

Annexure A

Planning Agreement

Environmental Planning and Assessment Act 1979

35 Government Road, Cessnock 2325

Minister administering the *National Parks and Wildlife Act 1974* (ABN 20 770 707 468)

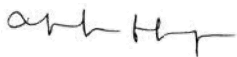
Land Specialists Pty Ltd (ACN 606 318 076)

Roger Mark Davies

Grant Stephen Davies

East Cessnock Recycling Pty Ltd (ACN 074 095 524)

Land Specialists Estates NSW Pty Ltd (ACN 642 515 320)



Electronic signature of me, Patricia Harrup affixed by me 27/11/2024.

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This Planning Agreement is dated **27 November 2024**.

Parties:

Minister administering the *National Parks and Wildlife Act 1974* (ABN 20 770 707 468)

c/- National Parks and Wildlife Service of 2156 Putty Road, Bulga NSW 2330

Land Specialists Pty Ltd (ACN 606 318 076) of Suite 404, 1 Bryant Drive, Tuggerah, NSW 2259

Roger Mark Davies of 16 Cabernet Grove, Cessnock NSW 2325

Grant Stephen Davies of 17 Lindsay Street, Cessnock NSW 2325

East Cessnock Recycling Pty Ltd (ACN 074 095 524) of 755 Hunter Street, Newcastle West NSW 2302

Land Specialists Estates NSW Pty Ltd (ACN 642 515 320) of Suite 404, 1 Bryant Drive, Tuggerah, NSW 2259

Introduction:

- A** Roger Mark Davies and Grant Stephen Davies own the Development Land.
- B** The Applicant proposes to carry out the Development on the Development Land and has made a Development Application to the Consent Authority in respect of the Development Land.
- C** The CDCP provides that development consent for a principal development application which proposes the removal of native vegetation from within the Precinct, which includes the Development Land, shall not be granted until transfer of the proposed offset site and other associated actions, as detailed in the Biodiversity Offset Assessment Report (BOAR) (RPS Harper Somers O'Sullivan, June 2008), has been effected.
- D** The Developer has offered to enter into this deed with the Minister to make the Development Contribution in connection with the carrying out of the Development on the Development Land.
- E** It is intended that this deed will assist with the Environment Agency Head's consideration of relevant matters under clause 34A of the Bio Con Reg.

It is agreed:

1. Definitions and interpretation

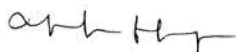
1.1 Definitions

In this **deed**, unless the context clearly indicates otherwise:

Act means the *Environmental Planning and Assessment Act 1979 (NSW)*.

Address for Service means the address of each party appearing in Schedule 2 or any new address notified by any party to all other parties as its new Address for Service.

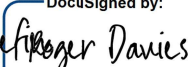
Applicant means Land Specialists Pty Ltd (ACN 606 318 076).




Electronic signature of me, Patricia Harrup affixed by me 27/11/2024.

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Authority means any Federal, State or local government or semi-governmental, statutory, judicial or public person, instrumentality or department.

Base CPI means the CPI number for the quarter ending 31 March 2022.

Bio Con Reg means the *Biodiversity Conservation (Savings and Transitional) Regulation 2017*.

Business Day means any day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney, and concludes at 5pm on that day.

CDCP means the *Cessnock Development Control Plan 2011*.

CLM Act means the *Contaminated Land Management Act 1997* (NSW).

Consent Authority has the same meaning as in the Act.

Contamination has the same meaning as in the CLM Act.

Costs means any loss, cost, fee, charge, expense, Tax, rate, fine, penalty or debts including those in connection with advisors and any compensation payable to any person in accordance with the law.

Dealing means in relation to the Land means, without limitation, selling, transferring, assigning, mortgaging, charging, disposing, encumbering or otherwise dealing with the Land.

Designated State Public Infrastructure has the same meaning as in *Cessnock Local Environmental Plan 2011*.

Developer means the following jointly and severally:

- (a) Land Specialists Pty Ltd (ACN 606 318 076);
- (b) Roger Mark Davies;
- (c) Grant Stephen Davies;
- (d) East Cessnock Recycling Pty Ltd (ACN 074 095 524); and
- (e) Land Specialists Estates NSW Pty Ltd (ACN 642 515 320).

Development means the proposed subdivision of the Development Land into approximately 328 residential lots, one (1) lot for drainage reserve and associated infrastructure, generally in accordance with DA 8/2021/21939/1 or another Development Application lodged with Cessnock City Council.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contribution means the following contributions to be provided by the Developer:

- (a) the Monetary Contribution in accordance with Schedule 4; and
- (b) the Offset Land Contribution in accordance with Schedule 5.

