

# Memorandum of Common Provision

## Section 91A Transfer of Land Act 1958

**AA5923**

03/02/2020

\$98.50

MCP



Lodged by

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Customer Code:  
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This memorandum contains provisions which are intended for inclusion in instruments and plans to be subsequently lodged for registration.

This Memorandum of Common Provisions includes pages 1- 15 (both inclusive)

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# 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.

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**THE BACK OF THIS FORM MUST NOT BE USED**  
Land Victoria, 570 Bourke Street, Melbourne, 3000, Phone 8636-2010

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**PRELIMINARY**

- A.** This MCP has been prepared by or on behalf of Peet Craigieburn Pty Ltd in order to regulate the siting, form and design of residential development in accordance with the PEET Victoria Design Guidelines, so as to create a high level of amenity for owners and residents of allotments within the plan of subdivision.
- B.** The provisions of this MCP are incorporated into the restrictions created by the plan of subdivision.
- C.** The plan of subdivision, registered Section 173 agreement and this MCP restrict certain lot owners from developing a lot other than in accordance with the building envelope plans.
- D.** The building envelope plans provide details of approved building envelopes.
- E.** This MCP, in conjunction with the plan of subdivision and registered Section 173 agreement provides the information necessary to interpret the approved building envelopes.
- F.** Some of the matters addressed in this MCP are not covered by or are amendments to the Regulations and Scheme.
- G.** This MCP is retained by the Registrar of Titles pursuant to section 91(A) of the Transfer of Land Act.

**PROVISIONS**

Any building to be constructed on lots to which this MCP and the plan of subdivision apply and for which the construction would require a building permit must be sited within the approved building envelope subject to any specific encroachments allowed outside the approved building envelope pursuant to this MCP and the plan of subdivision.

**1 Text of restrictions**

The siting of a building within the approved building envelope is subject to the restrictions imposed by this MCP, the plan of subdivision and registered Section 173 agreement on Title, and any other applicable control.

**1.1 Minimum street setbacks (regulation 74 and clause 54.03-1)**

A building must be set back from a street alignment in accordance with regulation 74 (Minimum street setbacks) in Part 5 of the Regulations and clause 54.03-1 in the Scheme, except as specified below.

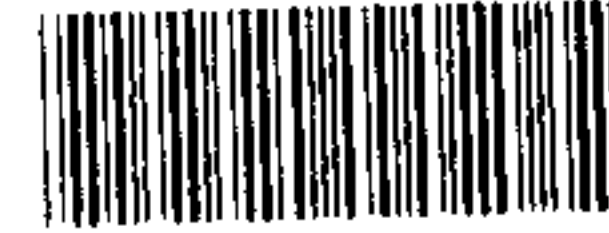
A building on a lot must be set back from a street boundary not less than the distance specified in respect of that boundary on the building envelope plans.

Uncovered balconies, façade treatments, verandahs, open porches, covered walkways, pergolas and porticos that are less than 9.0 metres high and decks, sunblinds, shade sails, eaves, screens as per regulation 84(5)(d) or 84(6) of the Regulations, steps, landings, flues, pipes, fuel tanks, water tanks, heating and cooling equipment, fascias and gutters, may encroach not more than 2.4 metres into the minimum front setback and 1.5 metres into the setback on a side street or laneway for a dwelling, or garage. A covered balcony or verandah on the second storey of a building that is less than 9.0 metres may encroach not more than 1.5 metres into the minimum front setback.

A garage must be set back at least 5.4 metres from the front boundary of the lot and be a minimum of 840 millimetres behind the front building line.

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**1.2 Building height (regulation 75 and clause 54.03-2)**

The height of a building on a lot must be in accordance with Regulation 75 (Building height) in Part 5 of the Regulations and clause 54.03-2 in the Scheme, except as specified below.

Notwithstanding anything else, the height of a building on a lot must not exceed 10.0 metres.

**1.3 Site coverage (regulation 76 and clause 54.03-3)**

The site area covered by buildings on a lot should be in accordance with:

- (a) the section 173 agreement; and
- (b) regulation 76 (Site coverage) in Part 5 of the Regulations and clause 54.03-3 in the scheme, except as specified below.

Notwithstanding anything else, buildings must not occupy more than 75 per cent of the lot.

**1.4 Side and rear setbacks (regulation 79 and clause 54.04-1)**

Side and rear setbacks on a lot must be in accordance with:

- (a) the section 173 agreement; and
- (b) regulation 79 (Side and rear setbacks) in Part 5 of the Regulations and clause 54.04-1 in the Scheme, except as specified below.

A building on a lot must be set back from a side or rear boundary not less than the distance specified in respect of that boundary on the building envelope plans.

Side setbacks must comply with the requirements specified in the height profiles noted below and shown on the building envelope plan.

Balconies, façade treatments, covered walkways, pergolas and porticos that are less than 9.0 metres high and decks, sunblinds, shade sails, eaves, screens as per regulation 84(5)(d) or 84(6) of the Regulations, steps, flues, pipes, heating and cooling equipment, fascias and gutters, may encroach not more than 600 millimetres into the setback zone. If any of the above allowable encroachments require the construction of footings within building envelope zone 2, the footings must be constructed in accordance with the particular provisions of the registered Section 173 agreement.

Verandahs, open porches and landings are not permitted to encroach into building envelope zone 2 and the rear setback zone but may encroach not more than 600 millimetres into the side setback zone.

Fuel tanks and water tanks are not permitted to encroach on building envelope zone 2 and the rear setback zone.

**1.5 Walls on boundaries (regulation 80 and clause 54.04-2)**

Walls constructed on a boundary must be in accordance with regulation 80 (Walls and carports on boundaries) in Part 5 of the Regulations and clause 54.05-2 in the Scheme, except as specified below.

A dwelling wall built on the boundary must not exceed a total height of 4.5 metres. A dwelling wall built on the boundary must not exceed a total length of 20 metres or the length of any existing abutting wall, whichever is the greater.

**1.6 Overlooking (regulation 84 and clause 54.04-6)**

Any overlooking of a habitable room window or secluded private open space of an existing dwelling on an adjoining lot must be in accordance with regulation 84 (Overlooking) in Part 5 of the Regulations and clause 54.04-6 in the Scheme except as varied as a consequence of other restrictions in this MCP.

