

## **HISTORICAL DEVELOPMENT CONSENTS IN NSW**

**Organisation:** Save Myall Road Bushland Incorporated  
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Partially  
Confidential

Submission to Committee on Environment and Planning of the NSW Legislative Council by Save Myall Road Bushland Inc.

## **THE INQUIRY INTO HISTORICAL DEVELOPMENT CONSENTS IN NSW**

Save Myall Road Bushland Incorporated (SMRBI) welcomes the opportunity to submit on this subject to the Committee. We specifically wish to highlight our concerns from our collective experiences of a conditionally approved development by Landcom in the Lake Macquarie area.

Residents of Cardiff, Cardiff South, Garden Suburbs and the Hillsborough areas have objected to this development proposal from when it was first lodged in 2013 as it involves the destruction of significant bushland and vital habitat. Save Myall Road Bushland Inc (SMRBI) was formed in January 2021, after a group of concerned residents who had individually objected in 2013 and in 2018 to the development application (Lake Macquarie City Council DA/1284/2013).

The development application benefits from saved provisions including land use zoning from the Lake Macquarie Council LEP 1984 and the Lake Macquarie Council LEP 2004. Further to this the Hunter and Central Coast Planning Panel elected to conditionally approve the development for Landcom despite the development not complying with the planning regulations requiring an off set size for this development to be a minimum of 40 hectares, instead the planning panel made an exception to the planning requirements allowing Landcom to utilise a smaller size off set of 28 hectares and using an onsite off set when the initial application asserted and off site off set would be preserved to compensate for their development. Approval, despite not meeting the development consent rules.

The application from Landcom proposes to develop nearly 12ha's of a 38.8ha area of remnant coastal eucalypt forest for 66 house lots and 3 super lots at Myall Road, Garden Suburb in the City of Lake Macquarie.

Supporting documentation from Landcom included a *Statement of Environment Effects*, prepared for them by Elton Consulting stating that the development would not have a significant impact on biodiversity and would have a positive impact on the human community. It further claimed that the existing, remaining 28ha would offset the impacts of the development. Landcom claimed that an equivalent off-site offset could not be found and falsely claimed that the Biodiversity Conservation Trust had agreed that the offset was appropriate. We contend that these above matters are highly erroneous.

Individual community members presented evidence and information to the Joint Regional Planning Panel on 8 December 2020, that directly conflicted with various Landcom assertions made in their application and at the panel hearing. Community members' evidence and conclusions were not appropriately addressed by the JRPP. The developer -and Lake Macquarie City Council employees contended that they had followed the procedures set out in various state environmental and planning, threatened species and biodiversity conservation laws, however, as mentioned above, some of these rely upon provisions from 1979. SMRBI contends a more rigorous assessment is required considering contemporary environmental protections when doing contemporary damage, to the environment and, not relying on dinosaur or zombie provisions.

To provide an example related to the above paragraph, as the DA was lodged in 2013, yet assessed by the JRPP in 2020, Landcom claimed an exemption from the Lake Macquarie City Council's (LMCC) Large Forest Owl policy of 2014. Landcom and LMCC presented to the JRPP

that there would be no negative impacts upon the Powerful Owls by this development despite Landcom and the community both agreeing that this is a Powerful Owl roosting area. This is in direct contradiction to the LMCC policy of 2014 which requires LMCC to act to protect remaining habitat of the Powerful Owl as it will negatively impact its' survival and potentially move it from vulnerable to threatened status without appropriate protections.

SMRBI requests you to consider how is it fair and reasonable to the community and the Powerful Owl that policies related to protecting the environment developed before the final consent of a development is given, should be ignored because the initial DA was lodged under a different environmental protection framework. Current knowledge and practise **must** be required for **current development**. We would not let anachronistic work health and safety provisions of decades ago pass as reasonable protections in the workplace today, but we are doing this for the natural environment.

As Landcom was given conditional approval in December 2020 by the JRPP, SMRBI set out to undertake our own research and have published a detailed report on the biodiversity, historical and community benefits of managing the whole 38.8ha as bushland. SMRBI have made 22 recommendations for improving the management of this site ([view report](#)).

SMRBI has managed to establish that Landcom has not used the correct test of significance of this site in regard to the Little Bent Wing Bat, a species of bat considered vulnerable in NSW. We have obtained an independent expert report to support this finding.

Landcom has failed to effectively engage with the Aboriginal people of the area and consider the cultural values of the site. In working in partnership with stakeholders we have established that there are significant Aboriginal heritage sites within the development footprint, and at a minimum, these should be further investigated, and not when the bulldozers turn up. In addition, the proposed development site adjoins an Aboriginal Hostel, Kirinari which provides housing for Aboriginal people from rural NSW to be able to live in a bushland setting whilst studying at local schools. Landcom's conclusion to the clear felling of 12 hectares of bushland adjoining the hostel is, that there will be no impact. The approach from Landcom to cultural impacts of this development seems to be the same as the environmental impacts, Landcom's approach seems to be, *we are not sure what is actually in that bushland area, but as we bulldoze it, we will tell you and then work it out*. We expect better from the NSW Government land development organisation. Find out more about Kirinari [here](#).

SMRBI continues to lobby and request the Federal Minister for the Environment, the NSW Minister for the Environment and the Minister for Planning in NSW's act to prevent the destruction of this remnant bushland which has threatened and vulnerable species within it. We have requested community consultation by the developer and to be informed further about the progress of the development, but Landcom has not engaged with us to work on improved potential outcomes and protections. Surely this would be a reasonable accommodation for the developer to work with the community.

SMRBI was not specifically informed of the developer's application under the federal Environmental Protection and Biodiversity Conservation (EPBC) Act 1999 to impact the threatened plant species *Tetratheca juncea*. However members of SMRBI have objected to the development through the federal environmental processes for assessing impacts on threatened species and received in response the same statements still being used to justify their application to destroy this species on the development site, as shown in the following excerpts

from a letter by [REDACTED]  
[REDACTED] dated [REDACTED]:

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]

SMRBI contends that Landcom using the term [REDACTED] is misleading as it does not consider the actual impact upon the remnant bushland that their development will have. Developed areas alongside preserved areas can have significant impacts on the preserved area depending on how the developed area is used.

Landcom also suggests they do developments in [REDACTED]

The Myall Road Bushland has federal protected plant species within it, the vulnerable Powerful Owl and the Little Bent Wing Batt and Sugar Gliders along with other high value environmental attributes. It could not be honestly described as being of the least environmentally sensitive parcel of land.

We contend that the NSW Planning system fails to consider and account for regional and cumulative effects of concurrently proposed developments. Site specific only assessment of impacts similar to that undertaken via DA/1283/2013 in Lake Macquarie City Council area by Landcom does not consider the cumulative loss of biodiversity, loss of habitat connectivity, loss of Aboriginal cultural values and loss of community amenity.

This proposed destruction by Landcom has not taken into account changes over the last 10 years in community values and attitudes towards loss of Bushland between when it was proposed and when it may commence. Even after this year's change in the NSW government, Biodiversity is not being protected, the off set system in NSW via the Conservation Trust is not effective, we continue to prioritise development and destruction over protection. What is the purpose of assessment if it does not result in ensuring protection.

To highlight another factor impacting clearing of bushland is that Landcom and Crown Lands are incentivised by capitalising on land development for the NSW Government. Crown Lands and Landcom will split profits from this development 50/50. The return to the community of Crown Land management should be the effective environmental management of crown land for the people, not aimed at monetary return.

Landcom's claims of taking into account public concerns are still made, yet SMRBI contends that our concerns are still being dismissed by supposed independent planning authorities and the buck has now been passed to the Federal Minister for the Environment, as shown in an excerpt from a letter by Paul Scully MP, NSW Minister for Planning and Public Spaces, dated 27/09/2023:

*"As you are aware, planning panels are independent bodies [sic] which assess and determine development applications as part of the planning system. The panels are not subject to the direction of the Minister, and there is no power in the planning legislation for me, or the Federal Minister, to review a decision made by a planning panel...."*

*.....Furthermore, I am advised the applicant is undergoing the Federal environmental approval process under the EPBC Act. This process, together with the preparation of the Biodiversity Stewardship Agreement, will consider the impacts of the proposed development and the appropriateness of any biodiversity offset scheme applicable for this site. These are issues under the jurisdiction of the Australian Government.”*

It is not clear to us that the federal impact assessment process will be any different from the NSW process or that it is in any way related to the NSW Biodiversity Stewardship Scheme, which has not done an independent assessment, and which has not demonstrated any precedent for best practice management of an ‘onsite offset’! The involvement of all levels of government and two planning authorities has unnecessarily complicated the issue, which is significant loss of biodiversity, ecological connectivity, Aboriginal history, environmental ‘services’ and community amenity for a small in-fill housing development.

A number of changes to the planning system are needed in NSW to remove its pro-development bias. SMRBI requests the following:

1. All developments approved under superseded legislation and not commenced should be reassessed under current legislation. For example, Landcom seems to be getting special treatment because they are a government authority, firstly regarding the length of their conditional approval to develop the Myall Road Bushland, i.e. 5 years, and the fact they haven’t had to start a new application under the Biodiversity Conservation Act 2016 or LMCC’s Large Forest Owl policy.
2. Planning laws should be revised to address changes in community attitudes towards biodiversity conservation in the last 10 years. The NSW government has recognised the value of open space, yet continues to approve clear felling of the last piece of remnant bushland at the northern end of LMCC area, i.e. Myall Road, Garden Suburb, instead of taking opportunities to redevelop already disturbed land such as has happened at Boolaroo on the former Pasminco site. Already cleared/disturbed land is where to do in fill, not by clearing bushland with threatened species.
3. Community submissions to Regional Planning Panels need to have the professional support of professionally trained employees to produce documents equivalent to those that Landcom paid thousands of dollars for by environmental consultants. Currently there is massive power imbalance as SMRBI is made up of volunteers and we produced our report on the proposed alternative development and management of the Myall Road Bushland for free in our spare time.
4. Regional planning committee representation needs to include permanent seats for Environment and Community Advocates. The Hunter Central Coast Regional Planning Panel appeared to be politically stacked in December 2020 as there was no representative from community or conservation/environment groups, and as a result was/is very pro-development.
5. Environmental Impact Assessments need to consider the regional scale of development and not take a piecemeal approach to development applications. The Myall Road development application should be required to assess its impact on biodiversity and community in relation to the massive Newcastle Link Road development for housing, the road infrastructure developments making up the Charlestown bypass and Newcastle Inner City bypass, Edgeworth/West Wallsend massive land clearing for housing. **Cumulative loss, has cumulative effects. Aristotle** in 300 BC knew that the sum of the whole is greater than the sum of the parts, but we today have still not learnt this when considering the environment, the very thing our existence on this planet depends upon.
6. Developers or owners of land that is proposed to be developed need to manage the land appropriately. Therefore, Landcom should be required to appropriately manage land under

their jurisdiction, including fire protection, tree and track maintenance, rubbish removal, prevention of firewood collection and invasive weed control, none of which have they done over the last 10 years. This site has sat between Crown and Landcom, neglected in management but seen as a potential cash cow by development at the cost of the environment. Rules for maintaining proposed development land need to be improved, so management is undertaken and not abandoned impacting local communities, This is irresponsible land banking.

SMRBI's alternative management plan (see attached or via link above) outlines our evidence for an alternative to Landcom's inefficient housing development and contains recommendations specific for this site which are directed at Landcom, Lake Macquarie City Council, our local electorates' state and federal MPs and their Ministers for Environment.

What is relevant to this Inquiry by your committee is that where a development lags for a significant time, not only does it not have to comply with modern expectations but when it progresses the people locally whom it may impact the most may have significantly changed and those effected have not been able to have their say. In our area many people have moved, died or given up fighting thinking the development will never progress, but they are just disengaged and uninformed by the delayed process. For this development, in some instances the notice was an A4 piece of paper nailed to a tree in the bush. Surely this is not good enough.

Developers need to face the community where their developments are to be held and not just contract their own business connections for reports and assessments who have a vested interest in the development or developer. The loudest voices to the planning process should be the community but notification processes are outdated with todays technology/communication methods. An add in a paper does not hold the same weight as it did 10 or 20 years ago.

Democracy deserves better, and accountability of developers needs to be improved and monitoring focussed upon. In our specific case, this development interestingly promises some of the same things that were promised 25 years ago when a previous adjoining development was done. These promised community benefits where never delivered and never effectively followed up via the monitoring of the delivery of the previous development. Why should the community have confidence in the ability of this development to deliver these proposed community benefits? Council is not undertaking effective compliance.

In concluding SMRBI would welcome a visit to the Myall Road Bushland from members of your Committee to observe the high biodiversity, historical and community values this bushland represents, and to discuss with members of SMRBI how to address the negative effects of zombie developments.

We hope we can inform and assist the committee further understand how the current planning system is facilitating the loss of habitat, the loss of bushland, the loss of biodiversity and also impacting climate change.

We wish you well in your deliberations.

Regards

Save Myall Road Bushland Incorporated

E: [saveourbush@gmail.com](mailto:saveourbush@gmail.com)

Steve Warham M 0458929297

## 15. APPENDICES: Proposed Environmental Management Plan for Myall Road Bushland (DA/1284/2013)

### Appendix 1. Bird and Plant Lists

Species recorded in the forest (south of Myall Road) and suburb (north of Myall Road) and their main habitat (based on frequency of sightings in that habitat), 2002-2022.

