

## DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 1 of 2 sheet(s)

Office Use Only

Office Use Only

Registered:

Title System:

**PLAN OF SUBDIVISION OF  
EASEMENT WITHIN LOT 1 DP1096161 AND  
LOT 41 DP996992**

LGA: CESSNOCK

Locality: CESSNOCK

Parish: CESSNOCK/ ALLANDALE

County: NORTHUMBERLAND

## Survey Certificate

I, ANDREW MARK SCOTT .....  
of MARSHALL SCOTT PTY LTD PO BOX 165 CESSNOCK 2325.....  
a surveyor registered under the *Surveying and Spatial Information Act 2002*, certify that:

\*(a) The land shown in the plan was surveyed in accordance with the  
*Surveying and Spatial Information Regulation 2017*, is accurate  
and the survey was completed on 29 SEPTEMBER 2020, or

\*(b) The part of the land shown in the plan (\*being/\*excluding \*\* .....  
.....)  
was surveyed in accordance with the *Surveying and Spatial  
Information Regulation 2017*, the part surveyed is accurate and the  
survey was completed on, ..... the part not surveyed  
was compiled in accordance with that Regulation, or

\*(c) The land shown in this plan was compiled in accordance with the  
*Surveying and Spatial Information Regulation 2017*.

Datum Line: X-Y .....

Type: \*Urban/\*Rural

The terrain is \*Level Undulating / \*Steep Mountainous.

Signature: ..... Dated: .....

Surveyor Identification No: .....

Surveyor registered under  
the *Surveying and Spatial Information Act 2002*

\*Strike out inappropriate words.

\*\*Specify the land actually surveyed or specify any land shown in the plan that  
is not the subject of the survey.

## Crown Lands NSW/Western Lands Office Approval

I, ..... (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, .....  
\*Authorised Person/\*General Manager/\*Registered Certifier, certify that  
the provisions of s.6.15 of the *Environmental Planning and Assessment  
Act 1979* have been satisfied in relation to the proposed subdivision,  
new road or reserve set out herein.

Signature: .....

Registration number: .....

Consent Authority: .....

Date of endorsement: .....

Subdivision Certificate number: .....

File number: .....

\*Strike through if inapplicable.

Plans used in the preparation of survey/compilation.

DP1131087  
DP1096161  
DP1005183  
DP996992  
M24355  
MS8809-3070

Statements of intention to dedicate public roads create public reserves  
and drainage reserves, acquire/resume land.

Surveyor's Reference: 22632

Signatures, Seals and Section 88B Statements should appear on  
PLAN FORM 6A

Office Use Only

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**Registered:**

**PLAN OF SUBDIVISION OF  
EASEMENT WITHIN LOT 1 DP1096161 AND  
LOT 41 DP996992**

Subdivision Certificate number: .....

Date of Endorsement: .....

This sheet is for the provision of the following information as required:

- A schedule of lots and addresses - See 60(c) *SSI Regulation 2017*
- Statements of intention to create and release affecting interests in accordance with section 88B *Conveyancing Act 1919*
- Signatures and seals- see 195D *Conveyancing Act 1919*
- Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919, IT IS INTENDED  
TO CREATE:

1. POSITIVE COVENANT

THE COMMON SEAL of Cessnock City Council was hereto affixed this.....day  
of.....2020 in pursuance of a resolution of the Council passed  
the.....day of.....20.....

Mayor: .....

General Manager: .....

DRAFT

If space is insufficient use additional annexure sheet

Surveyor's Reference: 22632

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

(Sheet 1 of 2 sheets)

Plan:

Plan of Easement within Lot 1 DP1096161 and  
Lot 41 DP996992

Full name and address  
of proprietor of Land:

Cessnock City Council  
PO Box 152  
CESSNOCK NSW 2325

**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.	Positive Covenant	1/1096161 41/996992	Cessnock City Council

**Part 2 (Terms)**

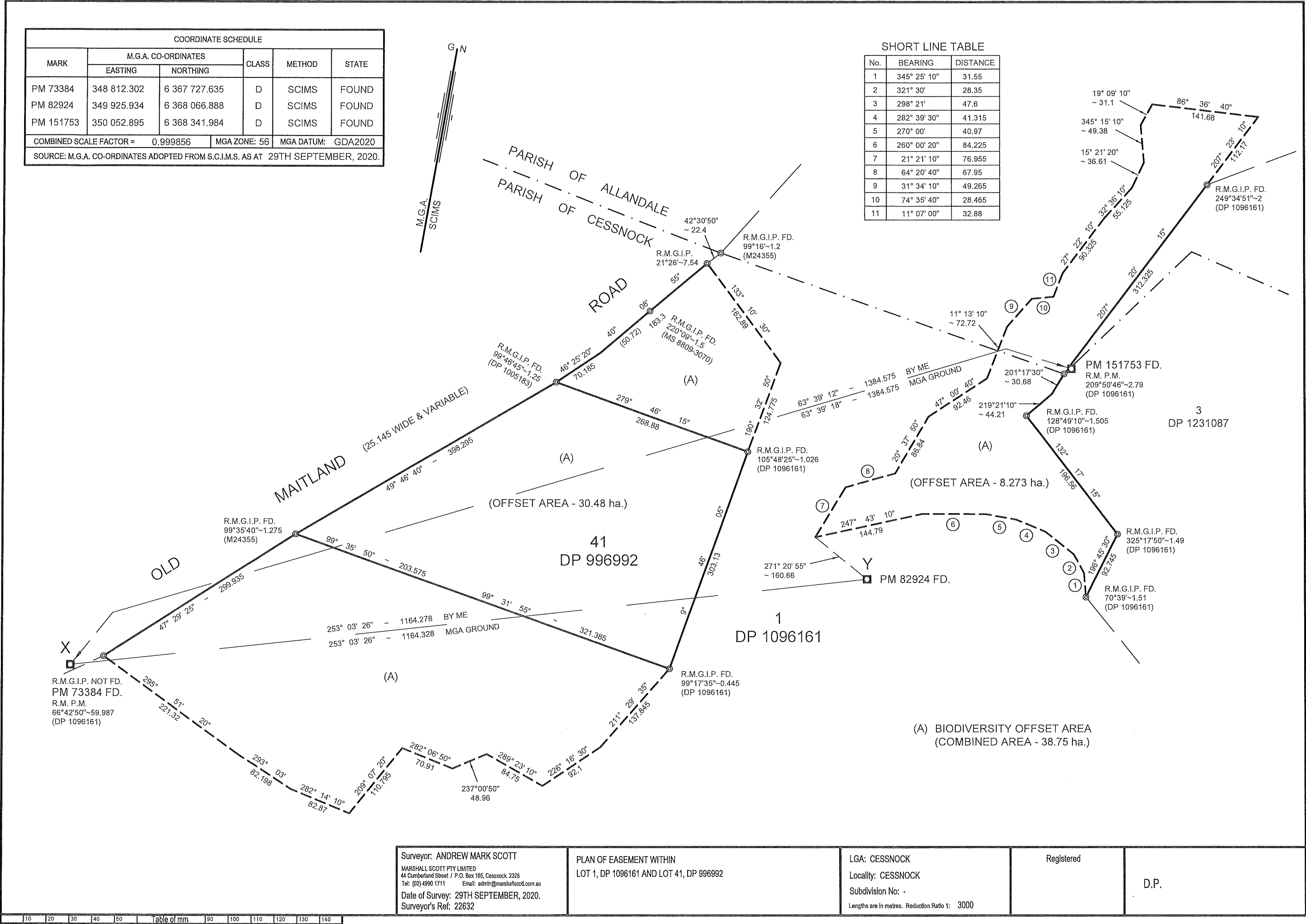
1. Terms of Positive Covenant firstly referred to in the plan:

TERMS BY OTHERS

DRAFT

COORDINATE SCHEDULE					
MARK	M.G.A. CO-ORDINATES		CLASS	METHOD	STATE
	EASTING	NORTHING			
PM 73384	348 812.302	6 367 727.635	D	SCIMS	FOUND
PM 82924	349 925.934	6 368 066.888	D	SCIMS	FOUND
PM 151753	350 052.895	6 368 341.984	D	SCIMS	FOUND
COMBINED SCALE FACTOR = 0.999856 MGA ZONE: 56 MGA DATUM: GDA2020					
SOURCE: M.G.A. CO-ORDINATES ADOPTED FROM S.C.I.M.S. AS AT 29TH SEPTEMBER, 2020.					

SHORT LINE TABLE		
No.	BEARING	DISTANCE
1	345° 25' 10"	31.55
2	321° 30'	28.35
3	298° 21'	47.6
4	282° 39' 30"	41.315
5	270° 00'	40.97
6	260° 00' 20"	84.225
7	21° 21' 10"	76.955
8	64° 20' 40"	67.95
9	31° 34' 10"	49.265
10	74° 35' 40"	28.465
11	11° 07' 00"	32.88



Surveyor: ANDREW MARK SCOTT  
MARSHALL SCOTT PTY LIMITED  
44 Cumberland Street / P.O. Box 185, Cessnock, 2325  
Tel: (02) 4990 1711 Email: admin@marshallscott.com.au  
Date of Survey: 29TH SEPTEMBER, 2020.  
Surveyor's Ref: 22632

PLAN OF EASEMENT WITHIN  
LOT 1, DP 1096161 AND LOT 41, DP 996992

LGA: CESSNOCK  
Locality: CESSNOCK  
Subdivision No: -  
Lengths are in metres. Reduction Ratio 1: 3000

Registered

D.P.



1. **Terms of Positive Covenant firstly referred to in the plan:**

**Background**

- A. Development consent to development application DA 8/2009/192/1 was granted on 9 June 2010 by Council for a landfill extension of Cessnock Waste & Reuse Centre (**Development Consent**).
- B. Schedule 2 of the Development Consent contains the general terms of approval by the then Department of Environment and Climate Change NSW. Clause 19 of that Schedule of the Development Consent provides as follows:
19. *The DECCW requires further information regarding the proposed biodiversity offset area, including the following specific requirements:*
- a. *A detailed habit/ offset [sic] package must be prepared for the site and be submitted to the DECCW for review, with the opportunity for the DECCW to make comments and recommendations prior to the commencement of any vegetation clearing ("the Habitat Offset Package").*
  - b. *The Habitat Offset Package must be determined in accordance with the DECCW's 'Principles for the use of biodiversity offsets in NSW ("the offsetting principles").' This document is available on-line at <http://www.environment.nsw.gov.au/biocertification/offsets.htm>.*
  - c. *The Proponent will be required, prior to construction or preparation of the site commencing, to;*
    - i. *Secure the tenure of the offset land in perpetuity of the area identified in a DECCW approved Habitat Offset Package as per offsetting principle 7;*
    - ii. *Have the means of managing the offset land for conservation, as per offsetting principle 6,*
    - iii. *Ensure that the offset comprises appropriate vegetation that meets the requirement of 'like for like' as per offsetting principle 10; and*
    - iv. *Meet all other offsetting principles.*
- C. Schedule 4 of the Development Consent contains the concurrence conditions of the then Department of Environment and Climate Change NSW. Clause 2 of that schedule provides as follows:

**Offsets**

2. *That the proponent is to offer an area of twenty five (25) ha of woody remnant vegetation of Lower Hunter Spotted Gum - Ironbark Woodland LHRF either on site, or within five km of the Cessnock Waste and Reuse Centre. This woody remnant vegetation is to have the same, or better, biodiversity values as the vegetation intended to be cleared on site, including known local threatened species (*Grevillea paniflora* ssp. *Paniflora*) and threatened fauna habitat. This biodiversity offset is to be managed for conservation in perpetuity (see condition 3). The offset area may be included in the Environmental Protection Areas provided all of DECCW's offsetting principles are met. This would ensure that the proposed development results in a net improvement in biodiversity over time.*
- Reason: To ensure that the proposed development would meet the requirements of the 'Principles for the Use of Biodiversity Offsets in NSW',*
3. *That the offset land is secured by an appropriate mechanism. Such mechanisms include:*
- *entry into a Conservation Agreement under section 69 of the National Parks and Wildlife Act, 1974, or*

- *placing a restrictive or positive covenant from sections 88B-E of the Conveyancing Act 1919) on the offset land, or*
- *Entry into a Biobanking Agreement as per Division 2 of the Threatened Species Conservation Act 1995, or*
- *Handing land over to the NPWS Estate with sufficient resources for its management.*

Reason: *To ensure that the offset land is enduring, and protected in perpetuity, and thus provide food and shelter resources for threatened fauna species on site.*

- D. By letter sent to the Council on 23 July 2019, a copy of which is in Schedule 1, the Biodiversity and Conservation Division of the Department of Planning, Industry and Environment (formerly the Office of Environment and Heritage) informed Cessnock City Council that it is satisfied that the Biodiversity Offset Management Plan dated June 2019 meets the requirements of the concurrence conditions of the Development Consent.
- E. This positive covenant under s88D of the Conveyancing Act 1919 is intended to secure the offset land in perpetuity in accordance with the Biodiversity Offset Management Plan, Condition 19 of Schedule 2 of the Development Consent and Conditions 2 and 3 of Schedule 4 of the Development Consent.