This requirement applies to any habitable room window, balcony, terrace, deck or patio of a dwelling on a lot within the specified overlooking control area (as indicated in the relevant height and setback profiles), that has direct views into an adjoining lot.

**2 Notes on this MCP**

- 2.1 Ground level after engineering works associated with subdivision is to be regarded as natural ground level.
- 2.2 Buildings must not cover registered easements unless approved by the relevant authority.
- 2.3 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. Regulation 71 in Part 5 of the Regulations and clause 56.04-2 in the Scheme, apply to each edge lot irrespective of Section 1 of this MCP.

**3 General definitions**

In this MCP:

- (1) **approved building envelope** means the building envelope shown for a particular lot in the building envelope plans and has the same meaning as in regulation 71 of the Regulations;
- (2) **building** has the same meaning as in the Building Act;
- (3) **Building Act** means the act of the Victorian Parliament known as the *Building Act 1993* and any re- enactment or replacement of that act;
- (4) **building envelope zone 1** means an area within each lot (defined by the particular lot setbacks) where development of a dwelling, shed, or garage is allowed subject to the particular provisions of this MCP, the plan of subdivision, the Scheme and the registered Section 173 agreement on Title;
- (5) **building envelope zone 2 (engineered footing zone)** means an area within each lot where development is allowed subject to the particular provisions of the registered Section 173 agreement on Title;
- (6) **building envelope plans** means the plans which are attached to this MCP which show the approved building envelopes, certain setbacks and other related matters for the lots within the plan of subdivision;
- (7) **building permit** means a building permit in terms of the Building Act;
- (8) **control** includes a restriction in terms of the *Subdivision Act 1988*, an agreement under section 173 of the *Planning and Environment Act 1987 (PE Act)*, a provision of an Act (other than the Building Act), a regulation (other than the Building Regulations), a requirement of a referral authority (in terms of section 55 of the PE Act) or an order of a Court or tribunal, which relates to the siting of a Building;
- (9) **dwelling** has the same meaning as in the Scheme;
- (10) **frontage** has the same meaning as in the Scheme;
- (11) **front building line** is defined as the front wall of the dwelling, which does not include bay windows, porches, porticos and verandahs or any other permitted encroachments.
- (12) **habitable room** has the same meaning in the Scheme;





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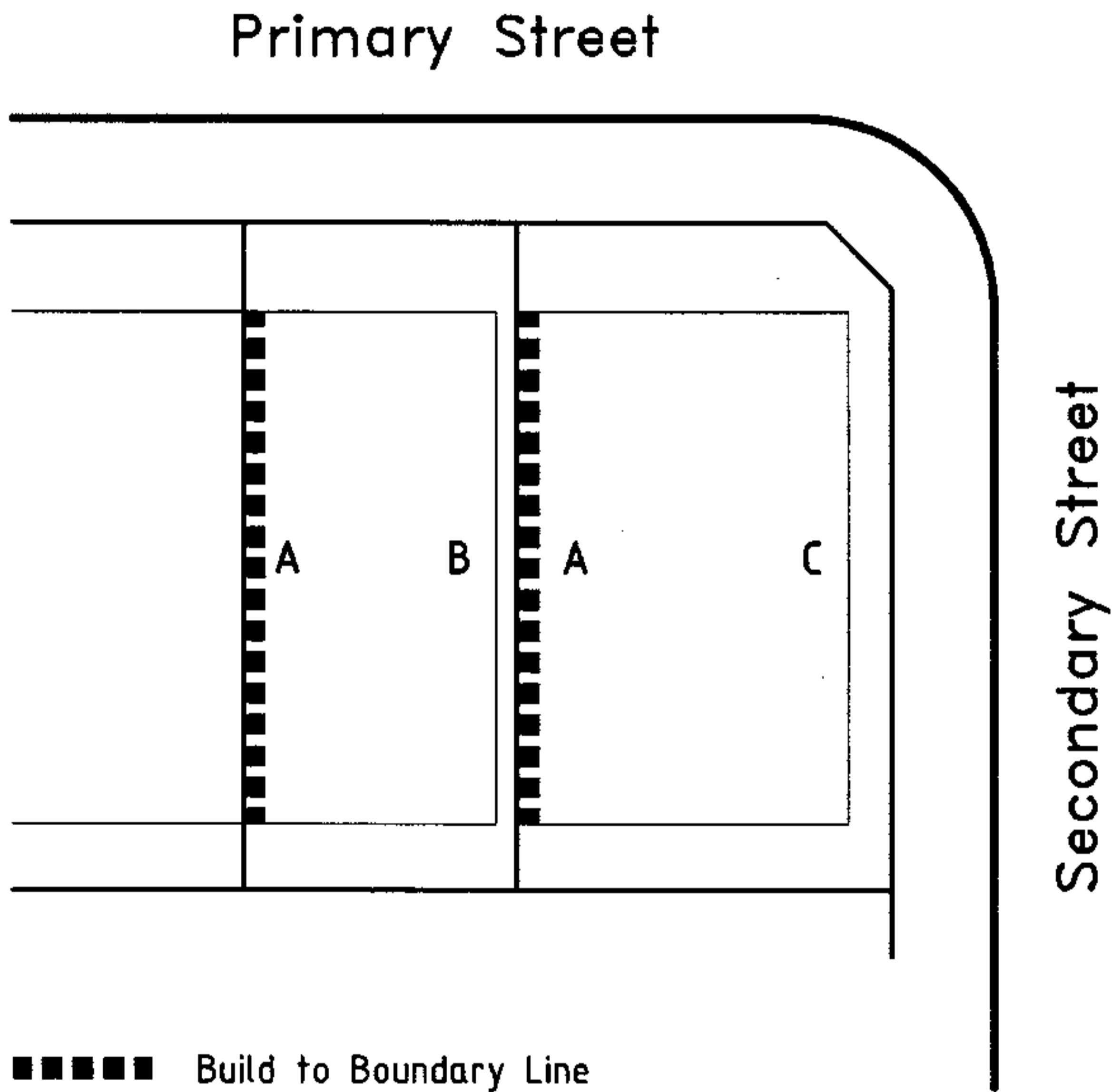
- (13) **height** has the same meaning as in the Regulations;
- (14) **lot** has the same meaning as in the Building Act;
- (15) **MCP** means this memorandum of common provisions;
- (16) **on the boundary** means a setback of up to 150 millimetres from the lot / property boundary is deemed to be on the boundary;
- (17) **PEET Craigieburn Pty Ltd** means Peet Craigieburn Pty Ltd ACN 100 290 640 or any associated entity or related body corporate of Peet Craigieburn Pty Ltd, including but not limited to Peet Ltd ACN 008 665 834;
- (18) **plan of subdivision** means the plan of subdivision to which this MCP is incorporated by way of a restrictions on that plan of subdivision;
- (19) **Regulations** means the *Building Regulations* 2018 or any subsequent regulations made pursuant to the Building Act which relate the siting of a Building;
- (20) **Scheme** means the planning scheme of the local authority responsible for the land contained within the plan of subdivision;
- (21) **secluded private open space** has the same meaning as in the Regulations;
- (22) **setback** has the same meaning as in the Regulations;
- (23) **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;
- (24) **site coverage** has the same meaning as in the Regulations;
- (25) **storey** has the same meaning as in the Scheme;
- (26) **street**, for the purposes of determining street setbacks, means any road other than a footway or carriageway easement;
- (27) **window** has the same meaning as in the Regulations; and
- (28) **section 173 agreement means** section 173 agreement (AS816207A) registered on Title relating to protection of Greenvale Reservoir.

