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

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This memorandum contains provisions which are intended for inclusion in plans under the Subdivision Act 1988 to be subsequently lodged for registration.

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

Burdened Land: As set out in the **Plan of Subdivision**

Benefited Land: As set out in the **Plan of Subdivision**

Covenants:

A. Preliminary

A. This **MCP** (Version 2) has been prepared by or on behalf of **Woodhaven** in order to regulate the siting, form and design of residential development in accordance with the **Woodhaven Design Guidelines**.

B. This **MCP**, in conjunction with the **plan of subdivision** 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** (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.

E. Where the siting restrictions in this **MCP** are contrary to Regulations 74, 79, 80, and 84 of the **Regulations**, no consent and report is required, as this **MCP** has been prepared with regard to Regulation 71 of the Building **Regulations**.

B. Provisions

A. Any building:

a) to be constructed on lots to which this **MCP** applies; and

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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**.

1. Edge Lots (Regulation 71 and Clause 56.04-2)

1.1. Regulation 71 in Part 5 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 74 and Clause 54.03-1)

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**.

2.2. Where a **side boundary** abuts a **street** or public open space, a **building** may encroach up to 300mm into the **setback** specified in the **building envelope plan** for maximum length of 10% of the **building** wall facing that side **street**.

2.3. Facade treatments, covered balconies, balconies, verandahs and other similar architectural features as outlined in Regulation 74 on the second **storey** of a **building** that are less than 6.9 metres above natural ground level may encroach not more than 1.5 metres into the minimum **Primary frontage setback** and the minimum **Secondary Frontage setback** specified in the **building envelope plan**.

2.3.1. Pergolas, verandahs, porches, covered walkways, facade treatments, porticos and other similar architectural features as outlined in Regulation 74 that are less than 4.5 metres above natural ground level may encroach not more than 1.5 metres into the minimum **Primary frontage setback** and the minimum **Secondary Frontage setback** specified in the **building envelope plan**.

2.4. 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

2.5. For **rear loaded lots** any garage must be constructed to allow vehicle access from the boundary so marked on the **building envelope plan**.

2.6. For all lots other than **rear loaded or side loaded lots**:

2.6.1. Garage openings may not occupy:

2.6.1.1. with respect to lots with an area between 250 and 300 square metres and on which a two or more **storey dwelling** is constructed, more than 30% of the area of the front

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facade of the **dwelling**, with the area of the front facade measured from a two-dimensional (2-D) elevation plan excluding any area of the roof of the **dwelling**;

2.6.1.2. with respect to all other lots, 40% of the width of the lot **frontage**;

2.6.2. For all lots, the garage must be set back a minimum of 5.5 metres from the front boundary.

2.6.3. Garages must be set back a minimum of 840mm behind the front wall of the **dwelling**.

2.7. For **side loaded lots**, any garages on these lots must be constructed to allow vehicle access from the **Secondary Frontage**.

3. Side and Rear Setbacks (Regulation 79 and Clause 54.04-1)

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 code A on one **side boundary** and profile identifier code B on the opposite **side boundary**, the codes may be interchanged.

3.3. The following **building** elements may encroach up to 500mm into the minimum side and rear **setbacks** specified in the **building envelope plans**:

3.3.1. Porches, verandahs, pergolas and other similar architectural features as outlined in Regulation 79.

3.4. The following **building** elements may encroach into the minimum side and rear **setback** specified in the **building envelope plans**:

3.4.1. Eaves, fascias and gutters not exceeding 600mm in total width and other similar architectural features as outlined in Regulation 79.

3.5. In addition to the above requirements, where there is an irregularly shaped lot adjacent to an electrical substation, the proposed **dwelling** wall may encroach into the minimum side and rear **setback** specified in the **building envelope plans** by a maximum of 500mm for a wall direction adjacent to an electrical substation **reserve**.

3.6. Notwithstanding Clause 3.2, a **building** on a lot must be set back at least 1 metre from any boundary abutting a **reserve**.

4. Walls on boundaries (Regulation 80 and Clause 54.04-2)

4.1. Construction within 200mm of a boundary is only permitted where:

4.1.1. the **setback** profiles identified in the **building envelope plans** indicate a building area **on the boundary**.

4.1.2. the wall otherwise complies with Regulation 80 of the **Regulations**.