## 1 Definitions

### 1.1 In this instrument:

**Asbestos Removalist** means a person licensed as an asbestos removalist, as the case may be, under the *Works Health and Safety Regulation 2017* and approved by the Prescribed Authority.

**Asbestos Survey** means an inspection of a structure to determine whether asbestos is present.

**Biodiversity Offset Management Plan** or **BOMP** means the document titled '*Cessnock Waste Management Centre Biodiversity Offset Management Plan*' dated June 2019 prepared by EcoLogical Australia a copy of which is in the Schedule 2.

**Burdened Lots** means folio identifiers 1/1096161 and 41/996992.

**Bush Regeneration Contractor** means a person approved by the Prescribed Authority that:

- has not less than 3 years' experience in carrying out bush regeneration, and
- has a minimum qualification of TAFE Certificate III in Conservation and Land Management or equivalent, and
- is accredited under the Australian Association of Bush Regenerators, or has completed the necessary prerequisites qualifications and experience in order to qualify for such membership.

**Demolition Contractor** means a person approved by the Prescribed Authority that holds an appropriate demolition licence issued by Safework NSW.

**Ecologist** means a person approved by the Prescribed Authority that:

- has not less than 5 years' experience in working as a professional ecologist, and
- is a '*Certified Practising Ecological Consultant*' through the Ecological Consultants Association of NSW, or has completed the necessary prerequisites qualifications and experience in order to qualify for such membership.

**Landowner** means, in respect of a Burdened Lot, the registered proprietor of the Burdened Lots from time to time and its servants, agents, contractors, successors and assigns.

**Occupational Hygienist** means a person approved by the Prescribed Authority that:

- (a) has not less than 5 years' experience in working as a professional occupational hygienist, and
- (b) is a '*Certified Occupational Hygienist*' member of the Australian Institute of Occupational Hygienist, or has completed the necessary prerequisites qualifications and experience in order to qualify for such membership.

**Offset Land** means the part of the Burdened Lots shown marked as '(A) *Biodiversity Offset Area*' on the plan.

**Prescribed Authority** means Cessnock City Council and its servants, agents, contractors, successors and assigns.

**Season** means spring (1 September to 30 November), summer (1 December to end of February), autumn (1 March to 31 May) or winter (1 June to 31 August) season, as the case may be.

1.2 In the interpretation of this instrument, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this instrument.
- (b) A reference in this instrument to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- (c) If the day on which any act, matter or thing is to be done under this instrument is not a business day, the act, matter or thing must be done on the next business day.
- (d) A reference in this instrument to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
- (e) A reference in this instrument to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (f) A reference in this instrument to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (g) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this instrument.
- (h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (j) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (k) References to the word 'include' or 'including' are to be construed without limitation.

- 1.3 In the event of any inconsistency between the terms of this positive covenant, the BOMP, the terms of this positive covenant prevails.

## **2 Installation of informational signage**

- 2.1 Within the first Season after the registration of this positive covenant, the Landowner is to install information signage around the Offset Land in such locations and containing such information as determined by the Prescribed Authority from time to time in accordance with clause 3.1.1 of the BOMP.
- 2.2 The Landowner is to maintain, or procure the maintenance of, the informational signage installed pursuant to clause 2.1 of this covenant in an operational manner at all times.

## **3 Initial weed control**

- 3.1 The Landowner is to carry out, or procure the carrying out of, weed control within the parts of the Offset Land referred to in clause 3.2.1 of the BOMP in accordance with clause 3.2.1 and Part 4 of the BOMP during:
- (a) the first Season after the registration of this positive covenant, and
  - (b) the third Season after the registration of this positive covenant.
- 3.2 All weed control carried out under clause 3.1 of this covenant is to be carried out by a Bush Regeneration Contractor.
- 3.3 Ongoing weed control is to be carried out in accordance with clause 8 of this covenant.

## **4 Dumped rubbish removal**

- 4.1 Promptly upon registration of this positive covenant the Landowner is to engage an Ecologist for the purpose of this clause and procure the Ecologist to prepare a schedule for removing existing dumped rubbish from the parts of the Offset Land referred to in clause 3.2.2 of the BOMP in accordance with clause 3.2.2 and Part 4 of the BOMP.
- 4.2 If the Landowner is not the Prescribed Authority, the Landowner is to provide the Prescribed Authority with a copy of the report prepared by the Ecologist promptly after being provided with a copy of the report by the Ecologist.
- 4.3 The Landowner is to remove, or procure the removal of, the dumped rubbish from those parts of the Offset Land in accordance with the schedule referred to in clause 4.1 of this covenant, and clause 3.2.2 and Part 4 of the BOMP.
- 4.4 All rubbish removed pursuant to this clause 4 of this covenant is to be disposed of at a licensed landfill facility.

## **5 Scattered rubbish removal**

- 5.1 Within the first Season after registration of this covenant, the Landowner is to:
- (a) remove the majority of scattered rubbish from the part of the Offset Land referred to in clause 3.2.3 of the BOMP in accordance with clause 3.2.3 and Part 4 of the BOMP, and
  - (b) install approximately 690m of permanent fencing in accordance with clause 3.2.3 and Part 4 of the BOMP
- 5.2 Prior to the first anniversary of the registration of this covenant, the Landowner is to remove any remaining scattered rubbish from the part of the Offset Land referred

to in clause 3.2.3 of the BOMP in accordance with clause 3.2.3 and Part 4 of the BOMP

- 5.3 On the fourth anniversary and thereafter every three years, the Landowner is to remove any scattered rubbish from the part of the Offset Land referred to in clause 3.2.3 of the BOMP in accordance with clause 3.2.3 and Part 4 of the BOMP.
- 5.4 The Landowner is to maintain, or procure the maintenance of, the permanent fencing installed pursuant to clause 5.1(b) of this covenant in an operational manner at all times.

## **6 Removal of existing abandoned house**

- 6.1 Promptly upon registration of this positive covenant, the Landowner is to engage an Occupational Hygienist and an Ecologist and instruct:
  - (a) the Occupational Hygienist to undertake an Asbestos Survey of the existing abandoned house within the Offset Land referred to in clause 3.2.4 of the BOMP, and
  - (b) the Occupational Hygienist, in consultation with the Ecologist, to prepare a plan for the removal of the abandoned house within 2 years of the registration of the positive covenant in accordance with clause 3.2.4 and Part 4 of the BOMP.
- 6.2 If the Landowner is not the Prescribed Authority, the Landowner is to provide the Prescribed Authority with a copy of the report of the Asbestos Survey and plan for removal of the abandoned house prepared by the Occupational Hygienist, in consultation with the Ecologist after being provided with a copy of the report by them.
- 6.3 The Landowner is to procure the removal of the abandoned house by a Demolition Contractor in accordance with the plan for removal of the abandoned house referred to in clause 6.1(b) of this covenant and clause 3.2.4 and Part 4 of the BOMP and if necessary, is to engage an Asbestos Removalist in respect of that removal.

## **7 Passive management**

- 7.1 Within 3 months of the registration of this positive covenant, the Landowner is to engage an Ecologist to:
  - (a) carry out an inspection of parts of the Offset Area referred to in clause 3.2.5 of the BOMP in accordance with clause 3.2.5 of the BOMP to identify to the fullest extent reasonably possible:
    - (i) any additional or potential areas of priority or general weeds, and
    - (ii) potential erosion issues, and
    - (iii) feral animal presence, and
    - (iv) illegal activity, and
  - (b) prepare a report on whether any weed control is required for that part of the Offset Area and if so, the details and frequency of any such weed control so as to comply with Part 4 of the BOMP.
- 7.2 If the Landowner is not the Prescribed Authority, the Landowner is to provide the Prescribed Authority with a copy of the report prepared by the Ecologist promptly after being provided with a copy of the report by the Ecologist.
- 7.3 The Landowner is to carry out, or procure the carrying out of, the weed control in accordance with the report prepared by an Ecologist.
- 7.4 All weed control carried out under clause 7 of this covenant is to be carried out by a Bush Regeneration Contractor.

- 7.5 Ongoing weed control is to be carried out in accordance with clause 8 of this covenant.

## **8 Ongoing maintenance of weed control**

- 8.1 On the first and fourth anniversary of the registration of this positive covenant and every three years thereafter, the Landowner is to engage an Ecologist to carry out inspections of the Offset Land to:
- (a) identify to the fullest extent reasonably possible:
    - (i) any existing, additional or potential areas of priority or general weeds, and
    - (ii) potential erosion issues, and
    - (iii) feral animal presence, and
    - (iv) illegal activity, and
  - (b) prepare a report on the details and frequency of the ongoing weed control for those areas in accordance with clause 3.3 of the BOMP so as to comply with Part 4 of the BOMP.
- 8.2 If the Landowner is not the Prescribed Authority, the Landowner is to provide the Prescribed Authority with a copy of the report prepared by the Ecologist promptly after being provided with a copy of the report by the Ecologist.
- 8.3 The Landowner is to carry out, or procure the carrying out of, the weed control during spring or summer (or both) in accordance with the report prepared by an Ecologist.
- 8.4 All weed control carried out under clause 8 of this positive covenant is to be carried out by a Bush Regeneration Contractor.

## **9 Permanent fencing**

- 9.1 Within 1 year of the registration of this positive covenant, the Landowner is to install permanent fencing along the boundary of the Offset Land in accordance with clause 3.4 of the BOMP.
- 9.2 The fencing to be installed pursuant to clause 9.1 of this covenant is to prevent deer from entering the Offset Land (in accordance with clause 3.5 of the BOMP) and be either:
- (a) bollards with wire rope and three strand plain wire fence which allow for fauna movement but restrict access of motorised vehicles, or
  - (b) the type of fencing referred to in clause 3.2.3 of the BOMP.
- 9.3 The Landowner is to maintain, or procure the maintenance of, the permanent fencing installed pursuant to clause 9.1 of this covenant in an operational manner at all times.
- 9.4 All fencing installed under this clause 9 is to be installed and maintained by an appropriately qualified civil construction contractor approved by the Prescribed Authority.

