



## Introduction

Development across the Waverley LGA often requires the creation of stormwater drainage and flood protection systems. These systems must be maintained so they work in the way your Development Application (DA) intended. Examples of these systems are on-site stormwater detention (OSD), Infiltration/Absorption, Pump out and Overland flow paths.

### Why you need to submit legal documentation to Council

To ensure the systems are regularly maintained and not modified or removed, Council requires the owner to register a Positive Covenant and Restriction on the use of land on the Title of the property.

**If these are required, it will appear either:**

- a) As a condition of the DA Consent; and/or
- b) In the approval letter issued by Council once a stormwater management plan has been approved to Council's satisfaction (Council usually requires stormwater management plans to be submitted and approved prior to the issue of the Construction Certificate).

A solicitor, certifier, builder or surveyor is able to help you check your consent conditions or approval letter and provide professional assistance with preparing documents for your application.

#### **What is A Positive Covenant and Restriction on the use of land?**

A Positive Covenant and Restriction on the use of land are deeds of agreement on the Title of the property created under provisions of the Conveyancing Act 1919. The agreement imposes obligations on the owner of the land burdened, in favour of a prescribed authority (Waverley Council). In the case of a stormwater drainage system, the agreement will require the owner of the land to maintain their system, so it can perform as designed, and not allow future development to interfere with the operation of the system. A Positive Covenant or Restriction can apply to all property types: residential, commercial, industrial etc.

#### **What if I require a different type of Covenant?**

Your DA conditions may require you to register a Covenant not related to stormwater drainage and flood protection systems. Examples of these include geotechnical requirements, domestic animal control, and affordable housing. If you require one of these covenants, please contact Council's Customer Service or the assessing officer of the DA for more information.

### Documents required for submission

Examples of documents can be found in the appendices:

- 13 RPA Form – visit NSW Land Registry Services website
- 13 PC Form – visit NSW Land Registry Services website
- Appendix 1 – Council's standard wording for OSD systems
- Appendix 2 – Council's standard wording for stormwater quality improvement device
- Appendix 3 – Council's standard wording for pump out systems
- Appendix 4 – Council's standard wording for infiltration/absorption systems
- Appendix 5 – Council's standard wording for overland flow paths
- Appendix 6 – Example Stormwater engineer's certificate
- Appendix 7 – Example Work as executed drawing (WAED)
- Appendix 8 – Example Photographic evidence

*Note: Council may require its standard wording to be altered in some instances.*

#### **What is the general process for lodging and registering legal documents?**

The forms must be prepared by you or your agent (solicitor, surveyor, builder etc.) and be signed by any relevant third parties e.g. mortgage provider. Once lodged, along with all the required documentation, Council staff will assess your application, sign the documents and then contact you for collection. Please note it can take Council at least a month to review and approve the documentation and may take longer if the documentation is deemed as insufficient or unsatisfactory.



## Process for submission

### 1. Complete legal documents forms

Positive Covenant (13PC) and Restriction on the use of land (13RPA) forms are located at the NSW Land and Property Information website [nswlrs.com.au](http://nswlrs.com.au). You must also obtain Council's standard wording (see appendix), fill in your information and sign and witness the forms prior to submitting to Council.

### 2. Obtain supporting documentation for your application

- A WAED of the stormwater drainage system must be prepared, stamped and signed by a Registered Surveyor and provided with the application. This drawing must detail the alignment of all pipelines, pits, and other drainage related infrastructure (e.g. OSD system, pump out system, infiltration system, rainwater harvesting system). The drawing shall be an original or a colour copy. Where changes have occurred, the Council approved plans shall be marked up in red ink and shall include levels and location for the drainage structures and works.
- A suitably qualified and practising Engineer must provide certification of the WAED of the stormwater drainage system that the stormwater drainage works were constructed to their satisfaction and in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice.
- Electronic colour photographs in jpg format of the stormwater drainage system. These photos shall include elements such as the pits, pipes, orifice plate, pumps, trash screen, step irons, weir, sump and bench on the floor of the system, return pipe and flap valve, wide angle view of the storage area or multiple photos, grates closed from above, grates open showing the edges to the opening and under frame packing with mortar or concrete, all pipe entries to the system, OSD plaque, OSD Warning sign, Infiltration Plaque and Confined Space warning signs. Where there are multiple systems, the photos shall be well labelled and differentiate between the systems.
- A maintenance schedule that supports the routine maintenance activities of the system.

