

**INSTRUMENT SETTING OUT TERMS OF EASEMENTS INTENDED TO BE CREATED OR
RELEASED, AND OF PROFITS À PRENDRE, RESTRICTIONS ON THE USE OF LAND AND
POSITIVE COVENANTS INTENDED TO BE CREATED PURSUANT TO SECTION 88B,
CONVEYANCING ACT, 1919**

Plan: (Sheet 1 of 11 sheets)
Plan of Subdivision of Lot 700 DP 1242827
DP 1222168 and Lot 42 DP 1183886
covered by Council's Certificate No. DA17-
0051 dated 2019

**Full name and address
of the owner of the land**
Lot 700 DP 1242827
Lot 42 DP 1183886

**The Trustees of the Roman Catholic Church
for the Diocese of Wagga Wagga**
PO Box 5668
Wagga Wagga NSW 2650

PART 1 (CREATION)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s)	Benefited lot(s), road(s), bodies or Prescribed Authorities
1	Easement to drain sewage and water 3.5 wide (shown as E1 on the plan)	8909, 8910, 8914, 8915, 8933 to 8941 inclusive, 8986, 8988 & 8989	The Council of the City of Wagga Wagga
2	Easement to drain sewage 3.5 wide (shown as E2 on the plan)	8986.	The Council of the City of Wagga Wagga
3	Easement to drain sewage 2.5 wide (shown as E3 on the plan)	8900 & 8990	The Council of the City of Wagga Wagga
4	Easement to drain sewage 2 wide (shown as E4 on the plan)	8921, 8943, 8944, 8966, 8968 to 8970 inclusive, 8975, 8985, 8990	The Council of the City of Wagga Wagga
5	Easement to drain sewage and water 2.5 wide and variable (shown as E5 on the plan)	8900, 8916, 8917, 8918, 8922, 8941, 8955 to 8957 & 8990 inclusive.	The Council of the City of Wagga Wagga
6	Easement to drain sewage 2 wide and variable (shown as E6 on the plan)	8913, 8975 to 8978 inclusive, 8987 & 8980.	The Council of the City of Wagga Wagga
7	Easement to drain water 2 wide and variable (shown as E7 on the plan)	8981, 8983, 8984 & 8985.	The Council of the City of Wagga Wagga
8	Easement to drain water 2.5 wide (shown as E8 on the plan)	8957 to 8963 inclusive, 8965, 8971 to 8974 inclusive.	The Council of the City of Wagga Wagga
9	Easement to drain sewage & water 4 wide (shown as E9 on the plan)	8942, 8943, 8948, 8949 & 8900.	The Council of the City of Wagga Wagga
10	Easement to drain sewage & water 5.5 wide (shown as E10 on the plan)	8944 to 8947 inclusive	The Council of the City of Wagga Wagga

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11	Easement to drain water 2 wide (shown as E11 on the plan)	8941 & 8944	The Council of the City of Wagga Wagga
12	Easement to drain sewage & water 6 wide (shown as E12 on the plan)	8900	The Council of the City of Wagga Wagga
13	Easement for multi-purpose electrical installation 4.2 wide (shown as E13 on the plan)	8990	Essential Energy
14	Right of Carriageway 5 wide (shown as E14 on the plan)	8900	Lot 41 in DP 1183886
15	Easement for underground powerlines 1 wide (shown as E15 on the plan)	8900	Essential Energy
16	Easement for multi-purpose electrical installation 2 wide (shown as E16 on the plan)	8900	Essential Energy
17	Easement to drain sewage & water 5 wide (shown as E17 on the plan)	8944	The Council of the City of Wagga Wagga
18	Positive Covenant	Each and every lot excluding lot 8900	The Council of the City of Wagga Wagga
19	Restriction on the use of land	Each and every lot excluding lot 8900	Each and every other lot excluding lot 8900

PART 1A (RELEASE)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s)	Benefited lot(s), road(s), bodies or Prescribed Authorities
1	Right of Carriageway 5 wide (Vide DP1174668)	Lot 42 DP 1183886 & Lot 700 DP 1242827	Telstra Corporation
2	Easement for overhead powerlines 20 wide (Vide DP1182886)	Lot 42 DP 1183886	Essential Energy

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PART 2

1. Terms of easement firstly referred to in the plan:

Easement to Drain Sewage 3.5 wide as defined in Part 4 Schedule 8 of the *Conveyancing Act* and Easement to Drain Water 3.5 wide as defined in Part 3 Schedule 8 of the *Conveyancing Act*.

2. Terms of easement fifthly referred to in the plan:

Easement to Drain Sewage 2.5 wide as defined in Part 4 Schedule 8 of the *Conveyancing Act* and Easement to Drain Water 2.5 wide as defined in Part 3 Schedule 8 of the *Conveyancing Act*.