4 Profile Diagrams

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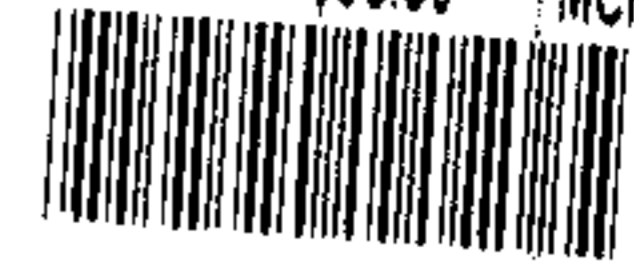

# BOUNDARY PROFILES

## Boundary Profile Allocation Diagram



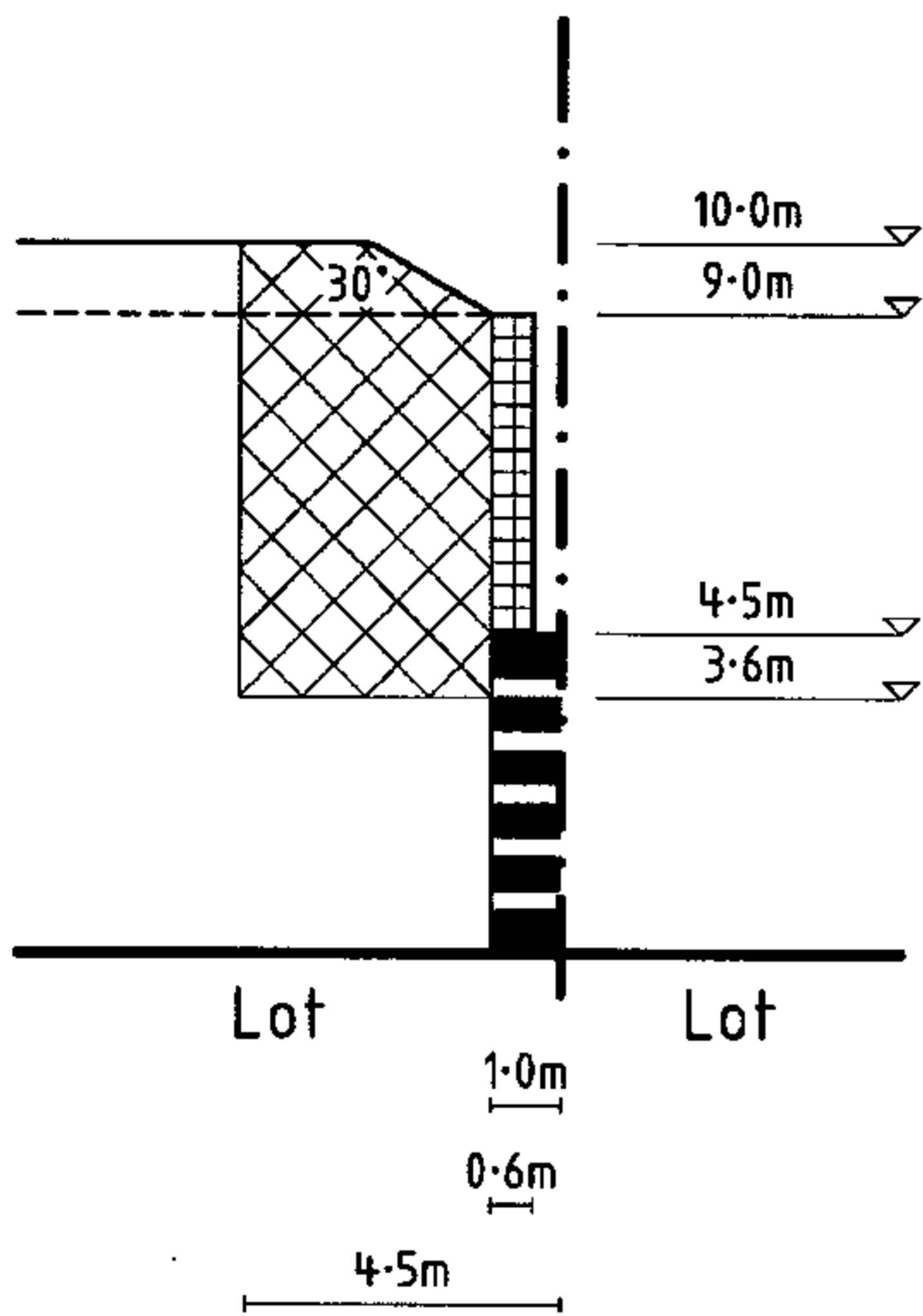
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# BOUNDARY PROFILES