## **10 Monitoring and reporting**

- 10.1 On the first, second and fourth anniversary of the registration of this positive covenant and every three years thereafter, the Landowner is to engage an Ecologist or Bush Regeneration Contractor to:
- (a) carry out monitoring and surveying of the Offset Land in accordance with clause 5.1 of the BOMP, and

- (b) prepare reports on the results of the monitoring and a description of the works that have been undertaken on the Offset Land in accordance with clause 5.2 of the BOMP.
- 10.2 The Landowner is to provide the Prescribed Authority with a copy of the report prepared by the Ecologist promptly after being provided with a copy of the report by the Ecologist.

## **11 Review of BOMP**

- 11.1 The Prescribed Authority may review the BOMP every 5 years.
- 11.2 If:
  - (a) on review of a report prepared an Ecologist under clauses 7 or 10 of this positive covenant or the BOMP or both the Prescribed Authority considers that an amendment to the BOMP is required to ensure the Offset Land is effectively managed and to ensure that any unforeseen issues, such as but not limited to new weed infestations, are dealt with, or
  - (b) the BOMP is otherwise amended for any reason,then the Prescribed Authority may direct such amendment and the Landowner and the Prescribed Authority are to register such further instruments on the title to the Offset Land as are necessary to replace this positive covenant to give effect to the amended BOMP.

## **12 Access to Offset Land**

- 12.1 The Landowner is to permit the Prescribed Authority to enter the Burdened Lots and the Offset Land at reasonable times to enable the Prescribed Authority to carry out any monitoring, investigation and enforcement of the terms of this covenant provided the Prescribed Authority has given the Landowner reasonable prior notice of such access.

## **13 Name of persons empowered to release vary or modify positive covenant**

Cessnock City Council

## Schedule 1 – Letter from Biodiversity and Conservation Division of Department of Planning, Industry and Environment



Planning,  
Industry &  
Environment

Mr Michael Alexander

Environment and Waste Manager  
Cessnock City Council  
[council@cessnock.nsw.gov.au](mailto:council@cessnock.nsw.gov.au)

Our ref: DOC19/580748-1

Your ref: DA 8/2009/192/1

File: EF14/1140

Dear Mr Alexander

### **Biodiversity Offset for Landfill Extension Project at Cessnock Waste Management Centre**

I refer to the e-mail dated 5 July 2019 in which Cessnock City Council (Council) asked the Biodiversity and Conservation Division (BCD) of the Department of Planning, Industry and Environment (DPIE) (formerly the Office of Environment and Heritage) to review the updated Biodiversity Management Plan (BMP) for the Cessnock Landfill Extension Project (DA 8/2009/192/1). The BMP is a requirement of DA consent condition 19 and the condition of the concurrence issued by BCD on 21 May 2010. The BMP was updated in response to BCD's review of the draft version, for which BCD provided suggested changes in a letter dated 29 April 2019.

Your e-mail included a copy of the updated BMP - *Cessnock Waste Management Centre Biodiversity Offset Management Plan: prepared for Cessnock City Council, June 2019* prepared by EcoLogical Australia. BCD has reviewed the revised BMP and is satisfied that it addresses matters raised in our letter dated 29 April 2019, and that it meets the requirements of BCD's concurrence conditions.

If you require any further information regarding this matter, please contact Robert Gibson, Regional Biodiversity Conservation Officer, on 4927 3154 or via email at [rog.hcc@environment.nsw.gov.au](mailto:rog.hcc@environment.nsw.gov.au)

Yours sincerely

A handwritten signature in black ink, appearing to read 'B Mee'.

**BRENDAN MEE**  
A/Senior Team Leader Planning  
Hunter Central Coast Branch  
Biodiversity and Conservation Division



## Schedule 2 – Biodiversity Offset Management Plan



### Cessnock Waste Management Centre Biodiversity Offset Management Plan

Prepared for  
Cessnock City Council

June 2019



## DOCUMENT TRACKING

Item	Detail
Project Name	Cessnock Waste Management Centre Biodiversity Offset Management Plan
Project Number	18NEW-11010
Project Manager	Lily Gorrell 02 4910 3401 Suite 28 & 29, Level 7, 19 Bolton Street Newcastle, NSW, 2300
Prepared by	Sarah Stevens and Lily Gorrell
Reviewed by	Gordon Patrick, Martin Sullivan, Alexander Pursche and Sophie Powrie
Approved by	Sophie Powrie
Status	FINAL
Version Number	2
Last saved on	27 June 2019
Cover photo	Spotted Gum Ironbark Forest – Transect 1

This report should be cited as 'Eco Logical Australia May 2019. *Cessnock Waste Management Centre Biodiversity Offset Management Plan*. Prepared for Cessnock City Council.'

## ACKNOWLEDGEMENTS

This document has been prepared by Eco Logical Australia Pty Ltd.

### Disclaimer

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Template 2000/2016

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## Abbreviations

Abbreviation	Description
BC Act	<i>Biodiversity Conservation Act 2016</i>
BOMP	Biodiversity Offset Management Plan
CCC	Cessnock City Council
CPI	Consumer Price Index
EEC	Endangered Ecological Community
ELA	Eco Logical Australia
EPBC Act	<i>Environmental Protection and Biodiversity Conservation Act 1999</i>
GST	Goods and services Tax
LHSGIF	Lower Hunter Spotted Gum Ironbark Forest
LGA	Local Government Area
MM	Mandatory Measure
PCT	Plant Community Type
TEC	Threatened Ecological Community
WoNS	Weed of National Significance

# 1 Introduction

This Biodiversity Offset Management Plan (BOMP) has been prepared by Eco Logical Australia Pty Ltd (ELA) on behalf of Cessnock City Council (CCC) for the in-perpetuity management of two parcels of land (the subject site) as offset sites as part of the proposed extension to the Cessnock Waste Centre.

## 1.1 Background

The subject site is made up of two parcels of land, the larger and most western parcel is located adjacent to Old Maitland Road and is approximately 30.1 ha while the smaller parcel is located to the north east in a neighbouring lot approximately 8.3 ha in size. The total area of the site is 38.4 ha and is bounded by bushland to the east, the operating Cessnock Landfill site to the south-west and Old Maitland Road to the west (Figure 1).

Following recommendations by ELA in 2018, CCC will place a restrictive or positive covenant from Sections 88B-E of the Conveyancing Act 1919 across the subject site. This BOMP has been prepared to support the net improvement of biodiversity values over time on this land in accordance with the Concurrence Conditions issued by the NSW Office of Environment and Heritage (OEH) on the 25 May 2010.

The Concurrence Conditions stated that an offset is required and was to comprise 25 hectares (ha) of the Endangered Ecological Community (EEC) *Lower Hunter Spotted Gum Ironbark Forest* (LHSGIF), presence of the threatened flora species *Grevillea parviflora* subsp. *parviflora* (Small-flowered Grevillea) and habitat for threatened microbats.

ELA has undertaken four (4) vegetation integrity plots across the subject site in accordance with the Biodiversity Assessment Method (BAM), and compared this data against the criteria in the NSW Scientific Committee final determination for the LHSGIF EEC. Based on surveys and analysis of data against the criteria, Council can meet the offset requirements of 25 hectares (ha) of LHSGIF, as across the two sites a total of 29.4 ha of this community is present which exceeds the target of 25 ha. The offset requirement also stipulates that *G. parviflora* subsp. *parviflora* must be present to offset the proposed development and this has also been met with a total of 23 individuals recorded (Figure 2).

Additionally, as part of meeting Concurrence condition 2, the biodiversity offset must meet OEH's 13 offsetting principles to ensure the development results in a net improvement in biodiversity over time. Justification against each of the 13 offsetting principles is presented in **Appendix A**.

## 1.2 Objectives of the BOMP

The overall objectives of the BOMP are to protect existing native vegetation and fauna habitat from any current and future disturbances such as:

- vehicle tracks specifically from illegal motor vehicles
- fauna pest species including observed deer and pigs
- weed encroachment - control current low weed levels as well as establish ongoing site monitoring
- rubbish dumping - seek to remove rubbish from both illegal dumping as well as that which naturally transports from the neighbouring waste depot to the south via wind and animal movements.

The objectives for the BOMP are summarised in Table 1.

Table 1: BOMP Objectives

Objectives	Approach
Maintain and enhance habitat values	<ul style="list-style-type: none"> <li>• Protect existing native vegetation, threatened species and their habitat</li> <li>• Control of priority and environmental weeds and prevent new infestations</li> <li>• Assist in the natural regeneration of species across the BOMP area</li> </ul>
Control priority and environmental weeds and prevent new infestations	<ul style="list-style-type: none"> <li>• Primary and maintenance weed control</li> </ul>
Protect existing natural areas from the current and potential disturbances	<ul style="list-style-type: none"> <li>• Provision of protection fencing and signage</li> </ul>

### 1.3 Implementation of works

Weed management works are to be implemented by experienced bush regeneration contractors with team leaders having a minimum TAFE Certificate III in Land Management and membership of the Australian Association of Bush Regenerators (or having the necessary prerequisite qualifications and experience for membership).



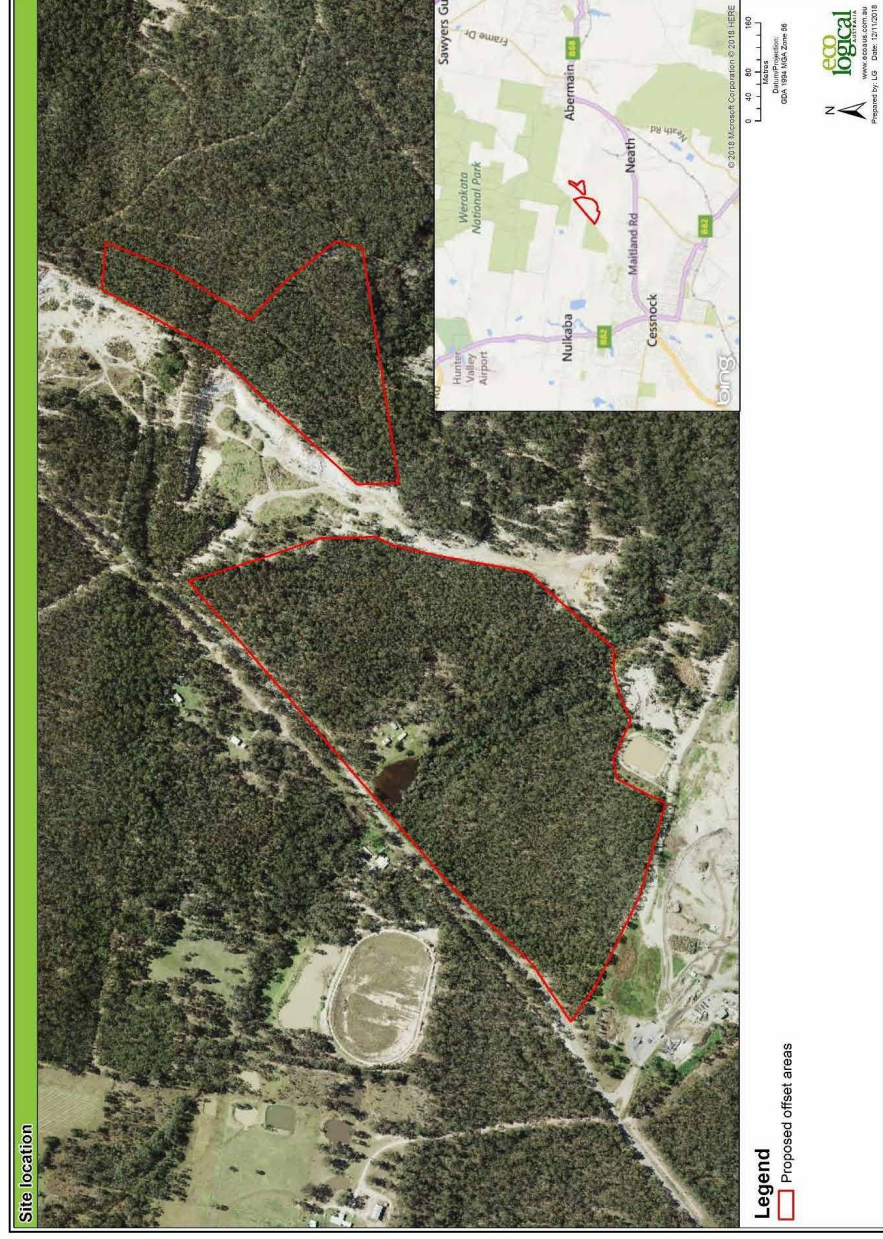


Figure 1: Location of subject site



## 2 Description of the environment

### 2.1 Location

The site is approximately 50 km north-west of Newcastle, NSW within the town and Local Government Area (LGA) of Cessnock (Figure 1). The total area of the site is 38.7 ha and is bounded by bushland to the east, the operating Cessnock Landfill site to the south-west and Old Maitland Road to the west.