Bird Species	Main Habitat	Bird Species	Main Habitat
Pacific Baza	forest	Yellow-faced Honeyeater	forest
Grey Goshawk	forest	White-naped Honeyeater	forest
Brown Goshawk	forest	Eastern Spinebill	forest
Black-shouldered Kite	suburb	Scarlet Honeyeater	forest
Australian Hobby	suburb	Rose Robin	forest
Nankeen Kestrel	suburb	Eastern Yellow Robin	forest
Masked Lapwing	suburb	Eastern Whipbird	forest
Topknot Pigeon	forest	Varied Sittella	forest
White-headed Pigeon	suburb	Golden Whistler	forest
Spotted Turtledove	suburb	Rufous Whistler	forest
Crested Pigeon	suburb	Grey Shrike-thrush	forest
Yellow-tailed Black-cockatoo	generalist	Black-faced Monarch	forest
Sulphur-crested Cockatoo	generalist	Leaden Flycatcher	forest
Little Corella	suburb	Willie Wagtail	generalist
Galah	suburb	Grey Fantail	forest
Australian King Parrot	generalist	Rufous Fantail	forest
Eastern Rosella	generalist	Black-faced Cuckoo-shrike	generalist
Crimson Rosella	generalist	Olive-backed Oriole	generalist
Rainbow Lorikeet	generalist	Figbird	generalist
Scaly-breasted Lorikeet	forest	Grey Butcherbird	generalist
Little Lorikeet	forest	Pied Butcherbird	suburb
Fantail Cuckoo	forest	Magpie-Lark	suburb
Shining Bronze Cuckoo	forest	Australian Magpie	generalist
Channel-billed Cuckoo	forest	Pied Currawong	generalist
Powerful Owl	forest	Australian Raven	generalist
Tawny Frogmouth	generalist	Satin Bowerbird	forest
White-throated Needletail	generalist	Red-browed Finch	forest
Sacred Kingfisher	forest	Mistletoebird	generalist
Laughing Kookaburra	generalist	Welcome Swallow	generalist
Dollarbird	forest	Silvereye	generalist
White-throated Treecreeper	forest	Common Starling	suburb
Superb Fairy-wren	generalist	Common Myna	suburb
Variegated Fairy-wren	forest	White-faced Heron	wetland
Spotted Pardalote	forest	Pacific Black duck	wetland
Striated Pardalote	forest	Wood Duck	wetland
White-browed Scrubwren	forest	Dusky Moorhen	wetland
Brown Gerygone	forest	Buff-banded Rail	wetland
White-throated Gerygone	forest	Great Egret	wetland
Brown Thornbill	forest	White-faced Heron	wetland
Striated Thornbill	forest	Nankeen Night-heron	wetland
Yellow Thornbill	forest	Australian White Ibis	wetland
Red Wattlebird	generalist	Straw-necked Ibis	wetland
Blue-faced Honeyeater	generalist	Little Pied Cormorant	wetland
Noisy Friarbird	forest	Little Black Cormorant	wetland
Noisy Miner	generalist	Australian Darter	wetland
Lewin's Honeyeater	forest	Clamorous Reed-warbler	wetland

Plant species recorded on NSW BioNet at site locations within the bushland remnant and during observations by members of SMRBI, 2002-2022.

Common name	Plant Species	Family
Sydney golden wattle	<i>Acacia longifolia</i>	Mimosaceae
Red-stemmed Wattle	<i>Acacia myrtifolia</i>	Mimosaceae
Sunshine Wattle	<i>Acacia terminalis</i> subsp. <i>angustifolia</i>	Mimosaceae
Prickly Moses	<i>Acacia ulicifolia</i>	Mimosaceae
Common maidenhair	<i>Adiantum aethiopicum</i>	Pteridiaceae
Black She-Oak	<i>Allocasuarina littoralis</i>	Casuarinaceae
Forest Oak	<i>Allocasuarina torulosa</i>	Casuarinaceae
Sydney Red Gum, Smooth-Barked Angophora	<i>Angophora costata</i>	Myrtaceae
Threeawn speargrass	<i>Aristida vagans</i>	Poaceae
Necklace fern	<i>Asplenium flabellifolium</i>	Aspleniaceae
A Speargrass	<i>Austrostipa pubescens</i>	Poaceae
Hairpin Banksia	<i>Banksia spinulosa</i> var. <i>collina</i>	Proteaceae
Hairy Apple Berry	<i>Billardiera scandens</i>	Pittosporaceae
Soft water fern	<i>Blechnum cartilagineum</i>	Blechnaceae
A Pea	<i>Bossiaea stephensonii</i>	Fabaceae
Coffee Bush	<i>Breynia oblongifolia</i>	Phyllanthaceae
Blue Trumpet	<i>Brunoniella australis</i>	Acanthaceae
Black Wattle	<i>Callicoma serratifolia</i>	Cunoniaceae
Willow bottlebrush	<i>Callistemon salignus</i>	Myrtaceae
Rainbow Fern	<i>Calochlaena dubia</i>	Dicksoniaceae
Slender Devils Twine	<i>Cassytha glabella</i> f. <i>glabella</i>	Lauraceae
Christmas bush	<i>Ceratopetalum gummiferum</i>	Cunoniaceae
Pyramid flower	<i>Comesperma ericinum</i>	Polygalaceae
Red Bloodwood	<i>Corymbia gummifera</i>	Myrtaceae
Spotted Gum	<i>Corymbia maculata</i>	Myrtaceae
Jackwood	<i>Cryptocarya glaucescens</i>	Lauraceae
Large Tongue Orchid	<i>Cryptostylis subulata</i>	Orchidaceae
Australian Dodder	<i>Cuscuta australis</i>	Convolvulaceae
Barbed-Wire Grass	<i>Cymbopogon refractus</i>	Poaceae
Blue Dampiera	<i>Dampiera stricta</i>	Goodeniaceae
Common Flax Lily	<i>Dianella caerulea</i> var. <i>assera</i>	Phormiaceae
Blueberry Lily, Blue Flax Lilly	<i>Dianella revoluta</i> var. <i>revoluta</i>	Phormiaceae
Finger Panic Grass	<i>Digitaria ramularis</i>	Poaceae
A pea	<i>Dillwynia parviflora</i>	Fabaceae
Eggs And Bacon, Heathy Parrot Pea	<i>Dillwynia retorta</i>	Fabaceae
Slender hyacinth-orchid	<i>Dipodium variegatum</i>	Orchidaceae
Large-Leaf Hop-Bush	<i>Dodonaea triquetra</i>	Sapindaceae
Wiry Panic	<i>Entolasia stricta</i>	Poaceae
Wallum Heath	<i>Epacris pulchella</i>	Ericaceae
White Mahogany	<i>Eucalyptus acmenioides</i>	Myrtaceae
Brown Stringybark	<i>Eucalyptus capitellata</i>	Myrtaceae
Broad-Leaved Scribbly Gum	<i>Eucalyptus haemastoma</i>	Myrtaceae

Grey ironbark	<i>Eucalyptus paniculata</i>	Myrtaceae
Sydney Peppermint	<i>Eucalyptus piperita</i>	Myrtaceae
Sydney bluegum	<i>Eucalyptus saligna</i>	Myrtaceae
Broad-Leaved White Mahogany	<i>Eucalyptus umbra</i>	Myrtaceae
Wombat Berry	<i>Eustrephus latifolius</i>	Luzuriagaceae
Cherry Ballart	<i>Exocarpos cupressiformis</i>	Santalaceae
Tall saw-sedge	<i>Gahnia clarkei</i>	Cyperaceae
Thatch Saw-Sedge	<i>Gahnia radula</i>	Cyperaceae
A Bedstraw	<i>Galium binifolium</i>	Rubiaceae
Scrambling lily	<i>Geitonoplesium cymosum</i>	Luzuriagaceae
Cheese Tree	<i>Glochidion ferdinandi</i> var. <i>ferdinandi</i>	Phyllanthaceae
Twining Glycine	<i>Glycine clandestina</i>	Fabaceae
Small-leaf glycine	<i>Glycine microphylla</i>	Fabaceae
Golden Glory Pea	<i>Gompholobium latifolium</i>	Fabaceae
Poverty Raspwort	<i>Gonocarpus tetragynus</i>	Haloragaceae
Variable Goodenia	<i>Goodenia heterophylla</i> subsp. <i>heterophylla</i>	Goodeniaceae
Settler's twine	<i>Gymnostachys anceps</i>	Araceae
A Hakea	<i>Hakea bakeriana</i>	Proteaceae
False Sarsparilla	<i>Hardenbergia violacea</i>	Fabaceae
A Guinea Flower	<i>Hibbertia empetrifolia</i> subsp. <i>empetrifolia</i>	Dilleniaceae
Narrow-Leaved Hovea	<i>Hovea linearis</i>	Fabaceae
Blady Grass	<i>Imperata cylindrica</i>	Poaceae
Australian indigo	<i>Indigofera australis</i>	Fabaceae
Tick bush	<i>Kunzea ambigua</i>	Myrtaceae
Mountain Devil	<i>Lambertia formosa</i>	Proteaceae
Variable Sworde-Sedge	<i>Lepidosperma laterale</i>	Cyperaceae
Stiff Rapier-Sedge	<i>Lepidosperma neesii</i>	Cyperaceae
Prickly Tea-tree	<i>Leptospermum juniperinum</i>	Myrtaceae
Tantoon	<i>Leptospermum polygalifolium</i> subsp. <i>cismontanum</i>	Myrtaceae
Slender Tea-Tree	<i>Leptospermum trinervium</i>	Myrtaceae
Hairy Beard-Heath	<i>Leucopogon microphyllus</i> var. <i>microphyllus</i>	Ericaceae
Screw Fern	<i>Lindsaea linearis</i>	Lindsaeaceae
Lacy Wedge Fern	<i>Lindsaea microphylla</i>	Lindsaeaceae
Cabbage tree palm	<i>Livistona australis</i>	Arecaceae
Tiny Logania	<i>Logania pusilla</i>	Loganiaceae
Needle Mat-Rush	<i>Lomandra cylindrica</i>	Lomandraceae
Spiny-headed mat-rush	<i>Lomandra longifolia</i>	Lomandraceae
Many-Flowered Mat Rush	<i>Lomandra multiflora</i> subsp. <i>multiflora</i>	Lomandraceae
Fish Bones, Twisted Mat Rush	<i>Lomandra obliqua</i>	Lomandraceae
Crinkle Bush	<i>Lomatia silaifolia</i>	Proteaceae
Scented Marsdenia	<i>Marsdenia suaveolens</i>	Apocynaceae

A paperbark	Melaleuca sieberi	Myrtaceae
Weeping Grass	Microlaena stipoides var. stipoides	Poaceae
Prickly Broom Heath	Monotoca scoparia	Ericaceae
Muttonwood	Myrsine variabilis	Primulaceae
Mock Olive	Notelaea longifolia f. longifolia	Oleaceae
Australian basket grass	Oplismenus aemulus	Poaceae
Wonga Wonga Vine	Pandorea pandorana	Bignoniaceae
Two-Colour Panic	Panicum simile	Poaceae
Spreading Panic	Paspalidium distans	Poaceae
Laurel Geebung	Persoonia laurina subsp. laurina	Proteaceae
Broad-Leaved Geebung	Persoonia levis	Proteaceae
Narrow-Leaved Geebung	Persoonia linearis	Proteaceae
Hyme Spurge	Phyllanthus hirtellus	Phyllanthaceae
Slender Rice Flower	Pimelea linifolia subsp. linifolia	Thymelaeaceae
Sweet Pittosporum	Pittosporum undulatum	Pittosporaceae
Small-Flowered Flat-Pea	Platylobium parviflorum	Fabaceae
A snowgrass	Poa affinis	Poaceae
Prickly shaggy pea	Podolobium ilicifolium	Fabaceae
Ferny Panax	Polyscias sambucifolia subsp. decomposita	Araliaceae
Ferny Panax	Polyscias sambucifolia subsp. sambucifolia	Araliaceae
A Pomaderris	Pomaderris sp.	Rhamnaceae
Bracken	Pteridium esculentum	Dennstaedtiaceae
Feather Sedge	Ptilothrix deusta	Cyperaceae
Large-leaf bush pea	Pultenaea daphnoides	Fabaceae
Small-leaved bush pea	Pultenaea microphylla	Fabaceae
Chaffy Bush-Pea	Pultenaea paleacea	Fabaceae
Notched Bush-Pea	Pultenaea retusa	Fabaceae
Turpentine	Syncarpia glomulifera	Myrtaceae
Black-Eyed Susan	Tetratheca juncea	Elaeocarpaceae
Kangaroo Grass	Themeda triandra	Poaceae
Snow wreath	Woolsia pungens	Ericaceae
A Grass Tree	Xanthorrhoea latifolia subsp. latifolia	Xanthorrhoeaceae
Smooth zieria	Zieria laevigata	Rutaceae

#### *Existing flora that will be destroyed by DA/1284/2013*

Many of the plants shown below may not have been seen during environmental surveys as they only appear at certain times of the year and for very short time periods, sometimes only days. Refer Figure 33 to 57 below.