## A - Side Boundary Profile: Zero Lot Boundary



### 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.

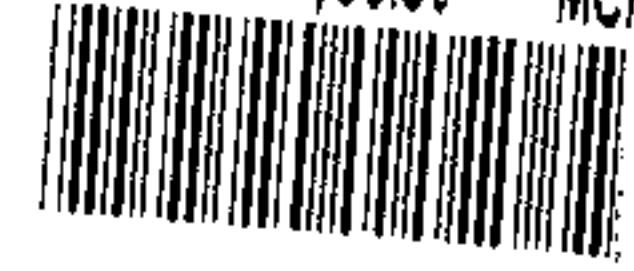
-  Lot Boundary
-  Build to Boundary Line
-  Overlooking Control Area (Habitable Room Windows, Balconies, Terraces)
-  Eave Intrusion Zone

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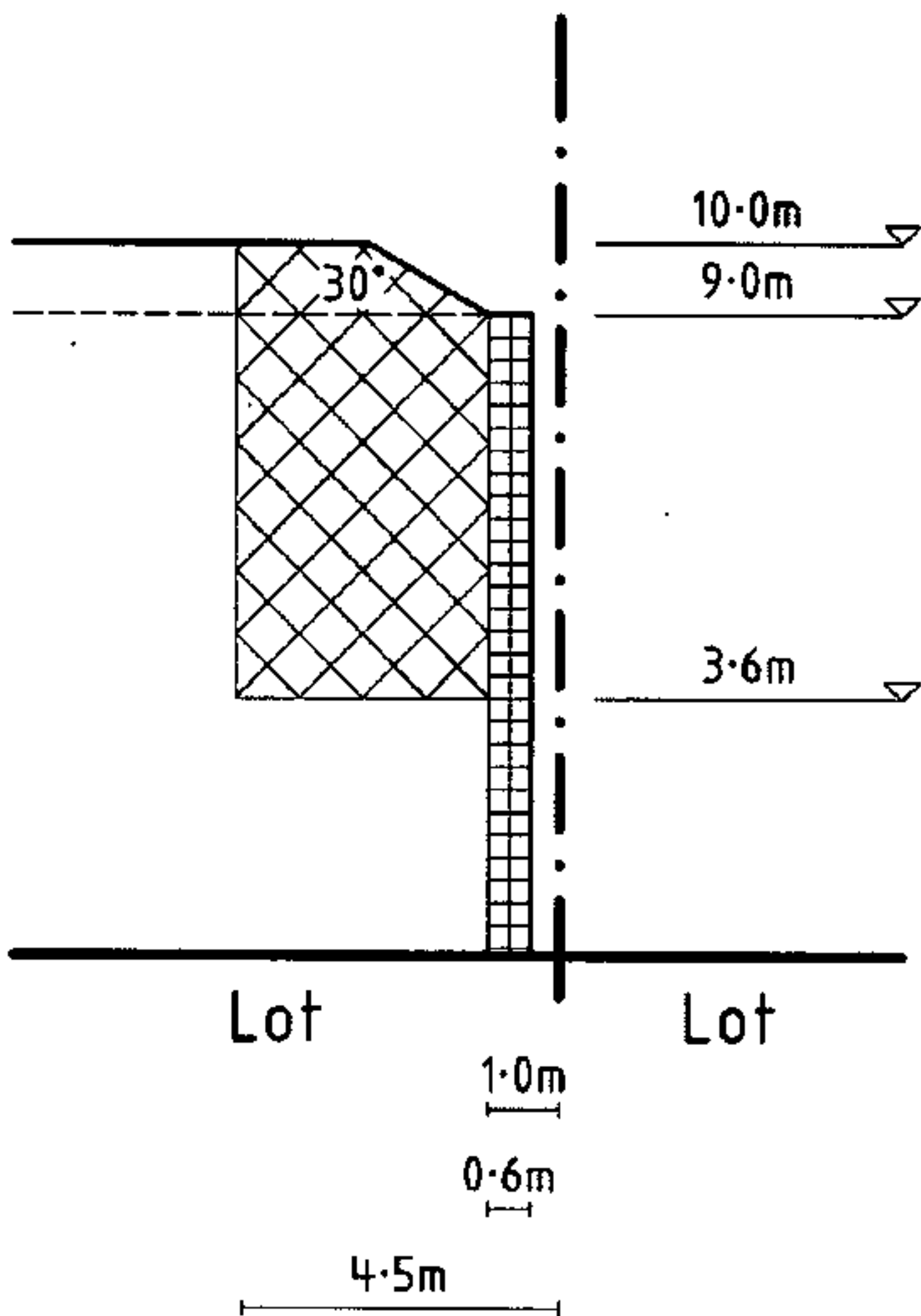
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# BOUNDARY PROFILES


## B - Side Boundary Profile: Non-Zero Lot Boundary



### 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.

--- Lot Boundary

 Overlooking Control Area (Habitable Room Windows, Balconies, Terraces)