Development Land means the land comprised in Lot 35 in Deposited Plan 1288491.

ELNO has the same meaning as in the *Electronic Conveyancing National Law* (NSW).

Environment Agency Head has the same meaning as in the *Biodiversity Conservation Act 2016*.

Explanatory Note means the note exhibited with a copy of this deed when this deed is made available for inspection by the public pursuant to the Act.

General Register of Deeds means the land register maintained under the *Conveyancing Act 1919* (NSW) and so titled.

GST means any form of goods and services tax payable under the GST Legislation.

GST Legislation means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Just Terms Act means the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW).

Land means the land described in Schedule 3.

Landowner means the owner of any part of the Land from time to time, and at the execution of this deed means the parties listed in Schedule 3.

Mediation Program means the Mediation Program of the Law Society of New South Wales as published on its website and as varied from time to time.

Minister means the Minister administering the *National Parks and Wildlife Act 1974* and includes the Secretary and the Nominated Officer.

Monetary Contribution means a monetary contribution provided by the Developer to the Minister in accordance with the terms of this deed.

Nominated Officer means an officer of the NSW Department of Climate Change, Energy, the Environment and Water for the time being holding a position nominated by the Secretary for the purposes of this deed.

Offset Land means the land comprised in:

- (a) Lot 5 in Deposited Plan 755268; and
- (b) Lot 33 in Deposited Plan 755268.

Offset Land Contribution means the dedication or transfer of the Offset Land by the Developer to the Minister in accordance with the terms of this deed for incorporation in the Yengo National Park.

Planning Application means:

- (a) a Development Application; or
 - (b) any other application required under the Act,
- relating to the Land.

Real Property Act means the *Real Property Act 1900* (NSW).

Register means the Torrens title register maintained under the Real Property Act.

Remediation has the meaning given to it in Chapter 4 of *State Environmental Planning Policy (Resilience and Hazards) 2021* and **Remediate** has a corresponding meaning.

Secretary means the Secretary of the NSW Department of Climate Change, Energy, the Environment and Water.

Section 34A Certification means certification issued by the Secretary or the Environment Agency Head under clause 34A of the Bio Con Reg in respect of the Development.

Subdivision Certificate has the same meaning as in the Act.

Subdivision Works Certificate has the same meaning as in the Act.

Tax means a tax, duty (including stamp duty and any other transaction duty), levy, impost, charge, fee (including a registration fee) together with all interest, penalties, fines and costs concerning them.

1.2 Interpretation

In this deed unless the context clearly indicates otherwise:

- (a) a reference to **this deed** or another document means this deed or that other document and any document which varies, supplements, replaces, assigns or novates this deed or that other document;
- (b) a reference to **legislation** or a **legislative provision** includes any statutory modification, or substitution of that legislation or legislative provision and any subordinate legislation made under that legislation or legislative provision;
- (c) a reference to a **body** or **authority** which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority or, failing agreement, to a body or authority having substantially the same objects as the named body or authority;
- (d) a reference to the **NSW Department of Climate Change, Energy, the Environment and Water** continues to be a reference to the Department even if renamed and, if that Department is abolished or ceases to include the group of staff principally responsible for the administration of the Act, is a reference to any other Department or other Public Service agency (within the meaning of the *Government Sector Employment Act 2013*) that includes that group of staff, whether or not the change in relation to the Department occurs before or after the execution of this deed by the Minister;
- (e) a reference to the **introduction**, a **clause**, or a **schedule** is a reference to the introduction, a clause, or a schedule to or of this deed;
- (f) **clause headings**, the **introduction** and the **table of contents** are inserted for convenience only and do not form part of this deed;
- (g) the **schedules** form part of this deed;
- (h) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (i) a reference to a **natural person** includes their personal representatives, successors and permitted assigns;
- (j) a reference to a **corporation** includes its successors and permitted assigns;
- (k) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this deed;
- (l) an **obligation** or **warranty** on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally;
- (m) a requirement to do any thing includes a requirement to cause that thing to be done and a requirement not to do any thing includes a requirement to prevent that thing being done;

- (n) **including** and **includes** are not words of limitation;
- (o) a word that is derived from a defined word has a corresponding meaning;
- (p) **monetary amounts** are expressed in Australian dollars;
- (q) the singular includes the plural and vice-versa;
- (r) words importing one gender include all other genders;
- (s) a reference to a thing includes each part of that thing; and
- (t) neither this deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

2. Operation and application of this deed

2.1 Operation

This deed commences on the date that this deed is signed by all the parties.