Figure 1 - ***Tetratheca Juncea*** - listed as vulnerable by NSW Government. **658 clumps will be destroyed or 26% of the total population.**



Figure 34 - ***Hyacinth Orchid*** - *Dipodium punctatum*. This occurs extensively in the area proposed to be cleared. The symbiotic relationship orchids have with the immediate local environment is complex and therefore easily destroyed.



Figure 35 - ***Bonnet Orchid*** - *Cryptostylis erecta*



Figure 36 - ***Lady finger orchids*** - *Caladenia catenata*.



Figure 37 - **Purple Beard Orchid** - *Calochilus robertsonii*.



Figure 39 - **Leek orchid** - *Prasophyllum* spp



Figure 38 - **Pixie Cap orchids** - *Acianthus fornicatus*.



Figure 20 - **Tall leek orchid** - *Pasophyllum elatum*



Figure 31 - **Cow orchid** - *Cryptostylis subulata*.



Figure 42 - **Nodding greenhood orchids** - *Pterostylis nutans*



Figure 43 - **Grass trees** - *Xanthorrhoea minor* are prolific in the area proposed to be cleared for housing.



Figure 44 - **Bootlace orchid** - *Erythrorchis cassythoides*. There are only two known plants, both in the remnant bushland associated with DP1168657 Lot 1 on the corner of Myall Rd and Reserved Road.



Figure 45 – **Snake Orchid** - *Cymbidium suave*. Only two of these have been observed in the remnant bushland and one is in the proposed development area set for housing lots.



Figure 46 - **Fringe lily**. *Thysanotus tuberosus*. Only recently found in the area planned for subdivision.



Figure 47 - **Native iris** - *Patersonia occidentalis*.



Figure 49 - **Christmas bells** - *Blandfordia grandiflora*.



Figure 48 - **Large nesting trees** - 6 out of 14 old growth nesting trees will be removed - **43% of remaining suitable trees will be destroyed**. Powerful owl whitewash has been identified in the area planned to be cleared under DA/1284/2013.



Figure 50 - **Mountain Devil** - *Lambertia Formosa*.



Figure 61 - **Broad-leaved drumsticks** - *Isopogon anemonifolius*.



Figure 72 - **Purple Coral Pea** - *Hardenbergia violacea*.



Figure 53 - Three different species of Pea.



Figure 54 - **Rice flower** - *Pimelia*.



Figure 55 – **Golden Glory Pea** - *Gompholobium latifolium*



Figure 56 – *Hakea bakeriana*.



Figure 57 - Flowering banksias are prevalent in the area proposed to be cleared. These plants are a favoured food of the squirrel glider in these woodland areas. Reference 7 – LMCC guideline.

Attachment removed from publication.

### Appendix 3. Ongoing Environmental Damage

#### 3a. Further examples of tree damage (see also Figure 8).



GPS  
Latitude 32; 57; 6.910000000000343562  
Longitude 151; 40; 36.05000000000465093  
Altitude 63.6072494669509609



GPS  
Latitude 32; 57; 6.860000000000049681  
Longitude 151; 40; 35.780000000000277407  
Altitude 63.680413085666757



GPS  
Latitude 32; 57; 9.7299999999999601  
Longitude 151; 40; 33.08999999999674321  
Altitude 47.1982786101370735



GPS  
Latitude 32; 57; 6.949999999999709  
Longitude 151; 40; 36.27000000000184275  
Altitude 62.695505326058715



GPS  
Latitude 32; 57; 6.5700000000000707  
Longitude 151; 40; 31.2199999999718614  
Altitude 59.2803317535545



GPS  
Latitude 32; 57; 6.860000000000049681  
Longitude 151; 40; 35.8900000000013913  
Altitude 63.6213252449836659

3b. Further examples of vegetation and soil damage by track construction (see also *Figures 9-11*).



Further evidence of widespread tree destruction throughout the area (see also *Figures 9-11*). Small eucalypts are regularly cut down to assist with ramp creation, and small casuarinas routinely pushed over or cut.



*Further evidence of recent track creation in DP1011323 on the eastern edge, within the area proposed for conservation offset. In these cases large amounts of dirt have been moved with shovels as well as tree removal.*



*Track creation on the eastern edge of DP1011323, leading down to a steep gully that should be protected. This area is adjacent to the Powerful Owl nesting site and within the proposed conservation offset under DA/1284/2013.*



Further track clearing and digging tools. The last photograph shows the way to the western side of Lot 100 DP 811772 and Lot 10 DP1011323, with the track following the ephemeral creek down to an area already extensively damaged with bike tracks, as shown in **Error! Reference source not found.** which is proposed to be conserved if DA1284/2013 proceeds.



*Extensive bike tracks and ramps on the western edge of DP1011323. This section is proposed to be conserved as part of DA/1284/2013 but will be isolated from the larger proposed conservation offset area.*



*Increased track creation on the eastern edge of DP1011323 which is proposed to be part of the conservation offset under DA/1284/2013. This area previously had only one track now it has become three. A new track has been created along the fence line for the Newcastle inner City Bypass, another now goes to a series of jumps before cutting through a fern covered gully that is high susceptible to erosion due to the steepness and now lack of ground cover.*

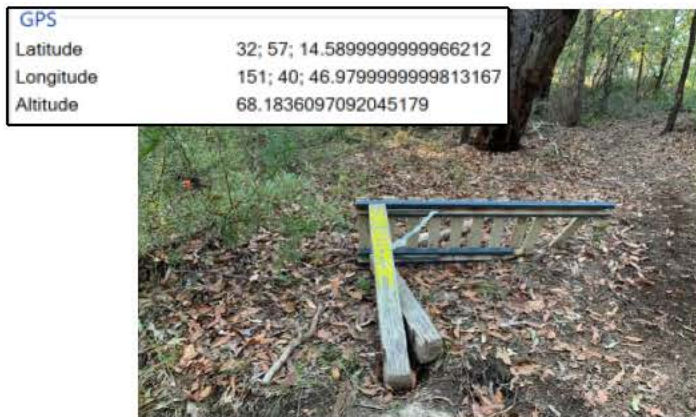


*An area of regrown and regeneration after a deliberately lit fire. This area is within the zone proposed for housing and contains numerous Xanthorrhoea plants and native orchids. This strip through the regrowth was cut down using a whipper snipper or slasher. Powered and manual cutting equipment is being used extensively to cut tracks throughout the area. The fire appears to have removed all weed infestation in this area, and promoted fresh native regrowth, indicating controlled burns are overdue in the area and need to be part of any conservation management plan.*

### 3c. Further examples of rubbish accumulation (see also *Figures 14-18*)



Numerous pallets and other timber or steel fencing items have been transported to the bushland area for jump and ramp creation.



More rubbish transported to the bushland area for jump and ramp creation.



*Numerous camping areas have been established within the bushland remnant. Here camping gear is left in the bush.*

### **3d. Further examples of firewood removal (see also *Figure 21*)**



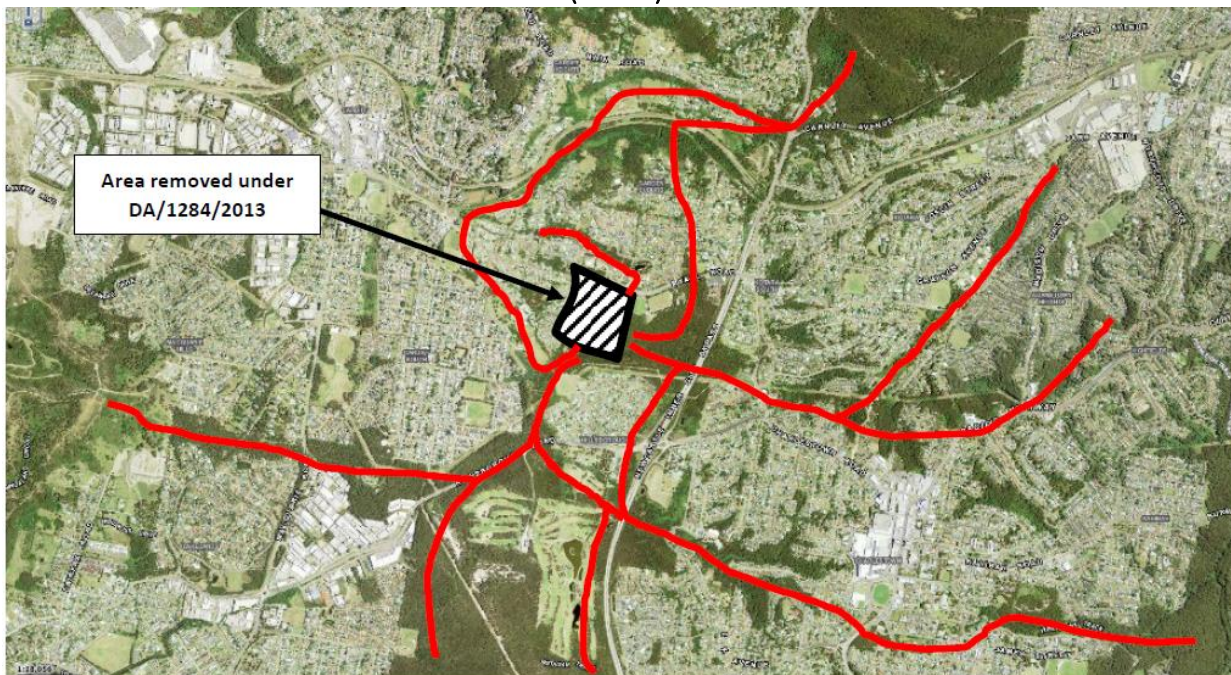
*Various examples of firewood being cut and removed from the remnant bushland.*





# Save Myall Road Bushland Incorporated

(SMRBI)



*Aerial picture of wildlife corridors (in red) to and from Garden Suburb's remnant bushland affected by DA 1284/2013, demonstrating connection of significance to other bushland in Lake Macquarie and Newcastle LGA's.*

## Proposed Environmental Management Plan for Myall Road Bushland (DA/1284/2013)

Submitted to: -

- Landcom / Crown Lands
- NSW & Federal Ministers for Environment
- Biodiversity Conservation Trust
- Member for Shortland (Federal)
- Member for Charlestown (State)
- Lake Macquarie City Council

From

Save Myall Road Bushland Incorporated

Contact: [saveourbush@gmail.com](mailto:saveourbush@gmail.com)

Address: 15 Coronation Ave, Cardiff 2285

Ph: 0458 929297

Version 5.0



*Community protest at Garden Suburb against Landcom's proposed bushland destruction.*

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## 1. Executive Summary

Landcom, the NSW Government Developer has proposed and gained **conditional** approval for a housing development (DA/1284/2013) of bushland on Myall Road, Garden Suburb in the City of Lake Macquarie NSW. The development application was assessed by the Joint Regional Planning Panel (PPS-2013HCC016) on 8 December 2020, with a determination being published, 20 December 2020.

This proposed development is planned to realise 66 housing lots and 3 super lots.

Save Myall Road Bushland Incorporated (SMRBI) is acting against the proposed destruction of this valuable and significant bushland. Additionally, we contend Landcom's proposed management of an associated on site "off set" via a Biodiversity Stewardship Agreement is also erroneous in its assessment and proposed management.

Further to this, SMRBI contends that misleading, incomplete, and inaccurate information has been used by the proponent to further their plans of destruction of this significant remnant bushland. The lots that will be impacted by DA/1284/2013 are of high value to the local community, include threatened flora and fauna, provide significant linkages to other bushland corridors/remnants and require protection.

This report suggests that the developer's proposed management plan for the site lacks serious attention to a range of identified issues and is ultimately unclear or silent about the responsible management of this land into the future. Furthermore, we outline the clear benefits of effectively managing the whole area for bushland recreation and conservation, the significant damage that is occurring on this site and highlight the strong opposition to the proposed bushland destruction.

Save Myall Road Bushland Incorporated calls upon Landcom, the New South Wales Minister for the Environment and Heritage, the NSW Minister for Planning, the Federal Minister for the Environment, the Biodiversity Conservation Trust, other consenting authorities, those with a vested interest in the site and all other stakeholders to act to stop this inappropriate and ill-conceived development.

SMRBI requests that prior to any further progression of this conditionally approved development that SMRBI be invited to present the case for why this development is not in the best interest of the community or the environment and have our alternative management plan considered.

SMRBI offers the opportunity for any interested party to meet with our membership and/or the broader community to discuss this proposed development.

Below are the key points of SMRBI's opposition to this development and our key recommendations.

