



Planning Agreement

Under section 7.4 of the Environmental Planning and Assessment Act, 1979

Central Coast Council & Wathara NSW Pty Limited

Final Version

Central Coast Council
date



Planning Agreement

Author: Central Coast Council

Central Coast Council & Developer

Date: May 22

Draft Version

Approved by:

Date of Approval: # May 2022

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Voluntary Planning Agreement

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Voluntary Planning Agreement

SUMMARY SHEET

Council:

Name: Central Coast Council

Wyong Office: 2 Hely St / PO Box 20 Wyong NSW 2259 | **P** 02 4350 5555

Email: ask@centralcoast.nsw.gov.au

Representative: Chief Executive Officer

Developer:

Name: Wathara NSW Pty Limited

Address: Level 16, 101 Miller St, North Sydney NSW 2060

Telephone: (02) 9060 1471

Email: jeanette@tglcorp.com.au

Representative: Mr Jean-Marie Klumper, Wathara NSW Pty Limited

Land:

See definition of *Land* in clause 4.1

Development:

See definition of *Development* in clause 4.1

Application of s7.11 s7.12 and s7.24 of the Act:

See clause 3

Registration:

See clause 14

Dispute Resolution:

See clause 11

DATE: **date**

Central Coast Council (ABN 73 149 644 003) of 2 Hely St, Wyong in the State of New South Wales
(Council)

and

Wathara NSW Pty Limited (ACN 634 482 349) of Level 16, 101 Miller St, North Sydney, in the State of
New South Wales **(Developer)**

BACKGROUND

- A. The Developer is the registered proprietor of the Land.
- B. The Developer has sought the Instrument Change.
- C. The Developer intends to lodge a Development Application for the Development of the Land and proposes to carry out the Development on the Land.
- D. The Developer has offered to enter into this Agreement to provide the Development Contributions to Council if the Instrument Change is made.
- E. The Developer and the Council agree that this Agreement provides for a material public benefit, (being the provision of the Development Contributions), in-lieu of any development contributions under sections 7.11 and 7.12 of the *Environmental Planning and Assessment Act 1979* (NSW).

OPERATIVE PROVISIONS

1 PLANNING AGREEMENT UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 (NSW) (Act)

- 1.1 The parties agree that this Agreement is a Planning Agreement governed by Subdivision 2 of Division 7.1 of Part 7 of the Act.

2 APPLICATION OF THIS AGREEMENT

- 2.1 This Agreement applies to the Land, the Development and the Instrument Change.

3 OPERATION OF THIS AGREEMENT

- 3.1 This Agreement takes effect once executed by the parties.
- 3.2 By complying with the obligations of this Agreement, the Developer will provide a benefit, in the form of the Development Contributions, being the:
 - (a) Open Space Contribution;
 - (b) Roadworks Contribution; and
 - (c) C2 Land Contribution.
- 3.3 This Agreement excludes the operation of section 7.11 and section 7.12 and section 7.24 of the Act.

3.4 This Agreement will remain in force until it is terminated in accordance with clause 10.

4 DEFINITIONS AND INTERPRETATION

4.1 In this Agreement the following definitions apply:

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

Agreement means this agreement and any schedules, annexures and appendices to this Agreement.

Amending LEP means an environmental planning instrument that has the effect of amending the *Gosford Local Environmental Plan 2014 (GLEP 2014)* or new *Central Coast Local Environmental Plan (CCLEP)*, so the Development of the Land is permissible with Development Consent.

Business Day means a day other than a Saturday, Sunday or public holiday in New South Wales.

C2 Land Contribution means the undertaking of the C2 Land Works and the obligations specified in clause 4 of Schedule 2.

C2 Land Works means those works to be carried out on the Ecological Offset Area in accordance with the Vegetation Management Plan and clause 4 of Schedule 2.

Consent means the consent granted to the Development Application.

Contamination has the same meaning as in the *Contaminated Land Management Act 1997*.

Contamination Report means an assessment prepared by a suitably qualified Contamination consultant which states that the Open Space Land is suitable for its intended use as a public reserve.

Council means Central Coast Council.

Deal in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land and **Deal** has the corresponding meaning.

Dedication Date has the meaning given to that term in clause 2.1(a) of Schedule 2.

Developer means Wathara NSW Pty Ltd. (ACN 634 482 349)

Developer's Representative is the person identified in clause 15.1 of this Agreement, appointed by the Developer to act on behalf of the Developer, or that person, from time to time, notified to Council in writing by the Developer.

Development means the development of the Land, as shown in Schedule 3, for the purposes of residential subdivision and any ancillary works.

Development Application means a development application under Part 4 of the Act seeking consent to carry out the Development on the Land.

Development Consent has the same meaning as in the Act.

Development Contributions means the C2 Land Contribution, the Open Space Contribution and the Roadworks Contribution.

Ecological Offset Area means the land in Lot 522 DP 1077907 to be zoned C2 Environmental Conservation shown in the draft Land Zoning Map in Schedule 4.

Instrument Change means the taking of effect of the Amending LEP generally in accordance with the Planning Proposal.

GST has the same meaning as in the GST law.

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.

Guarantee means an unconditional and irrevocable bank guarantee to be signed and issued by an Australian bank having a grade security rating from an industry recognised rating agency of at least:

- a) BBB + (Standard & Poors and Fitch);
- b) Baa 1 (Moody's); or
- c) Bbb (Bests),

and on such terms and in such form as approved by Council.

Land means Lot 522 DP 1077907, Lot 3 DP 101649 and Lot 4 DP 1000694 also known as Nos. 985-991 The Entrance Road and No. 139 Bakali Road Forrester's Beach, NSW.

Open Space Contribution means the dedication of the Open Space Land to Council.

Open Space Land means the land coloured green and depicted as "Open Space" 4000m² in Schedule 3.

Parties mean the Council and the Developer, including both their successors and assigns.

Party means a party to this Agreement including its successors and assigns.

Planning Proposal means PP-2021-4795 seeking to amend Gosford Local Environmental Plan 2014 and any successor to that LEP including the, as yet proposed, Central Coast Local Environmental Plan to rezone Land partly to R2 Low Density Residential, partly RE1 Public Recreation and partly to C2 Environmental Conservation as shown on the plan in Schedule 4.

Practical Completion means practical completion as defined under the WAD.

Public Purpose has the same meaning as set out in section 7.4 (2) of the Act.

Public Reserve has the same meaning as in the *Local Government Act 1993*.

Register means the Register kept under the *Real Property Act 1900* (NSW).

Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Roadworks means works to be undertaken by or on behalf of the Developer on the Central Coast Highway, being intersection works at the Central Coast Highway and Forresters Beach Road intersection under a WAD.

Roadworks Contribution means the undertaking of the Roadworks in accordance with clause 3 of Schedule 2.

Stage means a stage of the Development, generally as shown in Schedule 3.

Subdivision Certificate has the same meaning as in the Act.

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

TfNSW means Transport for NSW.

Vegetation Management Plan means the Vegetation Management Plan prepared by Conacher Consulting dated February 2019 Ref: 8088/3 being Schedule 5 to this Agreement.

WAD means a works authorisation deed or other deed or agreement to be entered into between the Developer and TfNSW in relation to the Roadworks.

5 PAYMENT OF MONETARY CONTRIBUTIONS

- 5.1 This Agreement does not require the Developer to pay any monetary contribution to Council.
- 5.2 The Parties agree that nothing that the Developer does to meet its obligations under this Agreement will give rise to a reduction or variation or credit in any monetary contributions that might later be required by a Consent to undertake the Development on the Land.

6 PARTIES' OBLIGATIONS

- 6.1 The Developer undertakes to:
- (a) carry out the Development (subject to the grant of Development Consent) sequentially in accordance with the Stages as shown in Schedule 3; and
 - (b) provide or procure the provision of the Development Contributions to Council in accordance with the requirements of Schedule 2 to this Deed.
- 6.2 Council agrees to do all things reasonably required to embellish the Open Space Land as a local park within 2 years of the Dedication Date.

7 DEVELOPER WARRANTIES AND INDEMNITIES

- 7.1 The Developer warrants to Council that:
- (a) it is the registered owner of the Land;
 - (b) it is able to fully comply with its obligations under this Agreement;
 - (c) it has full capacity to enter into this Agreement; and

-
- (d) there is no legal impediment to it entering into this Agreement or performing its obligations under this Agreement.

8 REVIEW OF THIS AGREEMENT

- 8.1 Any amendments, variation or modification to or of, or consent to any departure by any party from the terms of this Agreement shall have no force or effect unless effected by a document executed by the parties which complies with the requirements of section 7.5 of the Act.

9 FURTHER AGREEMENT(S) RELATING TO THIS AGREEMENT

- 9.1 The Parties may, at any time and from time to time, enter into agreements relating to the subject matter of this Agreement for the purpose of implementing this Agreement that are not inconsistent with this Agreement.

10 TERMINATION

- 10.1 A party can terminate this Agreement by written notice to the other Party if the Planning Proposal is not made by the Minister and both parties agree that it will not be made.
- 10.2 The termination of this Agreement is without prejudice to the accrued rights of Council at the time of such termination.
- 10.3 If this Agreement is terminated then:
- (a) the rights of each party that arose before the termination or which may arise at any future time for any breach or non-observance of obligations occurring prior to the termination are not affected;
 - (b) the parties must take all steps reasonably necessary to minimise any loss that each party may suffer as a result of the termination of this document;
 - (c) Council will return the Guarantee to the Developer after first deducting any amounts owing to Council or costs incurred by Council by operation of this Agreement. If in exercising its rights under this Agreement Council expends more money than the Guarantee Amount, then the amount in excess of the Guarantee Amount will be deemed to be a debt due and owing to Council by the Developer; and
 - (d) Council will, at the cost of the Developer, do all things reasonably required to remove this Agreement from the title to the Land.