2.2 Planning agreement under the Act

This deed constitutes a planning agreement within the meaning of section 7.4 of the Act and the parties agree on the matters set out in Schedule 1.

2.3 Application

This deed applies to:

- (a) the Land; and
- (b) the Development.

3. Application of development contributions provisions of the Act

The application of the following provisions of the Act to the Development is excluded (or not excluded) to the extent stated in Schedule 1:

- (a) sections 7.11 and 7.12;
- (b) Subdivision 4 of Division 7.1.

4. Development Contribution

4.1 Developer to provide Development Contribution

- (a) The Developer undertakes to provide, or procure the provision of, the Development Contribution to the Minister in accordance with the provisions of Schedule 4 and Schedule 5.
- (b) The Developer represents and warrants that:
 - (i) as at the date of execution of this deed, the Offset Land is free from any Contamination; and
 - (ii) from the date of execution of this deed until the date the Offset Land is dedicated or transferred to the Minister in accordance with clause 1.4 of Schedule 5, the Developer will:

- (A) itself comply and ensure that all persons under the Developer's control comply with all environmental laws that are applicable to the Offset Land; and
- (B) notify the Minister in writing each time the Developer becomes aware of a breach of an environmental law in respect of the Offset Land.

4.2 Acknowledgement

The Developer acknowledges and agrees that, subject to section 7.3 of the Act, the Minister:

- (a) has no obligation to use or expend the Development Contribution for a particular purpose despite any provision of this deed to the contrary and has no obligation to repay any amounts to the Developer in connection with this deed; and
- (b) in circumstances where the Development Contribution is made to any Authority, has not made any representation or warranty that the Development Contribution will or must be used for a particular purpose by that Authority.

5. Interest

5.1 Interest for late payment

- (a) If the Developer fails to pay the Monetary Contribution (as indexed in accordance with Schedule 4) due to the Minister on the due date for payment, the Developer must also pay to the Minister interest at a rate of 2% above the loan reference rate charged by the Commonwealth Bank of Australia from time to time.
- (b) Interest is payable on the daily balance of the amount due from the due date for payment of the Monetary Contribution until that amount (including interest on that amount) has been paid in full to the Minister.

6. Enforcement

6.1 Developer to provide security

The Developer has agreed to provide security to the Minister for the performance of the Developer's obligations under this deed by agreeing to register this deed in accordance with clause 7.

7. Registration

7.1 Registration of deed

- (a) The Developer agrees to, within 10 Business Days of receiving Section 34A Certification, procure the registration of this deed on the title to the Land, including promptly responding to any requisitions made by the Registrar-General in respect of this deed and/or any ancillary documents.
- (b) To procure registration of this deed as required in clause 7.1(a), the Developer at its own expense is to take all practical steps and otherwise do anything to procure:
 - (i) the consent of each person, as required by the Registrar-General, who:
 - (A) has an estate or interest in that land registered under the Real Property Act; or
 - (B) is seized or possessed of an estate or interest in that land,

to the registration of this deed on the title to that land and to the terms of this deed;

- (ii) the execution of any documents; and
- (iii) the lodgement of this deed in a registrable form at the NSW Land Registry Services for registration by the Registrar-General in the relevant folios of the Register for that land, or in the General Register of Deeds if this deed relates to land not under the Real Property Act.

7.2 Evidence of registration

- (a) The Developer must provide the Minister with evidence of the lodgement of this deed pursuant to clause 7.1(b)(iii) within 2 Business Days of such lodgement at the NSW Land Registry Services.
- (b) The Developer will provide the Minister with copies of the relevant folios of the Register and copies of the registered dealings containing this deed within 2 Business Days of receipt of notice of registration of this deed.

7.3 Release and discharge of deed

The Minister agrees to do all things reasonably required by the Developer to release and discharge this deed with respect to the Land upon the Developer satisfying all of its obligations under this deed.

7.4 Interest in Land

Each Landowner represents and warrants that it is as at the date of execution of this deed:

- (a) the owner of its part of the Land as shown in Schedule 3; and
- (b) legally and beneficially entitled to obtain all consents and approvals and to compel any person referred to in or contemplated by clause 7.1(b)(i) to assist, cooperate and to otherwise do all things necessary for the Developer to comply with their obligations under clause 7.

