

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

**AA9752**

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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.

Provisions to apply to the plan:

<b>Burdened land:</b>	As set out in the plan.
<b>Benefited land:</b>	As set out in the plan.
<b>Covenants:</b>	
<b>CREATION OF RESTRICTION</b>	
Upon registration of plan of subdivision 900396D the following restriction is to be created.	
<b>Description of Restriction:</b>	
The registered proprietor or proprietors for the time being of a burdened lot to which this restriction applies shall not:	
<ol style="list-style-type: none"> <li>1. Unless with the written approval of Nordic Pty Ltd, commence construction of a building or structure on any burdened lot in this plan.</li> <li>2. Unless with the written approval of Nordic Pty Ltd, commence construction of a building or structure on any burdened lot in this plan other than in accordance with the Design and Siting Guidelines – Alluvium Estate as amended from time to time.</li> </ol>	

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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.

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3. Construct or cause or permit to be constructed:

- (i) any building or structure on a lot containing the symbol \* on the MCP Diagram below other than a building or structure in accordance with the requirements as noted on the MCP Diagram below without the consent of the Responsible Authority.

4. Construct or cause or permit to be constructed:

- (i) any building or structure on a lot containing a building envelope on the MCP Diagram below outside the building envelopes as noted on the MCP Diagram below without the consent of Nordic Pty Ltd.

5. Construct or cause or permit to be constructed:

- (i) any building or structure on a lot containing the symbol B on the MCP Diagram below other than a building or structure that complies with the Small Lot Housing Code at Attachment 3 of the Ballarat West Precinct Structure Plan, as amended from time to time, that is:

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Attachment 3: Small Lot Housing Code

**Small Lot Housing Code**

Standards that establishes a building envelope for a single Class 1a building and associated Class 10 buildings on an allotment.

Part 1 – Single Class 1a Building and Associated Class 10a Buildings

**1. Maximum street setback**

1. The front wall of a new Class 1a building must not be set back from the front street alignment more than the street setback specified in Table 2 plus 1.5m.

**2. Minimum street setbacks**

1. The front and side walls of a building must be set back from front and side streets not less than the distance specified in Table 2;

**Table 2: Street Setbacks**

Designation of the allotment in the subdivision permit	Minimum setback from front street	Minimum setback from a side street
Type A	4m for a building facing a declared road and no less than 25% of the area of the front façade of a building must be setback a minimum additional 300mm  1.5m for a building facing a street that is adjoined by a recreation reserve and no less than 25% of the area of the front façade of a building must be setback a minimum additional 300mm  3m in any other case and no less than 25% of the area of the front façade of a building must be setback a minimum additional 300mm	1.5m and if a wall is more than 10m in length, for each 10m length of wall no less than 10% of the area of the wall must be set back a minimum additional 300mm
Type B	4m for a building for a declared road and no less than 25% of the area of the front façade of a building must be setback a minimum additional 300mm  1.5m and no less than 25% of the area of the front façade of a building must be setback a minimum additional 300mm	1m and if the wall is more than 10m in length, for each 10m length of wall no less than 10% of the area of the wall must be set back a minimum additional 300mm

2. The front wall of a garage that is accessed from the front street must be setback from the front street alignment no less than 5.0m;
3. The following may encroach into the setback distance required by standard 2(1) by no more than 1.5m:
  - a) eaves, fascia and gutters;
  - b) decks, steps or landings less than 800mm in height.

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- 4. The following must encroach into the front setback required by standard 2(1):
  - a) a porch, verandah or pergola that is open on at least 2 sides; and
    - (i) has a maximum height of less than 3.6m above natural ground level; and
    - (ii) has a width of no more than 80% of the frontage of the allotment or 4m whichever is the greater; and
    - (iii) must project at least 800mm and no more than 1.5m into the front setback;
  - or*
  - b) a balcony at the second storey or above that has a width of less than 80% of the width of the frontage of the allotment or 4m whichever is the greater; and
    - (i) must project at least 300mm no more than 1.0m into the front setback if the balcony is roofed; or
    - (ii) must project at least 800mm and no more than 1.5m into the front setback if the balcony is not roofed;
  - or*
  - c) fin or fins, sunhood or sunhoods, screen or screens that have a minimum aggregate dimension of 3.1m; or
  - d) a combination of encroachments under standard 4(a) or 4(b) or 4(c).
- 5. In this standard, street does not include lane, footway, alley or right of way.
- 6. In this standard the area of the façade of the building is measured from a two dimensional elevation and excludes any roof area and any area of garage door(s) and opening(s).

