

AA2346

27/02/2014 \$56.50 MCP



Memorandum of Common Provisions

Section 91A Transfer of Land Act 1958

Lodged by:

Name: Arnold Bloch Leibler
Phone: 9229 9999
Address: 333 Collins Street Melbourne
Reference: AXT:01-1463227
Customer Code: (0500C)

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

Provisions

Stage 32 MCP

1 Introduction

- 1.1 No buildings or works, apart from those exceptions specified in paragraph 3.5, may be constructed or carried out on a lot unless prior written approval is obtained from the Design Assessment Panel.
- 1.2 The requirements in this Memorandum apply in addition to the requirements in the Regulations and the Planning Scheme. In the event of conflict or inconsistency, the provisions of this Memorandum shall prevail, to the extent that such conflict or inconsistency is lawful.
- 1.3 The requirements in paragraphs 3.1 to 3.24 (inclusive), except for the mandatory setback requirement contained in paragraph 3.5, of this Memorandum may only be waived or varied by written notice issued by the Design Assessment Panel.
- 1.4 The Design Assessment Panel cannot waive or vary the mandatory setback requirement contained in paragraph 3.5 of this Memorandum.

2 Definitions and Interpretations

2.1 In this Memorandum:

- (a) "Conventional Lot" means any lot, including a Corner Lot:
- (i) that is greater than 450 square metres; or
 - (ii) where the length of a side boundary is equal to or greater than 30m; or
 - (iii) where two boundaries contain an angle of not less than 60°.
- (b) "Corner Lot" means a lot contiguous to two intersecting streets, which has access to both streets.
- (c) "Council" means City of Greater Dandenong Council.
- (d) "Design Assessment Panel" means:
- (i) the person or persons who are, from time to time, nominated in writing by Intrapac Projects Pty Ltd ACN 107 291 805 of 33 Coventry Street, South Melbourne Vic 3205 ("IPPL") to act as the Design Assessment Panel for the purposes of this Memorandum; or

Approval No 4621201A

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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 instruments and plans.

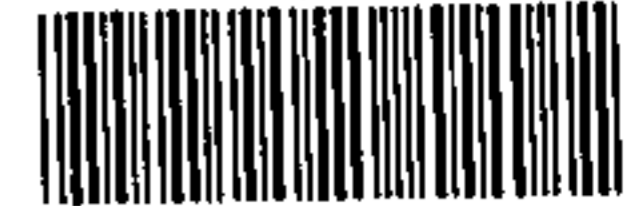
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- (i) if IPPL ceases to be duly registered as a corporation during the currency of this Memorandum, the person or persons who are, from time to time, nominated in writing by the chief executive officer of City of Greater Dandenong (or its successor) to act as the Design Assessment Panel for the purposes of this Memorandum.
- (e) **"Developer Fence"** means the fence to be constructed on the designated primary frontage or secondary frontage of the Developer Fence Lots as specified in clause 2.8 of the Design Guidelines. The Developer Fence will be constructed generally in accordance with the design specifications stipulated in clause 2.8 of the Design Guidelines.
- (f) **"Developer Fence Lots"** means Lots 3209, 3218 and 3231 on the Plan of Subdivision and MCP Diagram.
- (g) **"Design Guidelines"** means the subdivision design guidelines approved (and amended as required from time to time) and regulated by the Design Assessment Panel.
- (h) **"Double Frontage Lots"** means a lot which is not a Corner Lot and abuts and has access to two (2) or more streets.
- (i) **"Eaves"** means the dimensions of the required eave extension, including the eave, fascia and gutter.
- (j) **"MCP Diagram"** means drawing No. 20860/32MCP annexed to this Memorandum.
- (k) **"Ground Level"** means the finished ground level after completion of engineering works associated with subdivision.
- (l) **"Net Floor Area"** means the useable enclosed floor area of a dwelling after deducting veranda, carport, garage and exterior walls.
- (m) **"Planning Scheme"** means the Greater Dandenong Planning Scheme.
- (n) **"Plan of Subdivision"** means Plan of Subdivision PS 649668T.
- (o) **"Primary Frontage"** means, for each lot, the shortest boundary of that lot which abuts a street.
- (p) **"Reduced Setback Lots"** means any lot with a Setback of 2.0 metres from the Primary Frontage on the Plan of Subdivision and MCP Diagram.
- (q) **"Regulations"** means the Building Regulations 2006.
- (r) **"Secondary Frontage"** means the boundary of a lot (other than the Primary Frontage) which abuts a street.
- (s) **"Setback"** means the minimum distance which a wall face is required to be from a property boundary measured as the horizontal distance between the proposed wall and the boundary. All structures (including decks, patio areas, pergolas, porches, verandas, carports and garages) must comply with the Setback requirement unless specifically exempted in this Memorandum.
- (t) **"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.

