

# MEMORANDUM OF COMMON PROVISIONS

Approved Form MCP  
Victorian Land Titles Office

## Section 91A Transfer of Land Act 1958

Lodged by:

Name: .....

Customer Code: .....

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

## PROVISIONS

Plan of Subdivision PS:111111 - Building Envelopes

Any building on lots 2601 to lots 2648 (inclusive) within subdivision plan PS:111111 must be contained within the building envelopes shown on the attached plan and defined by the associated setback profiles and written notes contained therein. The building envelopes are part of planning permit No.000000, issued by Gumnut Council on 00/00/00, being created as a condition of that permit.

### 1 Text of restrictions

The matters which are restricted by the building envelopes are:

#### 1. Minimum street setback

Buildings on the lot must be set back from the main street frontage by the minimum distance noted on the plan, or if no front setback dimension is shown on the plan, at least 5 metres from the main street frontage.

On lots with more than one street frontage, buildings must be setback a minimum of 2 metres from any frontage other than the main street frontage or, if applicable, the minimum distance noted on plan.

#### *Splayed and curved street frontages*

Unless noted on the plan, the minimum front setback on a splayed or curved corner between two street frontages is on an arc connecting the front street setback line to the side street setback line commencing at the points that are perpendicular to the points where the street alignment commences to arc.

Front entrances are to be easily accessible from the main street frontage.

#### 2. Building height

The height of a building must not exceed the maximum building height shown in setback profiles specified on the plan. Maximum building heights between specified points on a setback profile lie on a straight line drawn between the two specified points within a profile.. Maximum building heights between profiles lie on a straight line drawn between the closest parts of the two profiles.

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### 3. Site coverage

Buildings must not occupy more than 60 per cent of the lot, regardless of the extent of building outlined by the envelope through setback profiles and plans. In calculating site coverage, eaves, fascia and gutters not exceeding 600mm in total width, and unroofed swimming pools, terraces, patios, decks and pergolas may be disregarded.

### 4. Side and rear setbacks

#### *Side setbacks*

A building on the lot must be set back from a side boundary not less than the distances specified in setback profiles described in this document and shown on plan by a setback identifier code, or the distance specified in a side setback dimension written on the plan.

If no side setback profile or dimension on a plan indicates the minimum side setback, any building on the lot must be setback from its side boundaries in accordance with regulations 4.9 (corner lots), 4.14 and 4.15 in Part 4 of the *Building Regulations 1994*.

#### *Rear setbacks*

Rear setbacks apply to any wall of a building where a setback is not indicated by a setback profile code or a setback dimension written on the plan and the wall is not facing the side boundary of the lot.

A rear wall of a building not exceeding 3.6 metres in height must be set back from the rear boundary not less than 3 metres.

A rear wall of a building exceeding 3.6 metres in height must be set back from the rear boundary by not less than 5.5 metres.

The maximum height of a building facing a rear boundary must not exceed the maximum building height allowed by the side envelope profile, or a height limit for a rear setback as dimensioned on the plan.

#### *Encroachments*

The following may encroach into the specified side and rear setback distances by not more than 500mm:

- Porches and verandahs
- Masonry chimneys

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- Sunblinds
- Screens, but only to the extent needed to protect a neighbouring property from a direct view
- Flues and pipes
- Domestic fuel tanks and water tanks
- Heating and cooling equipment and other services.

The following may encroach into the specified setback distances:

- Landings with an area of not more than 2 square metres and less than 1 metre high
- Unroofed stairways and ramps
- Pergolas
- Shade sails
- Eaves, fascia, gutters not more than 600mm in total width
- Carports, walls and buildings within the Building to Boundary Zone.

Side and rear setbacks from boundaries that are shared with lots which are not beneficiaries of this restriction are not dealt with by this building envelope except where annotated on plan.

