

Arches Port Campbell Development

Notes on Restrictive Covenants

1. A restrictive covenant is an agreement registered on land that restricts or limits how the land can be used.
2. The land on which the restrictions apply is called the *burdened land*. The land that benefits from the restrictions is called the *benefited land*.
3. The land within the Arches Port Campbell Development has two sources of restrictive covenants:
 - 3.1 The plan of subdivision that creates the individual lots includes a building envelope, limiting where buildings can be built on each lot; and
 - 3.2 A Memorandum of Common Provisions that sets out the restrictions on each lot as part of the agreement between the purchaser and the land owner.
4. The covenants are for the benefit of the other lots within the Arches Port Campbell Development. The other lot owners (including the current owners) are the benefited land and can enforce the covenants.
5. Only the owners of the benefited land can enforce the covenants, but they are not obliged to do so. This includes the developer of the Arches Port Campbell Development. The developer has the right to exercise its discretion to:
 - 5.1 Allow a dwelling, outbuilding or shed to exceed 4 metres in height from the natural ground level;
 - 5.2 Allow an outbuilding or shed to have a footprint larger than 100 square metres;
 - 5.3 Allow up to 10 metres of fencing a secondary street frontage; or
 - 5.4 Allow a fence to greater than 1.8m in height from the natural ground level.
6. Any development on the burdened land, including the construction of a new home, will need to be designed so the restrictive covenants are not breached. For example, any brick used in construction must not be visible from any street frontage.
7. If a lot owner breaches a restrictive covenant any owner of the benefited land can object, and issue legal proceedings to enforce the restrictive covenant. This can include asking for an injunction or damages for breaching the restrictive covenant.

Memorandum of Common Provisions

Section 91A Transfer of Land Act 1958

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Lodged by

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Phone: 5560 2100

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Reference:

Customer Code: 1638Q

This memorandum (containing 7 pages) contains provisions which are intended for inclusion in instruments and plans to be subsequently lodged for registration.

Provisions

1. Definitions

In this memorandum except where a contrary intention appears the following terms are defined as follows:

Approved Species means a plant species that is included on the list of approved plant species attached to this memorandum of common provisions

Building Envelope Plan means a plan specifying the area in which the dwelling, garage or outbuilding must be built

Developer means Arches Port Campbell Pty Ltd ACN: 647 662 280

Display Home has the same meaning as Home display centre set out in the Land Use Terms of the Planning Scheme.

Dwelling has the same meaning as set out in the Land Use Terms of the Planning Scheme.

Fencing Guidelines means the guidelines attached to this Memorandum of Common Provisions setting out construction requirements for fencing of a Lot boundary.

Main Street frontage means the street frontage that allows the most direct access to the front door of a Dwelling.

Occupancy Permit means an occupancy permit issued under the *Building Act 1993 (Vic)*.

Land means the land contained in a Lot.

Lot has the same meaning as in the *Subdivision Act 1988 (Vic)*, being a lot created by the Plan of Subdivision and if permitted, includes any lot created by further subdivision.

Plan of Subdivision means the relevant plan of subdivision to which this memorandum of common provisions applies, either by incorporation by way of restrictions on that plan of subdivision or a restrictive covenant created under the *Transfer of Land Act* that describes the benefited and burdened land as the land in the relevant plan of subdivision.

Planning Scheme means the local government planning scheme that applies to the Land.

Secondary Street Frontage means the boundary of a corner allotment that is not the Main Street Frontage of the lot.

Side boundary means a boundary of a lot that runs between and connects the Main Street Frontage of the lot to the rear boundary of the lot.

Transferee is the Transferee/s named in the Transfer of Land creating a covenant and referring to this Memorandum of Common Provisions

[approval number]

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.

Page 1 of 1

THE BACK OF THIS FORM MUST NOT BE USED

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

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Transferor is the Transferor/s named in the Transfer of Land creating a covenant and referring to this Memorandum of Common Provisions

2. Creation of Restrictive Covenants

- 2.1 Clauses 3 to 8 are restrictive covenants that affect Lot 1 to Lot 53 on the Plan of Subdivision. The land benefitted by the restrictions is Lot 1 to Lot 53 on the Plan of Subdivision. The land burdened by the restrictions is Lot 1 to Lot 53 on the Plan of Subdivision.
- 2.2 The restrictive covenants described in clauses 2.1:
 - 2.2.1 will bind the registered proprietor or proprietors for the time being of a Lot on the Plan of Subdivision, their heirs, executors, administrators and transferees to burden the Land; and
 - 2.2.2 will be noted and appear on every future folio of the Register for the Lot or any part of it.
- 2.3 The restrictive covenants described in clause 2.1 will expire on 31 December 2042.