3. Terms of easement ninthly referred to in the plan:

Easement to Drain Sewage 4 wide as defined in Part 4 Schedule 8 of the *Conveyancing Act* and Easement to Drain Water 4 wide as defined in Part 3 Schedule 8 of the *Conveyancing Act*.

4. Terms of easement tenthly referred to in the plan:

Easement to Drain Sewage 5.5 wide as defined in Part 4 Schedule 8 of the *Conveyancing Act* and Easement to Drain Water 5 wide as defined in Part 3 Schedule 8 of the *Conveyancing Act*.

5. Terms of easement twelfthly referred to in the plan:

Easement to Drain Sewage 6 wide as defined in Part 4 Schedule 8 of the *Conveyancing Act* and Easement to Drain Water 6 wide as defined in Part 3 Schedule 8 of the *Conveyancing Act*.

6. Terms of easement thirteenthly referred to in the plan:

Easement for multi-purpose electrical installation 4.2 wide the terms of which are set out in Part C of Memorandum AG189384 as registered at Land Registry Services.

7. Terms of right of carriageway 5 wide fourteenthly referred to in the plan

- (a) It is intended to create a right of carriageway 5 wide (as defined in Part 1 of Schedule 8 of the *Conveyancing Act* 1919 (as amended)) subject to paragraph (b) herein.
- (b) The Right of Carriageway shall lapse and thus be extinguished upon public access being available to the lot benefited whether such access is over the lot burdened or otherwise (such date of availability hereinafter referred to as "the Sunset Date")
- (c) The owners of the lot(s) benefitted and lot(s) burdened shall do all that is necessary including executing any requisite documents to ensure that the Right of Carriageway is extinguished following the Sunset Date.
- (d) From the Sunset Date, the owners(s) of the lots burdened and the lot(s) benefitted (hereinafter referred to individually and collectively as "the Assignees") hereby irrevocably nominate and appoint individually the Trustees of the Roman Catholic

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Church for the Diocese of Wagga Wagga, their officers and any nominee appointed in writing for the purposes of this clause as their legal attorney.

- (e) At any time after the Sunset Date (proof of which will be a statutory declaration on behalf of the Trustees of the Roman Catholic Church for the Diocese of Wagga Wagga), the attorney may execute and register any necessary documentation to extinguish the Right of Carriageway. In doing so, the attorney may use the Assignee's name and the Assignee will ratify and confirm any lawful act of the attorney.
- (f) NSW Land Registry Services is authorised to act upon the statutory declaration and to accept it as sufficient evidence of the extinguishment of the Right of Carriageway.
8. **Terms of easement fifteenthly referred to in the plan:**
Easement for underground powerlines 1 wide the terms of which are set out in Part B of Memorandum AG189384 as registered at Land Registry Services.
9. **Terms of easement sixteenthly referred to in the plan:**
Easement for multi-purpose electrical installation 2 wide the terms of which are set out in Part C of Memorandum AG189384 as registered at Land Registry Services.
10. **Terms of easement seventeenthly referred to in the plan:**
Easement to Drain Sewage 5 wide as defined in Part 4 Schedule 8 of the *Conveyancing Act* and Easement to Drain Water 5 wide as defined in Part 3 Schedule 8 of the *Conveyancing Act*.
11. **Terms of Positive Covenant eighteenthly referred to in the plan:**
- (1) Pervious to Impervious Ratio
- (a) The lot must be developed and maintained at all times after an Occupation Certificate is issued for any dwelling on the lot so that a pervious to impervious ratio of the surface area treatments of 20:80 is achieved in accordance with the plan entitled *Lloyd Estate Stage 8/9 Impervious/Pervious Calculation Plan* approved and held by Council.
- (b) The land area to be included in the calculation of 20:80 ratio shall include the entire lot and the area of the road reserve immediately adjacent to the lot.
- (c) The area of the road reserve adjacent to the lot to be included shall be measured as follows: between a line drawn as a continuation of the side boundaries of the lot (where they meet the front boundary) to the centre line of the road (being a line along the centre of the road equidistant from the front boundaries of the lots adjacent to it); noting that:
- (i) no area of any road reserve shall be apportioned to more than one lot for the purposes of this calculation;
- (ii) for corner lots, the road reserve to be included in calculations will extend around the corner; and

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(iii) lots that are further subdivided under community title or strata subdivision shall be calculated on the underlying Torrens title allotment.