**3. Building height**

- 1. The height of a building must not exceed:
  - a) 11m if the slope of natural ground level at any cross section of the site of the building that is wider than 4m and is 2.5° or more; and
  - b) 10m in any other case.

**4. Site coverage**

- 1. Buildings must not occupy more of the allotment than the site coverage specified in Table 4.

**Table 4: Site Coverage**

Designation of the allotment in the subdivision permit	Site coverage
Type A	90% - The percentage may be calculated as the average of allotments that have simultaneously constructed attached dwellings.
Type B	No maximum site coverage specified

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**5. Permeability**

1. The area of the allotment that can be covered by impermeable surfaces must not exceed the area specified in Table 5.

**Table 5: Permeability**

Designation of the allotment in the subdivision permit	Impermeable surfaces
Type A	90% - The percentage may be calculated as the average of allotments that have simultaneously constructed attached dwellings.
Type B	No maximum area of impermeable surfaces specified

**6. Car parking**

1. Provision must be made for the number of car parking spaces specified in Table 6.

**Table 6: Car parking**

Designation of the allotment in the subdivision permit	Car parking spaces
Type A	1 car space if the building has two or less bedrooms 2 car spaces of which 1 must be covered if the building has 3 bedrooms or more
Type B	1 car space

2. The car space(s) required under standard 6(1) must be accessible from a public street or lane or right of way, however, if the allotment has a frontage width of less than 6.0m, access to the car space(s) must only be from the rear of the allotment.
3. If 1 car space is required under standard 6(1) it must be at least 6.0m long and 3.5m wide.
4. If 2 car parking spaces are required under standard 6(1) —
  - a) the space must be at least 6m long and 3.5m wide; and
  - b) the second space must be at least 4.9m long and 2.6m wide.
5. Part of a building may project into a car parking space if it is at least 2.1m above that space.
6. Despite standard 6(4), if the 2 required car parking spaces adjoin each other in a garage or carport or in a space constrained by walls, the double space must be at least 5.5m in width.
7. If the car space(s) required under standard 6(1) are in a garage or carport and the door(s) or opening(s) to the garage or carport faces the front street, the width of the door(s) or opening(s) must not exceed
  - a) 50% of the width of the frontage of the allotment; or
  - b) 30% of the area of the front façade of the building; whichever is the greater.
8. For the purpose of determining the width of the frontage of the allotment under standard 6(7)(a) if the allotment is irregular in shape, the frontage is to be taken as the average width of the front and rear boundaries of the allotment.
9. The area of the façade of the building under standard 6(8)(b) is measured from a two dimensional elevation and excludes any roof area.

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**7. Side and rear setbacks**

1. A building must be set back from a side or rear boundary not less than the distance specified in respect of that boundary in Table 7.

**Table 7 - Side and rear setbacks**

Building height at any point	Minimum setback from side or rear boundary at that point
3.6m or less	1m
More than 3.6m but not more than 6.9m	1m plus an additional distance calculated at the rate of 300mm for every metre of height over 3.6m
More than 6.9m	2m plus an additional distance calculated at the rate of 1m for every metre of height over 6.9m

2. The following may encroach into the setback distance required by Table 7 by not more than 500mm:
  - a) porches and verandahs;
  - b) masonry chimneys;
  - c) sunblinds;
  - d) flues and pipes;
  - e) domestic fuel tanks and water tanks;
  - f) heating and cooling equipment and other services;
  - g) screens.
3. The following may encroach into the setback distance required by Table 7 by not more than 600mm:
  - a) eaves, eaves fascias and gutters.
4. The following may encroach into the setback distance required by Table 7:
  - a) landings with an area of not more than 2m<sup>2</sup> and less than 1m high;
  - b) unroofed stairways and ramps;
  - c) pergolas;
  - d) shade sails.
5. This standard does not apply to a wall that complies with Standard 8.