### 5. Walls on boundaries

Walls, associated parts of a building and carports within 1 metre of a boundary are restricted to areas within a Building to Boundary zone (BBZ). The Building to Boundary Zone spans the length of the side boundary between the front and rear setbacks permitted by this building envelope, except where the perimeters of a BBZ are specifically dimensioned on the plan. .

Within the BBZ, the following apply:

- Walls and carports within 1 metre of a boundary are restricted to a total length of 12 metres
- Maximum height of a wall or side of a carport in the BBZ is restricted to 3.2 metres, or 3.6 metres if the total length of wall in the BBZ is 7 metres or less in length.
- Building height within the BBZ must not exceed 3.6 metres
- Walls less than 1m from the boundary must be within 200 millimetres of the boundary.
- Carports may be built within 1 metre of a boundary if the side of the carport facing the boundary is open.

Side and rear setbacks from boundaries which are shared with lots which are not beneficiaries of this restriction are not dealt with by this building envelope except where annotated on plan.

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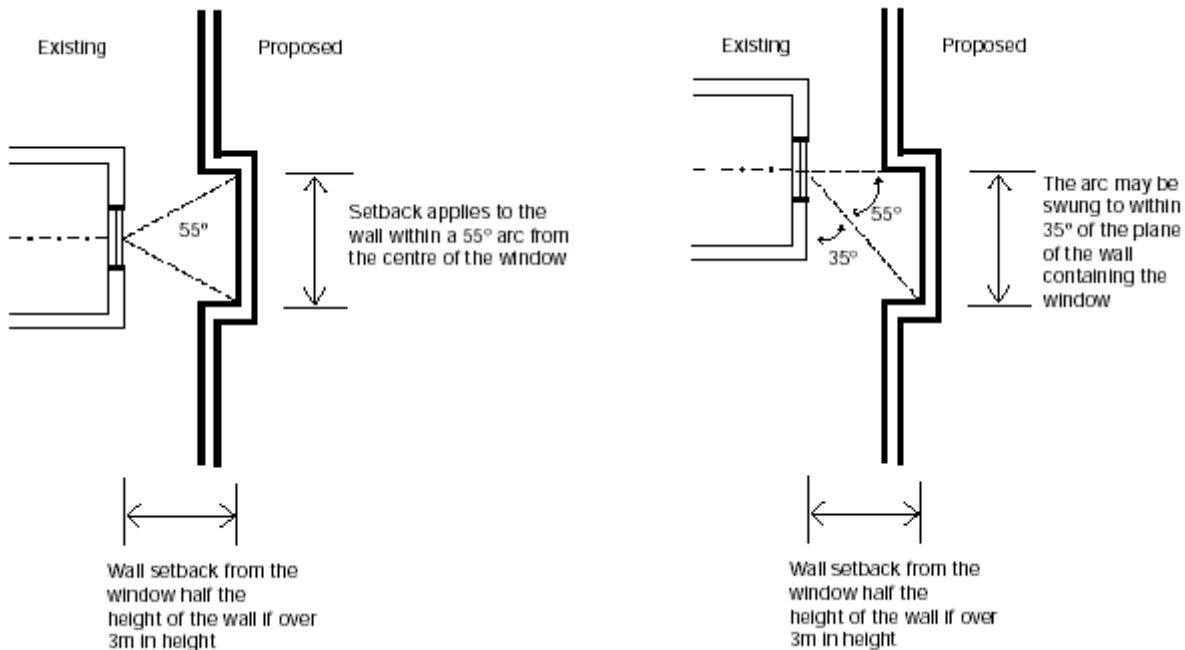
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### 6. Daylight to existing habitable room windows

A building must be set back from a habitable room window in an existing building on an adjoining lot to provide for a light court to the existing window that has a minimum area of 3 square metres and a minimum dimension of 1m clear to the sky. The area of the light court may include land on the adjoining lot.

A wall or carport with an average height of more than 3 metres opposite a habitable room window in an existing dwelling on an adjoining lot must be setback from that window at least half the height of the wall or carport if the wall or carport is within a 55 degree angle in the horizontal plane about a vertical axis through the centre of the window. The angle may be swung to not less than 35 degrees from the plane of the wall containing the window. This is illustrated in the two diagrams below.