- The value of remnant bushland to the community has increased dramatically in the last few years, significantly realised during COVID lockdowns, but generally acknowledged for its' health benefits, we see this reflected in DP&E planning documents. Overall benefits of local recreation areas massively outweighs the push for short-sighted low yield infill housing development. We must retain it!
- Considerable housing subdivision development with broad land clearing has recently been undertaken in Boolaroo, Cameron Park, Edgeworth, and West Wallsend adding thousands of residential lots. Eden Estates development off the Newcastle Link Road will add another 4,000 lots. SMRBI understand the need for new housing, however for the sake of 69 lots of in-fill, SMRBI believe this Myall Road development is not acceptable when it is at the cost of the last remnant area of bushland in Garden Suburb and will impact the survival of threatened flora and fauna.
- The Landcom proposal has been on foot for 10 years and SMRBI demands the Government take a conservation approach and preserve urban bushland such as the Myall Road remnant.
- SMRBI identifies within this report the damage happening within this remnant bushland by Governmental neglect and details how the remnant bushland should be conserved and managed for the future enjoyment of the community. This land should not be further fragmented, it must be protected.
- The site contains threatened flora and fauna and appropriate due diligence in assessment has not been undertaken. For example, an independent assessment by Glenn Hoye, Bat Expert identified in March 2021 that:
 

*“Despite being recorded during targeted surveys, potential impacts to the local population of the threatened Little Bent-wing bat were not adequately addressed in the 7-part test undertaken by Conacher Environmental Group (2013b p86).”*
- Investigation of the site for aspects of cultural significance related to the Aboriginal community in 2020/21 was instigated by SMRBI and a preliminary assessment of a portion of the area identified a site of Aboriginal significance which has been referred for registration on the Aboriginal Heritage Register.

**In summary, our overall recommendation is, that this development should not proceed.** We call upon the NSW and Federal Government Environment Ministers to act to protect the threatened flora and fauna within this site. The BCT must also distance itself from any management plan for this site. See following our 22 recommendations regarding a better management plan for this land.

### Recommendations: -

1. Threatened species management should be a high priority, particularly for the Powerful Owl, Squirrel Glider and Little Bent wing Bat, flora such as *Tetratheca juncea* plus the many rare orchids in the Myall Road Bushland.
2. Aspects of cultural significance related to the Aboriginal community should be independently investigated and sites of Aboriginal significance be referred for registration on the Aboriginal Heritage Register.
3. Restoration of vegetation damaged by illegal track construction must be undertaken, and mountain bike riding restricted to DP1011323 in the south-east of the remnant. Areas should be revegetated with native species through regular regeneration activities.
4. Remediation and ongoing management of remnant bushland terrestrial and aquatic habitats should be commenced immediately with the removal of the heavy infestation of land and aquatic weeds from these areas and revegetation/habitat restoration, should include remnants on adjoining DPs.
5. All rubbish should be removed from these areas and dumping of rubbish more effectively prohibited and proactively policed with significant fines.
6. The area to be monitored and maintained to prevent degradation due to damage by vehicles. The area should be appropriately fenced, sign posted and equipped with surveillance.
7. Collection of firewood from the area should be monitored, prevented and heavy fines applied for illegal firewood collection.
8. Conservation management plans for DP1011323 must include adjoining remnant bushland in the areas DP701651 Lot 31, DP 1249929 Lot 70, DP1010980 Lot 22, DP1010980 Lot 23 and DP755233 Lot 1730, as well as the isolated portion of DP 1011323 on the eastern side of the Newcastle Inner City Bypass.
9. The south-east portion of DP1011323 south of the power lines, which is extensively damaged by track construction and weed infestation, should be designated as a dedicated mountain bike area, with properly designed ramps, jumps and associated drainage
10. The area between Cardiff (Gillian Crescent), Hillsborough (Percy Street), Hillsborough Road, and the southern edge of Cardiff South along the high voltage transmission line easement should be recognised and managed as a vital wildlife corridor between Warners Bay and Garden Suburb. A safe wildlife crossing must be installed over Hillsborough Rd to the bush surrounding Charlestown Golf Course.
11. Monitoring of water quality and aquatic invertebrate and frog species diversity in this and the adjacent (upstream and downstream) DPs before and after any structural and vegetation changes are made. This will give an indication of stream health.

12. Fire hazard risk controls need to be implemented immediately.
13. Fence the areas of mine subsidence and begin mitigation work that is sensitive to the vegetation it contains while ensuring public safety and protection of the threatened Powerful Owl.
14. A community consultation session should be run jointly by Landcom, the BCT and LMCC, to which SMRBI contributes.
15. The 'deferred matter' should be rezoned E2 (LMCC Local Environment Plan zoning map).
16. As the last assessment of biodiversity was more than 10 years ago (except for the targeted surveys in 2016), the Landcom or BCT needs to do a comprehensive assessment of biodiversity of the site and its connected remnants in full consultation with **independent** wildlife experts, including identifying the sensitive flora and fauna in the remnant and protecting all the large trees from damage.
17. BCT or Landcom explain how BCT would consult with the community and SMRBI to implement creek and vegetation management, and address all recommendations detailed in this report, with further expert input for water, flora and fauna-sensitive design.
18. BCT or Landcom explain how BCT would undertake monitoring of the following items as part of ongoing environmental health assessments: Flora and fauna surveys, Erosion control, Feral animals, in particular cats and foxes, and weed control.
19. BCT or Landcom explain how the range of recreational activities that can be undertaken within this site will be promoted and managed effectively to enable sustainable enjoyment. These include Walking, Birdwatching & plant observation, Limited access/locations for Mountain bike use.
20. The production of a brochure documenting and naming of tracks and landmarks to promote sustainable land use, on the reverse side of the brochure, flora and fauna highlights with photos and links/QR codes to species lists.
21. A local responsible mountain bike group (eg. Glenrock group) should be engaged to put a proposal together for modifying DP1011323 for mountain bike riding.
22. Local Awabakal community members should be consulted on whether and how to highlight and promote indigenous cultural features of the remnant as this has been poorly explored by the proponent of the development

## 2. Key Features

### 2.1 Location

The bushland remnant\* that SMRBI is concerned about with respect to conservation and ongoing appropriate environmental management is located within the suburb of Garden Suburb in the City of Lake Macquarie NSW (\*a remnant is considered to be a small area of native vegetation that is left after similar vegetation has been cleared or removed from around it). It is shown in *Figure 1* below, and designated in the following list of DPs and Lots:

- a) DP 1011323 Lot 10, DP 811772 Lot 100, DP1168657 Lot 1 – owned by NSW Land and Housing Corporation (vis. Landcom) and subject to proposed DA/1284/2013, and identified as 9A, 69 and 82 Myall Rd Garden Suburb.
- b) DP 755233 Lot 1608 managed by Lake Macquarie City Council (LMCC).
- c) DP755233 Lot 1730 managed by Lake Macquarie City Council (LMCC).
- d) DP827737 Lot 41, adjoining DP755233 Lot 1730, and other multiple connected Lots, south to Hillsborough Rd.
- e) DP1164052 Lot 7370 Crown Land used as a high voltage electricity easement.
- f) DP755233 Lot 1608 at the rear of Lance York Field Garden Suburb.
- g) DP1010980 Lot 23 east of the Newcastle Inner-City Bypass and north of Hillsborough Rd.
- h) DP1010980 Lot 22 west of the Newcastle Inner-City Bypass, adjoining DP1164052 Lot 7370.
- i) DP701651 Lot 31 west of the Newcastle Inner-City Bypass, adjoining DP1164052 Lot 7370.
- j) DP1249929 Lot 70 west Newcastle Inner-City Bypass adjoining DP1010980 Lot 22.

The area of 11.3 ha within the remnant proposed for housing development is shown in *Figure 2*, the remaining area of 28.1 ha being proposed as an offset for the destruction of the other 11.3 ha of bushland. *Figure 3* shows the proposed subdivision of the 11.3 ha development area into house and infrastructure lots.



Figure 1. Overall area of concern for conservation. This involves the suburbs of Garden Suburb, Cardiff, Cardiff South, Hillsborough, and Warners Bay.

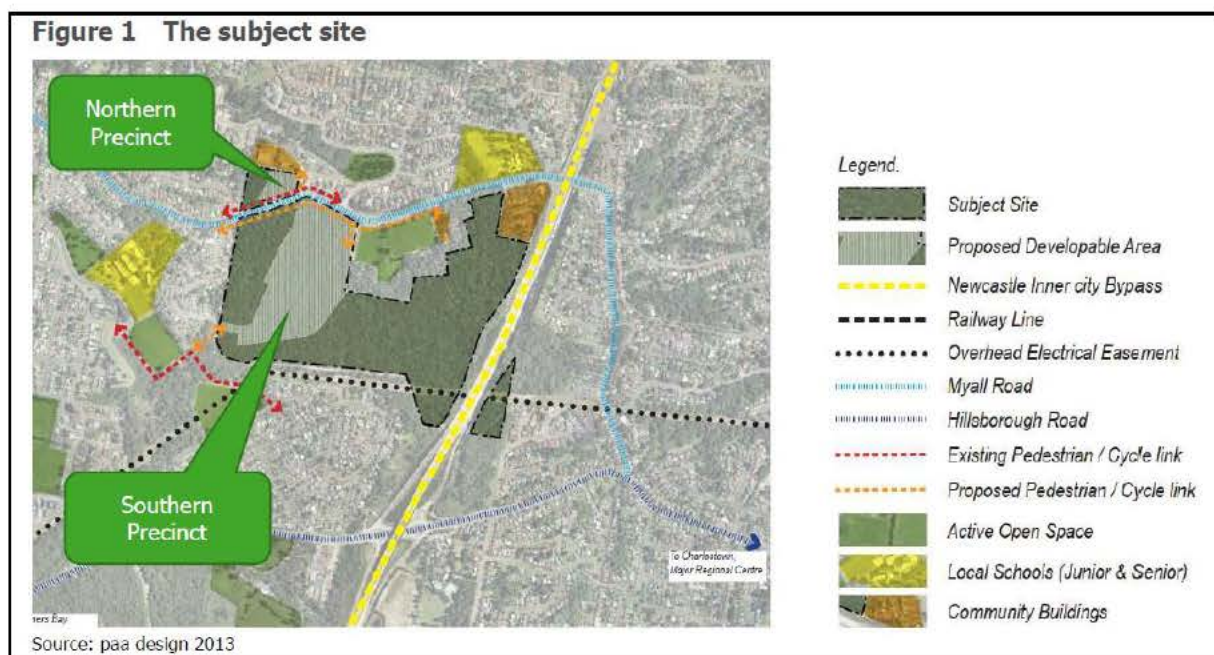


Figure 2. Affected area of proposed development. Source - LMCC website- DA/1284/2013 documents - "Statement of Environmental Effects" - Elton Consulting 18/08/20.



Figure 3. Proposed subdivision. Source - LMCC website- DA/1284/2013 documents - "Statement of Environmental Effects" - Elton Consulting 18/08/20.

## 2.2 Environmental Recreation

Members of the residential communities surrounding the remnant, including Garden Suburb, Hillsborough, Cardiff and Cardiff South, often walk within this bushland. It is now the only substantial remnant of bush (approx. 40ha) within walking distance of these suburbs. Concern for the loss of the remnant and this recreational opportunity was overwhelmingly demonstrated by the protest organised by SMRBI on 27<sup>th</sup> May 2021. Over 150 people attended the protest and voiced their opposition to the destruction of this unique site. Many passing motorists also demonstrated their support for the protest by sounding their horns.

## 2.3 Biodiversity

**Birds.** During an unpublished 5-year study of avifauna and their habitats by University of Newcastle students (2002-2007), birds were surveyed using a transect-based method in March or April and October of each year. The study was a comparison of bird diversity between the remnant 'forest' avifauna south of Myall Road and the much smaller bush remnants and surrounding housing development north of Myall Road in the 'suburb'. Forty-one species were only recorded in the forest, 13 species only in the suburb, including 3 introduced species, and 24 'generalist' species were recorded in both forest and suburb. Fourteen waterbird species inhabited the man-made pond in

the 'suburb'. Since 2007 additional observations have been recorded by experienced birdwatchers walking in the 'forest' and 'suburb'. The presence of all 92 species has been reconfirmed during 2020-2021 by members of SMBRI. The species are listed in *Appendix 1* by their occurrence south or north of Myall Road in the 'forest' or the 'suburb' and 'wetland' or by their 'generalist' occurrence both north and south of Myall Road in both forest and suburb (see also *Figure 4*).

In particular, the threatened species, Varied Sitella, was last recorded in the forest in March 2003, immediately after an understorey fire burnt most of the area proposed for residential subdivision and an adjacent area to the east. Another threatened species, the Powerful Owl, has been recorded every winter (calling regularly at night) since 2002 in the Garden Suburb 'forest', but also in the Tickhole Creek catchment, the 'suburb' creek line. In 2005 when their activity in the 'forest' was frequent, 2 full-grown fledglings were observed roosting during the day within the 'forest' on 13th October. Nesting Powerful Owls were recorded by Conacher Environmental Consulting in 2009 and again in 2016. During 2020-2021 a pair of Powerful Owls successfully raised fledglings within the 'forest'. In addition, there are confirmed records of another threatened species, Little Lorikeet, which has been observed in the remnant periodically. Observations of Yellow-tailed Black Cockatoos include a sighting of a pair mating and then entering a trunk hollow in one of the hollow-bearing trees to the south of the soccer club on 18th April 2010.

The proposed clearing of 11.3ha of forest by the developer for housing will result in further reductions in abundance and increased isolation of 41 species of forest birds in the Garden Suburb area. It is likely that the Varied Sitella may have become extinct locally in the last 20 years due to previous reductions in forest habitat by developments for housing. The remaining 28.1ha of bush, which is the proposed offset area for the development, **will not replace** habitat for the populations of forest species that now inhabit the proposed development area **as it is already there**. Further local extinctions of bird species, which are unable to travel between or survive in isolated small patches of habitat, are likely to occur if the development proceeds. These processes have not been considered by the consultants for the developer, particularly for the Powerful Owl.