3. Use of Land

- 3.1 No building may be erected or permitted to remain on the Land, except a Dwelling, garage, outbuilding, or shedding.
- 3.2 Not more than one Dwelling may be erected or permitted to remain on the Land.

4. Building Envelope plan

- 4.1 No dwelling, garage, or outbuilding (excluding garden shed) can be constructed outside the building envelope, as identified on the Building Envelope Plan.

5. Design Requirements

No Dwelling must be built or substantially altered unless it complies with the following guidelines numbered 5.1 to 5.9:

5.1 Built form

- 5.1.1 No Dwelling must be constructed unless it faces and addresses the Main Street Frontage. Where a corner allotment, no Dwelling must be constructed unless it faces and addresses the Main Street Frontage and Secondary Street Frontage;
- 5.1.2 No brick must be visible from any street frontage
- 5.1.3 Imitation stone, Alucobond or other highly reflective materials, and ceramic roof tiles are not permitted;
- 5.1.4 Historical and Replica heritage design such as Georgian, Victorian or Federation are not permitted;
- 5.1.5 Dwelling design repetition throughout the estate is not permitted. Each dwelling must contain unique qualities that distinguish it from other dwellings, or significant separation applied between dwellings of same design so as not to be visually associated;

5.2 Service Locations

No Dwelling is permitted to have the following items visible from the Main Street Frontage:

- 5.2.1 air conditioners and/or evaporative coolers;
- 5.2.2 water systems;
- 5.2.3 rain water tanks;
- 5.2.4 any clothes line or hoist (or hang any washing, towels, bedding, clothing or other articles of a similar nature from any clothes line, hoist or railing);
- 5.2.5 swimming pool, spa and/or sauna related filtration and heating equipment;
- 5.2.6 external antennae, aerials or satellite dishes;
- 5.2.7 hot water tanks;
- 5.2.8 refuse bins;
- 5.2.9 external waste plumbing (but not including down pipes and guttering);

5.3 Driveways

- 5.3.1 No driveway must be constructed unless it is constructed of permeable materials such as Turf-Grid™, Roocycle Permeable Paver, or similar permeable paver, or decomposed granite or crushed rock, and the like;
- 5.3.2 Construction of a driveway and crossover must be completed before the date of issue of the certificate of occupancy for the Dwelling constructed on the land and the transferee/s will not call on or demand that the transferor/s contribute to any part of the cost of construction of any drive way or crossover
- 5.4 **Garage or Carport Design**
No garage or carport must be constructed unless its design is integrated into the design of the dwelling and constructed of the same or similar materials.
- 5.5 **Dwellings, outbuildings and sheds**
Any Dwelling, outbuilding or shed of any type:
- 5.5.1 must not exceed 4 metres in height from the natural surface level of the land unless the prior written consent of the Developer is obtained.
- 5.5.2 must not exceed a footprint of 100 square metres unless the prior written consent of the Developer is obtained. This clause 5.5.2 does not apply to a Dwelling.
- 5.6 **Landscape design requirements**
- 5.6.1 No flora is to be planted or allowed to remain planted in the first 4m of the Main Street Frontage unless it is an Approved Species.
- 5.6.2 No flora is to be planted or allowed to remain planted in the first 4m of Secondary Street Frontage unless it is an Approved Species.
- 5.6.3 The Landscaping must incorporate minimum one (1) advanced tree (minimum height 2 metres) between the Dwelling and the Main Street Frontage;
- 5.6.4 Where a corner Lot, the Landscaping must incorporate minimum one (1) advanced tree (minimum height 2 metres) between the Dwelling and the Secondary Street Frontage;
- 5.6.5 Front yards and nature strips must not be allowed to become or remain unkempt or untidy;
- 5.6.6 Vacant lots must be maintained to an acceptable level with grass no higher than 200mm.
- 5.7 **Water tank**
- 5.7.1 Any Dwelling constructed on the Lot must not be connected to mains water supply unless a rain water tank with a minimum capacity of 10,000 litres is installed and plumbed to the Dwelling on the Lot.
- 5.8 **Electricity Supply**
- 5.8.1 Any Dwelling constructed on the Lot must not be connected to a mains electricity supply unless a solar PV power system with a minimum generating capacity of 3kW is identified and planned for install.
- 5.8.2 Install of solar PV power system must not be completed later than three (3) months after the issue of the Occupancy Permit.
- 5.8.3 If an electricity supplier states that the electricity network supplying the Lot is not suitable for export, clause 5.8.1 and 5.8.12 still apply and the solar PV power system must be installed with zero export.
- 5.9 **Fencing**
- 5.9.1 No fence is to be constructed or allowed to remain constructed unless it complies with the Fencing Guidelines;
- 5.9.2 No fence is to be constructed on the Main Street frontage or on Secondary Street frontage;
- 5.9.3 No fence is to be constructed between the Building Envelope and the Main Street frontage or between the Building Envelope and the Secondary Street frontage;
- 5.9.4 Where a corner Lot (Lots 3, 4, 7 10, 13, 17, 20, 27, 28 35, 36, 42, and 53) up to ten (10) metres of fencing on the Secondary Street frontage (for the protection of Private Open Space) may be permissible, if prior written consent of the Developer is obtained;