### 2.2 Drainage and hydrology

An ephemeral wetland and ephemeral stream crosses the centre of the larger portion of land running in an east west direction (Figure 2).

### 2.3 Vegetation

The site comprises large areas of relatively intact regrowth native vegetation, disturbed areas such as bike and vehicle tracks, and a cleared area with an old house, gardens, sheds, burnt shipping containers and several piles of dumped rubbish.

Three Plant Community Types (PCTs) occur within the subject site (**Table 2**) with the majority (29.4 ha) comprising of the PCT 1593 – *Red Ironbark - Spotted Gum - Prickly-leaved Paperbark shrubby open forest of the Lower Hunter*. Along the creek line, the vegetation conforms to the PCT 1598 - *Forest Red Gum grassy open forest on floodplains of the lower Hunter*. Two smaller areas comprise of the PCT 1629 - *Narrow-leaved Stringybark - Grey Gum shrubby open forest on sandstone ranges of the Sydney Basin*.

**Table 2: Plant Community Types**

PCT number	PCT name	Dominant species	BC Act	EPBC Act	Area
1593	<i>Red Ironbark - Spotted Gum - Prickly-leaved Paperbark shrubby open forest of the Lower Hunter</i>	<i>Corymbia maculata</i> (Spotted Gum) and <i>Eucalyptus fibrosa</i> (Red Ironbark); <i>Bursaria spinosa</i> (Sweet Bursaria), <i>Melaleuca nodosa</i> (Prickly-leaved Paperbark) and <i>Persoonia linearis</i> (Narrow-leaved Geebung); <i>Aristida vagans</i> (Three awned Speargrass), <i>Entolasia stricta</i> (Wiry Panic), <i>Lepidosperma laterale</i> (Variable Sword sedge) <i>Dianella revoluta</i> (Blueberry lily), <i>Cheilanthes sieberi</i> (Poison Rock Fern) and <i>Lomandra multiflora</i> (Many-flowered Mat-rush).	Lower Hunter Spotted Gum – Ironbark Forest in the Sydney Basin Bioregion	No	29.4
1598	<i>Forest Red Gum grassy open forest on floodplains of the lower Hunter</i>	<i>Eucalyptus tereticornis</i> (Forest Red Gum) and <i>E. punctata</i> , <i>Breynia oblongifolia</i> (Coffee Bush), <i>Leucopogon</i>	Hunter Lowland Redgum Forest in the Sydney Basin and New South	No	4.1

		<i>juniperinus</i> (Prickly Beard-heath), <i>Daviesia ulicifolia</i> (Gorse Bitter Pea); <i>Pteridium esculentum</i> , <i>Microlaena stipoides</i> var. <i>stipoides</i> (Forest Weeping Grass), <i>Pratia purpurascens</i> (Whiteroot), <i>L. multiflora</i> , <i>Cymbopogon refractus</i> (Barbed Wire Grass)	Wales North Coast Bioregions		
1629	Narrow-leaved Stringybark - Grey Gum shrubby open forest on sandstone ranges of the Sydney Basin	<i>E. punctata</i> (Grey Gum), <i>Eucalyptus sparsifolia</i> (Narrow-leaved Stringybark), <i>P. linearis</i> , <i>Podolobium ulicifolium</i> (Prickly Shaggy-pea), <i>Exocarpos strictus</i> (Dwarf cherry), <i>E. stricta</i> , <i>L. laterale</i> and <i>D. revoluta</i>	No	No	3.7

It is considered that PCT 1593 conforms with 'Lower Hunter Spotted Gum - Ironbark Forest in the Sydney Basin Bioregion' (LHSGIF) which is listed as an EEC under the BC Act (**Figure 2**). In confirming this, four (4) vegetation integrity plots were undertaken in accordance with the Biodiversity Assessment Method (BAM) (**Figure 3**). The results of this survey can be found in **Appendix B** and **Appendix C**. This plot data was then compared against the criteria in the NSW Scientific Committee final determination for the EEC. The justification of presence of this EEC is outlined in **Section 2.5**.

#### 2.4 Lower Hunter Spotted Gum - Ironbark Forest LHSGIF

Lower Hunter Spotted Gum – Ironbark Forest in the Sydney Basin Bioregion is the name given to the ecological community that occurs principally on Permian geology in the central to lower Hunter Valley (OEH 2016). The community is strongly associated with, though not restricted to, the yellow podsolic and solodic soils of the Lower Hunter soil landscapes of Aberdare, Branxton and Neath (OEH 2016).

This community is restricted to a range of approximately 65 km by 35 km centred on the Cessnock - Beresfield area in the Central and Lower Hunter Valley and remnants occur within the Local Government Areas of Cessnock, Maitland, Singleton, Lake Macquarie, Newcastle and Port Stephens but may also occur elsewhere within the bioregion (OEH 2016) (**Figure 4**).

This community is dominated by *Corymbia maculata*, (Spotted Gum) and *Eucalyptus fibrosa* (Broad-leaved Ironbark), while *E. punctata* (Grey Gum) and *E. crebra* (Grey Ironbark) occur occasionally. The understorey is marked by the tall shrub, *Acacia parvipinnula*, and by prickly shrubs, *Daviesia ulicifolia*, *Bursaria spinosa*, *Melaleuca nodosa* and *Lissanthe strigosa*. The ground layer is diverse; frequent species include *Cheilanthes sieberi*, *Cymbopogon refractus*, *Dianella revoluta*, *Entolasia stricta*, *Glycine clandestina*, *Lepidosperma laterale*, *Lomandra multiflora*, *Microlaena stipoides*, *Pomax umbellata*, *Pratia purpurascens*, *Themeda triandra* and *Phyllanthus hirtellus*.

#### 2.5 Justification against criteria in the NSW Scientific Committee final determination for LHSGIF

The subject site is located within the Sydney Basin Bioregion in Cessnock City Council LGA which occurs within the Lower Hunter Valley. The LHSGIF present within the subject site occurs on moderately fertile

soils and comprises a significant proportion of characteristic canopy, mid-layer and ground-layer species as outlined in the final determination. The species list has been compared against those species recorded in each of the four plots as a comparison and is presented in **Appendix B**. From this comparison, Plot one comprised 16 characteristic species from the final determination, Plot two comprised 20 characteristic species, plot three comprised 10 characteristic species and plot four comprised 26 characteristic species. A total list of all species recorded within each of the plots can be found in **Appendix B** and plot photographs can be found in **Appendix D**.

Based on the above characteristics, including location, soil type and key characteristic species, it is considered that the subject site comprises the LHSIGF EEC (**Figure 3; Figure 4**).

## 2.6 Threatened species

Three threatened species have been recorded across the subject site including *Grevillea parviflora* subsp. *parviflora* (Small-flowered Grevillea), *Rutidosia heterogama* (Heath Wrinklewort) and *Callistemon linearifolius* (Netted Bottlebrush) (Figure 2).

## 2.7 Weeds

Nine weed species were observed within the subject site, and a small area just outside the north eastern edge of the larger portion of land, of which two are listed as Weeds of National Significance (WoNS) and one is listed under Local Land Service Hunter Regional Strategic Weed Management Plan 2017-2022.

**Table 2** provides details in regard to: the priority weeds present; their corresponding biosecurity duty under the NSW *Biosecurity Act 2015*; and whether they are Weeds of National Significance (WoNS).

**Table 3: Significant weeds present in the study area**

Scientific name	Common name	Biosecurity duty	WoNS
<i>Camphora cinnamomum</i>	Camphor Laurel	Additional Species of Concern	-
<i>Opuntia stricta</i>	Common Prickly Pear	-	Yes
<i>Senecio madagascariensis</i>	Fireweed	Asset Protection, MM, Additional Species of Concern	Yes

MM - Mandatory Measure (Asset Protection): A person must not, import into the State or sell. Additional Species of Concern - Species that are of concern to the Hunter community of high priority for a number of current programs, though not feasible to eradicate.

## 2.8 Riparian assessment

### 2.8.1 Hydrology and physical form

The ephemeral wetland and water course located onsite is classified as a first order stream under the Strahler Stream classification (Figure 2). The source of the un-named ephemeral creek drains from the slightly elevated areas in the east of the subject site and adjacent lands, flowing to the west to Black Creek and finally to the Hunter River further north west. Within this area the watercourse comprises grass and sedges and flows west across the site.

### 2.8.2 Water quality and aquatic habitat

At the time of survey there was no the water in the ephemeral creek and wetland area, although one constructed dam was observed just east of the watercourse and wetland with shallow clear water (**Plate 1**). No aquatic fauna were observed.

