



Conservation Agreement

Made under the *Biodiversity Conservation Act 2016* (NSW)

Conservation Agreement Number: [*]

Property Name: [*]

SAMPLE

Part A. Execution

Executed as a deed

Executed by the Biodiversity Conservation Trust of New South Wales

Signed sealed and delivered for and on behalf of the Biodiversity Conservation Trust of New South Wales by its duly authorised delegate in the presence of the witness named below:

I certify that an authorised officer of the Biodiversity Conservation Trust of New South Wales who is personally known to me or as to whose identity I am otherwise satisfied signed this dealing in my presence.

.....
Signature of delegate of the Biodiversity Conservation Trust of New South Wales

.....
Signature of witness

.....
Date

.....
Name of witness
(please print)

.....
Name and Title of delegate (please print)

.....
Address of witness
(please print)

Executed by the Owner

Signed, sealed and delivered by the person named below in the presence of the witness named below:

Certified correct for the purposes of the Real Property Act 1900 by the registered proprietor

*I certify I am an eligible witness and that the registered proprietor signed this dealing in my presence.
[See note* below]*

.....
Signature

.....
Signature of witness

.....
Date

.....
Name of witness
(please print)

.....
Name and Title (please print)

.....
Address of witness
(please print)

**s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.*

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Part B. Parties

The parties to this Deed are:

- The person or entity named in Item C (**Owner**)
- The Biodiversity Conservation Trust of New South Wales established under the Biodiversity Conservation Act of 4 Parramatta Square, 12 Darcy Street, Parramatta, NSW (**NSW BCT**)

Note: This Deed, once Registered, is binding on successors in title and not just the owner named above.

Note: The NSW BCT may delegate any of its functions (other than the power of delegation) to a member or committee of the Board of the NSW BCT, any employee of the NSW BCT, or any person, or a person of a class, prescribed by the Biodiversity Conservation Regulation.

Note: Any reference in this Deed to the word "Item" is a reference to the relevant item in the Schedule of Terms at Part E of this Deed.

Part C. Preamble

- A. The parties have agreed to enter into a Conservation Agreement under Part 5 Division 3 of the Biodiversity Conservation Act to protect and/or study the Biodiversity of the Conservation Area.
- B. The Owner owns the Land, which includes the Conservation Area.
- C. The Site Values Report records the condition of the Conservation Area as at the date of the Site Values Report.
- D. The Owner has agreed to comply with certain restrictions in relation to the Conservation Area, in accordance with the Law and the terms and conditions set out in this Deed.
- E. The NSW BCT has agreed to make certain payments to the Owner in certain circumstances.
- F. In executing this Deed, the parties have agreed to the schedule of terms set out in Part E and the conditions set out in Part F of this Deed
- G. Statement of intent – **delete if not applicable**

Part D. Consents required under section 5.21 of the Biodiversity Conservation Act

[*]

Entry into and registration of this Conservation Agreement is consented to by:

[*]

[*]

[*]

SAMPLE

Part E. Schedule of Terms

Item A	Agreement Date	
Item B	Term	
(clause 2)	Commencement Date	The rights and obligations under this Deed commence on the Agreement Date
	End Date	<p>[*date]</p> <p>The last day of the [*] year period commencing on the Agreement Date</p> <p>Not applicable (the Deed continues in perpetuity)</p>
Item C	Owner	
	Name of Owner at Agreement Date	[*]
	Address for service of notices	<p>[*]</p> <p>Email: [*]</p>
Item D	Biodiversity Conservation Trust of New South Wales	
	Name	The Biodiversity Conservation Trust of New South Wales (NSW BCT)
	Address for service of notices	<p>Biodiversity Conservation Trust</p> <p>Locked Bag 5022</p> <p>Parramatta</p> <p>New South Wales 2124</p> <p>Email: info@bct.nsw.gov.au</p>
Item E	Details of Land and Conservation Area	
	Land	<p>[*]</p> <p>Known as [*]</p>
	Conservation Area	The area outlined on the boundary map in the Management Plan, having an approximate area shown below
	Approximate area of Conservation Area	[*]
Item F	Aboriginal Objects and Aboriginal Places known to be present on Conservation Area	
(clause 4)	<p>[*]</p> <p>Note: The above is based on the Owner's knowledge, and a search that the NSW BCT has conducted of the Aboriginal Heritage Information Management System (AHIMS) to determine whether any Aboriginal objects or Aboriginal places are recorded in that system as existing in, on, under or in relation to the Conservation Area. The fact that AHIMS does not have any recordings in relation to the Conservation Area does not mean that Aboriginal objects or Aboriginal places do not exist in, on under or in relation to the Conservation Area (and if Aboriginal objects or Aboriginal places are recorded, this does not mean that additional Aboriginal objects or Aboriginal places do not also exist in, on, under or in relation to the Conservation Area)</p>	
Item G	Objective	
	To conserve regionally, nationally or globally outstanding ecosystems, species (occurrences or aggregations) and/ or geodiversity features: these attributes will have been formed mostly or	