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5. Overlooking (Regulation 84 and Clause 54.04-6)

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 **Woodhaven 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. Unless otherwise approved by the **DRC**, 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 Boundary 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**, or fencing along the **Secondary Frontage** of a corner lot, or fencing along the **side boundary** which is shared with the rear boundary of a corner lot) must:

6.4.1.1. be constructed from pre-painted metal posts, rails and sheets with a 200 x 50mm steel or similar plinth;

6.4.1.2. be 1.95 metres in **height** above the natural ground level;

6.4.1.3. finish a minimum of 1 metre behind each side of the front façade (not including the entry feature/porch), except where the **side boundary** forms the rear boundary of an adjoining lot, where the fencing is to continue to the front boundary of the property;

6.4.2. At the required point of finish behind the front facade, each **side boundary** fence must return at 90 degrees to abut the **dwelling**. Return fences must be constructed to match the boundary fencing and must be **setback** to allow for access to the meter boxes;

6.4.3. **Side boundary** fencing along the **Secondary Frontage** of a corner lot, where that **frontage** abuts a road, must:

6.4.3.1. be constructed from pre-painted metal posts, rails and sheets with a 200 x 50mm steel or similar plinth;

6.4.3.2. be 1.95 metres in **height** above the natural ground level;

6.4.3.3. finish at least 3 metres behind the front facade of the **dwelling** and behind the corner treatment, whichever is the greater.

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6.4.4. For **rear loaded lots** where the rear boundary abuts a **reserve**, the fencing **on the boundary** abutting the **reserve** must:

6.4.4.1. be constructed from pre-painted metal posts, rails and sheets with a 200 x 50mm steel or similar plinth;

6.4.4.2. be 1.95 metres in **height** above the natural ground level;

6.4.4.3. be approved by the **DRC** and constructed to the requirements of the Planning Permit and any endorsed plan forming part of that Planning Permit.

6.4.5. For lots which directly abut a Tree **Reserve** the fencing **on the boundary** abutting the **reserve** must:

6.4.5.1. Be built in accordance with the specifications of the City of Casey Standard Tree **Reserve** Fence which is contained as an appendix to the **Woodhaven Design Guidelines**.

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 **Woodhaven Design Guidelines**; and

7.1.2. receive approval of all plans and specifications by **Woodhaven Design Review Committee** (**DRC**) c/-Brown Property Group, PO Box 6039, Hawthorn West VIC 3122 prior to a **building permit** being procured for any such **building** or structure.

7.2. Orientation of **Dwelling** on **rear loaded lots**

7.2.1. The **dwelling** constructed on a **rear loaded lot** must be designed to address the boundary of the lot opposite that which is marked for vehicular access to the garage, with pedestrian access (the entry) facing this boundary (i.e. to address the boundary abutting the **reserve** or **Primary Frontage**, as the case may be).

7.3. Roofing Materials

7.3.1. Roofing is to comprise lighter-coloured, non-reflective materials.

8. Driveways

8.1. A driveway must be fully constructed prior to occupancy of any **dwelling** constructed on the Lot.

8.2. Plain (uncoloured) concrete driveways are not permitted.

8.3. The driveway must be **setback** at least 400 millimetres from the closest **side boundary** to allow for the establishment of a landscaping strip 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 the **Responsible Authority**. Relocated crossovers must be constructed

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at the lot owners expense to the specification of the **Responsible Authority** and be of the same finish as that originally provided by **Woodhaven**.

9. Woodhaven Product Guide

9.1. For lots less than 300 square metres, the construction of a **building** which is contrary to the **Woodhaven Product Guide** may occur with the written consent of the **Responsible Authority**.

10. Garden Area

10.1. Unless otherwise approved by the **Responsible Authority**, each lot with an area of 300 square metres or greater, but less than 400 square metres, must provide a minimum **garden area** of 25% of the area of the lot.

11. Canopy Trees

11.1. Unless otherwise approved by the **Responsible Authority**, each lot with an area of 300 square metres or greater must provide:

11.1.1. At least one **canopy tree** must be planted within the front **setback**, with the tree located no less than 2.5 metres from the front boundary.

11.1.2. At least one **canopy tree** within the rear **setback**.

11.2. The location of either **canopy tree** may be varied with the written consent of the **Responsible Authority**.

12. Landscaping

12.1. Unless otherwise approved by the **Responsible Authority**, each lot with an area of less than 300 square metres must provide:

12.1.1. Landscaping and planting within all open areas of the lot.

12.1.2. Landscaped areas planted with shrub and groundcover species capable of achieving a minimum density of at least 85% coverage within 12 months of planting.