11 DISPUTE RESOLUTION

- 11.1 If a dispute arises out of or relates to this Agreement (including any dispute as to the meaning, performance, validity, subject matter, breach or termination of this Agreement or as to any claim in tort, in equity or pursuant to any statute) (**Dispute**), any court or arbitration proceedings shall not be commenced by or against Council, the Developer or their successors or assigns, relating to the Dispute unless the parties to the Dispute (**Parties**) have complied with this clause, except where a party seeks urgent interlocutory relief.

11.2 A party claiming that a Dispute has arisen under or in relation to this Agreement is to give written notice to the other parties to the Dispute, specifying the nature of the Dispute.

- (a) The Parties agree to mediate the Dispute in accordance with the Mediation Rules of the Law Society of New South Wales and to take action to have the Dispute mediated within 7 working days of the receipt of written notice of the Dispute.
- (b) The Parties agree that the President of the Law Society of New South Wales or the President's nominee will select the mediator and determine the mediator's remuneration.
- (c) The Parties to the mediation will be jointly responsible for the fees of the mediation and each party shall bear its own costs.
- (d) The Parties may, but are not required, to enter into a written agreement before mediating a Dispute.
- (e) If any procedural aspects are not specified sufficiently in the rules under this clause 10, the Parties agree to conduct the mediation regarding those aspects in accordance with the determination of the mediator whose decision regarding those aspects is final and binding on the Parties.
- (f) A legal representative acting for either of the Parties may participate in the mediation.

11.3 From the time when a notice of Dispute is served, neither party shall take action to terminate this Agreement, until after the conclusion of the mediation.

11.4 Should mediation fail to resolve any dispute then the dispute shall be determined by arbitration pursuant to the *Commercial Arbitration Act 2010* (NSW) (**CAA**) and the General Manager of the Council shall request the President for the time being of the Law Society of New South Wales to appoint an arbitrator to carry out such arbitration in accordance with the provisions of the CAA.

11.5 Despite clause 10.1, either Council or the Developer may institute court proceedings to seek urgent equitable relief in relation to a dispute or difference arising out of or in connection with this Agreement.

12 COSTS

12.1 The Developer agrees to pay or reimburse agreed costs incurred by Council in connection with the:

- (a) negotiation, preparation and execution of this Agreement, to a reasonable maximum amount;
- (b) advertising and exhibiting this Agreement in accordance with the Act; and
- (c) all costs related to registration of this Agreement where required, within 14 working days after receipt of a tax invoice from Council.

13 ENFORCEMENT

- 13.1 In addition to clause 13.2, the parties agree that clause 2.3 of Schedule 2 is the provision of security for the dedication of the Open Space Land to Council and clause 4.3 of Schedule 2 is the provision of security for the C2 Land Contribution.
- 13.2 This Agreement may be enforced by the issuance of notices by the Parties pursuant to clause 15 and/or by the commencement of proceedings in the Courts of New South Wales.

14 REGISTRATION OF THIS AGREEMENT

- 14.1 The Developer agrees to register or procure the registration of this Agreement on the Land for the purposes of section 7.6(1) of the Act.
- 14.2 On the date execution of this Agreement, the Developer, at its expense, will take all practical steps and otherwise do anything that the Council reasonably requires to procure:
- 14.2.1 the execution of any documents, including an instrument in registrable form requesting registration of this Agreement on the title to the Land duly executed by the Developer;
 - 14.2.2 the written and irrevocable consent of each person to referred in section 7.6(1) of the Act to that registration;
 - 14.2.3 production of the certificate of title for the Land, for the purpose of procuring the registration of this Agreement; and
 - 14.2.4 the lodgement and registration of this Agreement by the Registrar-General in the relevant folio of the Register.
- 14.3 The Council agrees to do all things reasonably required by the Developer to release and discharge any notation relating to this Agreement from the title to any part of the Land once the Developer has completed its obligations under this Agreement with respect to that part of the Land or this Agreement is terminated in accordance with clause 10 or otherwise comes to an end for any other reason.

15 NOTICES

- 15.1 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:
- (a) Delivered or posted to that Party at its address set out in (b) below.
 - (b) Faxed or emailed to that Party at the relevant details set out below.

(i) Council: Central Coast Council

Attention: Chief Executive Officer
DX Address: DX 7306 WYONG
Postal address: 2 Hely St, Wyong NSW 2259
Fax No: 02) 4350 2098

Email: ask@centralcoast.nsw.gov.au

(ii) **Developer: Wathara NSW Pty Ltd**

Attention: Jean-Marie Klumper

Postal Address: Level 16, 101 Miller St, North Sydney NSW
2059; and PO Box 654, Terrigal NSW 2260

Email: jeanette@tglcorp.com.au

- 15.2 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.
- 15.3 Any notice, consent, information, application or request is to be treated or given or made at the following time:
- (a) If it is delivered, when it is left at the relevant address.
 - (b) If it is sent by post, five Business Days after it is posted.
 - (c) 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.
- 15.4 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 it is on a Business Day, after 5.00pm 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.

16 ENTIRE AGREEMENT

- 16.1 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.

17 FURTHER ACTS

- 17.1 Each Party agrees to promptly execute all documents and do all such things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

18 GOVERNING LAW AND JURISDICTION

- 18.1 This Agreement is governed by the law of New South Wales, Australia. The parties submit to the nonexclusive 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 provided that the dispute resolution provisions in clause 11 of this Agreement have first been satisfied.

19 JOINT AND INDIVIDUAL LIABILITY AND BENEFITS

- 19.1 Except as otherwise set out in this Agreement, any agreement, covenant, representation or warranty under this Agreement by two or more persons binds them jointly and each of them individually, and any benefit in favour of two or more persons is for the benefit of them jointly and each of them individually.

20 NO FETTER

- 20.1 Nothing in this Agreement is to 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 is to be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

21 REPRESENTATIONS AND WARRANTIES

- 21.1 The Parties represent and warrant that they have power to enter into this Agreement and comply with their obligations under this Agreement and that entry into this Agreement will not result in the breach of any law.
- 21.2 The Developer warrants that it has no expectation arising only from this Agreement that the development consent will be granted by the Council or any other consent authority to the Development.

22 SEVERABILITY

- 22.1 If a clause or part of a clause in 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. 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 the Agreement is not affected.

23 WAIVER

- 23.1 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 obligation of, or breach of obligation by, another Party. 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 obligation 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 occasion.

24 EXPLANATORY NOTE

- 24.1 The Appendix contains the Explanatory Note relating to this Agreement required by section 205 of the Regulation.
- 24.2 Pursuant to section 205(5) of the Regulation, the Parties agree that the Explanatory Note in the Appendix is not to be used to assist in construing this Agreement.

25 EXECUTION PANEL

EXECUTED as an Agreement

Date: date

Executed pursuant to delegated authority under sections 377 of the *Local Government Act, 1993* (NSW), in accordance with the resolution of the Central Coast Council dated date.

Chief Executive Officer

Witness [BLOCK LETTERS]

DAVID FARMER

Name [BLOCK LETTERS]

Name [BLOCK LETTERS]

Director/Secretary [if not Sole Director]

Witness [BLOCK LETTERS]

WATHARA NSW PTY LIMITED

Name [BLOCK LETTERS]

Name [BLOCK LETTERS]

SCHEDULE 1

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

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

Item	Section of Act or Regulation	Provision/clause of this Agreement
1.	<p>Planning instrument and/or development application (section 7.4 of the Act)</p> <p>The Developer has:</p> <p>(a) sought a change to an environmental planning instrument;</p> <p>(b) made, or proposes to make, a Development Application; or</p> <p>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</p>	<p>(a) Yes</p> <p>(b) Yes</p> <p>(c) No</p>
2.	<p>Description of land to which this document applies (section 7.4(3)(a) of the Act)</p>	Clause 4.1 – definition of Land, being Lot 522 DP 1077907, Lot 3 DP 101649 and Lot 4 DP 1000694.
3.	<p>Description of change to the environmental planning instrument to which this document applies and/or the development to which this document applies (section 7.4(3)(b) of the Act)</p>	See definition of Development in Clause 4.1.
4.	<p>The scope, timing and manner of delivery of the provision to be made by the Developer required by this document (section 7.4(3)(c) of the Act)</p>	See Schedule 2
5.	<p>Applicability of sections 7.11 or 7.12 of the Act (section 7.4(3)(d) of the Act)</p>	<p>Clause 3.3 of this Agreement.</p> <p>The application of sections 7.11 or 7.12 of the Act is excluded in respect of the Development.</p>
6.	<p>Applicability of section 7.24 of the Act (section 7.4(3)(d) of the Act)</p>	<p>Clause 3.3 of this Agreement.</p> <p>The application of section 7.24 of the Act is excluded in respect of the Development.</p>
7.	<p>Consideration of benefits under this document if section 7.11 applies (section 7.4(3)(e) of the Act)</p>	Not applicable.

Item	Section of Act or Regulation	Provision/clause of this Agreement
8.	Mechanism for Dispute Resolution (section 7.4(3)(f) of the Act)	Clause 11
9.	Enforcement of this document (section 7.4(3)(g) of the Act)	Clause 13
10.	No obligation to grant consent or exercise functions (section 7.4(9) of the Act)	Clause 20
11.	Registration of this document (section 7.6 of the Act)	Clause 14
12.	Whether certain requirements of this document must be complied with before a construction certificate is issued (section 205(2) of the Regulation)	Not required
13.	Whether certain requirements of this document must be complied with before a subdivision certificate is issued (section 205(2) of the Regulation)	Required – see Schedule 2.
14.	Whether certain requirements of this document must be complied with before an occupation certificate is issued (section 205(2) of the Regulation)	Not required.
15.	Whether the explanatory note that accompanied exhibition of this document may be used to assist in construing this document (section 205(5) of the Regulation)	Clause 24

SCHEDULE 2

1. Development Contributions

The Developer undertakes to provide the Development Contributions to the Council in the manner set out below:

Development Contribution	Timing
Open Space Contribution	In accordance with clause 2 of this Schedule
Roadworks Contribution	In accordance with clause 3 of this Schedule
C2 Land Contribution	In accordance with clause 4 of this Schedule.

