COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING
28 AUGUST 2014

RESOLUTION NO. 250
Minutes confirmed at Council meeting: 25 September 2014
To view Report, double-click on Agenda Report link below

Agenda Report

CP14/26 PLANNING PROPOSAL - PP_2013_COFFS_003_00 FOR LOT 1, DP777555 HAMILTON DRIVE, BOAMBEE EAST (MI ORGANICS LANDSCAPE SUPPLIES)

The purpose of this report is to present a Planning Proposal (PP) for Council's consideration. This enables the subject site to be rezoned to better reflect the current use of the land.

The report recommends that Council seek a Gateway Determination from NSW Planning and Environment (P&E) requesting to place the PP on public exhibition. The report also recommends that Council consider the outcome of the exhibition in a future Council report. The PP is included as Attachment 1 to this report.

In addition, the report presents a voluntary planning agreement (VPA) which includes a vegetation management plan (VMP) for Council's consideration. The VPA has been submitted by the landowner and details the standard at which vegetation management will be undertaken on the environmentally sensitive part of the land.

250 **RESOLVED** (Arkan/Sultana):

1. That Council endorse and forward the subject Planning Proposal to NSW Planning and Environment seeking a "Gateway Determination" for the rezoning of Lot 1, DP777555 Hamilton Drive, Boambee East as shown in Attachment 1 of this report.
2. That Council agree to enter into a Voluntary Planning Agreement with the proponent in accordance with the draft planning agreement contained in the offer from John Robert William Tait as shown as an appendix in Attachment 1 of this report.
3. That subject to the "Gateway Determination" from NSW Planning and Environment, Council place the Planning Proposal and Voluntary Planning Agreement on public exhibition.
4. That a further report be considered by Council following the outcome of the public exhibition.
5. That the landowner be informed of Council's decision.

VOTED FOR	VOTED AGAINST
Cr Arkan	Cr Townley
Cr Palmer	
Cr Cowling	
Cr Knight	
Cr Degens	
Cr Sultana	
Cr Innes	
Cr Rhoades	

PLANNING PROPOSAL - PP_2013_COFFS_003_00 FOR LOT 1, DP777555 HAMILTON DRIVE, BOAMBEE EAST (MI ORGANICS LANDSCAPE SUPPLIES)

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The following locality plan illustrates the subject site.

Background:

Coffs Harbour City Council issued a Development Consent 139/88 (Development Application 121/88) for the landscape supplies operation for Lot 1, DP777555 Hamilton Drive, Boambee East on 27 April 1988.

The landscape supplies operation commenced soon after the approval was granted. Over the course of a number of years, the operation has expanded outside the approved boundary into land previously zoned 6(b) Open Space under Coffs Harbour LEP 1988; Environmental Protection 7A Habitat and Catchment and Residential 2A Low Density under the provisions of Coffs Harbour LEP 2000. These parts of the site are now zoned part E2 Environmental Conservation and part R2 Low Density Residential under the provisions of Coffs Harbour LEP 2013. Letters from the Environment Protection Authority (EPA) dated 11 September 1988, 8 September 1995 and 3 October 1997 requested a collection basin be installed outside the original approved operation boundary, bunding around the windrows of materials as a priority and concreting of all waste receivable areas, including the traffic areas. However, no formal approval from Council for these works was ever obtained (see Figure 1).

Figure 1: MI Organics Landscape Supplies Operation

Description of Item:

The main purpose of the rezoning of Lot 1, DP777555 Hamilton Drive, Boambee East is to better reflect the current use of the land in a way that is sympathetic towards the environmental constraints and to recognise the extent of the existing operation at the site. It is the landowner's intention to lodge a DA to consolidate his current operation once the PP has been finalised by NSW P&E. The PP proposes the following amendments to existing zones on the site:

Zoning	Current Area (Ha)	Proposed Area (Ha)
IN1 General Industrial	0.55	1.64
E2 Environmental Conservation	1.29	1.36
R2 Low Density Residential	1.37	0.21

Figure 2: Existing Zones

Figure 3: Proposed Zones

The PP is consistent with the outcomes identified in the Industrial Lands Strategy 2009. This strategic study concluded that there is a shortfall of industrial zoned land throughout the Coffs Harbour Local Government Area (LGA). The resultant PP and VPA delivers a better environmental outcome to satisfy Council's requirements. The benefits of the PP include an increased area to be rehabilitated, better links to vegetation on the western side of Hamilton Drive, a substantial buffer to flooding and nitrification (i.e. an increase in nutrients) and a future vegetated screen to residential areas on the southern side of Sawtell Road.

A VPA has been lodged by the proponent and details an implementation program for vegetation management of the land in accordance with the VMP. The VPA has been included within Attachment 1 to this report.

Sustainability Assessment:

Any amendment to the Coffs Harbour LEP must address environmental, social, civic leadership and economic sustainability criteria.

The PP is seeking to amend zones relating to existing zones in LEP 2013.

- **Environment**

  Parts of the site are flood affected. However, the majority of the developed portion of the site would not be inundated for events up to and including the 100 year average recurrence interval (ARI) event. The majority of the flood prone land is to be rezoned E2 Environmental Conservation. The VPA and VMP will assist in delivering better environmental outcomes and help to reduce the impacts of future flood events.

- **Social**

  Boambee Creek is a popular waterway for locals and visitors. By requiring a revised stormwater management plan as a component of the PP process, any adverse water quality impacts that may occur will be reduced especially downstream. This will ensure the creek can be continued to be enjoyed for a variety of purposes, especially recreational.

- **Civic Leadership**

  Engagement with the community, by way of the exhibition of the PP, provides an opportunity to achieve outcomes which are identified by the Coffs Harbour 2030 Plan. Strategies include those that manage land use to conserve the region's unique environmental and biodiversity values, and enhance protection of the LGA's catchments and waterways through improved water quality standards.

- **Economic**

  Broader Economic Implications

  The PP provides an opportunity to increase the industrial land stock in the Coffs Harbour LGA. A shortfall of industrial zoned land throughout the LGA has already been identified in the Industrial Lands Strategy 2009 and the endorsement of this PP will assist in reducing the shortfall. The Industrial Lands Strategy 2009 recommended an IN1 General Industrial zone for the majority of the subject land but also recognised a potential ecological constraint to that part of the site that adjoins Boambee Creek. The proposed zones generally reflect this strategic line of thought.

  In addition, the ongoing operation of the MI Organics landscape supplies business will ensure the continued employment of up to 10 full-time employees.

  Delivery Program/Operational Plan Implications

  There are no implications to Council's current Operational Plan. The PP is being funded by the landowner.

Risk Analysis:

This PP represents a minor rezoning in the context of Council's LGA wide planning strategy, namely Coffs Harbour LEP 2013.

If the PP doesn't proceed, there is the risk of ongoing illegal activity occurring on the site, water quality not meeting Australian/New Zealand industry standards in Boambee Creek, a more effective stormwater management plan not being implemented and the expansion of a viable landscape supplies business being prohibited in the current zone on the site. Furthermore, good environmental outcomes in the form of the rehabilitation of a degraded portion of the site and the expansion of a significant vegetation corridor in the area won't occur.

Consultation:

Since the lodgement of the PP on 1 February 2013, various stakeholders have been involved in its development to ensure issues/concerns were adequately addressed.

In addition, Council wrote to the Office of Water (Department of Primary Industries) on 16 April 2013 and on 18 September 2013 to obtain their feedback on the PP. The Office of Water advised as follows:

> *"that Council require, as a condition of approval of the PP, the improvement of stormwater management and treatment on the site to reduce the impact of sediments and tannins washing from the site into the adjacent creek."*

Furthermore, should Council endorse the PP and should P&E ratify the gateway process, further consultation with the general public, State government authorities and/or stakeholders will be necessary.

Related Policy and / or Precedents:

Council is undertaking this process in accordance with the guidelines associated with PPs. All statutory requirements will be complied with in a timely and transparent manner.

This PP has been commissioned in response to a landowner's request and at the landowner's expense. It accords with a strategic study (i.e. Industrial Lands Strategy 2009); it has been prepared to resolve some zoning anomalies on the lands which will better recognise the existing use of the site; and to achieve appropriate environmental, economic and social outcomes.

Statutory Requirements:

The statutory processes under the Environmental Planning and Assessment (EP&A) Act 1979 and Regulations must be followed in the preparation of the PP and its exhibition.

Issues:

- **Environmental Protection**

  A key issue in this PP evaluation process has been understanding what benefits may flow in confirming the existing environmental protection buffer zone along Boambee Creek other than to assert Council's strong position in not supporting developments that work outside their consent. The benefits of buffers include:

  - increased bank stability;
  - provision of shading and detritus inputs;
  - major role in regulating nutrient influx;
  - assist in removal of nutrient, sediments and some pollutants; and
  - improved visual qualities.

  The PP outlines that a better approach, to achieving good environmental outcomes, is through the provision of a fully costed five year VMP for the proposed E2 Environmental Conservation areas. The cost of the VMP will be borne by the landowner and will be bonded by Council until the works are completed.

- **The Voluntary Planning Agreement (VPA)**

  The VPA is the legal mechanism which details the scope of works, costs associated with these works and an alternative arrangement for these works to be undertaken should the proponent not fulfill his obligations under the agreement. This arrangement is between Council and the landowner. The total costs of the works (which come in the form of the VMP) have been estimated at $12,200 and are solely the responsibility of the landowner. The proponent has advised that a qualified bush regenerator contractor will be engaged to do these works. The planning agreement will be registered on the property title.

  The purpose of the VMP is to ensure that part of the land proposed to be zoned E2 is substantially improved through weed control and revegetation. This will ultimately provide a habitat corridor and connectivity to a large portion of vegetated land to the east of Hamilton Drive.

Implementation Date / Priority:

The timeframe for a PP is established in the EP&A Act. The timeframe is triggered once the matter is sent to NSW P&E by Council (i.e. after Council endorsement).

Recommendation:

1. **That Council endorse and forward the subject Planning Proposal to NSW Planning and Environment seeking a "Gateway Determination" for the rezoning of Lot 1, DP777555 Hamilton Drive, Boambee East as shown in Attachment 1 of this report.**
2. **That Council agree to enter into a Voluntary Planning Agreement with the proponent in accordance with the draft planning agreement contained in the offer from John Robert William Tait as shown as an appendix in Attachment 1 of this report.**
3. **That subject to the "Gateway Determination" from NSW Planning and Environment, Council place the Planning Proposal and Voluntary Planning Agreement on public exhibition.**
4. **That a further report be considered by Council following the outcome of the public exhibition.**
5. **That the landowner be informed of Council's decision.**

Attachment 1

MI Organics

Amendment to Coffs Harbour Local Environmental Plan 2013

Lot 1 DP 777555, Hamilton Drive, Boambee East

18 August 2014

WATER | ENERGY & RESOURCES | ENVIRONMENT | PROPERTY & BUILDINGS | TRANSPORTATION

Attachment 1

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1. Introduction

1.1 Overview

GHD has been engaged by MI Organics to prepare a Planning Proposal for the rezoning of Lot 1 DP 777555, 1 Hamilton Drive, Boambee East. The site has been developed as a landscape supplies business, trading as MI Organics Landscape Supplies.