### 3. Lodge completed legal documents application and pay lodgement fee to Council

The documentation must be submitted to Council as well as payment of the application fee.

### 4. Engineering review

Council's Infrastructure Services team will review your application including the WAED, Certification and photos. If necessary, a Council staff member will undertake a site inspection. Council will sign your documents once the requirements are satisfied.

#### Note:

- Below ground OSD or pump out systems shall be built using cast in-situ concrete. A certificate from a Registered Structural Engineer certifying the adequacy of the system shall be submitted to Council along with the other documentation.*
- Council reserves the right to require the system to be modified and/or replaced if it does not comply with Council's Policies and Practices.*
- Council may decide to utilise its external solicitors to review the documentation lodged with the application. All costs associated with this exercise are to be borne by the applicant.*

### 5. Collection of signed documents

Waverley Council will contact you to organise collection of your signed documents. Note: where the documentation has been digitally signed, it will be emailed to the applicant.

### 6. Submission of documents to NSW land registry service

In accordance with their guidelines, submit your signed documents to NSW Land Registry Service. The Instrument shall be registered, and a registered copy of the document shall be submitted to and approved by Waverley Council prior to the issue of an Occupation Certificate/use of the building.

# Appendix

<b>1.0</b>	An example positive covenant/restriction as to user for an on-site stormwater detention system template	4
<b>2.0</b>	An example positive covenant/restriction as to user for a stormwater quality improvement device	6
<b>3.0</b>	An example positive covenant/restriction as to user for pump out system template	8
<b>4.0</b>	An example positive covenant/restriction as to user for an infiltration system template	10
<b>5.0</b>	An example positive covenant/restriction as to user for overland flow path	12
<b>6.0</b>	Sample of certification from a suitably qualified and practising Engineer	14
<b>7.0</b>	Sample of Work as Executed Drawing (WAED)	15
<b>8.0</b>	Sample of photographs	16

← [Click here](#)



## Appendix 1.0

### Council's standard wording for OSD systems

#### 1. Terms on the Restriction on the Use of Land firstly referred to in the abovementioned plan.

- 1.1 The registered proprietor shall not make or permit or suffer the making of any alterations to any on-site stormwater detention system which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Council. The system is detailed on the plans approved by \_\_\_\_\_ as Construction Certificate No. \_\_\_\_\_. A copy of this Construction Certificate is held on Council file Certificate No. \_\_\_\_\_.

##### For the purpose of this Restriction:

The expression "on-site stormwater detention system" shall include all ancillary gutters, downpipes, pipes, drains, orifice plates, walls, earth banks, kerbs, pits, grates, tanks, basins, chambers, basins and other surfaces designed to temporarily detain water and control stormwater as well as surfaces graded to the on-site stormwater detention system on any part of the burdened lot(s).

"System" means any on-site stormwater detention system constructed on the lot(s) burdened.

"Proprietor" includes the registered proprietor of the burdened lot from time to time and all heirs, executors, assigns and successors in title to the burdened lot and where there are two or more registered proprietors of the burdened lot the terms of this Positive Covenant will bind all those registered proprietors jointly and severally.

"Council" means the Waverley Council or its successor.

Name of Authority having the power to release, vary or modify the Restriction referred to is Waverley Council.

#### 2. Terms of the Positive Covenant secondly referred to in the abovementioned plan.

The system is detailed on the plans approved by \_\_\_\_\_ as Construction Certificate No. \_\_\_\_\_. A copy of this Construction Certificate is held on Council file Certificate No. \_\_\_\_\_.

- 2.1 The registered proprietor of the lot(s) hereby burdened will in respect of the system:
- regularly keep the system clean and free from grass clippings, silt, rubbish and debris and the like;
  - maintain, repair and replace at the sole expense of the registered proprietor the whole of the system or any part of it due to deterioration or damage without delay so that it functions in a safe and efficient manner;
  - must keep records of such maintenance and repairs by a suitably qualified professional and must make these available to Council upon request
  - permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at a time and without notice in the case of an emergency) to enter and inspect the land for condition of the device and the state of construction, maintenance or repair of the device, for the compliance with the requirements of this covenant; and
  - comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.