2. Open Space Contribution

2.1 Dedication of Open Space Land to Council

- (a) The Open Space Contribution will be deemed to have been made on the date a deposited plan is registered by the Registrar General that dedicates the Open Space Land as Public Reserve under the *Local Government Act 1993* (NSW) (**Dedication Date**).
- (b) The first Subdivision Certificate for Stage 1 of the Development must indicate the dedication of the Open Space Land to Council as Public Reserve (to be dedicated free of cost).
- (c) The Developer must:
 - (i) provide or ensure that Council has a Contamination Report prior to the first Subdivision Certificate for Stage 1; and
 - (ii) must not dedicate the Open Space Land until Council has provided the Developer with a notice in writing which states that the Council is satisfied with the Contamination Report.
- (d) The Developer must ensure that at the Dedication Date, the Open Space Land is:
 - (i) free from noxious weeds and vermin, to Council's satisfaction; and
 - (ii) free from all encumbrances and affectations, except for any encumbrances agreed in writing by the Council in its absolute discretion.
- (e) The Developer must pay all rates and taxes owing in respect of the Open Space Land up to and including the Dedication Date.

2.2 Consent to Compulsory Acquisition of the Open Space Land

Subject to clause 2.3(a) of this Schedule, the Developer consents to the compulsory acquisition of the Open Space Land:

-
- (a) in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (**Acquisition Act**); and
 - (b) on the terms set out in clause 2.3 below.

2.3 Council's right to acquire

- (a) Council may acquire the Open Space Land compulsorily in accordance with the Acquisition Act if the Developer has failed to comply with its obligations with respect to the dedication of that land under this Agreement.
- (b) If Council acquires the Open Space Land compulsorily in accordance with the Acquisition Act:
 - (i) the Developer agrees that the compensation payable to it on account of that acquisition under the Acquisition Act is \$1.00; and
 - (ii) Council must complete that acquisition within twelve (12) months of a written notice from Council to the Developer and Developer setting out the Developer's failure to comply with its obligations with respect to the dedication of the Open Space Land under this Agreement.

2.4 Consent of owners

- (a) The Parties agree that the provisions of clause 2.2 and 2.3 are an agreement with respect to the compulsory acquisition of the Open Space Land for the purpose of section 30 of the Acquisition Act.

3. Roadworks Contribution

- (a) The Developer acknowledges and agrees that any future Development Application:
 - (i) relating to Stage 1 must include a subdivision plan and concept road design plans (**Concept Plans**) for a road connection which is compatible with TfNSW future Traffic Control Signals (**TCS**) upgrade of the intersection of the Central Coast Highway and Forresters Beach Road. The Concept Plan must ensure that legal site access is maintained to properties adjoining the Land and include illustrations of dedication of any land accommodating the fourth leg of the TCS into the Land, at no cost to TfNSW or Council;
 - (ii) with respect to the Land will need to be supported by a Traffic Impact Assessment (**TIA**), prepared by suitably qualified person/s. The TIA must identify impacts and mitigation measures, including concept designs for access to the Central Coast Highway. The TIA is to be provided prior to Council granting development consent and must be to the satisfaction of Council and TfNSW.
- (b) The Developer must construct the internal road system for the Development in accordance with the chronological order proposed in the Staging Plan.

-
- (c) Prior to the issue of any Subdivision Certificate for the Development, the Developer will enter into a WAD with TfNSW for the Roadworks. The Roadworks will be designed and constructed in accordance with *Austroads* guidelines, Australian Standards and TfNSW Supplements.
 - (d) The Developer must notify the Council promptly following entry into the WAD and provide the Council with a copy of the WAD.
 - (e) The Developer must, at its cost, carry out the Roadworks in accordance with the WAD prior to the issue of a Subdivision Certificate for Stage 1.
 - (f) The Developer must, promptly following Practical Completion of the Roadworks, provide the Council with evidence that the Roadworks have reached Practical Completion, including a written notice from TfNSW confirming that the Roadworks have reached Practical Completion.
 - (g) The Developer must not make an application for a Subdivision Certificate for any part of the Land within Stage 3 of the Development until such time as the TfNSW have completed the widening of the Central Coast Highway under the planned Central Coast Highway upgrade – Wamberal to Bateau Bay project between Forresters Beach Road and Bakali Road.

4. C2 Land Contribution

4.1 C2 Land Works

- (a) The Developer must implement the recommendations of the Vegetation Management Plan (**VMP**) in accordance with the requirements of that plan, including but not limited to:
 - (i) undertaking the initial C2 Land Works prior to the issue of a Subdivision Certificate for Stage 1 of the Development; and
 - (ii) monitoring and maintaining the C2 Land Works for a period of 8 years in accordance with section 4 of the VMP; and
 - (iii) provide Council with an annual report in accordance with section 5 of the VMP.
- (b) For the avoidance of doubt and to clarify clause 3.10(i) of the VMP, the Developer will construct the required fence along the boundary of the C2 Land adjoining the residential and Open Space lots in Stage 1 of the Development prior to the issue of a Subdivision Certificate for Stage 1.
- (c) In the VMP any reference to land use zone E2 is to be understood to refer to land use zone C2.

4.2 Registration of Public Positive Covenant

- (a) No later than 2 months prior to the Developer lodging an application for the first Subdivision Certificate for Stage 1 of the Development, the Developer must provide Council with a draft instrument which has the effect of creating a public positive covenant under s88E of the *Conveyancing Act 1919* (NSW), on the title to the C2 Land for approval which:
 - (i) specifies Council as the relevant prescribed authority; and

-
- (ii) requires that the C2 Land be maintained for a period of 8 years in accordance with the VMP,

(Public Positive Covenant).

- (b) The Developer must, within the later of 5 Business Days of approval by Council or 30 days of the issue of the first Subdivision Certificate for Stage 1 of the Development, register the Public Positive Covenant on the C2 Land.
- (c) The Developer must submit documentary evidence to Council of the registration of the Public Positive Covenant with NSW Land Registry Services within 30 days of such registration.

4.3 Security

- (a) The Developer must prior to the issue of any Subdivision Certificate for Stage 1 of the Development, provide to Council a Guarantee.
- (b) The Guarantee will:
 - (i) be in favour of Council;
 - (ii) be in the amount of \$37,800;
 - (iii) not have an expiry date; and
 - (iv) secure the performance of obligations under clause 4.1 and 4.2 of this clause 4
(Secured Obligation).
- (c) The Council may:
 - (i) call upon the Guarantee where the Developer has failed to comply with the Secured Obligation; and
 - (ii) retain and apply such monies towards any costs and expenses incurred by Council in rectifying any default by the Developer under this clause 4.
- (d) Prior to calling on the Guarantee, the Council must give the Developer not less than 10 Business Days written notice of Council's intention to call upon the Guarantee and if the Developer remedies the breach or non-compliance to the Council's satisfaction, the Council will not call on the Guarantee.
- (e) If the Council:
 - (i) calls upon the Guarantee; and
 - (ii) applies all or part of such monies towards the Secured Obligation and any costs and expenses incurred by the Council in rectifying any breach of the Secured Obligation; and
 - (iii) has notified the Developer of its intention to call on the Guarantee in accordance with clause 4.3(d) of this Schedule,

then the Developer must provide the Council with 'top up' funding of the Guarantee to ensure that at all times, until the Guarantee is released in accordance with clause 4.3(f) of this Schedule, the Council has a Guarantee for a face value of \$37,800.

(f) The Developer may request that Council return the Guarantee that is not less than 8 years from the date the Guarantee was provided to Council in accordance with clause 4.3(a) of this Schedule.

