

# Memorandum of Common Provisions

## Section 91A Transfer of Land Act 1958

**Privacy Collection Statement**  
The information from this form is collected by the Registrar of Titles under statutory authority and is used for the purpose of maintaining publicly searchable registers and indexes.

Lodged by

Name: HQ Law  
Phone: 03 5454 3000  
Address: 110 Pall Mall, Bendigo VIC 3550  
Reference: TW:34726  
Customer Code: 16838X

This memorandum (containing 7 pages) contains provisions which are intended for inclusion in instruments and plans to be subsequently lodged for registration.

## Provisions

### 1. Definitions

In this memorandum, unless the context otherwise requires:

**Approved Species** means a plant species that is included on the list of approved plant species attached to this memorandum of common provisions

**Display home** has the same meaning as set out in the Land Use Terms of the planning scheme that applies to the Land.

**Dwelling** has the same meaning as set out in the Land Use Terms of the planning scheme that applies to the Land.

**Main Street frontage** means the street frontage that allows the most direct access to the front door. For lots 3, 4, 8, 9, 13, 14, 18, 24, 25, 27, 28 the Main Street Frontage is defined as the Midland Highway.

**Occupancy Permit** means an occupancy permit issued under the *Building Act 1993 (Vic)*.

**Land** means the land contained in a Lot.

**Lot** has the same meaning as in the *Subdivision Act 1988 (Vic)*, being a lot created by the Plan of Subdivision and if permitted, includes any lot created by further subdivision.

**Plan of Subdivision** means the relevant plan of subdivision to which this memorandum of common provisions applies, either by incorporation by way of restrictions on that plan of subdivision or a restrictive covenant created under the *Transfer of Land Act* that describes the benefited and burdened land as the land in the relevant plan of subdivision.

**Secondary Street Frontage** means the boundary of a corner allotment that is not the Main Street Frontage of the lot.

**Side boundary** means a boundary of a lot that runs between and connects the Main Street Frontage of the lot to the rear boundary of the lot.

### 2. Creation of Restrictive Covenants

2.1 Clauses 3 to 7 are restrictive covenants that affect all lots on the Plan of Subdivision. The land benefitted by the restrictions is all the lots on the Plan of Subdivision. The land burdened by the restrictions is all lots on the Plan of Subdivision.

2.2 Clause 7 is a restrictive covenant that affects only lots 3, 4, 8, 9, 13, 14, 18, 24, 25, 27, 28 on the Plan of Subdivision. The land benefitted by the restriction is lots 3, 4, 8, 9, 13, 14, 18, 24, 25, 27, 28 on Title Plan XXXXXXXX. The land burdened by the restrictions is lots 3, 4, 8, 9, 13, 14, 18, 24, 25, 27, 28 on Title Plan XXXXXXXX.

2.3 The restrictive covenants described in clauses 2.1 and 2.2:

[approval number]

# 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.

Page 1 of 1

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

Land Victoria, 570 Bourke Street, Melbourne, 3000, Phone 8636-2010

2.3.1 are intended by the registered proprietor or proprietors for the time being of a Lot on the Plan of Subdivision, their heirs, executors, administrators and transferees to burden the Land; and

2.3.2 will be noted and appear on every future folio of the Register for the Lot or any part of it.

2.4 The restrictive covenants described in clause 2.1 will expire on 31 December 2032.

### **3. Use of Land**

3.1 No building may be erected or permitted to remain on the Land, except a Dwelling, garage, outbuilding, or shedding.

3.2 Not more than one Dwelling may be erected or permitted to remain on the Land.

### **4. Setback Plan**

4.1 No dwelling, garage, outbuilding, or shedding can be constructed outside the setback area identified on the Setback Plan.

### **5. Design Restrictions**

No Dwelling must be built unless it complies with the following restrictions numbered 5.1 to 5.5 inclusive:

#### **5.1 Service Locations**

The following items must not be visible from the Main Street Frontage:

5.1.1 air conditioners and/or evaporative coolers;

5.1.2 water systems;

5.1.3 rain water tanks;

5.1.4 any clothes line or hoist (or hang any washing, towels, bedding, clothing or other articles of a similar nature from any clothes line, hoist or railing);

5.1.5 swimming pool, spa and/or sauna related filtration and heating equipment;

5.1.6 external antennae, aerials or satellite dishes;

5.1.7 hot water tanks;

5.1.8 refuse bins;

5.1.9 external waste plumbing (but not including down pipes and guttering).

#### **5.2 Outbuildings and sheds**

An outbuilding of any type:

5.2.1 must not exceed 5 metres in height from the natural surface level unless the prior written consent of Aberdeen Huntly Pty Ltd ACN 632 079 997 is obtained.

5.2.2 must not exceed a footprint of 150 square metres unless the prior written consent of Aberdeen Huntly Pty Ltd ACN 632 079 997 is obtained.

5.2.3 must be constructed of materials that complement the design and colour of the Dwelling.

#### **5.3 Landscape design restrictions**

5.3.1 No flora is to be planted or allowed to remain planted within 8 metres of the Main Street Frontage unless it is an Approved Species.

5.3.2 No flora is to be planted or allowed to remain planted within 8 metres of the Secondary Street Frontage unless it is an Approved Species.