(2) Road Reserve

The owner of the lot must retain the existing impervious nature of the finished surface of the road reserve immediately adjacent to the lot from the property boundary to the kerb of the road (being the area defined by the lateral extent of a line drawn as a continuation of the side boundaries of the lot where they meet the front boundary) unless the road reserve is done in accordance with the standards set out in the *Road Reserve Treatment Standard (as amended)* and the *Street Tree Master Plan (as amended)* as approved by Council and it complies with Council's policy 008 *Road Reserve Policy* as amended from time to time. All establishment and maintenance works shall be at the cost of the lot owner.

(3) Gardens and landscaping

All gardens and landscaping on every lot shall be constructed and maintained in accordance with the *Lloyd Landscaping and Garden Design Guideline* prepared by MJM Consulting and approved of by Council.

(4) Fixed irrigation systems and grey water

The owner of a lot must not install:-

- (a) fixed irrigation systems between the lot boundary and the adjacent kerb alignment; and
- (b) grey water re-use systems in any dwelling.

(5) Development Control Plan

Any development upon a lot shall comply with the requirements of Chapter 15 of the *Wagga Wagga Development Control Plan 2010*.

(6) Fire Protection

Each lot shall be managed as an inner protection area as outlined within section 4.1.3 and Appendix 5 of *Planning for Bush Fire Protection 2006* and the New South Wales Rural Fire Service's document entitled *Standards for Asset Protection Zones*.

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12. Terms of restrictions nineteenthly referred to in the plan:

Buildings and structures

- (a) No more than one dwelling shall be constructed except on lots 8902, 8907, 8909, 8921, 8922, 8931, 8932, 8941, 8942, 8970, 8979, 8986 and 8988 where multiple dwellings are permitted.
- (b) No dwelling shall have a floor area of less than 140 square metres under the main roof exclusive of any verandahs, carports or garages noting that this restriction shall not apply to lots 8902, 8907, 8909, 8921, 8922, 8931, 8932, 8941, 8942, 8970, 8979, 8986 and 8988 in the event that more than one dwelling is erected.
- (c) No dwelling or garage shall be constructed of a material other than brick, brick veneer, stone, hebel block or panels, "weathertex" (Scyon Linea Board Cladding) or similarly treated timber or reconstituted timber weatherboards, cement block or concrete construction with slate, tile or steel sheet roof.
- (d) No dwelling, garage or other out building may be erected which is not constructed entirely of new materials or which has been wholly or substantially assembled off the lot whether as a previously occupied building or otherwise.
- (e) No building (other than a dwelling or garage) shall:-
 - (i) be constructed of a material other than brick, brick veneer or steel sheet;
 - (ii) have a roof constructed of material other than tile, slate or steel sheet;
 - (iii) have a floor area greater than 65 square metres;
 - (iv) exceed at any point three metres in height above ground floor level.
- (f) No carport shall be permitted to be erected or to remain and no garage shall be permitted to be erected or to remain unless it is constructed with a pitched roof.
- (g) No advertising signs or awnings shall be erected or be displayed or be allowed to remain other than street numbers and house names which shall not exceed 60 centimetres x 30 centimetres in size.

Use

- (h) No building shall be used or allowed to be used for any purpose other than as a private dwelling house or outbuilding incidental thereto and shall not nor shall any part thereof be used or allowed to be used for a residential unit, strata unit or flat save for lots 8902, 8907, 8909, 8921, 8922, 8931, 8932, 8941, 8942, 8970, 8979, 8986 and 8988 whereupon multiple dwellings and residential strata or neighbourhood subdivision is permitted.
- (i) No lot or building thereon shall be used for any noxious, noisome or offensive trade or calling.
- (j) No access to or from lots 8933 to 8941 (inclusive) and 8944 to 8949 (inclusive) shall be permitted to or from the rear of such lots.