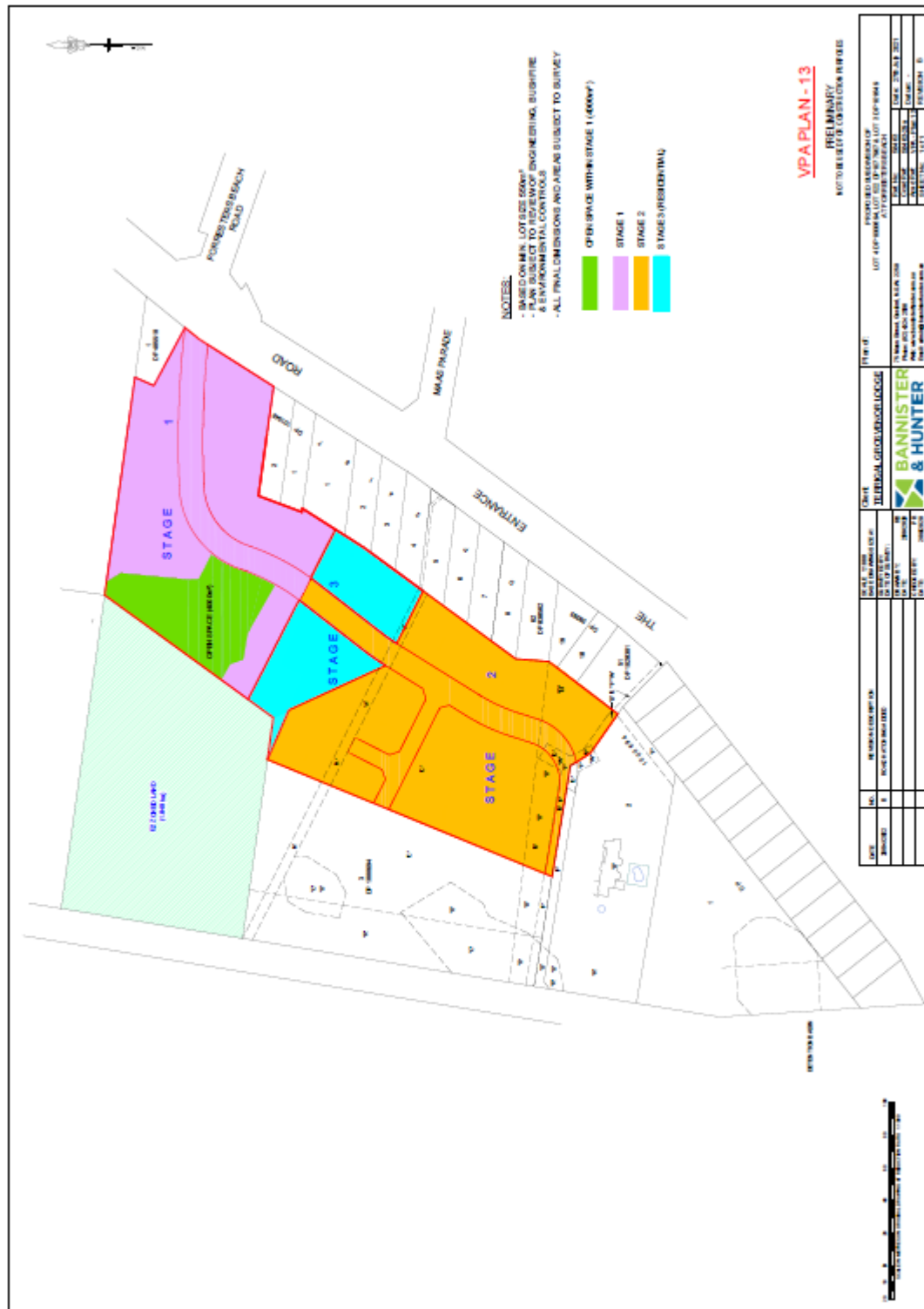
(g) If:

(i) Council is satisfied that the Developer has satisfied the Secured Obligations;
and

(ii) the whole of the Guarantee has not been expended,

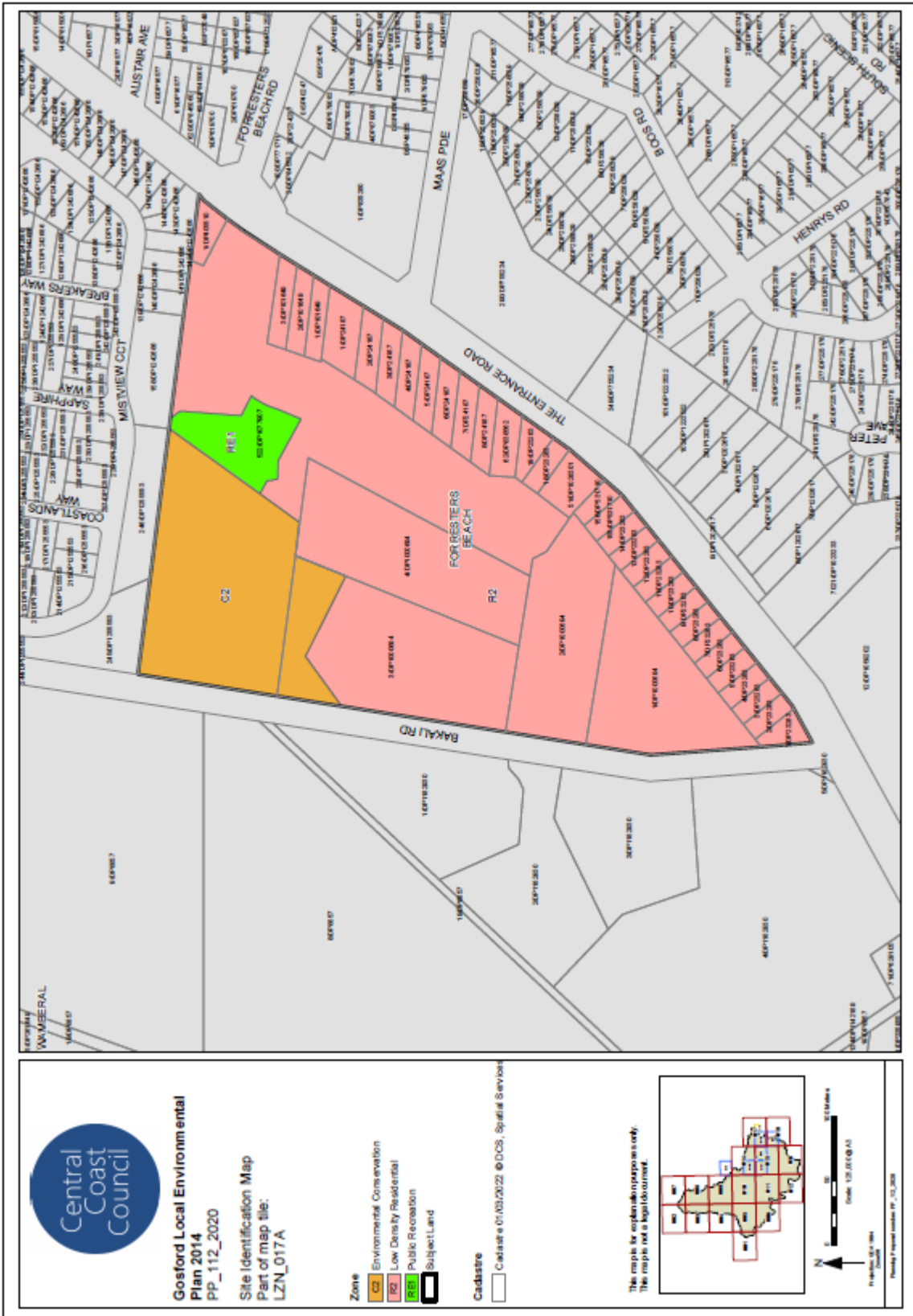
the Council will return the Guarantee to the Developer (less, if applicable, any amounts properly claimed by the Council from the Guarantee under this Agreement).

SCHEDULE 3



SCHEDULE 4

PROPOSED ZONING MAP



VEGETATION MANAGEMENT PLAN



VEGETATION MANAGEMENT PLAN

PART LOT 522 DP 1077907

**BAKALI ROAD
FORRESTERS BEACH**

**FEBRUARY 2019
REF: 8088/3**

VEGETATION MANAGEMENT PLAN

PART LOT 522 DP 1077907

**BAKALI ROAD
FORRESTERS BEACH**

FEBRUARY 2019

Conacher Consulting Pty Ltd

Environmental and Land Management Consultants

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PREFACE

This Vegetation Management Plan has been prepared by *Conacher Consulting* to address the conditions of consent in relation to management requirements for the area of Swamp Forest proposed to be retained at Forresters Beach.

PROJECT TEAM

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APPENDIX 3 REVEGETATION AND WEED MANAGEMENT GUIDELINES

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SECTION 1 INTRODUCTION & BACKGROUND

1.1 INTRODUCTION

This Vegetation Management Plan has been prepared by *Conacher Consulting* to address the initial and ongoing requirements for the management of a retained patch of swamp forest vegetation located to the west of a proposed residential land subdivision at Forresters Beach.

This VMP has been prepared as supporting documentation to assist with the preparation of a Voluntary Planning Agreement as part of the planning proposal (rezoning) for the site and adjoining land to the east. This version of the VMP has incorporated additional information and details as requested by Central Coast Council following a review of the November 2018 version of the VMP.

It is expected that this current Vegetation Management Plan will be revised and supplemented with additional details to be included in any future review of the contents of this VMP at later stages of the development process and prior to the issue of a Construction Certificate for any future land subdivision.

The planning and cadastral details of the subject site are provided in Table 1.1. The location of the site is shown in Figure 1.

TABLE 1.1 SITE DETAILS	
Location	Part Lot 522 DP 1077907
Area	Approximately 1.85 ha
Local Government Area	Central Coast Council

1.2 OBJECTIVES AND REQUIREMENTS FOR THIS VEGETATION MANAGEMENT PLAN

The objectives of this VMP are to:

- i) Provide details on the vegetation proposed to be retained within the site.
- ii) Outline suitable measures for the management of weed species within the site.
- iii) Provide information on any other matters of relevance for the future management of the site to achieve longer term vegetation and fauna habitat protection within the site.

The relevant matters for the management of the retained vegetation within the subject site are addressed in Sections 2 and 3 of this Vegetation Management Plan.

For the purposes of preparing this report the following documents were reviewed:

- Guidelines for Vegetation Management Plans (Central Coast Council WSC 2014)
- Flora and Fauna Assessment Report (Conacher Consulting 2016);
- Bushfire Constraints Analysis Report (Conacher Consulting 2016);

1.3 FLORA CHARACTERISTICS

A detailed report of the flora and fauna characteristics of the subject site has been prepared by Conacher Consulting (2016).

The vegetation present consists of Swamp Forest vegetation and patches of cleared land dominated by exotic weed species around the outer edges of the Swamp Forest. Further vegetation details are provided in Appendix 1.