5.9.5 No fence is to be constructed to a height greater than 1.8m from natural ground level, unless prior written consent of the Developer is obtained.

6. Use of the Land after construction of dwelling

The Transferee and any other occupier of the Land, but excluding the Transferor, must not:

- 6.1 house or store vehicles on the Land other than in a garage or driveway on the Land.
- 6.2 permit any trailer, caravan, or such similar items to be visible from the Main Street Frontage.
- 6.3 permit any Dwelling constructed on the land to be used as a Display Home unless the prior written consent of the Developer is obtained; and;
- 6.4 erect or allow to remain erected on the land any sign, hoarding or similar structure unless it is for the sale or lease of the Dwelling or promotion of a Display home for which consent has been obtained under clause 6.3 and it complies with any requirements under the Planning Scheme.

7. Construction requirements

Construction must not commence on the Land unless:

- 7.1 A temporary fence with screening is constructed on site on all street frontages;
- 7.2 Waste receptacles are placed on site and not on nature strips; and
- 7.3 Cages are provided on the construction site for storing and containing waste product.

8. Construction timeline requirements

- 8.1 A driveway or crossover must not be left or cause to be left incomplete or partially constructed after the date of issue of the Occupancy Permit for the Dwelling.
- 8.2 The nature strip in front of the Lot, including grassing and planting, must not be left damaged or untidy after the issue of the Occupancy Permit for the Dwelling.
- 8.3 Landscaping works to the Main Street Frontage and Secondary Street Frontage of the Dwelling must be completed within three (3) months after the Occupancy Permit is issued.

9. Pets

- 9.1 Cats are not permitted to be kept on the Lot.

FENCING GUIDELINES

These guidelines direct the construction of all fencing, where it is permissible to install.

Timber Paling

- Posts 125 x 75mm hardwood or similar, suitable for in ground use
- Paling 150 x 12mm (under) 100 x 12mm (over) fine sawn treated pine, overlapped
- Palings must face south and west. Where up to 10m of fencing is permitted on a street frontage, palings must face the street
- Capping is not permitted
- Maximum height of 1.8m

