



Memorandum of Understanding between Hunter Water Corporation and Cessnock City Council for the Black Creek Stormwater System

June 2012



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Introduction

This Memorandum of Understanding (MOU) has been prepared by Cessnock City Council and the Hunter Water Corporation.

The Memorandum is designed to outline the roles and responsibilities and to facilitate effective interaction between the two (2) organisations.

Copies of the Memorandum of Understanding between Cessnock City Council and Hunter Water Corporation can be obtained from:

- ❑ Hunter Water Corporation on www.hunterwater.com.au.
- ❑ Cessnock City Council on www.cessnock.nsw.gov.au.

MEMORANDUM OF UNDERSTANDING

This Memorandum is entered into on **26 June 2012** between

HUNTER WATER CORPORATION

of the one part, and

CESSNOCK CITY COUNCIL

of the other part.

Context

- A. Hunter Water Corporation is a statutory state owned corporation (SOC) under the State Owned Corporations Act 1989. Hunter Water has a responsibility amongst other things to operate, manage and maintain a Drainage Service in accordance with its Operating Licence granted under the Hunter Water Act 1991.
- B. Cessnock City Council is a local government entity of statute created under the Local Government Act 1993 ('the LG Act'). The LG Act provides a legal framework within which council has the power to provide goods, services and facilities and to carry out activities appropriate to the current and future needs of local communities and of the wider public. A council has a range of service (or non-regulatory) functions conferred or imposed on it by the LG Act including stormwater drainage and flood prevention, protection and mitigation services and facilities. It should be noted that under Section 56 of the act it states that Cessnock City Council do not have water and sewerage functions conferred on them within Hunter Water's area of operation.
- C. The objective of this Memorandum is to formally set out the terms of a co-operative relationship between the parties, establish their respective roles and facilitate fulfilment of each party's function in relation to stormwater management in the Black Creek Catchment.

1 Interpretation

- 1.1 Unless otherwise specified, terms in this Memorandum shall have the same meaning as provided by the Act or the Operating Licence.
- 1.2 This Memorandum of Understanding is not intended to be legally binding but to serve as a working document which may be subject to review and amendment in accordance with Section 5 of this Memorandum.
- 1.3 **Drainage Service** means the drainage service provided which includes the collection, transportation and disposal of runoff surface water via the Drainage System.
- 1.4 **Drainage System** means the drainage mains, pipes or channels, and other equipment provided, managed, operated and maintained to provide Drainage Services.
- 1.5 **Black Creek Catchment** for the purpose of this MOU is defined as the creeks, tributaries and other constructed or natural storm water drainage networks within the greater Cessnock town area.

Headings and numbering are for convenience only and do not affect the interpretation of this Memorandum.

2 Term

The term of this Memorandum shall be for the period commencing on the date of execution hereof and remaining in force until an amendment is executed.

3 Liason between Hunter Water Corporation and Cessnock City Council

A Joint Operational Group shall be established consisting of the Infrastructure Works Manager and the Strategic Asset Planning Manager from Cessnock City Council, and the Manager System Operations, Operational Support Engineer, and Stormwater Engineer from Hunter Water Corporation *(or any other officers as agreed to by both agencies)* to discuss the broad principals, directions, policies and actions underlying the roles and responsibilities of the parties under this Memorandum and to:

- review the Memorandum on a 2 yearly basis to ensure that it is still relevant to the operating environment
- co-ordinate implementation of this Memorandum
- monitor programs of investigations, feasibility studies and economic analyses that may be undertaken in order to implement this Memorandum
- make recommendations to the General Managers and Managing Directors regarding the updating of this Memorandum
- facilitate the co-ordination of the collection and sharing of data for use by Hunter Water Corporation and Cessnock City Council, and
- Assess the operational performance of the drainage system and the associated communication protocols following major stormwater rainfall events (greater then a 5 year recurrence interval).

The Joint Operational Group may establish joint working parties to investigate and formulate recommendations on specific and technical issues as required.

4 Dispute Resolution

Where a dispute between the parties cannot be resolved by the Joint Operational Group, then it should be referred to the General Manager of Cessnock City Council and the Managing Director of Hunter Water Corporation for resolution.

5 Amendment

This Memorandum can be amended at any time upon agreement between the parties.

6 Hunter Water Corporation's Roles and Responsibilities

Hunter Water Corporation has a responsibility to operate, manage and maintain a Drainage Service in accordance with its Operating Licence.

