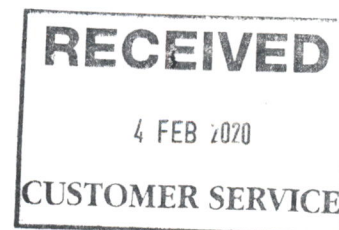


Green Option Access



4th February 2020

To : Cessnock City Council General Manager – Lotta Jackson
Cessnock City Council – Robyn Larson
Cessnock City Council Mayor – Bob Pynsent

Received 1609

CC: Cessnock City Councillors Olsen, Doherty, Dunn, Fagg, Stapleford, Fitzgibbon, Burke, Sander, Suvaal, Gray, Dagg and Lyons

RE : NULKABA RESIDENTS RESPONSE AS REQUESTED TO MAYOR MINUTE MM 19/2019

In response to the request within Cessnock Council Mayoral Minute MM19/2019 the Nulkaba residence Group set out the following:

1. Upon reviewing the Cessnock Correctional Complex Access Road Option Analysis Report compiled by BECA (13 December 2019) which became available post the ordinary council meeting held on the 11th December 2019, the Nulkaba Residence Group continues to be concerned that a much greater consideration continues to be placed upon the cost and ease of construction of an access route rather than the best outcome and minimizing the social impact on rate paying Nulkaba village residents. Examples of this contained within the report's words include:
 - a. 'Weighting factors were applied to emphasis the options which best reflected cost, social impacts and facility criteria which are understood to be of most importance to DoJ', and
 - b. 'The weighting factors were, therefore, entirely arbitrary'
2. As a priority, the Nulkaba residents believe immediate and further investigations need to be carried out by the Council and Corrections to assess the viability of using the current Easement for a Right of Access 20 metres wide & VAR. labelled L within Lot 1 of DP 1078864 (Appendix 1). The bestowed benefits of this easement include allowing NSW State Government a Right of Access 20 metres wide & VAR. to 'pass across each lot burdened, carrying out work within the site of this easement, such as constructing, placing, repairing or maintaining trafficable surfaces'. These definitions have been obtained from information both within the title searches and Part 14 of Schedule 8 of the Conveyancing Act 1919 (Appendix 2).
3. That while the Council has clearly stated in it's minutes that 'Council notes that the access to the Cessnock Correctional Centre is a decision for the State Government and the Department of Corrections', Nulkaba residents have also received direct correspondence from the Director Corrections Strategy and Executive Services stating 'Cessnock City Council recently rescinded its earlier support for a new access road connecting to Kerlew Street. You may be assured that Corrective Services NSW will respect this decision' (Appendix 3). This is clearly an indication of the power Cessnock City Council holds in achieving an acceptable outcome to its rate paying residents.