5.3.3 Front yards and nature strips must not be allowed to become or remain unkempt or untidy.

#### **5.4 Electricity Supply**

5.4.1 Any Dwelling constructed on the Lot must not be connected to a mains electricity supply unless a solar PV power system with a minimum generating capacity of 5kW is installed.

5.4.2 Restriction 5.4.1 does not apply if an electricity supplier states in writing that the electricity network supplying the Lot is not suitable for the connection of a solar PV power system.

#### **5.5 Fencing**

5.5.1 No boundary fence is to be constructed or allowed to be constructed unless it is of timber paling construction and complies with the Fencing Restrictions.

- 5.5.2 No fence must be constructed on the Main Street frontage, between the boundary and the front wall of the dwelling, excluding Side Boundary fences, unless a lot fronting Midland Highway where post and wire fencing may be constructed on the Midland Highway boundary
- 5.5.3 No fence is to be constructed on a Secondary Street Frontage of a corner lot, between the boundary and the front wall of the dwelling, excluding Side Boundary fences, unless the prior written consent from Aberdeen Huntly Pty Ltd ACN 632 079 997 is obtained.
- 5.5.4 No fence can be constructed between two battleaxe driveways where the driveways run parallel to each other (Lots 3/4, 8/9, 13/14, 18/19, 24/25).
- 5.5.5 No fence must be constructed to a height greater than 1.8m from natural ground level, unless prior written consent from Aberdeen Huntly Pty Ltd ACN 632 079 997 is obtained.

## **6. Use of the Land after construction of dwelling**

The Transferee and any other occupier of the Land, but excluding the Transferor, must not:

- 6.1 house vehicles on the Land other than in a garage or driveway on the Land.
- 6.2 permit any boat, trailer, caravan, or such similar items to be visible from the Main Street Frontage.
- 6.3 permit any Dwelling constructed on the land to be used as a Display home unless the prior written consent of Aberdeen Huntly Pty Ltd ACN 632 079 997 is obtained.
- 6.4 erect or allow to remain erected on the land any sign, hoarding or similar structure unless it is for the sale or lease of the Dwelling or promotion of a Display home for which consent has been obtained under clause 6.3 and it complies with any requirements under the relevant planning scheme.
- 6.5 use the Land for any purpose other than residential purposes and must not cause or permit the Land or any part of it to be used for carrying on any noxious or offensive trade or activity.

## **7. Lots fronting Midland Highway (lots 3, 4, 8, 9, 13, 14, 18, 24, 25, 27, 28)**

- 7.1 For absolute clarity, where lots front the Midland Highway the Main Street Frontage is defined as the Midland Highway. For these lots, clauses referencing Main Street Frontage mean the Midland Highway Frontage.
- 7.2 No may be constructed unless the dwelling frontage faces the Main Street Frontage (Midland Highway)
- 7.3 No outbuilding is to be constructed further east than the east wall of the dwelling.
- 7.4 The following services must not be visible from the Main Street Frontage (Midland Highway):
  - 7.4.1 air conditioners and/or evaporative coolers;
  - 7.4.2 water systems;
  - 7.4.3 rain water tanks;
  - 7.4.4 any clothes line or hoist (or hang any washing, towels, bedding, clothing or other articles of a similar nature from any clothes line, hoist or railing);
  - 7.4.5 swimming pool, spa and/or sauna related filtration and heating equipment;
  - 7.4.6 external antennae, aerials or satellite dishes;
  - 7.4.7 hot water tanks;
  - 7.4.8 refuse bins;
  - 7.4.9 external waste plumbing (but not including down pipes and guttering).
- 7.5 A dwelling must not be constructed on a Lot without the prior consent of Aberdeen Huntly Pty Ltd ACN 632 079 997.
- 7.6 The Post and wire and/or mesh fencing installed along the Main Street Frontage must not fall into a state of disrepair and the landscaping installed on the Main Street Frontage (Midland Highway) must not become overgrown or unkept.

## **FENCING RESTRICTIONS**

Any fence built on a Lot must not be built on the Lot, unless constructed in accordance with the following restrictions including; construction of all timber paling fence, where it is permissible to install.

### **Posts**

125 x 75mm hardwood suitable for in ground use

All posts to be installed vertically with angled top to shed water

Spacing of 2400 to 2700 to suit rail lengths

Maximum height of 1.8m

### **Rails**

75 x 50mm hardwood or H4 treated softwood (hardwood recommended) installed top, mid, and bottom

Rails to be two bays long with butt joints at alternating posts

### **Plinth**

150 x 25mm fine sawn treated pine

Where gaps between ground and plinth board are greater than 100mm a second plinth board must be installed