 Eave Intrusion Zone



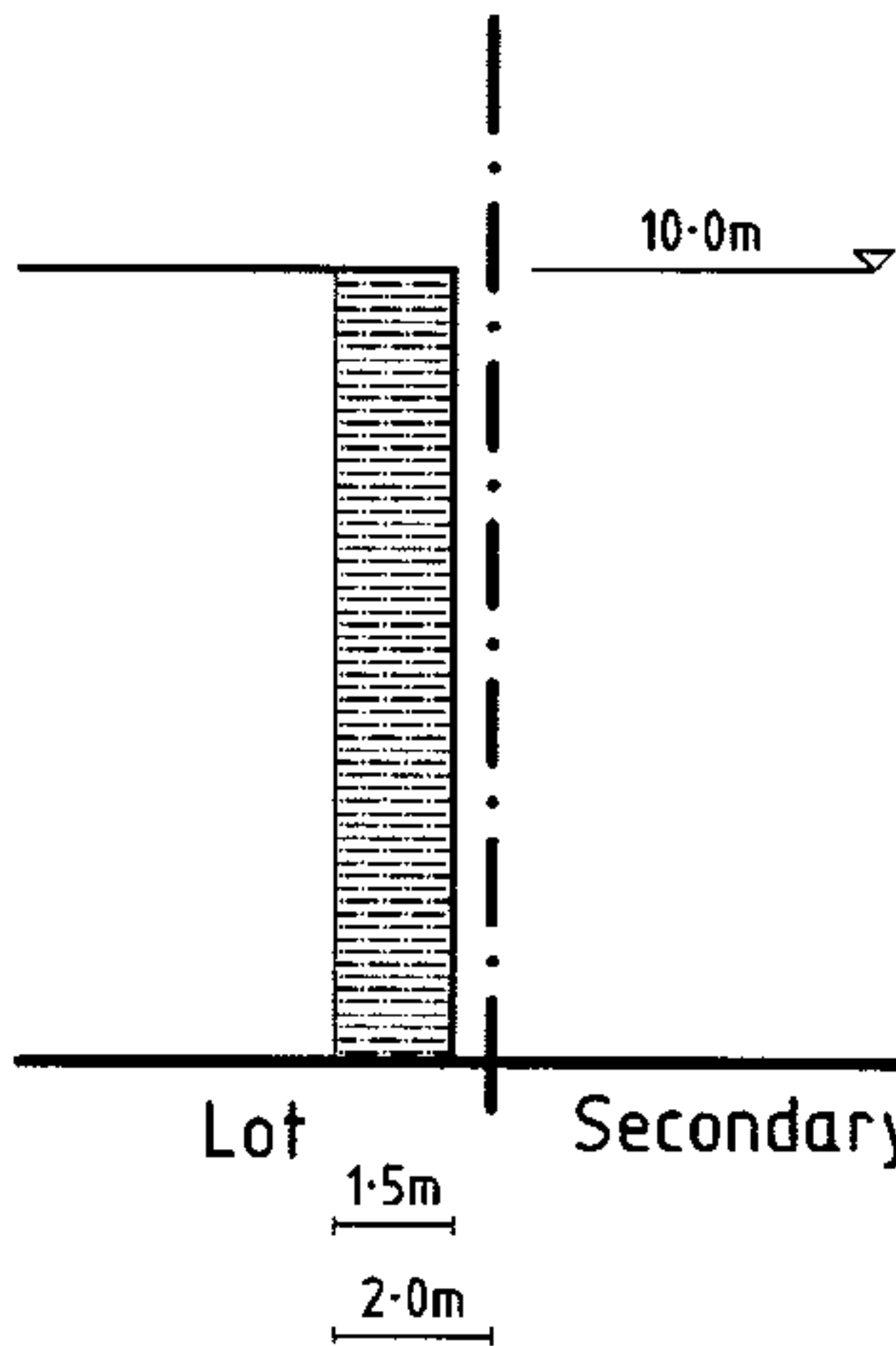
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# BOUNDARY PROFILES

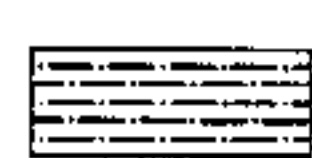
## C - Secondary Street Boundary Profile:



### EASEMENT REQUIREMENT

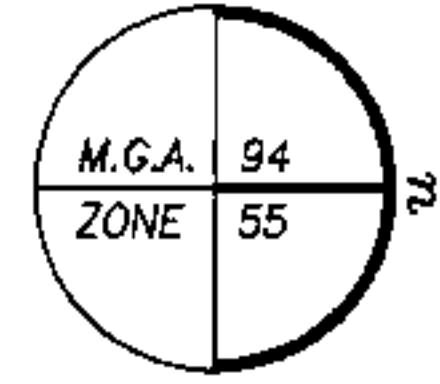
Where a profile when applied covers an easement, the portion of the profile above the easement cannot be considered for approval/built upon. This may vary only in the circumstances where building on the easement receives prior written consent of the relevant authority.

--- Lot Boundary





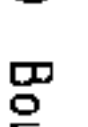
 Intrusion Zone (Eave, Portico, Verandah, Balcony)

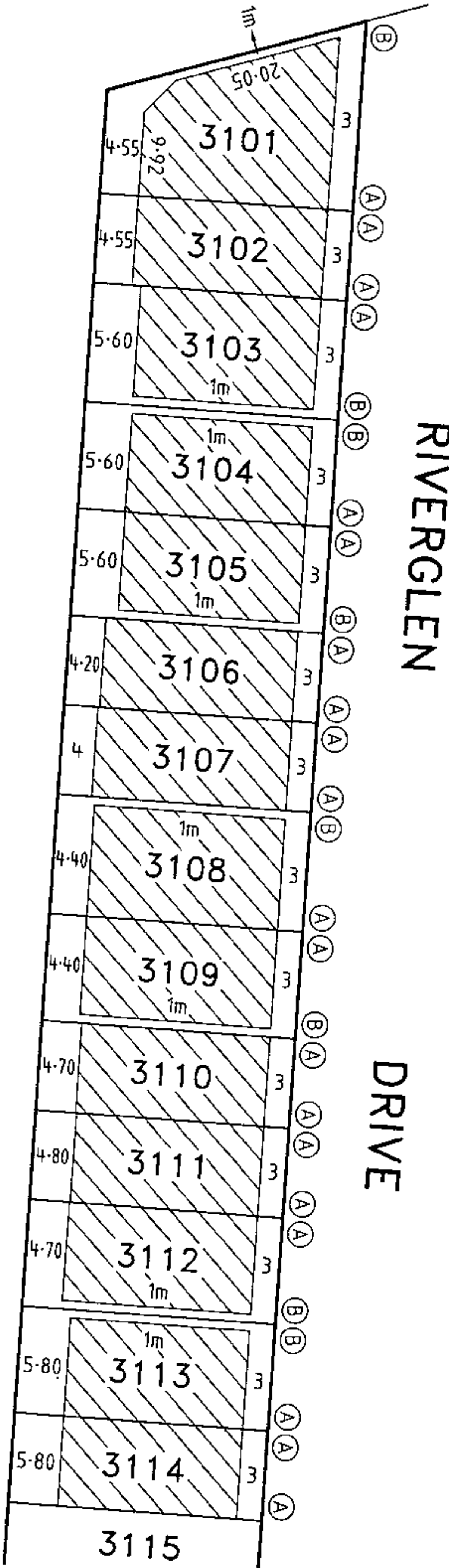
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## 5 Building Envelope Plans