This Planning Proposal has been prepared to provide justification for the rezoning of the site by Coffs Harbour City Council (Council), as the relevant planning authority, in accordance with Clause 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.2 Background

Coffs Harbour City Council on 8 November 2010 issued MI Organics a *Direction to Take Prevention Action* (Direction No. 11/11) under the *Protection of the Environment Operations Act 1997*, in relation to wastewater discharged to Boambee Creek. Since this time several meetings have been held between the landowner and Council to discuss the existing operation and to determine the most appropriate solution to satisfy Council's requirements.

To address these requirements, a Stormwater Management Plan (SMP (GHD, February 2011)) was prepared to manage stormwater at the site. In compliance with the SMP, MI Organics have made a number of changes to their operations, including:

- Removal of leachate producing materials stored at the site. In this regard, MI Organics has relocated this material to their Grafton operation, where better handling facilities exist;
- Relocating the remaining on-site leachate producing materials into the stormwater catchment that drains to the on-site basin to maximise leachate capture; and
- Covering all leachate producing materials to minimise leachate generation.

The zoning of the site does not reflect the current land use and the developed portion of the site has encroached onto adjacent non-industrial zoned areas, over the course of time. Following a number of representations by GHD, Council advised at a meeting in July 2012, that it would accept a Planning Proposal to support the rezoning of the site in a way that better reflects the environmental constraints and the extent of the existing operation at the site.

1.3 Purpose of Report

Pursuant to Clause 55 of the EP&A Act, Council, as the relevant planning authority, is required to prepare a document that provides the justification for and explains the intended effect and purpose of a proposed amendment to *Coffs Harbour Local Environmental Plan 2013* (Coffs Harbour LEP 2013). This Planning Proposal addresses this requirement.

Attachment 1

The main issues used to form the basis of the Planning Proposal are outlined in the former Department of Planning and Infrastructure's '*Guide to Preparing a Planning Proposal.*' This Planning Proposal supports the following changes to the current zoning at the site:

- Expanding the IN1 General Industrial zone from 0.55 hectares to 1.64 hectares
- Expanding the E2 Environmental Conservation zone from 1.29 hectares to 1.36 hectares
- Reduction of R2 Low Density Residential zone from 1.37 hectares to 0.21 hectares.

1.4 Landowner Consent

Jon Tait, as managing director of MI Organics is the owner of Lot 1 DP 777555, 1 Hamilton Drive, Boambee East and has provided consent to submit this Planning Proposal.

2. Site Description

2.1 Site Locality

The subject site is referred to as Lot 1 DP 777555, 1 Hamilton Drive, Boambee East and is located adjacent to Boambee Creek. Figure 1 in Appendix A shows the regional location of the site. The site encompasses an area of approximately 3.2 hectares with the MI Organics operation located on the northern 1.49 hectares of the site.

2.2 Existing Development

Figure 2 in Appendix A shows the existing development at the site, which has been predominantly developed in its northern portion. This development has extended beyond the currently zoned General Industrial (IN1) area into the adjacent Low Density Residential (R2) and Environmental Conservation (E2) zones. Offices and maintenance sheds have been built on the site's northern boundary. The maintenance sheds are used for general maintenance of site vehicles and store a variety of fuels and oils.

Over the course of time, concrete bays which accommodate the various landscaping supplies including gravel, sand, compost, wood chip and mulch and stockpiles of raw compost material, situated along the western boundary of the site, have extended beyond the area zoned for industrial use. This includes a sediment/detention basin in the south-western corner of the site, and a stormwater swale bisecting the southern quarter of the site. The site is predominantly devoid of vegetation with the exception of trees fringing Boambee Creek, fronting Hamilton Drive and along the edge of the open drainage swale.

2.3 Access

Access to the site is via Hamilton Drive with internal access roads between the concrete bays and stockpiled material.

2.4 Current Site Zoning

The site is currently zoned partly R2 Low Density Residential, partly IN1 General Industrial and partly E2 Environmental Conservation under Coffs Harbour LEP 2013. Figure 3 in Appendix A shows the current zoning of the site.

2.5 Topography

The developed portion of site is concrete sealed and has a relatively flat topography which generally drains in a south-westerly direction towards:

- An open swale with a storage volume of approximately 604 m^3, provided by a low weir
- A detention basin with a storage volume of approximately 1,824 m^3
- A 7 m^3 treatment pit

The catchment of the basin is approximately 8,270 m^2 and the catchment of the open swale is approximately 6,620 m^2. A small 25 m^2 area adjacent to the office/maintenance shed drains to the treatment pit. This pit would overflow to Boambee Creek, however we have been advised (pers. Comms Jon Tait) that this rarely occurs, as the pit is emptied daily. Water from the pit is also used for dust suppression across the site.

The two larger catchments comprise numerous storage bays that contain various landscape supplies, including gravel, sand, compost, wood chip and mulch.

2.6 Flooding

The site is affected by flooding, in particular the 100-year ARI event (see Figure 2 in Appendix A), which has been adopted by Coffs Harbour City Council in defining the Flood Planning Level (100-year ARI event plus 0.5m freeboard). The flood level associated with this event is approximately RL 3m AHD at the site. This inundates a small area of the developed portion of the site, with flood depths of 0.2m to 0.5m along the north-western boundary. However the majority of the developed portion of the site is at topographic levels of greater than approximately RL 3.3m AHD and would thus not be inundated for events up to and including the 100-year ARI event.

The area between and over the two drainage swales is located at a lower topography and would experience a higher risk of flooding. In a 100-year ARI event flood depths of 1.2 m to 1.9 m could be expected at the location of the open drainage swale.

The southern corner of the site adjacent to Sawtell Road and Hamilton Drive is located at RL 3.5 m AHD and greater, and is thus not be inundated for events up to and including the 100-year ARI event.

2.7 Development History

Council issued Development Consent 139/88 (DC 139/88) for the landscape supplies operation on the site on 27 April 1988.

The site commenced operation soon after the approval was granted. The operation appears to have expanded outside the approved boundary into land previously zoned 6(b) Open Space (Proposed) under *Coffs Harbour Local Environmental Plan 1988* which is currently zoned E2 Environmental Conservation and R2 Low Density zones. Letters from the EPA, dated 8 September 1995, 3 October 1997 and 11 September 1998 request a collection basin be installed outside the original approved operation boundary, bunding around the windrows as a priority and concreting of all waste receival areas, including the traffic areas. However, no formal approval from Council for these developments was obtained.

The site was also inspected a number of times by the EPA and Council, after expanding outside the approved boundary.

Attachment 1

3. Planning Proposal

3.1 Part 1 - Statement of Objectives or Intended Outcomes of the Proposed Local Environmental Plan

The objective of this Planning Proposal and any subsequent LEP amendment is to rezone Lot 1 DP 777555, 1 Hamilton Drive, Boambee East to partly IN1 General Industrial, partly E2 Environmental Conservation and partly R2 Low Density Residential consistent with Coffs Harbour LEP 2013. A plan of the proposed rezoning is provided in Figure 4, Appendix A.

The proposed rezoning would be subject to a Voluntary Planning Agreement (VPA) and associated Vegetation Management Plan (VMP), as provided in Appendix B. The VPA and VMP would ensure the area zoned E2 would be improved through weed control and revegetation which would provide a habitat corridor to the area of vegetation to the east of Hamilton Drive.

3.2 Part 2 - Explanation of the Provisions

The proposed rezoning of the site is as follows:

Zoning	Current Area (Ha)	Proposed Area (Ha)
IN1 General Industrial	0.55	1.64
E2 Environmental Conservation	1.29	1.36
R2 Low Density Residential	1.37	0.21

3.3 Part 3 - Justification of Proposal

3.3.1 Section A - Need for a Planning Proposal

Is the planning proposal a result of any strategic study or report?

The Planning Proposal is not the result of a strategic study or report but has been prepared to resolve some zoning anomalies at the site and to recognise the existing and historic use at the site.

Is the planning proposal the best means of achieving the objectives or intended outcomes or is there a better way?

The Planning Proposal recognises the inherent environmental constraints at the site. There is no other long term resolution to achieve the objectives or intended outcomes of the Planning Proposal.

A SWOT analysis of the Planning Proposal has been undertaken to inform the rezoning process and provide an overview of the key issues, as tabulated below.

Strengths	Weaknesses

• Established business operating at present and contributing to local economy. • Site is located close to arterial road network. • Site is generally isolated from residential development.	• A portion of the site is affected by the 100 year ARI flood event. • Site is located adjacent to Boambee Creek.
Opportunities	**Threats**
• Protection of flood constrained land. • Creation of a wildlife/ vegetation corridor between Boambee Creek and the vegetation to the east. • Landowner is prepared to undertake remediation and supplementary stormwater management works in close proximity to Creek. • Opportunity to fix anomalies in current zoning, particularly extent of current R2 zones.	• Operation may close if land area is significantly reduced. • Increased nutrient loadings if no action is taken in relation to stormwater management and flooding.

Is there a net community benefit?

The existing MI Organics operation has been trading since 1988, and every effort has been made to minimise pollution from the operation to Boambee Creek, more recently under the direction of the SMP (GHD 2012).

The Planning Proposal will mean the existing landscaping supplies operation and R2 zoned land would be relocated outside of the critical 5 and 20 year ARI flood events as well as the majority of the 100 year ARI flood event by protecting the most western riparian zone adjacent to Boambee Creek and the flood flow path through the southern portion of the site. The rezoning of these portions of the site to E2 Environmental Conservation zone would also create a wildlife/ vegetation corridor between the Boambee Creek riparian zone and the vegetation to the east, thereby providing better habitat connectivity and fauna movement in the locality.

3.3.2 Section B - Relationship to Strategic Planning Framework

Is the Proposal Consistent with the objectives and actions contained within the applicable Regional or Sub-Regional Strategy?

The Planning Proposal is considered to be consistent with the Mid North Coast Regional Strategy in regard to maintaining and identifying additional industrial land for future employment opportunities at the site without compromising the environment.

Is the Planning Proposal Consistent with applicable State Environmental Planning Policies?