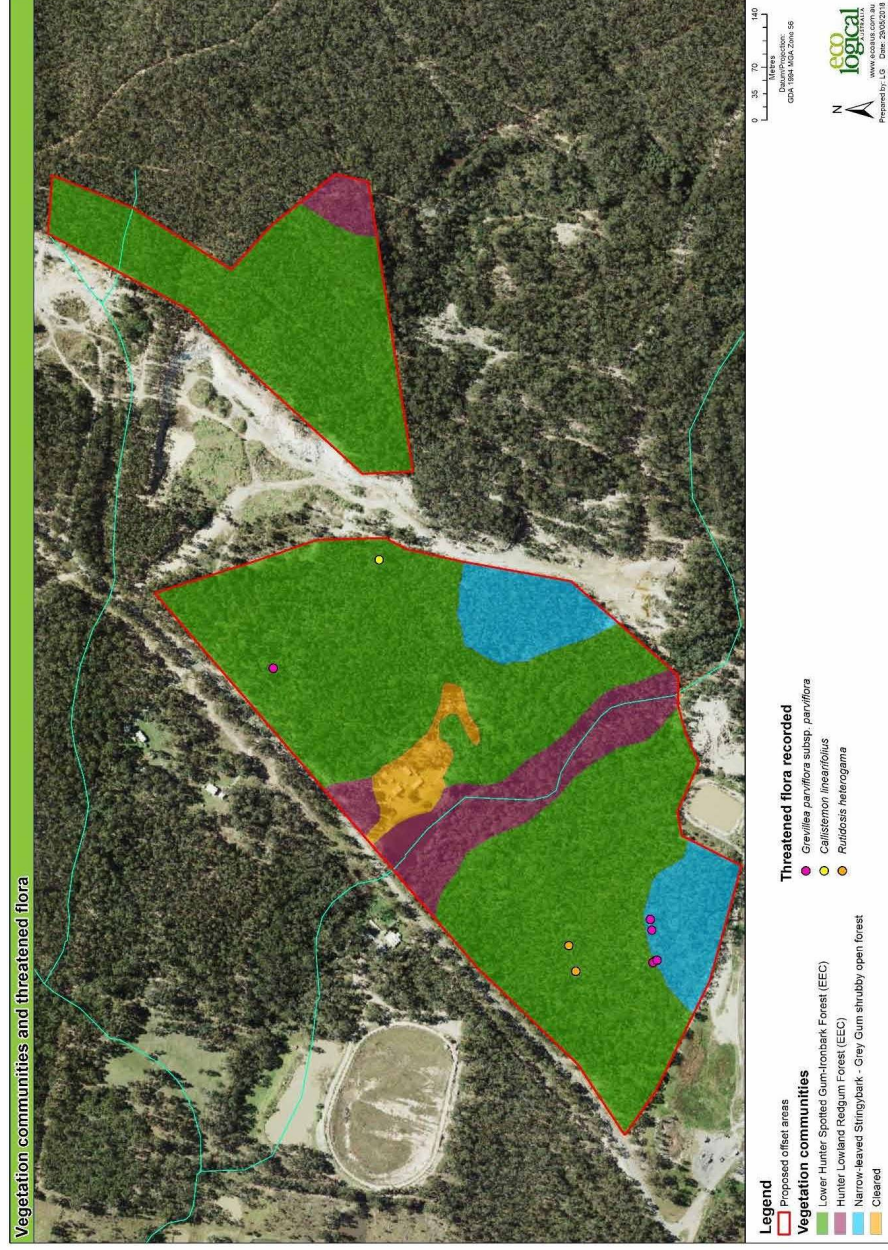


Figure 2: Vegetation communities and threatened flora



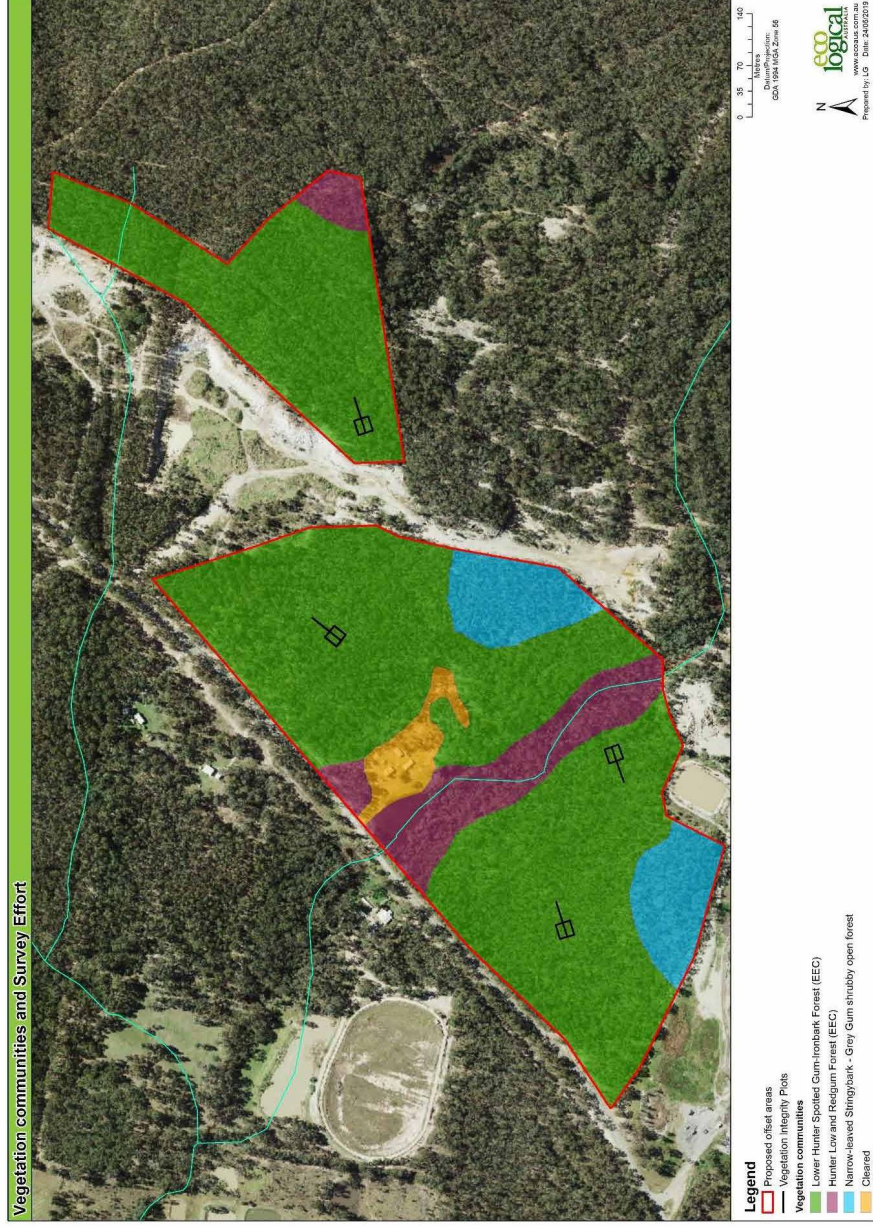


Figure 3: Vegetation communities and survey plots

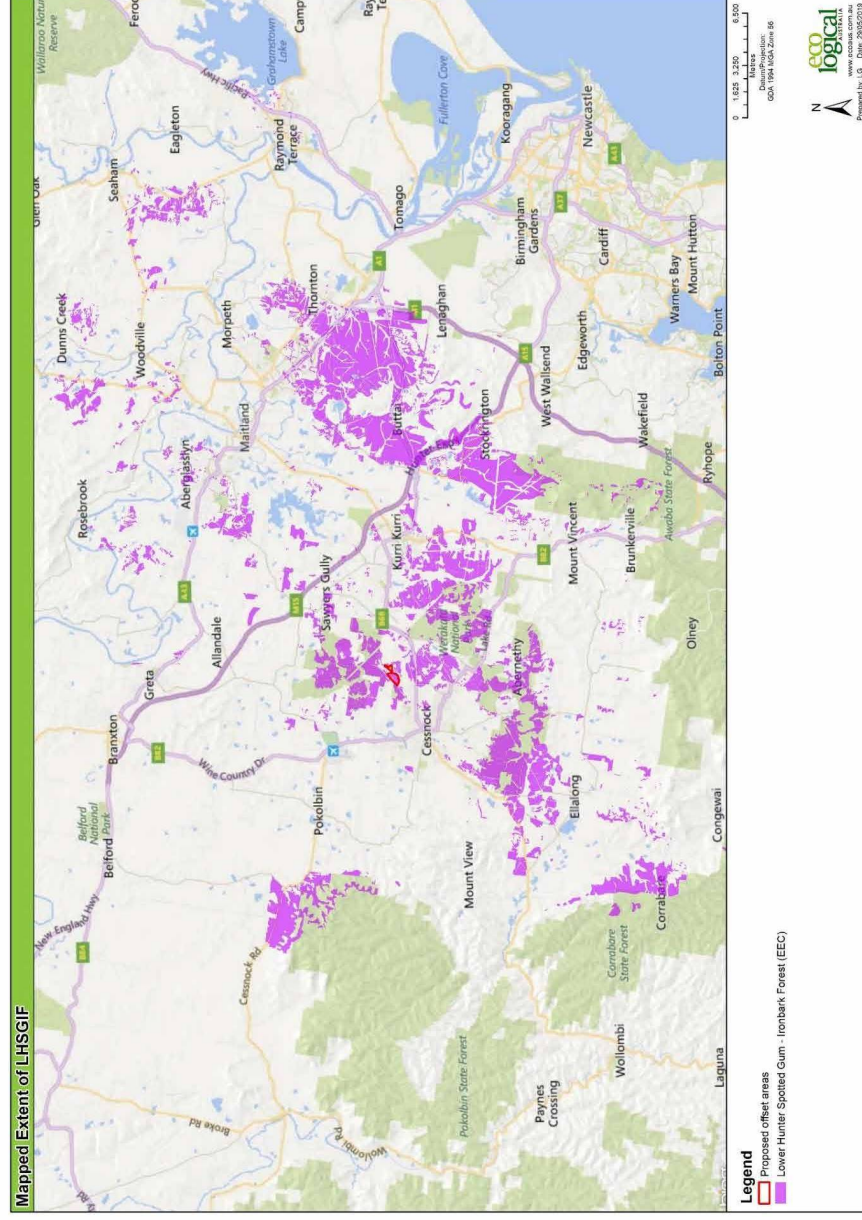


Figure 4: Mapped extent of LHSGIF in relation to the subject site





**Plate 1: Constructed dam located adjacent and to the east of the natural watercourse**

### 3 Management works

#### 3.1.1 Informational signage

It is recommended that informational signage be installed around the site as needed, to convey the conservation works that are being undertaken and the final strategy for the site. The exact information and location of these signs will be determined during management works and decided by CCC. At a minimum, signage (placed at all site access points) should identify that the subject site is being managed for conservation purposes. Further signage may include permanent signs describing the natural values of the site and surrounding area. Interpretive signage could contain similar to the following:

*'Sensitive Area – this bushland contains threatened species. The vegetation within the community association property is protected. Firewood collection, motor vehicles, picking of native flowers and dumping of garden and general waste are prohibited.'*

#### 3.2 Vegetation management zones

The total BOMP area is approximately 38.7 ha and encompasses all vegetated and cleared areas within both parcels of land. The entire subject site has been zoned into five proposed management zones with minimal though varied management actions applied to achieve the objectives identified in **Section 2.2**.

- Zone 1 – Weed control
- Zone 2 – Dumped rubbish removal
- Zone 3 – Scattered rubbish removal
- Zone 4 – House site removal
- Zone 5 – Passive management

##### 3.2.1 Zone 1 – Weed control

Zone 1 comprises of a series of prioritised weed locations that have been categorised according to their National and State listing and consist of four categories (1-4) (Figure 5). The identified weed management locations, eight in total, are minimal in area with the largest patch only approximately 50 m<sup>2</sup>. These weed locations are found largely within the cleared area surrounding the abandoned house, scattered along the southern edge and just outside the north east border of the larger parcel of land. The highest priority weed shown in Figure 5 (labelled '1') includes one established *Cinnamomum camphora* (Camphor Laurel) tree next to the house. This species will need to be treated using a non-selective herbicide with a chisel / drill and fill method and removed offsite to a licensed landfill or greenwaste recycling facility.

The next weed category (labelled '2'; Figure 5) includes a patch approximately 25 m<sup>2</sup> of *Opuntia stricta* (Common Prickly Pear) located slightly outside the larger parcel of BOMP area. Although this species is not quite within the offset area, ELA strongly recommend the small patch is treated and removed as an effective preventative action of this State and Nationally listed species spreading into the nearby offset area. The recommended treatment is manual hand removal of all underground material as well as above ground plant segments as all parts of this species are reproductive. All plant material must be bagged and removed offsite. This species can also be hand sprayed with Diesel and a surfactant (pers comms. Gordon Patrick) during the most active growing time between October to May, however hand removal is the most effective control due to the minimal patch size on site.



