

**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.

Provisions to apply to the plan:

Burdened land: As set out in plan of subdivision PS844180N.

Benefited land: As set out in plan of subdivision PS844180N.

Covenants: PRELIMINARIES

- A** This MCP provides details of the approved building envelopes and the information necessary to interpret the approved building envelopes.
- B** This MCP includes:
 - i** Any varied design parameters from the Building Regulations.
 - ii** Matters not covered by the Building Regulations.
- C** Any matter not addressed in this MCP will still need to be addressed as required by the Building Regulations.
- D** This MCP is retained by the Registrar of Titles pursuant to section 91 (A) of the Transfer of Land Act.
- E** Further siting and design requirements are contained in the Elinya Design Guidelines.

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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>Contact us

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PROVISIONS

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.

This MCP will specify any encroachments allowed outside the approved building envelope.

1 TEXT OF RESTRICTIONS

1.1 Minimum street setbacks (refer regulation 74)

1.1.1 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:

- a Façade treatments, balconies, verandahs, open porches, covered walkways and porticos that are less than 3.6 metres high
- b Eaves, facias and gutters

1.2 Side and rear Setbacks (refer regulation 79)

1.2.1 Side and rear setbacks for building elements (such as wall and roof coverings) must comply with the requirements specified in the height and setback profiles in this MCP. The setback profile identifier codes are noted on the building envelope plans contained herein.

1.2.2 If a lot is shown with the profile identifier codes A and B on opposite boundaries, the codes can be interchanged.

1.2.3 In addition to the allowable encroachments in the Building Regulations, the following can encroach into the minimum side and rear setback specified by the relevant setback profile identifier code:

- a Outbuildings not exceeding 10 square metres in area and 3 metres in height.

1.3 Walls on Boundaries (refer regulation 80)

1.3.1 A dwelling wall on a rear boundary must be setback 1 metre except for a garage which may be constructed on the rear boundary.

1.4 Solar access to existing north-facing habitable room windows (refer regulation 82)

1.4.1 Reference to an existing north-facing habitable room window refers to ground floor windows only.

1.4.2 Any proposed north-facing habitable room window at ground level in a proposed dwelling on a lot must be clear to the sky and setback more than 3 metres from the north boundary of that lot if it is to be considered, once constructed, as an 'existing' north-facing habitable room window for the purposes of regulation 82.

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1.5 Overshadowing of recreational private open space (refer regulation 83)

1.5.1 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 dwelling, 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 between 9am and 3pm on 22 September.

1.5.2 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.

1.6 Overlooking (refer regulation 84)

1.6.1 The overlooking control area is identified in the relevant setback identifier profile codes shown on the building envelope plan.

1.7 Lots 300 square metres in area or greater

1.7.1 Garages

A garage on a lot must be set back at least 5 metres from the front boundary of the lot.

1.7.2 One dwelling on a lot:

Only one dwelling may be constructed on the lot.

1.8 Lots less than 300 square metres in area

1.8.1 Except for provision 1.9.1, this MCP does not apply to lots less than 300 square metres in area. Relevant lots are subject to the Small Lot Housing Code or a separate specific Planning Permit for the construction of a dwelling.

1.9 Design Approval

1.9.1 The design of a dwelling must be in accordance with the Elinya Design Guidelines before lodging an application for a building Permit.

2 Notes on this MCP

2.1 Conflicting Annotation

2.1.1 In the case of a conflicting annotation between the plan of subdivision and this MCP, the MCP supersedes the plan.

2.2 Natural Ground Level

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

2.3 Easements

2.3.1 Buildings must not cover registered easements unless approved by the relevant authority

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2.4 Edge Lots

2.4.1 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.

2.4.2 Regulation 71 applies to an edge lot regardless of Section 1 of this MCP.

2.5 General Definitions

2.5.1 **Approved building envelope** means the building envelope for a particular lot contained in the plan of subdivision as detailed in this MCP.

2.5.2 **Building envelope** means an area within each lot where development of a dwelling, shed and garage is allowed subject to the provisions of this MCP.

2.5.3 **Building envelope plan** means the plan which is contained herein showing dwelling setbacks and other related matters.

2.5.4 **Corner lot** means a lot sited at the intersection of two streets (excluding laneways) where those streets form boundaries of the lot.

2.5.5 **Front Fence** means a fence forward of the side boundary fence or along the front boundary.

