degrees to abut the dwelling. Return fences must be constructed to match the boundary fencing or from timber slats and must be setback to allow for access to the meter boxes;
- 6.4.3. side boundary fencing along the secondary street frontage of a corner lot must finish at least 3 metres behind the front façade of the dwelling and behind the corner treatment, whichever is the greater.
- 6.4.4. For **rear loaded lots** where the rear boundary abuts a reserve, the fencing on the boundary abutting the reserve must be approved by the DRC and constructed to the requirements of the Planning Permit and any endorsed plan forming part of that Planning Permit.

7. Dwelling Design Approval

- 7.1. The design of any building or structure to be constructed on a lot within 8 years of the registration of the plan of subdivision creating the lot must:
 - 7.1.1. comply with the Highgrove Design Guidelines; and
 - 7.1.2. receive approval of all plans and specifications by Highgrove Estate Design Assessment Panel c/-Brown Property Group, Level 5, 523 Burwood Road, Hawthorn, Victoria, 3122 prior to a building permit being procured for any such building or structure.

7.2. Orientation of Dwelling on rear loaded lots

The dwelling constructed on a **rear loaded lot** abutting a reserve must be designed to address the boundary of the lot abutting the reserve, with pedestrian access (the entry) facing this boundary.

8. Driveways

- 8.1. A driveway must be fully constructed prior to occupancy of any dwelling constructed on the Lot.
- 8.2. The driveway must be constructed of exposed aggregate, pavers, stamped or stenciled surfacing or coloured concrete as approved by the DRC.
- 8.3. The driveway must be setback at least 400 millimetres from the nearest side boundary to allow for the establishment of landscaped garden along that side boundary.
- 8.4. Relocation of a driveway crossover or, addition of a driveway crossover to a corner lot, is permitted with the written approval of DRC and Casey City Council. Relocated crossovers must be constructed at the lot owners expense to the specification of Casey City Council and be of the same finish as that originally provided by Greenridge

Notes on this MCP

In the case of conflict between the building envelope plans and these written notations, the specifications in the written notations prevail.

Ground level after engineering works associated with subdivision is to be regarded as natural ground level.

Buildings must not cover registered easements unless approved by the relevant authority.

The construction of a building which is contrary to the requirements of this MCP may occur with the written consent of Greenridge and the Responsible Authority, where consent of the Responsible Authority is required by the Scheme, any planning permit affecting the lot or by operation of the law.

A building envelope will cease to apply to any building on the lot affected by the building envelope after the issue of a certificate of occupancy for the whole of a dwelling on the land.

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General definitions

In this MCP:

approved building envelope means the building envelope shown for a particular lot in the building envelope plans and has the same meaning as in regulation 406 of the Regulations;

building has the same meaning as in the Building Act;

Building Act means the act of the Victorian Parliament known as the Building Act 1993 and any re-enactment or replacement of that act;

building envelope means an area within each lot (defined by the particular lot setbacks) where development of a dwelling, shed, garage and / or carport is allowed subject to the particular provisions of this MCP, the plan of subdivision and the Scheme;

building envelope plans means the plans which are attached to the plan of subdivision which show the approved building envelopes, setback requirements and other related matters for individual lots within the plan of subdivision;

building permit means a building permit in terms of the Building Act;

Code means the Small Lot Housing Code incorporated as a document in the Scheme;

control includes a restriction in terms of the Subdivision Act 1988, an agreement under section 173 of the Planning and Environment Act 1987 (PE Act), a provision of an Act (other than the Building Act), a regulation (other than the Building Regulations), a requirement of a referral authority (in terms of section 55 of the PE Act) or an order of a Court or tribunal, which relates to the siting of a Building;

DRC means the Highgrove Design Review Committee appointed by Greenridge and comprising representative of developer and a qualified architect for the purposes of assessing compliance by Lot owners with the Highgrove Design Guidelines;

dwelling has the same meaning as in the Scheme;

Edge lots are those lots that are part of the same certified plan of subdivision but share one or more common boundaries with or otherwise adjoin a lot that is not part of the same certified plan of subdivision.

frontage has the same meaning as in the Scheme;

Greenridge means Greenridge Properties Pty Ltd ACN 129 431 170 or any associated entity or related body corporate of Greenridge Properties;

height has the same meaning as in the Regulations;

Highgrove Design Guidelines means the design guidelines prepared by Greenridge and Brown Property Group, as amended from time to time;

lot has the same meaning as in the Building Act;

MCP means this memorandum of common provisions;

on the boundary means a setback of up to 200 millimetres from the lot / property boundary is deemed to be on the boundary;

plan of subdivision means the plan of subdivision to which this MCP is incorporated by way of a restrictions on that plan of subdivision;

rear loaded lot means a lot on the building envelope plan bearing the identifier code "RL" on the building envelope plans;

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Regulations means the Building Regulations 2006 or any subsequent regulations made pursuant to the Building Act which relate the siting of a Building;

reserve has the meaning given to it in the *Subdivision Act 1988 (Vic)*;

Scheme means the planning scheme of the local authority responsible for the land contained within the plan of subdivision;

setback has the same meaning as in the **Regulations**;

side boundary means a boundary of a lot that runs between and connects the street frontage of the lot to the rear boundary of the lot;

Small Lot Housing Code refers to the Small Lot Housing Code incorporated in the Scheme pursuant to Clause 81 of the Scheme;

storey has the same meaning as in the Scheme;

street, for the purposes of determining street setbacks, means any road other than a footway or carriageway easement;

Type A on a building envelope plan denotes that the lot is one to which the provisions of the Small Lot Housing Code relating to Type A allotments applies; and

Type B on a building envelope plan denotes that the lot is one to which the provisions of the Small Lot Housing Code relating to Type B allotments applies.

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