

**AA7805**

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

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Lodged by	
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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.**

Provisions to apply to the plan:

**Burdened land:** As set out in the plan.

**Benefited land:** As set out in the plan.

**Covenants:**

**1 PRELIMINARIES**

- 1.1 This MCP provides the information necessary to interpret the Approved Building Envelopes.
- 1.2 This MCP includes:
  - 1.2.1 Any varied design parameters from the Building Regulations.
  - 1.2.2 Matters not covered by the Building Regulations.
- 1.3 Any matter not addressed in this MCP will still need to be addressed as required by the Building Regulations.
- 1.4 This MCP is retained by the Registrar of Titles pursuant to section 91 (A) of the Transfer of Land Act.

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V3

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 plans.

91ATLA

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**THE BACK OF THIS FORM MUST NOT BE USED**

Land Use Victoria contact details: see [www.delwp.vic.gov.au/property](http://www.delwp.vic.gov.au/property) > Contact us

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**2 PROVISIONS**

- 2.1 Any building requiring a building permit to be constructed on a lot to which this MCP applies must be sited within the Approved Building Envelope.
- 2.2 This MCP will specify any encroachments allowed outside the Approved Building Envelope.

**3 TEXT OF RESTRICTIONS**

**3.1 Minimum Street setbacks (refer regulation 409)**

- 3.1.1 Setbacks of building elements (such as walls and roof coverings) from Streets including laneways must comply with the setbacks specified on the building envelope plan, except for a garage which may be constructed on or within 200 millimetres of a laneway.
- 3.1.2 The following may encroach a maximum of 1.5 metres into the minimum front Street setback and 1 metre into the setback on a side Street or laneway:
  - 3.1.2.1 Facade treatments, balconies, verandahs, open porches, covered walkways and porticos that are less than 7 metres high; and
  - 3.1.2.2 Eaves, facias and gutters.

**3.2 Site coverage (refer regulation 411)**

- 3.2.1 A dwelling must not occupy more than 70 per cent of the lot.

**3.3 Side and rear setbacks (refer regulation 414)**

- 3.3.1 Side and rear setbacks to common boundaries with an abutting lot, for building elements (such as walls and roof coverings) must comply with the requirements specified in the height and setback profiles, except for a garage which may be constructed on or within 200 millimetres of the rear boundary. The setback profile identifier codes are noted on the building envelope plans.
- 3.3.2 If a lot is shown with the profile identifier codes **SP-A-1** and **SP-B-1** on opposite side boundaries, the codes can be interchanged.
- 3.3.3 The following may encroach a maximum of 600 millimetres into the minimum side and rear setback:
  - 3.3.3.1 Porches and verandas.
  - 3.3.3.2 Masonry chimneys.
  - 3.3.3.3 Sunblinds.
  - 3.3.3.4 Screens (to the extent needed to protect a neighboring property from a direct view).

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- 3.3.3.5 Flues and pipes.
  - 3.3.3.6 Domestic fuel tanks and water tanks.
  - 3.3.3.7 Heating and cooling equipment and other services.
- 3.3.4 The following may encroach into the minimum side and rear setback:
  - 3.3.4.1 Landings with an area of not more than 2 square metres and less than 1 metre in height.
  - 3.3.4.2 Unroofed stairways and ramps.
  - 3.3.4.3 Pergolas.
  - 3.3.4.4 Shade sails.
  - 3.3.4.5 Eaves, fascias and gutters not more than 600 millimetres in total width.
  - 3.3.4.6 Outbuildings not exceeding 10 square metres in area and 2.4 metres in height.
- 3.4 **Walls on boundaries (refer regulation 415)**
  - 3.4.1 The height of a wall constructed on or within 200 millimetres of a side or rear boundary that is a common boundary with an abutting lot, must not exceed an average of 3.2 metres with no part higher than 3.6 metres (unless abutting a higher existing or simultaneously constructed dwelling wall in which case it may be constructed to the same height as that wall), except for a garage as specified in 3.4.2.
  - 3.4.2 A garage wall may be constructed on or within 200 millimetres of a side or rear boundary to a maximum height of 3.6 metres provided that the length of garage wall on the boundary with a height of 3.6 metres does not exceed 6.5 metres.
- 3.5 **Solar access to existing north-facing habitable room windows (refer regulation 417)**
  - 3.5.1 Reference to an existing north-facing habitable room window refers to ground floor windows only.
  - 3.5.2 A north-facing ground level habitable room window in a proposed dwelling must be setback more than 3 metres from the north boundary of its lot if it is to be considered (once constructed) an 'existing' north-facing habitable room window for the purposes of regulation 417.
- 3.6 **Overshadowing of recreational private open space (refer regulation 418)**
  - 3.6.1 If sunlight to the secluded private open space of an existing dwelling on an adjoining lot is to be reduced by the construction of a building, then at least 25 square metres with a minimum dimension of 3 metres of secluded private open space should receive a minimum of 5 hours of sunlight