2.2 General Definitions

If not defined above, the words below shall have the meaning attributed to them in the document identified.

- (i) In the Building Act 1993:
 - (ii) Building
 - (iii) Occupancy Permit
 - (iv) Lot
 - (v) Owners
- (b) In Part 4 of the Regulations:

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- (i) Height
- (c) In the Planning Scheme:
 - (i) Frontage (Clause 72)
 - (ii) Display Home (Clause 74)
 - (iii) Dwelling (Clause 74)
 - (iv) Private open space (Clause 72)
 - (v) Secluded private open space (Clause 72)
 - (vi) Sign (Clause 52)
 - (vii) Street reserve (Clause 72)
 - (viii) Carriageway (Clause 72)

2.3 Street

For the purposes of determining street Setbacks, street means any road other than a footway or carriageway easement.

2.4 On the boundary

A Setback of up to 150 millimetres from the lot/property boundary is deemed to be on the boundary.

3 Provisions applicable to all Lots

3.1 Recycled Water / 'Third Pipe'

If South East Water Limited make Class A recycled water supply available to the Lot, the owner of the lot may be required to connect the recycled water supply to the lot at the same time as they connect the mains supply of potable water.

An external water tap and associated pipes for recycled water supply must be installed at the front and rear of any dwelling constructed on the lot.

3.2 Fibre to the Premises Network

Cabling and wiring must be installed in each dwelling constructed on the lot to the minimum standards prescribed in Telstra Guideline 013234 entitled "Cabling of New Dwellings for Telstra Velocity".

3.3 Front Setbacks

- (a) The face of the dwelling:
 - (i) on each Conventional Lot must be Setback at least 5.0 metres from the Primary Frontage; and
 - (ii) on Corner Lots must be Setback at least 5.0 metres from the Lot boundary on its Primary Frontage and 2.0 metres from the Secondary Frontage.
- (b) The garage or carport on each lot, except for the Reduced Setback Lots, must be Setback at least 6.0 metres from the Primary Frontage.
- (c) Garages and carports on the Reduced Setback Los must be Setback either 2.5 metres or 5.0 metres (as required by Council). Any variation to these Setbacks will not be approved. This is to ensure that vehicles are fully enclosed within the garage, or if parked outside the garage, can remain fully within the property boundary.

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**4****3.4 Exceptions to Front Setbacks**

- (a) Covered roof elements such as porticos are permitted to encroach within the front Setbacks by up to 1.0 metre.
- (b) Permeable structures such as pergolas, window hooding, decks, terraces and built landscape elements are permitted to encroach within the Setbacks in paragraph 3.3 by up to 2.0 metres.
- (c) Built landscape elements (excluding fencing) that do not exceed 0.6 metres in height are unrestricted within the Setbacks in paragraph 3.3.

3.5 Setbacks for Corner Lots

For Corner Lots with a designated front setback of 2.5 metres, the face of the building must be setback a minimum of 2.5 metres from the boundary on its primary frontage Lot and 2.0 metres from its secondary frontage. Any variation to these setbacks cannot be approved by the DAP.

3.6 Exceptions to approval by Design Assessment Panel

Despite paragraph 1.1 above, a single garden shed may be constructed on each lot without obtaining prior written approval from the Design Assessment Panel, provided that the garden shed:

- (a) has gross floor area of 9.0 square metres or less;
- (b) is a maximum height of 2.0 metres; and
- (c) is located to the rear of the dwelling constructed on the lot.