The following invasive environmental and/or priority weed species (covered under the Biosecurity Act) were observed during surveys within the site:

Invasive and environmental weeds observed during surveys include:

- *Ligustrum sinense*
- *Rubus anglocandicans*
- *Solanum mauritianum*
- *Lantana camara*
- *Camphour Laurel*
- *Coral tree*
- *Canary Island Date Palm*
- *Radiata Pine*
- *Paspalum quadrifarium*
- *Paspalum urvillei*
- *Pennisetum clandestinum*
- *Sporobolus africanus*
- *Stenotaphrum secundatum*
- *Lonicera japonica*

The Swamp Forest vegetation present is variable in structure and composition depending on the local topography and drainage patterns. The Vegetation is classified as an endangered ecological community – Swamp Sclerophyll Forest on Coastal Floodplains of the NSW North Coast, Sydney Basin and South East Corner Bioregions as identified in the Biodiversity Conservation Act (2016).

SECTION 2 SITE MANAGEMENT MATTERS

2.1 OWNERSHIP OF THE SITE

At this stage the subject site is not proposed as a Public Reserve, therefore it is not called a Reserve area in this VMP. The subject site is proposed to be retained under private ownership and under separate ownership from the proposed residential estate. The subject site is to be provided with connectivity to the future adjoining residential area for ongoing access purposes and to allow for persons and equipment to undertake weed control and site management requirements.

2.2 SITE MANAGEMENT RATIONALE

Council's Guidelines for Vegetation Management Plans (WSC 2014) require that strategies, priorities and guidelines be provided in relation to the identified management issues and objectives. All management objectives are outlined within this plan. A works schedule is provided in Section 5 of this VMP which outlines the order of task completion.

Management strategies are provided in the following sections of this VMP, with additional management guidelines provided in the Appendices of this report where relevant. Additional details can be included in any further reviews.

2.3 VEGETATION MANAGEMENT AREAS

The following site management areas have been identified within the subject site for the purposes of implementing this plan:

- Vegetation Retention Areas
- Vegetation Rehabilitation Area

These areas are identified in Figure 2.

The Vegetation Retention Area (15,492m²) contains vegetation with an intact native canopy, shrub and groundcover strata and low levels of exotic flora species.

The Vegetation Rehabilitation Area (2,305m²) contains mostly cleared land dominated by exotic flora species.

The vegetation management requirements for these areas are provided in Section 3.

SECTION 3 VEGETATION MANAGEMENT DETAILS

3.1 BUSHFIRE HAZARD MANAGEMENT

The subject site is mapped as Category 1 Vegetation within Council's Bushfire Prone Land Maps. Therefore, the site is subject to the provisions of the Rural Fires Act and any subsequent requirements of the Rural Fire Service of NSW.

3.2 TREE RETENTION & REMOVAL

i. Provision of Plans Showing Tree Removal and Retention Areas

All native trees are proposed to be retained within the Vegetation Retention Area shown in Figure 2. The locations of exotic trees to be removed are to be identified in future site plans to be prepared as part of the Weed Control Plan prepared by the Contract Bushland Regenerator:

ii. Tree Removal Details

Removal of exotic trees such as Camphor Laurel, Pine Trees, Coral Trees, and Palm Trees will be required within the Vegetation Retention Area and Vegetation Rehabilitation Area.

3.3 TREE PROTECTION MEASURES

Prior to the works associated with the Weed Removal Plan commencing, and for the duration of construction works for the adjoining residential estate, the following protocols are to be implemented to ensure tree and vegetation protection within the site:

- Removal operations for exotic trees in the vicinity of retained trees within the site is to be undertaken in a manner that avoids canopy damage to remaining trees.
- During development of the adjoining residential lots the subject site is to be protected by Parrawebbing, high visibility flagging or the erection of 1.8 metre-high chain wire interlocking fencing as per the engaged Arborist and/or Project Ecologist's direction.
- Erection of tree protection measures is to be confirmed to Council's Development Ecologist in writing prior to commencement of works.
- All marked tree protection areas are to be clearly marked as "No Go Area" on the temporary fencing.
- No clearing of vegetation or storage of vehicles or machinery, waste, fill or materials or unauthorised access is to occur within the subject site.

3.4 NATIVE FAUNA PROTECTION AND HOLLOW BEARING TREE MANAGEMENT

All hollow bearing trees within the subject site are to be retained. Existing tree trunks, root material and branches from dead trees stockpiled within the site are to be retained and/or relocated to appropriate positions for fauna habitat enhancement.

3.5 WEED REMOVAL & MANAGEMENT

A detailed weed location and site condition assessment (Weed Control Plan) for the site is to be completed prior to any weed management works being commenced. Primary weed control is to be undertaken during the first year and secondary weed control is to be undertaken during the second year of implementation of this plan.

Weed management will occur within the Vegetation Retention Area and the Vegetation Rehabilitation Area shown in Figure 2. Weed control works are to be undertaken by a Contract Bushland Regenerator to be engaged by the Landowner.

Secondary weed control works are to be undertaken utilising low impact bush regeneration methods and are to occur annually after primary weed control works until weed levels have been controlled to an acceptable level.

i. Target Weed Species

Any weeds present which are listed as environmental or priority weeds within the Central Coast local government area are to be targeted during weed control works. Dominant weed species identified during the preparation of the Weed Control Plan are to be targeted for management and removal as part of weed maintenance works.

ii. Physical Control Methods

Physical control methods involve using physical means such as machinery, hand removal and the use of hand tools and hand operated power equipment to remove either specific or broad ranges of weeds.

High levels of weeds are present within the Vegetation Rehabilitation Area between the Vegetation Retention Area and the northern, southern and eastern boundaries. Weeds removed from within this area are to be taken from the site.

Only minor weed incursions are present within the Vegetation Retention Area. These weeds are to be managed during primary weed control works with the use of hand tools and hand operated power equipment.

Physical control methods employed during secondary weeding are to be undertaken with the use of hand held tools only.

Further detailed descriptions of physical weed control techniques are provided in Appendix 3.

iii. Herbicide Control Methods

Herbicide control methods involve the use of chemicals which can target specific types of weeds or a broad spectrum of weeds. Physical control methods are to be initially given priority, however herbicide control may be required to eradicate weeds which re-establish following initial physical control works.

Problems with the use of herbicides include chemical residues affecting soils, herbicide runoff into water bodies and the health and safety of the operator involved in the application of the herbicide. These potential adverse impacts should be appropriately mitigated by use of herbicides in accordance with the manufacturer's instructions. Advantages of herbicide use include the low time taken to spray weeds as opposed to physically removing them, especially for large infestations of weeds. Broad area spray application is considered inappropriate for this site. Herbicides will be applied by cut and paint or hand held application methods only. Suitable physical control methods are to be the preferred option. Further detailed descriptions of herbicide control techniques are provided in Appendix 3.

3.6 BUSHLAND REGENERATION

i. Assessment of Regeneration

The Vegetation Retention Area of the site currently contains intact bushland and does not require regeneration works other than weed control.

The Vegetation Rehabilitation Area is currently highly disturbed and will require more intense weed removal as part of the proposed works. Natural regeneration of native species within this area is to be monitored annually for the eight year monitoring period.

3.7 REPLANTING

Where monitoring of the Vegetation Rehabilitation Area identifies that natural regeneration has failed or requires supplementation, planting of native vegetation is to be undertaken within those areas. Suitable species for replanting are to be determined for each separate location as part of the further development of this VMP.

Table 3.1 identifies locally occurring native species are to be utilised where supplementary replanting is needed within the Vegetation Rehabilitation Area.

TABLE 3.1 SUITABLE SPECIES FOR SUPPLEMENTARY PLANTINGS		
Scientific Name	Common Name	Total Planting Densities for Vegetation Rehabilitation Areas
Trees		10 per 100m ²
<i>Eucalyptus robusta</i>	Swamp Mahogany	
<i>Eucalyptus resinifera</i> subsp. <i>resinifera</i>	Red Mahogany	
<i>Casuarina glauca</i>	Swamp Oak	
<i>Glochidion ferdinandi</i>	Cheese Tree	
<i>Livistona australis</i>	Cabbage Tree Palm	
<i>Melaleuca quinquenervia</i>	Broad-leaved Paperbark	
<i>Melaleuca styphelioides</i>	Prickly-leaved Tea Tree	
<i>Pittosporum undulatum</i>	Sweet Pittosporum	
Shrubs		20 per 100m ²
<i>Banksia integrifolia</i>	Coastal Banksia	
<i>Acacia elongata</i>	Swamp Wattle	
<i>Acacia floribunda</i>	Sally Wattle	
<i>Acacia longifolia</i>	Golden Wattle	
<i>Melaleuca ericifolia</i>	Swamp Paperbark	
<i>Melaleuca linariifolia</i>	Snow in Summer	
<i>Melaleuca nodosa</i>	Prickly-leafed Paperbark	
<i>Pittosporum revolutum</i>	Yellow Pittosporum	
<i>Pultenaea daphnoides</i>	Large-leaf Bush Pea	
Ground Covers		50 per 100m ²
<i>Dianella caerulea</i>	Blue Flax-lily	
<i>Doodia aspera</i>	Rasp Fern	
<i>Gahnia clarkei</i>	Tall Saw-sedge	
<i>Glycine clandestina</i>	Twining Glycine	
<i>Hypolepis muelleri</i>	Harsh Ground Fern	
<i>Imperata cylindrica</i> var. <i>major</i>	Blady Grass	
<i>Juncus usitatus</i>	Common Rush	
<i>Lomandra longifolia</i>	Spiny-headed Mat-rush	
<i>Pimelea linifolia</i> subsp. <i>linifolia</i>	Slender Rice Flower	
Note: Species listed above can be supplemented with other locally occurring native species		

Council have required that the objective for the growth of planted canopy trees is that they should achieve a median height of no less than three metres and should achieve a survival rate of 80%.

The height and survival rate of any planted canopy trees are to be measured at each monitoring inspection to record how they are meeting the growth height and survival rate as required by Council.

Plantings are to be protected with suitable tree guards to prevent grazing by native macropod species. Revegetation works within the site are to only use endemic plants grown from local seed. For further details on planting area preparation and planting techniques refer to Appendix 3.