### **Palings**

150 x 12mm (under) 100 x 12mm (over) fine sawn treated pine, overlapped

Under palings are to be placed as necessary to achieve overlap of 25mm each side

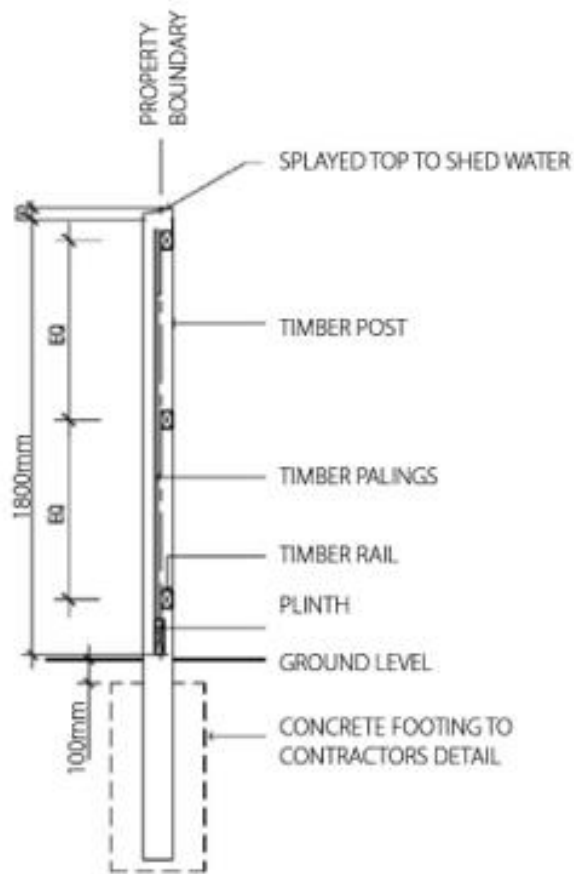
Top line of fence is to follow ground

Palings are to face south and west unless where fencing is permitted on a street frontage where palings must face the street

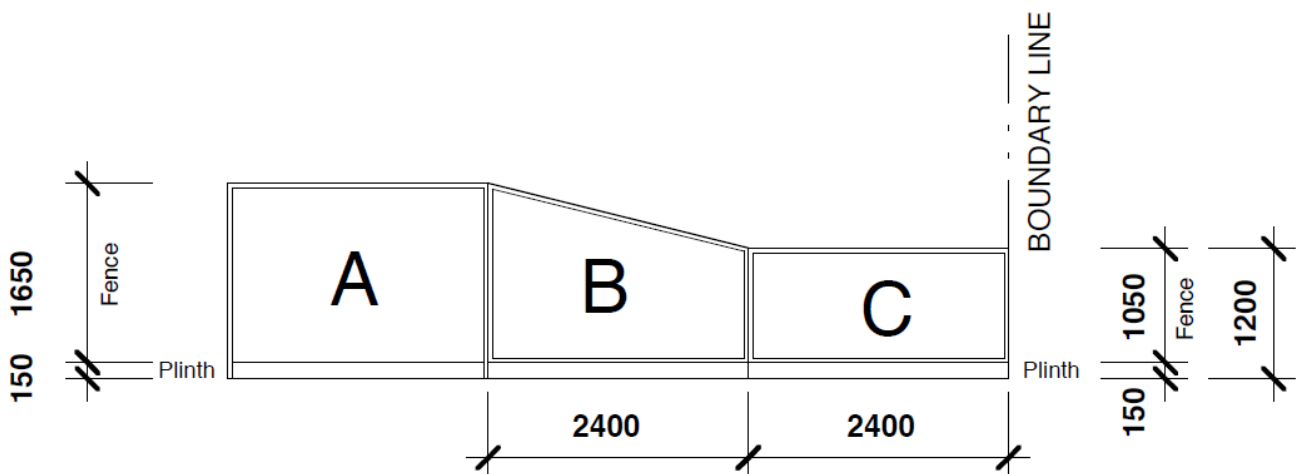
### **Capping**

Capping emphasises the natural bows in fencing therefore capping boards are not permitted

## Fencing section



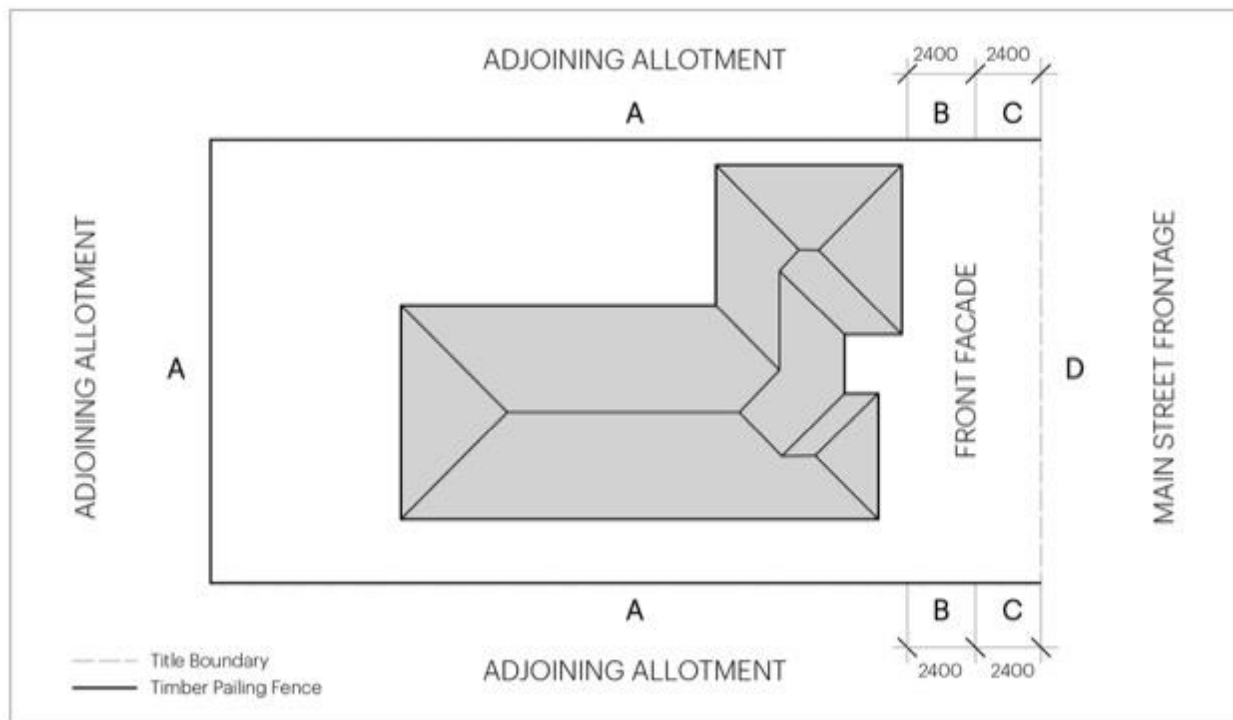
## Fencing Plan for side fence to boundary line