7.5 Right to lodge caveat

- (a) Subject to clause 7.5(b) until such time as this deed is registered on the title to the Land in accordance with clause 7.1, the Developer acknowledges that this deed confers on the Minister an interest in the Land and entitles the Minister to lodge and maintain a caveat on the title to the Land to prevent any Dealing in respect of the Land.
- (b) If the Minister lodges a caveat in accordance with clause 7.5, then the Minister will do all things reasonably necessary to:
 - (i) ensure that the caveat does not prevent or delay the registration of this deed; and
 - (ii) remove the caveat from the title to the Land promptly, following registration of this deed in accordance with clause 7.1.
- (c) If, after 10 Business Days of receipt of Section 34A Certification, the Developer has been unable to achieve the registration of this deed, the Developer must pay the Minister's reasonable costs and expenses, including legal costs, of exercising the Minister's rights under clause 7.5(a) to lodge and withdraw a caveat(s) (as applicable).

8. Dispute Resolution

8.1 Not commence

A party must not commence any court proceedings relating to a dispute unless it complies with this clause 8.

8.2 Written notice of dispute

A party claiming that a dispute has arisen under or in relation to this deed must give written notice to the other party specifying the nature of the dispute.

8.3 Attempt to resolve

On receipt of notice under clause 8.2, the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution processes such as mediation, expert evaluation or other methods agreed by them.

8.4 Mediation

If the parties do not agree within 21 Business Days of receipt of notice under clause 8.2 (or any further period agreed in writing by them) as to:

- (a) the dispute resolution technique and procedures to be adopted;
- (b) the timetable for all steps in those procedures; or
- (c) the selection and compensation of the independent person required for such technique,

the parties must mediate the dispute in accordance with the Mediation Program. The parties must request the president of the Law Society of NSW or the president's nominee to select the mediator and determine the mediator's remuneration.

8.5 Court proceedings

If the dispute is not resolved within 60 Business Days after notice is given under clause 8.2 then any party which has complied with the provisions of this clause 8 may in writing terminate any dispute resolution process undertaken under this clause and may then commence court proceedings in relation to the dispute.

8.6 Not use information

The parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement under this clause 8 is to attempt to settle the dispute. No party may use any information or documents obtained through any dispute resolution process undertaken under this clause 8 for any purpose other than in an attempt to settle the dispute.

8.7 No prejudice

This clause 8 does not prejudice the right of a party to institute court proceedings for urgent injunctive or declaratory relief in relation to any matter arising out of or relating to this deed.

9. GST

9.1 Definitions

Words used in this clause that are defined in the GST Legislation have the meaning given in that legislation.

9.2 Intention of the parties

The parties intend that:

- (a) Divisions 81 and 82 of the GST Legislation apply to the supplies made under and in respect of this deed; and
- (b) no additional amounts will be payable on account of GST and no tax invoices will be exchanged between the parties.

9.3 Reimbursement

Any payment or reimbursement required to be made under this deed that is calculated by reference to a cost, expense, or other amount paid or incurred must be limited to the total cost, expense or amount less the amount of any input tax credit to which any entity is entitled for the acquisition to which the cost, expense or amount relates.

9.4 Consideration GST exclusive

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this deed are exclusive of GST. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purposes of this clause 9.4.

9.5 Additional Amounts for GST

To the extent an amount of GST is payable on a supply made by a party (**Supplier**) under or in connection with this deed (the **GST Amount**), the recipient must pay to the Supplier the GST Amount. However, where a GST Amount is payable by the Minister as recipient of the supply, the Developer must ensure that:

- (a) the Developer makes payment of the GST Amount on behalf of the Minister, including any gross up that may be required; and
- (b) the Developer provides a tax invoice to the Minister.

9.6 Non monetary consideration

Clause 9.5 applies to non-monetary consideration.

9.7 Assumptions

The Developer acknowledges and agrees that in calculating any amounts payable under clause 9.5 the Developer must assume the Minister is not entitled to any input tax credit.

9.8 No merger

This clause does not merge on completion or termination of this deed.

10. Assignment and transfer

10.1 Right to assign or novate

The Developer must not assign or novate any right or liability under this deed without the prior consent of the Minister.

10.2 Right to transfer Land

- (a) A Landowner must not sell or transfer to another person the whole or any part of the Land.
- (b) Notwithstanding clause 10.2(a), a Landowner may sell or transfer the whole or any part of the Land to another Party if prior to the proposed sale or transfer, that Landowner provides the Minister with not less than 10 Business Days' written notice of its intention to sell or transfer that part of the Land to another Party.

11. Capacity

11.1 General warranties

Each party warrants to each other party that:

- (a) this deed creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms; and
- (b) unless otherwise stated, it has not entered into this deed in the capacity of trustee of any trust.

11.2 Power of attorney

If an attorney executes this deed on behalf of any party, the attorney declares that it has no notice of the revocation of that power of attorney.