	<p>entirely by non-human forces and will be degraded or destroyed when subjected to all but very light human impact.</p> <p>To protect the long-term ecological integrity of natural areas that are undisturbed by significant human activity, free of modern infrastructure and where natural forces and processes predominate, so that current and future generations have the opportunity to experience such areas.</p> <p>To maintain, conserve and restore species and habitats.</p> <p>To protect and sustain important landscapes/seascapes and the associated nature conservation and other values created by interactions with humans through traditional management practices.</p> <p>To protect natural ecosystems and use natural resources sustainably, when conservation and sustainable use can be mutually beneficial.</p>	
Item H	Offset obligation	
	Is this Deed entered into to secure an offset obligation?	<input type="checkbox"/> No <input type="checkbox"/> Yes - [*details of development]
Item I	Site Values Report	
	The document titled "Site Values Report" and dated [*date], a copy of which is set out in a document which is separate to this Deed which has been signed by the parties for identification purposes	
Item J	Special conditions	
(clause 1(b))		

Part F. Conditions

1. Definitions and interpretation

- (a) Defined terms used in this Deed are capitalised and the meaning of such terms is set out in the Dictionary at Attachment 1. Provisions relating to interpretation of this Deed are also set out in the Dictionary. Definitions and interpretation applying only to Attachment 3 are set out within Attachment 3.
- (b) The Special Conditions take precedence over any Standard Provisions, and the provisions in any Attachment, but only to the extent of any inconsistency.

2. Commencement and term

- (a) This Deed:
 - (i) commences on the Agreement Date; and
 - (ii) applies:
 - (A) in perpetuity if there is no End Date stated in Item B; or
 - (B) until the End Date if one is stated in Item B,and if registered by the Registrar-General, is binding on successors in title.
- (b) The Owner acknowledges that:
 - (i) the Site Values Report describes the condition of the Conservation Area as at the date of the Site Values Report to the best of the knowledge of the Owner and the NSW BCT; and
 - (ii) if subsequent versions of the Site Values Report are signed by the Owner from time to time and the NSW BCT, then those subsequent versions describe the condition of the Conservation Area to the best of the knowledge of the Owner and the NSW BCT at the date they are signed.

3. Existing agreements

Where the Conservation Area is already the subject of an agreement that protects and regulates the use of the Area this Deed applies and takes precedence over any of the obligations in the previous agreement.

It is not a defence to a contravention of this Deed to say that a previous agreement has been complied with.

4. Aboriginal Objects and Aboriginal Places

The parties acknowledge that nothing in this Deed authorises (including, by way of a consent, permit, approval or authorisation of any kind for the purposes of Part 6 of the NPW Act) any person to harm, damage or desecrate an Aboriginal Object or Aboriginal Place in, on or under the Conservation Area, including any objects or places described in Item F above.

5. Continued operation of *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017*

In respect of those parts of the Conservation Area that are land to which the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* applies the Deed does not operate as an authorisation of clearing under section 60O of the Local Land Services Act 2013.

Note: you will need to check if any parts of the conservation area are land to which the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* applies. For that land the controls set out in the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* apply. For areas of the Conservation Area that are covered by the SEPP the Clearing and earthwork envelopes are not be the distances set out in Part 4 of Attachment 2 - the processes and requirements set out in the SEPP must be followed.

6. Management Plan

The Owner must comply with the Management Plan.

7. Management actions

The Owner must comply with Attachment 3.