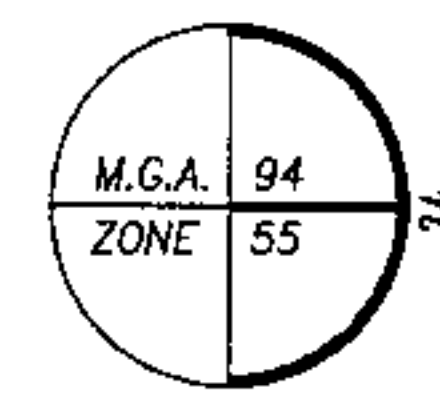
-  Building Envelope Zone 1  
Please refer to Boundary Profiles within the MCP for height restrictions and to Section 173 agreement for restrictions on sub-surface excavation
  -  Building Envelope Zone 2 (Engineered Footing Zone)  
Please refer to Boundary Profiles within the MCP for height restrictions and to Section 173 agreement for footing specifications and restrictions on sub-surface excavation
  -  (A) Boundary Profile Type
  -  (B) Boundary Profile Type
  -  (C) Boundary Profile Type
- N.B. Garages to be set back a minimum distance of 5.40 metres from the front title boundary.



SEE SHEET 2

BUILDING ENVELOPE PLAN  
SHEET 1 OF 6

SEE SHEET 1

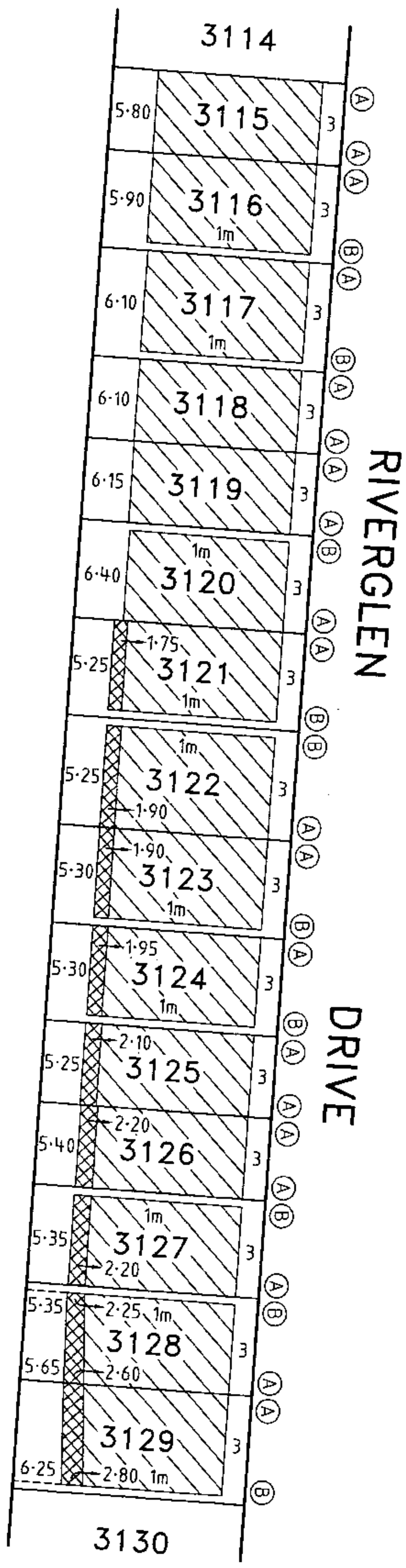


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BUILDING ENVELOPE PLAN  
SHEET 2 OF 6

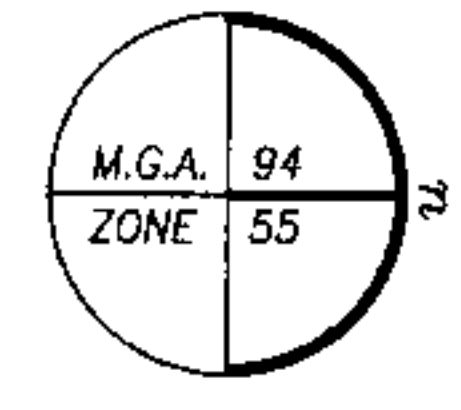


SEE SHEET 3

-  Building Envelope Zone 1  
Please refer to Boundary Profiles within the MCP for height restrictions and to Section 173 agreement for restrictions on sub-surface excavation
  -  Building Envelope Zone 2 (Engineered Footing Zone)  
Please refer to Boundary Profiles within the MCP for height restrictions and to Section 173 agreement for footing specifications and restrictions on sub-surface excavation
  -  (A) Boundary Profile Type
  -  (B) Boundary Profile Type
  -  (C) Boundary Profile Type
- N.B. Garages to be set back a minimum distance of 5.40 metres from the front title boundary.

