

**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 10 sheets)
Plan of Subdivision of Lots 1 & 3
DP 1174668 and Lot 8900 DP 1262050
covered by Council's Certificate No.
dated 2023

**Full name and address
of the owner of the land**
Lots 1 & 3 DP 1174668
Lot 8900 DP 1262050

**The Trustees of the Roman Catholic Church
for the Diocese of Wagga Wagga**
205 Tarcutta Street
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 for drain of water 2 wide (shown as E19 on the plan)	1010 & 1016	Wagga Wagga City Council
2	Easement for drainage of sewage 2 wide (shown as E20 on the plan)	1013, 1017 & 1018	Wagga Wagga City Council
3	Easement for drainage of sewage and easement for drainage of water 2.5 wide (shown as E21 on the plan)	1005, 1020-1042 (inclusive) and 1044	Wagga Wagga City Council
4	Easement for multi-purpose electrical installation 4.2 wide (shown as E22 on the plan)	1000 & 1001	Essential Energy
5	Easement for water supply 5 wide (shown as E23 on the plan)	1043	Riverina Water Authority
6	Positive Covenant	Each and every lot excluding lots 1000, 1001, 1043, 1044 and 1045	Each and every lot excluding lots 1000, 1001, 1043, 1044 and 1045
7	Restriction on the Use of the Land	Each and every lot excluding lots 1000, 1001, 1043, 1044 and 1045	Each and every lot excluding lots 1000, 1001, 1043, 1044 and 1045

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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	Easement for water supply created by DP 1018633 (shown as X1 on the plan)	1021, 1043 & Callister Street (formerly 3/1174668)	Riverina Water Authority
2	Easement for overhead powerlines 20 wide created by DP 1183886	3/1174668	Essential Energy
3	Right of carriageway over track in use created by DP 1174668	Extension of Deakin Avenue (formerly 3/1174668)	State of New South Wales

PART 2

1. Terms of Easement thirdly referred to in the plan:

Easement for Drainage of Water 2.5 wide as defined in Part 8 Schedule 8 of the *Conveyancing Act 1919* and Easement for Drainage of Water 2.5 wide as defined in Part 7 Schedule 8 of the *Conveyancing Act 1919*.

2. Terms of Easement fourthly 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.

3. Terms of Positive Covenant sixthly 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:

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- (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
- (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 *Landscaping of Nature Strips – Guidelines and Applications* 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) Cats

Any cats (*Felis Catus*) living on a lot and under the ownership or control of a resident of that lot shall be controlled in such a way so as to prevent such cat roaming freely outdoors between sunset and sunrise.

(5) 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.

(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*.

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

Wagga Wagga City Council.

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5. Terms of restrictions on the use of the land seventhly referred to in the plan:

Buildings and structures

- (a) No more than one Main Building shall be erected or allowed to remain on any lot except for a Unit Lot upon which multiple units may be erected.
- (b) No Main Building 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 a Unit Lot if multiple units are erected on such lot.
- (c) No Main Building or garage shall:-
 - (i) have external walls consisting of material other than brick, brick veneer, stone, hebel blocks or panels, cement block or concrete construction, or 'weathertex' (or its equivalent) noting that panels of glass shall be permitted provided that at least 90% of the walls consists of the aforementioned materials; and/or
 - (ii) have roofing other than of slate, tile or Steel Sheet materials.
- (d) No Main Building, garage or other out building may be erected on any lot 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 Main Building or garage) shall:-
 - (i) be constructed of 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; and/or
 - (iv) exceed at any point 3 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 other than street numbers and house names which shall not exceed 60 centimetres x 30 centimetres in size.

Use

- (h) No Main Building shall be used or allowed to be used for any purpose other than as a private dwelling house 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 a Unit Lot upon which multiple units have been erected.
- (i) No lot or building thereon shall be used for any noxious, noisome or offensive trade or calling.

Fencing and retaining walls

- (j) No fence (other than brick, rock, stone or picket fence not exceeding 900 millimetres in height or a retaining wall referred to in paragraph (n) below) shall be erected

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between the front street alignment and the building line, provided that this shall not apply to any corner lot.

(k) 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 (n) below) shall be erected any closer to the front street alignment than the dwelling house erected on the lot.

(l) 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) these restrictions do not prevent the continuation and re-erection (if necessary) of any retaining wall referred to in paragraph (n) below.

(m) During the ownership of any adjoining land by 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,

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.

(n) 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 (m) 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 noting and subject to paragraph (m).

Interpretation

In these restrictions on the use of the land, the following terms have the corresponding meanings:-

(o) "Main Building" means the dwelling and any structures sharing the same roof or attached thereto such as a garage;

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- (p) "the Trustees" means the Trustees of the Roman Catholic Church for the Diocese of Wagga Wagga or any entity to which the benefit of a restriction in favour of the former is assigned
- (q) "Steel Sheet" means 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.
- (r) "Unit Lot" means lots 1008, 1009, 1011, 1019, 1020, 1021 and 1042.

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

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.