12. Reporting requirement

- (a) By 1 September each year or as otherwise agreed with the Secretary, the Developer must deliver to the Secretary a report (in a format acceptable to the Secretary) for the period 1 July to 30 June of the preceding financial year which must include the following matters, as applicable:
 - (i) details of all Development Consents, Subdivision Certificates and Subdivision Works Certificates issued in relation to the Development;
 - (ii) a description of the status of the Development including a plan that identifies what parts of the Development have been completed, are under construction and are to be constructed;
 - (iii) a forecast in relation to the anticipated progression and completion of the Development;
 - (iv) a forecast in relation to the anticipated dedication or transfer of the Offset Land;
 - (v) a compliance schedule showing the details of the Monetary Contribution provided under this deed as at the date of the report and indicating any non-compliance with this deed and the reason for the non-compliance; and
 - (vi) when the Developer expects to lodge the next Planning Application.
- (b) Upon the Secretary's request, the Developer must deliver to the Secretary all documents and other information which, in the reasonable opinion of the Secretary are necessary for the Secretary to assess the status of the Development and the Developer's compliance with this deed.

13. General Provisions

13.1 Entire deed

This deed constitutes the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties, whether orally or in writing.

13.2 Variation

This deed must not be varied except by a later written document executed by all parties.

13.3 Waiver

A right created by this deed cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

13.4 Further assurances

Each party must promptly execute all documents and do everything necessary or desirable to give full effect to the arrangements contained in this deed.

13.5 Time for doing acts

(a) If:

- (i) the time for doing any act or thing required to be done; or
- (ii) a notice period specified in this deed,

expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.

- (b) If any act or thing required to be done is done after 5 pm on the specified day, it is taken to have been done on the following Business Day.

13.6 Governing law and jurisdiction

- (a) The laws applicable in New South Wales govern this deed.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

13.7 Severance

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this deed without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

13.8 Preservation of existing rights

The expiration or termination of this deed does not affect any right that has accrued to a party before the expiration or termination date.

13.9 No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this deed for any reason, does not merge on the occurrence of that event but remains in full force and effect.

13.10 Counterparts

This deed may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

13.11 Relationship of parties

Unless otherwise stated:

- (a) nothing in this deed creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) no party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

13.12 Good faith

Each party must act in good faith towards all other parties and use its best endeavours to comply with the spirit and intention of this deed.

13.13 No fetter

Nothing in this deed is to be construed as requiring the Minister to do anything that would cause the Minister to breach any of the Minister's obligations at law and without limitation, nothing in this deed shall be construed as limiting or fettering in any way the discretion of the Minister in exercising any of the Minister's statutory functions, powers, authorities or duties.

13.14 Explanatory note

The Explanatory Note must not be used to assist in construing this deed.

13.15 Expenses and stamp duty

- (a) The Developer must pay its own and the Minister's reasonable legal costs, valuation costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this deed.
- (b) The Developer must pay for all reasonable costs and expenses associated with the giving of public notice of this deed and the Explanatory Note in accordance with the Regulation.
- (c) The Developer must pay all Taxes assessed on or in respect of this deed and any instrument or transaction required or contemplated by or necessary to give effect to this deed (including stamp duty and registration fees, if applicable).
- (d) The Developer must pay its own and the Minister's reasonable costs and disbursements in connection with the release and discharge of this deed with respect to any part of the Land pursuant to clause 7.3.
- (e) The Developer must pay the Minister by electronic funds transfer, or an alternative method of payment if agreed with the Minister, in respect of the Minister's costs pursuant to clauses 13.15(a), (b) and (d):

- (i) where the Minister has provided the Developer with written notice of the sum of such costs prior to execution, on the date of execution of this deed; or
- (ii) where the Minister has not provided the Developer with prior written notice of the sum of such costs prior to execution, within 20 Business Days of demand by the Minister for payment.

13.16 Notices

- (a) Any notice, demand, consent, approval, request or other communication (**Notice**) to be given under this deed must be in writing and must be given to the recipient at its Address for Service by being:
 - (i) hand delivered; or
 - (ii) sent by prepaid ordinary mail within Australia; or
 - (iii) sent by email.
 - (b) A Notice is given if:
 - (i) hand delivered, on the date of delivery but if delivery occurs after 5pm New South Wales time or a day that is not a Business Day, is taken to be given on the next Business Day;
 - (ii) sent by prepaid ordinary mail within Australia, on the date that is 2 Business Days after the date of posting; or
 - (iii) sent by email:
 - (A) before 5pm on a Business Day, on that Day;
 - (B) after 5pm on a Business Day, on the next Business Day after it is sent; or
 - (C) on a day that it is not a Business Day, on the next Business Day after it is sent,
- and the sender does not receive a delivery failure notice.