2.5.6 **Front Building Line** means the front façade wall excluding any façade treatment or engaged pier.

2.5.7 **Private Open Space** has the same meaning as in the building regulations.

2.5.8 **Regulations** means the Building Regulations 2018 or any subsequent regulations made pursuant to the Building Act.

2.5.9 **Secluded Private Open Space** has the same meaning as in the building regulations.

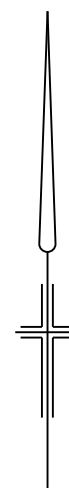
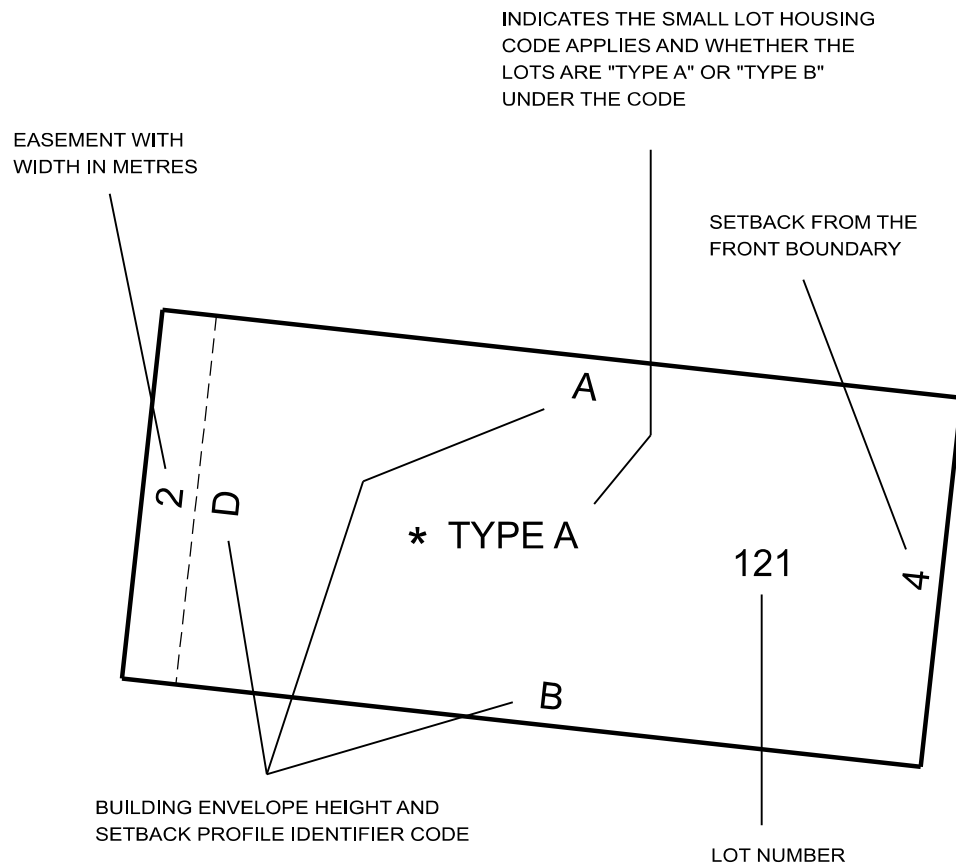
2.5.10 **The Elinya Design Guidelines** means the design and siting guidelines prepared by Finnis Architecture and amended from time to time.