3.7 Gardens and Landscaping

The street frontage area of each lot must be cleared of any waste building material and landscaped in accordance with the succeeding paragraphs within 3 months after an Occupancy Permit is issued for the dwelling on that lot.

All gardens and landscaped areas visible from streets or parks must be well maintained and all parts of the lot which are not built upon or paved must be landscaped with grass, garden beds, shrubs and trees.

Shrubs within 2.0 metres of the Primary Frontage must not exceed 1.2 metres in height. Plants and trees within the remainder of the Primary Frontage are unlimited in height.

No weed species may be planted within the lot (refer to "Weed Identification Guide" published by City of Casey, Cardinia Shire Council & City of Greater Dandenong).

For lots facing the Island Road shared path reserve, the majority of ground covers and shrubs must be Australian native species.

3.8 Letter boxes

Letter boxes must reflect the character of the dwelling and will be structures not exceeding 1.2 metres in height and must be without visual bulk.

3.9 Bins and Compost

Storage areas for garbage bins must be accommodated within the garage or an enclosed and screened area. Compost bins must not be visible from the street.

3.10 Garages and Carports

- (a) Garage doors must be sectional or tilt style and must not be roller style. Garage door materials must be horizontal timber boarding, grooved ply or metal cladding equal to timber boarding.
- (b) Garages are not mandatory, however vehicles parked on the site on a long term basis should be parked entirely within the Lot boundary. Vehicles should not be parked where they overhang the Lot boundary.

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3.11 Driveways and Paths

- (a) Only one driveway or cross-over per lot is permitted, with a maximum driveway/cross-over width of 4.0 metres. A driveway or cross-over which is shared between two lots is counted as one per lot.
- (b) Driveways and cross-overs on all lots must be:
 - (i) Setback at least 0.5 metres from the side boundary of the lot; and
 - (ii) Plain finished concrete can be used if a second finish of different colour or surface comprises at least 20% of the driveway area. Exposed aggregate finishes can comprise the whole of the driveway area and do not require a second finish. Driveways do not need to include permeable sections.

3.12 Front Fence

Fences are not permitted on the Primary Frontage of a lot.

3.13 Side and Rear Fences

- (a) Fences on side and rear boundaries are not permitted forward of the Primary Frontage Setback referred to in paragraph 3.3 above.
- (b) Side and rear fences must be 1.8 metres high and constructed using timber palings, a timber cap and timber posts exposed to both sides of the fence.

3.14 Developer Fence

A Developer Fence may be constructed on the Developer Fence Lots in accordance with Restriction No. 2 on the Plan of Subdivision and the MCP Diagram.

3.15 Fence returns and Gates

Fence returns or gates abutting walls of buildings must be constructed with galvanised steel frames and horizontal timber or composite timber slats, unless otherwise approved by the Design Assessment Panel.

3.16 Built Form and Articulation

- (a) Any single material must not comprise more than 70% of the façade of the building facing the Primary Frontage.
- (b) A Primary Frontage façade design cannot be used where the same (or a substantially similar) façade design has been built or approved within 6 lots of the relevant lot on either side of the same street.
- (c) Where the face of a garage and building is setback 2.5 metres from the Lot boundary, the façade design must demonstrate a high level of articulation. Façade design must utilise elements such as entries, pergolas, window hoods and verandas to avoid long expanses of a single material.

3.17 Rooflines

- (a) The roof pitch must not exceed 22.5°.
- (b) With the exception of walls on boundaries and parapet wall designs, buildings on Conventional Lots and Corner Lots with pitched roofs must have extended Eaves to a minimum of 600 mm on the street façade at ground level. The extended Eaves must return along the side elevations of the building for a minimum distance of 3.0 metres. Pitched roofs on upper levels of the building must have extended Eaves to a minimum of 600 mm on all facades.
- (c) Buildings with pitched roofs on Double Frontage Lots must have extended Eaves to a minimum of 600 mm on both the Primary Frontage and Secondary Frontage at ground level. The eaves must return along the side elevations of the building for a minimum distance of 3.0 metres.

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- (d) Satellite dishes, antennae and roof mounted airconditioning and heating units must not be visible from the street or public areas.