12.1.3. Landscaping demonstrating the use of sustainable practices and, where irrigation is provided, not using potable water.

12.1.4. Where planting is provided within an easement, plant species suitable for planting within easements and having a natural growing **height** of no more than 5 metres.

12.1.5. A minimum of one **canopy tree** (1 metre high at the time of planting) reaching a minimum mature **height** of 6 metres and a minimum mature width of 4 metres within the front **setback** of the **dwelling**, unless an alternative location is agreed by the **Responsible Authorit**y.

12.1.6. A minimum deep soil area of 12 square metres (with a minimum dimension of 2.5 metres) for the **canopy tree**, or a suitable alternative approved by the **Responsible Authority**.

12.1.7. A minimum 1200 millimetre diameter organic mulch area around any retained or proposed tree located within a lawn area.

12.2. The use of artificial grass is prohibited.

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13. Permission to construct contrary to these MCPs and any Building Envelope

13.1. Allowable encroachments for irregular shaped lots adjacent to an electrical substation **reserve** are provided in Clause 3.5.

13.2. The requirements of this **MCP** may be varied with the consent of **Woodhaven** and the **Responsible Authority**.

14. Notes on this MCP

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

14.2. The ground level after engineering works associated with subdivision is deemed to be natural ground level.

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

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

15. 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 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 or garage 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 included in this MCP from page 10 onwards, and 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;

canopy tree has the same meaning as 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;

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

garden area has the same meaning as in the Scheme;

height has the same meaning as in the Regulations;

lot has the same meaning as in the Subdivision Act 1988 and any re-enactment or replacement of that act;

MCP means this memorandum of common provisions;

on the boundary means a setback of up to 200 millimetres from the lot/property title 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 restriction on that plan of subdivision;

Primary frontage is the boundary with the greater setback on the building envelopes plan;

rear loaded lot is a lot that has the garage at the rear of the lot, accessed from a road or laneway**,** it means a lot on the building envelope plan bearing the identifier code “RL” on the building envelope plans;

Regulations means the Building Regulations 2018 or any subsequent regulations made pursuant to the Building Act which relate to the siting of a Building;

Responsible Authority means the body responsible for the administration or enforcement of the Planning Scheme in respect of the land.

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;

Secondary Frontage is any boundary that abuts a road or reserve, other than the primary frontage;

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;

Side Loaded lot means a corner lot where vehicle access to the garage is obtained from the Secondary Frontage, provided that the Secondary Frontage abuts a road as shown on the Plan of Subdivision.

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;

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Woodhaven means GPH No. 7 Pty Ltd A.C.N. 676 882 787 or any associated entity or related body corporate of Woodhaven;

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

Woodhaven Product Guide means the document prepared by Woodhaven and Brown Property Group setting out pre-approved dwelling designs for residential lots under 300 square metres as amended from time to time;

Expiry:

As set out in the Plan of Subdivision (if applicable); and

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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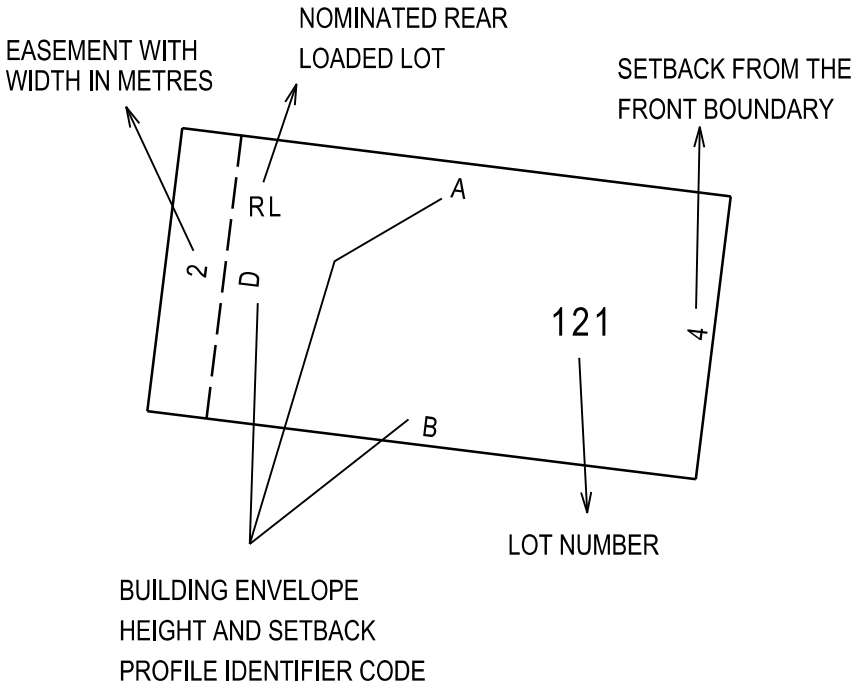
Diagrams and Plans