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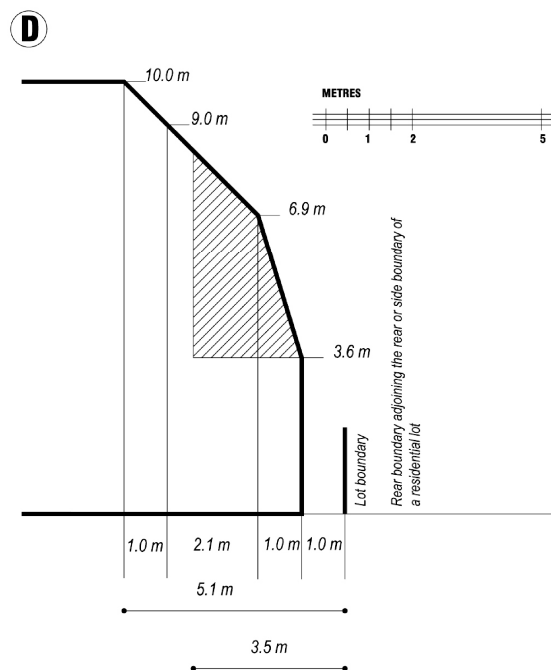
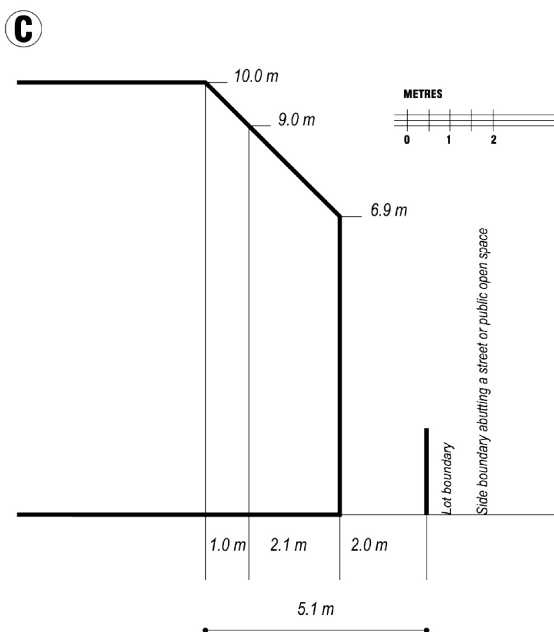
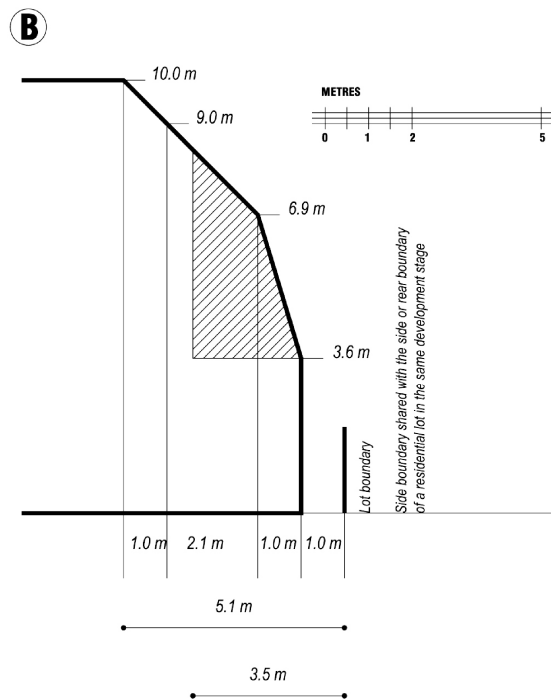
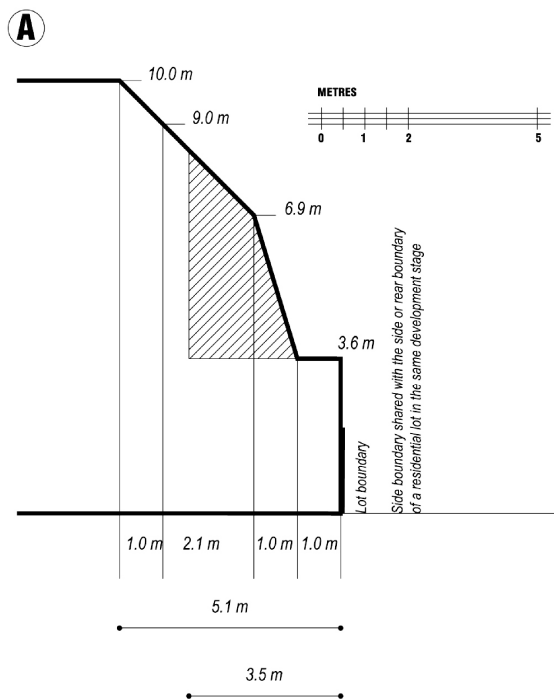
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DIAGRAMS ILLUSTRATING THE INTERPRETATION OF THE BUILDING ENVELOPE AND THE ANNOTATION WITH RESPECT TO ALL EDGE LOTS IN THIS STAGE DEVELOPMENT



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BUILDING HEIGHT AND SETBACK PROFILES REFERENCED IN BUILDING ENVELOPE DIAGRAM