State Environmental Planning Policy (SEPP)	Statement of Consistency
SEPP No 1 – Development Standards	Not applicable as SEPP has been replaced by clause 4.6 of Coffs Harbour LEP 2013.
SEPP No 4 – Development without consent and miscellaneous exempt and complying development	Complies. There would be no provisions in the Planning Proposal that contravene this SEPP.
SEPP No 33 – Hazardous and offensive development	The Planning Proposal would not contravene this SEPP.
SEPP No 44 – Koala habitat protection	The Planning Proposal would not contravene this SEPP.
SEPP No 52 – Farm dams and other works in land water management plan areas	The Planning Proposal would not contravene this SEPP.
SEPP No 55 – Remediation of land	Complies. There would be no provisions in the LEP amendment that contravene this SEPP.
SEPP No 60 – Exempt and complying development	Complies. There would be no provisions in the Planning Proposal that contravene this SEPP.
SEPP No 71 – Coastal Protection	Clause 8 of the SEPP outlines the matters for consideration. The relevant matters are addressed below: The matters for consideration are the following: *(a) the aims of this Policy set out in clause 2,* The Planning Proposal is considered to be consistent with the aims of the policy set out in Clause 2. *(b) existing public access to and along the coastal foreshore for pedestrians or persons with a disability should be retained and, where possible, public access to and along the coastal foreshore for pedestrians or persons with a disability should be improved,* There is presently no direct access to the coastal foreshore adjacent to the site. Opportunities for access are provided further downstream near the mouth of the estuary. *(c) opportunities to provide new public access to and along the coastal foreshore for pedestrians or persons with a disability,* Whilst the Planning Proposal would increase the environmental conservation zone at the site, the nature of the coastal foreshore adjacent to the site is not conducive to providing new public access. *(d) the suitability of development given its type, location and design and its relationship with the surrounding area,* The existing MI Organics operation is considered to be suitable at the site provided the Planning Proposal and

State Environmental Planning Policy (SEPP)	Statement of Consistency
	identified stormwater management measures are implemented. *(e) any detrimental impact that development may have on the amenity of the coastal foreshore, including any significant overshadowing of the coastal foreshore and any significant loss of views from a public place to the coastal foreshore,* The Planning Proposal would not result in any overshadowing or loss of views to the foreshore. *(h) measures to conserve fish (within the meaning of Part 7A of the Fisheries Management Act 1994) and marine vegetation (within the meaning of that Part), and their habitats* The Planning Proposal and identified stormwater management measures when implemented would act to conserve fish and marine vegetation and their habitats. *(i) existing wildlife corridors and the impact of development on these corridors,* The Planning Proposal would improve the Boambee Creek riparian zone and create a wildlife/ vegetation corridor between Boambee Creek and the vegetation to the east of the site, thereby providing better habitat connectivity and fauna movement in the locality. *(j) the likely impact of coastal processes and coastal hazards on development and any likely impacts of development on coastal processes and coastal hazards,* The Planning Proposal and identified stormwater management measures when implemented would minimise any impacts of coastal processes and coastal hazards on development and any subsequent water quality impacts. *(k) measures to reduce the potential for conflict between land-based and water-based coastal activities,* The Planning Proposal and identified stormwater management measures when implemented would reduce the potential for conflict between land-based and water-based coastal activities. *(m) likely impacts of development on the water quality of coastal waterbodies,* The Planning Proposal and identified stormwater management measures when implemented would reduce the potential for water quality impacts in Boambee Creek. *(o) only in cases in which a council prepares a draft local environmental plan that applies to land to which this Policy applies, the means to encourage compact towns and cities,* The Planning Proposal would be consistent with the matter. *(p) only in cases in which a development application in relation to proposed development is determined:* *(i) the cumulative impacts of the proposed development on the environment, and* Consideration would be given to cumulative impacts as part of any subsequent development application submitted for the proposal.

State Environmental Planning Policy (SEPP)	Statement of Consistency
	(ii) measures to ensure that water and energy usage by the proposed development is efficient. Consideration would be given to water and energy use as part of any subsequent development application submitted for the proposal.
SEPP Exempt and Complying Development 2008	Complies. The exempt and complying tables in Coffs Harbour LEP 2013 have been carefully developed to be consistent with this SEPP.
SEPP Infrastructure 2007	The Planning Proposal would not contravene this SEPP.
SEPP Major Development 2005	The Planning Proposal would not contravene this SEPP.

Is the Planning Proposal consistent with applicable Ministerial Directions (Section 117 Directions)?

Section 117(2) Direction		Relevant to the Planning Proposal	Consistent with the Direction?	Justification
1.	**Employment and Resources**			
1.1	Business and Industrial Zones	Yes	Yes	The Planning Proposal would increase the area of land zoned for industrial purposes from 0.55 hectares to 1.64 hectares. Whilst this increase has not been identified within an approved strategy, the proposed rezoning would allow for additional future employment opportunities in an existing successful operation free from significant environmental constraints and land use conflicts.
1.4	Oyster Aquaculture	Yes	Yes	The Planning Proposal is substantially consistent with the terms of the direction.
2.	**Environment and Heritage**			
2.1	Environment Protection Zones	Yes	Yes	The Planning Proposal would facilitate the protection and conservation of environmentally sensitive areas through the expansion of the environmental protection zone from 1.29 hectares to 1.36 hectares.
2.2	Coastal Protection	Yes	Yes	The Planning Proposal is substantially consistent with the terms of the direction.
4.	**Hazard and Risk**			
4.1	Acid Sulfate Soils	Yes	Yes	The Planning Proposal is substantially consistent with the terms of the direction.
4.3	Flood Prone Land	Yes	No	Due to proximity to Boambee Creek, parts of the site are affected by the 100-year ARI flood event. The Planning Proposal however proposes to rezone that land affected by the critical 5 and 20 year ARI flood events and the majority of the 100-year ARI flood event as E2 Environmental Conservation in accordance with this direction.
4.4	Planning for Bushfire Protection	Yes	Yes	The Planning Proposal does not propose the release of any urban land subject to significant bushfire risk. The Planning Proposal is considered consistent with this direction.
5.	**Regional Planning**			
5.1	Implementation	Yes	Yes	The Planning Proposal is substantially consistent with the terms of the direction.

Section 117(2) Direction		Relevant to the Planning Proposal	Consistent with the Direction?	Justification
	of Regional Strategies			
6.	**Local Plan Making**			
6.1	Approval and Referral Requirements	Yes	Yes	The Planning Proposal is substantially consistent with the terms of the direction.
6.2	Reserving Land for Public Purposes	Yes	Yes	The Planning Proposal is consistent with this direction because it does not affect land reserved for public purposes.
6.3	Site Specific Provisions	Yes	Yes	Direction applies substantially to amending LEPs. The Planning Proposal is considered consistent with this clause as it does not require any site specific provisions but rather a change in the area of the proposed zones.

3.3.3 Section C - Environmental, Social and Economic Impacts

Is there any likelihood that critical habitat, threatened species, populations or ecological communities or their habitats will be adversely affected as a result of the Proposal?

Outside the landscape supplies operation, the site contains a degraded vegetation community with species that correspond with the swamp sclerophyll forest on coastal floodplains endangered ecological listing (EEC) under the *Threatened Species Conservation Act 1995*. Adjacent to this vegetation community is the river mangrove low closed forest community associated with the riverbank.

The Planning Proposal, VPA and VMP are expected to provide a net benefit ecological outcome by:

- Increasing the area zoned for environmental protection
- Restoring an area of EEC and improving the condition of the vegetation along the riparian zone
- Improving the quality of stormwater runoff from the site
- Providing a wildlife/ vegetation corridor between Boambee Creek and the extensive vegetation area to the east of Hamilton Drive, thereby providing a faunahabitat corridor.

The Planning Proposal is therefore considered likely to have a positive benefit on any threatened species, populations and ecological communities and their habitats located in the proximity of the site.

Are there any other likely environmental affects as a result of the Planning Proposal and how are they proposed to be managed?

Flooding

The Planning Proposal addresses Boambee Creek flooding by:

- Ensuring that the proposed IN1 zone is flood free for the 5 and 20 year ARI flood events. In a 100-year ARI event, over 90% of the site is flood free, with the inundated localised area flooding to an average depth of approximately 200 mm, with a Low Flood Hazard rating in accordance with the NSW Floodplain Development Manual.
- Reducing the R2 zone so that it is outside the 100 year ARI flood event.
- Providing a rehabilitated Core Riparian Zone, where existing flow impediments in the floodplain will be removed, providing improved conveyance along Boambee Creek.
- Protecting the existing flood bypass flow path through the southern portion of the site, via an E2 Environmental Conservation zone.

Limiting the development to outside this area and implementing the identified stormwater management controls at the site would act to reduce the potential for ongoing water quality impacts at the site.

Stormwater Management

In conjunction with the Planning Proposal, a series of management actions and facilities are recommended that reduce the volume of pollutants at source and treat any runoff before discharge from the site. These management actions are:

- Remove all infrastructure including existing detention basin within the proposed E2 zone and rehabilitate this area.
- Fill and regrade the proposed IN1 zoned portion of the land (16,000m^2) towards the existing drainage swale within the southern portion of the site.
- Redesign and augment existing drainage swale within the southern portion of the site by installing several weirs and increasing capacity in order to develop a treatment train before discharge to Boambee Creek.
- Potentially provide a new detention/water reuse basin, adjacent to the swale as part of the treatment train and reduce the risk of site overflow to Boambee Creek during long extended wet periods.
- Construct a 40 metre x 40 metre roofed shed to house all leachate producing materials, sheltering these from rainfall. Ensure the site, outside of the shed, would accommodate only those materials that readily settle, such as gravel, rock, sand and soil stockpiles.
- Redirect clean water (subject to a first flush facility) from the shed roof to Boambee Creek.
- Regularly maintain (sweep and suppress dust) at the site.
- Storing chemicals in a dedicated, bunded area.

The actions proposed are considered to provide a practical approach, which manages the stormwater discharge from the MI Organics site.

The existing stormwater management infrastructure on the site requires modification to satisfy Council's *Direction to Take Prevention Action* (the Direction) dated 8 November 2010. A revised SMP would be prepared as part of a development application to seek approval for the modification of the site to address this direction relating to the catchments at the site and the construction of a first flush storage.

How has the Planning Proposal adequately addressed any social and economic effects?

Boambee Creek, downstream of the site, is a popular waterway for locals and visitors alike. The Planning Proposal together with the implementation of a revised SMP would improve the quality of stormwater runoff from the site and therefore reduce the potential to impact upon the water quality within Boambee Creek. The Planning Proposal would reduce the potential for any closure of the waterway for recreational uses.

Furthermore, the on-going operation of the MI Organics business ensures the employment of up to 10 full-time employees.

3.3.4 Section D – State and Commonwealth Matters

Is there adequate public infrastructure for the Planning Proposal?

The site is currently serviced by Hamilton Drive, a bitumen sealed two lane road with an excess capacity for the MI Organics operation and adjoining properties. Hamilton Drive links with Sawtell Road, a major arterial road servicing Toormina and Sawtell to the east and Boambee to the west. A grade separated interchange to the Pacific Highway is situated approximately 600 metres to the west of the site which provides access to Coffs Harbour to the north and Urunga to the south. Traffic related public infrastructure is considered to adequately service the existing and any future operation at the site.

The site is also serviced by reticulated water and sewer and these services are adequate for the existing and any future operation at the site.

What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination?

Consultation undertaken as part of this Planning Proposal has been limited to meetings with Council. It is assumed that consultation with Office of Environment and Heritage, Department of Primary Industries and Environment Protection Authority would be undertaken by Council as part of its consideration of the Planning Proposal.

Attachment 1

4. Conclusion

The current zoning of the site does not reflect the environmental constraints at the site nor the existing land use of the site. Whilst a range of management actions are required at the site to address stormwater management, the current zoning needs to be amended to better reflect the environmental characteristics of the site and to limit the potential for future land use conflicts.

This Planning Proposal recommends that Coffs Harbour City Council, as the relevant planning authority, prepare an amendment to Coffs Harbour LEP 2013, to reflect the proposed rezoning. The suggested rezoning of the site is shown in Figure 4 in Appendix A and recommends that over half of the site (1.64ha) be rezoned to IN1 General Industrial, with limited area (0.21ha) of R2 Low Density, whilst the E2 Environmental Conservation zone would be extended to 1.36ha to better reflect the flooding constraint at the site.

This rezoning would resolve the potential conflict created by having industrial and more intensive residential land uses adjacent to each other and enable a development application to be lodged that includes the modification to the operation.

The Planning Proposal has the added benefit of creating a wildlife/ vegetation corridor between Boambee Creek and the vegetation to the east of the site, thereby providing better habitat connectivity and fauna movement in the locality.