3.18 Minimum Dwelling size

- (a) Except as noted in paragraph 3.18(b) below, each dwelling constructed on a lot must have a Net Floor Area of at least 150 square metres.
- (b) Dwellings on lots with a site area of 450 square metres or less must have a Net Floor Area of at least 120 square metres.

3.19 Private Open Space

A Dwelling must have private open space comprising of an area of 80 square metres or 20% of the area of the lot (whichever is the lesser). At least 20% of the private open space must consist of secluded private open space with a minimum width of 3.0 metres and convenient access from a living area in the dwelling.

3.20 Side and Rear Setbacks - South Boundary

Any wall on a south boundary which exceeds 3.6 metres above ground level within 6.0 metres of the rear boundary must be Setback from the boundary by 1.0 metre, plus an additional 0.6 metres for every metre of height above 3.6 metres, to a maximum of 6.9 metres, plus 1.0 metre for every metre of height over 6.9 metres, to a maximum of 9.0 metres.

[Note: North, east and west boundary Setbacks are controlled by Rescode.]

3.21 Exceptions to Side and Rear Setbacks - South Boundary

An overhanging eave or chimney may intrude in the Setback to a maximum of 0.5 metres.

3.22 Signs

- (a) Except as noted in paragraph 3.22(b), a sign must not be erected on or display from a lot without the prior written approval of the Design Assessment Panel.
- (b) Where a dwelling is constructed (or is in the course of construction) on a lot, the Design Assessment Panel will not unreasonably withhold consent to a sign advertising the sale or lease of that lot.

3.23 Walls on Boundaries

- (a) On a Conventional Lot a wall may abut a side boundary for no greater than 22% of the boundary length.
- (b) A second wall on:
 - (i) the same boundary may abut that boundary for 20% of the remaining length of that boundary if separated by private open space having a continuous length of at least 4 metres on that boundary and a width of at least 2.0 metres;
 - (ii) an opposite side boundary may abut that boundary for a continuous distance not exceeding 20% of the length of that boundary, but no part of that wall may be opposite or overlap a wall on the opposite side boundary.
- (c) A wall may only abut a rear boundary of a lot if:
 - (i) that boundary is also the rear boundary (and not a side boundary) of the abutting lot; and
 - (ii) the length of that wall does not exceed 6.0 metres.
- (d) If an easement abuts a lot boundary, any wall must be Setback 3.0 metres from the relevant boundary or the width of the easement, whichever is the greater distance.
- (e) Not more than 2 walls per lot may abut any side or rear boundary of a lot.

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- (f) The height of a wall constructed on a side or rear boundary of a lot must not exceed an average height of 3.0 metres above ground level, with no part of that wall exceeding 3.6 metres above ground level.

3.24 Building Envelopes

Each dwelling constructed on a lot must be constructed within the building envelopes shown on the MCP Diagram for the particular lot.

4 Expiry of Memorandum

This Memorandum will lapse and cease to have effect in respect of a lot on 31 December 2024, apart from clause 3.14 which will cease to have effect over the Developer Fence Lots, five (5) years after the date of registration of the Plan of Subdivision.