Diagram illustrating the interpretation of the building envelope and the annotation with respect to all edge lots in this stage development



NOTES:

- EASEMENT REQUIREMENT: WHERE A PROFILE WHEN APPLIED COVERS AN EASEMENT, THE PORTION OF THE PROFILE ABOVE THE EASEMENT CANNOT BE CONSIDERED FOR APPROVAL/BUILT UPON. THIS MAY VARY ONLY IN THE CIRCUMSTANCES WHERE BUILDING ON THE EASEMENT RECEIVES PRIOR WRITTEN CONSENT OF THE RELEVANT AUTHORITY.
- LOTS LESS THAN 300m² AND LOTS MORE THAN 500m² DO NOT REQUIRE BUILDING ENVELOPES. REFER TO PLAN OF SUBDIVISION.
- LOTS LESS THAN 300m² MUST COMPLY WITH THE WOODHAVEN PRODUCT GUIDE OR OTHERWISE OBTAIN WRITTEN CONSENT FROM THE RESPONSIBLE AUTHORITY FOR THE CONSTRUCTION OF A BUILDING.

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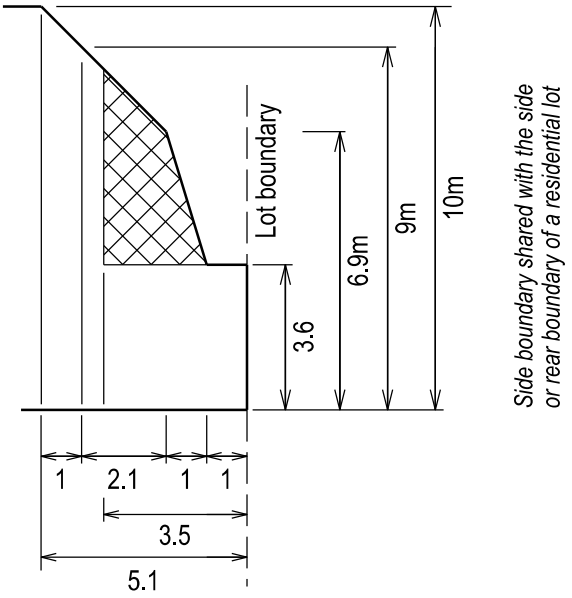
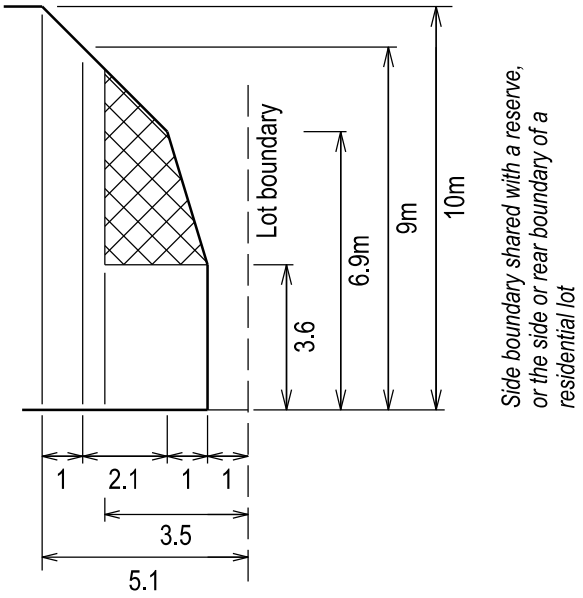
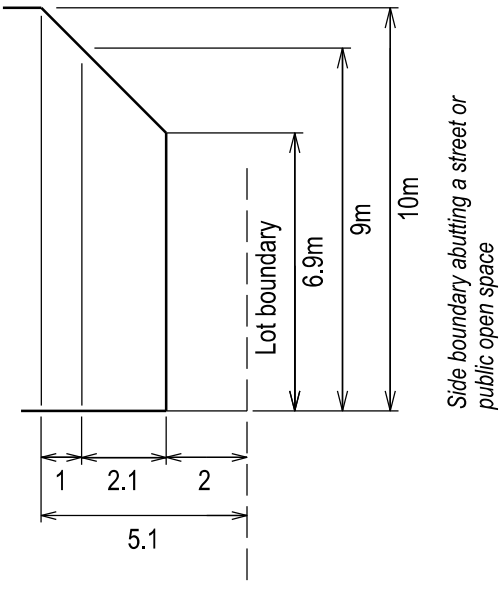
Building height & setback profiles referenced in the building envelope plan