The Planning Proposal together with the implementation of a revised SMP and VMP would improve the quality of stormwater runoff from the site and therefore reduce the potential to impact upon the water quality within Boambee Creek

Attachment 1

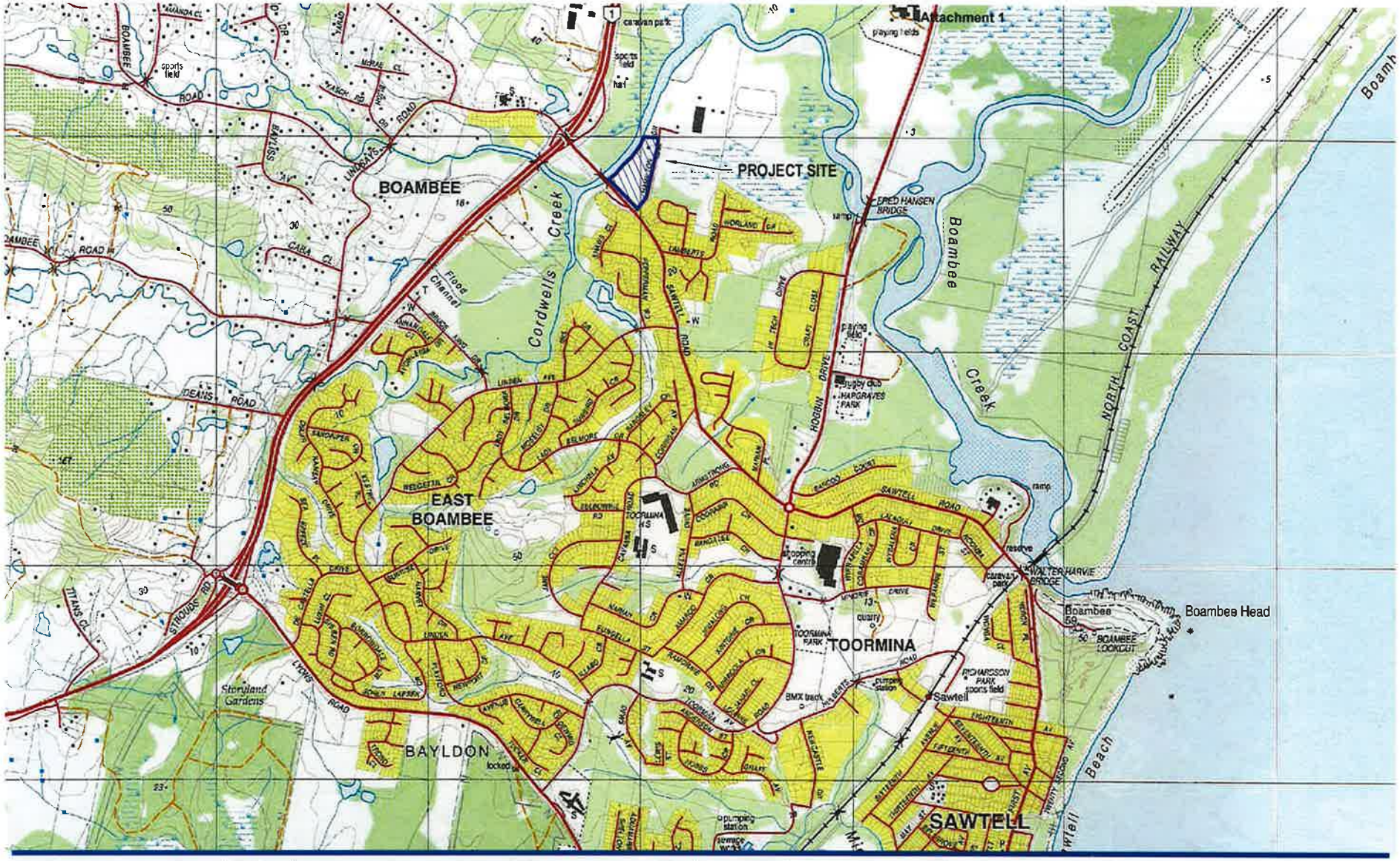
Attachment 1

Appendices

Attachment 1

Appendix A Figures

Attachment 1



N

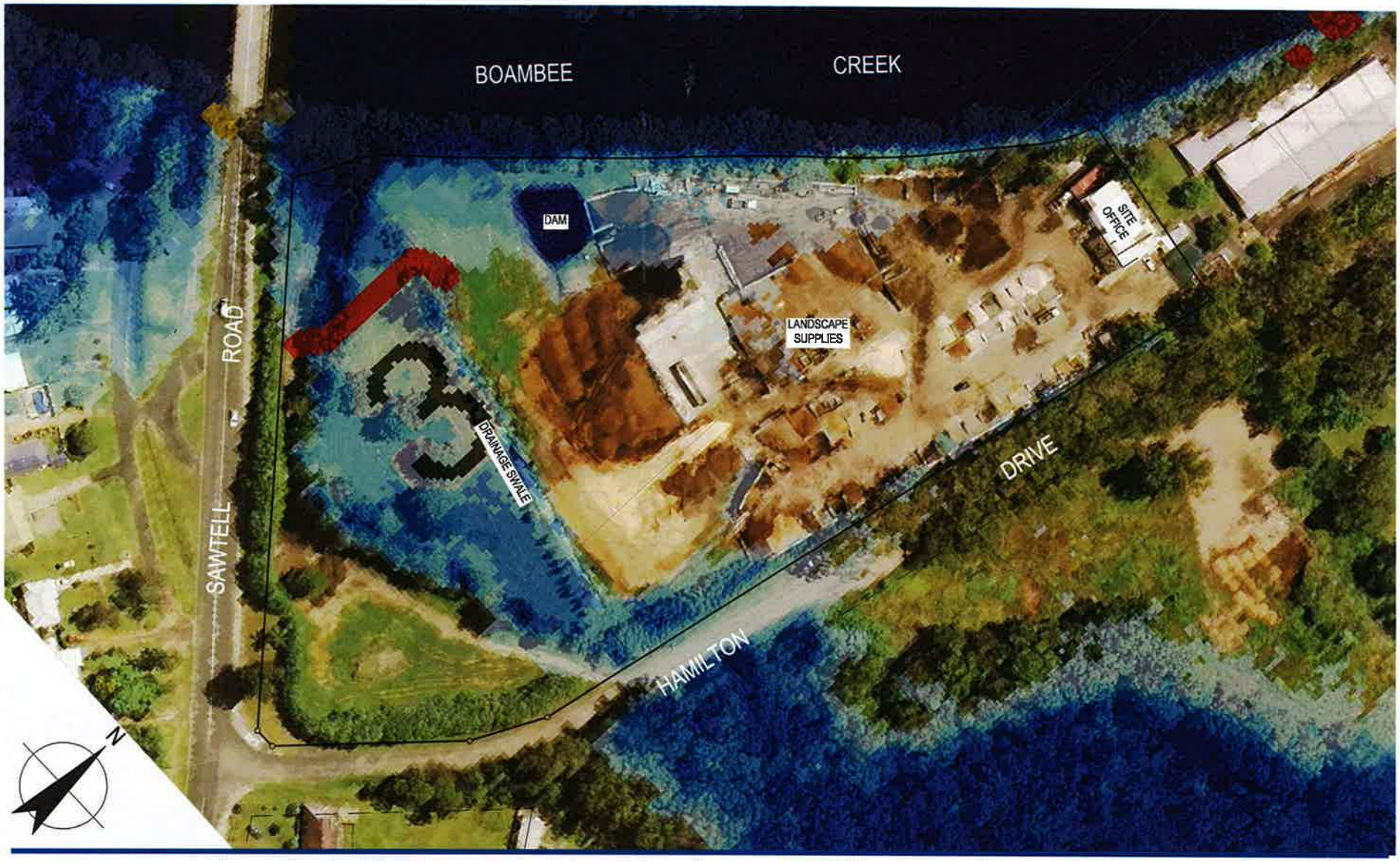
GHD

MI ORGANICS
LOT1 D.P. 777555
HAMILTON DR, BOAMBEE
REGIONAL LOCATION

Job Number | 22-15475
Revision | A
Date | SEPT.2012

Figure 01

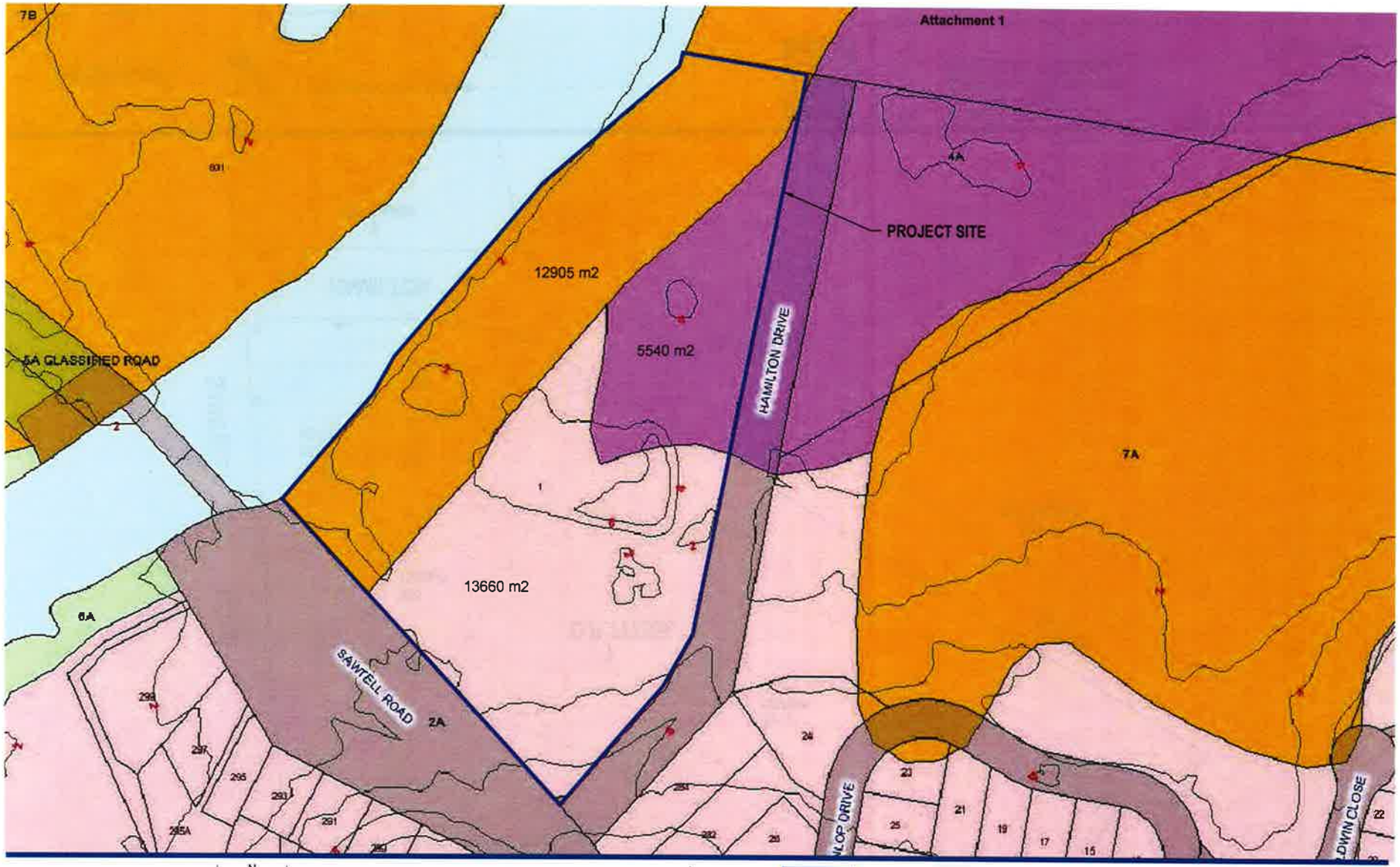
230 Harbour Drive Coffs Harbour NSW 2450 Australia T 61 2 6650 5600 F 61 2 6650 5601 E cfsmail@ghd.com W www.ghd.com