If the existing habitable room window is above ground level, the wall or carport height is measured from the floor level of the room containing the window.

Daylight to habitable room windows in buildings on lots which are not beneficiaries of this restriction is not dealt with by this building envelope except where annotated on plan.

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### 7. Solar access to north-facing habitable room windows

Any north facing habitable room windows shall be located within the building envelope as described by setback profiles, plans and notes for each lot.

Solar access to north-facing habitable room windows on lots which are not beneficiaries of this restriction is not dealt with by this building envelope except where annotated on plan.

### 8. Overshadowing of recreational private open space

Building on the lot must not prevent one part of the lot and one part of any adjoining lot listed as a beneficiary of this restriction being used as non-overshadowed recreational private open space.

Non-overshadowed recreational private open space is: a part of the lot that:

- Is to the rear of the minimum front setback specified by the building envelope
- Has a minimum area of 40 square metres and a minimum dimension of 3 metres, and
- Receives sunlight for a minimum of 5 hours between 9 a.m. and 3 p.m. on 22 September

Overshadowing by buildings and fences of lots which are not beneficiaries of this restriction is not dealt with by this building envelope except where annotated on plan.

### 9. Overlooking

#### *From habitable room windows*

If a habitable room window is in a part of the building within an overlooking zone indicated in a setback profile or indicated by dimensions on the plan, any part of the window that is more than 3.6 metres above natural ground level must not allow a direct view to an adjoining lot. This does not apply to windows in a rear wall which comply with the specified rear setbacks.

#### *From raised open spaces*

A raised open space within an overlooking zone indicated in a setback profile or indicated by dimensions on the plan and with a floor level of more than 2 metres above natural ground level must not allow a direct view to an adjoining lot.

A direct view is:

- (i) **From a habitable room window**, any line of sight measured from a height of 1.7m above the floor level of the habitable room and contained within the space enclosed by:

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- (a) a vertical plane measured at an angle of 45 degrees from each side of the window, and
  - (b) a horizontal plane 1.7m above the floor level of the habitable room, and
  - (c) the ground level below, and
  - (d) a horizontal distance of 9m from the window.
- (ii) **From a raised open space**, any line of sight measured from a height of 1.7m above the floor level and along the perimeter of the raised open space to any point within a horizontal distance of 9m from the raised open space and extending 45 degrees beyond any point where the perimeter of the raised open space meets a wall of the building.

Overlooking of lots which are not beneficiaries under this restriction is not dealt with by this building envelope except where annotated on plan.

### 10. Daylight to new habitable room windows

Walls containing habitable room windows must be set back from the boundaries of the lot to allow a horizontal distance of at least 1 metre clear to the sky from the boundary.

Habitable room windows must face an outdoor space or light court with a minimum area of 3m<sup>2</sup> and minimum dimension 1m clear to the sky, not including land on an adjoining allotment, or a verandah on the lot if it is open for at least one-third of its perimeter, or a carport on the lot if it has two or more of its sides open or is open for at least one-third of its perimeter.

A side of a carport or verandah is considered to be open if its roof covering adjacent to that side is not less than 500mm from another building on the lot or the boundary of an adjoining lot.

#### Notes on the Restrictions:

1. Ground level after engineering works associated with subdivision is to be regarded as natural ground level.
2. In the case of conflict between the plan or profile diagrams and these written notations, the specifications in the written notations prevail.
3. Buildings must not cover registered easements unless provided for by the easement.
4. 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.