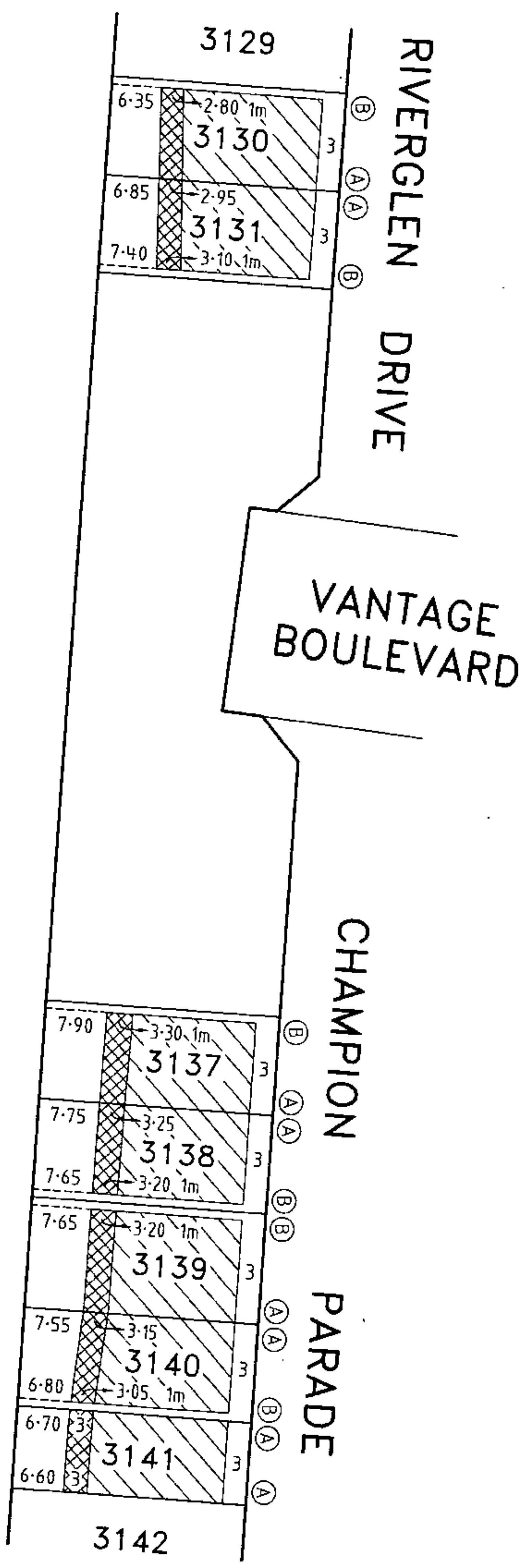
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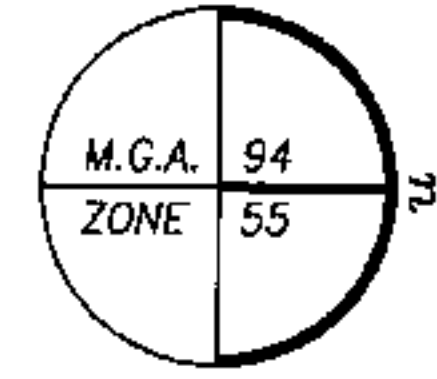
## BUILDING ENVELOPE PLAN SHEET 3 OF 6

SEE SHEET 2



SEE SHEET 4

- Building Envelope Zone 1  
Please refer to Boundary Profiles within the MCP for height restrictions and to Section 173 agreement for restrictions on sub-surface excavation
  - Building Envelope Zone 2 (Engineered Footing Zone)  
Please refer to Boundary Profiles within the MCP for height restrictions and to Section 173 agreement for footing specifications and restrictions on sub-surface excavation
  - Boundary Profile Type A
  - Boundary Profile Type B
  - Boundary Profile Type C
- N.B. Garages to be set back a minimum distance of 5.40 metres from the front title boundary.

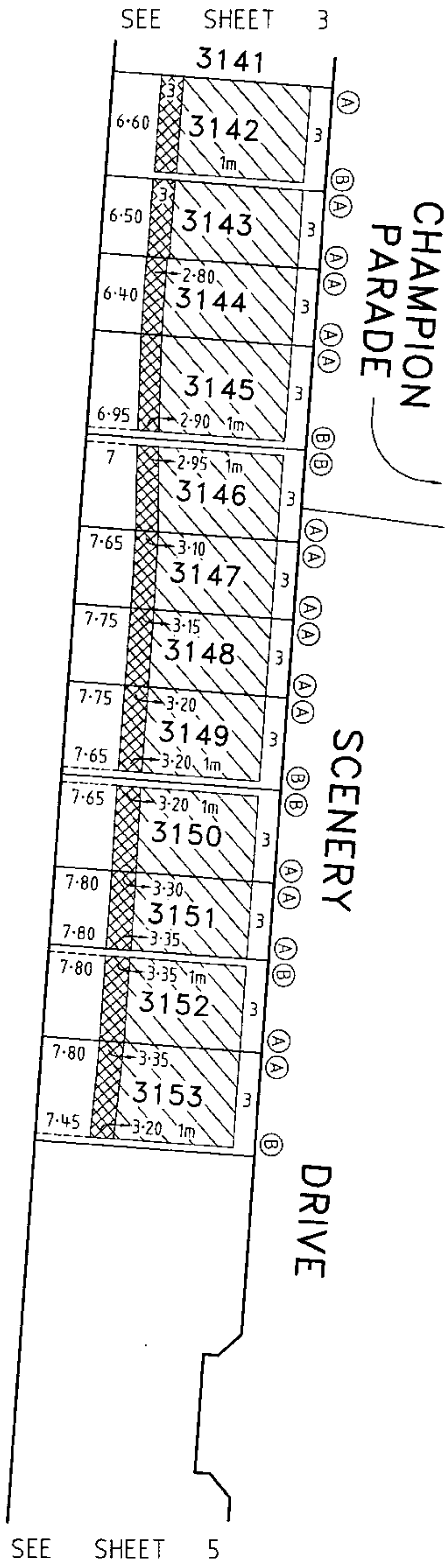


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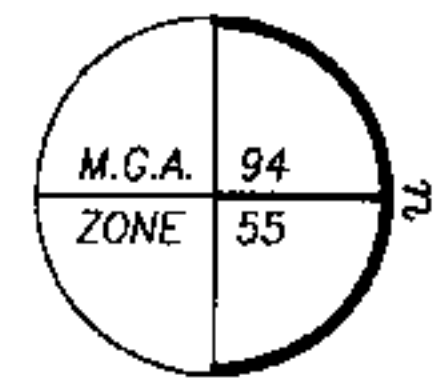


BUILDING ENVELOPE PLAN  
SHEET 4 OF 6



- Building Envelope Zone 1  
Please refer to Boundary Profiles within the MCP for height restrictions and to Section 173 agreement for restrictions on sub-surface excavation
  - Building Envelope Zone 2 (Engineered Footing Zone)  
Please refer to Boundary Profiles within the MCP for height restrictions and to Section 173 agreement for footing specifications and restrictions on sub-surface excavation
  - Boundary Profile Type
- N.B. Garages to be set back a minimum distance of 5.40 metres from the front title boundary.