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**8. Walls on boundaries**

1. This standard applies to the construction of:
  - a) a wall of a building on a side or rear boundary of an allotment; or
  - b) a carport constructed on or within 1m of a side or rear boundary of an allotment and which is open on the side facing the boundary or boundaries.
2. The maximum height of the wall of a building or the carport must not exceed 3.6m.
3. Notwithstanding standard 8(2) the height of the wall may exceed 3.6m where:
  - a) an adjoining wall is simultaneously constructed on an adjoining allotment or a wall exists on the boundary; and
  - b) the height difference between the existing and new wall or simultaneously constructed walls does not exceed 3.6m; and
  - c) the length of a wall does not exceed the length of a simultaneously constructed wall by more than 2m.

**9. Daylight to existing habitable room windows**

1. No standards specified.

**10. Solar access to existing north-facing windows**

1. No standards specified.

**11. Overshadowing of recreational private open space**

1. A building must not reduce the sunlight to the recreational private open space of an existing building on an adjoining allotment to less than the required minimum under standard 13(3).
2. In this standard recreational private open space means any part of private open space on an allotment:
  - a) which is:
    - (i) at the side or rear of an existing dwelling on the allotment; or
    - (ii) is a rooftop area; and
  - b) which is primarily intended for outdoor activities.

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**12. Overlooking**

1. A habitable room window in the second storey or above, that faces a side or rear boundary must:
  - a) be set back from side and rear boundaries by at least 4.5m; or
  - b) have a sill height at least 1.7m above floor level; or
  - c) have obscure glazing in any part of the window below 1.7m above floor level.
2. If a habitable room window faces a lane, footway, alley or right of way the setback required in standard 12(1)(a) may be reduced to half of the width of the lane, footway, alley or right of way.
3. A raised open space must be:
  - a) set back 4.5m from a side or rear boundary; or
  - b) obscured to a height of at least 1.7m above floor level at any part of the perimeter of the raised open space that is within 4.5 metres of a side or rear boundary.
4. If a raised open space faces a lane, footway, alley or right of way the setback required in standard 12(3)(a) may be reduced to half of the width of the lane, footway, alley or right of way.
5. In this standard raised open space means a landing with an area of more than 2m<sup>2</sup>, a balcony, a terrace, a deck or a patio.

**13. Daylight to habitable room windows**

1. A habitable room window of a building on an allotment must face:
  - a) an outdoor space or light court with a minimum area of 3m<sup>2</sup> and a minimum dimension of 1m clear to the sky, not including land on an adjoining allotment; or
  - b) a verandah on the allotment if it is open for at least one third of its perimeter; or
  - c) a carport on the allotment if:
    - (i) it has 2 or more sides open; and
    - (ii) it is open for at least one third of its perimeter.
2. For the purposes of standard 13(1), a side of a carport or verandah may be taken to be open if the roof covering of the carport or verandah adjacent to that side is not less than 500mm from another building on the allotment or the adjoining allotment boundary.



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**14. Private open space**

1. If a dwelling on an allotment has three or more bedrooms it must have
  - a) at least 24m<sup>2</sup> of private open space at the side or rear of the building with a minimum dimension of 3m; or
  - b) a balcony or roof-top area of least 12m<sup>2</sup> of private open space with a minimum dimension of 3m.
2. Private open space under standard 1(a) may be provided in more than 1 parcel provided that all parcels are at least 12m<sup>2</sup> and at least 1 parcel complies with standard 13(3)
3. If a building on an allotment has two or less bedrooms it must:
  - a) have at least 12m<sup>2</sup> of private open space at the side or rear of the building with a minimum dimension of 3m; or
  - b) a balcony or rooftop area that is at least;
    - (i) 10% of the total floor area of the building excluding garages and carports; or
    - (ii) 6m<sup>2</sup> with a minimum dimension of 2m; whichever is the greater.
4. If the private open space is provided at the side or rear of the dwelling or as a roof top area it must have a minimum of area of 6m<sup>2</sup>, with a minimum dimension of 2m, that has direct sunlight.
5. For the purposes of calculating the area of direct sunlight under standard 13(3), the length of the shadow cast by walls and fences shall be:
  - a) 0.9h when measured perpendicular to the fence or wall, where h is the height of the wall;  
and
  - b) the sun is true north.