Figure 4. Fauna and Flora that have been recorded in the Myall Road Bushland, including Powerful Owl (top left), Squirrel Glider (top right, Photo credit: Figaro), Northern Brown Bandicoot (centre right, Photo Credit: Joseph C Boone), Black-eyed Susan (*Tetratheca juncea*, bottom left), King Greenhood Orchid (*Pterostylis baptistii*, bottom right).

**Plants.** The NSW DP&E database, BioNet, which is accessible to the public, has records of 87 species of plant at mapped locations within the bushland remnant. Observations by members of SMRBI, 2002-2022, have added a further 29 species to the plant list for the remnant. The endangered species, *Tetratheca juncea*, is common in the remnant and there are many ephemeral orchids which have not been adequately surveyed (see plant list and photos of existing flora that will be destroyed by DA/1284/2013 in *Figure 4* and *Appendix 1*. Many of the plants shown may not have been seen during environmental surveys as they only appear at certain times of the year and for very short time periods, sometimes only days). Also, a significant number of large hollow-bearing trees (6 of the 14 remaining, eg., *Figure 5*) will be removed if the development proceeds.

**Bats and other Mammals.** Squirrel gliders, sugar gliders and feathertail gliders have been sighted in the remnant recently as well as Northern Brown Bandicoots, Common Brushtail and Ringtail possums. Swamp Wallabies are also known to travel through the remnant and have unfortunately been attacked by dogs and inexplicably in the last year by people. A one-off assessment by an independent bat expert detected the threatened species, Little Bent-wing Bat. This expert's assessment of environmental impacts of the development on this bat species showed that the species impact assessment by the consultant for the developer was completely inadequate (see *Appendix 2*). The rationale of the offset plan as described in Conacher Environmental Group (2013a) is flawed indicating that the proposed offset plan does not achieve the objectives of the relevant Lake Macquarie City Council Offsets Policy. Further detail of the impact of this development on the Little Bent-wing bat is attached in *Appendix 2*.





Figure 5. Significant old growth trees and nesting hollows will be removed as part of the proposed development.

**Ecological Connectivity.** Ecologically, the Myall Road Bushland remnant is much larger than the 39.4 ha of crown land lots, by which it is described for human administrative purposes. It forms a link to other bushland remnants via narrow corridors of vegetation along which some fauna can travel, also facilitating transport of the seeds of some plants. To the north of the Myall Road Bushland is a link via Tickhole Creek to Blackbutt Reserve, to the west is a link via vegetation along Hillsborough Road to Munibung Hill, to the south is a link also via Hillsborough Road to Charlestown Golf Course and to the east via the Great North Walk to Glenrock State Conservation Area. These corridors are interrupted by roads, but SMRBI understands that modern road design should include under and overpass structures to allow movements of non-flying species. This design is currently being proposed for Hillsborough and Macquarie Roads. Wildlife corridors are discussed in Section 7.

**2.1.1. SMRBI Recommendation: Threatened species management should be a high priority, particularly for the Powerful Owl, Squirrel Glider and Little Bent wing Bat, flora such as *Tetratheca juncea* plus the many rare orchids in the Myall Road Bushland. Regular and systematic monitoring of these and other flora and fauna should be established to ensure their continued health.**

### 3. Key Issues

The key issues regarding DA/1284/2013 that SMRBI wishes to highlight and seeks addressed by relevant parties are:

*a) SMRBI continues to strongly oppose this development on the grounds that it is contrary to the best conservation and community outcomes for the area.*

*i. This remnant bushland is the last opportunity to preserve this area for the existing flora and fauna and the recreation of local Newcastle and Lake Macquarie council*

**residents. No other piece of bushland exists like this in the north-east corner of Lake Macquarie Council area.** When so much housing land similar to what is being proposed is already being developed at Boolaroo, Edgeworth and Cameron Park, it is not necessary to destroy this last remaining pocket of bushland in Garden Suburb for only 69 lots. Community use of this area has increased markedly from 2019, since COVID lockdowns initiated increased local recreation. The use of this remnant bushland for outdoor recreation has continued even after COVID restrictions have ceased, illustrating how important this area has now become to a large number in the community who recognise its value.

- ii. **The subdivision is another loss of remnant bushland in an area heavily disconnected from other remnant bushland. This includes large sections removed for the Inner-City Bypass Road installation in early 2000's, and the current continuation of this work around John Hunter Hospital.** Developments are being considered individually, rather than the collective overall effect. This leads to piecemeal destruction of bushland without considering the total area loss. Landcom, the BCT or LMCC did not demonstrate that developments are considering the combined effect of habitat loss in the total area of bushland in Lake Macquarie city and its neighbouring local government area, Newcastle city (see Box 1 below).

**Box 1.** Excerpt from Reference 6 – “The Extinction Crisis in Australia’s Cities and towns – How weak environment laws have let urban sprawl destroy the habitat of Australia’s threatened species.” Australian Conservation Foundation, 2020. This demonstrates that in the Newcastle area destruction of biodiversity is among the highest in Australia.

*“The prevalence of threatened species in our cities and towns challenges the misnomer that high conservation value ecosystems exist only in remote national parks or wilderness areas. While protecting large intact ecosystems is certainly important for protecting biodiversity, for many threatened species including several that are critically endangered, these urban areas are the last place where we can protect them within their original range.”*

**Table 2 - Top 10 cities for number of threatened species**

Rank	Capital city	Threatened species
1	Sydney	80
2	Melbourne	46
3	Gold Coast Tweed Heads	39
4	Central Coast	39
5	Perth	35
6	Newcastle Maitland	33
7	Brisbane	30
8	Hobart	29
9	Wollongong	29
10	Sunshine Coast	26

**Table 4 - Top ten worst cities for habitat destruction**

Rank	City	Hectares of Threatened species habitat destroyed
1	Brisbane	6162
2	Gold Coast - Tweed Heads	2641
3	Townsville	1781
4	Sunshine Coast	881
5	Sydney	752
6	Gladstone - Tannum Sands	642
7	Newcastle - Maitland	503
8	Perth	470
9	Broome	427
10	Cairns	401



*Dead powerful owl found in the Myall Road Bushland remnant 06/01/20.*

- iii. **At the 08/12/20 Planning Panel meeting, Landcom did not present any plan on examples or processes for best-practice subdivision development in a way that minimises environmental damage to flora and fauna.** As a semi-government entity, the expectation of Landcom would be that any subdivision developments would be a benchmark of sustainability, working to accommodate the surrounding environment, including environmental sustainability considerations for existing flora and fauna. Landcom and their consultants did not demonstrate any best-practice development methods in their proposal that embody minimising harm to the local ecosystem.
- iv. **Preserving this bushland is a chance for Garden Suburb to truly be a “garden suburb”.** This area has not been given the consideration that is detailed in NSW Government Architect draft report “Greener Places Design Guide?”
- v. **The proposed development conditions will endanger the continued existence of powerful owls in the area and cause the destruction of vulnerable flora.** SMRBI know of 4 powerful owls that have been killed in the last two years, one in the remnant bushland, and 3 near Hillsborough Rd, which is adjacent to the remnant bushland. The proposed development circumvents LMCC current “Large Forest Owl Guidelines”, as detailed in LMCC reply on 26/07/17 - “DA/1284/2013 was lodged and assessed well before the Large Forest Owl Guidelines were prepared. It is not possible to apply the Guidelines retrospectively to the application. All new development applications are assessed under these Large Forest Owl and other threatened species guidelines that Council has developed, part of this process includes checking for nearby threatened species records.” DA/1284/2013 should have been reassessed under LMCC Large Forest Owl Guidelines due to the extensive delays in this development application. SMRBI considers that the advice that the Guidelines do not apply because the DA was originally submitted prior to the Guidelines being developed is blatantly not in the best interests of the Powerful Owls and is a convenient bureaucratic sidestep manoeuvre to reduce the environmental considerations for the development because it was submitted by another government entity, Landcom. Based on LMCC’s Large Forest Owl Guidelines, DA/1284/2013 would fail to meet all five requirements of the Guidelines (see Box 2).

A briefing provided by Council to the JRPP dated 13 February 2014 identified that: -

*"The proposed development will remove 10.7 hectares of bushland that contains threatened flora and fauna. 658 clumps of *Tetratheca juncea* will be destroyed along with 64 hollow bearing trees. Squirrel gliders have been identified on the site."*

**SMRBI wish to highlight that 6 high priority forest owl trees out of a total of 14 suitable in the area = 43% will be removed**

*The proposal will result in the removal of habitat for the Powerful Owl within a minimum distance of 410m to the identified nest tree. The proposal will also result in the removal of six Forest Owl High Priority Trees within the subject site which provide suitable nesting habitat for threatened forest owl species, but are not identified nest sites*

*"The proposal will result in the fragmentation of areas of retained vegetation within the western section of the site from areas of retained vegetation within the eastern and southern sections of the site with a cleared canopy gap distance of approximately 30- 35 metres."*

***b) SMRBI have no confidence that the proposed conservation offset will be managed in a way that adequately protects the remnant flora and fauna for the future.***

*The development has been given numerous consent conditions under Schedule 2 of determination PPS-2013HCC016, including for areas to be designated as conservation offset, which it is proposed to be managed under a Biodiversity Stewardship Agreement (BSA) between the Biodiversity Conservation Trust (BCT) and the proponents of the development, Landcom. BCT has not been able to provide example of this type of management for this development:*

- i. Although the DA is specifically for Crown Lands of Lot 10 DP 1011323, Lot 100 DP 811772, Lot 1 DP 1168657, the future management of the area for biodiversity conservation should include additional adjoining areas not directly associated with DA/1284/2013. These parcels of land are managed by the Lake Macquarie City Council (LMCC), i.e., Lots 1608 & 1730 DP 755233. Crown Land power transmission easement Lot 7370 DP 1164052, and a southeast section of Lot 10 DP 1011323, which is separated from the larger portion by the transmission lines are adjoining areas that not only contribute to the size of the bush remnant, but also its connectivity to other nearby bush remnants.*
- ii. It is impractical, and detrimental for the flora and fauna of the whole area, to undertake conservation and access management of areas singularly, without consideration and interconnection of adjoining areas. These matters were raised by the community in 2012*

*and although LMCC and Landcom claim that due diligence had been undertaken, this is not the case as the community's concerns have not been addressed (see Box 3).*

**Box 3. Source – Reference 4 – Elton Consulting 02/11/ 2020**

*“As part of the process of preparing the SCC application for the DPI&E, Landcom held a **Community Consultation and Feedback Session in July 2012**. Details relating to the feedback received are provided in the Site Consultation Outcomes Report which are included at **Appendix DD**.”*

**[Comment by SMRBI - Appendix DD of 2020 document is blank – the last community consultation was in 2012, which is now 10 years ago]**

#### 4. Ongoing damage - Overview

Save Myall Rd Bush Incorporated (SMRBI) committee are concerned that the area is being steadily degraded due to a range of issues, and that the area is currently unprotected from further ongoing damage. Some of this damage may not be repairable, even if a conservation area is created in the future under a Biodiversity Stewardship Agreement (BSA) as part of DA/1284/2013. These operational management issues are itemised in this section and the following sections of this report provide a detailed description of the issues with recommend management practices that SMRBI considers best-practice.

Ongoing damage that is steadily degrading the remnant bushland (*Figure 1 & Figure 2*) is as follows: -

- a) **The whole area is being rapidly degraded by widespread bush clearing activity associated with unauthorised bike tracks.** This clearing activity has increased exponentially over the last 2 years and many site-specific examples are provided in section 5 of this report. As a result, the conservation value is being greatly impacted every day that there are no controls or management in place. Action must be taken immediately to stop further damage to the areas. Locations specific concern include: -
  - i. The western boundary of Lot 100 DP 811772 and Lot 10 DP 1011323, west of the ephemeral creek gully, which was proposed to be remain an isolated patch of conservation reserve after the subdivision was cut in. This area has now been heavily modified by clearing for tracks and jumps.