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between 9am and 3pm on 22 September.

- 3.6.2 The 25 square metres minimum area with a minimum dimension of 3 metres can be measured in different locations during the day provided the area is always secluded private open space.

**3.7 Overlooking (refer regulation 419)**

- 3.7.1 The requirements of regulation 419 apply to any habitable room window, balcony, terrace, deck or patio of a dwelling on a lot within the specified overlooking control area (as identified in the relevant setback identifier profile codes shown on the building envelope plan), that has a direct view into an adjoining lot.

**3.8 Garages**

- 3.8.1 A garage on a lot must be setback at least 5 metres from the front boundary of the lot.

**4 Notes on this MCP**

**4.1 Conflicting Annotation**

- 4.1.1 In the case of a conflicting annotation between the building envelope plan and this MCP text, the MCP text supersedes the plan.

**4.2 Natural Ground Level**

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

**4.3 Edge Lots**

- 4.3.1 Regulation 406 applies to an Edge Lot regardless of Section 3 of this MCP.

**4.4 Driveway Crossovers**

- 4.4.1 Relocation of a driveway crossover or addition of a driveway crossover to a corner lot is permitted with written approval from Wyndham City Council. Relocated crossovers must be constructed at the expense of the lot owner in accordance with Wyndham City Council specifications from time to time.

**4.5 General Definitions**

- 4.5.1 **Approved Building Envelope** means the building envelope for a particular lot contained in the plan which is attached to this MCP.
- 4.5.2 **Building Envelope** means an area within each lot where development of a dwelling, shed and garage is allowed subject

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to the provisions of this MCP.

- 4.5.3 **Building Envelope** plan means the plan which is attached to this MCP showing dwelling setbacks and other related matters.
- 4.5.4 **Edge Lots** mean 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.
- 4.5.5 **Front Building Line** means the front façade wall excluding any façade treatment or engaged pier.
- 4.5.6 **MCP** means this Memorandum of Common Provisions.
- 4.5.7 **Regulations** means the Building Regulations 2006 or any subsequent Regulations made pursuant to the Building Act.
- 4.5.8 **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.
- 4.5.9 **Street** for the purposes of determining Street setbacks Street means any road reserve other than a carriageway easement.

### 3 *Diagrams and plans*

#### 3.1 *Explanation of symbols and terms in diagrams and plans*

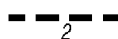
## NOTATIONS

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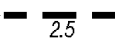
**SP-A-1 SP-D-1**  
**SP-B-1 RP-A-1**

Building envelope profile (refer 3.2 and 3.3 following) to be applied to the particular boundary (refer plans in 3.4).

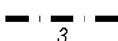
Note the frontage setback and easement width is designated on the plan.



2 metres wide easement



2.5 metres wide easement



3 metres wide easement

4

Frontage setback

**110**

Lot number

\*

Small Lot Housing Code Applies



Designated vehicle crossover to lot (no other vehicular access point is permitted to a lot, except with the approval of Wyndham City Council)

## PARTICULAR LOT REQUIREMENTS

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Lots shown thus \* which are 'Type A' or 'Type B' lots under 300m<sup>2</sup> do not include Building Envelopes as they are subject to the relevant Small Lot Housing Code.