- A: Standard 1.8m high Timber Paling fence
- B: Angled panel from 1.8m high to 1.2m high
- C: Low panel at 1.2m high



### Fencing plan for lots (non-corner lots)



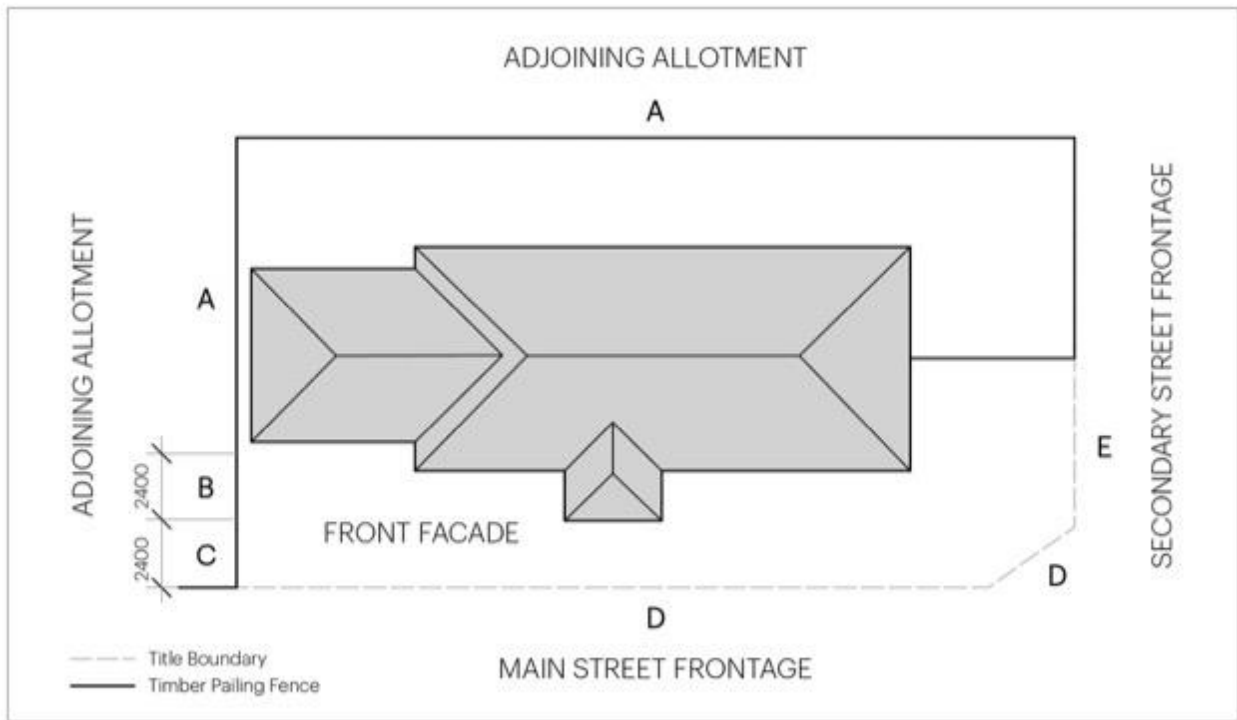
**A:** Standard 1.8m high Timber Paling fence