13.17 Electronic Execution

- (a) Each party consents to this deed and any variations of this deed being signed by electronic signature by the methods set out in this clause.
 - (b) This clause applies regardless of the type of legal entity of the parties. If this deed or any subsequent variations are signed on behalf of a legal entity, the persons signing warrant that they have the authority to sign.
 - (c) For the purposes of this clause, the parties agree that the following methods validly identify the person signing and indicate that person's intention to sign this deed and any variation of it:
 - (i) insertion of an image (including a scanned image) of the person's own unique signature on to the deed;
 - (ii) insertion of the person's name on to the deed; or
 - (iii) use of a stylus or touch finger or a touch screen to sign the deed,
- provided that in each of the above cases, words to the effect of '*Electronic signature of me, [NAME], affixed by me on [DATE]*' are also included on the deed;

- (iv) use of a reliable electronic signature and exchange platform (such as DocuSign or AdobeSign) to sign the deed; or
- (v) as otherwise agreed in writing (including via email) between the parties.
- (d) The parties agree that the above methods are reliable as appropriate for the purpose of signing this deed and that electronic signing of this deed by or on behalf of a party indicates that party's intention to be bound.
- (e) A signed copy of this deed transmitted by email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this deed for all purposes.

Schedule 1

Table 1 - Requirements under section 7.4 of the Act (clause 2.2)

The parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purpose of the deed complying with the Act.

Requirement under the Act	This deed
Planning instrument and/or development application – (section 7.4(2)) The Developer has: <ul style="list-style-type: none"> (a) sought a change to an environmental planning instrument. (b) made, or proposes to make, a Development Application. (c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies. 	<ul style="list-style-type: none"> (a) No (b) Yes (c) No
Description of land to which this deed applies – (section 7.4(3)(a))	See Schedule 3
Description of development to which this deed applies – (section 7.4(3)(b))	See definition of Development in clause 1.1
Description of change to the environmental planning instrument to which this deed applies – (section 7.4(3)(b))	Not applicable
The scope, timing and manner of delivery of contribution required by this deed – (section 7.4(3)(c))	See Schedule 4 and Schedule 5.
Applicability of sections 7.11 and 7.12 of the Act – (section 7.4(3)(d))	The application of sections 7.11 and 7.12 of the Act to the Development is not excluded .
Applicability of Subdivision 4 of Division 7.1 of the Act – (section 7.4(3)(d))	The application of Subdivision 4 of Division 7.1 of the Act to the Development is excluded to the extent a contribution is required to be made under a planning agreement which applies to the Development and the Development Land towards Designated State Public Infrastructure.
Consideration of benefits under this deed if section 7.11 applies – (section 7.4(3)(e))	No

Requirement under the Act	This deed
Mechanism for Dispute Resolution – (section 7.4(3)(f))	See clause 8
Enforcement of this deed – (section 7.4(3)(g))	See clause 5 and clause 7
No obligation to grant consent or exercise functions – (section 7.4(9) and section 7.4(10))	See clause 13.13

Table 2 – Other matters

Requirement under the Act	This deed
Registration of the Planning Agreement – (section 7.6 of the Act)	Yes (see clause 7)
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a construction certificate is issued – (section 21 <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>)	No
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before an occupation certificate is issued – (section 48 of <i>Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021</i>)	No
Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a subdivision certificate is issued – (section 6.15(1)(d) of the Act)	No

Schedule 2 – Address for Service

(clause 1.1)

Minister

Contact: Manager Area

Address: NSW National Parks and Wildlife Service
Bulga Office
2156 Putty Road
BULGA NSW 2330

Email: npws.wollemiyengo@environment.nsw.gov.au

Developer

Contact: Heath Bonnefin

Address: Land Specialists Pty Ltd
Suite 404, 1 Bryant Drive
TUGGERAH NSW 2259

Email: hbonnefin@landsp.com.au

Schedule 3 – Land

(clause 1.1)

Lot	Deposited Plan	Landowner
35	1288491	Roger Mark Davies Grant Stephen Davies
5	755268	East Cessnock Recycling Pty Ltd (ACN 074 095 524)
33	755268	East Cessnock Recycling Pty Ltd (ACN 074 095 524)

Schedule 4 - Development Contribution (Monetary Contribution)

(clause 4)

1. Development Contribution

1.1 Monetary Contribution

- (a) The Developer undertakes to provide the Monetary Contribution to the Minister in the manner set out in the table below:

Monetary Contribution	Value	Timing
Monetary contribution towards the conservation and maintenance of the Offset Land	\$50,000	Pursuant to clause 1.2 of this Schedule 4

1.2 Calculation and Payment of Monetary Contribution

- (a) The Developer must pay to the Minister the Monetary Contribution prior to the issue of the first Subdivision Works Certificate for the Development.
- (b) The Developer must provide the Minister with not less than 10 Business Days' written notice of its intention to pay the Monetary Contribution.
- (c) The Monetary Contribution is to be adjusted, at time of payment, by multiplying the Monetary Contribution payable by an amount equal to the Current CPI divided by the Base CPI.
- (d) For the purposes of this clause 1.2, the Current CPI is:
- (i) if the Monetary Contribution is paid between 1 January and 30 June (inclusive) in any calendar year – the CPI number for the quarter ending on 31 March in the preceding calendar year; and
 - (ii) if the Monetary Contribution is paid between 1 July and 31 December (inclusive) in any calendar year – the CPI number for the quarter ending on 31 March in that calendar year.
- (e) The Monetary Contribution is taken to have been made by the Developer when the Minister receives the full amount of the contribution payable by a deposit, by means of electronic funds transfer, of cleared funds into a bank account nominated by the Minister.

Schedule 5 – Development Contribution (Offset Land Contribution)

(clause 4)

1. Development Contribution

1.1 Provision of the Offset Land Contribution

The Developer must provide the Offset Land Contribution to the Minister in accordance with this clause 1 of Schedule 5.

1.2 Condition of the Offset Land

The Developer must ensure there is no clearing of native vegetation or loss of habitat on the Offset Land prior to the dedication or transfer of the Offset Land to the Minister.

1.3 Timing for Provision of the Offset Land Contribution

The Developer must provide the Offset Land Contribution to the Minister prior to the issue of the first Subdivision Works Certificate for the Development.

1.4 Dedication or transfer of the Offset Land

- (a) Prior to the dedication or transfer of the Offset Land, the Developer must, at its cost:
 - (i) provide evidence to the Minister that the Offset Land is in the condition required under clause 1.2 of this Schedule 5;
 - (ii) if required, deliver to the Minister for approval a form of transfer that on registration will dedicate or transfer the Offset Land to the Minister;
 - (iii) upon receipt of approval from the Minister, provide evidence that a form of transfer has been lodged for registration through an ELNO;
 - (iv) promptly comply, or procure compliance with, any requisitions raised by the Registrar-General in relation to the dedication or transfer of the Offset Land; and
 - (v) take any other necessary action to give effect to the dedication or transfer of the Offset Land as a public reserve free of all encumbrances (including any mortgages, easements, covenants and other planning agreements) and affectations (including any charge or liability for rates, Taxes and charges) other than service easements or such other encumbrances as agreed by the Minister in writing.
- (b) The Offset Land Contribution is made for the purposes of clause 1.4 of this Schedule 5 when the Minister is given copies of the title search(es) for the Offset Land showing the Minister as the registered proprietor of the Offset Land.
- (c) If the Developer does not comply with clause 1.4(a)(i), the Minister may:
 - (i) refuse to accept the transfer of the Offset Land; and
 - (ii) require that the Developer undertake works, at the Developer's cost and within a timeframe determined by the Minister (acting reasonably), so as to enable the Developer to comply with clause 1.4(a)(i),

in which case the Developer must comply with the Minister's requirements.

- (d) For avoidance of doubt, clause 1.4(a)(v) of this Schedule 5 does not apply in relation to encumbrances or affectations being statutory rights that exist or arise under legislation which are of a type which the Developer could not prevent from affecting the Offset Land and in respect of which no action can be taken by the Developer.
- (e) Despite clause 1.4(a)(v) of this Schedule 5, if, having used its best endeavours, the Developer cannot ensure that the land to be dedicated is free from any relevant encumbrance and affectation which would otherwise be the subject of clause 1.4(a)(v), then:
 - (i) the Developer may request that the Minister agree to accept the land subject to those encumbrances and affectations; and
 - (ii) if the encumbrance or affectation:
 - (A) does not prevent the future use of the land as a public reserve; or
 - (B) is not a charge arising as a result of unpaid taxes or charges,
 the Minister may agree to accept the land subject to those encumbrances; and
 - (iii) in other circumstances, the Minister may withhold the Minister's agreement at her absolute discretion.
- (f) The Developer indemnifies and agrees to keep indemnified the Minister against all Costs that the Minister incurs from Remediating any Contamination over the whole or any part of the Offset Land but only in relation to Contamination that existed on or before the date the Offset Land is dedicated as a public reserve or compulsorily acquired by the Minister.
- (g) The Developer will pay all rates and Taxes owing in respect of the Offset Land up to and including the date that the Developer dedicates the Offset Land as a public reserve pursuant to clause 1.4 of this Schedule 5 or the date of acquisition (as applicable), after which time the Minister will be responsible for any rates and Taxes in relation to the Offset Land.
- (h) The Developer indemnifies and keeps indemnified the Minister in relation to any failure of the Developer to comply with clause 1 of this Schedule 5.
- (i) The parties agree that clause 1 of this Schedule 5 operates as a deed poll in favour of the Minister.