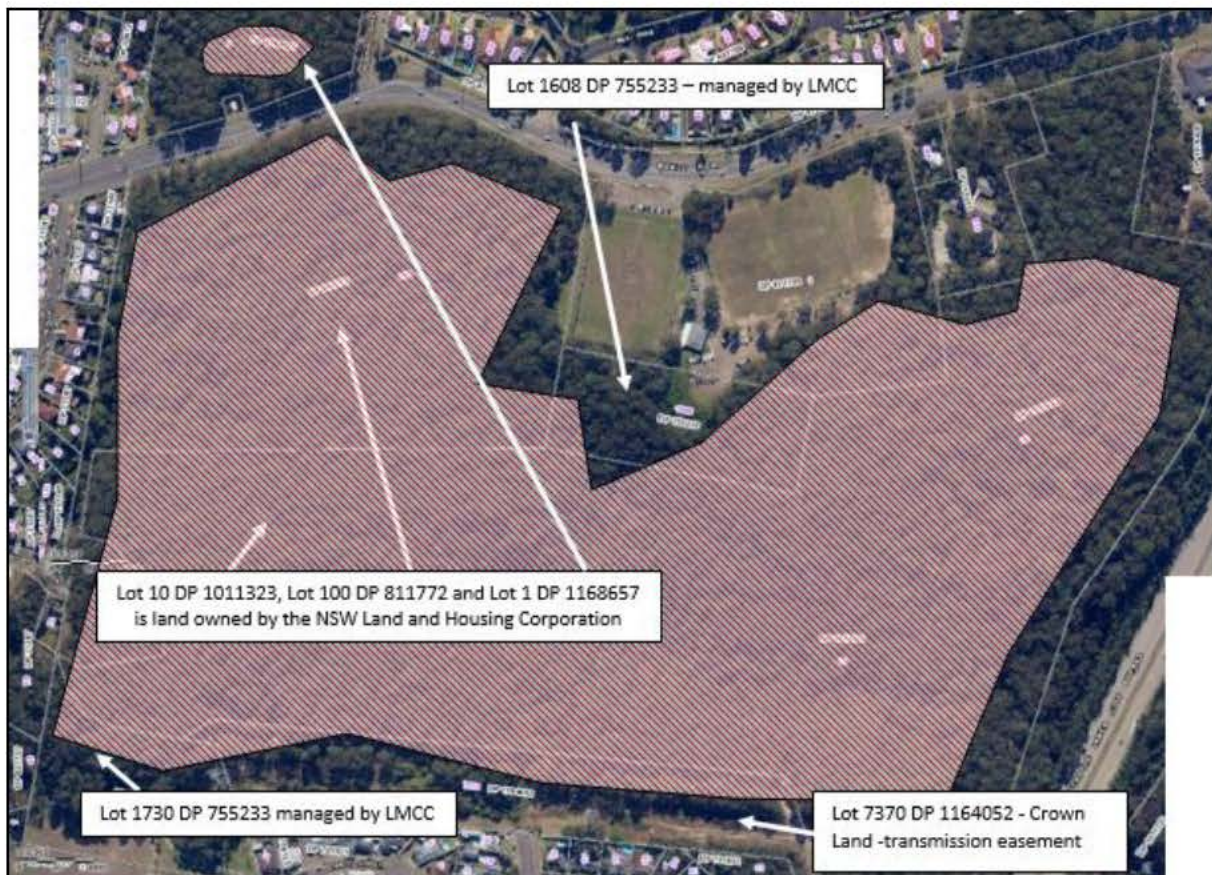


Figure 1 – The shaded area indicates of the extent of area damaged by tracks and other activities where there are examples of impacts by neglect in managing the current space, including reduced connectivity among remnant patches of bush. Note that Lot 1 DP 1168657 is already separated from the larger section of bushland by Myall Road.



Figure 2 – South-eastern corner of DP1011323 Lot 10 – isolated by transmission line easement. The area is extensively damaged by large bike ramps and jumps, as well as invasive weeds such as lantana. Note the isolated pocket of DP1011323 on the eastern side of the Newcastle inner City Bypass.

- ii. The far eastern side of Lot 10 DP1011323, in and around the nesting tree of a pair of Powerful Owls. This includes a steep shady gully that has site specific plants in the area due to the increased moisture and sun protection.
  - iii. The central area of Lot 10 DP 1011323 where numerous tracks have been cut.
  - iv. The southern boundary of Lot 10 DP 1011323 and the transmission easement Lot 7370 DP 1164052 with numerous tracks running through the area, and regular trail bike riding.
  - v. The bush along the creek area contained within LMCC Lot 1730 DP 755233 is badly affected by invasive aquatic weeds and garbage and is in very poor condition, probably unable to sustain aquatic life.
- b) The management of the area must include adjoining land as it is all part of the same parcel of remnant bushland.** There cannot be small parcels of land left unmanaged when they directly adjoin the proposed biodiversity offset area.
- c) Uncontrolled access by unregistered motorbikes and registered motor vehicles is causing damage and a safety risk to other users of the area.** The unregistered riders are a risk to themselves, authorised road users, pedestrians, and bushwalkers and bicycle riders in the remnant bushland areas.
- d) Dumping of waste items continues as there are no barriers to access from Myall Rd or Gillian Crescent.** Waste is steadily accumulating in all areas of the remnant bushland through illegal dumping and gathering by persons building bike track ramps and jumps.
- e) Wood gathering** using chainsaws and transport via utility vehicles has been observed on several occasions in the area, with access from Myall Rd and Gillian Crescent.
- f) Erosion control measures need to be taken in many areas.** Continued gully erosion is degrading many of the tracks in the bushland area, and depositing sediment in the creeks within the remnant that eventually runs into Lake Macquarie via Winding Creek.
- g) Invasive weeds are uncontrolled in the bushland remnant.** These weeds include lantana, camphor laurel, morning glory are spreading unchecked within the bushland remnant, particularly around the edges. Exotic grasses such as pampas grass and other weeds such as Indian hawthorn are present in certain areas. These weeds need to be removed and control measures implemented. Aquatic weeds choking the creek include bamboo, alligator weed, elephant ears.

- h) **Fire hazard risk controls need to be implemented immediately.** To our knowledge this extensive remnant bushland area has not been managed to reduce fire hazards. This presents a real risk to all adjoining property owners as well as increasing the risk of a fire causing severe, and possibly permanent damage to flora and fauna, including local extinctions of vulnerable species.
- i) **Mine subsidence is a human hazard and an additional microhabitat.** Approximately 130 runnels and sink holes exist in the eastern section of the remnant. These are another important reason (in addition to protecting the owl nesting tree) to fence this area as some are currently even being used as mountain biking 'features'.

## 5. Damage to Vegetation within the bushland remnant - Details

### 5.1. Bark removal from large trees

Persons unknown have removed large sections of bark from the trunks of several trees and multiple other trees have had the bark removed and graphics carved into the wood of the trunk under the bark (*Figure 3, Appendix 3a*). One area where there are a few tree markings together also has had several small fires.

It is unclear to SMRBI if the tree modifications are part of any cultural education activities in the area, or if there is any awareness of this occurring by Landcom, LMCC or other organisations.

**5.1.1. SMRBI's Recommendation: Aspects of cultural significance related to the Aboriginal community should be fully investigated and sites of Aboriginal significance be referred for registration on the Aboriginal Heritage Register.**



Figure 3 – Examples of tree damage (see also Appendix 3a).

## 5.2. Bike track construction

New tracks are being created each week, sometimes every day. Large areas of vegetation are being removed indiscriminately and earth moved to form ramps, jumps and berms.

- Chainsaws, bush saws, brute force are being used to remove trees and logs.
- Brush cutters and rakes are being used to clear grass, groundcover, and shrubs.
- Shovels, mattocks, wheelbarrows, and carts are being used to move dirt.

Damage to vegetation (Figures 9 to 11, see also Appendix 3b) has included: -

- Sensitive areas such as steep sheltered gullies have recently been disturbed which will immediately lead to erosion and degradation of other vegetation.
- Removal of native orchids, xanthorrhoea, *Tetratheca juncea*, bird nest ferns, bracken fern, silky oaks, small to medium eucalypts. All have been cut down and removed.
- Hollow logs cut up or removed.
- Ground cover grasses and leaves removed exposing bare earth.

**5.2.1. SMRBI's Recommendation: Restoration of vegetation damaged by illegal track construction should be completed, and mountain bike riding restricted to DP1011323 in the south-east of the remnant; areas should be revegetated with native species through regular regeneration activities.**



Figure 4 – Recent track creation through a moist microclimate formed by a steep gully. The area contains bird nest ferns, epiphytic orchids, and other shade loving plants on the western edge of DP1011323. Birds nest ferns have been removed from this area in the past. This area is within the proposed conservation offset for DA/1284/2013. The Powerful Owl nesting site is close by, and three Powerful Owls have been observed hunting low in the trees in this gully.



Figure 5 - Many trees have been removed for track creation. Here there is also evidence of campfire and camping in this area within the proposed conservation offset area of DP1011323 under DA1284/2013. Further evidence of widespread tree destruction throughout the area is provided in Appendix 3b. Small eucalypts are regularly cut down to assist with ramp creation, and small casuarinas routinely pushed over or cut.



Figure 11 - Recent track creation in DP1011323 on the eastern edge, within the area proposed for conservation offset. In this case large amounts of dirt have been moved with shovels as well as tree removal (left). Track creation on the eastern edge of DP1011323, leading down to a steep gully that should be protected. This area on the right is adjacent to the Powerful Owl nesting site and within the proposed conservation offset under DA/1284/2013. Note digging tools left at the site and the total clearing of all ground cover, ultimately leading to gully erosion.

### 5.3. Invasive weeds

Weeds such as lantana continue to spread within the area (Figures 12 & 13).

Camphor laurel is spreading rapidly through the whole area. Several groves of camphor laurel now exist, to the exclusion of all native species, and young plants are sprouting everywhere through the entire bushland remnant.

Morning Glory vine has spread in from the edges of Myall Road and is present along the edges of other parts of the remnant bushland. The creek line along the southern edge of the remnant is overrun with Small-leaved privet (*Ligustrum sinense*), Lantana (*Lantana camara*), Crofton weed (*Ageratina adenophora*) and Camphor laurel (*Cinnamomum camphora*).

**5.3.1. SMRBI's recommendation: Remediation and ongoing management of remnant bushland terrestrial and aquatic habitats should be commenced immediately with the removal of the heavy infestation of land and aquatic weeds from these areas and revegetation/habitat restoration, including in remnants on adjoining DPs.**



Figure 12 - Camphor laurel trees sprouting in new locations (left), lantana throughout the whole area particularly on remnant edges (right).

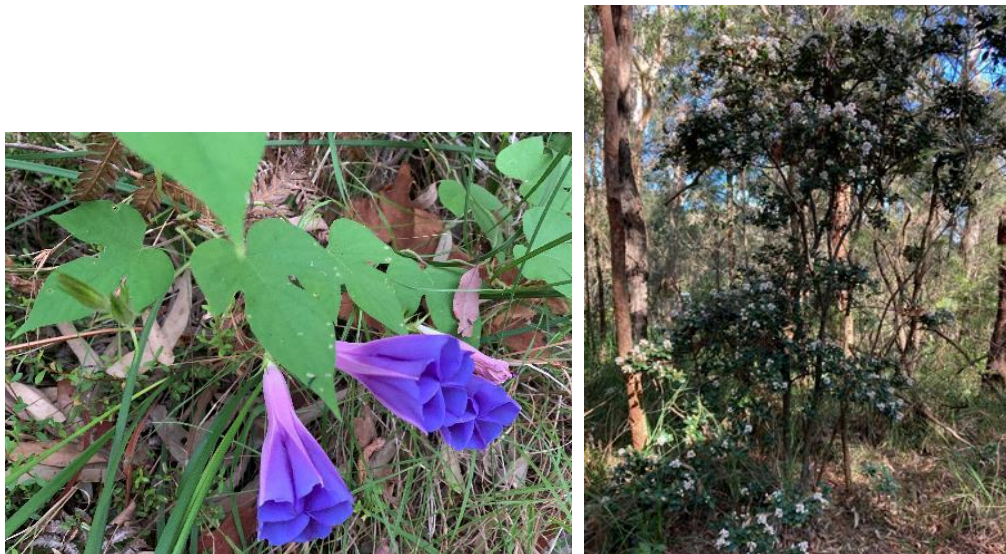


Figure 13 - Morning Glory vine (left) is prevalent along the edges of the remnant bushland, Indian Hawthorne (right) occurs throughout the proposed conservation offset area.

## 5.4. Rubbish brought into the conservation area & development area

Rubbish dumping is prevalent on any of the outer portions of the whole area (*Figures 14 to 18, Appendix 3c*).

Accessing Myall Rd, or Gillian Crescent or the soccer fields, cars/utilities are dumping garden waste, TVs, lounges, chairs, mattresses, concrete, old fridges, spoil, and bricks. As soon as the people undertaking this activity feel they are out of view, they dump the items from their vehicles. No access controls are in place and no cameras are being used to monitor illegal dumping activities. Much of the rubbish brought into the area is pallets and timber sections associated with track development for mountain bikes, as well as items to move dirt around such as wheelbarrows and carts. Several areas of rubbish are associated with camps or shelters that have been started, or are in use, throughout the whole area.

### 5.4.1. SMRBI's Recommendation: All rubbish should be removed from these areas and dumping of rubbish more effectively prohibited and policed with significant fines.



Figure 14 - Concrete blocks and palm tree cuttings disposed of in the bushland remnant. Fridges, TVs, bricks, excavation dirt, garden and household waste, are regularly dumped in the area along tracks off Gillian Crescent and Myall Rd.



Figure 15 - Rubbish accumulating on tracks in Lot 1 DP1168657 bounded by Reserved Rd and Myall Rd.



Figure 16 – Many wheelbarrows are used in the bushland remnant to create bike tracks. These items are often sourced from disposed items from residential areas during LMCC roadside pick-ups which are conducted twice yearly in the area.



Figure 17 – Numerous pallets and other timber or steel fencing items have been transported to the bushland area for jump and ramp creation (see also Appendix 3c).



Figure 18 - Numerous camping areas within the bushland remnant. Access to the camp in the photo on the right is via a track across two very deep mine sinkholes, presenting a risk to persons using the area (see also Appendix 3c).

## 5.5. Unauthorised vehicle access - Unregistered motorbikes & 4WD's

The bushland remnant is used daily by unregistered trail bikes (Figures 19 & 20). Access to the area is from all sides: the full length of the side along Myall Rd, all along the high voltage transmission lines easement in Hillsborough, and from Cardiff via Gillian Crescent and the cycleway behind Cardiff High

School. Groups of two to four motorbikes are common. Unregistered motorbikes accessing the bushland area from the Myall Rd side use public roads, reserves, Lance Yorke playing fields, footpaths, and lanes as throughways.