The next weed category (labelled '3'; Figure 5) includes the State and Nationally listed *Senecio madagascariensis* (Fireweed) as well as several other general weeds including *Andropogon virginicus* (Whiskey Grass), *Cirsium vulgare* (Spear Thistle) (**Plate 2**), *Gomphocarpus fruticosus* (Narrow-leaved Cotton Bush), *Rumex* sp. (Dock), *Solanum mauritianum* (Wild Tobacco) and *Verbena bonariensis* (Purpletop).



**Plate 2: Spear Thistle patch along site edge neighbouring the waste facility to the south west**

These weed species need a variety of treatments including hand pulling due to the small numbers, spot spraying and cut and paint using non-selective herbicide.

The final weed category (labelled '4'; Figure 5) includes two garden weeds: *Lagerstroemia* sp. (Crepe Myrtle) (Plate 3) and *Clivia* sp. (Bush Lily). These are located at the entrance of the abandoned house and were originally planted for aesthetic / landscaping purposes. Treatment for these species includes manual hand removal underground bulbs and cut and paint methods, however, both species are of least risk to the surrounding environment therefore focus should be put on the preceding weed categories listed above.

Weed control works will aim to increase resilience and diversity of the surrounding native vegetation with minimal disturbance and reduce the spread of priority and non-priority weeds across the site and to surrounding properties.



**Plate 3: Two individual Crepe Myrtle shrubs in house garden area**

### **3.2.2 Zone 2 – Dumped rubbish removal**

Zone 2 incorporates six individual locations where excessive and illegal rubbish dumping is present. The rubbish within these locations will need to be strategically removed over time to directly increase biodiversity and native resilience. Rubbish includes items such as several burnt out shipping containers, burnt out cars, building and household material and general pile rubbish (Plate 4). Rubbish is to be removed to a licensed landfill facility.

### **3.2.3 Zone 3 – Scattered rubbish removal**

Zone 3 is located along the south western border of the site and encompasses an area of approximately 10-20 metres inwards from the edge of the subject site (Plate 5). Dense scattered rubbish was observed in this area and is likely to have been transported from the adjoining waste facility, via wind into the subject site. This zone requires rubbish removal and permanent fencing of approximately 690 metres to be installed as a priority using 1.8 metre chain-wire-mesh covered with shade cloth to significantly reduce any future movement of rubbish into the subject site.





**Plate 4: large piles of dumped rubbish**



**Plate 5: Transported rubbish in the foreground from the neighbouring waste facility**

### **3.2.4 Zone 4 – House site removal**

Zone 4 involves the abandoned house found at the entrance to the southern portion of the subject site off Old Maitland Road. Due to the potentially high cost of removal, CCC will aim to remove the house within the first two years of management with the inclusion of an asbestos assessment prior to any demolition / removal works. As mentioned above for zone 2, removal will aim to directly increase biodiversity and native resilience.

### **3.2.5 Zone 5 – Passive management**

Zone 5 (29.2 ha) covers all remaining land within both portions of the subject site. This zone is in good condition with vegetation in this area relatively intact with good native canopy, mid-layer and ground cover diversity and little weed invasion. The main focus within this area will involve an initial weed sweep across the entire zone to observe whether any additional weed areas, not outlined above in **Section 3.2.1** (zone 1), are present and to determine whether additional weed treatments are required. These site sweeps will allow Council to monitor any potential locations of additional priority or general weeds not listed above on site to avoid establishment or seeding as well as inspecting for any potential erosion issues, feral animal presence and illegal activity.

## **3.3 Maintenance**

Following any prospective secondary weed treatment, all areas will require ongoing maintenance to control weed regrowth from the soil seed bank. Maintenance work is recommended to be undertaken in peak growing seasons (spring and summer) on a three yearly basis due to the relatively good condition of the majority of the site.

Monitoring will also allow Council to observe any changes such as potential erosion, additional dumping and illegal activities and implement management actions.

## **3.4 Permanent fencing**

Due to the status of the area as an offset site, it is strongly recommended that permanent fencing is installed to protect the ecological values within the subject site, particularly as the site is known to have frequent trespassing and illegal activities. Some suggested fencing includes bollards, with wire rope and three strand plain wire fence which allow for fauna movement but restrict access of motorised vehicles into the subject site, or that listed above for zone 3 priority fencing (chain-wire-mesh).

It is recommended that the larger parcel of the subject site is protected from disturbances using permanent fencing during the first year of implementation .

## **3.5 Pest control**

During the site inspection a number of feral Deer were observed in the area. This species has the potential to impede the success of the BOMP. To prevent additional damage from Deer adequate fencing as suggested and described above in **Section 3.4** may limit impacts from this species within the subject site.



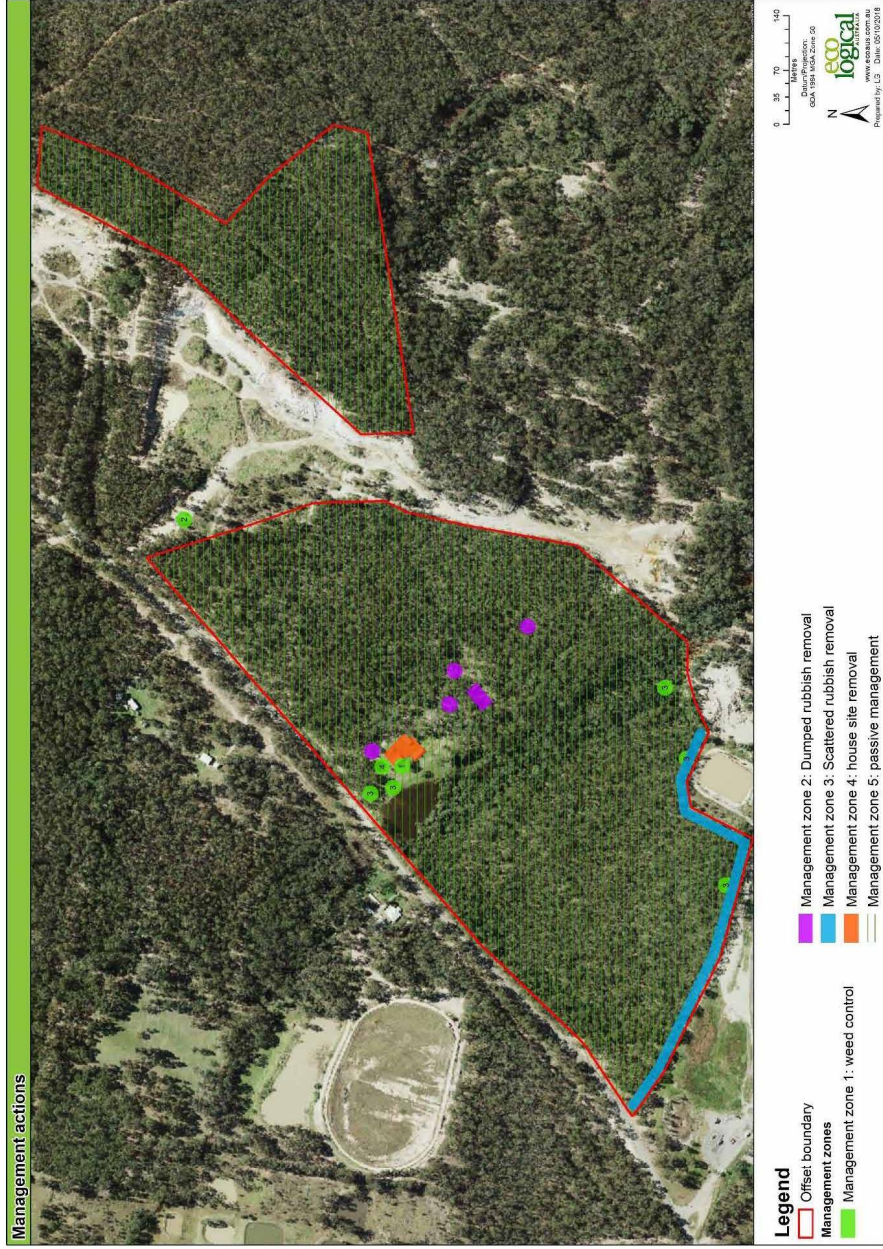


Figure 5: Management Zones and monitoring locations



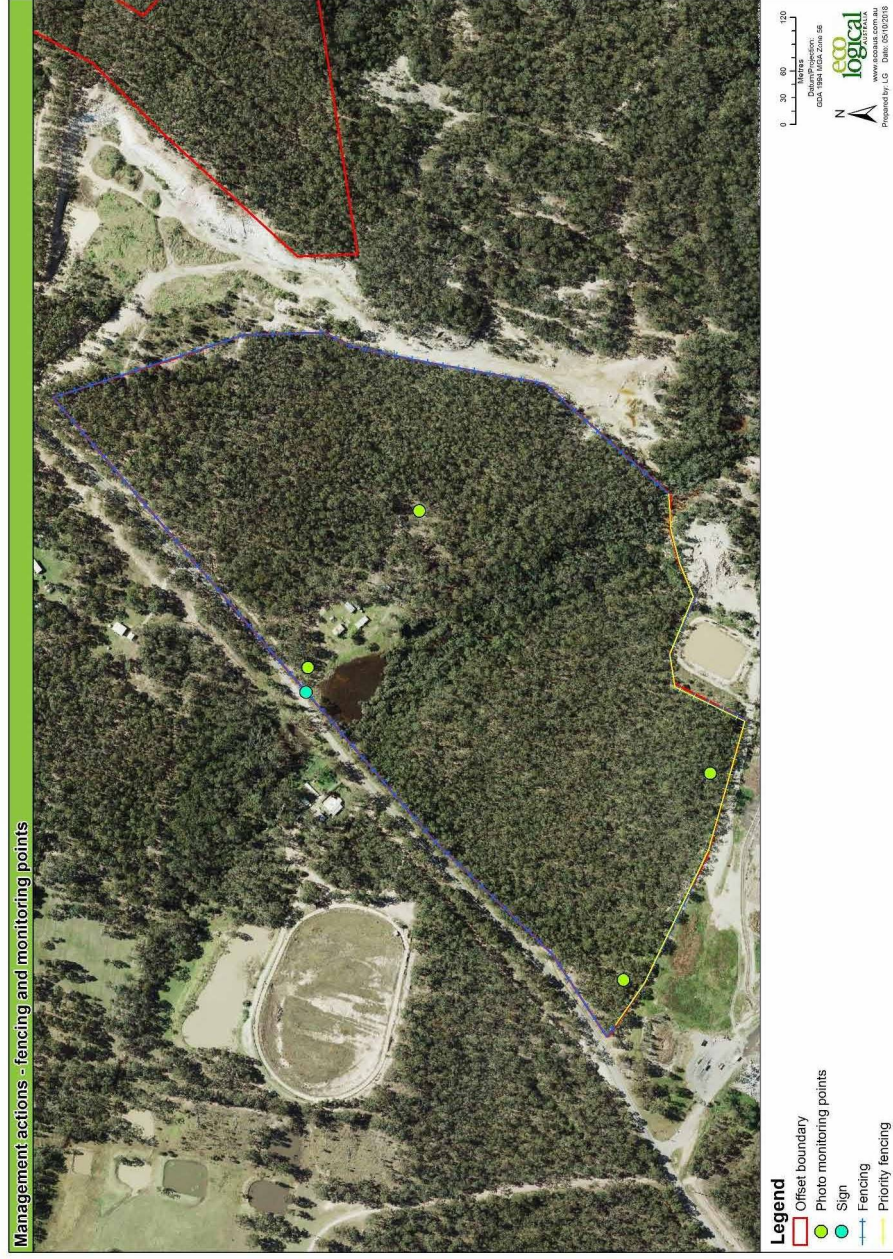


Figure 6: Recommended photo monitoring points and fencing locations

## 4 Work schedule and performance criteria

### 4.1 Work schedule / project timeframes

Due to the subject site now secured on title, this BOMP will provide management actions in perpetuity. The BOMP will have an implementation period for year one and year two then follow with ongoing three yearly maintenance and monitoring for the remainder of the subject site offset period.