Green Option Access

4. Nulkaba residents maintain their previously stated stance that any Correctional Centre access route that is to be constructed should not pass or impact a private residence within the Cessnock Local Government Area prior to it adjoining the State road network.
5. Notwithstanding the Nulkaba residents request at Point 2 to be undertaken as the priority, a secondary request is made in light of the Department of Health's continued unwilling and stubborn stance in not being prepared to assist and contribute to finding a solution that would minimise the social impacts on Nulkaba village residents. The Nulkaba residents request that council directs the General Manager to engage with the Department of Corrections to pursue a solution that utilises 200 metres of the eastern end of Kerlew Street and then follows one of the two routes as set out on the attached plan (Appendix 4) and labelled as Option 7 and 8. We also request that the following conditions and criteria be placed on either Option.
 - a. Kerlew Street from the Corrections access departure point to Occident Street (approximately 270 metres) be revegetated to match current adjacent vegetation,
 - b. Screening (earth mounds, vegetation, pre-cast acoustic barriers, etc) be installed along the access route to minimise visual and audible impacts,
 - c. Fencing and other measures (lighting, security cameras, etc) be installed along the route to ensure no vehicular and pedestrian access can be obtained from the residential Nulkaba village road network,
 - d. The eastern 200 metres of Kerlew Street that would be used as part of this access solution be widened, resurfaced and appropriately drained,
 - e. The intersection of Kerlew Street and Wine Country Drive be upgraded to a standard that is appropriate for the level of traffic that would pass through it,
 - f. That ownership of the eastern 200 metres of Kerlew Street that would be used as part of this access solution be transferred to State to remove the burden upon Cessnock rate payers for it's ongoing maintenance, and
 - g. That the eastern 200 metres of Kerlew Street that is used as part of the access solution be renamed to differentiate it from the remaining Kerlew Street that would continue to used by local residents only.
6. The Nulkaba residents understand and appreciate that a number of obstacles exist for Options 7 and 8, including the clearing of ecological sensitive areas and the potential need to vacate current facilities. However, the Nulkaba residents are firmly of the opinion that solutions for these issues can be found through measures including establishing bio-diversity offset areas, the use of provisions contained within the Local Land Services Act 2013 that allows local councils to clear native vegetation for Public works (Fact sheet at Appendix 5) and / or the construction of modern replacement facilities.

7. These requests are being made in light of the past and current anti-social behaviours that are experienced by the residents surrounding the current entrance (Lindsay Street) that should not be merely relocated to the Nulkaba village. The potential for this to occur was clearly evident during the six week period in October and November 2019 when repairs to the Lindsay Street entrance necessitated the use of Kerlew Street as a temporary access route.

Green Option Access

Appendix 1

PLAN FORM 2 (APPROVED FORM 3)

Plan Drawing only to appear in this space

SIGNATURES AND SEALS ONLY

SIGNED BY ME

AS DELEGATE OF THE HEALTH ADMINISTRATION CORPORATION, PURSUANT TO SECTION 21(1) HEALTH ADMINISTRATION ACT, 1982 AND I HEREBY CERTIFY THAT I HAVE NO NOTICE OF THE REVOCATION OF SUCH DELEGATION

FOR SIGNATURES
SEE SHEET 3

Department of Lands Approval

(Authorised Officer) in approving this plan certify

that all necessary approvals in regard to the allocation of the land shown herein have been given

Signature
Date
File Number
Office

Subdivision Certificate

I certify that the provisions of a 1082 of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to the proposed

* Insert subdivision or new road

* Authorised Person/General Manager/Accredited Certifier

Consent Authority

Date of Endorsement

Accreditation No

Subdivision Certificate No

File No

* Delete wherever inapplicable

SURVEYOR'S REFERENCE: allandale 58 55118

PAPERS RETAINED PERMANENTLY

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

SURVEYORS (PRACTICE) REGULATION 2001 CLAUSE 32/2					
M & A CO-ORDINATES					
MARK	EASTING	NORTHING	ZONE	ORDER	CLASS
PM 16258	345 561862	6 367 971501	56	U	B
PM 16259	345 577849	6 367 928230	56	U	B
PM 16639	344 755711	6 367 986186	56	1	A
PM 73375	345 531451	6 367 100982	56	1	A

SOURCE: M&A CO-ORDINATES ADDED FROM SCHEM AT 25 NOV 2002

CONTRAST SCALE 1:40000 (1:80000)

D.P. 1078864 (E)
SUBSTITUTE PLAN

Registered 26/4/2005

Title System: TORRENS

Purpose: SUBDIVISION

Ref Map: U2785-5, U2785-82

Last Plan: DP226429

PLAN OF SUBDIVISION OF LOT 4 DP 226429

Lengths are in metres. Reduction Ratio: 1:2000

LGA: CESSNOCK

Locality: CESSNOCK

Parish: FOKOLBIN

County: NORTHUMBERLAND

This is sheet 1 of my plan in 3 sheets

Delete if inapplicable

Surveying Regulation 2001

EDWARD JAMES BRAY

NSW DEPARTMENT OF COMMERCE

I certify that the survey was conducted in accordance with the Surveying Regulation 2001 and was completed on 16/9/2005

The survey relates to: LOTS 1-4

Please specify the land parcels surveyed in each of the sheets of the plan

Sheet 1: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

Drawn by: A. B.