6.1 Assets owned

- Hunter Water Corporation owns approximately 10.3km of open concrete channel, culverts and pipes within the Black Creek catchment as shown in Figure 1.
- Hunter Water Corporation owns land around most of their stormwater assets. Figure 1 shows the land the Hunter Water owns freehold and the land where there is an easement for stormwater.

6.2 Maintenance Responsibilities

- Hunter Water Corporation shall operate, manage and maintain all open concrete channels, culverts and pipes in their ownership.
- Hunter Water Corporation undertakes regular inspections of the open concrete channels and potential restriction points to ensure the channel is clear of objects.
- Hunter Corporation Water undertakes mowing on its freehold land which is located alongside their open concrete channels.
- Hunter Water Corporation undertakes a full condition assessment of its stormwater assets in the Cessnock catchment on a 5 yearly basis.

6.3 Other responsibilities

- Hunter Water Corporation will communicate with Cessnock City Council regarding stormwater issues which it is believed that Cessnock City Council should be involved. A clear message will then be developed between the two organisations such that the community receives one clear response.
- If and when the Hunter Water Corporation assets require renewal then Hunter Water Corporation will consult with Cessnock City Council in order to investigate rehabilitation solutions which might also assist in providing additional aesthetic and water quality benefits.

7 Cessnock City Council's Role and Responsibilities

Cessnock City Council has a range of service (or non-regulatory) functions conferred or imposed on it by the LG Act including stormwater drainage and flood prevention, protection and mitigation services and facilities. It should be noted that under Section 56 of the act it states that Council do not have water and sewerage functions conferred on them within Hunter Water's area of operation.

7.1 Assets owned

- Cessnock City Council owns approximately 30 km of pipes, 5000 culverts, and a significant number of natural creek lines (natural creek lines have varying ownership, including Council, other government agencies and private) and constructed open swales within the Black Creek catchment.
- Cessnock City Council owns the Mount View Detention Basin located within the Black Creek catchment. This detention basin is on the Lavender Creek Branch Channel and is located on the south side of Mount View Road opposite Mount View High School.

7.2 Flood Management Responsibilities

Cessnock City Council has the following responsibilities with respect to flood management within the complete Black Creek Catchment:

- Floodplain Risk Management Plans
- preparation of Local Environment Plans
- local development under Part 4 of the EPA Act
- section 149 planning certificates
- asset management (maintenance and renewal) of their flood mitigation and flood warning assets
- flood education
- provision of a local emergency operations centre and other resources for flood response and recovery, if required, in accordance with the Cessnock Local Disaster Plan, and
- collection and review of flood data.

7.3 Maintenance Responsibilities

- Cessnock City Council shall operate, manage and maintain all channels, pipes and culverts in their ownership.
- Cessnock City Council undertakes mowing alongside its concrete channels, open swales and overland stormwater drainage flow paths within defined drainage easements.

- Cessnock City Council undertakes routine inspections of the Mount View Detention Basin in accordance with its Dam Safety Management Plan.

7.4 Other Responsibilities

- Cessnock City Council will communicate with Hunter Water regarding stormwater issues which it is believed that Hunter Water Corporation should be involved. A clear message will then be developed between the two organisations such that the community receives one clear response.
- Cessnock City Council requires developers to comply with relevant conditions of development consent in order to manage stormwater quantity and quality appropriately. Certain Development Applications, as agreed between the parties, should be referred to Hunter Water for input and comment.
- Cessnock City Council has the following responsibilities with respect to environmental emergencies within the Catchment:
 - asset management (maintenance and renewal) of its assets.

8 Projects Underway

A number of projects are underway by both Hunter Water Corporation and Cessnock City Council. These projects are available through either contacting Hunter Water Corporation (www.hunterwater.com.au) or Cessnock City Council.

9 Issues raised which need to be addressed

The following issues have been identified as requiring further consideration and resolution by the Joint Operational Group in the longer term. Further details of these issues are listed in Schedule 1:

- Adopting a mutually agreed approach to ownership of new assets provided by third parties.
- Achieving better spatial continuity of asset management, through a mutually agreed approach to the ultimate ownership of key assets within the catchment.

10 Information Exchange

- Cessnock City Council will provide Hunter Water Corporation with reports and studies it undertakes which are relevant to those activities of Hunter Water Corporation.
- Hunter Water Corporation will provide Cessnock City Council with reports and studies it undertakes which are relevant to those activities of Cessnock City Council.