Four-wheel drives infrequently use tracks off Gillian Crescent and Myall Rd as the access points. The track lengths are very short for four-wheel drives, so the main reason they are entering is to dump rubbish and collect firewood. There are no vehicle barriers in place to limit car access from either Myall Rd or Gillian Crescent.

Unregistered motorbikes present a danger to pedestrians, road users and themselves in the Garden Suburb, Cardiff and Hillsborough area, as they rarely obey traffic rules and are often travelling at speed in locations not expected by pedestrians or registered road users.

Police patrols in cars are ineffective in catching these unregistered motor bikes as the riders disappear into bushland as soon as they are spotted. Police on trail bikes have been seen in the area, but not frequently enough to stop daily unregistered motorcycle activity.

The motor bikes in the bush land remnant cause heavy damage to tracks, especially after steady rain, where wheel spinning extensively digs our tracks and speeds up gully erosion and soil loss.

**5.5.1. SMRBI's Recommendation: The area is monitored and maintained to prevent degradation due to damage by vehicles. Protect the area with fencing, signage and surveillance.**



*Figure 19 - Track damage from spilt diesel from a 4WD (left), and an example track damage from motorbikes (right)*



Figure 60 - Unregistered trail bikes and mini-bikes are using the bushland and adjacent roads and footpaths daily.

## 5.6. Tree removal for firewood

Utilities have been observed within Lot 10 DP 1011323 removing firewood. Tree trunks have been cut into sections using chainsaws then gradually removed over a period of time (**Error! Reference source not found.**1, Appendix 3d).

Access for vehicles has been via bush tracks from either Gillian Crescent or Myall Rd opposite Gynea Drive. On one occasion the owner of a four-wheel drive parked at the western end of Lance Yorke Field carpark on Myall Rd was observed loading cut firewood from the bushland to the west of the field through the locked access gate.

Chainsaws are being used extensively in the bushland for firewood removal as well as track clearing and using the freshly fallen timber for jump building.

### 5.6.1. SMRBI's Recommendation: Collection of firewood from the area should be prohibited and heavy fines applied for illegal firewood collection





*Figure 71 – Top and centre: logs cut up and/or removed in the Myall Road Bushland remnant. Bottom: car being loaded with cut firewood from remnant bushland adjacent to Lance York Field- 06/11/21.*

## 6. Southern areas of remnant DP1011323 Lot 10

The south-east corner of DP1011323 Lot 10 has been extensively damaged by large bike track construction, as shown in *Figure 22 and 23* below. The area is heavily infested with lantana and is generally in the red circled area in the SIX Maps image below (*Figure 24*).

Another part of DP1011323 is isolated on the eastern side of the Newcastle Inner City Bypass, shown in *Figure 24* as a yellow outline.

Four other lots, DP701651 Lot 31, DP 1249929 Lot 70, DP1010980 Lot 22, and DP1010980 Lot 23, are part of the total remnant bushland, however the status of these areas with regard to use and conservation is unknown. Refer to arrow areas in *Figure 24*.



Figure 22 - Further tracks and construction equipment in the south-east portion of DP 1011323.

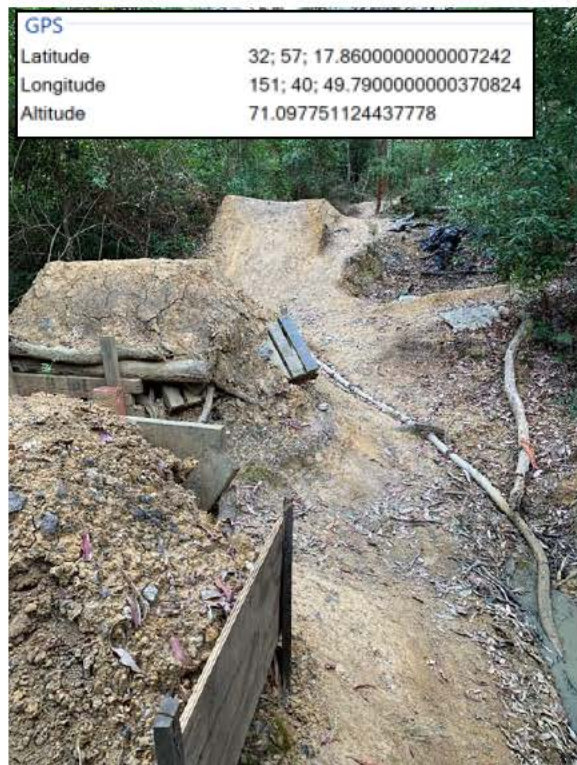


Figure 23 - Large jumps and even drainage constructed in the south-east portion of DP1011323.



Figure 24 – South-east portion of DP1011323 damaged by track construction and weed infestation is circled in red. Another part of DP1011323 is isolated on the other side of the Newcastle Inner City Bypass is outlined in yellow. DP701651 Lot 31 denoted by a green arrow, DP 1249929 Lot 70 denoted by blue arrow, DP1010980 Lot 22 denoted by red arrow, and DP1010980 Lot 23 denoted by orange arrow.

At the south-western end of DP 1011323 Lot 10 is the junction of two creeks - an ephemeral stream running roughly north to south on the western side of the Lot, and the other permanent stream known as Callicoma Creek by SMRBI, or Carrot Creek, traversing from east to west, originating from a spring near the Newcastle Inner-City Bypass. The area is shown in *Figure 25* below.

This south-western end of DP 1011323 Lot 10 adjoins DP755233 Lot 1730 at the back of Cardiff High School and Hillsborough which SMRB understand is controlled by LMCC, and another area off Gillian Crescent DP811772 100 which is planned to provide access to the proposed development under DA/1284/2013, as shown in *Figure 25* below.

Environmental management of the area must include adjoining Lots such as DP755233 Lot 1730, otherwise this disconnected ownership will result in poor creek water quality and poor aquatic health, continued proliferation of invasive weeds, and general lack of environmental care. See *Figures 26 to 28* below.

Weeds in this waterway need to be removed manually and without the use of herbicides. Appropriate local native species should then be planted, including fringing trees and shrubs, with sedges and rushes in the wetter areas. Ongoing weed control and nurturing of the planted native species will be required until the creek can be restored to ecological health. Bank stabilisation, good water quality and established native vegetation will be indicators of returning health.



Figure 25 – Hillsborough edge of remnant bushland under DA1284/2013 - creek area associated with DP755233 Lot 1730 (outlined in red). DP827737 Lot 41 denoted with a white arrow.



Figure 26 - Cycleway and creek in Hillsborough at the southern end of the proposed development. The creek and environs are in very poor environmental health.



Figure 27 - Oil evident on creek water surface and red scum indicative of poor aquatic health (left), camphor laurel grove on creek bank (right).



Figure 28 - Invasive weeds are choking the creek and embankments.

## 7. Wildlife corridors - connectivity disruption

As discussed in *Section 6 Southern areas of remnant DP1011323 Lot 10*, SMRBI believes that destroying the last large pocket of remnant bushland in the Garden Suburb area through unnecessary housing lot development under DA/1284/2013, will disrupt wildlife corridors that this remnant is part of, as shown in *Figure* below.

For example, several swamp wallabies have been observed in the remnant bushland over the years, and it is theorised these may come from either Blackbutt Reserve bushland, or areas surrounding the Charlestown Golf Club and Warners Bay, using the remnant bushland conduit shown in *Figure 80* below.

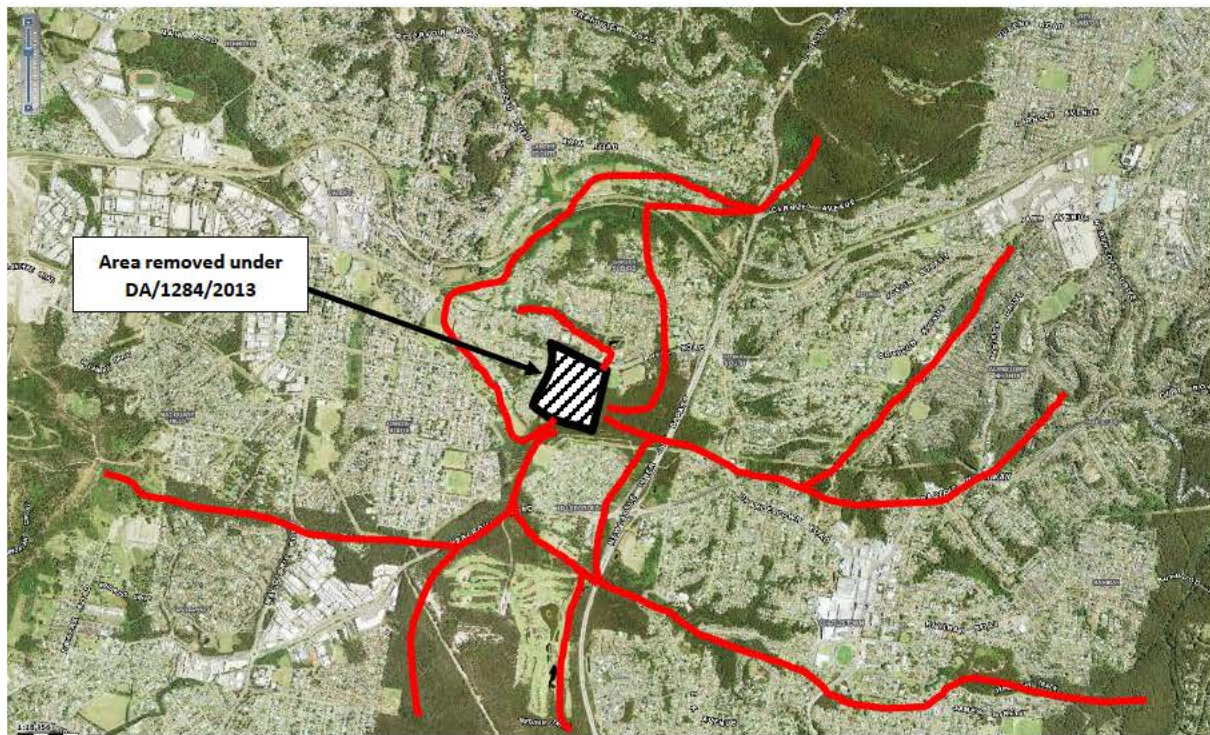


Figure 29 - Likely wildlife corridors (in red) to and from the Garden Suburb remnant bushland affected by DA1284/2013 (black hatched area) to other pockets of remnant bushland in the Lake Macquarie and Newcastle City Council areas.

A NSW Department of Planning, Industry and Environment web page has the following discussion on [“Wildlife Corridors”](#), sadly last updated 27 February 2011.

*“During the 1995-96 Western Sydney Urban Bushland Survey, it became apparent that a major reason for the disappearance of biodiversity in western Sydney was the gradual reduction in the size of habitat areas and vegetation communities. Often, all that remain are a number of isolated pockets of native vegetation surrounded by agricultural, residential and industrial landscapes.*

*Isolated, small patches of habitat may be insufficient to sustain viable populations of some native species of fauna. In such instances, wildlife corridors, which are lines of native vegetation connecting separate habitat areas, are essential for maintaining biodiversity. Wildlife corridors enable fauna to access larger habitats by encouraging mobility between areas. Corridors may also assist native plant species to spread and colonise new areas over time.”*

An Office of Environment & Heritage Conservation Management Note on [“Corridors and Connectivity”](#) details the important role in maintaining corridors, noting how aerial photographs are a good way to identify opportunities. The connectivity and importance of remnant bushland as a stepping-stone or island for ranging fauna or enhancement of flora to all connected areas has never been discussed or reviewed when considering DA/1284/2013.