## Appendix 1.0

- 2.2 Pursuant to Section 88F (3) of the Conveyancing Act 1919 the Council shall have the following additional powers:
- a) in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with said notice referred to in part 2.1 (e) above; and
  - b) the Council may recover from the registered proprietor in a Court of competent jurisdiction:
    - (i) any expenses reasonably incurred by it exercising its power under sub-paragraph 2.2 (a) hereof. Such expense shall include reasonable wages for Council's employees engaged in effecting the work referred to 2.2 (a) above, supervising and administering the said work together with costs reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.
    - (ii) legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act.

### For the purpose of this Covenant:

The expression “on-site stormwater detention system” shall include all ancillary gutters, downpipes, pipes, drains, orifice plates, walls, earth banks, kerbs, pits, grates, tanks, basins, chambers, basins and other surfaces designed to temporarily detain water and control stormwater as well as surfaces graded to the on-site stormwater detention system on any part of the burdened lot(s).

“System” means any on-site stormwater detention system constructed on the lot(s) burdened.

“Proprietor” includes the registered proprietor of the burdened lot from time to time and all heirs, executors, assigns and successors in title to the burdened lot and where there are two or more registered proprietors of the burdened lot the terms of this Positive Covenant will bind all those registered proprietors jointly and severally.

“Council” means the Waverley Council or its successor.

Name of Authority having the power to release, vary or modify the Restriction referred to is Waverley Council.



## Appendix 2.0

### An example Positive Covenant/Restriction on Use of Land for a Stormwater Quality Improvement Device (SQID)

#### 1. Terms on the Restriction on the Use of Land firstly referred to in the abovementioned plan.

- 1.1 The registered proprietor(s) shall not make or permit or suffer the making of any alterations to any Stormwater Quality Improvement Device, which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Council. The system is detailed on the plans approved by \_\_\_\_\_ as Construction Certificate No. \_\_\_\_\_. A copy of this Construction Certificate is held on Council file Certificate No. \_\_\_\_\_.

#### For the purpose of this Restriction:

The expression "Stormwater Quality Improvement Device" means the \_\_\_\_\_ (e.g. Humeceptor), and shall include all ancillary gutters, downpipes, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to treat stormwater, as well as all surfaces graded to the Stormwater Quality Improvement Device on any part of the burdened lot(s).

"System" means any Stormwater Quality Improvement Device constructed on the lot(s) burdened.

"Proprietor" includes the registered proprietor of the burdened lot from time to time and all heirs, executors, assigns and successors in title to the burdened lot and where there are two or more registered proprietors of the burdened lot the terms of this Positive Covenant will bind all those registered proprietors jointly and severally.

"Council" means the Waverley Council or its successor.

Name of Authority having the power to release, vary or modify the Restriction referred to is Waverley Council.

#### 2. Terms of the Positive Covenant secondly referred to in the abovementioned plan.

The system is detailed on the plans approved by \_\_\_\_\_ as Construction Certificate No. \_\_\_\_\_. A copy of this Construction Certificate is held on Council file Certificate No. \_\_\_\_\_.

- 2.1 The registered proprietor of the lot(s) hereby burdened will in respect of the system:
- regularly keep the system clean and free from grass clippings, silt, rubbish and debris and the like;
  - maintain, repair and replace at the sole expense of the registered proprietor the whole of the system or any part of it due to deterioration or damage without delay so that it functions in a safe and efficient manner, in accordance with the manufacturer's recommended requirements and/or the "Maintenance Schedule" prepared by \_\_\_\_\_ on \_\_\_\_\_, a copy of which is held on Council File \_\_\_\_\_. A copy of this Schedule is available to all owners and occupiers of the burdened lot(s)
  - must keep records of such maintenance and repairs by a suitably qualified professional and must make these available to Council upon request
  - permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at a time and without notice in the case of an emergency) to enter and inspect the land for condition of the device and the state of construction, maintenance or repair of the device, for compliance with the requirements of this covenant; and
  - comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.