IN WITNESS WHEREOF the parties have executed this document at the date first mentioned.

SIGNED for and on behalf of the

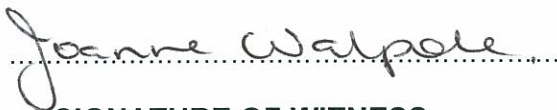
CESSNOCK CITY COUNCIL

in the presence of



General Manager

Cessnock City Council

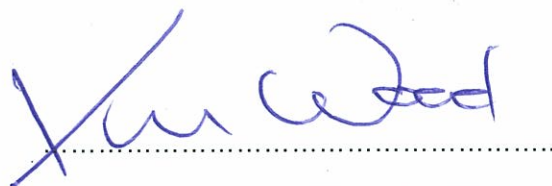


SIGNATURE OF WITNESS

(PRINT) NAME OF WITNESS

SIGNED for and on behalf of the

HUNTER WATER CORPORATION



Managing Director

Hunter Water Corporation



SIGNATURE OF WITNESS

(PRINT) NAME OF WITNESS

Schedule 1

Current Issues Register

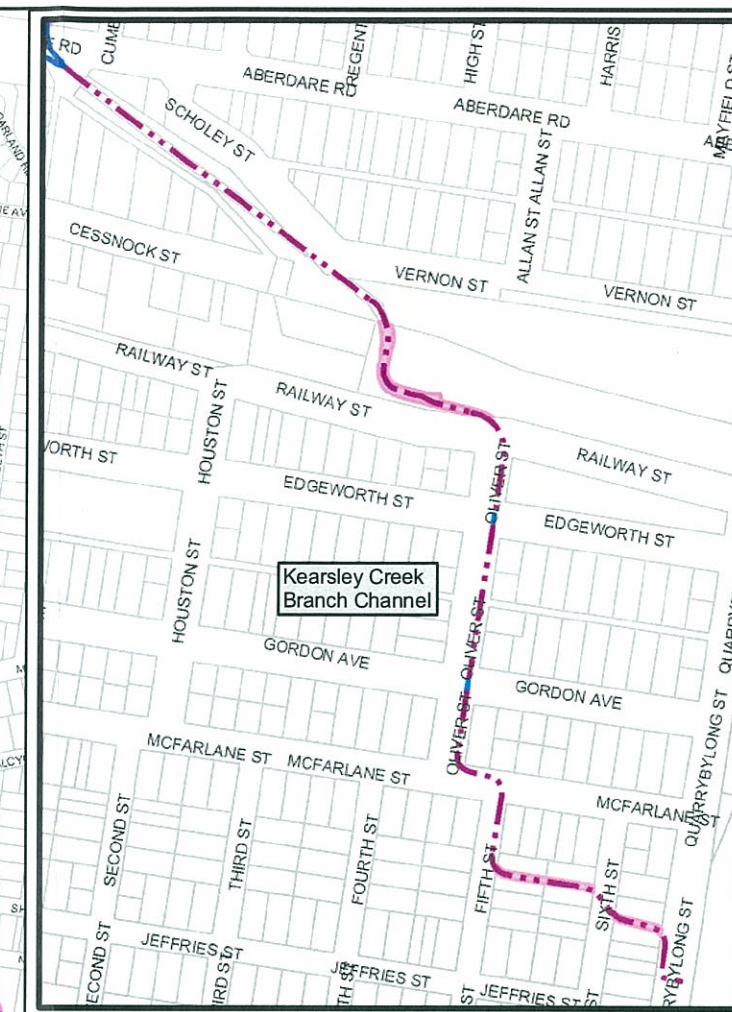
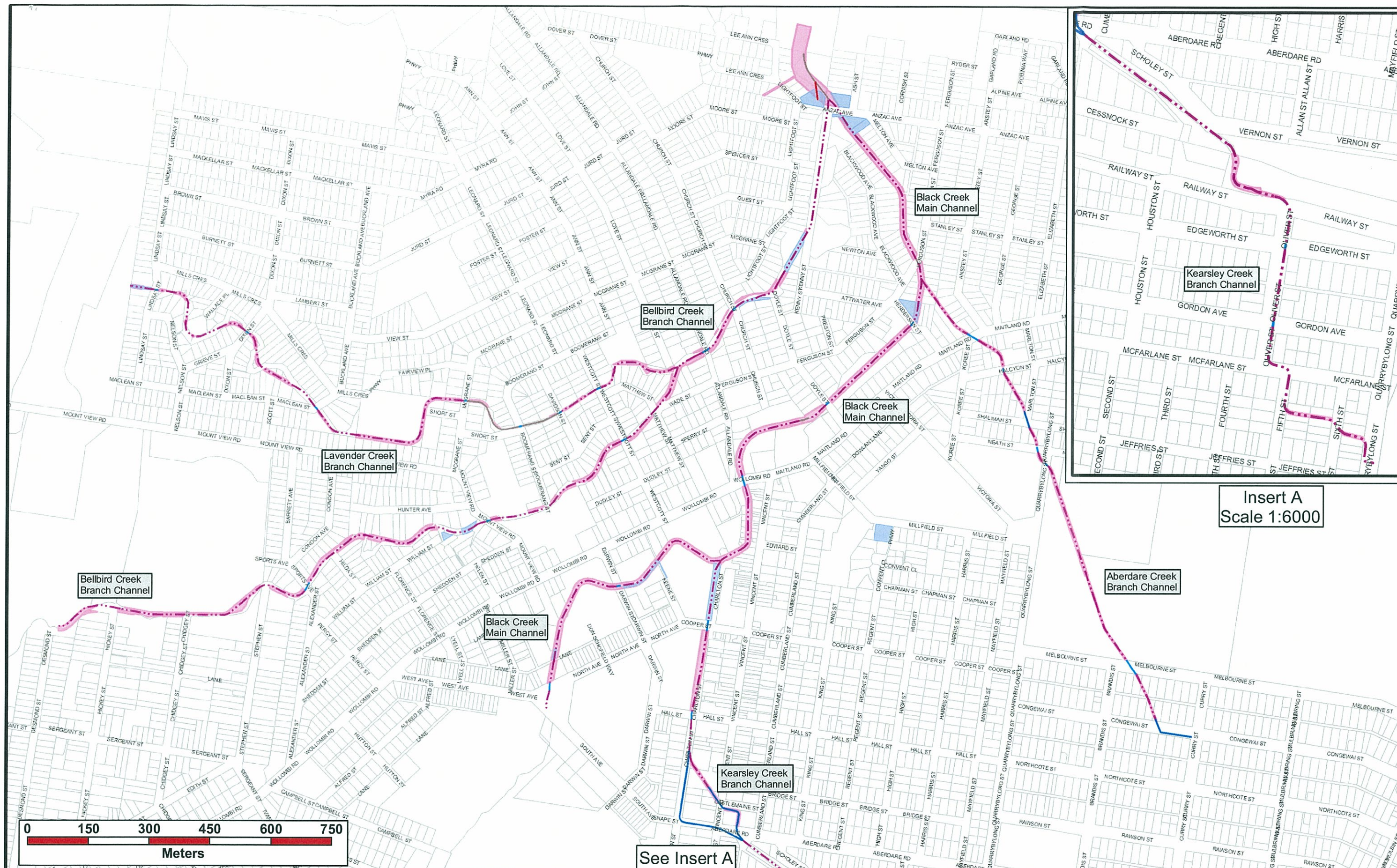
Development impacting on existing stormwater assets:

- Who will own the asset if Cessnock City Council requires a developer to upgrade a Hunter Water Corporation stormwater asset?

Management of storm water within Cessnock LGA:

- Ultimately, Hunter Water Corporation and Cessnock City Council would like to ensure that the service they provide and associated assets they manage are in line with the core activities of each organisation. One way to achieve this would be for Hunter Water Corporation to transfer stormwater assets in the Black Creek catchment to Cessnock City Council. The terms of any future asset transfer would need to recognise, and address, to the parties' satisfaction, the risks and liabilities for each party.

Figure 1



DISCLAIMER
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Date of Aerial Photography 2007
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DATUM GDA94
MGA ZONE 56

Base data 01/01/1999 © LPMA of NSW
Addendum data 25/10/2009 © Hunter Water Corporation
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LEGEND	
	HWC Easements Drainage
	HWC Land
	ACCESS RAMP
	BRIDGE
	CULVERT
	PIPE
	RECTANGULAR OPEN CHANNEL
	TRAPEZOIDAL OPEN CHANNEL



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HUNTER WATER CORPORATION ABN 46 228 513 446			
Figure 1		BLACK CREEK CESSNOCK	
HWC STORMWATER ASSETS			
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Date: 04/04/2012	Drawn: DAP	Scale: 1:12000	A3