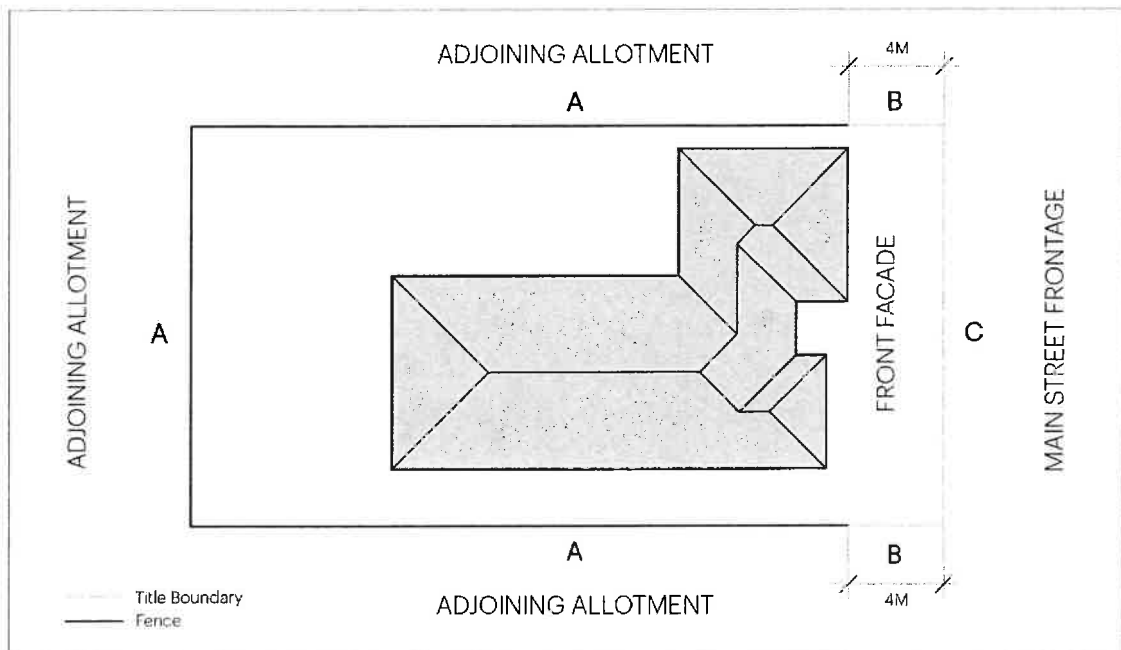
Brush Panel

- Posts 125 x 75mm hardwood or similar, suitable for in ground use
- Panels must face south and west. Where up to 10m of fencing is permitted on a street frontage, panels must face the street
- Maximum height of 1.8m

Post and Wire

- Posts 125 x 75mm hardwood or similar, suitable for in ground use
- Wire or wire mesh is permissible
- Barbed wire is not permissible
- Maximum height of 1.2m

Fencing plan for lots (non-corner lots)