The edge lots in this Memorandum of Common Provisions are those lots which appear on Plan of Subdivision No. 111111 with the following lot numbers:

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- 2601 to 2609 inclusive
- 2638 to 2648 inclusive
- 2610
- 2612 to 2616 inclusive
- 2618 - 2619

### General Definitions

If not defined above, the words below shall have the meaning attributed to them in the document identified:

In the *Building Act 1993*:

- Building
- Lot

In Part 4 of *Building Regulations 1994*:

- Clear to the sky
- Height
- Private open space
- Recreational private open space
- Raised open space
- Secluded private open space
- Setback
- Site coverage
- Window
- Single dwelling
- North (true north)

In the *Victoria Planning Provisions*, 31 October 2002:

- Frontage (Clause 72)
- Dwelling (Clause 74)
- Habitable room (Clause 72)
- Storey (Clause 72)

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### Additional definitions

#### **Front street or 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.

#### **Street**

For the purposes of determining street setbacks, street means any road other than a lane, footway, alley or right of way.

#### **Standard lot**

A single lot that accommodates a freestanding house detached from adjoining houses and of an individual style. A standard lot can also include provision for single storey non-common boundary walls and which do not have to be in contact with an adjoining structure.

#### **Terrace lot**

One of a row of 3 or more lots where the houses are attached, generally 2 storeys in height and of a uniform style. The terrace houses are built to the side boundaries on the individual allotments and are joined together with two-storey common walls or abutting boundary walls.

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## 2 Diagrams and plans

### 1. Explanation of symbols and terms in profile diagrams and plans

The following symbols have been used in the templates: -

Building Envelope Profile Identifier	Components of Building Envelope Profile Identifier
	A = Building Envelope Profile Type + = Ground slope rising from the nominated boundary - = Ground slope falling from the nominated boundary - 2.5 A site slope ranging between 2.5 degrees to 5.0 degrees as defined above.



Single Storey Building Envelope (wall height not exceeding 3.6m)



Overlooking Zone – Habitable room windows or raised open spaces are a source of overlooking.



Non Overlooking Zone – Habitable room windows or raised open spaces are not a source of overlooking



Building to Boundary Zone

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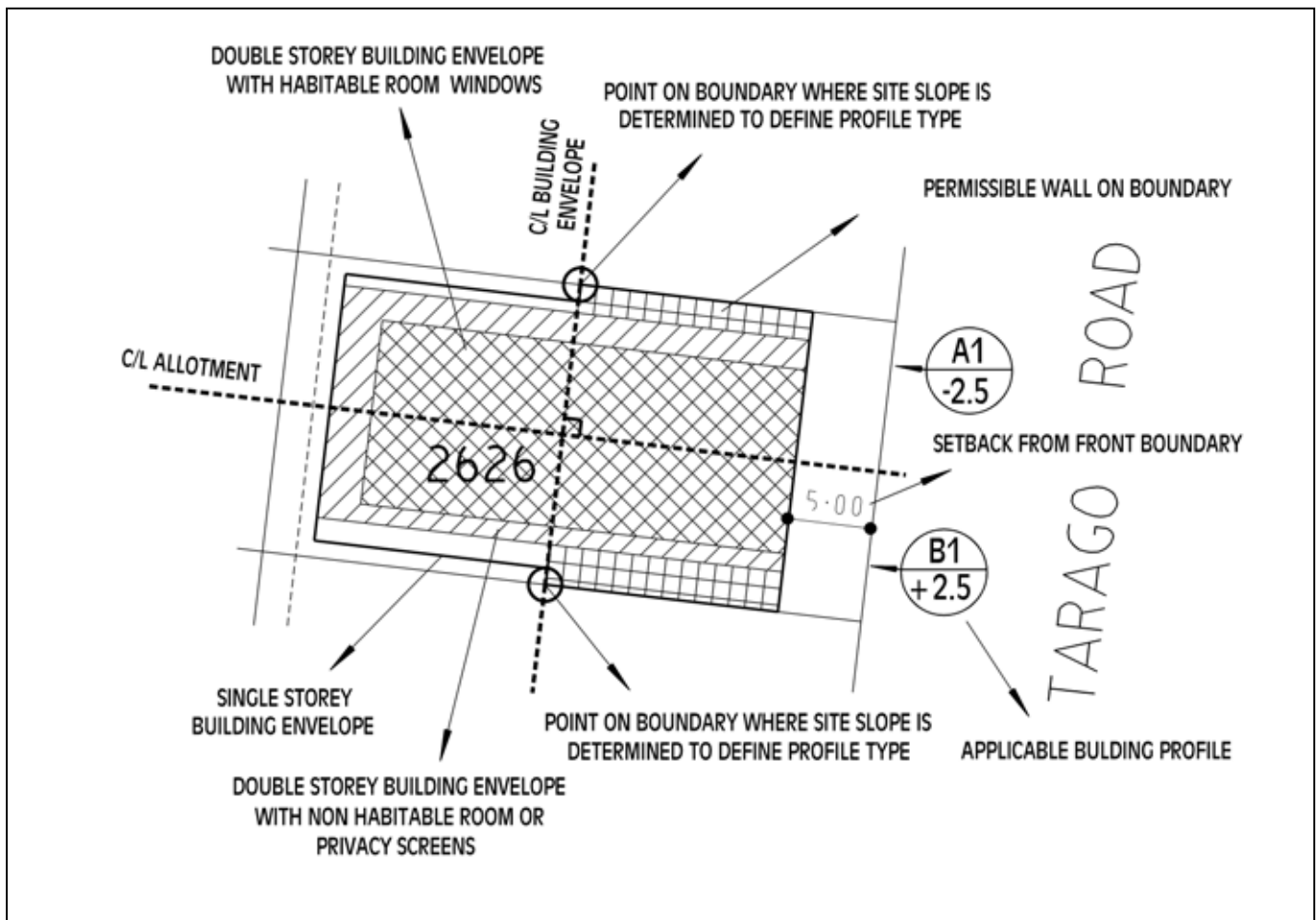
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### Interpretation of setback profiles and plans