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MCP DIAGRAM

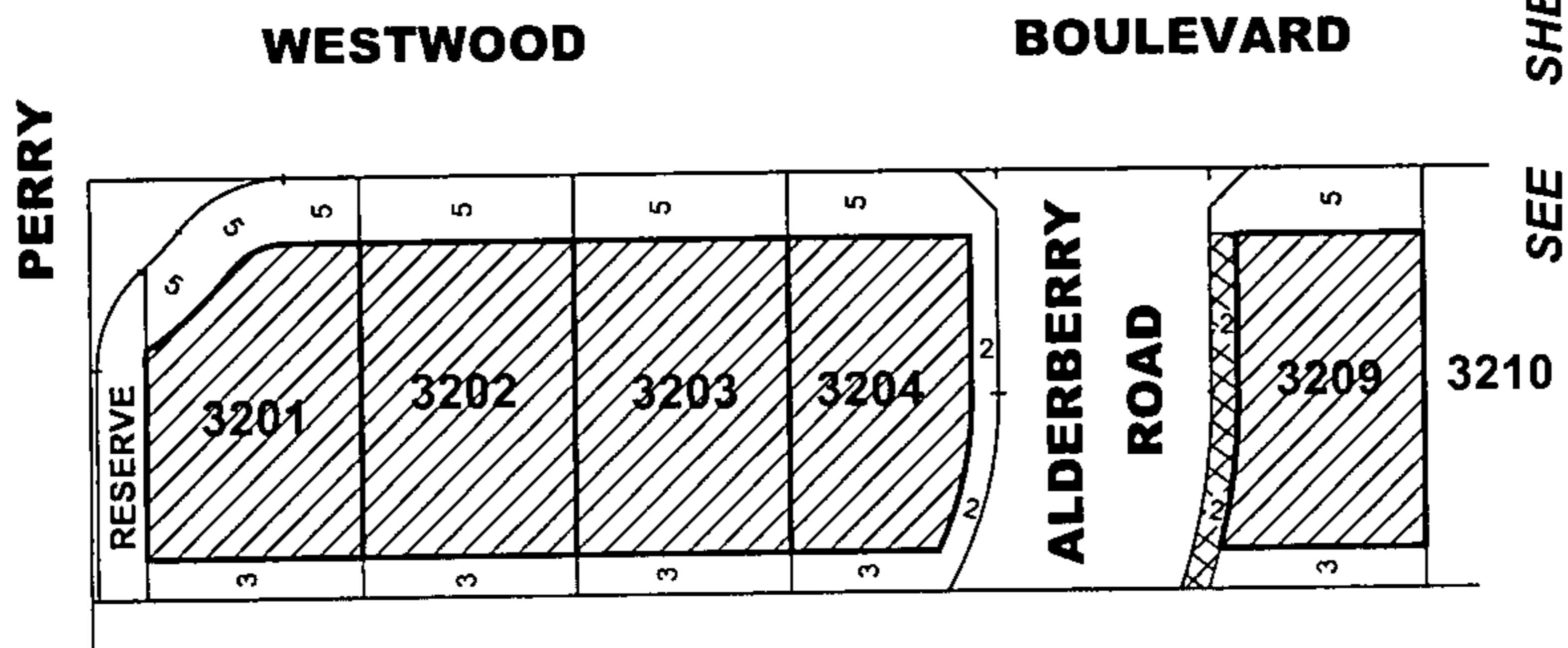