Type: Subdivision

Plans used in preparation of Survey/Completion

DP 226429 DP 259443 DP 848056

DP 78202 DP 781394 DP 80854

DP 14029 DP 728976 R 28908 1603

DP 5442 DP 571524

DP 83113 DP 143155

DP 810852 DP 258303

PANEL FOR USE ONLY for statements of intention to

dedicate public roads to create public reserves,

provide easements, easements, restrictions on the use

of land or positive covenants

PURSUANT TO SECTION 88B OF THE

CONVEYANCING ACT 1996 IT IS INTENDED

TO CREATE

1 EASEMENT FOR SUBSTATION

2 EASEMENT FOR UNDERGROUND ELECTRICITY

CABLES OVER EXISTING UNDERGROUND CABLES

3 RIGHT OF ACCESS 4 WIDE

4 EASEMENT TO CONVEY GAS OVER EXISTING

LINE OF PIPES 5 EASEMENT TO CONVEY GAS

OVER EXISTING LINE OF PIPES 6 EASEMENT

FOR SERVICES OVER EXISTING LINE OF PIPES

7 EASEMENT FOR SERVICES OVER EXISTING

LINE OF PIPES 8 EASEMENT FOR SERVICES

OVER EXISTING LINE OF PIPES 9 EASEMENT

FOR SERVICES OVER EXISTING LINE OF PIPES

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FOR SERVICES OVER EXISTING LINE OF PIPES