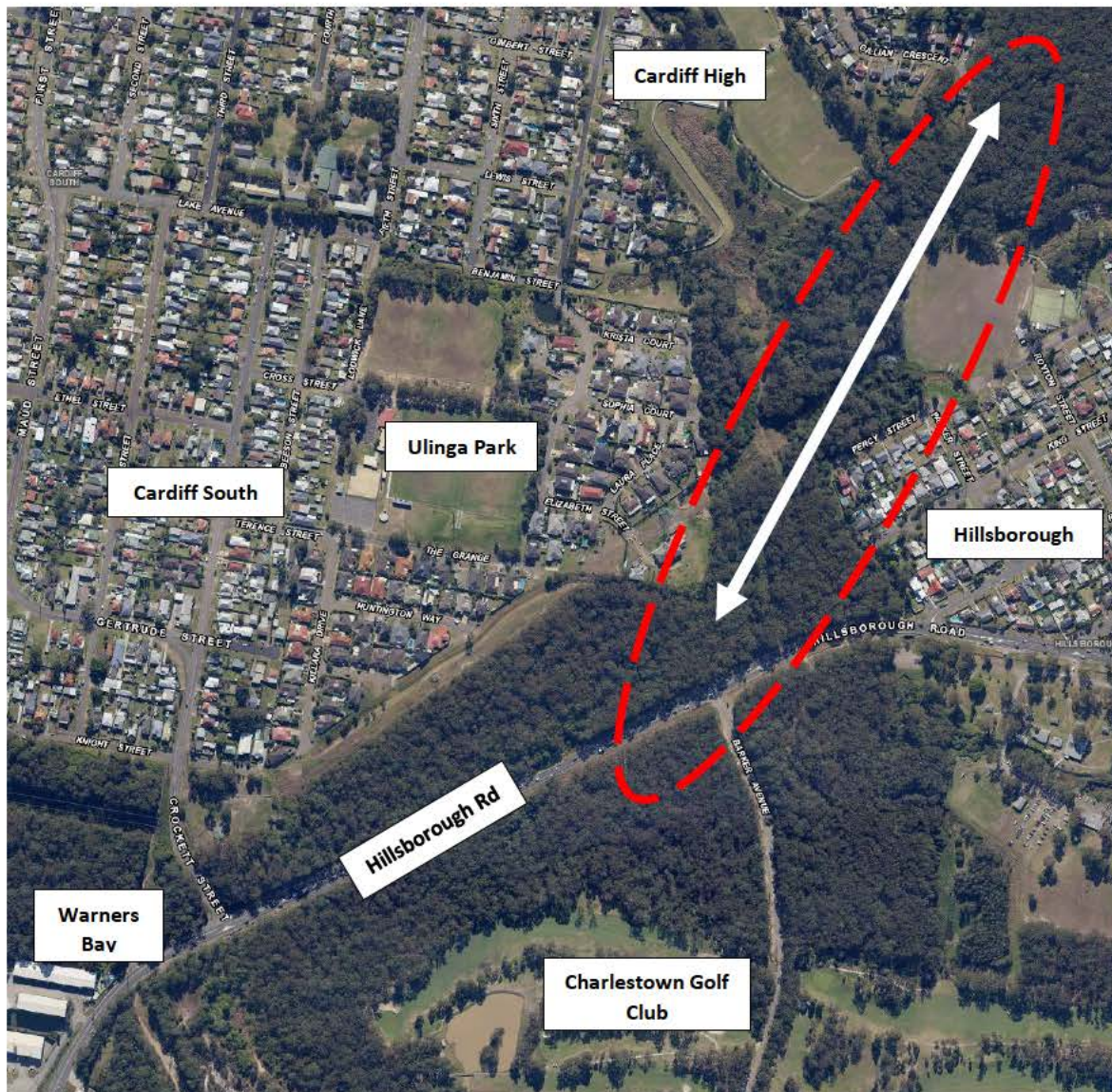


Figure 80 – Six Maps view of the importance of the narrow area of remnant bushland between Garden Suburb, Hillsborough, Warners Bay, Cardiff South in providing a wildlife corridor to all remnant bushland areas in these suburbs.

#### 7.1.1. SMRBI's Recommendations for Land Conservation Management:

The whole area should be appropriately fenced to prevent damage and manage safety. Highly visible signs should be erected to inform community members about permitted and inappropriate uses. In the first instance, highly sensitive areas should be fenced, such as the western side of the remnant where high concentrations of orchids and tetraheca occur, the owl nesting area with the legally required buffer zone included on the eastern side, to protect other mature eucalypts and the creek lines including the legally required buffer zone width.

Urgent and immediate damage control is required. Access by people should be reduced by erecting wildlife movement-friendly fences which provide both underpasses and bridges well above human height.

Activities by those that damage the bush with vehicles, unauthorised clearing, and illegal waste disposal need to be prevented:

- a) Conservation management plans for DP1011323 must include adjoining remnant bushland in the areas DP701651 Lot 31, DP 1249929 Lot 70, DP1010980 Lot 22, DP1010980 Lot 23 and DP755233 Lot 1730, as well as the isolated portion of DP 1011323 on the eastern side of the Newcastle inner City Bypass.

- b) The area circled in red in *Figure 24* above should be designated as a dedicated mountain bike area, with properly designed ramps, jumps and associated drainage.
- c) The area between Cardiff (Gillian Crescent), Percy Street (Hillsborough), Hillsborough Road, and the southern edge of Cardiff South along the high voltage transmission line easement (adjoining streets such as Elizabeth St, Huntington Way, Coolum Place) should be recognised and managed as a vital wildlife corridor between Warners Bay and Garden Suburb, as shown in *Figures 25* and *30*. There must be a safe wildlife crossing installed on Hillsborough Rd in the area shown in *Figure 30*.

## 8. Creek management and water quality

SMRBI has no confidence that any drainage and channel modifications proposed under DA/1284/2013 will deliver good environmental or conservation outcomes. A local Garden Suburb demonstration of failure of this nature can be found in the creek area that is below Campbell Reserve, managed by LMCC. This watercourse runs adjacent to Cupania Crescent, flowing from a Stormwater Quality Improvement Device (SQID) located between Gynea Drive and Cupania Crescent. The watercourse, which runs through to Winding Creek, and SQID are in very poor condition, with invasive terrestrial and aquatic weeds throughout, and no council management plan other than to mow the verges on an irregular basis. If this is an example of the outcome of the subdivision planned under DA/1284/2013, it is totally inadequate and will result in further degradation of the waterways in the area.

SMRBI requests that the Lake Macquarie City Council (LMCC) [Policy – Protection of Watercourses and Drainage Channels](#) is adhered to for the creeks in the bushland remnant. These creeks flow into Winding Creek, then Lake Macquarie. Any modifications as part of drainage works for the proposed development under DA/1284/2013 will irreparably damage the existing creeks.

The LMCC policy states that:

***“Watercourses and their associated vegetation should, unless extraordinary circumstances apply, be left in as undisturbed a state as possible, without redirection, reshaping, or modification. This should include maintenance of a sufficient riparian corridor width to support naturally meandering streams. Where extraordinary circumstances exist, a comprehensive argument as to why special modification are necessary will be required.”***

Reparation of the creek in the southern area of the remnant bushland is required, as detailed in *Section 6* and illustrated by *Figure 26* to *28*, with the LMCC Policy stating:

***“Where watercourses and drainage channels have been modified in the past and are in a degraded condition, consideration should be given to returning these to their natural condition.”***

**8.1.1. SMRBI’s Recommendation: Monitoring of water quality and aquatic, plant, invertebrate and frog species diversity in this and the adjacent (upstream and downstream) DPs before and after structural and vegetation changes are made. This will give an indication of stream health.**

## 9. Fire management

The bushland areas covered in this report require implementation of the [Newcastle Bush Fire Management Committee Bush Fire Risk Management Plan 2018 – 2023](#). Bushfire management zones for dry sclerophyll forests with shrub/grass or shrub only sub formations have fuel reduction programs recommended to be implemented in “Land Management Zone” (LMZ) of between 8 & 10-years minimum. This time interval has been exceeded in these bushland areas. The lack of a bushfire management means that: -

- Adjoining properties and infrastructure such as residential properties, Uniting aged care facility, Kirinari Aboriginal Hostel, high voltage powerlines, Garden Suburb public, Cardiff High School, sporting field amenities in Garden Suburb & Hillsborough, are placed at risk of fire damage or total destruction if fuel loads are not managed through monitoring and controlled low intensity burns.
- Flora regeneration, as a result of controlled low intensity fires, does not occur.
- Increased risk of intense hot fires destroying native fauna and seed stock.
- Increased risk of destructive intense hot fires killing fauna.

**9.1.1. SMRBI’s Recommendation: Fire hazard risk controls need to be implemented immediately.**

## 10. Mine Subsidence

Mine subsidence is a human hazard and an additional microhabitat. Approximately 130 runnels and sink holes exist in the eastern section of the remnant. They enhance the remnant with moist microhabitats in which rainforest plants such as Pigeonberry Ash have become established. This and other similar species provide seasonal food for fruit eating animals such as White-headed Pigeons. These are another important reason (in addition to protecting the owl nesting tree) to fence this area as some are currently even being used as mountain biking 'features'.

**10.1.1. SMRBI’s Recommendation: Fence the area of mine subsidence and begin mitigation work that is sensitive to the vegetation it contains while ensuring public safety and protection of the threatened Powerful Owl**

## 11. Community consultation mechanism

Many members of the broader community are unaware of the transfer of the land into the 'private ownership' of Landcom, both a government authority and the developer as SMRBI understands it. There has been high turnover of local community membership in the 10 years since the only community consultation when the first development application was lodged in 2013. The current community needs to be informed of changed ownership, tenure and the developer's intentions (see *Figure 31*) and provided with an opportunity to ask questions and provide feedback. As a result of feedback on SMRBI's Facebook page, our group knows that our Facebook followers (>500) want this land to be managed for biodiversity, community recreation and enjoyment NOT more housing.

#### 11.1.1. SMRBI's Recommendations:

- a) A community consultation session should be run jointly by Landcom, the BCT and LMCC, to which SMRBI contributes.
- b) The 'deferred matter' should be rezoned E2 (LMCC Local Environment Plan zoning map)



Figure 31. Zoning of land at the time of the original DA in 2013 (left) and after the conditional development consent in 2021 (right). Pink R2 is low density residential housing, green RE1 is recreation, brown RU is rural and orange E2 is environmental conservation, whereas white DM is a 'deferred matter'. SMRBI recommends rezoning the 'deferred matter' be rezoned E2.

## 12. How will Biodiversity Conservation Trust work in the long term?

SMRBI cannot get a clear idea from on-line information on the Biodiversity Conservation Trust (BCT) on how a trust arrange will operate under the structure that may exist once a developer has left the area, or how the ongoing conservation work will be funded into the future.

#### 12.1.1. SMRBI's Recommendations:

- a) As the last assessment of biodiversity was more than 10 years ago (except for the targeted surveys in 2016), the Landcom or BCT needs to do a comprehensive assessment of biodiversity of the site and its connected remnants in full consultation with **independent** wildlife experts (not those working for the developer). A high priority is to identify the sensitive flora and fauna in the remnant - including protecting all the large trees from damage (see *Appendix 1*).
- b) BCT or Landcom explain how BCT would consult with the community and SMRBI to implement creek and vegetation management, and include all recommendations detailed in this report, with further expert input for water, flora and fauna-sensitive design.
- c) BCT or Landcom explain how BCT would undertake monitoring of the following items as part of ongoing environmental health assessments: -
  - i. Flora and fauna surveys.
  - ii. Erosion control.
  - iii. Feral animals, in particular cats and foxes. This includes culling to reduce their known high and negative impacts on wildlife.
  - iv. Weed control.

## 13. Future mixed use

There are a range of activities and recreation that can be undertaken within this site that when managed effectively will enable sustainable enjoyment. These include:

- Walking
- Birdwatching & plant observation.
- Limited access/locations for Mountain bike use– potentially designed and managed to control illegal construction, vegetation removal and for erosion control.

#### 13.1.1. SMRBI's Recommendations:

- a) Production of a brochure documenting and naming of tracks and landmarks, esp. Callicoma and Carrot Creeks (*Figure 92*), to promote sustainable land use. On the reverse side of the brochure, flora and fauna highlights with photos and links/QR codes to species list; SMRBI is keen to collaborate with the appropriate land management authority in the production of a brochure, which can be uploaded to SMRBI's website and/or that of the management authority.
- b) A local responsible mountain bike group (eg. Glenrock group) should be engaged to put a proposal together for modifying DP1011323 for mountain bike riding.
- c) Local Awabakal community members should be consulted on whether and how to highlight and promote indigenous cultural features of the remnant as this has been poorly explored by the proponent of the development.



*Figure 92 - Creek crossing, eastern edge of bushland remnant. SMRBI have named this Callicoma Creek. The creek source appears to be a permanent spring at the edge of the Newcastle Inner City Bypass. This is within the proposed conservation area proposed under DA/1284/2013. Local Kids have demonstrated a sense of ownership for the area naming the iron-stained water Carrot Creek. This illustrates and the potential for the correct management and appropriate improvements for the area.*

## 14. References & Related Information

1. "Interim Lake Macquarie Large Forest Owl Planning and Management Guidelines 2014", [Lake Macquarie City Council](#).
2. "Report on additional threatened forest owl surveys & assessments for DA1284/2013 Myall Road, Cardiff." Conacher Consulting, October 2017.

3. *"Biodiversity Assessment Report – Landcom Project No. 12806 Myall Rd Hillsborough, May 2013"*, Conacher Environmental Group.
4. *"Statement of Environmental effects, Myall Road, Hillsborough, 18 August 2020"*, Elton Consulting.
5. *"Draft Greener Places Design Guide"*, [Government Architect](#), New South Wales, 2020.
6. *"The Extinction Crisis in Australia's Cities and towns – How weak environment laws have let urban sprawl destroy the habitat of Australia's threatened species."* [Australian Conservation Foundation](#), 2020.
7. *"Squirrel glider planning and management guidelines."* [Lake Macquarie City Council](#), 2015.
8. *"Lake Macquarie Tetratheca juncea Planning and management guidelines."* [Lake Macquarie Council](#), 2014.
9. *"Bush Fire Risk Management Plan 2018 -2023"*, Newcastle Bush Fire Management Committee, approved 07/03/19. Rural Fire Service, NSW.
10. *"Protection of Watercourses and Drainage Channels"*, Lake Macquarie City Council Policy, 30 November 2020, Version 7.

## 15. Appendices

### ***Appendix 1. Bird and Plant Lists***

### **Appendix 2.**



### **Appendix 3. Ongoing Environmental Damage**