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Part 2 – Class 10b Buildings

**15. Front fence height**

1. The height of a fence, or part of a fence, that is within 3m of the street alignment at the front of that allotment must not exceed the relevant maximum height specified in Table 15.

**Table 15 - Front fence height**

Street type	Maximum fence height
A declared road	2m
Any other street	1.2m.

2. A front fence other than a front fence to a declared road must be no more than 85% solid above 0.7m height.

**16. Fence setbacks from side and rear boundaries**

1. A fence that is setback from a side and rear boundaries must not exceed 2m in height.

**17. Fences on or within 150mm of side or rear boundaries**

1. A fence must not exceed 2m in height.
2. Any part of a fence that is constructed forward of the front wall of a dwelling must comply with standard 15(1) and 15(2).

**18. Fences on street alignments**

1. A fence within 3m of a point of intersection of street alignments must not exceed a height of 1m above the footpath.
2. A fence facing a side street alignment must not:
  - a) exceed 2m in height; and
  - b) be constructed with solid materials for more than 65% of the length of the side boundary and the remaining 35% of the length of the side boundary must not be constructed with materials that are more than 85% solid.
3. A fence adjacent to a street alignment or public open space must not contain barbed wire or other sharp protrusions.

**19. Fences and daylight to windows in existing building**

1. No standards specified.

**20. Fences and solar access to existing north-facing habitable room windows**

1. No standards specified.

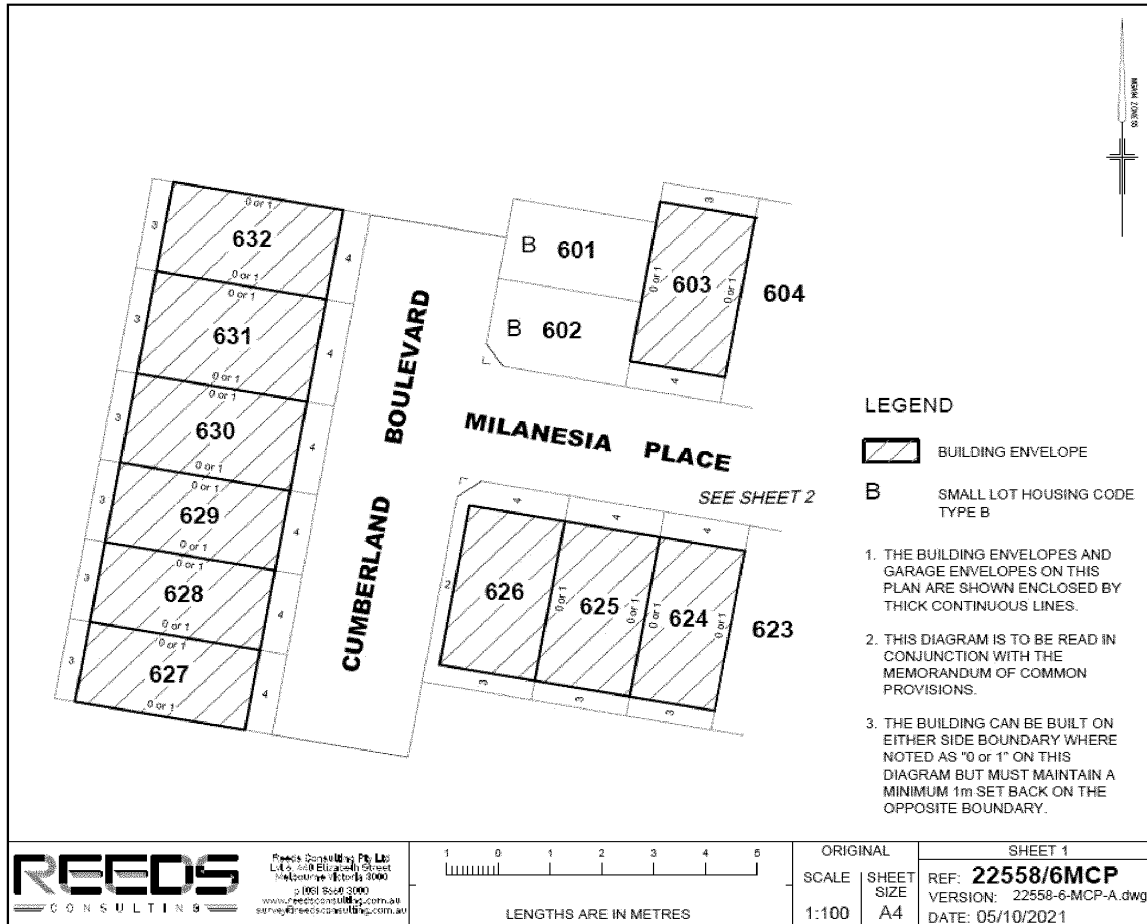
**21. Fences and overshadowing of recreational private open space**