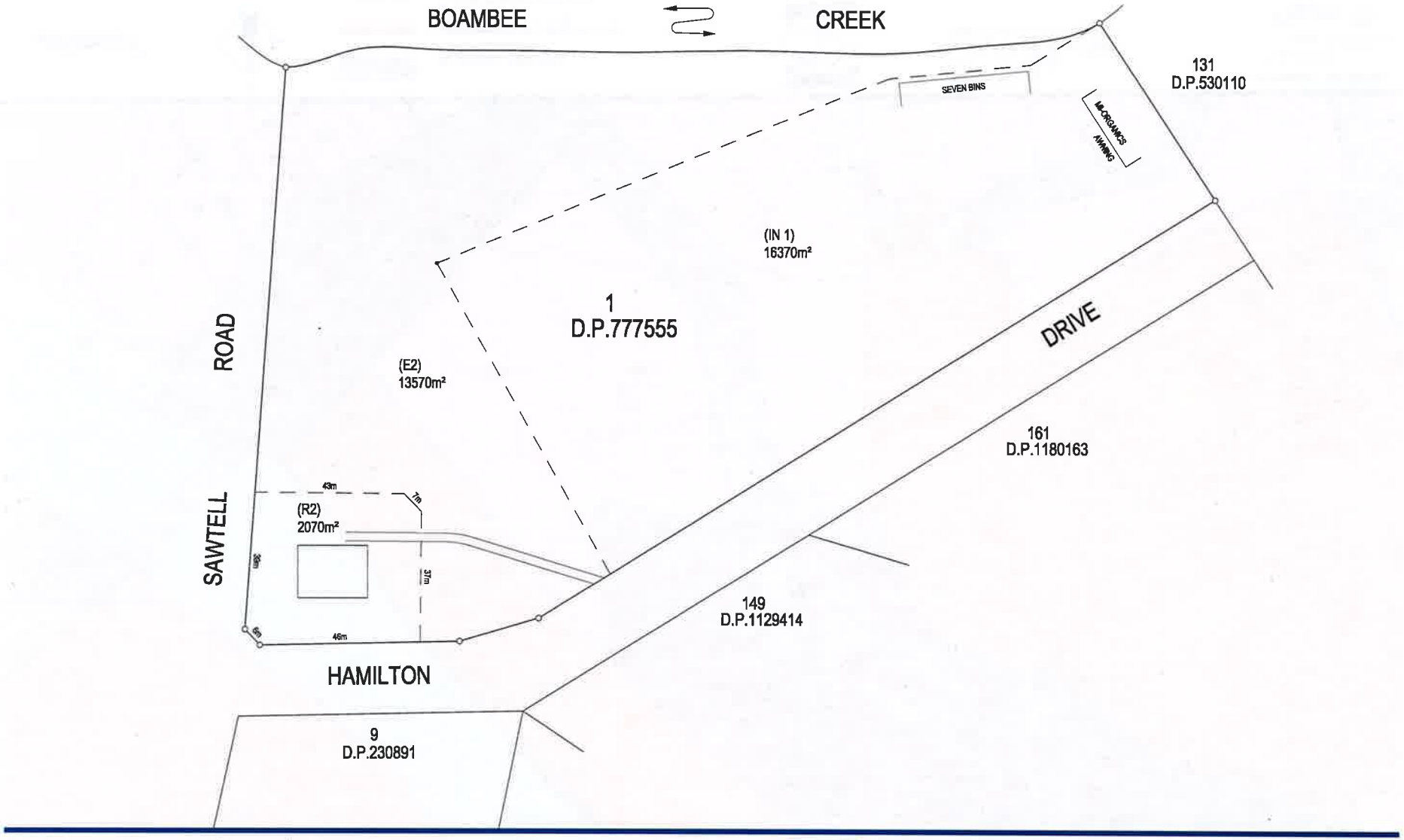
MI ORGANICS
LOT 1 D.P.777555
HAMILTON DR, BOAMBEE
EXISTING DEVELOPMENT

Job Number 22-15475
Revision A
Date JUL. 2014
Figure 02

230 Harbour Drive Coffs Harbour NSW 2450 Australia T 61 2 6650 5600 F 61 2 6650 5601 E cfsmail@ghd.com W www.ghd.com


Attachment 1
7B
6A
4A
7A
2A
PROJECT SITE
12905 m2
5540 m2
13660 m2
HAMILTON DRIVE
SAWTELL ROAD
GLASSIFIED ROAD
0 10 20 30m
SCALE 1:1000 AT ORIGINAL SIZE
N
ZONING LEGEND
IN1 GENERAL INDUSTRIAL
E2 ENVIRONMENTAL CONSERVATION
R2 LOW DENSITY RESIDENTIAL
GHD
MI ORGANICS
LOT 1 D.P.777555
HAMILTON DR, BOAMBEE
CURRENT ZONING
Job Number 22-15475
Revision A
Date SEPT.2012
Figure 03
230 Harbour Drive Coffs Harbour NSW 2450 Australia T 61 2 6650 5600 F 61 2 6650 5601 E cfsmail@ghd.com W www.ghd.com

Attachment 1



Attachment 1

Appendix B Voluntary Planning Agreement

COFFS HARBOUR CITY COUNCIL (COUNCIL)

JON ROBERT WILLIAM TAIT (APPLICANT)

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THIS DEED is made the day of

1. PARTIES

1.1 Coffs Harbour City Council ABN 79 126 214 487 of Cnr Coff and Castle Streets, Coffs Harbour, NSW 2450 ("**Council**")

1.2 Jon Robert William Tait c/- GHD Level 1, 230 Harbour Drive, Coffs Harbour NSW 2450 ("**the Applicant**").

2. BACKGROUND

2.1 The Applicant is the registered proprietor of the Land.

2.2 The Applicant has sought a change to an environmental planning instrument and has lodged the Planning Proposal with Council in support of the Rezoning.

2.3 The Applicant has voluntarily offered to enter into a planning agreement with Council under section 93F of the Act to provide for a material public benefit by enhancement of the natural environment by implementing vegetation management of the Land in accordance with the VMP.

2.4 Council accepts the above offer.

2.5 The Applicant has voluntarily agreed to enter into this Agreement.

3. DEFINED TERMS

In this document the following definitions apply:

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

3.2 **Agreement** means this Agreement and includes any schedules, annexures and appendices to this Agreement.

3.3 **Coffs Harbour LEP 2013** means Coffs Harbour Local Environmental Plan 2013.

3.4 **Council** means Coffs Harbour City Council.

3.5 **GST** has the same meaning as in the GST Law.

3.6 **GST Law** has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

3.7 **Land** means Lot 1 DP 777555 known as 1 Hamilton Drive, Boambee NSW 2452.

3.8 **Planning Proposal** means the proposal to adjust the existing zone boundaries applying to the Land under Coffs Harbour LEP 2013 generally as identified in the plan set out in Schedule 1 of this Agreement.

3.9 **Registered Proprietor** means the registered proprietor of the Land from time to time.

3.10 **Rezoning** means the adjustment of the existing zone boundaries applying to the Land under Coffs Harbour LEP 2013 in accordance with the Planning Proposal.

3.11 **VMP** means the Vegetation Management Plan set out in Schedule 2 to this Agreement.

4. OFFER

This document, executed only by the Applicant, is to be read and construed as containing the Applicant's irrevocable offer to enter into this Agreement to cause vegetation management of the Land to be provided in accordance with the VMP, on the terms set out in this Agreement, once the Rezoning has been effected.

5. OPERATIVE PROVISIONS

5.1 The parties agree that this Agreement is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the Act.

5.2 This Agreement takes effect on the date of execution by both parties.

5.3 This Agreement applies to the Land.

6. REGISTERED PROPRIETOR'S OBLIGATIONS

6.1 Words used in this clause which are defined in the VMP have the same meaning given in that plan.

6.2 Upon the Rezoning being effected the Registered Proprietor must (unless other arrangements acceptable to Council are made):

6.2.1 immediately pay bank guarantee

6.2.2 cause the VMP to be implemented, including by causing the following to be done (without limitation):

- completion of Site Preparation – within 3 months of the Rezoning being effected;
- completion of initial Planting – within 6 months of the Rezoning being effected;
- provision to Council of a report on completion of initial Planting – within 7 days of such completion;
- undertaking of the 5 year period of Maintenance and Monitoring activities – in accordance with the Schedule in the VMP; and
- provision to Council of reports after each maintenance and monitoring period – in accordance with the Schedule in the VMP.

7. APPLICATION OF S94, S94A AND S94EF OF THE ACT TO THE DEVELOPMENT

7.1 The application of sections 94, 94A and 94EF of the Act to any development on the Land is not excluded under this Agreement.

8. REGISTRATION OF THIS AGREEMENT

8.1 The Applicant represents and warrants that he is the registered proprietor of the Land.

8.2 The Applicant agrees that he will procure the registration of this Agreement, under the *Real Property Act 1900* (NSW) against the title to the Land in accordance with section 93H of the Act.

8.3 The Applicant will, at his expense, promptly after this Agreement comes into operation, take all practical steps, and otherwise do anything that Council reasonably requires, to procure:

8.3.1 the consent of each person who has an estate or interest in the Land;

8.3.2 an acceptance of the terms of this Agreement and an acknowledgment in writing from any existing mortgagee in relation to the Land that the mortgagee will adhere to the provisions of this Agreement if it takes possession of the Land as mortgagee in possession;

8.3.3 the execution of any documents; and

8.3.4 the production of the relevant duplicate certificate of title,

to enable the registration of this Agreement in accordance with clause 7.2.

8.4 The Applicant will, at his expense, take all practical steps and otherwise do anything that Council reasonably requires:

8.4.1 to procure the lodgement of this Agreement with Land and Property Information as soon as reasonably practicable after this Agreement comes into operation but in any event, no later than 90 business days after that date; and

8.4.2 to procure the registration of this Agreement against the title to the Land as soon as reasonably practicable after this Agreement is lodged for registration.

8.5 Council will provide a release and discharge of this Agreement so that it may be removed from the folios of the register for the Land (or any part of it) provided that the Registered Proprietor has provided Council with a Statement of Completion by GHD or some other suitably qualified consultant that the VMP has been materially satisfactorily completed.

8.6 The Applicant acknowledges and agree that:

8.6.1 this Planning Agreement creates an equitable estate and interest in the Land for the purpose of section 74F(1) of the Real Property Act 1900 (NSW);

8.6.2 Council has a sufficient interest in the Land in respect of which to lodge with Land and Property Information a caveat notifying that interest;

8.6.3 he will raise no objection to Council entering a caveat in the relevant folio of the register for the Land provided the caveat does not prevent registration of any dealing other than a transfer of the Land; and

8.6.4 he will obtain the consent to the lodgement of the caveat of each person who has an estate or interest in the Land.

9. REVIEW OF THIS AGREEMENT

This Agreement is not subject to review, other than in accordance with clause 20.

10. DISPUTE RESOLUTION

10.1 This clause applies to any dispute under this Agreement.

10.2 Such a dispute is taken to arise if one party gives another party a notice in writing specifying particulars of the dispute.