1.5 Compulsory acquisition of Offset Land

- (a) If the Developer does not dedicate or transfer the Offset Land as a public reserve as required by clause 1.4 of this Schedule 5, the Minister may elect to, and the Developer consents to, the Minister compulsorily acquiring the whole or any part of the Offset Land in accordance with the Just Terms Act, for the amount of \$1.
- (b) The Developer and the Minister agree that:
 - (i) this clause 1.5 is an agreement between the Developer and the Minister for the purposes of section 30 of the Just Terms Act; and
 - (ii) in this clause 1.5, the Developer and the Minister have agreed on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition.

- (c) Subject to clause 1.4(e) of this Schedule 5, the Developer must ensure that the Offset Land is free of all encumbrances and affectations (including any charge or liability for rates, Taxes and charges) immediately before the Offset Land is to be acquired by the Minister.
- (d) The Developer indemnifies and keeps indemnified the Minister against any claims made against the Minister as a result of any acquisition by the Minister of the whole or any part of the Offset Land under this clause 1.5.
- (e) The Developer must pay the Minister, promptly on demand, an amount equivalent to all Costs incurred by the Minister in acquiring the whole or any part of the Offset Land as contemplated by this clause 1.5.

Execution page

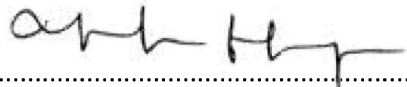
Executed as a deed

Signed, sealed and delivered by the **Minister administering the National Parks and Wildlife Act 1974** (ABN 20 770 707 468), in the presence of:



Signature of witness

Electronic signature of me, Shanta Woodhall affixed by me 27/11/2024.



Signature of delegate of the Minister

administering the *National Parks and Wildlife Act 1974*

Electronic signature of me, Patricia Harrup affixed by me 27/11/2024.

Shanta Woodhall

Name of witness in full

Patricia Harrup

Name of delegate of the Minister administering the *National Parks and Wildlife Act 1974*

49 Kosciuszko Road, Jindabyne NSW 2627

Address of witness

Signed, sealed and delivered by **Land Specialists Pty Ltd** (ACN 606 318 076) in accordance with section 127(1) of the *Corporations Act 2001*(Cth) by:

DocuSigned by:



2A6B810F141D423...

Signature of Sole Director and Secretary

Heath Bonnefin

Name of Sole Director and Secretary in full

Signed sealed and delivered

by **Roger Mark Davies** in the presence of:

DocuSigned by:

FE701B1F3F394BF...

Signature of witness

DocuSigned by:

C815FEE63D854C0...

Signature of **Roger Mark Davies**

George Betts


Name of witness in full

59 Brook Street Muswellbrook

Address of witness

Signed sealed and delivered

by **Grant Stephen Davies** in the presence of:

DocuSigned by:

FE701B1F3F394BF...

Signature of witness

DocuSigned by:

5641038256AE45F...

Signature of **Grant Stephen Davies**

George Betts


Name of witness in full

59 Brook Street Muswellbrook

Address of witness

**Signed, sealed and delivered by East
Cessnock Recycling Pty Ltd** (ACN 074 095
524) in accordance with section 127 of the
Corporations Act 2001 (Cth) by:

DocuSigned by:


.....C815FEE63D854C0.....

Signature of Sole Director and Secretary

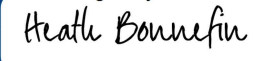
Roger Davies

.....

Name of Sole Director and Secretary in full

**Signed, sealed and delivered by Land
Specialists Estates NSW Pty Ltd** (ACN 642 515
320) in accordance with section 127(1) of the
Corporations Act 2001(Cth) by:

DocuSigned by:

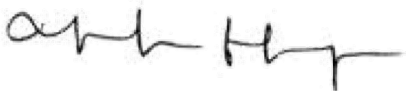

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Signature of Sole Director and Secretary

Heath Bonnefin

.....

Name of Sole Director and Secretary in full



Trish Harrup

Electronic signature of me, Patricia Harrup affixed by me 27/11/2024.