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

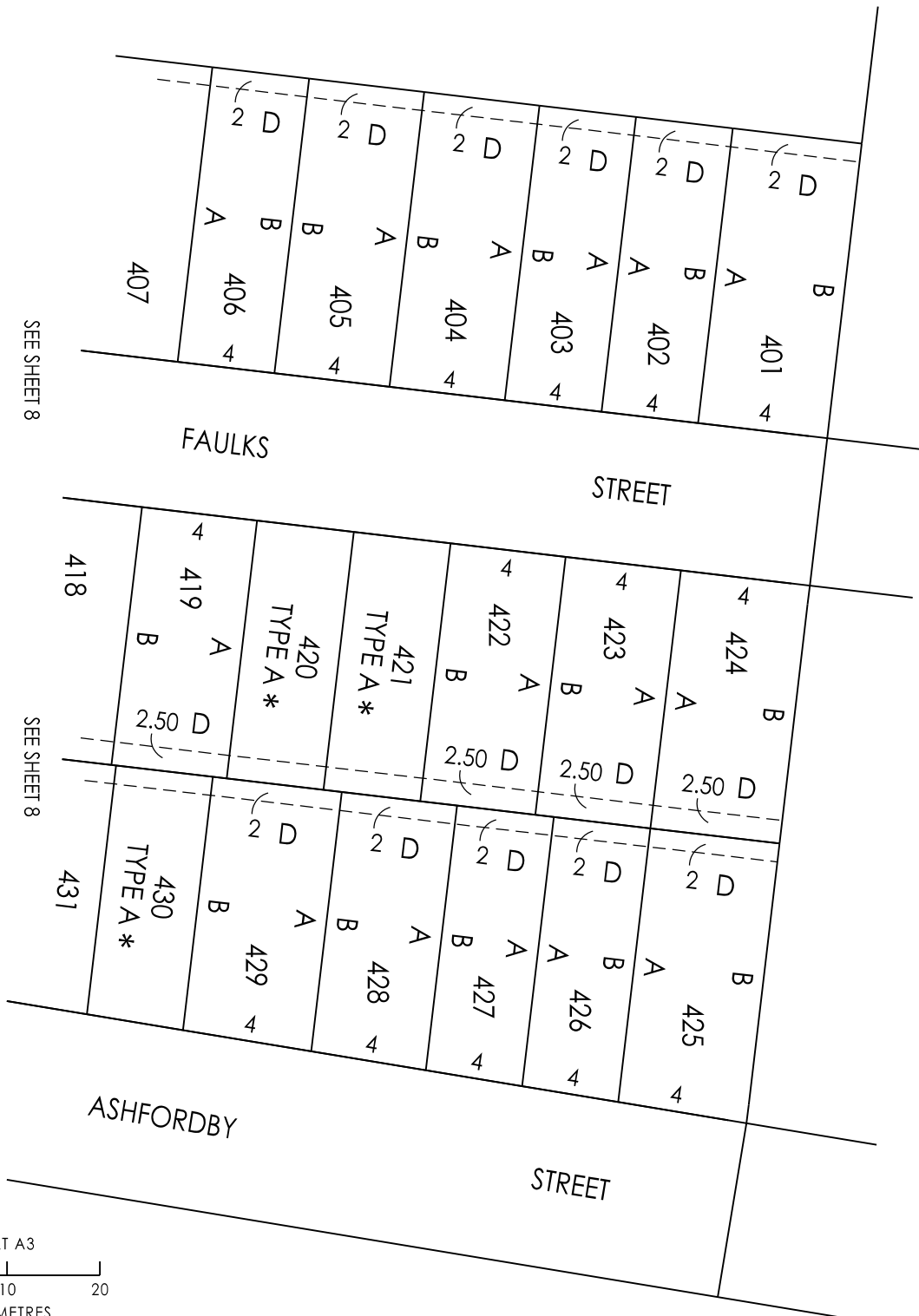
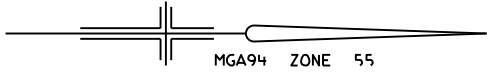


OVERLOOKING CONTROL AREA (refer 'overlooking' in MCP)



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BUILDING ENVELOPE DIAGRAM INCLUDING HEIGHT AND SETBACK PROFILE IDENTIFIER CODE