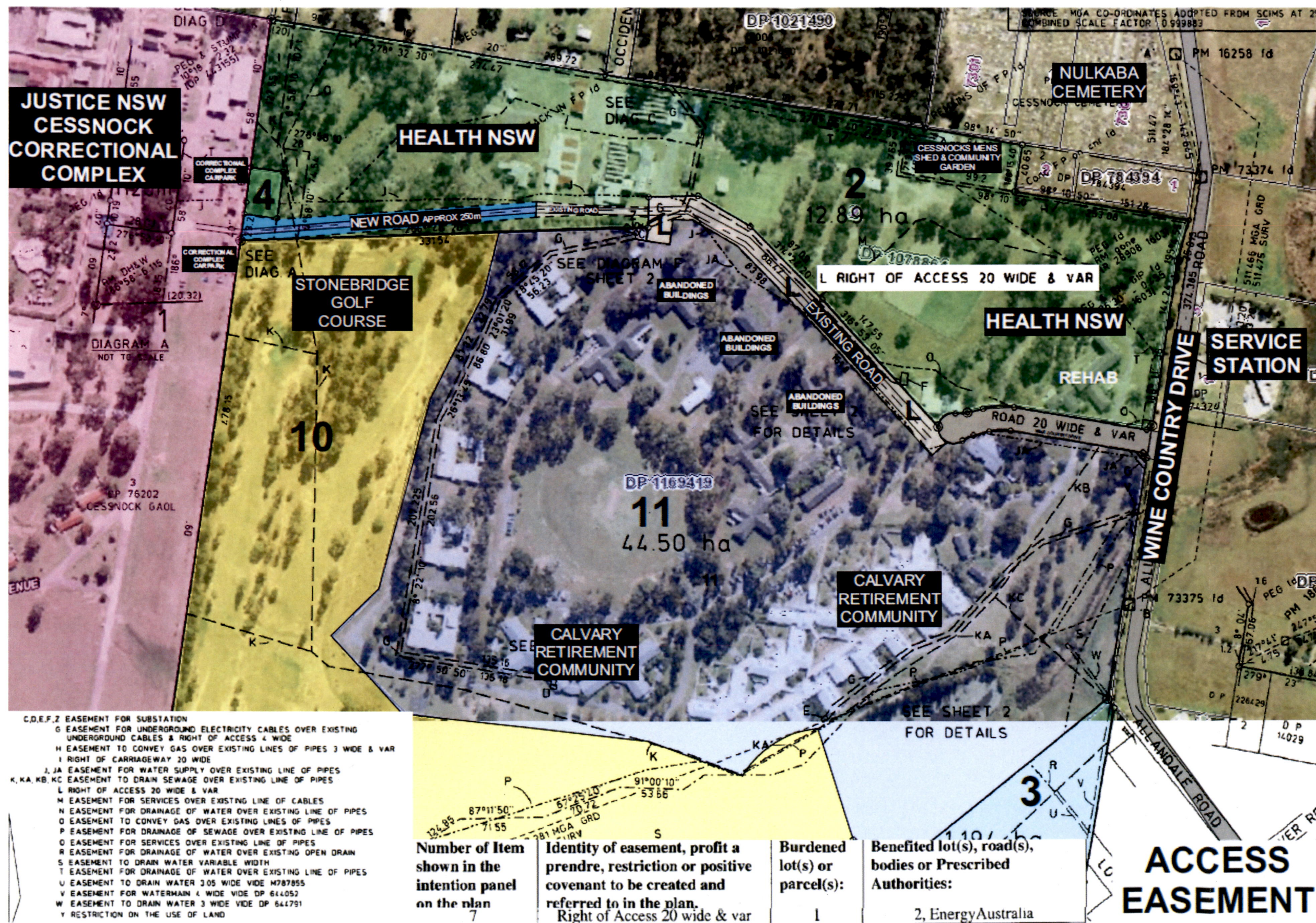
121 EASEMENT FOR SERVICES OVER EXISTING

LINE OF PIPES 122 EASEMENT FOR SERVICES

OVER EXISTING LINE OF PIPES 123 EASEMENT

FOR SERVICES OVER EXISTING LINE

Green Option Access



Appendix 2



LAND
REGISTRY
SERVICES

Order number: 54114949
Your Reference: SDhealth
08/11/18 16:59



NSW LRS - Title Search

NEW SOUTH WALES LAND REGISTRY SERVICES - TITLE SEARCH

FOLIO: 11/1169419

SEARCH DATE	TIME	EDITION NO	DATE
8/11/2018	4:59 PM	1	30/1/2012

LAND

LOT 11 IN DEPOSITED PLAN 1169419
AT CESSNOCK
LOCAL GOVERNMENT AREA CESSNOCK
PARISH OF POKOLBIN COUNTY OF NORTHUMBERLAND
TITLE DIAGRAM DP1169419

FIRST SCHEDULE

LCM CALVARY HEALTH CARE HOLDINGS LIMITED

SECOND SCHEDULE (18 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 Z553187 EASEMENT FOR WATERMAIN 4 METRE(S) WIDE AFFECTING
THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- 3 DP644791 EASEMENT TO DRAIN WATER 3 METRE(S) WIDE AFFECTING
THE PART(S) SHOWN SO BURDENED IN THE TITLE DIAGRAM
- * 4 9279296 CAVEAT BY HUNTER AREA HEALTH SERVICE
- * AB567093 CAVEATOR CONSENTED
- * AE286200 CAVEATOR CONSENTED
- * AE286201 CAVEATOR CONSENTED
- * AE286202 CAVEATOR CONSENTED
- * AE286203 CAVEATOR CONSENTED
- 5 DP1078864 EASEMENT FOR SUBSTATION AFFECTING THE PART(S) SHOWN
SO BURDENED IN THE TITLE DIAGRAM
- 6 DP1078864 EASEMENT FOR UNDERGROUND ELECTRICITY CABLES OVER
EXISTING UNDERGROUND CABLES AND RIGHT OF ACCESS 4
METRE(S) WIDE AFFECTING THE PART(S) SHOWN SO BURDENED
IN THE TITLE DIAGRAM
- 7 DP1078864 RIGHT OF CARRIAGEWAY 20 METRE(S) WIDE APPURTENANT TO
THE LAND ABOVE DESCRIBED
- 8 DP1078864 EASEMENT FOR WATER SUPPLY OVER EXISTING LINE OF PIPES
AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE
DIAGRAM
- 9 DP1078864 EASEMENT TO DRAIN SEWAGE OVER EXISTING LINE OF PIPES
AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE
DIAGRAM
- 10 DP1078864 RIGHT OF ACCESS 20 METRE(S) WIDE AND VARIABLE
AFFECTING THE PART(S) SHOWN SO BURDENED IN THE TITLE
DIAGRAM
- 11 DP1078864 EASEMENT FOR SERVICES OVER EXISTING LINE OF CABLES