## Appendix 2.0

2.2 Pursuant to Section 88F (3) of the Conveyancing Act 1919 the Council shall have the following additional powers:

- a) in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with said notice referred to in part 2.1 (e) above; and
- b) the Council may recover from the registered proprietor in a Court of competent jurisdiction:
  - (i) any expenses reasonably incurred by it exercising its power under sub-paragraph 2.2 (a) hereof. Such expense shall include reasonable wages for Council's employees engaged in effecting the work referred to 2.2 (a) above, supervising and administering the said work together with costs reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.
  - (ii) legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act.

**For the purpose of this Covenant:**

The expression ““Stormwater Quality Improvement Device” means the \_\_\_\_\_ (e.g. Humeceptor), and shall include all ancillary gutters, downpipes, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to treat stormwater, as well as all surfaces graded to the Stormwater Quality Improvement Device on any part of the burdened lot(s).

“System” means any Stormwater Quality Improvement Device constructed on the lot(s) burdened.

“Proprietor” includes the registered proprietor of the burdened lot from time to time and all heirs, executors, assigns and successors in title to the burdened lot and where there are two or more registered proprietors of the burdened lot the terms of this Positive Covenant will bind all those registered proprietors jointly and severally.

“Council” means the Waverley Council or its successor.

Name of Authority having the power to release, vary or modify the Restriction referred to is Waverley Council.



## Appendix 3.0

### An example Positive Covenant/Restriction on Use of Land for a Pump Out System

#### 1. Terms on the Restriction on the Use of Land firstly referred to in the abovementioned plan.

- 1.1 The registered proprietor shall not make or permit or suffer the making of any alterations to any pump out system which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Waverley Council. The system is detailed on the plans approved by \_\_\_\_\_ as Construction Certificate No. \_\_\_\_\_. A copy of this Construction Certificate is held on Council file No. \_\_\_\_\_.

#### For the purpose of this Restriction:

The expression "pump out system" shall include all ancillary gutters, downpipes, pipes, drains, walls, kerbs, pits, grates, tanks, pumps, fittings, electrical works, chambers, basins and other surfaces designed to temporarily detain water and control stormwater as well as surfaces graded to the pump out system on any part of the burdened lot(s).

"System" means any pump out system constructed on the lot(s) burdened.

"Proprietor" includes the registered proprietor of the burdened lot from time to time and all heirs, executors, assigns and successors in title to the burdened lot and where there are two or more registered proprietors of the burdened lot the terms of this Positive Covenant will bind all those registered proprietors jointly and severally.

"Council" means the Waverley Council or its successor.

Name of Authority having the power to release, vary or modify the Restriction referred to is Waverley Council.

#### 2. Terms of the Positive Covenant secondly referred to in the abovementioned plan.

The system is detailed on the plans approved by \_\_\_\_\_ as Construction Certificate No. \_\_\_\_\_. A copy of this Construction Certificate is held on Council file No. \_\_\_\_\_.

- 2.1 The registered proprietor of the lot(s) hereby burdened will in respect of the system:
- regularly keep the system clean and free from grass clippings, silt, rubbish and debris and the like;
  - maintain, repair and replace at the sole expense of the registered proprietor the whole of the system or any part of it due to deterioration or damage without delay so that it functions in a safe and efficient manner;
  - must keep records of such maintenance and repairs by a suitably qualified professional and must make these available to Council upon request
  - permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at a time and without notice in the case of an emergency) to enter and inspect the land for condition of the device and the state of construction, maintenance or repair of the device, for the compliance with the requirements of this covenant; and
  - comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.





## Appendix 3.0

- 2.2 Pursuant to Section 88F (3) of the Conveyancing Act 1919 the Council shall have the following additional powers:
- a) in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with said notice referred to in part 2.1 (e) above; and
  - b) the Council may recover from the registered proprietor in a Court of competent jurisdiction:
    - (iii) any expenses reasonably incurred by it exercising its power under sub-paragraph 2.2 (a) hereof. Such expense shall include reasonable wages for Council's employees engaged in effecting the work referred to 2.2 (a) above, supervising and administering the said work together with costs reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.
    - (iv) legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act of providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act.