SCALE 1:500 AT A3

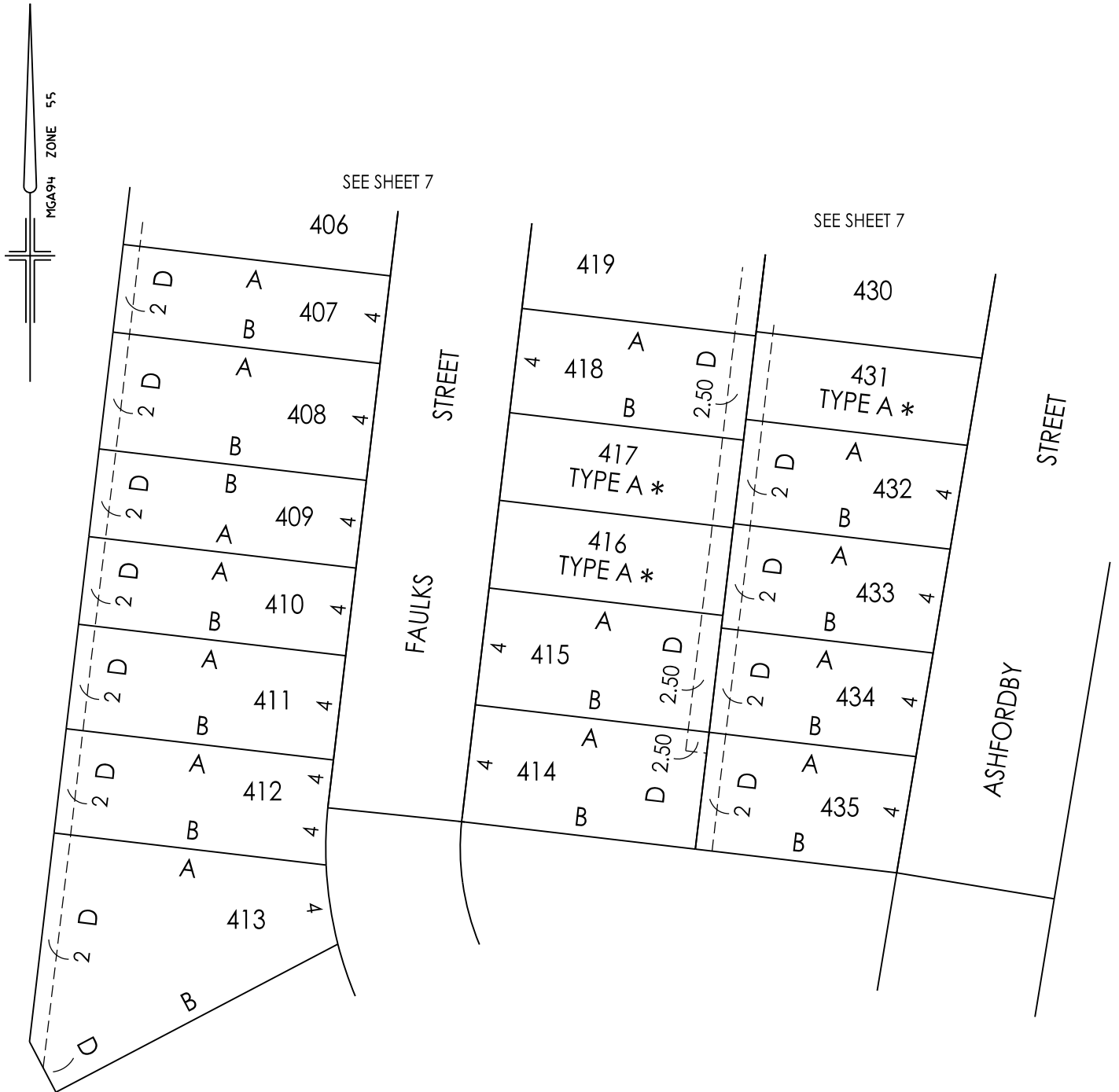
 LENGTHS ARE IN METRES



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* LOTS UNDER 300m² DO NOT INCLUDE BUILDING ENVELOPES AS THEY ARE SUBJECT TO EITHER THE SMALL LOT HOUSING CODE OR REQUIRE A SPECIFIC SEPARATE PERMIT FOR A DWELLING. SEE SMALL LOT HOUSING CODE IN RELATION TO TYPE A AND B LOTS.

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BUILDING ENVELOPE DIAGRAM INCLUDING HEIGHT AND SETBACK PROFILE IDENTIFIER CODE



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