PROFILE (A)



PROFILE (B)



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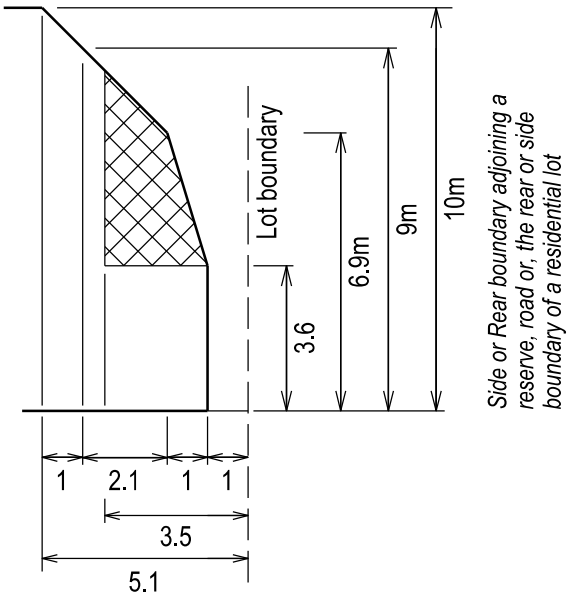

PROFILE (D)

OVERLOOKING CONTROL AREA
(refer 'overlooking' in MCP)

ALL DIMENSIONS ARE IN METRES UNLESS NOTED OTHERWISE

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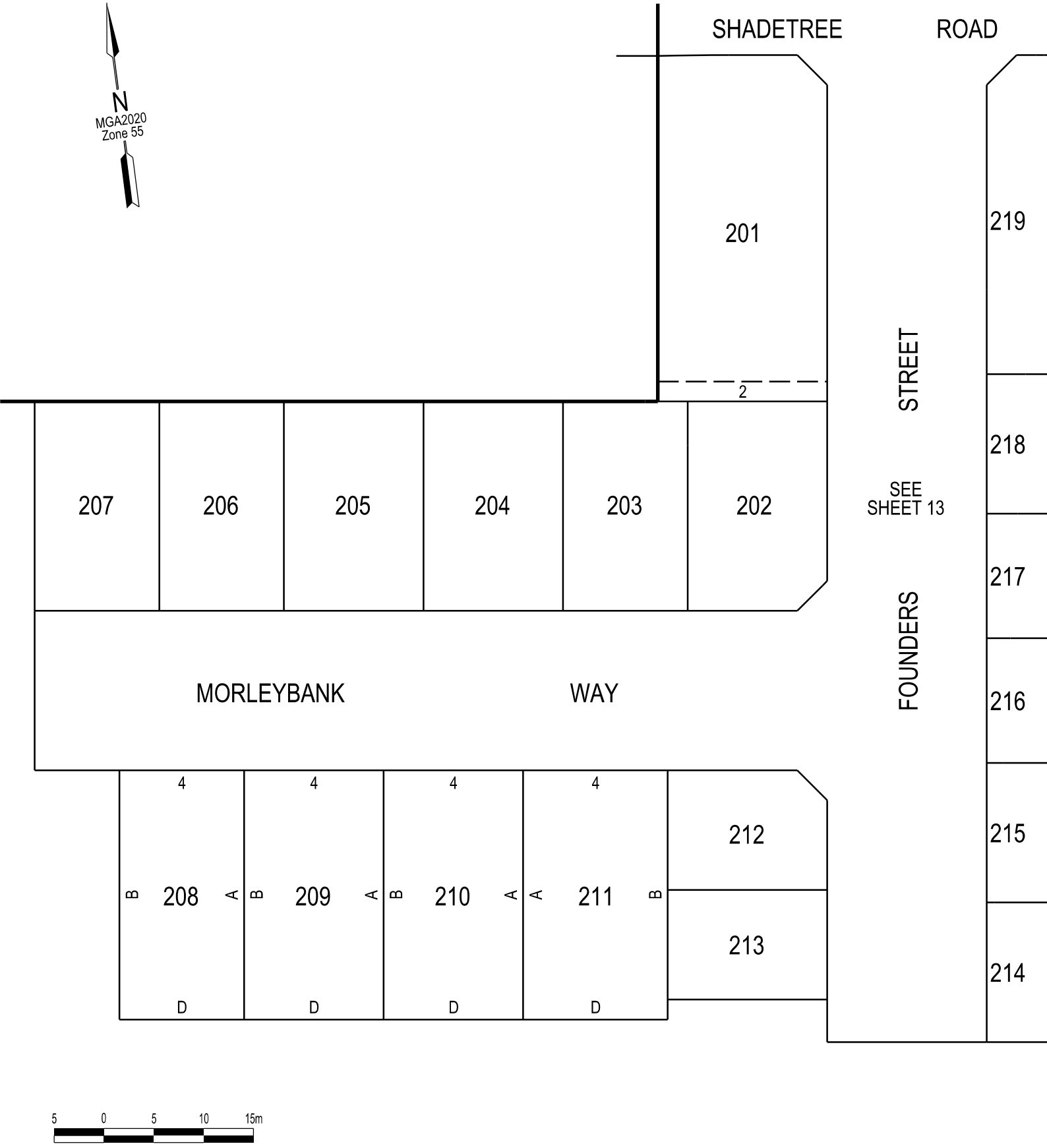