10.3 If a notice is given under clause 10.2 the parties are to meet within 14 days of the notice in

an attempt to resolve the dispute.

10.4 If the dispute is not resolved within a further 28 days, the parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time and must request the President of the Law Society, or the President's nominee, to select a mediator.

10.5 If the dispute is not resolved by mediation within a further 28 days, or such longer period as may be necessary to allow any mediation process which has been commenced to be completed, then the parties may exercise their legal rights in relation to the dispute, including by the commencement of legal proceedings in a court of competent jurisdiction in New South Wales.

11. ENFORCEMENT

11.1 Without limiting any other remedies available to the parties, this Agreement may be enforced by the parties in any court of competent jurisdiction.

11.2 For the avoidance of doubt, nothing in this Agreement prevents:

11.2.1 a party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Agreement or any matter to which this Agreement relates; or

11.2.2 Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

12. NOTICES

12.1 Any notice, consent, information, application or request that must or may be given or made to a party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

12.1.1 delivered or posted to that party at its address set out below,

12.1.2 faxed to that party at its fax number set out below, or

12.1.3 emailed to that party at its email address set out below.

Coffs Harbour City Council
Attention: The General Manager
Address: Locked Bag 155 Coffs Harbour NSW 2450
Phone: (02) 6648 4000
Fax Number: (02) 6648 4199
Email: coffs.council@chcc.nsw.gov.au

Jon Robert William Tait

Attention:	Jon Robert William Tait
Address:	c/- Shaun Lawer, GHD Level 1, 230 Harbour Drive Coffs Harbour NSW 2450
Phone:	(02) 6650 5605
Fax Number:	(02) 6650 5601
Email:	Shaun.Lawer@ghd.com

12.2 If a party gives the other party 3 business days' notice of a change of its address or fax number, any notice, consent, information, application or request is only given or made by that other party if it is delivered, posted or faxed to the latest address or fax number.

12.3 Any notice, consent, information, application or request is to be treated as given or made at the following time:

12.3.1 if it is delivered, when it is left at the relevant address;

12.3.2 if it is sent by post, 2 business days after it is posted;

12.3.3 if it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error-free transmission to the correct fax number.

12.4 If any notice, consent, information, application or request is delivered, or an error-free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm on that day in the place of the party to whom it is sent, it is to be treated as having been given or made at the beginning of the next business day.

13. ASSIGNMENT AND DEALINGS

13.1 The Applicant must procure from any mortgagee in relation to the Land an acceptance of the terms of this Agreement and an acknowledgement that the mortgagee will adhere to the provisions of this Agreement if it takes possession of the Land as mortgagee in possession.

13.2 Unless the matters specified in clause 13.3 are satisfied, the Applicant is not to do any of the following:

13.2.1 transfer, assign or dispose of the whole or any part of their right, title or interest in the Land to any person; or

13.2.2 assign or novate to any person the Applicant's rights or obligations under this Agreement.

13.3 The matters required to be satisfied for the purposes of clause 13.3 are as follows:

13.3.1 Council being satisfied, acting reasonably, that the proposed transferee is financially capable of complying with the Applicant's obligations under this Agreement;

13.3.2 Council being satisfied that its rights will not be diminished or fettered in any way;

13.3.3 The Applicant has, at no cost to Council, first procured the execution, by the person to whom the Applicant's rights or obligations under this Agreement are to be assigned or novated, an agreement in favour of Council under which that person agrees to comply with all the outstanding obligations of the Applicant under this Agreement; and

13.3.4 Any default by the Applicant under the provisions of this Agreement have been remedied by the Applicant or waived by Council.

13.4 The Applicant and the proposed transferee must pay Council's reasonable costs in relation to any assignment or novation of the rights and obligations under this Agreement.

14. COSTS

The Applicant is to pay Council's reasonable external legal costs of preparing, negotiating and executing this Agreement.

15. ENTIRE AGREEMENT

This Agreement contains everything to which the parties have agreed in relation to the matters it deals with. No party can rely on an earlier document, or anything said or done by another party, or by a director, officer, agent or employee of that party, before this Agreement was executed, except as permitted by law.

16. FURTHER ACTS

Each party must promptly execute all documents and do all things that another party from time to time reasonably requests to effect, perfect or complete this Agreement and all transactions incidental to it.

17. GOVERNING LAW AND JURISDICTION

This Agreement is governed by the law of New South Wales. The parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them. The parties will not object to the exercise of jurisdiction by those courts on any basis.

18. NO FETTER

Nothing in this Agreement shall be construed as requiring Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

19. REPRESENTATION AND WARRANTIES

The parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under the Agreement and that entry into this Agreement will not result in the breach of any law.

20. SEVERABILITY

20.1 If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way.

20.2 If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

21. MODIFICATION

No modification of this Agreement will be of any force or effect unless it is in writing and signed by the parties to this Agreement.

22. WAIVER

22.1 The fact that a party fails to do, or delays in doing, something the party is entitled to do under this Agreement does not amount to a waiver of any obligations of, or breach of obligation by, another party.

22.2 A waiver by a party is only effective if it is in writing. A written waiver by a party is only effective in relation to the particular obligations or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach, or as an implied waiver of that obligation or breach in relation to any other occasions.

23. GST

23.1 Words used in this clause which are defined in the GST Law have the meaning given in that legislation.

23.2 If GST is payable on a Taxable Supply made under, by reference to or in connection with this Agreement, the party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration. This clause does not apply to the extent that the Consideration for the Taxable Supply is expressly agreed to be GST inclusive.

23.3 Unless otherwise expressly stated, all prices or other sums payable or Consideration to be provided under or in accordance with this Agreement are exclusive of GST.

23.4 Any reference in the calculation of Consideration or of any indemnity, reimbursement or

similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability.

23.5 This clause will continue to apply after expiration or termination of this Agreement.

24. INTERPRETATIONS

24.1 A reference to person includes a reference to a natural person, a company or other legal entity whether acting as a trustee or not.

24.2 A reference to a party in this Agreement is a reference to that party in its personal capacity as well as in its capacity as trustee of a trust (if any) and a party is obligated in terms of this Agreement in its personal capacity and in its capacity as trustee for a trust (if any).

24.3 A reference to:

24.3.1 a person includes the person's executors, administrators, successors, substitutes, including persons taking by novation and assigns; and

24.3.2 a group of persons includes them collectively and each of them individually.

24.4 An agreement, representation or warranty:

24.4.1 in favour of 2 or more persons is for the benefit of them jointly and severally; and

24.4.2 on the part of 2 or more persons binds them jointly and severally.

24.5 A reference to a gender includes any gender.

24.6 The singular includes the plural and vice versa.

24.7 The word 'person' includes a firm, a body corporate, an unincorporated association or an authority.

24.8 A reference to a document includes any amendment or supplement to or replacement or novation of the document.

24.9 Headings are for convenience only and do not affect the interpretation of this Agreement.

24.10 References to a statute or statutory provision include that statute or statutory provision as amended, extended, consolidated or replaced by subsequent legislation and any orders, regulations, documents or other subordinate legislation made under the relevant statute.

24.11 A clause number means the respective clause of this Agreement.

24.12 President of a body or authority includes a person acting in that capacity.

24.13 A thing includes the whole and each part of it.

24.14 A reference in this Agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.

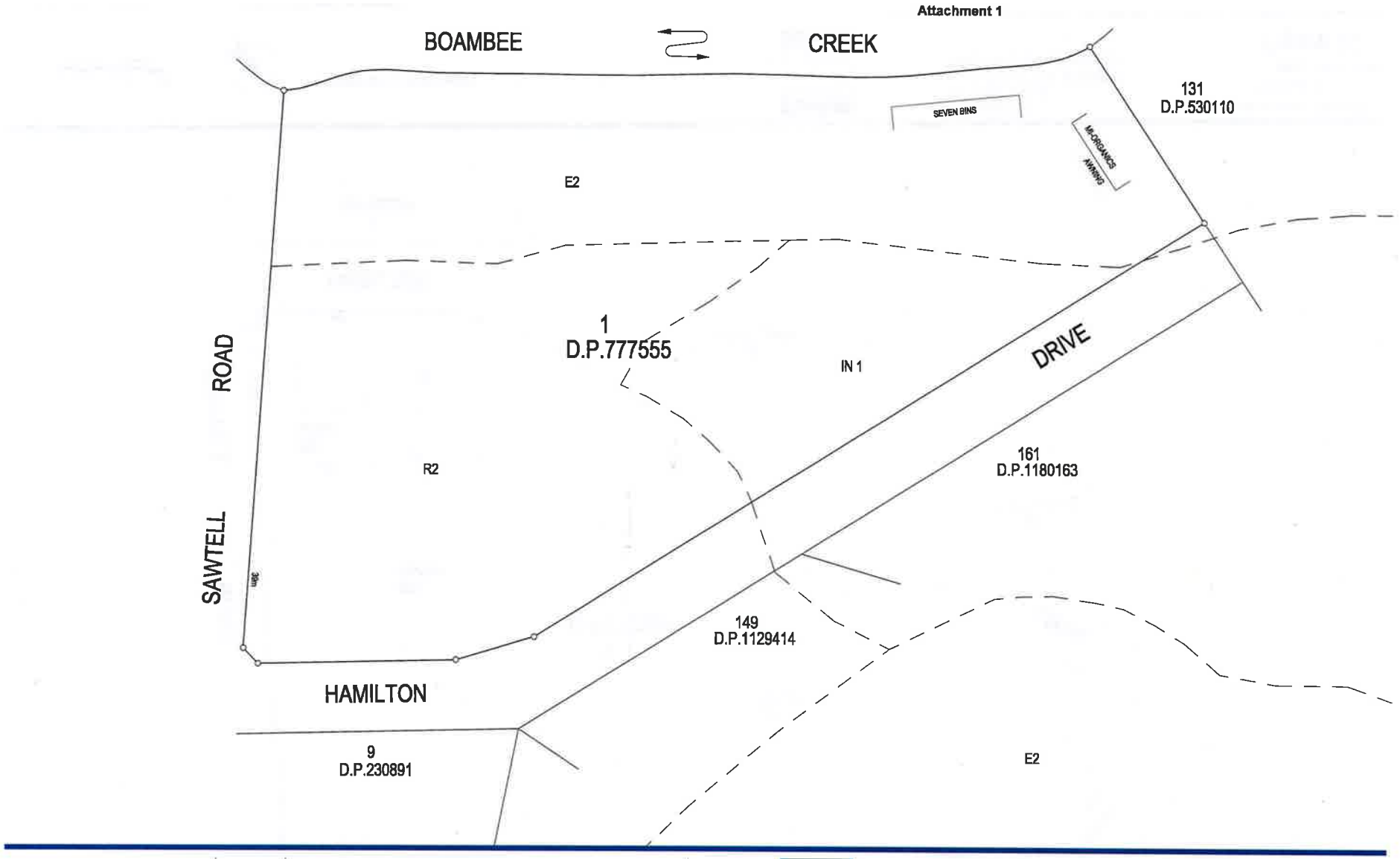
24.15 'Include' or 'including' when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind.

24.16 If a party is required to do something, that includes a requirement to cause that thing to be done. If a party is prohibited from doing anything, it is also prohibited from doing or omitting to do anything which allows or causes that thing to be done.