**B:** Angled panel from 1.8m high to 1.2m high

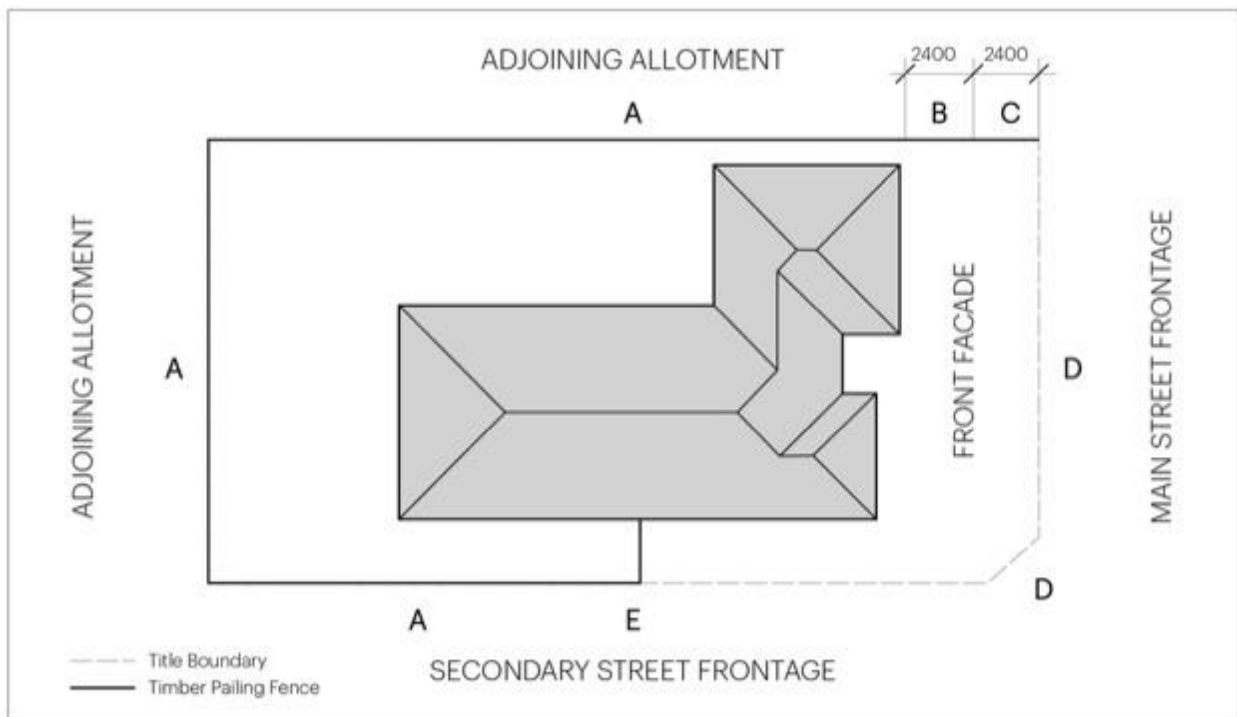
**C:** Low panel at 1.2m high

**D:** No fence must be constructed on the Main Street frontage, between the boundary and the front wall of the dwelling, excluding Side Boundary fences

### Fencing plan for a corner lot (dwelling facing the long frontage)



**Fencing plan for a corner lot (dwelling facing the short frontage)**



- A:** Standard 1.8m high Timber Paling fence
- B:** Angled panel from 1.8m high to 1.2m high



**C:** Low panel at 1.2m high

**D:** No fence must be constructed on the Main Street frontage, between the boundary and the front wall of the dwelling, excluding Side Boundary fences

**E:** No fence is to be constructed on a Secondary Street Frontage of a corner lot (between the boundary and the fronting wall of the dwelling, excluding Side Boundary fences) unless the prior written consent from Aberdeen Huntly Pty Ltd ACN 632 079 997 is obtained. Consent from Aberdeen Huntly will require that this fence (E) must turn back to the dwelling before front of wall of dwelling in a location that is appropriate for the dwelling design.

## APPROVED PLANT SPECIES

### Large Trees

<i>Acacia melanoxylon</i>	Blackwood	15-30 x 4-10m
<i>Callitris glaucophylla</i>	White Cypress-pine	20 x 10m
<i>Eucalyptus leucoxylon</i> ssp <i>pruinosa</i>	Yellow Gum	20 x 10m
<i>Eucalyptus polyanthemos</i>	Red Box	25 x 15m
<i>Eucayptus tricarpa</i>	Red Ironbark	25 x 12m

### Small Trees

<i>Acacia dealbata</i>	Silver Wattle	10 x 5-10m
<i>Acacia implexa</i>	Lightwood	4-15 x 3-7m
<i>Allocasuarina verticillata</i>	Drooping Sheoak	4-10 x 2-5m
<i>Banksia marginata</i>	Silver Banksia	3 x 2m
<i>Eucalyptus polybractea</i>	Blue Mallee	8 x 6m
<i>Eucalyptus viridis</i> ssp <i>viridis</i>	Green Mallee	10 x 4m
<i>Melaleuca lamceolata</i>	Moonah	5 x 5m

### Large Shrubs

<i>Acacia montana</i>	Mallee Wattle	2 x 3m
<i>Acacia pycnantha</i>	Golden Wattle	4 x 2m
<i>Callistemon sieberi</i>	River Bottlebrush	3 x 3m
<i>Correa glabra</i> var <i>glabra</i>	Rock Glabra	2 x 2m
<i>Dodonaea viscosa</i> ssp. <i>cuneata</i>	Sticky Hop-bush	2 x 2m
<i>Hakea decurrens</i> ssp <i>physocarpa</i>	Bushy Needlewood	3 x 2m
<i>Leptospermum myrsinoides</i>	Heath Tea-tree	2 x 2m
<i>Melaleuca decussata</i>	Totem Poles	2 x 3m
<i>Westringia crassifolia</i>	Whipstick Westringia	2 x 2m