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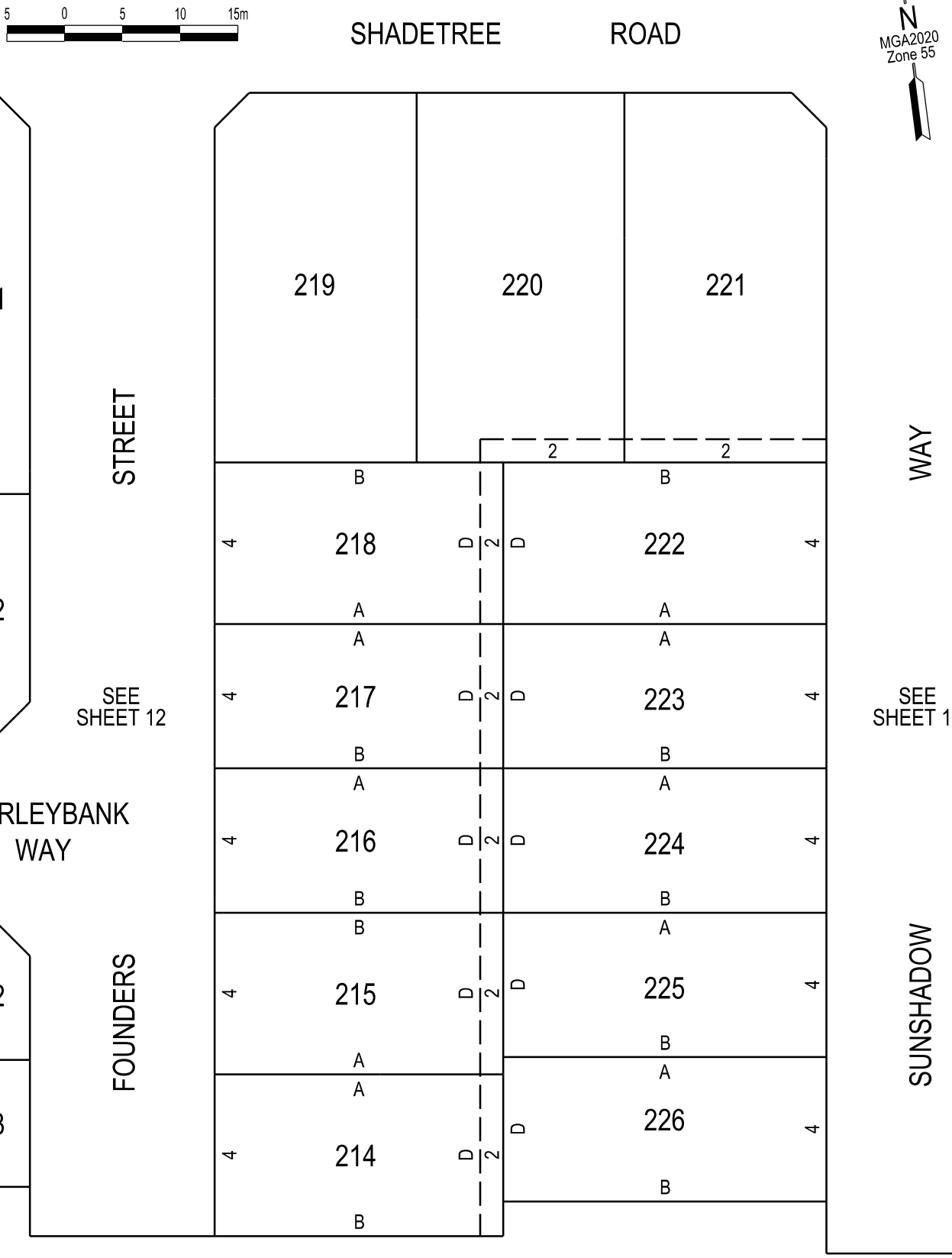
Building height & setback profiles referenced in the building envelope plan