24.17 No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Agreement.

SCHEDULE 1 – PLAN IDENTIFYING THE LAND, INCLUDING EXISTING AND PROPOSED ZONE BOUNDARIES

Attachment 1



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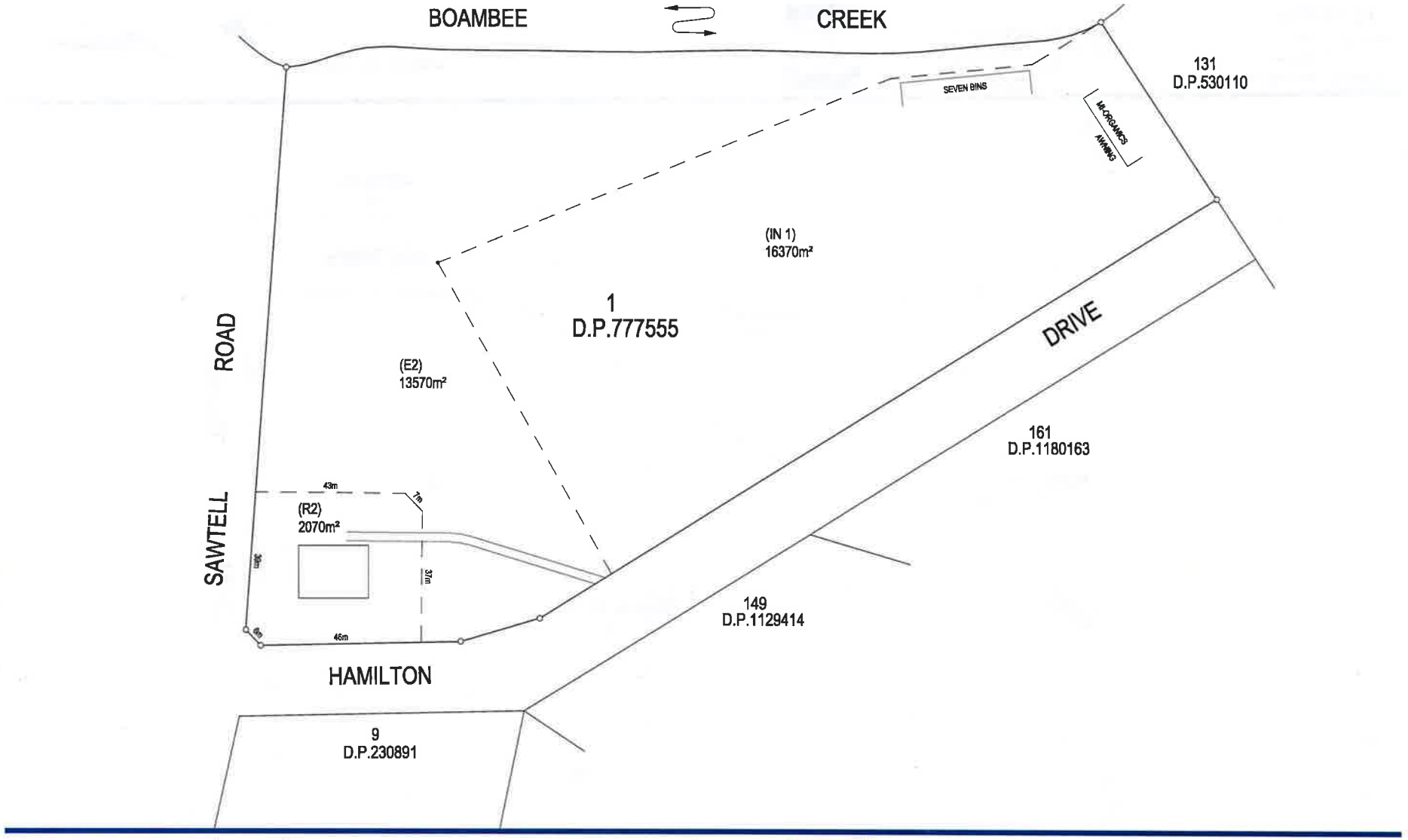

SCHEDULE 2 – VEGETATION MANAGEMENT PLAN (VMP)

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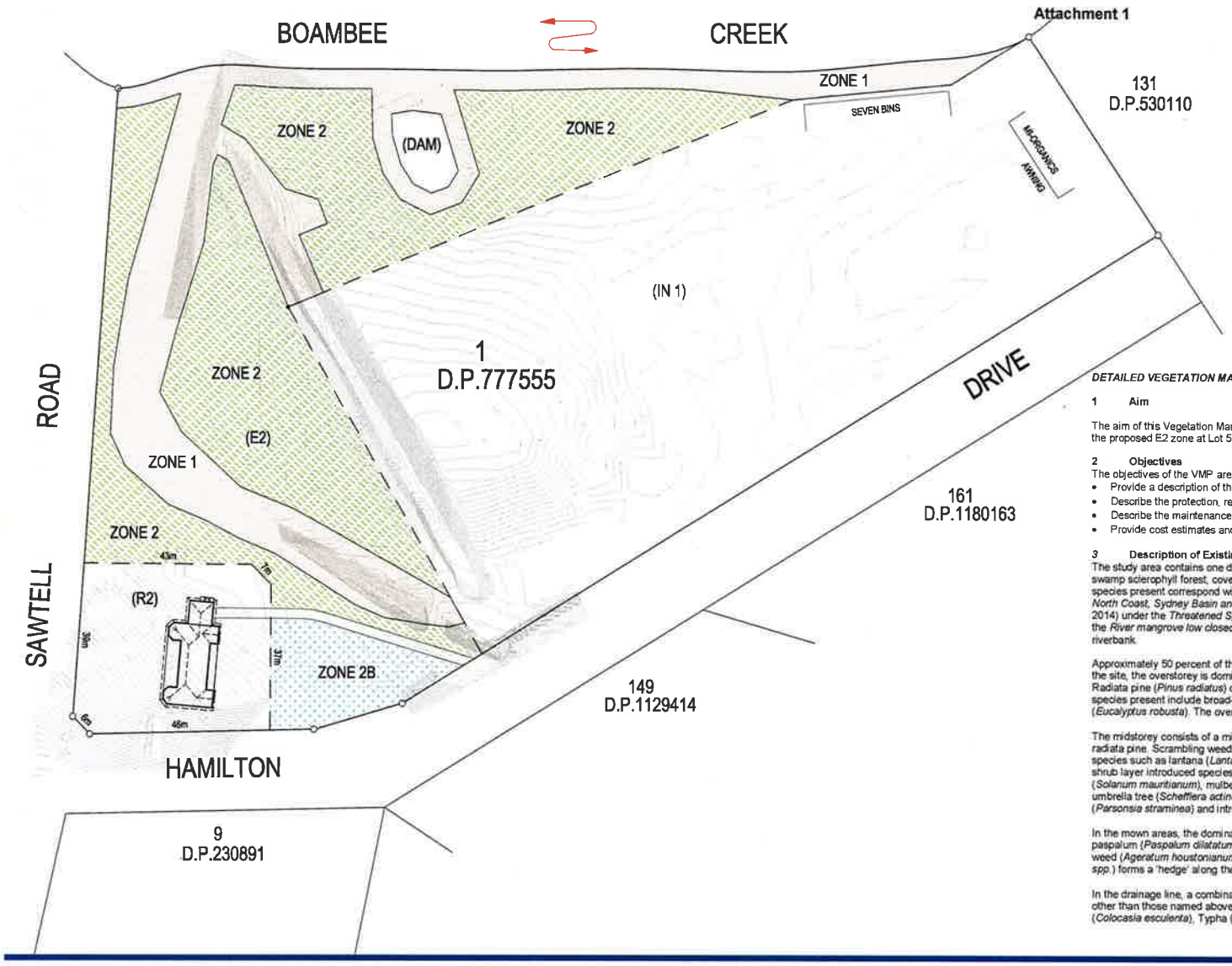
Attachment 1



DETAILED VEGETATION MANAGEMENT PLAN

1 Aim

The aim of this Vegetation Management Plan (VMP) is to rehabilitate the vegetation community within the proposed E2 zone at Lot 5 DP 777555, Hamilton Drive, Boambee.

2 Objectives

The objectives of the VMP are:

- Provide a description of the existing vegetation at the site.
- Describe the protection, revegetation and weed control methods required.
- Describe the maintenance activities.
- Provide cost estimates and schedule for the revegetation works.

***3* Description of Existing vegetation**

The study area contains one disturbed vegetation type which is considered to be representative of swamp sclerophyll forest, covering an area of 1.4 ha which includes drainage lines and a dam. The species present correspond with the *Swamp sclerophyll forest on coastal floodplains of the NSW North Coast, Sydney Basin and South East Corner bioregions* – endangered ecological listing (OEH 2014) under the *Threatened Species Conservation Act 1995*. Adjacent to this vegetation community is the *River mangrove low closed forest of the NSW Coastal Bioregions* community associated with the riverbank.

Approximately 50 percent of the E2 site is cleared, and mown grasses dominate. In the remainder of the site, the overstorey is dominated by swamp she-oak (*Casuarina glauca*) along Boambee Creek. Radiata pine (*Pinus radiatus*) dominates along the drainage line which divides the site. Other canopy species present include broad-leaved paperbark (*Melaleuca quinquenervia*) and swamp mahogany (*Eucalyptus robusta*). The overstorey is estimated to be between 10 and 20 metres high.

The midstorey consists of a mixture of immature canopy species including swamp she-oak and radiata pine. Scrambling weed species constitute the main dense shrub layer at this site and include species such as lantana (*Lantana camara*) and Easter cassia (*Senna pendula var. glabrata*). Other shrub layer introduced species include tree of heaven (*Ailanthus altissima*), wild tobacco plant (*Solanum mauritianum*), mulberry (*Morus alba*), camphor laurel (*Cinnamomum camphora*) and umbrella tree (*Schefflera actinophylla*). Vines species present include the native monkey rope (*Parsonsia straminea*) and introduced balloon vine (*Cardiospermum grandiflorum*).

In the mown areas, the dominant grass species is introduced kikuyu (*Pennisetum clandestinum*) and paspalum (*Paspalum dilatatum*) with scattered herbaceous weeds throughout, such as blue billygoat weed (*Ageratum houstonianum*) and marshmallow (*Malva parviflora*). A row of Cypress pines (*Callitris spp.*) forms a 'hedge' along the southern boundary.

In the drainage line, a combination of native and introduced species occurs and includes species other than those named above such as coastal morning glory vine (*Ipomoea cairica*), elephants ear (*Colocasia esculenta*), Typha (*Typha orientalis*) and Johnson grass (*Sorghum halepense*).

Continue next figure

0 10 20 30m
SCALE 1:1000 AT ORIGINAL SIZE

PROPOSED NEW ZONE BOUNDARY

MI ORGANICS
LOT 1 D.P.777555
HAMILTON DRIVE, BOAMBEE
DETAILED VEGETATION MANAGEMENT PLAN

Job Number 22-15475
Revision A
Date MAY 2014
Figure 01

230 Harbour Drive Coffs Harbour NSW 2450 Australia T 61 2 6650 5600 F 61 2 6650 5601 E cfsmail@ghd.com W www.ghd.com

4 Zone 1 – Riparian zones

Zone 1 includes the water's edge adjacent to the mangrove community on Boambee Creek, around the dam and within the drainage line for a buffer width of 4 m. This zone makes up approximately 0.46 ha (or approx. 34% of the site) and will be comprised of a slightly different combination of species to the remaining zone. The native species in this zone are likely to regenerate when weeds are controlled. To assist the natural regeneration process, revegetation with the species included in Table 1 is recommended.