### Small Shrubs

<i>Calocephalus citreus</i>	Lemon Beauty-heads	30 x 50cm
<i>Chrysocephalum semipapposum</i>	Clustered Everlasting	1 x 1m
<i>Derwentia perfoliata</i>	Digger's Speedwell	1.5 x 2m
<i>Enchylaena tomentosa</i> var <i>tomentosa</i>	Ruby Saltbush	50cm x 1m
<i>Euromyrtus ramosissima</i> ssp <i>ramosissima</i>	Rosy Heath-myrtle	30 x 60cm
<i>Grevillea alpina</i>	Downy Grevillea	1 x 1.5m
<i>Micromyrtus ciliata</i>	Heath Myrtle	60cm x 1m
<i>Ozothamnus obcordatus</i>	Grey Everlasting	1m x 50cm
<i>Philothea verrucosa</i>	Bendigo Wax-flower	1 x 1m
<i>Pimelea linifolia</i> ssp <i>linifolia</i>	Slender Rice-flower	1 x 1m
<i>Prostanthera aspalathoides</i>	Scarlet Mint-bush	50 x 50cm
<i>Prostanthera denticulata</i>	Rough Mint-bush	1 x 1.5m
<i>Pycnosorus globosus</i>	Drumsticks	30 x 50cm
<i>Xerochrysum viscosum</i>	Sticky Everlasting	70cm

Tufted Plants/Grasses

<i>Austrodanthonia setacea</i>	Wallaby-grass	50cm
<i>Austrostipa mollis</i>	Soft Spear-grass	30cm
<i>Carex appressa</i>	Tall Sedge	1m
<i>Dianella admixta</i>	Black-anther Flax-lily	50cm
<i>Joycea pallida</i>	Red-anther Wallaby-grass	70cm
<i>Lomandra longifolia</i> ssp <i>longifolia</i>	Spiny-headed Mat-rush	1 x 1m
<i>Poa labillardieri</i> var <i>labillardieri</i>	Common Tussock-grass	1 x 1m
<i>Themeda triandra</i>	Kangaroo Grass	30cm

Groundcover Plants

<i>Brachyscome multifida</i>	Cut-leaf Daisy	20 x 50cm
<i>Carpobrotus modestus</i>	Inland Pig-face	15cm x 3m
<i>Chrysocephalum apiculatum</i>	Common Everlasting	20 x 70cm
<i>Craspedia variabilis</i>	Common Billy-buttons	30 x 50cm
<i>Eutaxia microphylla</i> var <i>microphylla</i>	Common Eutaxia	30cm x 1.5m
<i>Kennedia prostrata</i>	Running Postman	20cm x 1m
<i>Myoporum parvifolium</i>	Creeping Boobialla	20cm x 3m
<i>Pelargonium australe</i>	Austral Stork's-bill	50 x 50cm

Climbing Plants

<i>Billardiera cymosa</i>	Sweet Apple-berry	3m
<i>Hardenbergia violacea</i>	Purple Coral-pea	2m

## SETBACK PLAN



--- Building setback requirements  
 [Red Hatched Box] indicates Building Exclusion Zone

9	Updated Layout	16/11/2020
8	Revised Building Setbacks	15/09/2020
7	Overall Set Revisions	05/06/2020
6	Include 114 Sargeants Rd	01/06/2020
Ver	Revision Description	Date
Designed	Checked	Approved
G.McCoomb	P.Bowe	
Nov 2020	Nov 2020	

**TERRACO**  
 Civil Engineers  
 Project Managers  
 Development Consultants

**Terraco P/L**  
 ABN 12 681 695 776  
 Corner Jewell Court  
 & Rowena Street  
 Bendigo Vic 3550  
 Ph: 03 5442 5799  
 Fax: 03 5441 5506  
 E: info@terraco.com.au

Scale (m) H 1:2000 0 20 40

All lengths are in metres  
 and all levels are to Australian Height Datum  
 (Original Sheet Size is A3)