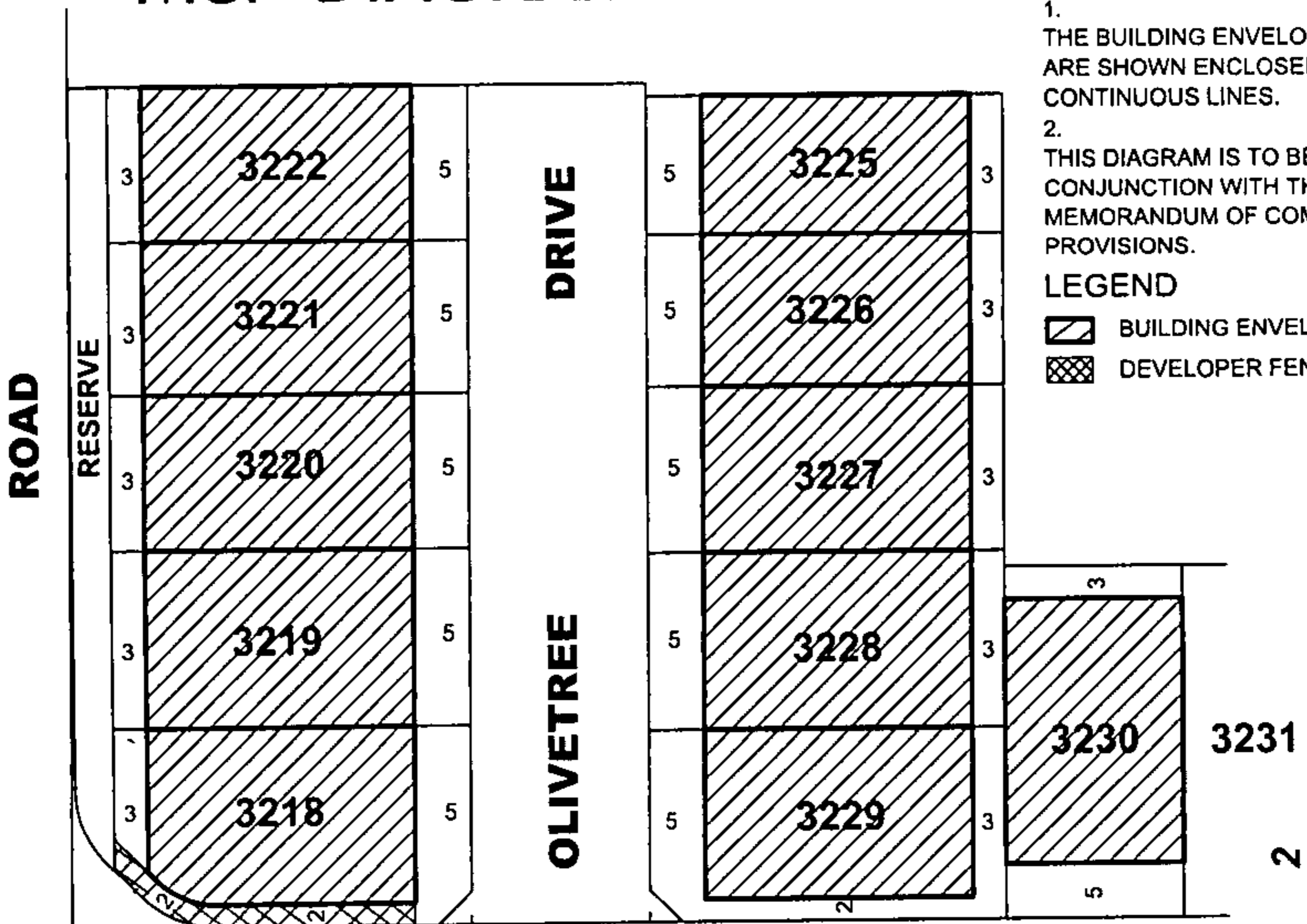
BUILDING ENVELOPE DIAGRAM