An indicative management action schedule has been provided in **Table 4**. Maintenance will be undertaken as needed following monitoring periods or until the required objectives for the BOMP area as identified in **Table 5** are met.

### 4.2 Performance criteria

The BOMP performance criteria is detailed in **Table 5**.

If monitoring indicates that the BOMP tasks are not resulting in achievement of the performance criteria, the task program will be revised. The bush regeneration contractor, in consultation with CCC, can adapt these criteria as required in response to the success of management actions.

If performance objectives are met earlier than expected, Council may adjust maintenance and monitoring periods and actions accordingly to ensure biodiversity values remain the focus of site enhancement.

Table 4: Implementation works schedule

Treatment	Implementation				Maintenance									
	Year 1				Year 2					Year 5 (Subsequent three yearly ongoing)				
	1	2	3	4	1	2	3	4	1	2	3	4		
Install fences*														
Install informational signage														
Rubbish removal														
House removal														
Primary weed control														
Secondary weed control														
Maintenance weed control														
Monitoring and reporting														

\*to be installed by civil construction contractor. **Yellow:** Implementation phase. **Green:** Maintenance phase.

\*1,2,3,4 within the table relates to seasons



Table 5: Performance criteria

Implementation		Maintenance	
Year 1	Year 2	Year 5 (Subsequent three yearly ongoing)	
<ul style="list-style-type: none"> <li>Commencement of all tasks outlined in the BOMP or evidence of planning for their implementation</li> <li>A decrease (approximately 20%) in exotic plant cover by the end of the implementation period in accordance with exotic priority listing in <b>Figure 3</b>.</li> <li>20% reduction in dumped rubbish from zone 2</li> <li>50% reduction in rubbish and debris from zone 3</li> </ul>	<ul style="list-style-type: none"> <li>Monitoring and reporting undertaken in accordance with <b>Section 5</b></li> <li>100% removal of Priority weeds by second year</li> <li>No Priority weed species allowed to set seed or no new establishment</li> <li>Decrease in general weed cover (approximately further 20% on the year 1 result)</li> <li>50% reduction in dumped rubbish from zone 2</li> <li>Remaining 50% reduction in rubbish and debris from zone 3</li> </ul>	<ul style="list-style-type: none"> <li>Three yearly monitoring and reporting in accordance with <b>Section 5</b></li> <li>10% reduction in rubbish and debris each three yearly from zone 2</li> <li>No Priority plants allowed to set seed, no establishment of new Priority species</li> </ul>	

## 5 Monitoring and reporting

The bush regeneration contractor and CCC will monitor the vegetation for changes over time. Information gained through the monitoring and reporting process will identify works that have and have not been successful, and the reasons for their success or failure.

The aim of monitoring is to measure the effectiveness of the control actions being undertaken to achieve the desired outcome. It will identify non-conformance and provide Council with the ability to implement corrective actions. Information derived from the results of monitoring will also be used in adaptive management (i.e. learning from past experience to inform future priorities and work plans). For example, as annual grass weeds are removed, herbaceous and perennial weeds may establish.

Finally, monitoring and reporting will help determine and quantify the costs related to weed management and the cost effectiveness of the BOMP.

### 5.1 Monitoring

Monitoring will be undertaken via observational surveys and basic monitoring using 1x1m random plots to develop baseline data from first year of monitoring. Undertaken by either a qualified ecologist or the bush regeneration contractor utilising the performance criteria in **Table 5**. Monitoring should occur after year one and two activities and then every three years in perpetuity for the entirety of the offset period and will incorporate the use of photo points to provide a visual reference of changes in the maintenance areas such as weed treatment and rubbish dumping areas. Photo monitoring to include:

- Set up four photo points within the BOMP area (**Figure 4**) with the following distribution:
  - One photo point in the western corner of Zone 5 looking south east – transported rubbish
  - One photo point in the south east corner of Zone 5 looking north west – transported rubbish
  - One photo point at the eastern start of the cleared area of Zone 1 looking south east – weeds / dumping
  - One photo point at the most eastern dumping area in Zone 2 looking north west - dumping
- Mark the photo point with a 1.8 m star picket and map the location using GPS
- Take a digital photo at each location facing direction detailed above, ensuring the star picket is visible
- Label each digital image with a unique reference number indicating the location of the photo point and the date the photo is taken.

Monitoring results will be included in Progress Reports (below).

### 5.2 Progress reports

Progress reports are to be provided after year 1 and 2 and then on a three yearly basis. This reporting includes the implementation of the monitoring actions specified in **Section 5.1** and a description of the works that have been undertaken. Additionally, this report should be structured to address the questions outlined below:

- What environmental threats have been reduced?
- What environmental improvements have been achieved?
- What tasks have been successful?
- What has not been successful?

- What measures, if any, have been taken to rectify problems?
- What issues need to be addressed?
- What are the outcomes of the management activities?
- Recommendations for revising the task program, if necessary.

Progress reports will be undertaken by the Bush Regeneration contractor or qualified Ecologist and provided to CCC for review.

Due to the conservation status as an offset site, it is strongly recommended that a review of this BOMP be undertaken every 5 years to ensure conservation values are being effectively managed and to ensure any unforeseen issues (such as new weed infestations) are dealt with.

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## Appendix A Offsetting Principles

1. *Impacts must be avoided first by using prevention and mitigation measures.*

Impacts have been avoided or mitigated as far as practical, given the nature of the Project, as documented in the EIS. The location and shape of the proposed Landfill Extension Area has been determined with consideration given to the following:

- Use of areas which have been previously disturbed by mining operations;
- Avoidance of areas in which there are underground workings;
- Shaping the finished landfill into the contours of the land surrounding the site;
- Maintenance of buffer zones between the landfill and existing creeks;
- Optimisation of the available area within the property boundaries;
- Maintaining, as much as possible the natural flora, fauna and geography of the area; and
- Maintaining / providing effective corridor linkages for flora and fauna.

This includes reducing the road works footprints and modifying the design of works to the dam wall. The Biodiversity Offset Site will be established in order to offset the residual impacts that cannot be avoided or mitigated.

2. *All regulatory requirements must be met.*

The Project has been assessed in accordance with NSW and Commonwealth legislation, including the proposal to offset residual impacts, as documented in the Project EIS. The Biodiversity Offset Site is not covered by any existing conservation covenants or agreements. The offset site is zoned "RU2 Rural Landscape" under the Cessnock LEP, which does not afford environmental protection beyond that required under NSW and Commonwealth planning and environmental legislation. Management actions will be implemented by Council at the Biodiversity Offset Site with the key objective of improving the biodiversity values of the site.

3. *Offsets must never reward ongoing poor performance.*

The Biodiversity Management Plan has been developed with management actions proposed to improve biodiversity values and will be implemented by Council. This plan includes monitoring and progress reporting requirements for each of the management actions proposed. Based on this, Council's aim is to manage the site for biodiversity purposes with the outcome being enhancement of the existing habitat.

4. *Offsets will complement other government programs.*

Implementation of management actions at the offset site is additional to any other government programs that may occur within the locality.

5. *Offsets must be underpinned by sound ecological principles.*

In providing suitable offsets to meet the concurrence condition requirements, ELA undertook targeted surveys in 2015, 2016 and again in 2018 within the locality to identify presence of LHSGIF. These surveys were completed by senior ecologists with extensive experience in the local area. Based on preliminary identification this EEC, ELA undertook four (4) vegetation integrity plots in accordance with the Biodiversity Assessment Method (BAM) across the Biodiversity Offset Site. This quantitative data was then analysed and compared against the criteria in the NSW Scientific Committee final determination for the LHSGIF EEC. Based on

surveys and analysis of data against the criteria, it is considered that identification of this EEC to meet offset requirements has been completed using sound ecological principles.

6. *Offsets should aim to result in a net improvement in biodiversity over time.*

Management actions will be implemented by CCC at the Biodiversity Offset Site with the key objective of improving the biodiversity values of the site. The Biodiversity Offset Site comprises disturbed areas that have been degraded by past land uses including clearing around the abandoned house, dumping of rubbish including cars and large metal containers and general household rubbish that enters the site from the adjoining waste centre. The offset site contains extensive vegetated areas in low - moderate condition, which with proper management, including weed control and rubbish removal are expected to increase in quality resulting in a net improvement to the biodiversity values at the site. Management actions to be implemented at the Biodiversity Offset Site are predicted to result in an increase in the overall condition of the vegetation and increase the extent of the EEC present.

7. *Offsets must be enduring - they must offset the impact of the development for the period that the impact occurs*

A restrictive or positive covenant from Sections 88B-E of the Conveyancing Act 1919 will be placed on title pertaining to the subject site. Management actions to be implemented at the site will be incorporated into the BOMP which has been prepared to support the net improvement of biodiversity values over time across the subject site.

8. *Offsets should be agreed prior to the impact occurring.*

This Biodiversity Offset Management Plan is intended to enable vegetation offsets for the Project to be agreed prior to commencement of the Project.

9. *Offsets must be quantifiable - the impacts and benefits must be reliably estimated.*

The Concurrence Conditions stated that an offset is required and was to comprise 25 hectares (ha) of the EEC LHSGIF, presence of the threatened flora species *Grevillea parviflora* subsp. *parviflora* (Small-flowered Grevillea) and habitat for threatened microbats.

ELA has undertaken four (4) vegetation integrity plots in accordance with the Biodiversity Assessment Method (BAM) across the subject site.

In determining the Plant Community Type (PCT) for the subject site, various attributes were considered in combination to assign vegetation to the best fit PCT. Attributes included dominant species in each stratum, community composition, soils and landscape position. Plot data collected in the field was analysed in a quantitative analysis tool developed by ELA using the characteristic species present in each structural layer for all PCTs in the region sourced from the Bionet Vegetation Information System (VIS). This quantitative analysis was used to assist in determining PCTs that may be present and then compared against the criteria in the NSW Scientific Committee final determination for the LHSGIF EEC.

Based on surveys and analysis of data against the criteria, ELA has determined that the EEC LHSGIF is presented across 29.4 ha of the subject site and therefore can meet the offset requirements of 25 hectares (ha) of LHSGIF. The offset requirement also stipulates that *G. parviflora* subsp. *parviflora* must be present to offset the proposed development and this has also been met with a total of 23 individuals recorded during random meander surveys.

10. *Offsets must be targeted.*

The Concurrence Conditions stated that an offset is required and was to comprise 25 hectares (ha) of the EEC LHSGIF, presence of the threatened flora species *Grevillea parviflora* subsp. *parviflora* (Small-flowered Grevillea) and habitat for threatened microbats.

Based on surveys and analysis of data, the biodiversity Offset Site comprises a total of 29.4 ha of this EEC, which exceeds the target of 25 ha. The presence of *G. parviflora* subsp. *parviflora* has also been met with a total of 23 individuals recorded within the Biodiversity offset Site. Additionally, mature trees were identified across the offset site comprising large cracks and hollows which could potentially provide habitat to threatened microbats.

Based on the above, it is considered that the offsets are targeted to directly meet the Concurrence Conditions.

11. *Offsets must be located appropriately.*

The Biodiversity Offset Site is located directly adjacent to the site of the Cessnock Waste and Reuse Centre, therefore is located within 5km of the Centre as stipulated in the Concurrence condition 2 requirements.