*Detailed design of roads, crossovers and footpaths is provided in the relevant Engineering Plans.*

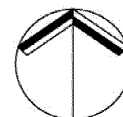
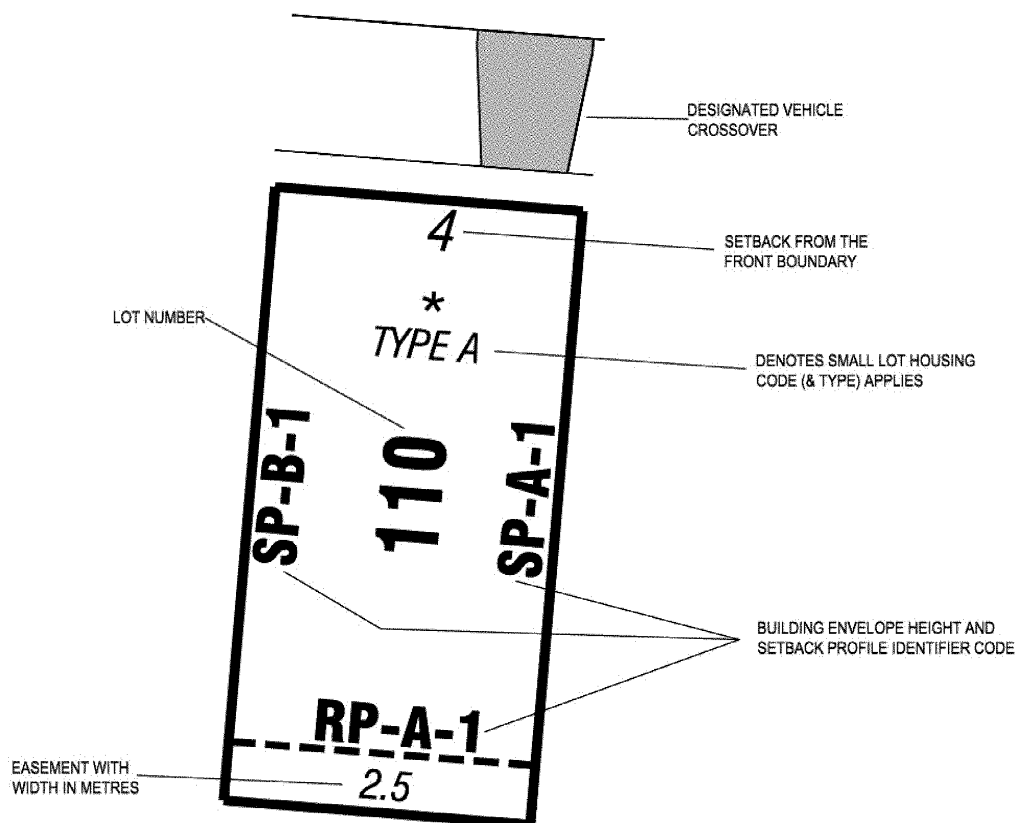
*Additional easements may be required subject to detailed engineering and survey assessment.*

*Detailed design of landscape works is provided in the relevant Landscape Plans.*

*All details subject to Wyndham City Council approval.*

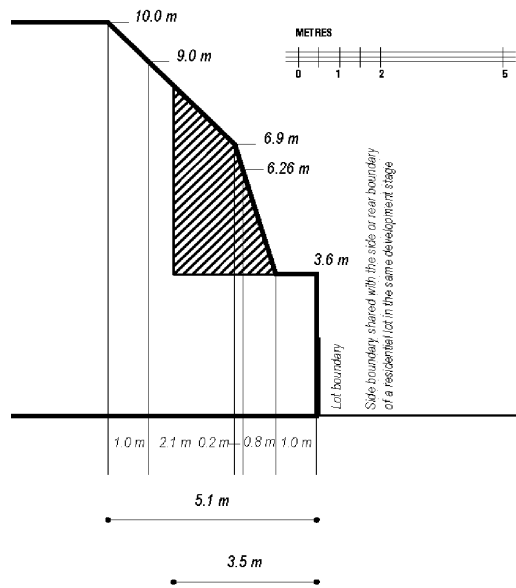
### 3.2 *Diagrams illustrating the interpretation of the building envelope and the annotation with respect to all edge lots in this stage development*

*THE BUILDING ENVELOPES ON ALL LOTS LOCATED ON THE BOUNDARY OF THIS DEVELOPMENT STAGE (EDGE LOTS) ARE ENDORSED BY WYNDHAM CITY COUNCIL AS APPROVED BUILDING ENVELOPES.*