The actions for Zone 1 are:

- Site preparation including
  - Any erosion control works required to assist with retaining the banks of the creek, drainage line and dam
  - Weed control
- Revegetation
- Maintenance

Table 1: Suggested Species List

Species[1]	ZONE 1		ZONE 2	
	Density[2]	Plant #[3]	Density[2]	Plant #[3]
Upper storey/canopy				
River she-oak (*Casuarina glauca*)	1/10m²	20	1/15 m²	50
Swamp mahogany (*Eucalyptus robusta*)		5		15
Broad-leaved paperbark (*Melaleuca quinquenervia*)		5		15
Swamp box (*Lophostemon suaveolens*)		5		15
Mid storey				
Green Wattle (*Acacia irrorata*)	1/10m²	10	1/10 m²	30
Willow Bottlebrush (*Callistemon salignus*)		10		30
Tantoon (*Leptospermum polygalifolium* subsp. *polygalifolium*)		10		30
Large-leaved hop-bush (*Dodonaea triquetra*)		10		20
Sandpaper Fig (*Ficus coronata*)		10		20
Cheesetree (*Glochidion ferdinandi*)		10		20
Lower storey/groundcover	1/5m²	10	1/5 m²	50
Blue flax lily (*Dianella caerulea*)		10		40
Bracken (*Pteridium esculentum*)		10		60
Kangaroo grass (*Themeda australis*)		10		50
Lomandra (*Lomandra longifolia*)		20		
Tall sedge (*Carex appressa*)				
TOTAL		**155**		**445**

[1] If the recommended species are unavailable consult CHCC for suitable replacement species.
[2] This is the desired density of storey not the density of individual species.
[3] This accounts for natural regeneration.

5 Zone 2 – Mown area

Zone 2 is the area that is currently mown and dominated by introduced grasses. This Zone covers approximately 0.87 ha (or approx. 64% of the site). It is recommended that revegetation in this area includes the species listed in Table 1, planted into clumps or groups associated with the riparian plantings, rather than evenly distributed across the site. This will more closely resemble a natural distribution.

Zone 2B is essentially the same as Zone 2 but it has overhead power lines, includes the access to the dwelling and is adjacent to the dwelling. This means tall species should not be planted below the power lines or near the boundary of the R2 zone and the density of planting should be less than the remaining Zone 2 area.

The actions for Zone 2 are:

- Site preparation including weed control
- Revegetation
- Ongoing maintenance

6 Site Preparation

The removal of weeds and their seeds from the site is very important to the success of the revegetation works. All weeds and their seeds should be bagged and removed from the site to an appropriate waste facility. The appropriate treatment methods should be employed as described in Table 2 where complete removal is not appropriate. No machines will be used within the restoration zones in order to avoid compaction of the soil.

7 Weed Control

Weed control is vital to the success of the revegetation. The noxious and environmental weed species observed at the site and their recommended control method are provided below. Some plants may require a follow-up treatment. Extra care should be taken when manually removing plants with underground tubers, in order to remove all underground parts and prevent regrowth. Removal of mature pine trees may be undertaken by stem injection and allowing to rot away in place, or alternatively they can be chainsawed close to ground level and painted with herbicide (chainsaw work has not been costed).

Weed control with herbicide should always be undertaken during active growing periods. The appropriate amount and application method for herbicides should be achieved through adherence to the directions on the label. Only herbicides approved for use near waterways should be used given the proximity of the site to Boambee Creek.

Scientific Name	Common Name	Noxious in Coffs Harbour City Council*	Control Methods				
			Cut & paint[1]	Scape & Paint[1]	Direct Inject[1]	Spot Spraying[1]	Manual Remove
Ageratum houstonianum	Blue Billy Goat Weed					v	v
Ailanthus altissima	Tree of heaven		v				v3
Cardiospermum grandiflorum	Balloon vine			v			v
Cupressus spp.	Cypress pine				v4		v
Bidens pilosa	Farmers Friends					v	v
Cinnamomum camphora	Camphor laurel		v3		v4		v3
Colocasia esculenta	Elephant's ear						v
Gomphocarpus fruticosus	Cotton Bush		v			v	v
Ipomoea cairica	Coastal morning glory		v4			v	v
Lantana camara	Lantana	4 & 5	v		v	v	v
Malva parviflora	Marshmallow					v	
Morus alba	Mulberry				v4		v3
Paspalum dilatatum	Paspalum					v	v
Pennisetum clandestinum	Kikuyu					v	
Pinus radiata	Radiata pine				v4		v
Senna pendula	Eastern Cassia/Senna		v		v4	v5	
Schefflera actinophylla	Umbrella tree				v4		v2
Solanum mauritianum	Wild tobacco plant		v				v2
Sorghum halepense	Johnson grass	4				v	v

[1] Glyphosphate unless specified; [2] Seedlings; [3] Saplings; [4] Mature plants; [5] Large infestations; [6] Small infestations; [7] Grazon; [8] Metsulfuron-methyl; [9] Glyphosate & Metasulfuron-methyl mix, [10] Penetrant, [11] Bromoxynil

*Class = control level required under the *Noxious Weeds Act 1993*

8 Revegetation

Ideally, planting should be done at the start of autumn but due to the mild climate of the area, planting anytime during the year should not cause a significant problem. The tube stock, where possible, should be sourced from nurseries that use local seed stock, ideally from within the Coffs Harbour area (e.g. Coffs Coast Bush Regeneration, Orara Valley Nursery, Thumb Creek Nursery or Lace Bark Native Nursery).

The planting method includes:

- If the area is vegetated by grass spot spray or halo spray a 1 m diameter area with a suitable herbicide, one week before planting
- Soak all plants before planting
- Make a hole large enough for the tube stock
- Add water crystals and a slow release fertiliser suitable for native species
- Remove the plant from the container being careful not to damage the roots
- Insert the plant into the hole so that the base of the stem is a little below the surrounding ground
- Firm the soil around the root ball to remove air gaps
- Water the plant with at least 2L of water
- Mulch the plant using, native tree mulch, weed mats or saw dust. Make sure the mulch is not against the stem of the plant
- Install a protective guard using wooden/bamboo stakes or milk carton
- Water weekly for the first month. Further watering may be required if there is no rain

9 Maintenance and Monitoring

Regular maintenance activities will include:

- Follow-up watering
- Repairing damaged tree guards
- Monitoring survival rates and installing replacement plants where required
- Weed control and continued follow-up spot spraying, hand removal, etc as required

10 Reporting

Reporting may be required to be completed by the proponent or their qualified representative at the following stages:

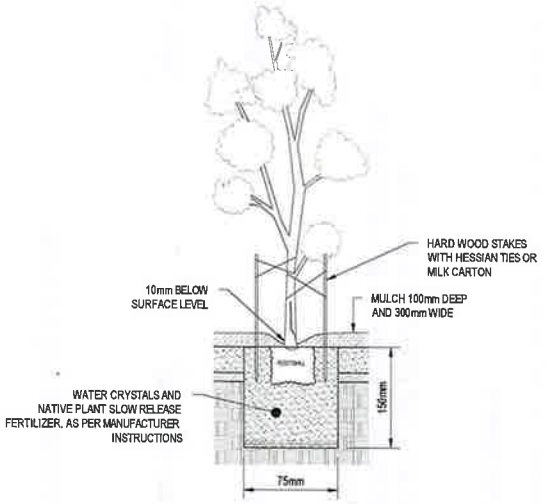
- Completion of initial planting
- After each maintenance and monitoring period – 3 monthly in Year 1, 6 monthly thereafter
- At completion of 5 year maintenance and monitoring period

11 Costing and Schedule

The following table provides an indicative schedule and costs for the revegetation works. Completion of the revegetation works is the responsibility of the landowner but it is recommended that a qualified bush regenerator contractor be engaged to do the works. The indicative costs are based on commercial rates 2013/14 with an accuracy of ± 40%.

Task*	Year 1	Year 2	Year 3	Year 4	Year 5	Costs
Site Preparation						$1,000
Planting						$6,120
Maintenance/Monitoring						$5,080
Total	$9,300	$680	$680	$680	$660	$12,200

* See details for requirements of each task.



PLANTING DETAILS

GHD

MI ORGANICS
LOT 1 D.P.777555
HAMILTON DRIVE, BOAMBEE
VMP NOTES

Job Number 22-15475
Revision A
Date MAY 2014
Figure 02

230 Harbour Drive Coffs Harbour NSW 2450 Australia T 61 2 6650 5600 F 61 2 6650 5601 E cfsmail@ghd.com W www.ghd.com

Executed as an Agreement

Executed for and on behalf of Coffs Harbour City Council by its authorised delegate, in accordance with a resolution of the Council dated :

Signature of authorised delegate

Signature of witness

Name of authorised delegate

Name of witness

Executed by Jon Robert William Tait in the presence of:

Signature of Jon Robert William Tait

Signature of Witness

Name of Witness

Address of Witness

Attachment 1

GHD

230 Harbour Drive
Coffs Harbour NSW 2450
T: (02) 6650 5600 F: (02) 6650 5601 E: cfsmail@ghd.com

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Document Status

Rev No.	Author	Reviewer		Approved for Issue		
		Name	Signature	Name	Signature	Date
1	S Lawer	B Luffman		R Berg		Jul 14
2	B Luffman	S Lawer		R Berg		Aug 14
3	B Luffman	S Lawer	SLawer	R Berg	RBerg	18 Aug 14

COFFS HARBOUR CITY COUNCIL
ORDINARY MEETING
28 AUGUST 2014

RESOLUTION NO. 250
Minutes confirmed at Council meeting: 25 September 2014
To view Report, double-click on Agenda Report link below

Agenda Report

CP14/26 PLANNING PROPOSAL - PP_2013_COFFS_003_00 FOR LOT 1, DP777555 HAMILTON DRIVE, BOAMBEE EAST (MI ORGANICS LANDSCAPE SUPPLIES)

The purpose of this report is to present a Planning Proposal (PP) for Council's consideration. This enables the subject site to be rezoned to better reflect the current use of the land.

The report recommends that Council seek a Gateway Determination from NSW Planning and Environment (P&E) requesting to place the PP on public exhibition. The report also recommends that Council consider the outcome of the exhibition in a future Council report. The PP is included as Attachment 1 to this report.

In addition, the report presents a voluntary planning agreement (VPA) which includes a vegetation management plan (VMP) for Council's consideration. The VPA has been submitted by the landowner and details the standard at which vegetation management will be undertaken on the environmentally sensitive part of the land.

250 **RESOLVED** (Arkan/Sultana):

1. That Council endorse and forward the subject Planning Proposal to NSW Planning and Environment seeking a "Gateway Determination" for the rezoning of Lot 1, DP777555 Hamilton Drive, Boambee East as shown in Attachment 1 of this report.
2. That Council agree to enter into a Voluntary Planning Agreement with the proponent in accordance with the draft planning agreement contained in the offer from John Robert William Tait as shown as an appendix in Attachment 1 of this report.
3. That subject to the "Gateway Determination" from NSW Planning and Environment, Council place the Planning Proposal and Voluntary Planning Agreement on public exhibition.
4. That a further report be considered by Council following the outcome of the public exhibition.
5. That the landowner be informed of Council's decision.

VOTED FOR	VOTED AGAINST
Cr Arkan	Cr Townley
Cr Palmer	
Cr Cowling	
Cr Knight	
Cr Degens	
Cr Sultana	
Cr Innes	
Cr Rhoades	