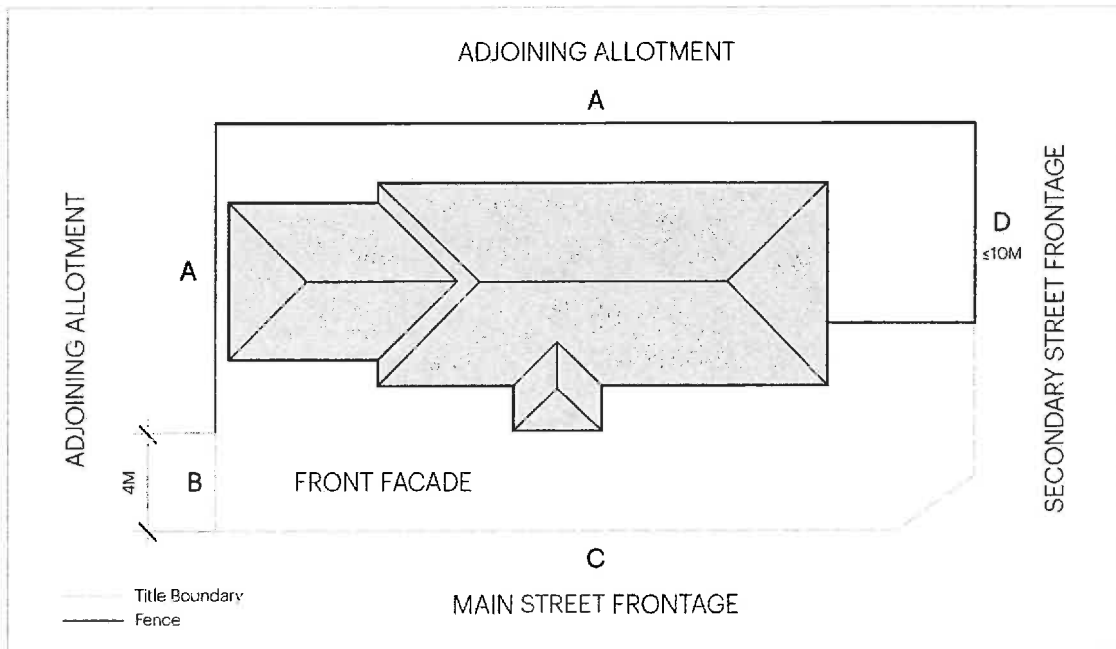


A: Standard fencing no greater than 1.8m

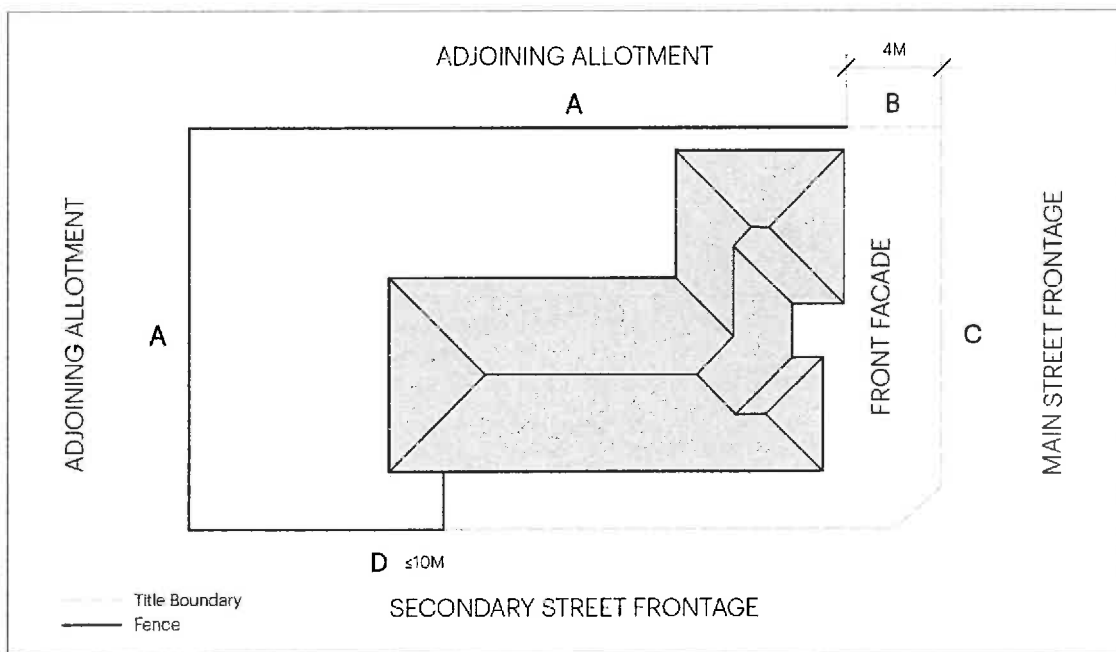
B: No fence must be constructed between the Building Envelope and the Main Street frontage

C: No fence must be constructed on the Main Street frontage

Fencing plan for a corner lot (dwelling facing the long frontage)



Fencing plan for a corner lot (dwelling facing the short frontage)



- A:** Standard fencing no greater than 1.8m
- B:** No fence must be constructed between the Building Envelope and the Main Street frontage
- C:** No fence must be constructed on the Main Street frontage
- D:** No more than ten (10) metres of fencing may be constructed on the Secondary Street Frontage with prior written consent from the Developer. (Applicable to Lots 3, 4, 7 10, 13, 17, 20, 27, 28 35, 36, 42, and 53 only)

Plans are not drawn to scale

APPROVED SPECIES LIST

Large Trees

<i>Acacia melanoxylon</i>	Blackwood	9 x 8m
<i>Allocasuarina verticillata</i>	Drooping Sheoke	10 x 6m
<i>Eucalyptus obliqua</i>	Messmate	60 x 15m
<i>Eucalyptus ovata</i>	Swamp Gum	8 x 6m
<i>Eucalyptus viminalis</i>	Manna Gum	10 x 8m
<i>Eucalyptus willisii</i>	Shining Peppermint	4 x 2m
<i>Leptospermum lanigerum</i>	Wooly Tea Tree	4 x 2m
<i>Leptospermum continentale</i>	Prickly Tea-tree	3 x 2m
<i>Malaleuca lanceolata</i>	Coastal Moonah	7 x 5m
<i>Acacia stricta</i>	Hop wattle	3m x 1.5m
<i>Acacia mucronata</i>	Narrow Leaf Wattle	3m x 1.5m
<i>Allocasuarina paludosa</i>	Scrub She Oak	2.5m x 1m
<i>Melaleuca squarrosa</i>	Scented Paperbark	3m x 1m
<i>Myoporum Insulare</i>	Boobialla	3m x 3m