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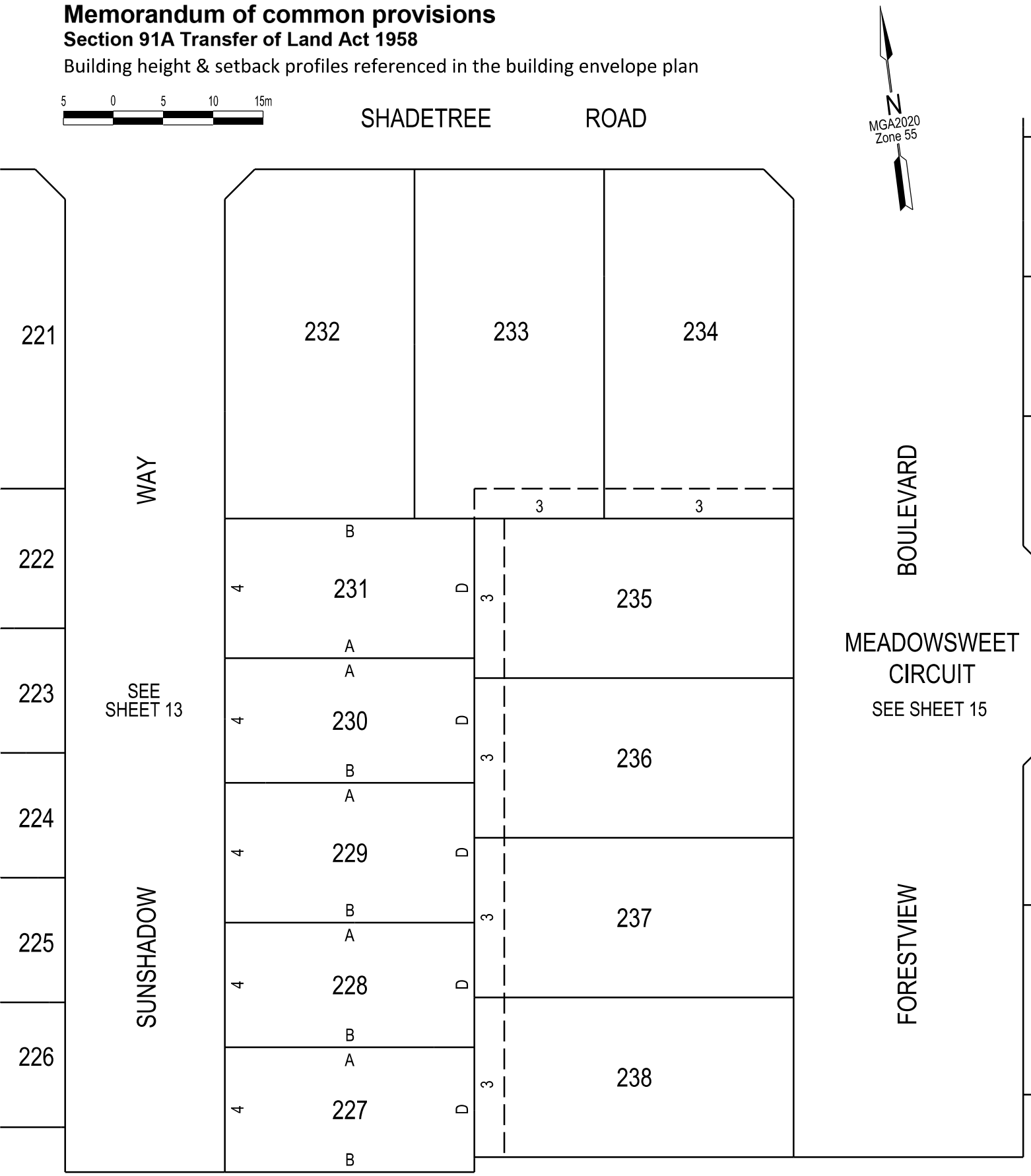