LLOYD LANDSCAPING AND GARDEN DESIGN GUIDELINE



Prepared by MJM Consulting Engineers

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For the exclusive use of
the Catholic Diocese of Wagga Wagga



Project:
Landscaping and Garden Design Guideline, Lloyd

Revision	Date	Prepared By		Checked By		Approved By	
Draft	09.02.11	Name	Stephanie Anderson	Name	Michael McFeeters	Name	Michael McFeeters
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B_WWCC consultation	25.05.11	Name	Stephanie Anderson	Name	Michael McFeeters	Name	Michael McFeeters
C_Issued to Catholic Diocese	01.12.11	Name	Stephanie Anderson	Name	Michael McFeeters	Name	Michael McFeeters

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1. INTRODUCTION

This report, the *Lloyd Landscaping and Garden Design Guideline* aims to provide landowners, builders and developers with information that will enable them to design a landscaping scheme for their property that complies with the low-water use, limited infiltration requirements of the neighbourhood.

Detailed below is a list of general information, do's and do not's which are also found in the Lloyd pamphlet you have been provided. It is important to read and ensure you comply with these requirements.

- The Lloyd neighbourhood has been designed and constructed to reduce water use and minimise infiltration
- Blocks in this neighbourhood are required to maintain a minimum 80 percent impervious area
- Impervious areas may include concrete, pavers, crushed granite, decorative gravels, stone, low-water use gardens, etc. if underlain by a plastic liner.
- A positive covenant will be placed over each residential allotment to ensure that a minimum 80 percent impervious site coverage is maintained.

2. GENERAL

Definitions

Impervious means that water cannot penetrate the surface.

Pervious means that water can penetrate the surface and infiltrate into the ground.

Water-wise landscaping/gardens is landscaping that does not waste water. It includes designing a garden to suit your lifestyle, grouping plants together with similar watering requirements, minimal watering to meet the plants needs and using non-water consuming areas such as decks and the like.

Do's and Do Not's

DO

- Use low water-use species. There are a selection of low-water use and salt tolerant species listed in Appendix A of this report which may assist you in the design of your landscaping.
- Maintain a minimum 80 percent impervious area on your property
- Reduce water usage where practical, this may include the following approaches;
 - i. Water garden/plants in the coolest parts of the day, generally between 5pm and 9am.
 - ii. Use hand-held sprinklers/hoses
 - iii. Use timers for sprinklers and hoses
 - iv. Plants respond better to a good soaking once a week rather than light watering on a daily basis.
 - v. Use mulch, or other similar material, to reduce evaporation.
 - vi. Use soil moisture sensors to determine if watering is required
- Comply with minimum building footprint requirements as defined in the contract of sale

DO NOT

- Do not reduce impervious area below 80 percent by removing concrete or paved areas, etc unless replacing with another approved impervious treatment
- Do not remove or alter your water tank configuration once connected to the appropriate fixtures

3. MAINTENANCE OF NATURE STRIP COMPACTED GRAVEL TREATMENT

It is important to maintain the compacted gravel treatment on the nature strip in its original condition. Any deterioration of the surface due to erosion, wear and tear, damage and the like, should be repaired/reinstated immediately.

The maintenance of the gravel treatment on the nature strip is a requirement of the 88B instrument (covenant) over the property.

4. LOW-WATER USE SPECIES SELECTION

Areas of natural landscaping are considered to be 'impervious' if underlain by a plastic liner. Therefore areas of low-water use gardens can be considered as part of your required minimum 80 percent impervious areas if construction in such a way.

Low-water use species should be selected from Wagga Wagga City Council's 'Water Wise and Salt Tolerant Plants Selection Guide' included in **Appendix A**. The species selection guideline is not an exhaustive list, but rather a selection of low-water use and salt tolerant species to assist landowners, consultants and developers in their landscape design process.

5. TYPICAL GARDEN DESIGN PLANS

The diagrams on the following pages illustrate how a typical residential allotment could meet the requirements for a maximum 20 percent area of pervious surfaces and minimum 80 percent impervious surfaces.

You may wish to utilise elements of these diagrams in the design of your landscape scheme. Alternatively, you can begin the design of your landscape scheme from scratch, ensuring that it meets your needs and complies with the requirements detailed in the previous section.

- **Impervious areas** are areas where water cannot penetrate the surface. This may include areas of concrete, pavers, crushed granite, decorative gravels, stone, low-water use gardens, etc if underlain by a plastic liner.
- **Pervious areas** are areas where water can penetrate the surface and infiltrate into the ground. This may include areas of natural landscaping such as grasses and gardens not underlain by a plastic liner.

Please refer to diagrams on the following page illustrating pervious and impervious details and drainage of garden beds.

6. IDEAS FOR GARDEN STYLES



Figure 1: Garden includes blue slate pavers, crushed blue slate, mulched garden beds, low water use native plants and grasses, timber edging



Figure 2: Garden includes pavers, timber decking and panels, low water use native plantings, small stones covering planting beds



Figure 3: Garden includes pavers, scattered river stones, timber seating, raised concrete-rendered garden beds, mulched garden beds, scattered screen plantings



Figure 4: Garden include native plantings, wood and metal decorative elements, stone pathways, timber decking, stone feature wall

7. IMPERVIOUS MATERIALS

The following treatments are classified as being impervious if underlain by a plastic liner.



Sandstone Pavers



Crushed Granite 20mm



Concrete Pavers



Crushed Granite 5mm



Brick Pavers



Synthetic Turf

**APPENDIX A – WAGGA WAGGA CITY COUNCIL
'WATER WISE AND SALT TOLERANT SPECIES SELECTION GUIDE'**