Shrubs

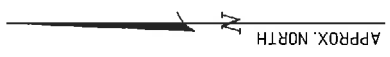
<i>Acacia verticillata</i>	Prickly Moses	4 x 3m
<i>Banksia marginata</i>	Silver Banksia	5 x 3m
<i>Bursaria spinosa</i>	Sweet Bursaria	4 x 3m
<i>Cassinia aculeata</i>	Dogwood	3 x 2m
<i>Correa reflexa</i>	<i>Correa reflexa</i>	2 x 2m
<i>Correa alba</i>	White Correa	2 x 2m
<i>Dillwynia cinerascens</i>	Grey Parrot-pea	1 x 1m
<i>Goodenia ovata</i>	Hop Goodenia	2 x 2m
<i>Gynatrix pulchella</i>	Hemp bush	3 x 2m
<i>Hymenanthera dentata</i>	Shrub Violet	3 x 2m
<i>Indigofera australis</i>	Austral Indigo	1 x 1m
<i>Leptospermum scoparium</i>	Manuka	2 x 2m
<i>Olearia ramulosa</i>	Twiggy Daisy-bush	2 x 1m
<i>Pomaderris racemosa</i>	Pomaderris	3 x 2m
<i>Rhagodia candolleana</i>	Sea Berry Saltbush	2 x 2m
<i>Senecio odoratus</i>	Scented Groundsel	1 x 1m
<i>Solanum laciniatum</i>	Kangaroo Apple	2 x 2m
<i>Viminaria juncea</i>	Golden Spray	3 x 2m
<i>Acacia myrtifolia</i>	Myrtle Wattle	1 x 1m
<i>Lasiopetalum baueri</i>	Slender Velvet Bush	1 x 1m
<i>Ozathamnus turbinatus</i>	Coast Everlast Tough	2 x 1m
<i>Pimelea humilis</i>	Common Rice Flower	1 x 1m

**Groundcovers & Native
Grasses**

<i>Austrodanthonia Caespitosa</i>	Common Wallaby Grass	1.2 x 0.5m
<i>Carex appressa</i>	Tall Sedge	1 x 1m
<i>Dianella tasmanica</i>	Tasman Flax Lily	1 x 1m
<i>Dianella revoluta</i>	Flax Lily	1 x 1.5m
<i>Dichondra rapens</i>	Kidney Weed	.2 x 1.5m
<i>Poa poiformis</i>	Blue Tussock Grass	0.5 x 1m
<i>Poa labillardieri</i>	Tussock Grass	0.8 x 0.8m
<i>Lomandra longifolia</i>	Spiny Headed Mat-Rush	1 x 1m
<i>Leucophyta brownii</i>	Cushion Bush	.6 x 1m
<i>Isolepis nodosa</i>	Knobby Club-sedge	1 x 0.5m
<i>Themeda trianda</i>	Kangaroo Grass	1.5 x 0.5m
<i>Carpobrotus rossii</i>	Pigface	0.2 x 1m
<i>Chrysocephalum apiculatum</i>	Common Everlasting	0.2 x 1m
<i>Calcocephalus lacteus</i>	Milky Beauty Heads	0.3 x 1m
<i>Dianella Maritimus</i>	Blue Flax Lily	0.4m x .04m
<i>Stylidium gramminifolium</i>	Trigger Plant	0.2m x 0.2m
<i>Tetragona implexicoma</i>	Bower Spinach	Groundcover

BUILDING ENVELOPE PLAN

BUILDING ENVELOPE PLAN

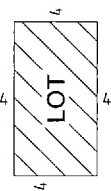


Notations

- Building envelopes shown as hatched.
- Building envelope setback from boundary 2m unless abutting or shown otherwise.

Legend

- Building envelope (hatched) with setbacks to boundary.