12. *Offsets must be supplementary*

The land within the Biodiversity Offset Site is not currently protected by any Conservation Agreements or reservation schemes. As noted above, the offset site is zoned "RU2 Rural Landscape" under the Cessnock LEP, which does not afford environmental protection beyond that required under NSW and Commonwealth planning and environmental legislation. The proposed security and management of the site is supplementary to existing requirements and not already funded under another scheme.

13. *Offsets and their actions must be enforceable through development consent*

A restrictive or positive covenant from Sections 88B-E of the Conveyancing Act 1919 will be placed on title pertaining to the subject site. Management actions to be implemented at the site will be incorporated into the BOMP which has been prepared to support the net improvement of biodiversity values over time across the subject site.

## Appendix B Characteristic species recorded in LHS GIF

Characteristic species	Plot 1	Plot 2	Plot 3	Plot 4
<i>Acacia parvippinula</i>	Yes	Yes		Yes
<i>Angophora costata</i>				
<i>Aristida vagans</i>	Yes	Yes	Yes	Yes
<i>Billardiera scandens</i>	Yes	Yes	Yes	
<i>Breynia oblongifolia</i>				
<i>Bursaria spinosa</i>	Yes	Yes		Yes
<i>Cheilanthes sieberi</i>		Yes		Yes
<i>Corymbia eximia</i>				
<i>Corymbia gummiifera</i>				
<i>Corymbia maculata</i>	Yes	Yes	Yes	Yes
<i>Cymbopogon refractus</i>		Yes		Yes
<i>Daviesia leptophylla</i>				
<i>Daviesia ulicifolia</i>	Yes			Yes
<i>Dianella revoluta</i>				Yes
<i>Dianella caerulea</i>				Yes
<i>Digitaria parviflora</i>				
<i>Entolasia stricta</i>	Yes	Yes	Yes	Yes
<i>Eucalyptus acmenoides</i>				
<i>Eucalyptus agglomerata</i>				
<i>Eucalyptus canaliculata</i>				
<i>Eucalyptus crebra</i>				
<i>Eucalyptus fergusonii</i>				
<i>Eucalyptus fibrosa</i>	Yes	Yes	Yes	Yes
<i>Eucalyptus globoidea</i>				
<i>Eucalyptus moluccana</i>				
<i>Eucalyptus nubila</i>				
<i>Eucalyptus paniculata</i>				
<i>Eucalyptus punctata</i>		Yes	Yes	Yes
<i>Eucalyptus siderophloia</i>				
<i>Eucalyptus sparsifolia</i>				
<i>Eucalyptus tereticornis</i>				
<i>Eucalyptus umbra</i>				
<i>Glycine clandestina</i>				Yes
<i>Goodenia hederacea</i> subsp. <i>hederacea</i>				
<i>Grevillea montana</i>	Yes			



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Characteristic species	Plot 1	Plot 2	Plot 3	Plot 4
<i>Hardenbergia violacea</i>				Yes
<i>Laxmannia gracilis</i>				Yes
<i>Lissanthe strigosa</i>				
<i>Lepidosperma laterale</i>	Yes	Yes	Yes	Yes
<i>Lomandra filiformis</i>		Yes	Yes	Yes
<i>Lomandra longifolia</i>		Yes		Yes
<i>Lomandra multiflora</i>	Yes	Yes	Yes	
<i>Macrozamia flexuosa</i>				
<i>Maytenus silvestris</i>	Yes			Yes
<i>Melaleuca nodosa</i>	Yes			
<i>Microlaena stipoides</i>		Yes		Yes
<i>Persoonia linearis</i>				Yes
<i>Ozothamnus diosmifolius</i>				
<i>Panicum simile</i>		Yes		Yes
<i>Phyllanthus hirtellus</i>	Yes	Yes	Yes	Yes
<i>Pomax umbellata</i>	Yes	Yes		Yes
<i>Pratia purpurascens</i>	Yes	Yes		Yes
<i>Syncarpia glomulifera</i>				Yes
<i>Themeda triandra</i>		Yes		
<i>Vernonia cinerea</i>				
<b>Total</b>	<b>16</b>	<b>20</b>	<b>10</b>	<b>26</b>

## Appendix C Flora Plot Data

Growth Form	Species	Plot 1		Plot 2		Plot 3		Plot 4	
		C	A	C	A	C	A	C	A
Shrub (SG)	<i>Acacia parvipinnula</i>	0.1	2	0.1	5			0.1	5
Shrub (SG)	<i>Acacia spp.</i>					0.1	5		
Tree (TG)	<i>Allocasuarina spp.</i>							1	2
Grass & grasslike (GG)	<i>Aristida vagans</i>	3	100	1	50	1	100	1	100
Other (OG)	<i>Billardiera scandens</i>	0.1	20	0.2	5	0.1	20		
Other (OG)	<i>Brunonia australis</i>							0.1	5
Shrub (SG)	<i>Bursaria spinosa</i>	20	100	10	500			3	50
Shrub (SG)	<i>Callistemon linearis</i>							0.1	1
Shrub (SG)	<i>Callistemon spp.</i>	3	50			5	50		
Other (OG)	<i>Cassutha spp.</i>			0.1	1				
Fern (EG)	<i>Cheilanthes sieberi</i>			3	500			0.1	20
Shrub (SG)	<i>Choretrum candollei</i>	0.1	2					1	5
Tree (TG)	<i>Corymbia maculata</i>	5	8	10	30	5	16	10	20
Grass & grasslike (GG)	<i>Cymbopogon refractus</i>			1	100			0.2	10
Grass & grasslike (GG)	<i>Cynodon dactylon</i>					0.2	50		
Shrub (SG)	<i>Daviesia squarrosa</i>					0.1	10		
Shrub (SG)	<i>Daviesia ulicifolia</i>	0.2	20					1	20
Forb (FG)	<i>Dianella caerulea</i>							1	100

Cessnock Waste Management Centre Biodiversity Offset Management Plan

Growth Form	Species	Plot 1		Plot 2		Plot 3		Plot 4	
		C	A	C	A	C	A	C	A
Forb (FG)	<i>Dianella revoluta</i>							0.1	2
Grass & grasslike (GG)	<i>Entolasia stricta</i>	2	100	2	100	5	500	5	500
Tree (TG)	<i>Eucalyptus fibrosa</i>	10	23	12	11	10	12	10	10
Tree (TG)	<i>Eucalyptus punctata</i>			5	3	3	1	1	1
Grass & grasslike (GG)	<i>Gahnia spp.</i>							0.1	1
Other (OG)	<i>Glycine clandestina</i>							0.1	10
Forb (FG)	<i>Gonocarpus spp.</i>					0.1	20		
Forb (FG)	<i>Goodenia rotundifolia</i>	1	100	1	100	0.5	100	1	100
Shrub (SG)	<i>Grevillea montana</i>	0.1	10						
Other (OG)	<i>Hardenbergia violacea</i>							0.1	5
Grass & grasslike (GG)	<i>Imperata cylindrica</i>							10	500
Forb (FG)	<i>Laxmannia gracilis</i>							0.1	2
Grass & grasslike (GG)	<i>Lepidosperma laterale</i>	5	500	5	500	3	500	5	500
Shrub (SG)	<i>Leucopogon juniperinus</i>	5	500			1	20		
Grass & grasslike (GG)	<i>Lomandra filiformis</i> subsp. <i>filiformis</i>			1	50	1	50	1	50
Grass & grasslike (GG)	<i>Lomandra longifolia</i>			1	20			0.1	2
Grass & grasslike (GG)	<i>Lomandra multiflora</i> subsp. <i>multiflora</i>	3	100	0.5	50	1	100		
Grass & grasslike (GG)	<i>Lomandra spp.</i>	0.3	100						
	<i>Maytenus spp.</i>	0.1	5					0.1	2

Cessnock Waste Management Centre Biodiversity Offset Management Plan

Growth Form	Species	Plot 1		Plot 2		Plot 3		Plot 4	
		C	A	C	A	C	A	C	A
Shrub (SG)	<i>Melaleuca nodosa</i>	1	2						
Grass & grasslike (GG)	<i>Microlaena stipoides</i>			0.1	20			0.1	50
Grass & grasslike (GG)	<i>Panicum simile</i>			1	50			1	50
Shrub (SG)	<i>Persoonia linearis</i>							1	10
Shrub (SG)	<i>Phyllanthus hirtellus</i>								
Grass & grasslike (GG)	<i>Poa spp.</i>					15	500		
Forb (FG)	<i>Pomax umbellata</i>	0.1	10	0.2	50			2	500
Forb (FG)	<i>Pratia purpurascens</i>	0.2	50	1	500			1	100
Shrub (SG)	<i>Pultenaea retusa</i>			0.2	50				
Forb (FG)	<i>Solenogyne belliioides</i>					0.1	10		
Shrub (SG)	<i>Styphelia viridis</i> subsp. <i>breviflora</i>					0.1	5	0.1	3
Tree (TG)	<i>Syncarpia glomulifera</i> subsp. <i>glomulifera</i>							8	5
Grass & grasslike (GG)	<i>Themeda triandra</i>			1	50				

C = cover, A = abundance

## Appendix D Plot photos



**plate 6: Plot 1 transect start**



**plate 7: Plot 1 transect end**





plate 8: Plot 2 transect start



plate 9: Plot 2 transect end





plate 10: Plot 3 transect start



plate 11: Plot 3 transect end





plate 12: Plot 4 transect start



plate 13: Plot 4 transect end

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## Restriction on use affecting land vested in a Prescribed Authority

### Land burdened by restriction on use:

Part of folio identifiers 1/1096161 and 41/996992 being the part marked ## on the plan in Schedule 3.

### Name of Prescribed Authority in which land is vested:

Cessnock City Council

### Particulars of the restriction on use:

#### 1 Definitions

##### 1.1 In this instrument:

**Biodiversity Offset Management Plan or BOMP** means the document referred to as such in any public positive covenant registered on title to the Burdened Lots in respect of the Offset Land.

**Burdened Lots** means folio identifiers 1/1096161 and 41/996992.

**Landowner** means, in respect of a Burdened Lot, the registered proprietor of the Burdened Lots from time to time and its servants, agents, contractors, successors and assigns.

**Offset Land** means the part of the Burdened Lots shown marked as ### on the plan in Schedule 1.

**Prescribed Authority** means Cessnock City Council and its servants, agents, contractors, successors and assigns.

##### 1.2 In the interpretation of this instrument, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this instrument.
- (b) A reference in this instrument to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- (c) If the day on which any act, matter or thing is to be done under this instrument is not a business day, the act, matter or thing must be done on the next business day.
- (d) A reference in this instrument to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
- (e) A reference in this instrument to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (f) A reference in this instrument to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (g) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this instrument.

- (h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.
- (j) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.

1.3 References to the word 'include' or 'including' are to be construed without limitation.

## **2 Restriction on use of Offset Land**

- 2.1 The Landowner is not to use, or suffer, procure or permit the use of the Offset Land for any purpose other than as specified in the BOMP or a public positive covenant required by the Prescribed Authority and registered on the title to the Burdened Lots in respect of the Offset Land.

## **3 Access to Offset Land**

- 3.1 The Landowner is not to prohibit the Prescribed Authority entering the Burdened Lots and the Offset Land at reasonable times to enable the Prescribed Authority to carry out any monitoring, investigation and enforcement of the terms of this covenant provided the Prescribed Authority has given the Landowner reasonable prior notice of such access.

### **Name of persons empowered to release vary or modify restriction on use**

The Prescribed Authority