END OF PAGE 1 - CONTINUED OVER

PRINTED ON 8/11/2018

Green Option Access

DP1078864

s of Easements or Profits a Pendre intended to be created or
on the Use of Land or Positive Covenants intended to be
uant to Section 88B Conveyancing Act 1919.

(Sheet 1 of 11 sheets)

Plan:

Plan of subdivision of lot 4 DP226429

Full name and address
Of the owner of the land:

Health Administration Corporation
c/o Hunter Area Health Service
Locked Bag No. 1
New Lambton NSW 2305

Part 1 (Creation)

Number of Item shown in the intention panel on the plan	Identity of easement, profit a 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 substation	1,2	EnergyAustralia
2	Easement for underground electricity cables over existing underground cables & right of access 4 wide	1,2	EnergyAustralia
3	Easement to convey gas over existing line of pipes 3 wide and variable	2	AGL Gas Networks Limited
4	Right of Carriageway 20 wide	2	1
5	Easement for water supply over existing line of pipes	1, 2	3 DP76202, 4
6	Easement to drain sewage over existing line of pipes	1, 2 1 1 1	3 DP76202 3 DP76202 2 3 DP76202, 1 , 2
7	Right of Access 20 wide & var	1	2, EnergyAustralia
8	Easement for Services over existing line of cables	2	1
9	Easement for drainage of water over existing line of pipes	1	Cessnock City Council

Terms of easement numbered 4 in the plan.

A Right of Carriageway within the meaning of Part 1 of Schedule 8 of the Conveyancing Act, 1919.

Terms of easement numbered 7 in the plan.

7.1 a) For Lot 2 a Right of Access in accordance with Part 14 of Schedule 8 of the Conveyancing Act 1919; and

CONVEYANCING ACT 1919 - SCHEDULE 8

SCHEDULE 8 – Construction of certain expressions

(Section 181A)

Part 14 - Right of access

1

The owner of the lot benefited may:

- (a) by any reasonable means pass across each lot burdened, but only within the site of this easement, to get to or from the lot benefited, and
- (b) do anything reasonably necessary for that purpose, including:
 - entering the lot burdened, and
 - taking anything on to the lot burdened, and
 - carrying out work within the site of this easement, such as constructing, placing, repairing or maintaining trafficable surfaces, driveways or structures.

Appendix 3



Justice
Corrective Services

Henry Deane Building
20 Lee Street, Sydney
GPO Box 31, Sydney NSW 2001
Tel 02 8346 1333 | Fax 02 8346 1010
www.justice.nsw.gov.au

CESC18/01980

6 November 2018

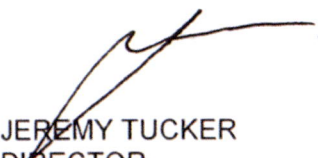
Mr David Shearer
david@sheerdesigns.com.au

Dear Mr Shearer

Thank you for your further email dated 3 October 2018 regarding proposals for a new entrance to the Cessnock Correctional Complex.