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Fencing and retaining walls

- (k) No fence (other than brick, rock, stone or picket fence not exceeding 900 millimetres in height or a retaining wall referred to in paragraph (o) below) shall be erected between the front street alignment and the building line, provided that this shall not apply to any corner lot.
- (l) In the case of a corner lot no fence (other than brick, rock, stone or picket fence not exceeding 900 millimetres in height or a retaining wall referred to in paragraph (o) below) shall be erected any closer to the front street alignment than the dwelling house erected on the lot.
- (m) No fencing other than steel sheet fencing:-
- (i) the colour of the coating of which is the "colorbond" colour known as "sandstone", "riverstone" or equivalent colour; and
 - (ii) not exceeding 2 metres in height relative to the highest level of the land within 1 metre of either side of the fence,
- shall be erected along the remaining boundaries provided that:-
- (iii) in the case of a corner lot this restriction shall apply to one frontage only;
 - (iv) in the case of lots 8949 and 8933 (inclusive) and lots 8954 to 8957 (inclusive), all rear fencing adjoining either the Ross Smith Road road reserve, the Hilltop reserve (Lot 1 in DP 1174668), or R5 zoned land (as relevant) shall:-
 - A. be consistent in character (including but not limited to colour, style, material and height noting (i) and (ii) above);
 - B. be erected in order that no frame or support structures are visible from outside the lots;
 - C. be erected so as to comply with the requirements of State Environmental Planning Policy (Exempt and Comply Development Codes) 2008 for fencing of its type; and
 - D. not include any gates or access ways; and provided further that
 - (v) in the case of lots 8944 to 8949 chain mesh fencing is permissible; and
 - (vi) these restrictions do not prevent the continuation and re-erection (if necessary) of any retaining wall referred to in paragraph (o) below.
- (n) During the ownership of any adjoining land by The Trustees of the Roman Catholic Church for the Diocese of Wagga Wagga, its successors or assigns other than purchasers on sale ("the Trustees") no fence shall be:-
- (i) erected on any lot to divide it from any such adjoining lot; or
 - (ii) once erected - repaired, maintained or replaced,

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without the consent of the Trustees but such consent shall not be withheld if such fence is erected, repaired, maintained or replaced without expense to the Trustees.

(o) In the event that a retaining wall is constructed as part of the subdivision on a boundary dividing 2 or more lots within the subdivision, such retaining wall (in its entirety – i.e. including all footings, foundations and supports) shall be regarded as part of the dividing fence for the purpose of both:-

(i) the *Dividing Fences Act 1991* notwithstanding that it also supports land and not just the dividing fence; and

(ii) paragraph (n) above,

and the adjoining lot owners shall share all costs associated with any requisite repairs or maintenance to or the replacement of such retaining wall.

Definitions

(p) The term "Steel Sheet" when herein used in these restrictions shall mean aluminium/zinc coated or galvanised steel sheet with one of the following finishes:-

(i) silicone polyester pre-finished baked onto one or both sides;

(ii) 0.215 millimetres thick vinyl film laminated onto one or both sides; and

(iii) acrylic film pre-finished to one or both sides.

Name of Person or Authority Empowered to Release, Vary or Modify Positive Covenant eighteenthly referred to in the Plan:

The Council of the City of Wagga Wagga

Name of Person or Authority Empowered to Release, Vary or Modify Restrictions on Use of Land nineteenthly referred to in the Plan:

(a) Restrictions within paragraphs (j) and (m)(iv): the Council of the City of Wagga Wagga

(b) All other restrictions: The Trustees of the Roman Catholic Church for the Diocese of Wagga Wagga until the expiry of ten (10) years from the date on which the abovementioned plan is registered is a deposited plan thereafter by the person or person in whom the legal estate is for the time being vested in the land in the said deposited plan (other than street or public areas) having a common boundary with the land burdened provided that any such release, variation or modification shall, if approved, be made and done in all respects of the cost and expense of the person requesting such release, variation or modification.

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**EXECUTED by
THE TRUSTEES OF THE
ROMAN CATHOLIC CHURCH FOR
THE DIOCESE OF WAGGA WAGGA**
by its duly appointed under power of
attorneys under power of attorney
Book 4718 No 969 in the presence of:-

Signature of Witness

Signature of attorney

Name of Witness

Full Name of attorney

Address of Witness

Signature of Witness

Signature of attorney

Name of Witness

Full Name of attorney

Address of Witness

Signature of Witness

Signature of attorney

Name of Witness

Full Name of attorney

Address of Witness

APPROVED BY THE COUNCIL
OF THE CITY OF WAGGA WAGGA

Authorised Officer

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WAGGA WAGGA CITY COUNCIL by its
authorised delegate pursuant to Section 377
of the *Local Government Act, 1919*:

Signature of witness

Signature of delegate

Name of witness

Name of delegate

Address of witness

**EXECUTED by
ESSENTIAL ENERGY**
by its duly appointed attorney under
Power of Attorney Book 4677 No. 684
in the presence of:-

Signature of attorney

Signature of Witness

Name and Title of attorney

Name of Witness

Signature of attorney

Name and Title of attorney

APPROVED BY THE COUNCIL
OF THE CITY OF WAGGA WAGGA

Authorised Officer

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**EXECUTED by
TELSTRA CORPORATION**
by its duly appointed attorney under
Power of Attorney Book No.
in the presence of:-

Signature of attorney

Signature of Witness

Name and Title of attorney

Name of Witness

Signature of attorney

Name and Title of attorney

APPROVED BY THE COUNCIL
OF THE CITY OF WAGGA WAGGA

Authorised Officer