Note: Attachment 3 may contain restrictions and requirements additional to those in the Standard Provisions relating to various matters including management actions, reporting and transfer of ownership. Please note that whilst the Owner's reporting and monitoring obligations under clause 14 are optional, the Owner's reporting and monitoring obligations set out in Attachment 3 are compulsory

8. General restrictions on use of Conservation Area

The Owner must not, and must ensure that any Owner Associates do not, carry out any Prohibited Activities on the Conservation Area, unless agreed to by the NSW BCT in writing.

Note: Prohibited Activities are the Management Restrictions described in Part 2 of the Management Plan (Attachment 2). Also, see exceptions provided in clause 9 below.

9. Permitted Exceptions

Despite any other provision of this Deed, the Owner:

- (a) may carry out, or cause or permit to be carried out, any Permitted Exception;
- (b) in an emergency, or where there is an imminent risk of:
 - (i) serious personal injury; or
 - (ii) irreparable serious damage to property,may do anything that is reasonably necessary to remove or reduce such risk; and
- (c) is not required to do anything which would be inconsistent with any Identified Legal Requirement.

Note: Permitted Exceptions are described in clause 3 of Part 2 of the Management Plan (Attachment 2). Identified Legal Requirements are set out in the Dictionary (Attachment 1).

10. Owner notification

The Owner must notify the NSW BCT as soon as possible after becoming aware of any one or more of the following:

- (a) any sudden or significant decline in the Biodiversity Values, or Biodiversity, on the Conservation Area,
- (b) any threat to any of the Biodiversity Values, or Biodiversity, on the Conservation Area, or
- (c) any breach of this Deed, or any document which is expressed to be ancillary to this Deed.

Note: This includes an obligation to notify of any matter that is caused by or arises from actions of the Owner, actions of third parties and natural actions (e.g. floods or drought).

11. Owner's obligations where the Land is used by third parties

- (a) The Owner's obligations under this Deed continue when the Land is occupied or used by any third party at the invitation or with the authorisation of the Owner or an Owner's Associate.
- (b) The Owner must ensure that:
 - (i) any Occupant and any Owner Associate entering or using the Land is aware of the Owner's obligations under this Deed;
 - (ii) any Occupancy Agreement relating to the Land specifically incorporates all relevant requirements of this Deed and requires that any Occupant will not:
 - (A) cause a breach of this Deed; or
 - (B) act in a way that is inconsistent with the Owner's obligations under this Deed.

12. Change of Owner or Occupant of Land

- (a) The Owner must notify the NSW BCT in writing:
 - (i) if the Owner forms any intent to Sell, as soon as possible after such intent arises;

- (ii) where part or all of the Land is listed for Sale, within 7 days after the date of such listing;
 - (iii) of any change of ownership of part or all of the Land, within 7 days after such change;
 - (iv) of any change of an Occupant of part or all of the Land, within 28 days after such change.
- (b) A notice under clause 12(a)(iii) or 12(a)(iv) must include the name and address and other relevant contact details of the New Owner or Occupant.
 - (c) The Owner must provide a copy of this Deed to any New Owner before completion of the Sale.

Note: The circumstances in which the Land or the Conservation Area may be subdivided are restricted. For further detail see clause 2(k) of Part 2 of the Management Plan.

13. Owner to permit access for Research and Monitoring

- (a) The Owner must do all reasonable things to allow any Authorised Entrant to safely and reasonably access the Conservation Area at any time to carry out Research or Monitoring, but only where the NSW BCT or the Authorised Entrant has given reasonable notice to both the Owner and any Notified Occupant of the Authorised Entrant's intention to enter the Conservation Area and the nature of the Research or Monitoring to be conducted.
- (b) The requirements in clause 13(a) do not affect or limit the powers of Authorised Officers to enter premises in accordance with Part 12 of the Biodiversity Conservation Act.

Note: Part 12 of the Biodiversity Conservation Act grants authorised officers rights to enter premises (not limited to Conservation Areas) for various reasons including determining whether there has been compliance with or a contravention of the Biodiversity Conservation Act, determining whether there has been compliance with a Conservation Agreement and for obtaining information or records for purposes connected with the administration of the Biodiversity Conservation Act.

14. Monitoring and Reporting

The Owner may provide information about the Conservation Area to the NSW BCT, in addition to that required under this Deed, to assist in the study of the conservation or enhancement of Biodiversity, including:

- (a) the results of any monitoring, inspections or surveys carried out by the Owner with respect to the Conservation Area;
- (b) records of actions undertaken in accordance with the Management Plan; and
- (c) assessments of biodiversity outcomes for the Conservation Area.