1. No standards specified.

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**MCP Diagram:**



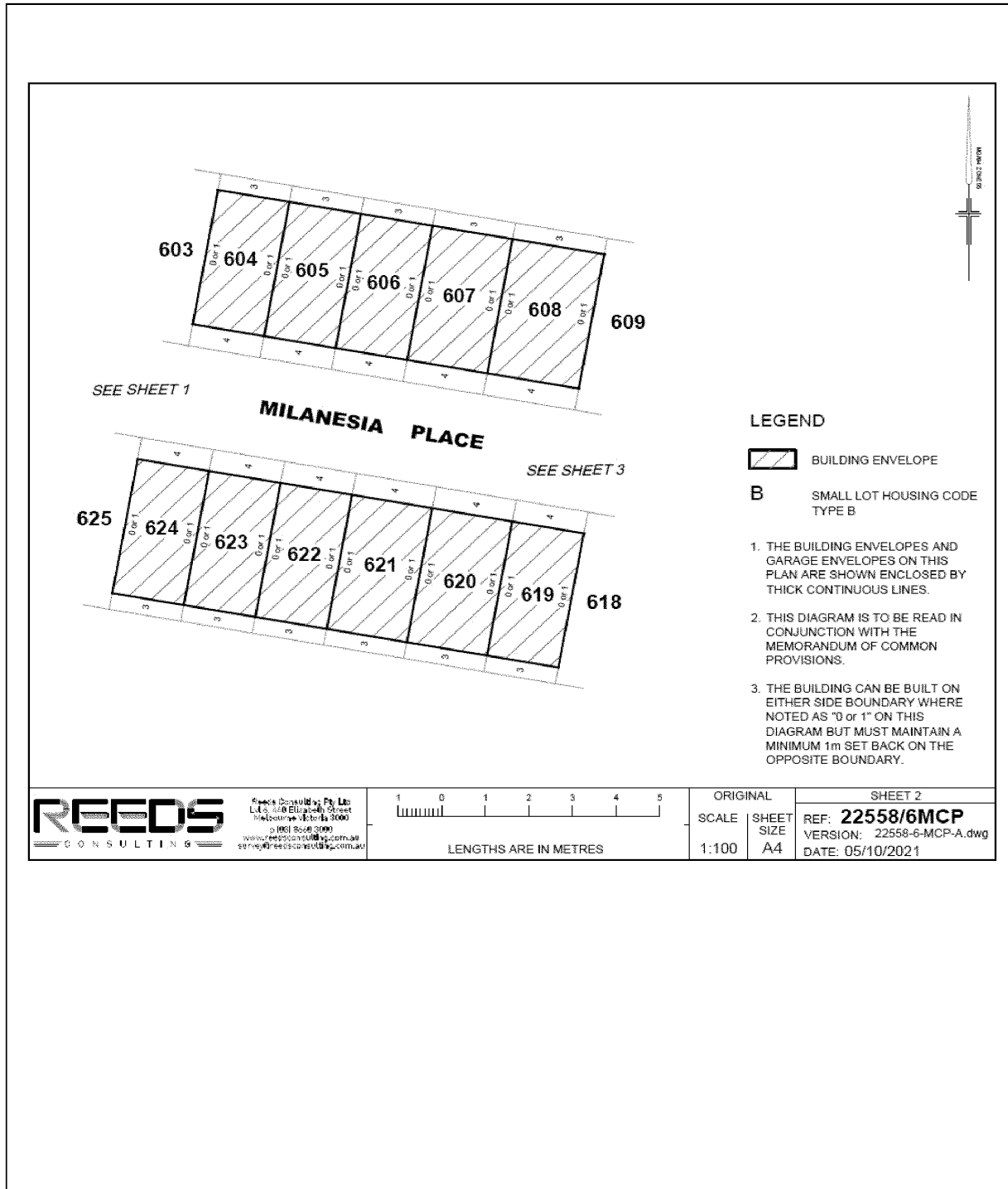
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