3.8 EROSION & SEDIMENT CONTROL

Erosion and sediment control measures for the adjoining residential development are to be in accordance with a site specific Soil and Water Management Plan (SWMP) prepared for the adjoining residential development. Sediment controls for the adjoining residential development are to be implemented within the residential zone and are not to be located in the subject site.

3.9 WEED AND PATHOGEN TRANSFER MANAGEMENT

Potential weed propagules and pathogen transfer into the subject site is to be controlled through the methods outlined in Appendix 2.

3.10 FENCING & SIGNAGE

i. Fencing

The eastern boundary between the retained vegetation area and residential lots is to be fenced with a solid masonry, metal or timber fence 1800mm high. This section of fencing is to be constructed prior to the release of the Subdivision Certificate. Council have identified that the fencing along the eastern side of the E2 zoned land is required for inclusion in the VMP as it would ensure the preservation of the endangered ecological community.

Individual lot boundary fences are to be erected by the developer of the individual lots. Fencing along the northern, western and southern boundaries is to comprise timber post and metal star pickets (1200mm high at 3 metre spacing) with a three strand plain wire livestock-style control fence. Plain wire (not barbed wire) to enable fauna movement through the fence is to be used in the fence construction.

ii. Signage

Access control signage is to be installed at 40 metre intervals (approximately) along the northern, western and southern boundary fencing. The primary aim of the signs will be to alert residents about the presence of private property and access prevention to the subject site.

The signs are to be weather resistant (timber, metal or corflute) and are to measure 500mm x 350mm and are to have the following wording included:

PRIVATE PROPERTY
HABITAT PROTECTION AREA
PLEASE KEEP OUT

3.11 RUBBISH REMOVAL AND MANAGEMENT

As part of the initial stages of works, all rubbish and fill material within the subject site is to be removed and the land maintained rubbish free. Material that cannot be recycled is to be disposed of to a licenced waste facility. An appropriately experienced Project Ecologist is to be engaged to advise and directly supervise the removal of any larger items to ensure impacts to native vegetation and fauna are minimised. Rubbish observed during site inspections consists of furniture, soil, building materials, concrete, bottles and old fencing wire.

3.12 TERRESTRIAL HABITAT ENHANCEMENT

The final surface of the Vegetation Rehabilitation Areas is to be finished in a manner that provides a range of shelter and foraging habitats for terrestrial fauna. Relocated tree sections and tree hollows

as ground logs are to be used throughout the Rehabilitation Area to create ground habitat for frogs, reptiles and small mammals as well as insects and other invertebrate fauna. Surface mulch of native vegetation from the adjoining residential land clearing could also be used to provide a soil surface protection against erosion and weed growth.

SECTION 4 VEGETATION MONITORING, MAINTENANCE & REPORTING GUIDELINES

4.1 MONITORING GUIDELINES

Monitoring is to be undertaken initially prior to works and annually thereafter for eight years to allow for the assessment of the health of the Vegetation Retention Areas and Vegetation Rehabilitation Area. Monitoring of these areas is to include identification of any areas suffering from disturbance or in need of additional plantings, weed control or sediment and erosion control.

A total of six vegetation condition monitoring quadrats (20m x 20m in size) are to be located throughout the subject site. Three monitoring quadrats are to be established in each of the Vegetation Retention and Vegetation Rehabilitation Areas. The size of the monitoring quadrats will need to be adjusted to fit in with the size/shape of the Vegetation Rehabilitation Areas.

Monitoring will include a performance evaluation of the works and will include assessment addressing any deficiencies observed, and determining a successful outcome. A successful outcome is identified as a minimum of 80% survival rate for all plantings and a maximum of 5% weed cover for the treated areas and a regeneration rate of 30% cover for Vegetation Rehabilitation Areas (per 1000m²) over the period of this plan. Monitoring is to include:

- Photographs to be taken from six monitoring locations;
- A weed infestation map amended from the initial Weed Control Plan;
- Estimates of density of native plant regeneration for the Vegetation Rehabilitation Area;
- The survival rate for any plantings; and
- Identification of any adaptive changes or additional measures required to ensure vegetation regeneration and weed control meets the required targets.

A template for completion of an Annual Site Inspection Monitoring Report for the subject site is included as Appendix 4 of this VMP.

Maintenance will include weeding (herbicide or low impact physical weed removal as required), watering of any supplementary plantings, replacement planting for any planting losses, removing rubbish and regular inspections and performance assessment.

4.2 REPORTING GUIDELINE

i. Certification Reports

The Project Ecologist is to provide reports to Council's Development Ecologist for review, certifying how the requirements are being implemented, within 10 working days following completion of the following stages of the VMP works:

- Following reparation of the Weed Control Plan
- Following induction of the Contract Bush Regenerator
- Following the marking of exotic trees to be removed
- Following initial perimeter fencing
- Following completion of the initial weed removal works

ii. Monitoring Reports

Monitoring Reports are to be prepared by the Ecologist or bush regenerator and submitted to Council detailing the progress of the weed management works annually. Monitoring Reports are to be accompanied by photos (taken at standard locations). Photo monitoring locations are to be established during the initial monitoring inspection and monitoring photos are to be provided for each monitoring survey.

Monitoring reports are to outline the level of compliance achieved with regard to the requirements of this VMP.

Reports are to be prepared by the Project Ecologist and submitted to Council detailing the progress of the weed management annually and any recommended additional actions, with a final report certifying completion of the VMP at the end of the VMP period.

SECTION 5 IMPLEMENTATION DETAILS

5.1 IMPLEMENTATION & TIMING OF WORKS

The weed control and vegetation rehabilitation works identified in this Vegetation Management Plan are to be commenced after future subdivision of the site has been approved.

A works schedule for the implementation of this Vegetation Management Plan is provided in Table 5.1.

TABLE 5.1 SCHEDULE OF WEED & VEGETATION MANAGEMENT WORKS							
Management Tasks	Stage						Works to be undertaken by
	Initial Stages of VMP	At completion of works / Prior to issue of subdivision certificate	Following completion of subdivision construction				
			Year 1	Year 2	Year 3	Years 4-8	
Ecological induction for site Bush Regeneration Contractors							Project ecologist
Report to Council on Ecological / Tree protection inductions within 10 days							Project ecologist
Install perimeter post & wire fence and solid eastern boundary fence							Project arborist or ecologist / civil contractor and fencing contractor
Report to Council on marking of trees for removal							Project ecologist
Remove rubbish from retained vegetation areas							Contractor
Undertake primary weed control works							Bushland regenerator
Report to Council on initial weed removal							Project Ecologist
Install supplementary plantings if required							Bushland regenerator
Maintain supplementary plantings							Bushland regenerator
Undertake secondary weed control works							Bushland regenerator
Undertake annual monitoring inspections and submit Monitoring Reports to Council on VMP implementation (annually)							Project ecologist

Prior to the implementation of onsite weed management activities and other activities identified in Table 5.1 the following matters need to be addressed:

- i. Review of this VMP to revise and update any matters that have changed since the preparation of the initial VMP.
- ii. Prepare a Weed Control Plan which identifies the condition of the vegetation in relation to the extent, coverage and species of weeds present.
- iii. Prepare a Site Action Plan detailing how the weed removal, rubbish removal, rehabilitation and fencing works will be undertaken.
- iv. Engage a Bush Regeneration Contractor to undertake the required works.
- v. Establish the location of future vegetation condition monitoring quadrats (6 in total) within the site.
- vi. Advise Council that the VMP is being reviewed.

REFERENCES

- Buchanan R.A. 2009, Restoring Natural Areas in Australia, NSW Department of Industry and Investment.
- NSW Department of Primary Industries (2014) *Noxious and environmental weed control handbook – A guide to weed control in non-crop, aquatic and bushland situations 6th Edition*. NSW Department of Primary Industries.
- NSW Rural Fire Service (2006) - *Planning for Bush Fire Protection - A Guide for Councils, Planners, Fire Authorities and Developers*. NSW Rural Fire Service.
- Wyong Shire Council (2014) Guidelines for Vegetation Management Plans. Appendix 2 of Councils Flora and Fauna Survey Guidelines.

FIGURES



Vegetation Management Plan, Bakali Road, Forresters Beach (Ref:8088/3)
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Vegetation Management Plan, Bakali Road, Forresters Beach (Ref:8088/3)
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APPENDIX 1

SITE VEGETATION DETAILS

SWAMP SCLEROPHYLL FOREST (EEC)

Structure:

Upper Stratum: To 12 metres high, with 70% Projected Foliage Cover (PFC).

Mid Stratum: To 4 metres high, with 10% PFC.

Lower Stratum: To 0.2-0.5 metres high, with 100% PFC.

Floristics:

(Characteristic Species)

Upper Stratum: *Eucalyptus robusta*, *Casuarina glauca*.

Mid Stratum: *Melaleuca quinquenervia*, *Melaleuca nodosa*, *Senna pendula* var. *glabrata* and *Lantana camara*, *Glochidion ferdinandi*, *Acacia longifolia*.

Lower Stratum: *Hydrocotyle bonariensis*, *Ageratina adenophora*, *Asparagus aethiopicus*, *Zantedeschia aethiopica* and *Stenotaphrum secundatum*, *Gahnia clarkei*, *Dianella caerulea*, *Lomandra longifolia*.

Variation:

Larger patches generally contain higher densities of trees and an unmanaged understorey, whereas smaller patches occur in areas of managed exotic grassland.

Disturbance:

Disturbances include weed invasion, clearing and ongoing understorey management.

Weed Invasion:

High levels of weed invasion were present within the understorey layers. Dominant species observed include *Senna pendula* var. *glabrata*, *Lantana camara*, *Hydrocotyle bonariensis*, *Ageratina adenophora*, *Asparagus aethiopicus*, *Zantedeschia aethiopica* and *Stenotaphrum secundatum*.