### For the purpose of this Covenant:

The expression "pump out system" shall include all ancillary gutters, downpipes, pipes, drains, walls, kerbs, pits, grates, tanks, pumps, fittings, electrical works, chambers, basins and other surfaces designed to temporarily detain water and control stormwater as well as surfaces graded to the pump out system on any part of the burdened lot(s).

"System" means any pump out system constructed on the lot(s) burdened.

"Proprietor" includes the registered proprietor of the burdened lot from time to time and all heirs, executors, assigns and successors in title to the burdened lot and where there are two or more registered proprietors of the burdened lot the terms of this Positive Covenant will bind all those registered proprietors jointly and severally.

"Council" means the Waverley Council or its successor.

Name of Authority having the power to release, vary or modify the Restriction referred to is Waverley Council.



## Appendix 4.0

### An example Positive Covenant/Restriction on Use of Land for an Infiltration System

#### 1. Terms on the Restriction on the Use of Land firstly referred to in the abovementioned plan.

- 1.1 The registered proprietor shall not make or permit or suffer the making of any alterations to any infiltration system which is, or shall be, constructed on the lot(s) burdened without the prior consent in writing of Council.  
The system is detailed on the plans approved by \_\_\_\_\_ as Construction Certificate No. \_\_\_\_\_.  
A copy of this Construction Certificate is held on Council file No. \_\_\_\_\_.

#### For the purpose of this Restriction:

The expression "infiltration system" shall include all ancillary gutters, downpipes, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to direct water to the infiltration system on any part of the burdened lot(s).

"System" means any infiltration system constructed on the lot(s) burdened.

"Proprietor" includes the registered proprietor of the burdened lot from time to time and all heirs, executors, assigns and successors in title to the burdened lot and where there are two or more registered proprietors of the burdened lot the terms of this Positive Covenant will bind all those registered proprietors jointly and severally.

"Council" means the Waverley Council or its successor.

Name of Authority having the power to release, vary or modify the Restriction referred to is Waverley Council.

#### 2. Terms of the Positive Covenant secondly referred to in the abovementioned plan.

The system is detailed on the plans approved by \_\_\_\_\_ as Construction Certificate No. \_\_\_\_\_.  
A copy of this Construction Certificate is held on Council file No. \_\_\_\_\_.

- 2.1 The registered proprietor of the lot(s) hereby burdened will in respect of the system:
- regularly keep the system clean and free from grass clippings, silt, rubbish and debris and the like;
  - maintain, repair and replace at the sole expense of the registered proprietor the whole of the system or any part of it due to deterioration or damage without delay so that it functions in a safe and efficient manner;
  - must keep records of such maintenance and repairs by a suitably qualified professional and must make these available to Council upon request
  - permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at a time and without notice in the case of an emergency) to enter and inspect the land for condition of the device and the state of construction, maintenance or repair of the device, for the compliance with the requirements of this covenant; and
  - comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.



## Appendix 4.0

- 2.2 Pursuant to Section 88F (3) of the Conveyancing Act 1919 the Council shall have the following additional powers:
- a) in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with said notice referred to in part 2.1 (e) above; and
  - b) the Council may recover from the registered proprietor in a Court of competent jurisdiction:
    - (v) any expenses reasonably incurred by it exercising its power under sub-paragraph 2.2 (a) hereof. Such expense shall include reasonable wages for Council's employees engaged in effecting the work referred to 2.2 (a) above, supervising and administering the said work together with costs reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.
    - (vi) legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act.

### For the purpose of this Covenant:

The expression "infiltration system" shall include all ancillary gutters, downpipes, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to direct water to the infiltration system on any part of the burdened lot(s).

"System" means any infiltration system constructed on the lot(s) burdened.

"Proprietor" includes the registered proprietor of the burdened lot from time to time and all heirs, executors, assigns and successors in title to the burdened lot and where there are two or more registered proprietors of the burdened lot the terms of this Positive Covenant will bind all those registered proprietors jointly and severally.

"Council" means the Waverley Council or its successor.

Name of Authority having the power to release, vary or modify the Restriction referred to is Waverley Council.