NOTATIONS

1. THE BUILDING ENVELOPES ON THIS PLAN ARE SHOWN ENCLOSED BY THICK CONTINUOUS LINES.
2. THIS DIAGRAM IS TO BE READ IN CONJUNCTION WITH THE MEMORANDUM OF COMMON PROVISIONS.

LEGEND

- BUILDING ENVELOPE
- DEVELOPER FENCE ZONE



SEE SHEET 2

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Reeds Consulting Pty Ltd
 Level 6 440 Elizabeth Street
 Melbourne VIC 3000
 phone (03) 8660 3000 fax (03) 8660 3060
 email survey@reedscon.com.au

SCALE

LENGTHS ARE IN METRES

ORIGINAL SCALE 1:750
 SHEET SIZE A4

SHEET 1 OF 2 SHEETS
 REF: 20860/32MCP
 VERSION: J
 DATE: 10/10/13 32MCP1J.DGN

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MCP DIAGRAM

BUILDING ENVELOPE DIAGRAM

NOTATIONS

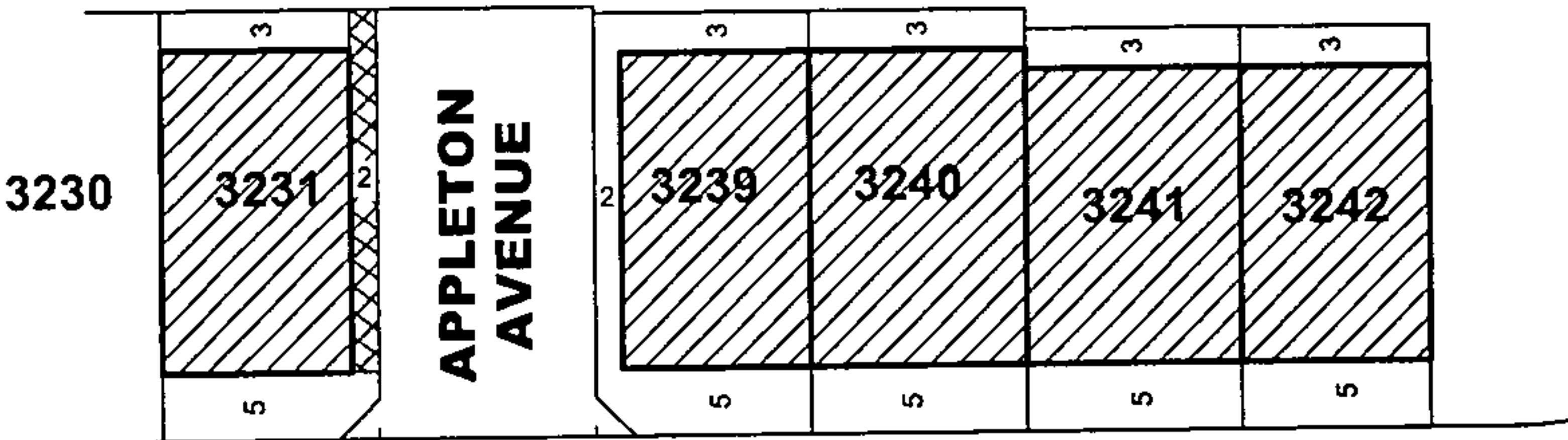
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LEGEND

-  BUILDING ENVELOPE
-  DEVELOPER FENCE ZONE



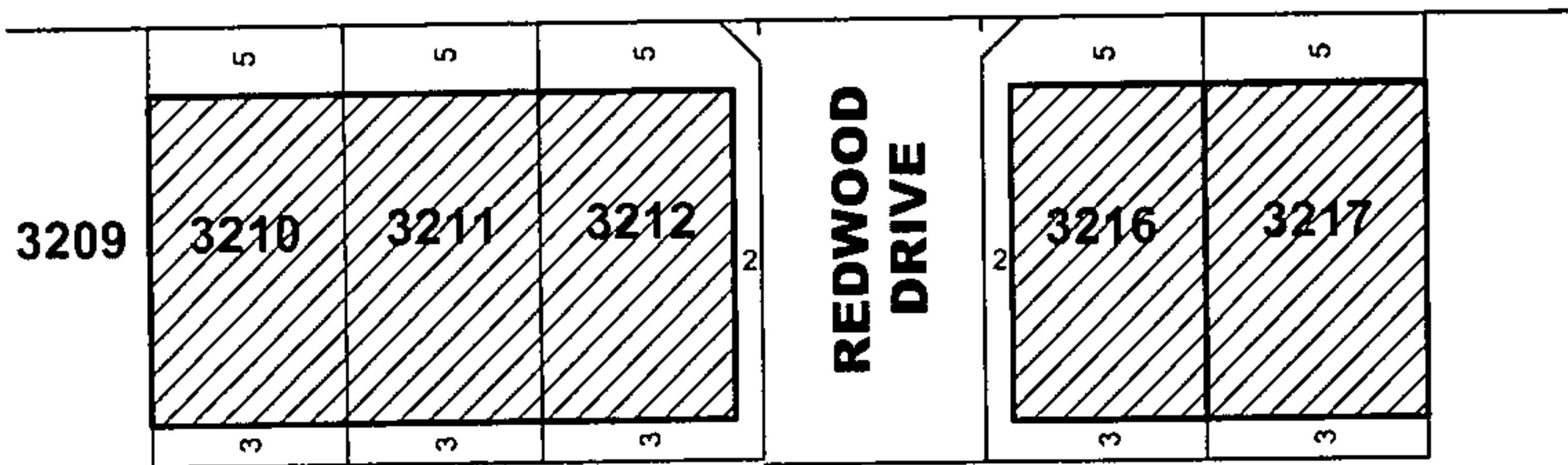
SEE SHEET 1



WESTWOOD

BOULEVARD

SEE SHEET 1



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 Level 6 440 Elizabeth Street
 Melbourne VIC 3000
 phone (03) 8660 3000 fax (03) 8660 3060
 email survey@reedscon.com.au

SCALE

LENGTHS ARE IN METRES

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 1:750 A4

SHEET 2 OF 2 SHEETS
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