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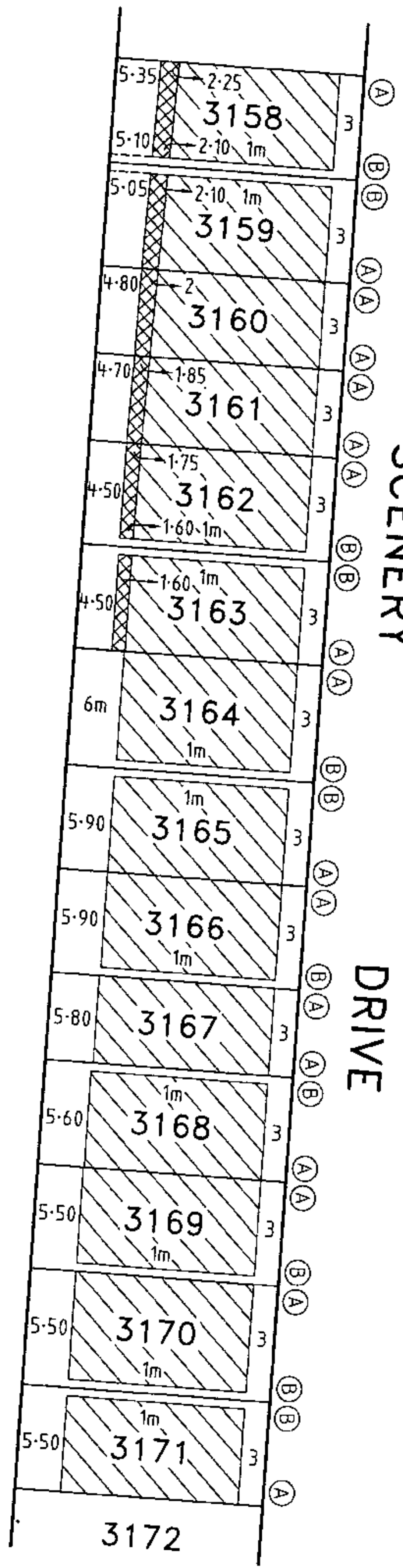
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BUILDING ENVELOPE PLAN

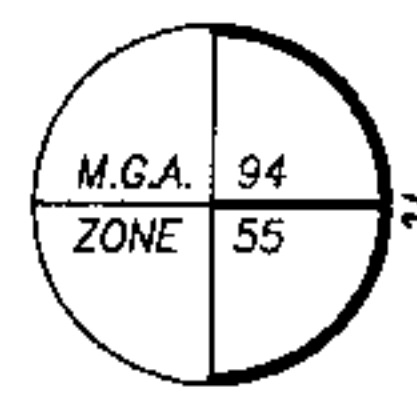
SHEET 5 OF 6

SEE SHEET 4



SEE SHEET 6

- Building Envelope Zone 1  
Please refer to Boundary Profiles within the MCP for height restrictions and to Section 173 agreement for restrictions on sub-surface excavation
  - Building Envelope Zone 2 (Engineered Footing Zone)  
Please refer to Boundary Profiles within the MCP for height restrictions and to Section 173 agreement for footing specifications and restrictions on sub-surface excavation
  - Boundary Profile Type A
  - Boundary Profile Type B
  - Boundary Profile Type C
- N.B. Garages to be set back a minimum distance of 5.40 metres from the front title boundary.



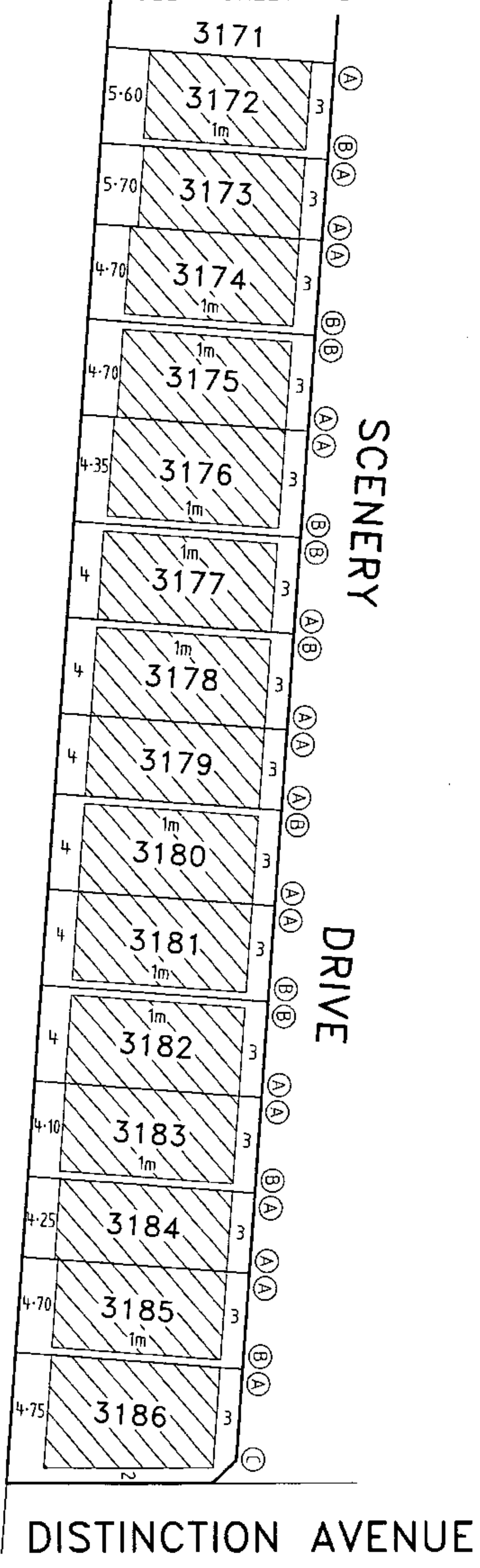
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BUILDING ENVELOPE PLAN  
SHEET 6 OF 6

SEE SHEET 5



-  Building Envelope Zone 1  
Please refer to Boundary Profiles within the MCP for height restrictions and to Section 173 agreement for restrictions on sub-surface excavation
  -  Building Envelope Zone 2 (Engineered Footing Zone)  
Please refer to Boundary Profiles within the MCP for height restrictions and to Section 173 agreement for footing specifications and restrictions on sub-surface excavation
  -    Boundary Profile Type
- N.B. Garages to be set back a minimum distance of 5.40 metres from the front title boundary.