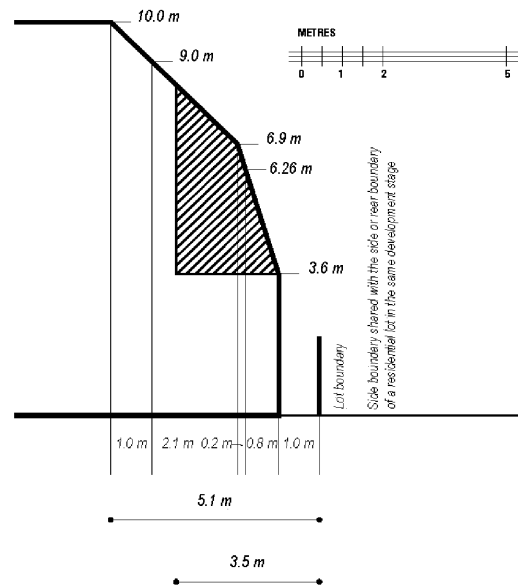


### 3.3 Profiles referenced in the building envelope plan

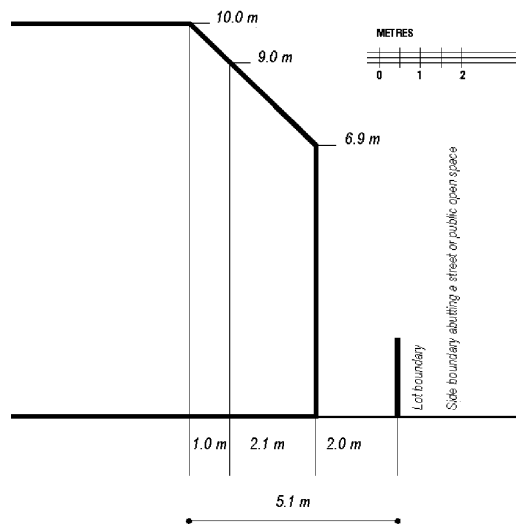
**SP-A-1**



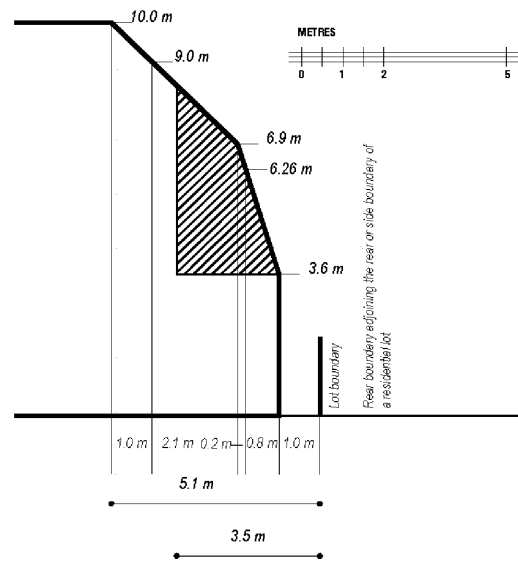