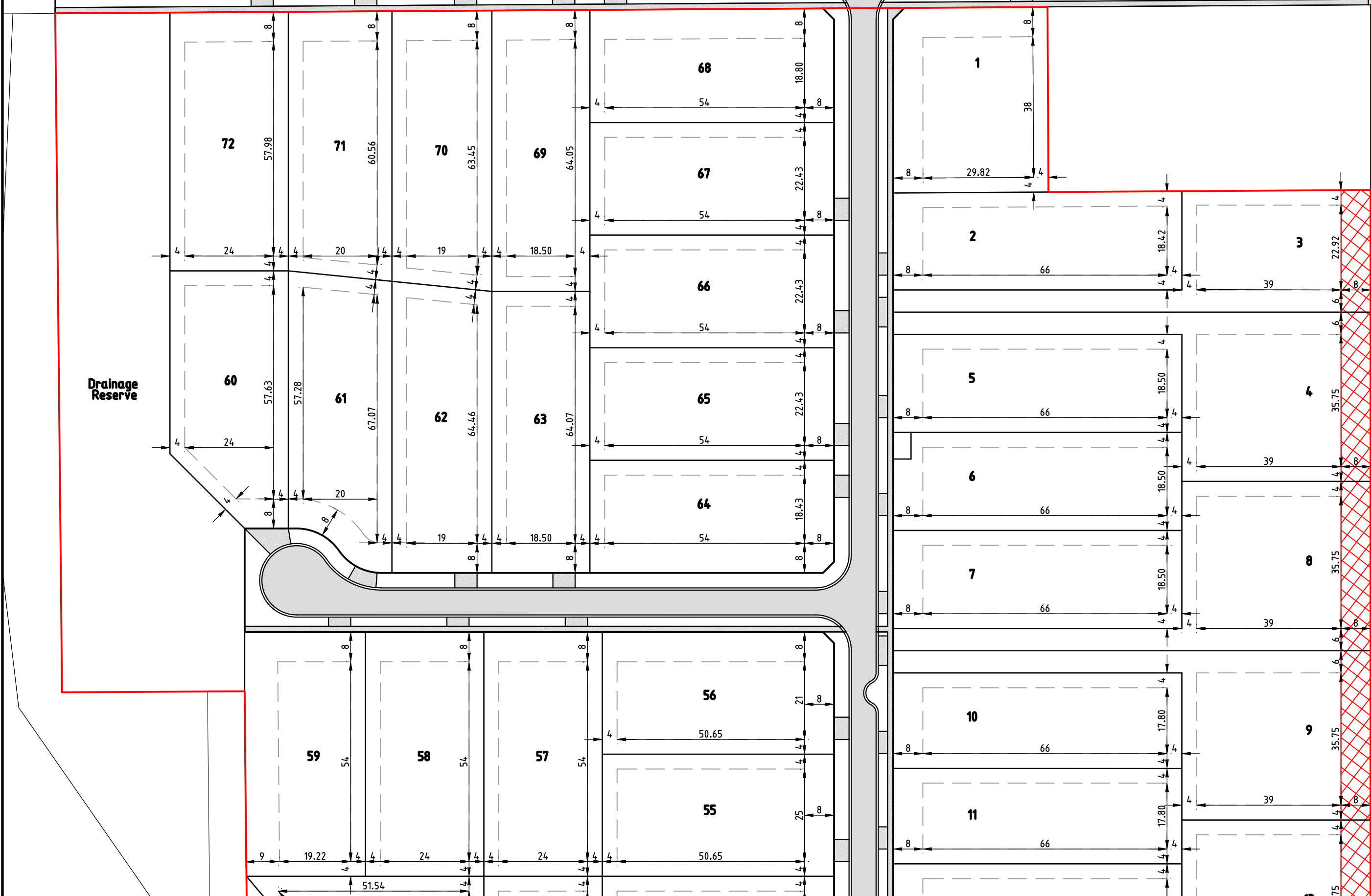
Drawing file: 15078 Setback Plan.dwg  
 LTO Ref: -

City Of Greater Bendigo - Huntly  
 Aberdeen Huntly Pty Ltd  
 453 Midland Highway

**Proposed Plan of Subdivision with Building Setbacks**

Council Ref:	Water Auth. Ref:	Our Ref:	Version	Sheet
-	-	15078	9	1 of 4

# Buckleys Ln



9	Updated Layout	16/11/2020
8	Revised Building Setbacks	15/09/2020
7	Overall Set Revisions	05/06/2020
6	Include 114 Sargeants Rd	01/06/2020
5	Footpath Single Sided Only	18/05/2020
4	Update Stage Boundaries	12/05/2020
3	Update Building Setbacks	12/05/2020
Ver	Revision Description	Date

Designed	Checked
G.McCoomb	P.Bowe
Nov 2020	Nov 2020
Approved	

Notes/Legend	
	indicates Dwelling Envelopes
	indicates Building Exclusion Zone

**TERRACO**  
Civil Engineers  
Project Managers  
Development Consultants

**Terraco P/L**  
ABN 12 681 695 776  
9 Jewell Court  
East Bendigo, Vic 3550  
Ph: 03 5442 5799  
Fax: 03 5441 5506  
E: info@terraco.com.au  
Web: www.terraco.com.au

Scale (m)

H 1:1000 0 10 20

All lengths are in metres  
and all levels are to Australian Height Datum  
(Original Sheet Size is A3)