## Appendix 5.0

### An example Positive Covenant/Restriction on Use of Land for an Overland Flow Path

**1. Terms on the Restriction on the Use of Land firstly referred to in the abovementioned plan.**

- 1.1 The registered proprietor(s) shall not make or permit or suffer the making of any alterations to the overland flow path, which is on the lot(s) burdened and identified in the report, prepared and certified by \_\_\_\_\_ , Reference No \_\_\_\_\_ , dated \_\_\_\_\_ and approved under Development Consent No. \_\_\_\_\_ , without the prior consent in writing of Council.

**For the purpose of this Restriction:**

The expression "overland flow path" shall include all ancillary pipes, drains, walls, kerbs, pits, grates and surfaces designed to convey the overland flow path through the site.

"System" means any overland flow path constructed on the lot(s) burdened.

"Proprietor" includes the registered proprietor of the burdened lot from time to time and all heirs, executors, assigns and successors in title to the burdened lot and where there are two or more registered proprietors of the burdened lot the terms of this Positive Covenant will bind all those registered proprietors jointly and severally.

"Council" means the Waverley Council or its successor.

Name of Authority having the power to release, vary or modify the Restriction referred to is Waverley Council.

**2. Terms of the Positive Covenant secondly referred to in the abovementioned plan.**

The overland flow path, which is on the lot(s) burdened and identified in the report, prepared and certified by \_\_\_\_\_ , Reference No \_\_\_\_\_ , dated \_\_\_\_\_ and approved under Development Consent No. \_\_\_\_\_ .

- 2.1 The registered proprietor of the lot(s) hereby burdened will in respect of the overland flow path:
- Regularly keep the overland flow path clean and free from grass clippings, silt, rubbish and debris and the like;
  - maintain the overland flow path clear from any obstructions at the sole expense of the registered proprietor so that it functions in a safe and efficient manner;
  - permit the Council or its authorised agents from time to time and upon giving reasonable notice (but at a time and without notice in the case of an emergency) to enter and inspect the land for compliance with the requirements of this covenant; and
  - comply with the terms of any written notice issued by the Council in respect of the requirements of this covenant within the time stated in the notice.



## Appendix 5.0

- 2.2 Pursuant to Section 88F (3) of the Conveyancing Act 1919 the Council shall have the following additional powers:
- a) in the event that the registered proprietor fails to comply with the terms of any written notice issued by the Council as set out above the Council or its authorised agents may enter the land with all necessary materials and equipment and carry out any work which the Council in its discretion considers reasonable to comply with said notice referred to in part 2.1 (d) above; and
  - b) the Council may recover from the registered proprietor in a Court of competent jurisdiction:
    - (i) any expenses reasonably incurred by it exercising its power under sub-paragraph 2.2 (a) hereof. Such expense shall include reasonable wages for Council's employees engaged in effecting the work referred to 2.2 (a) above, supervising and administering the said work together with costs reasonably estimated by the Council, for the use of materials, machinery, tools and equipment in conjunction with the said work.
    - (ii) legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to section 88F of the Act or providing any certificate required pursuant to section 88G of the Act or obtaining any injunction pursuant to section 88H of the Act.

### For the purpose of this Covenant:

The expression "overland flow path" shall include all ancillary pipes, drains, walls, kerbs, pits, grates and surfaces designed to convey the overland flow path through the site.

"System" means any overland flow path constructed on the lot(s) burdened.

"Proprietor" includes the registered proprietor of the burdened lot from time to time and all heirs, executors, assigns and successors in title to the burdened lot and where there are two or more registered proprietors of the burdened lot the terms of this Positive Covenant will bind all those registered proprietors jointly and severally.

"Council" means the Waverley Council or its successor.

Name of Authority having the power to release, vary or modify the Restriction referred to is Waverley Council.



## Appendix 6.0

### Sample of certification from a suitably qualified and practising Engineer

Dear John,

**Re: Stormwater Engineer Certificate**

We wish to certify that we have inspected the stormwater drainage system and reviewed the Works as Executed drawings prepared by \_\_\_\_\_, Reference No \_\_\_\_\_, dated \_\_\_\_\_ and certify that the stormwater drainage works have been constructed to our satisfaction and in accordance with the Development Consent, Water Management Technical Manual, all applicable Codes, Policies, Plans, Standards and good engineering practice, except for the variations below which do not affect the performance of the system.