**SP-B-1**



**SP-D-1**



**RP-A-1**



#### 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.

m METRES

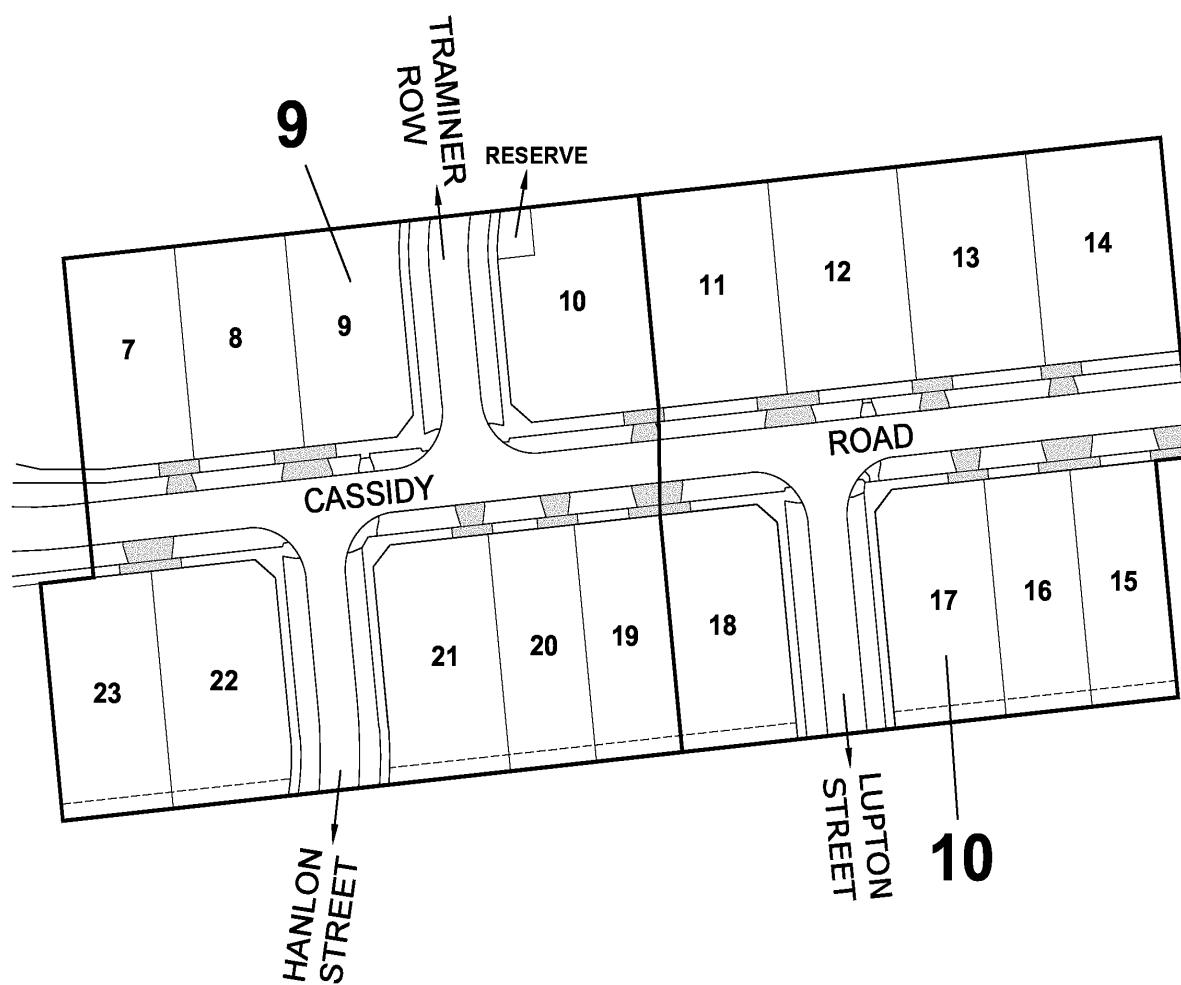


OVERLOOKING CONTROL AREA  
(refer 'Overlooking' in text)