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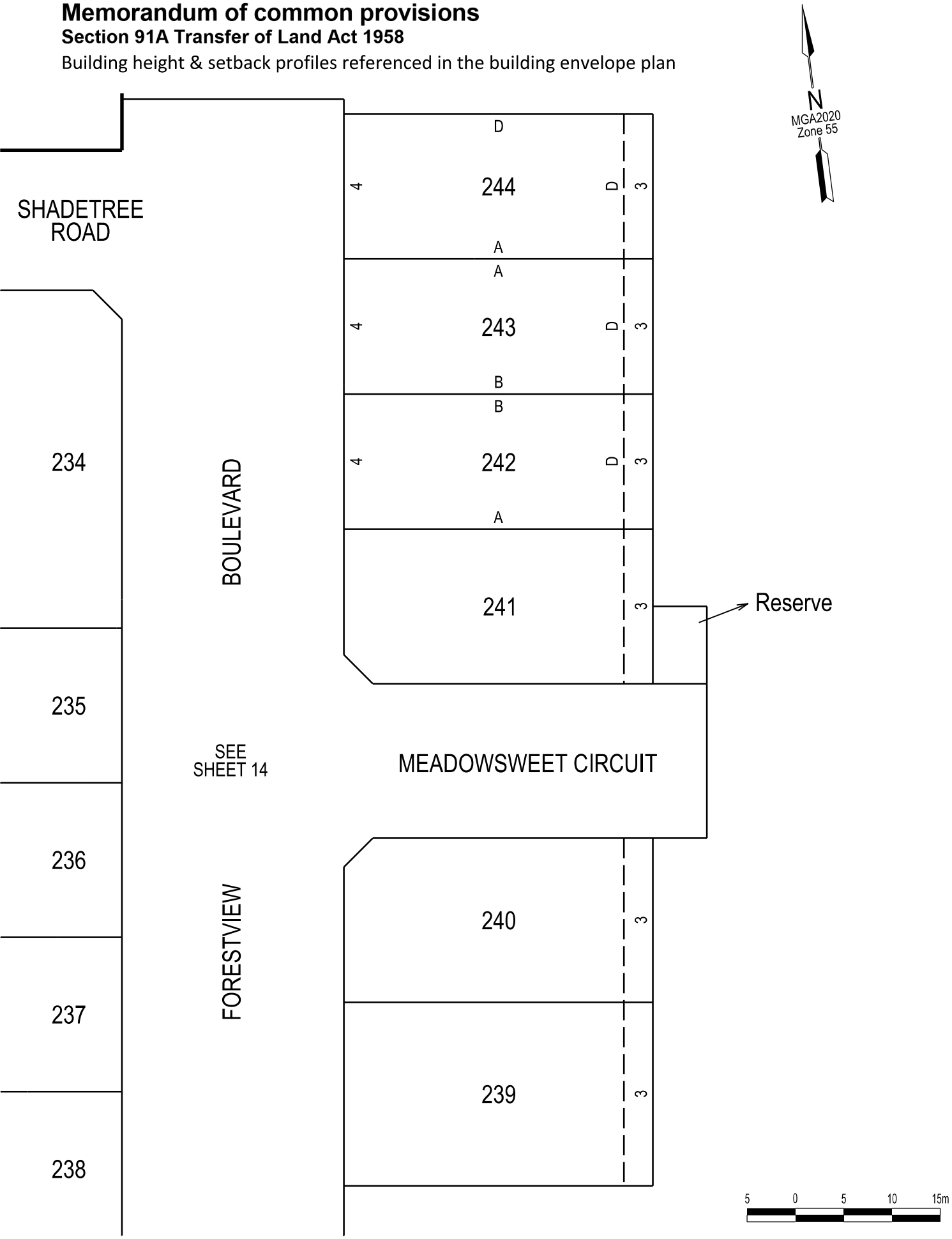

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