#### 2.1 Diagram illustrating the interpretation of the building envelope on the plan of subdivision



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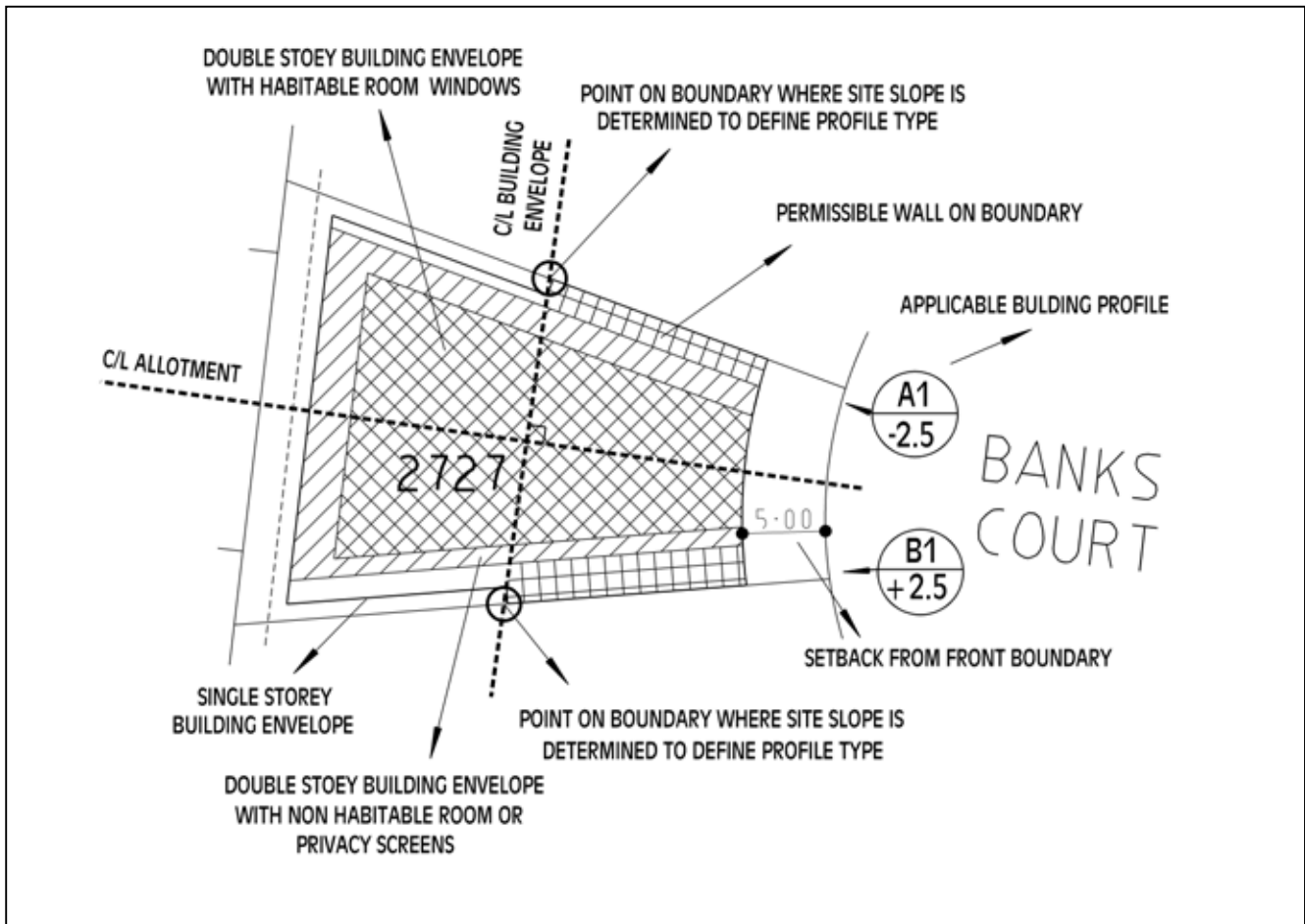
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### 2.2 Diagram illustrating the interpretation of the building envelope on the plan of subdivision -for an irregular lot.



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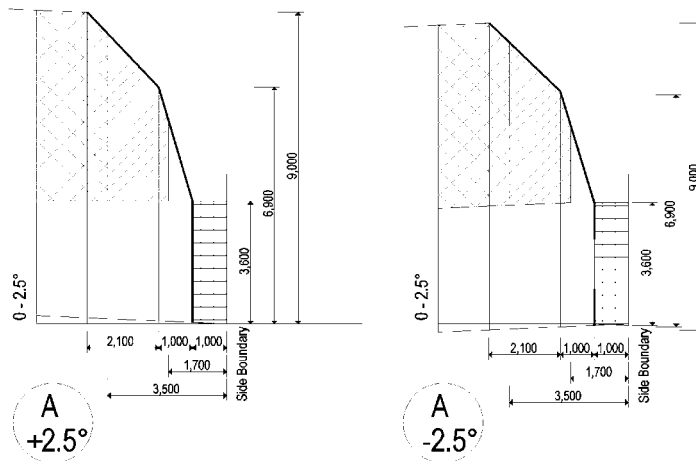
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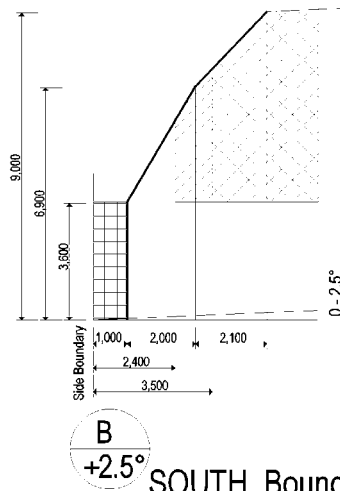
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### 2.3 Profiles referenced in plan of subdivision