Classification:

This vegetation community corresponds to Map Unit E43ai Estuarine Paperbark Scrub Forest, as described by Bell (2009) and the endangered ecological community Swamp Sclerophyll Forest on Coastal Floodplains.



Photo 1. Swamp Sclerophyll Forest EEC

APPENDIX 2

WEED AND PATHOGEN TRANSFER MANAGEMENT

i. Weed transfer management

The implementation of weed management and removal strategies will minimise the ecological risk posed by weed invasion and aid in the maintenance of the long term environmental and ecological values of the retained areas within the site.

The following protocol is to be implemented to reduce the risk of transfer of noxious weeds and environmental weeds onto or from the subject site during site clearing, surface regrading and construction works:

- No plant material identified to contain weeds is to be transported onto the site. All introduced plant material is to be checked for weeds prior to entering the site;
- Prior to entering the site all clearing and vegetation maintenance machinery and equipment are to be cleaned of all vegetative material and soil. Any foreign vegetative or soil material is to be removed from equipment and disposed of at an approved waste management facility;
- Plant material brought onto the site is to be limited to vegetative material required for mulching or rehabilitation, revegetation and landscaping works;
- All surplus mulch from the site contaminated with weed material is to be transported to an approved waste facility;
- Piling of soil that may contain seeds of exotic species must be located outside of areas containing retained native vegetation to prevent transportation to adjacent areas during rainfall or wind events;
- Weeds are to be managed in accordance with the Biosecurity Act (2015);
- At the completion of works all machinery and equipment are to be cleaned of all vegetative material and soil prior to leaving the site.

ii. Pathogen transfer Management

The following protocol is to be implemented to reduce the risk of the transfer of pathogens such as Phytophthora (*Phytophthora cinnamomi*) or Myrtle Rust (*Uredo rangellii*) onto or from the subject site:

- If pathogens are identified, an exclusion zone should be established as required. All plant, vehicles and equipment on the site should be washed down prior to leaving the site. All infected material should be remediated on site or disposed of at an approved waste management facility.
- Introduced plant material is to be limited to vegetative material required for revegetation works.
- No plant material identified to contain pathogens is to be transported onto the site. All introduced plant material is to be supplied by a certified supplier and is to be screened for pathogens prior to entering the site.
- All mulch from the site, not suitable for re-use within the site, is to be transported to an approved waste management facility.

APPENDIX 3

REVEGETATION AND WEED MANAGEMENT GUIDELINES

PART 1 REVEGETATION METHODS

1. TIMETABLE OF WORK

The Bushland Regenerator is to provide a preliminary planting schedule which incorporates a draft timetable of works for the planting activities. A final planting schedule is to be prepared in consultation with the Proponent. This schedule should be designed to minimise the time the sites are exposed and take into account seasonal factors, availability of planting material, and timing of construction works.

2. SITE PREPARATION

Site preparation activities for all planting sites will include preliminary weed control and rubbish removal). Bare soil areas are to be sown with a native grass mix or alternate cover crop to provide temporary soil stabilisation, and (where applicable) soil erosion control measures installed.

3. PLANT MATERIAL

Plant material used for revegetation within the project area is to be sourced only from local provenance material. The Bushland Regenerator is responsible for obtaining all necessary permits and licenses. All plants are to be provided in a healthy condition. They must have good root development and a sturdy shoot system. Plants with an elongated or yellowed shoot system are not to be accepted. Planting is to be undertaken immediately after delivery. If this is not possible, the Bushland Regenerator will be required to provide appropriate storage to keep the plants in good condition on the site, adequately protected from frost, wind, sun and vermin, and secured from vandals.

4. PLANTING GUIDELINES

4.1 Planting Densities and Niche species

The Bushland Regenerator is to be responsible for planting according to the Site Planting Plan prepared by in consultation with the Proponent. This Plan will detail the required species and their distribution across the planting area. The Bushland Regenerator is to be responsible for ensuring planting densities and appropriate niche species.

Only locally indigenous plants are to be used. Niche preferences shall be considered in planting, with plants being placed in the correct position with regard to soil type, moisture, aspect and slope. Plantings should be at a density which will result in a near natural canopy density at all structural levels.

4.2 Planting Methods

Planting holes are to be excavated to a depth of 150 mm and a diameter of 200 mm. Slow release native plant fertiliser (low phosphorous formulated native plant fertilizer tablet/granules) is to be placed into the planting hole. In poorly structured soils, approximately 200 cubic centimetres of native plant soil mix is to be placed and incorporated into the planting hole with fertiliser and water storing granules. Plants must be placed into moistened soil preferably by soaking 1-2 litres of water into each hole. After planting the soil is to be replaced and carefully firmed, leaving a slight depression around each plant to allow for water collection.

All plants are to be thoroughly watered before planting and again after planting. If the weather is hot, a third watering is to be carried out within two days or a drip irrigation system set up to water plants on a weekly basis.

4.3 Plant Protection

The Bushland Regenerator is to be responsible for adequately protecting plant material from frost, wind, sun, vermin and animals. Suitable plant and stake guards are to be used around each plant and maintained throughout the maintenance period of up to 8 years. The use of Jute mats (mulch mats) is recommended where annual or grass regrowth is expected.

4.4 Mulching

After planting, the exposed ground should be mulched with low-nutrient mulch such as chipped eucalyptus. A depth of approximately 75 mm and a diameter of 400 mm around each plant are recommended. No exotic plant material is to be used. Pine bark is not considered to be a suitable mulch material. The provenance of all mulch material must be known and approved by the Bushland Regenerator. Care should be taken to keep mulch material away from the stems of the newly planted tubestock. Alternately, a light sowing of a suitable cover crop (Rye Corn or Japanese Millet) can be made between plantings to provide a protective microclimate and soil stabilizer. Sowing rates to be used are those recommended and agreed with the Bushland Regenerator.

4.5 Maintenance and Weed Control

Plantings must be suitably maintained (watering and weeding). During the maintenance phase any plant losses must be replaced at the expense of the Bushland Regenerator as part of the ongoing maintenance works.

Site maintenance is to consist of the following tasks:

- Weeding throughout the planting area;
- Watering planted material;
- Replacing dead or deceased plants (as required); and
- Removing rubbish from the planting area.

The Bushland Regenerator is to provide a preliminary maintenance schedule which incorporates a timetable of works for each of the activities listed above.

PART 2 WEED MANAGEMENT TECHNIQUES

1. BACKGROUND INFORMATION

Weed removal should be undertaken using small tools such as spades, mattocks, garden forks and saws to reduce soil disturbance and minimise damage to nearby plants. In addition to hand removal of weeds in some situations where weeds are abundant, such as for many of the grass species and when native plants will not be affected by spray drift, the use of Glyphosate herbicide is recommended in accordance with the manufacturers specifications.

Herbicides should not be applied prior to rain occurring as this reduces the herbicides' effectiveness and increases the potential to enter creeks and drainage lines in runoff.

2. WEED REMOVAL TECHNIQUES

Weeds are to be removed in accordance with the following techniques recommended by the National Trust, NSW National Parks and Wildlife Service, Australian Association of Bush Regenerators and Buchanan (2009).

2.1 Weed removal techniques for woody plants

Cut and Paint (Woody weeds to 10 cm basal diameter)

- Make a horizontal cut close to the ground using secateurs, loppers or a bush saw; and
- Immediately apply herbicide to the exposed flat stump surface.

Considerations:

- Cuts should be horizontal to prevent herbicide from running off the stump, sharp angle cuts are hazardous;
- Herbicide must be applied immediately before the plant cells close (within 30 seconds) and translocation of herbicide ceases;
- If plants resprout cut and paint the shoots after sufficient regrowth has occurred; and
- Stem scraping can be more effective on some woody weeds.

Stem Injection

- At the base of the tree drill holes at a 45 degree angle into the sapwood;
- Fill each hole with herbicide immediately; and
- Repeat the process at 5 cm intervals around the tree.

Frilling or Chipping

- At the base of the tree make a cut into the sapwood with a chisel or axe;
- Fill each cut with herbicide immediately; and
- Repeat the process at 5 cm intervals around the tree.

Considerations:

- Plants should be actively growing and in good health;
- Deciduous plants should be treated in spring and autumn when leaves are fully formed;
- For multi-stemmed plants, inject or chip below the lowest branch or treat each stem individually; and
- Herbicides must be injected immediately before plant cells close (within 30 seconds) and translocation of herbicide ceases.

2.2 Weed removal techniques for small hand-pullable plants

Hand Removal

- Remove any seeds or fruits and carefully place into a bag;
- Grasp stem at ground level, rock plant backwards and forwards to loosen roots and pull out; and

- Tap the roots to dislodge any soil, replace disturbed soil and pat down.

Considerations:

- Leave weeds so roots are not in contact with the soil eg. hang in a tree, remove from site or leave on a rock.

2.3 Weed removal techniques for vines and scramblers

Hand Removal

- Take hold of one runner and pull towards yourself;
- Check points of resistance where fibrous roots grow from the nodes;
- Cut roots with a knife or dig out with a trowel and continue to follow the runner;
- The major root systems need to be removed manually or scrape/cut and painted with herbicide; and
- Any reproductive parts need to be bagged.

Stem Scraping

- Scrape 15 to 30 cm of the stem with a knife to reach the layer below the bark/outer layer; and
- Immediately apply herbicide along the length of the scrape.

Considerations:

- A maximum of half the stem diameter should be scraped. Do not ringbark;
- Larger stems should have two scrapes opposite each other; and
- Vines can be left hanging in trees after treatment.