As you are aware, Cessnock City Council recently rescinded its earlier support for a new access road connecting to Kerlew Street. You may be assured that Corrective Services NSW will respect this decision.

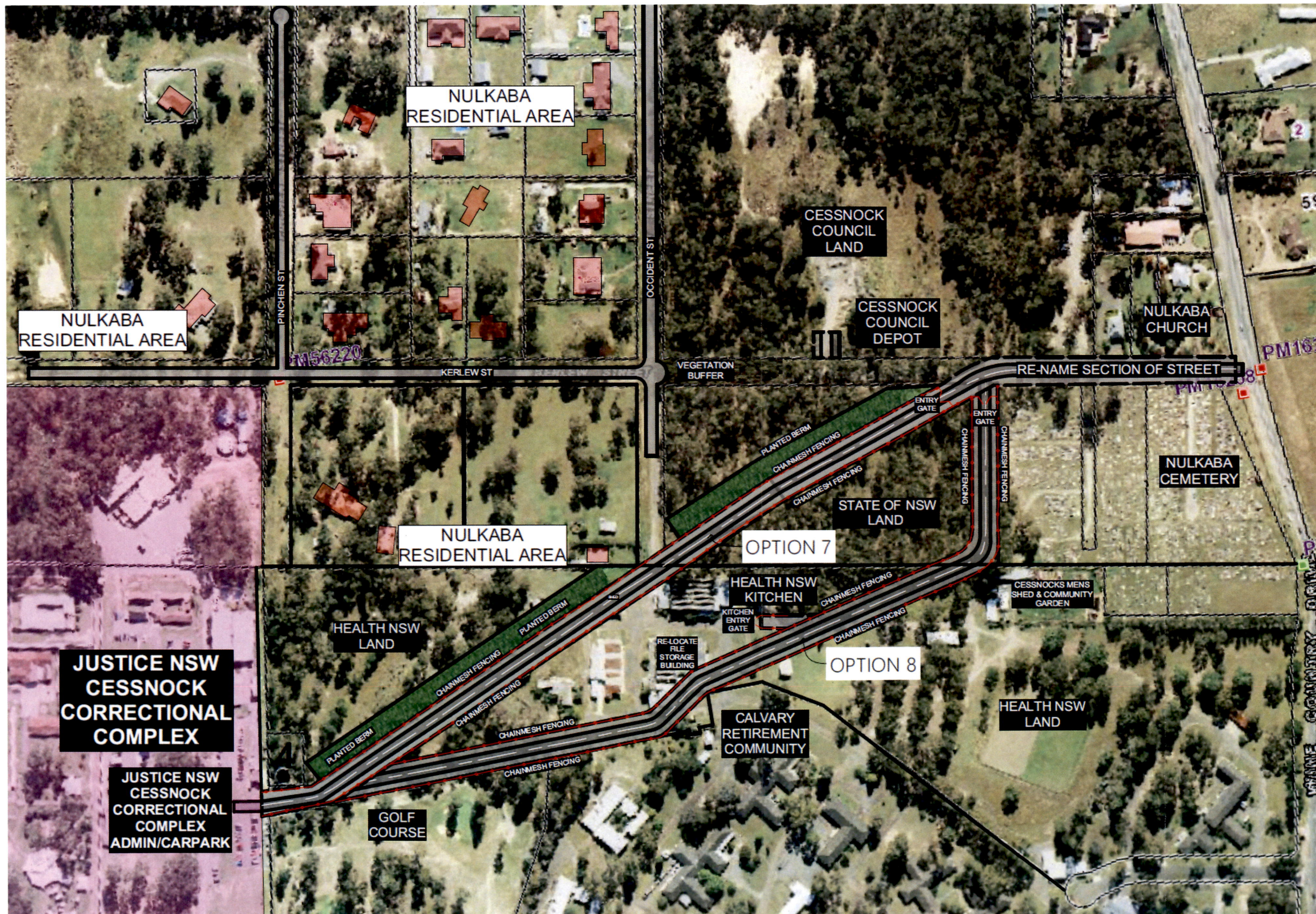
Yours sincerely



JEREMY TUCKER
DIRECTOR
CORRECTIONS STRATEGY
& EXECUTIVE SERVICES

Green Option Access

Appendix 4



Appendix 5



Allowable activities for public authorities

This fact sheet provides guidance for public authorities seeking to remove native vegetation under the Allowable activities provisions to allow for the operation and maintenance of infrastructure and for other purposes. Clearing for Allowable activities does not require approval under the Local Land Services Act 2013.

Overview

Allowable activities consolidate, simplify and expand on the Routine Agricultural Management Activities (RAMAs) that were part of the Native Vegetation Act 2003.

Under the new land management framework greater flexibility and discretion is provided to landholders enabling them to efficiently undertake low risk routine land management activities.

Clearing undertaken for allowable activities on a landholding must only be carried out by, or on behalf of, the landholder unless specifically stated otherwise. All other required statutory approvals must be obtained before clearing for a work, building or structure.

There are three (3) Allowable Activity Zones in NSW, the Western, Central and Coastal Zones. The maximum clearing distances for allowable activities are different for each zone.

Where land is classed as Category 2 – vulnerable regulated land or Category 2 – regulated sensitive land, allowable activities are limited and reduced maximum clearing distance applies.

Allowable activities for public authorities, local councils and utilities

The Local Land Services Act 2013 also enables public authorities, local councils and utilities to clear native

vegetation on Category 2 – regulated land for the following purposes:

Public works

Allows clearing by a public or local authority for the construction, operation or maintenance of infrastructure (including cemeteries) by a public or local authority.

The native vegetation to be cleared must not be a threatened species, a protected plant under the Biodiversity Conservation Act 2016 or be part of a Threatened Ecological Community (TEC), or be the habitat of a threatened species.