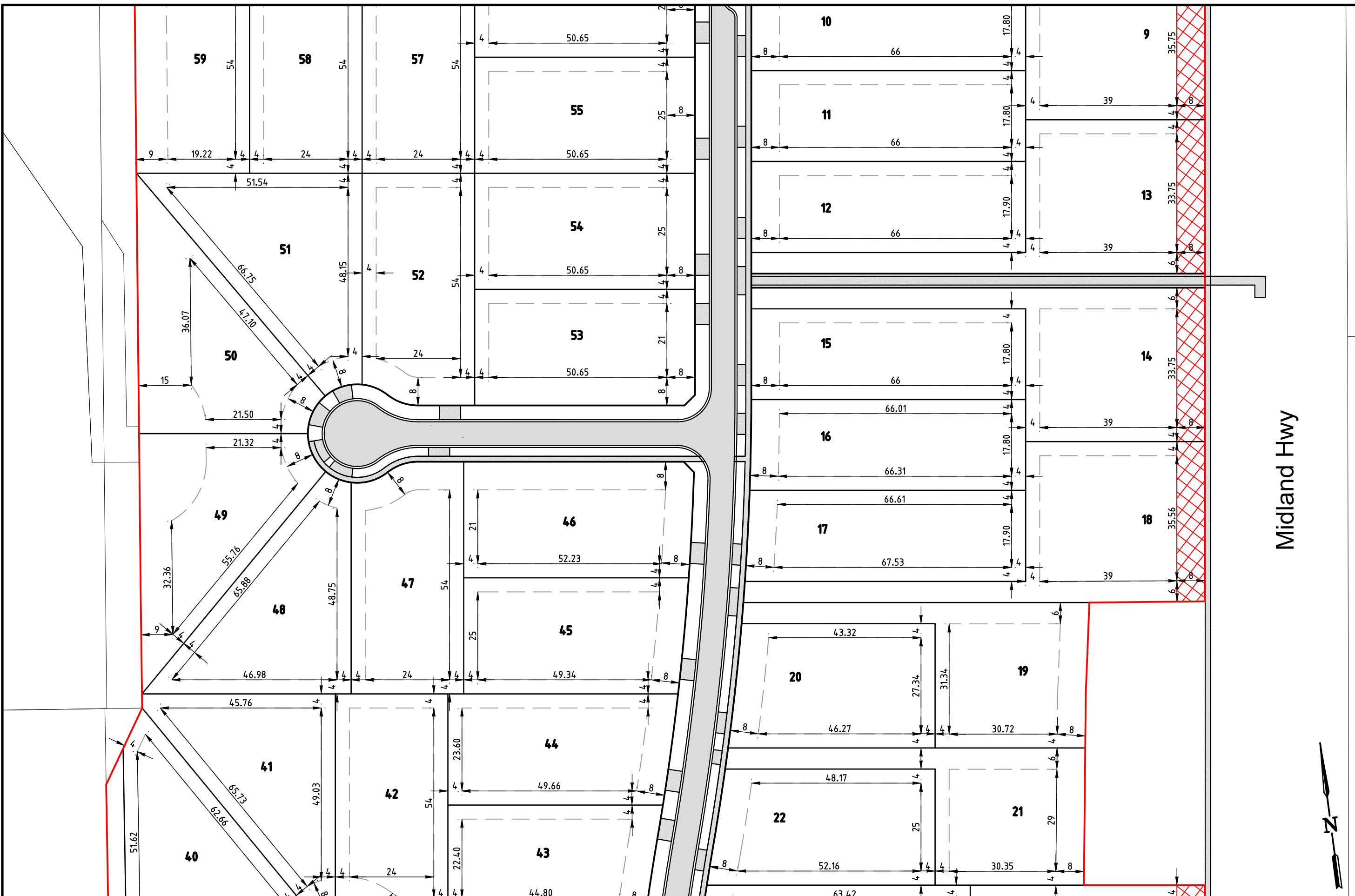
15078 Setback Plan  
Detail.dwg

LTO Ref: -

City Of Greater Bendigo - Huntly  
**Aberdeen Huntly Pty Ltd**  
453 Midland Highway  
**Building Setback Plan**

Council Ref: -	Water Auth. Ref: -	Our Ref: 15078	Version: 9	Sheet: 2 of 4
----------------	--------------------	----------------	------------	---------------

Printed: 2020-11-16 14:06:30



Printed: 2020-11-16 14:06:30

9	Updated Layout	16/11/2020
8	Revised Building Setbacks	15/09/2020
7	Overall Set Revisions	05/06/2020
6	Include 114 Sargeants Rd	01/06/2020
5	Footpath Single Sided Only	18/05/2020
4	Update Stage Boundaries	12/05/2020
3	Update Building Setbacks	12/05/2020
Ver	Revision Description	Date

Designed	Checked
G.McCoomb	P.Bowe
Nov 2020	Nov 2020
Approved	

Notes/Legend	
	Building setback requirements
	indicates Building Exclusion Zone

**TERRACO**  
Civil Engineers  
Project Managers  
Development Consultants

**Terraco P/L**  
ABN 12 681 695 776  
9 Jewell Court  
East Bendigo, Vic 3550  
Ph: 03 5442 5799  
Fax: 03 5441 5506  
E: info@terraco.com.au  
Web: www.terraco.com.au

Scale (m)

H 1:1000

All lengths are in metres  
and all levels are to Australian Height Datum  
(Original Sheet Size is A3)

15078 Setback Plan  
Detail.dwg

LTO Ref: -

City of Greater Bendigo - Huntly  
**Aberdeen Huntly Pty Ltd**  
453 Midland Highway  
**Building Setback Plan 2**

Council Ref:	Water Auth. Ref:	Our Ref:	Version	Sheet
-	-	15078	9	3 of 4





Sargeants Rd

Midland Hwy



Printed: 2020-11-16 14:06:30

9	Updated Layout	16/11/2020
8	Revised Building Setbacks	15/09/2020
7	Overall Set Revisions	05/06/2020
6	Include 114 Sargeants Rd	01/06/2020
5	Footpath Single Sided Only	18/05/2020
4	Update Stage Boundaries	12/05/2020
3	Update Building Setbacks	12/05/2020
Ver	Revision Description	Date

Designed	G.McCoomb	Checked	P.Bowe
	Nov 2020		Nov 2020
Approved			

Notes/Legend	
	Building setback requirements
	indicates Building Exclusion Zone

**TERRACO**  
Civil Engineers  
Project Managers  
Development Consultants

**Terraco P/L**  
ABN 12 681 695 776  
9 Jewell Court  
East Bendigo, Vic 3550  
Ph: 03 5442 5799  
Fax: 03 5441 5506  
E: info@terraco.com.au  
Web: www.terraco.com.au

Scale (m)

H 1:1000

All lengths are in metres  
and all levels are to Australian Height Datum  
(Original Sheet Size is A3)

15078 Setback Plan  
Detail.dwg

LTO Ref: -

City Of Greater Bendigo - Huntly					
Aberdeen Huntly Pty Ltd					
453 Midland Highway					
Building Setback Plan 3					
Council Ref:	Water Auth. Ref:	Our Ref:	Version	Sheet	
-	-	15078	9	4 of 4	