#### 0 - 2.5° slope STANDARD ALLOTMENT:



#### NORTH, EAST or WEST Boundary:



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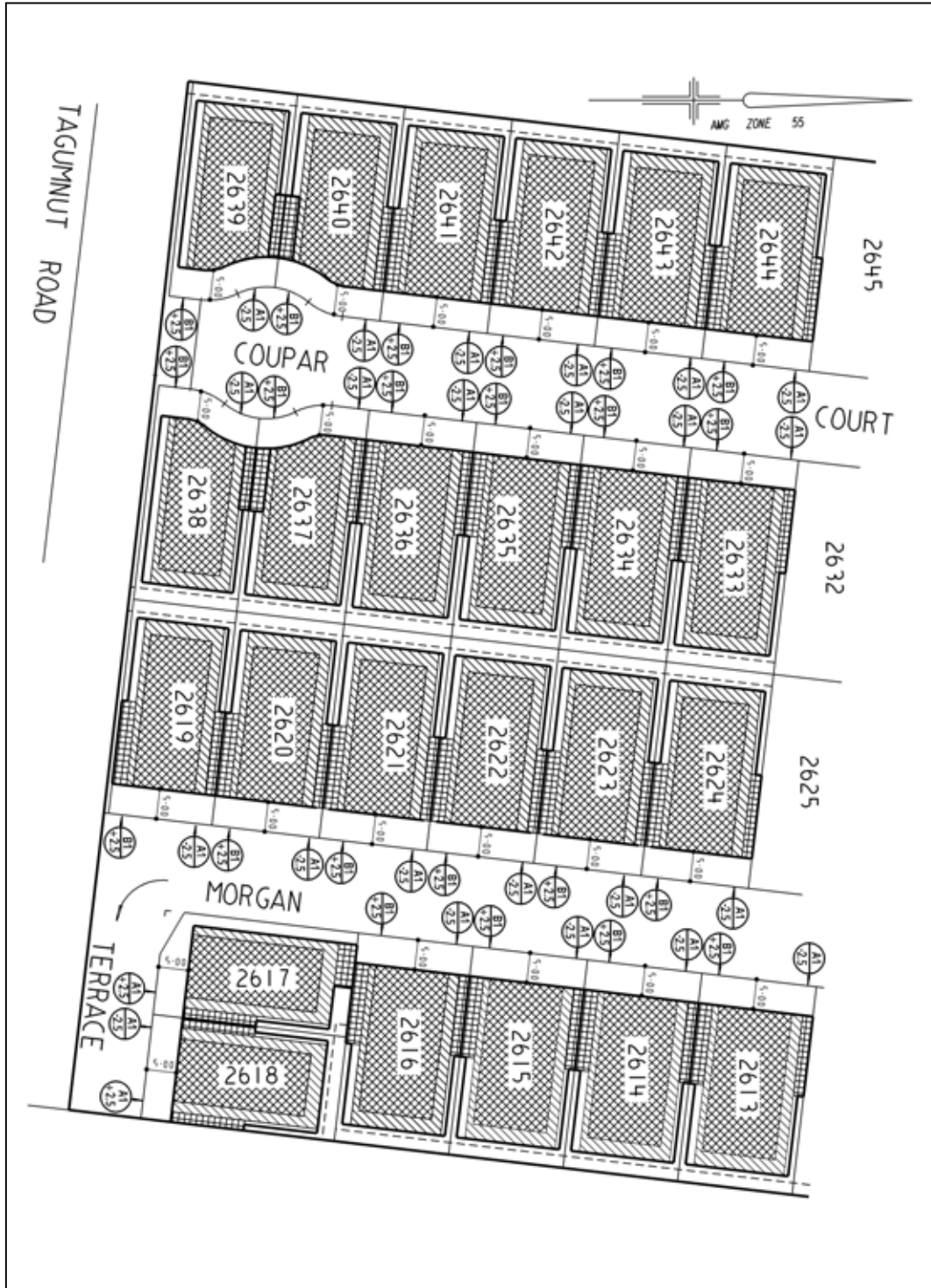
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### 4. Plan of subdivision showing building envelopes