2.4 Weed removal techniques for plants with underground reproductive structures

Hand Removal of Plants with a Taproot

- Remove and bag seeds or fruits;
- Push a narrow trowel or knife into the ground beside the tap root, carefully loosen the soil and repeat this step around the taproot;
- Grasp the stem at ground level, rock plant backwards and forwards and gently pull removing the plant; and
- Tap the roots to dislodge soil, replace disturbed soil and pat down.

Crowning

- Remove and bag stems with seed or fruit;
- Grasp the leaves or stems together so the base of the plant is visible;
- Insert the knife or lever at an angle close to the crown;
- Cut through all the roots around the crown; and
- Remove and bag the crown.

Herbicide Treatment – Stem Swiping

- Remove any seed or fruit and bag; and
- Using a herbicide applicator, swipe the stems/leaves.

Considerations:

- Further digging may be required for plants with more than one tuber;
- Some bulbs may have small bulbils attached or present in the soil around them which need to be removed;
- It may be quicker and more effective to dig out the weed;
- Protect native plants and seedlings; and
- For bulb and corm species the most effective time to apply herbicide is after flowering and before fruit is set.

Exotic vegetation should be removed and stockpiled in a clear area away from adjoining bushland. This stockpile should be removed from the site at a convenient time. As part of the regular

maintenance of the restored area any regrowth of exotic plant species should be removed and disposed of appropriately.

3. USE OF HERBICIDES

There are various categories of herbicides currently used specifically those that kill on contact (contact herbicides), and those that must move through the tissue of the plant (systemic herbicides). Other herbicides include those that are non-selective and those that are selective. There are also those herbicides that kill all existing plants and those that prevent germination (Buchanan, 1989). The most commonly used biodegradable herbicides by bush regenerators are those containing glyphosate (ZERO ®, Glyphosate 340 ® and Roundup ®).

An advantage of herbicide use is the relatively reduced amount of time taken to spray weeds as compared to physically removing them, particularly for large infestations of weeds. Another advantage is that the dead weeds may provide some measure of soil stabilisation for a short period of time.

Herbicides should not be applied prior to rain occurring. This reduces the herbicides effectiveness as well as being transported in runoff to creeklines and waterways.

An advantage of herbicide use is the low time taken to spray weeds as compared to physically removing them, particularly for large infestations of weeds.

Buchanan (1989), recommends that the use of herbicides should be considered when:

- There are small areas of dense weeds with few or no native plants to protect;
- There are large areas of weeds;
- The weeds are growing too rapidly for physical removal; and
- The weeds are located in areas with a high potential for erosion if vegetation is removed.

The spraying of weeds must only be undertaken by experienced and qualified persons. The success of each treatment must be evaluated by the operator after a set period of time according to the labelled effectiveness for each herbicide. Care must be taken when applying herbicides near drainage lines to avoid excess use due to the sensitivity of the wetlands and waterways into which runoff will eventually flow.

PART 3
BUSHLAND REGENERATOR CONTRACTOR
COMPETENCY REQUIREMENTS

A suitably qualified and experienced professional bush regeneration contractor or landscape contractor is to be engaged to carry out any weed control, revegetation planting, restoration and maintenance works. The minimum qualifications and experience required for the bush regeneration site supervisor are TAFE Certificate IV in Conservation and Land Management (or equivalent), three years demonstrated experience and eligibility for full professional membership with the Australian Association of Bush Regenerators (AABR).

APPENDIX 3

REVEGETATION AND WEED MANAGEMENT GUIDELINES

ANNUAL SITE INSPECTION MONITORING REPORT

DA No.

REPORT No.

LOT No.

DATE:

INSPECTED BY

1) ACTIONS UNDERTAKEN DURING REPORTING PERIOD

- Fencing
-
-
- Weed Management
-
-
- Threatened Species/Habitat Protection
-
- Other Relevant Activities
-

2) VEGETATION CONDITION ASSESSMENT

- Condition of retained Vegetation
- Growth of planted trees
 - Height
 - Survival Rate
-
- Details of natural regeneration occurring
-
- Weed Occurrences/Location/Cover
-

3) OTHER MATTERS

Eg. Bushfire events, weed invasions, severe weather events etc.

4) COMPLIANCE/NON COMPLIANCE WITH REQUIREMENTS OF FLORA/FAUNA MANAGEMENT PLAN

5) REFERENCE AREA PHOTOGRAPHS

6) FOLLOW UP ACTIONS

7) CONCLUDING COMMENTS

**INSPECTION TO BE COMPLETED IN JUNE/JULY EACH YEAR
REPORT TO BE FORWARDED TO COUNCIL BY END OF JULY**

APPENDIX

Environmental Planning and Assessment Regulation 2021

(Clause 205)

EXPLANATORY NOTE

Planning Agreement

Under section 7.4 of the *Environmental Planning and Assessment Act, 1979*

Parties

Central Coast Council (ABN 73 149 644 003) of Council Chambers, Hely Street, Wyong in the State of New South Wales (**Council**)

and

Wathara NSW Pty Ltd (ACN 634 482 349) of Level 16, 101 Miller St, North Sydney NSW 2060, in the State of New South Wales (**Developer**)

Description of the Land to which the Planning Agreement Applies

Lot 522 DP 1077907, Lot 3 DP 101649 and Lot 4 DP 1000694 also known as 985-991 The Entrance Road and 139 Bakali Road Forresters Beach.

Description of Proposed Development

Development means the all residential subdivisions of and any subsequent building works on the Land together with ancillary roadworks adjacent to the Land.

Summary of Objectives, Nature and Effect of the Planning Agreement

Objectives of the Agreement

The objective of the Agreement is to identify the material public benefit in the absence of a Local Development Contributions Plan that properly relates to the Development of the Land.

Nature of the Planning Agreement

The Agreement is a planning agreement under section 7.4 of the *Environmental Planning and Assessment Act 1979* (Act). It is an Agreement between the Council and the Developer. The Agreement is a voluntary agreement under which provisions are made by the Developer for the conservation of vegetation and construction of roadworks as material public benefit.

Effect of the Agreement

The Agreement:

- relates to the Instrument Change,
- relates to the carrying out by the Developer of the Development on the Land,
- does exclude the application of section 7.11, section 7.12 or section 7.24 to the Development,
- requires the Developer to dedicate land as material public benefit and undertake certain works,
- required the Council to recognise the value of the material public benefit and undertake certain works,
- required the Developer to restore and maintain the vegetation on C2 zoned land prior to the issue of the subdivision certificate for Stage 1,
- requires the Council to embellish the open space land to be dedicated within 2 years of the land dedication occurring,
- is to be registered on the title to the Land,
- provides dispute resolution methods for a dispute under the Agreement, being mediation and arbitration, and
- provides that the Agreement is governed by the law of New South Wales.

Assessment of the Merits of the Agreement

Planning Purposes Served by the Agreement

In accordance with section 7.4(2) of the Act, the Agreement has the following public purposes:

- the provision of public amenities or public services
- the provision of transport and other infrastructure relating to land
- the conservation or enhancement of the natural environment

The Agreement provides the best means of achieving the above public purposes through the provision of a park, infrastructure for roads and the conservation of wetland vegetation.

How the Deed Promotes the Public Interest

The Agreement promotes the public interest by ensuring the dedication of land to provide for public recreation and undertaking the construction of roadworks and the conservation of endangered ecological community vegetation.

How the Agreement Promotes the Objects of the Act under which it is Constituted

The Agreement promotes the objects of the Act by:

- Promoting the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources;
- Facilitating ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment;
- Facilitating the orderly and economic use and development of the Land;
- Protecting the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats.

The Agreement provides Council with the land for a park to serve the local community, roadworks to ensure safety of residents and visitors to the land and works to ensure the conservation of the endangered ecological community.

Councils – How the Agreement Promotes the Council's Charter

The Agreement promotes the elements of the Council's Charter by:

- enabling the provision of adequate, equitable and appropriate services and facilities for the community
- enabling the proper management, development and enhancement of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development
- enabling it as the custodian and trustee of public assets to effectively plan for, account for and manage the assets for which it is responsible

keeping the local community and the State government (and through it the wider community) informed about its activities. The draft Planning Agreement provides Council with land and public works to enable appropriate services to be provided to the community and for the management of the natural environment for the benefit of those living in the area.

Whether the Agreement Conforms with Council's Capital Works Program

Yes

Council's Operational Plan identified the following objectives:

- Focus area – Cherished and Protected Natural Beauty

F2 Promote greening and ensure the well-being of communities through the protection of local bushland, urban trees, tree canopies and expansion of the Coastal Open Space System (COSS)

- Focus area – Delivering Essential Infrastructure

H1 Solve road and drainage problem areas and partner with the State Government to improve road conditions across the region

- Focus area – Balanced and Sustainable Development

I3 Ensure land use planning and development is sustainable and environmentally sound and considers the importance of local habitat, green corridors, energy efficiency and stormwater management

The Delivery Program relevant to these objectives are:

- To identify high priority conservation value lands within Central Coast Council local government area to preserve and enhance local and regional biodiversity
- Enable sustainable urban development that values energy efficiency, heritage, local character, the environment, transport, safety and liveability

The draft Planning Agreement conforms with Council's current Operational Plan and Delivery Program as it includes protection of local bushland, dedication of land to Council for open space and the undertaking of roadworks all of which will preserve local biodiversity and improve transport, safety and liveability.

Whether the Agreement specifies that certain requirements be complied with before issuing a Construction Certificate, Subdivision Certificate or Occupation Certificate

Yes.

The Agreement specifies that the Developer must:

- prior to the issue of a subdivision certificate for Stages 1, 2 and 3 of the development of the developer's land, dedicate land to Council and carry out certain works associated with the development of the land.
- prior to the issue of a subdivision certificate for Stages 1, 2 and 3 of the development of the developer's land, undertake roadworks associated with the development of the land.