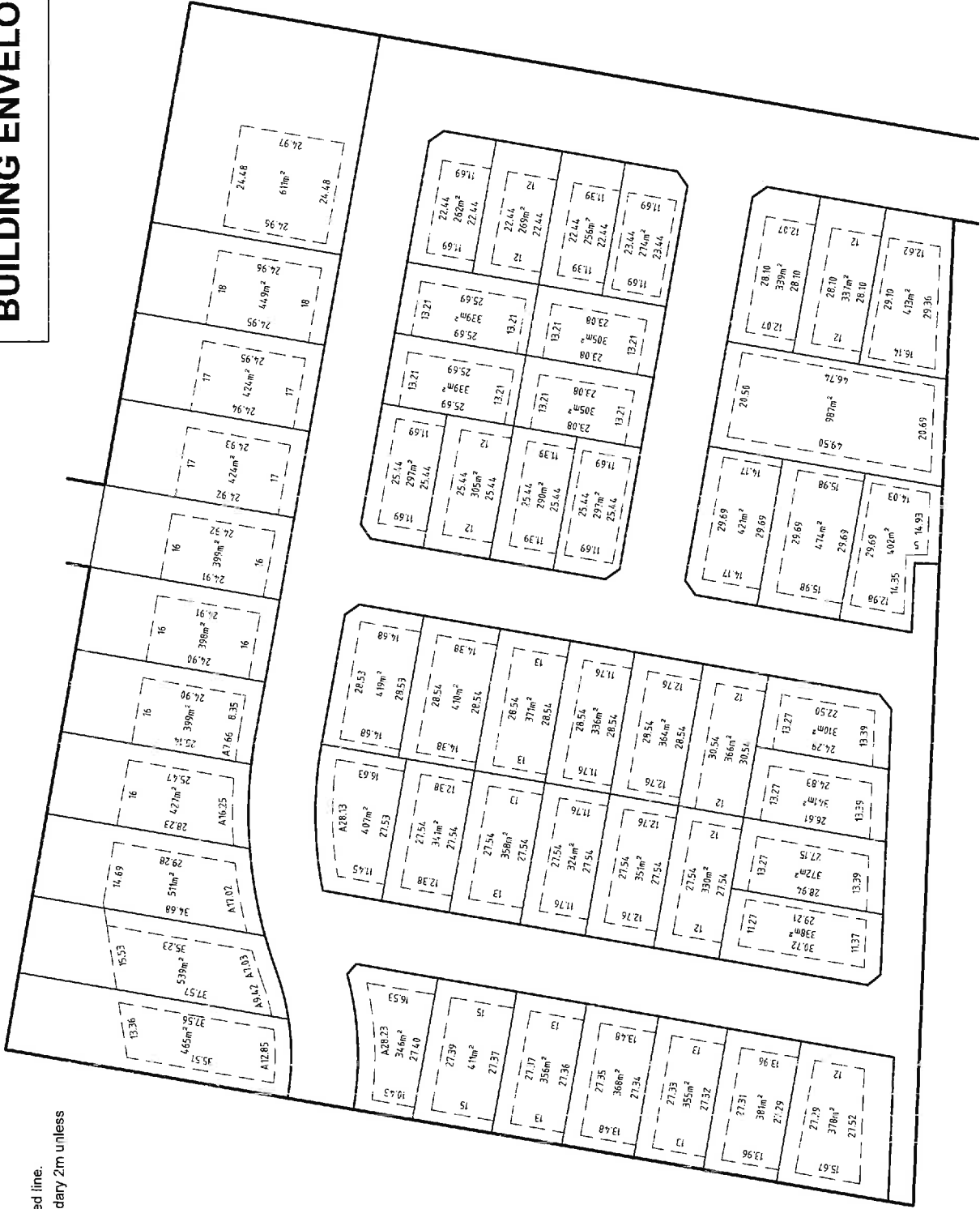


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LICENCED SURVEYOR Glenn Graham Smith		VERSION: 12	
REFERENCE: 2020-0178-BE			

Smith Land Surveyors Pty Ltd
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 P (03) 5222 1234 F (03) 5223 3141
 E survey@smiths.com.au
 W www.smithlandsurveyors.com.au
 ABN 72 82 046 954



BUILDING ENVELOPE PLAN



Notations

- Building envelopes shown as a dashed line.
- Building envelope setback from boundary 2m unless abutting or shown otherwise.

Legend

- Building envelope (dashed line) with dimensions & area.



SCALE 1:1000

10 0 10 20 30 40

LENGTHS ARE IN METRES

LICENCED SURVEYOR Glenn Graham Smith

REFERENCE: 2020-0178-BE

VERSION: 12

ORIGINAL SHEET SIZE: A3

SHEET 2 OF 2

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