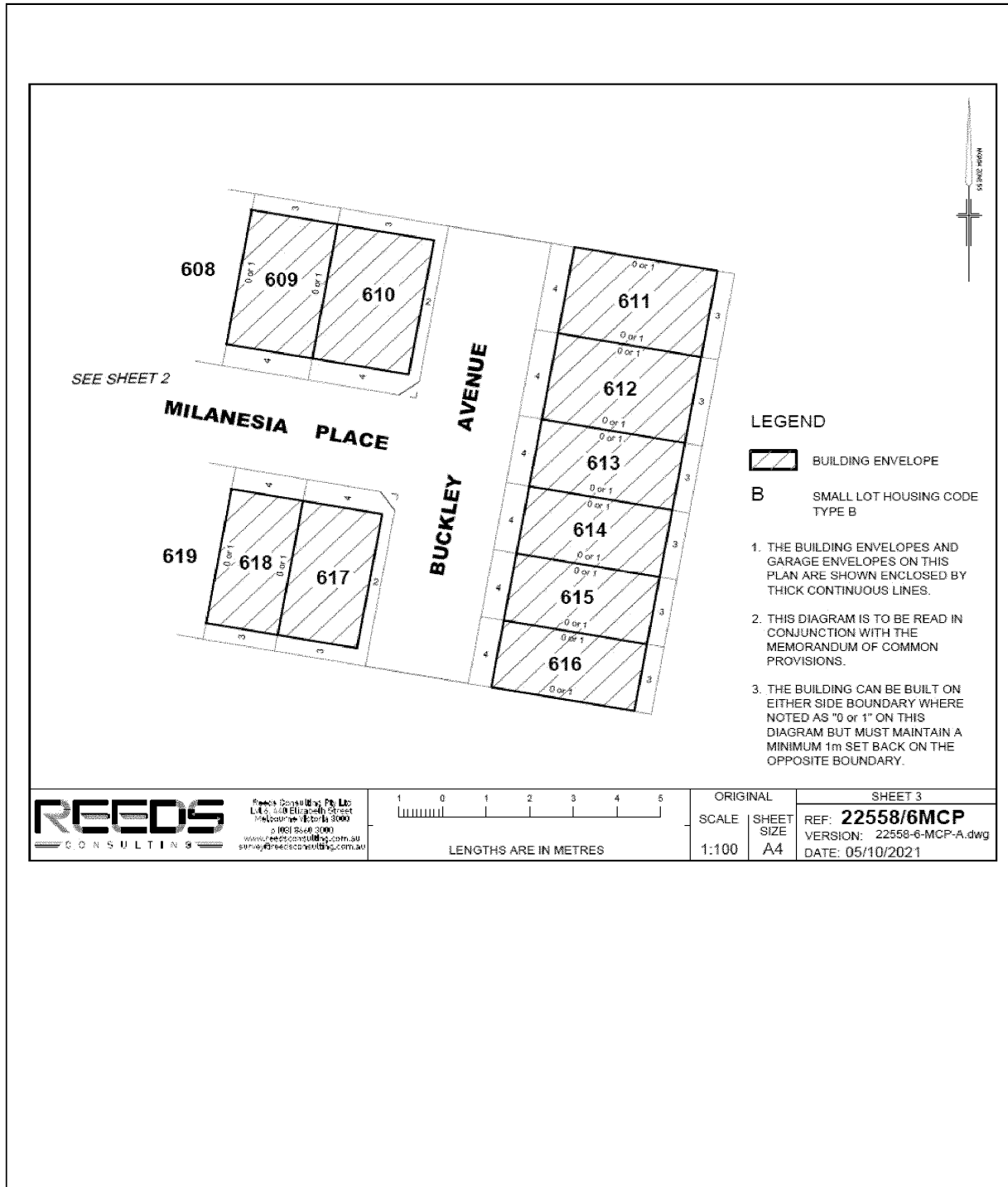
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<b>Expiry:</b>	As set out in the plan (if applicable).
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