Telecommunications infrastructure

Allows owners of telecommunications infrastructure, or those acting on their behalf, to clear native vegetation for the construction, operation or maintenance of telecommunications infrastructure.

Want to know more?

We're here to help

Find us online: lls.nsw.gov.au/slm

You'll find other land management resources including fact sheets

Call us: 1300 795 299 and ask for an officer to advise you on land management

Email us: slm.info@nsw.gov.au

See us: drop into your nearest Local Land Services office



Local Land Services

Allowable activities for public authorities

Allowable activities for public authorities

Gravel pits

Allows clearing on behalf of a local council for the construction, operation or maintenance of gravel pits.

The native vegetation to be cleared is limited to a single area of land no more than 5 hectares in the Western Zone and 2 hectares in all other zones. Additionally, the cleared native vegetation must not be a threatened species, or be part of a TEC, or be the habitat of a threatened species, or be a protected plant under the Biodiversity Conservation Act 2016. Finally, the local council must revegetate the cleared area.

Electricity transmission infrastructure

Allows clearing for the maintenance of publicly owned power lines including:

- maintaining safety clearances under power lines and around communications sites,
- minimising fuel loads under power lines,
- maintaining existing roads and tracks.

Clearing under this allowable activity cannot occur for:

- the construction of new roads or tracks,
- removal of groundcover,
- safety clearances that exceed those listed in the Local Land Services Act 2013.

Additional considerations

Clearing for an allowable activity should be undertaken to the minimum extent necessary and certain allowable activities, such as Gravel Pits, are limited or prohibited outside of the Western Zone.

Maximum clearing distances for rural infrastructure

Clearing for rural infrastructure must be undertaken to the minimum extent necessary to build and maintain rural infrastructure.

The maximum distance of clearing for rural infrastructure in each zone and on small landholdings is as follows:

Zone	Clearing distance
Western zone	40 metres
Central zone	30 metres
Coastal zone	15 metres
Small holdings (in any zone)	12 metres
Vulnerable and sensitive regulated land	6 metres