Variations:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_

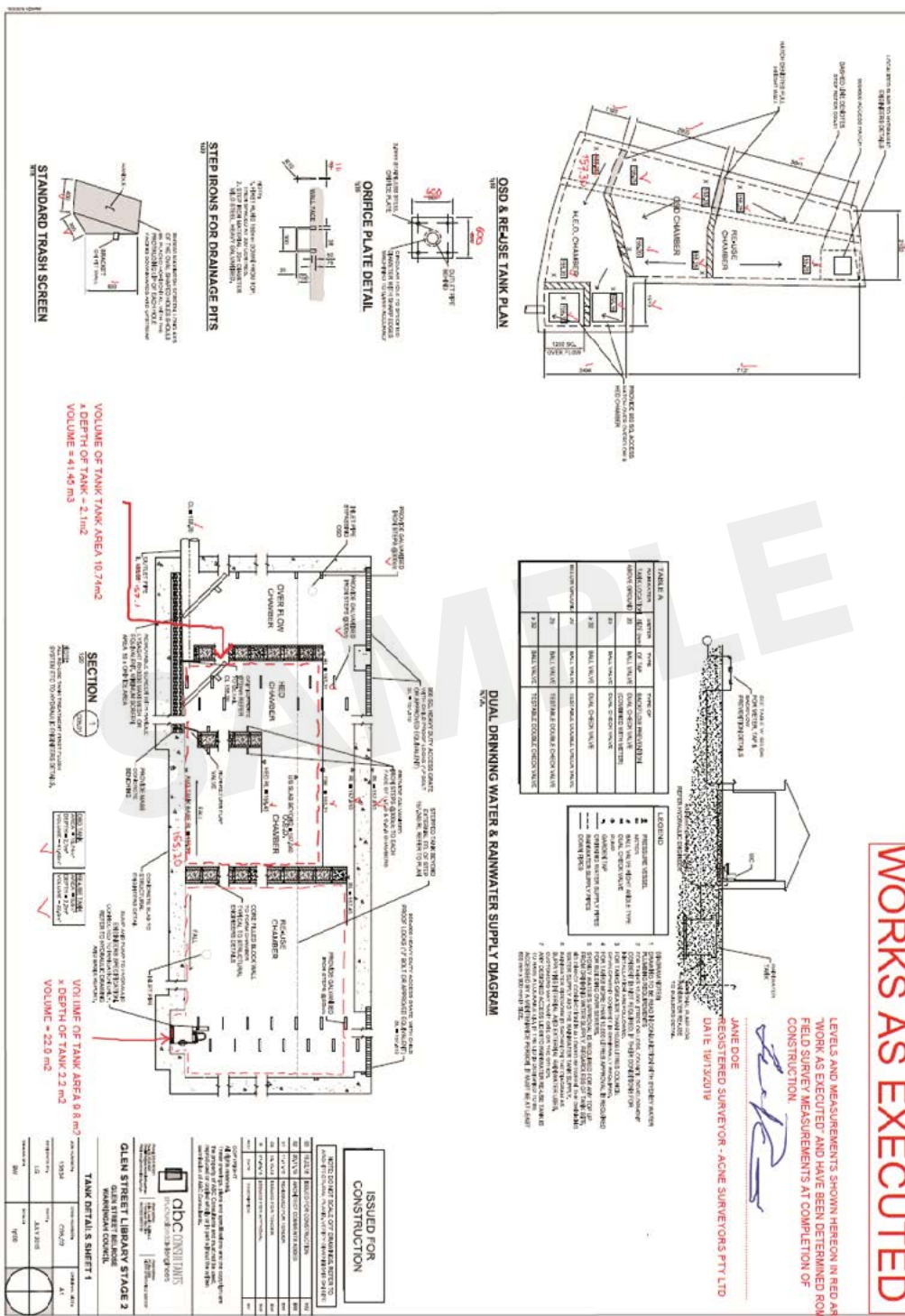
Please feel free to contact the undersigned, should you have any questions relating to this certificate.

Kind regards,

Consulting Engineers  
B.E (Hons) MIEAust CPEng NPER

## Appendix 7.0

## Sample of Work as Executed Drawing (WAED)







## Appendix 8.0

### Sample of photographs