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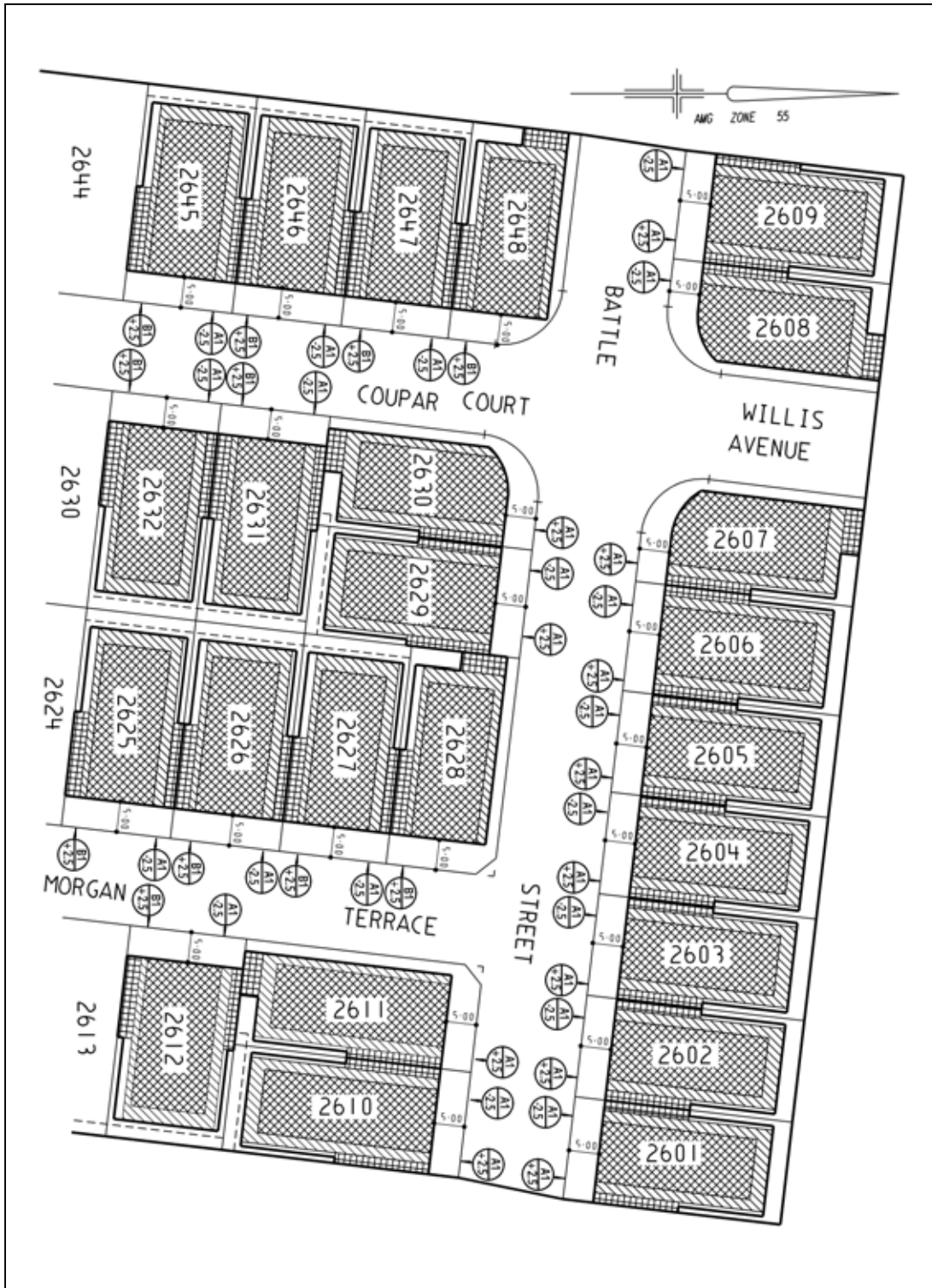
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