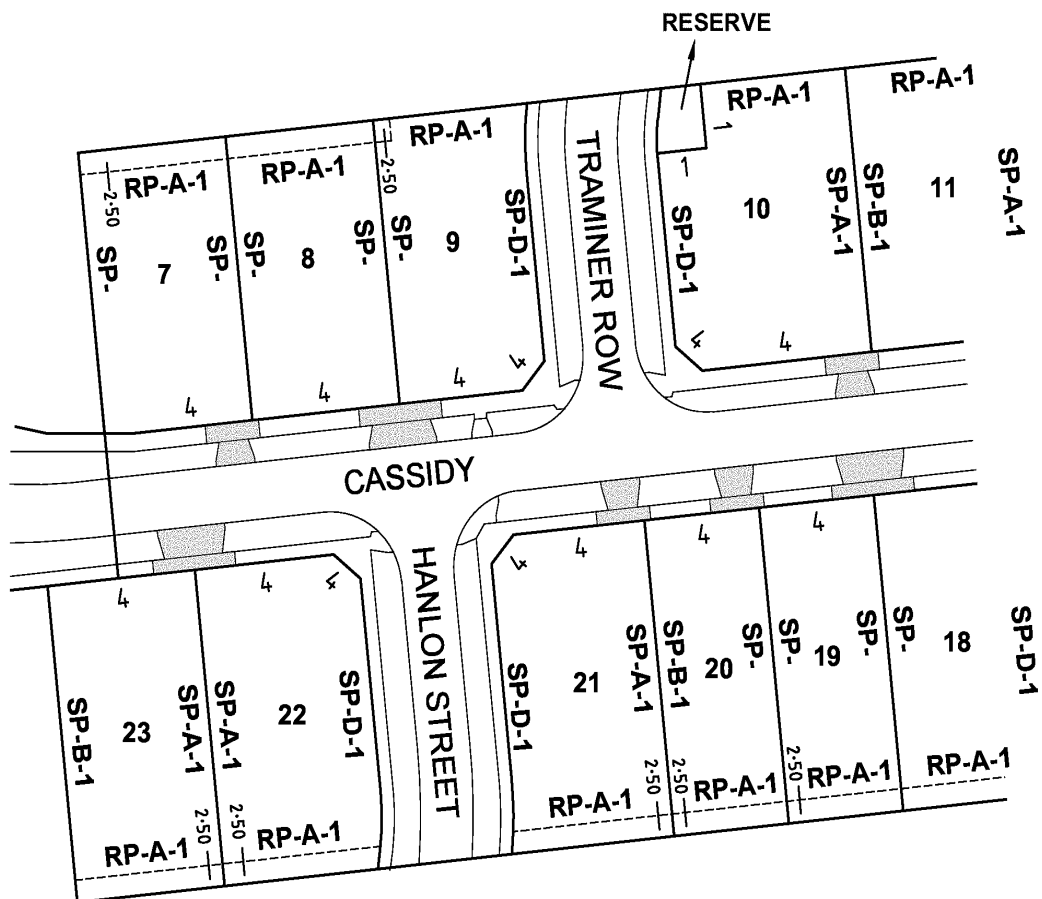
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3.4 *Plan of subdivision showing key to sheets*

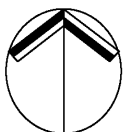


KEY TO SHEETS

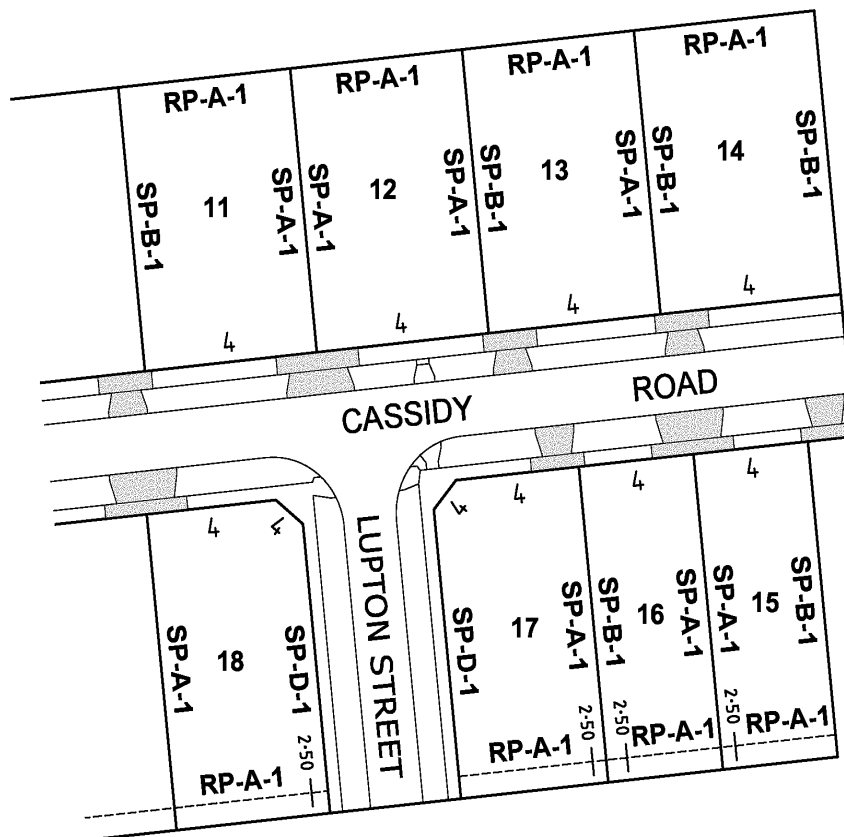
3.4 *Plan of subdivision showing building envelope height and setback profile identifier code*



SHEET 1



3.4 *Plan of subdivision showing building envelope height and setback profile identifier code*



SHEET 2