Note: There are two types of monitoring and reporting conditions. Clause 14 is optional and the Owner is not required to undertake the reporting and monitoring activities referred to in clause 14, but may choose to do so. However the Owner is required to undertake the monitoring set out in Part 5 of Attachment 3.

15. Owner's warranties as to ownership

The Owner warrants to the NSW BCT that, as at the Agreement Date:

- (a) the Owner is the Owner of the Land and there is no other person who is Owner of the Land; and
- (b) the Owner is not aware of any challenge to the Owner's ownership of the Land.

16. Owner to obtain all necessary consents and comply with all Laws

- (a) The Owner warrants that:
 - (i) as at the Agreement Date, the Owner has obtained the written consent of all persons whose consent is required to the entry into this Deed and Registration; and
 - (ii) if any further consents are required on or after the Agreement Date, the Owner will promptly obtain the written consent of all such persons including where consent is required for the continuation, variation or termination of this Deed or any Registration of such dealings,

whether required by this Deed or by Law.

- (b) The Owner must obtain all consents and approvals necessary for, and comply with all Laws in relation to, carrying out any Permitted Exceptions and any activity that the Owner carries out in accordance with Attachment 3.

17. Land Titles Registration

- (a) The NSW BCT will:
 - (i) at its cost, Register this Deed, as soon as practicable after the Agreement Date, subject to the Owner's compliance with clauses 16 and 17(b) where applicable; and
 - (ii) prepare and register any Site Sketch Plan as part of this Deed.
- (b) If the Owner requires that the Land or Conservation Area be described by reference to a separate deposited plan, then unless otherwise agreed, the Owner must pay the costs of such separate deposited plan including surveying costs and any additional costs associated with registration of such deposited plan.
- (c) The Owner agrees to do all things reasonably required by the NSW BCT to facilitate Registration, including signing relevant dealing forms and any abstracts.

Note: The costs of preparing this Deed are addressed in clause 25.

18. Review of Deed and support by NSW BCT

- (a) The NSW BCT will, after the end of every Review Period, conduct a review of this Deed (and in particular the Management Plan) and the Site Values Report to determine whether the NSW BCT considers that any variations to either the Deed or the Site Values Report are appropriate to improve the conservation of Biodiversity on the Conservation Area.
- (b) If the outcome of any review conducted under clause 18(a) is that the NSW BCT does consider that variations to either the Deed or the Site Values Report may be appropriate, then it will notify the Owner of that outcome, and the proposed variations.
- (c) Nothing in this clause 18 requires the NSW BCT or the Owner to agree to any variation to this Deed.

Note: All variations are governed by clause 21 of this Deed.
- (d) The NSW BCT will arrange for the provision of technical advice and any other assistance to the Owner in accordance with the "Landholder Support Package" offered by the NSW BCT from time to time.

19. Indemnity and release

19.1 Release

The Owner agrees that the Protected Persons are not responsible for and releases each of the Protected Persons from any Claims arising from, in connection with, or as a consequence of:

- (a) the Owner carrying out its obligations under this Deed or acting on financial, technical or other advice provided under or in connection with the Deed;
- (b) a Protected Person exercising a right or carrying out an obligation under this Deed or the Law, including in relation to the variation or termination of this Deed;
- (c) the provision by a Protected Person of financial advice, technical advice or other assistance under, or in connection with the implementation of this Deed or the failure to provide such advice or assistance,

except to the extent caused or contributed to by the negligence or default of the Protected Persons.

19.2 Indemnity

- (a) The Owner indemnifies the Protected Persons against all Claims that the Protected Persons may sustain or incur arising from, in connection with, or as a consequence of the Owner's, Occupant's or the Owner's Associate's negligence or default under this Deed.

- (b) Unless this Deed expressly provides otherwise:
 - (i) each indemnity in this Deed survives the expiry, termination or surrender of this Deed; and
 - (ii) a party may recover a payment under an indemnity in this Deed before it makes the payment in respect of which the indemnity is given.

20. Electronic Execution

- (a) Each party consents to this document and any variations of this document being signed by electronic signature by the methods set out in this clause.
- (b) This clause applies regardless of the type of legal entity of the parties. If this document or any subsequent variations are signed on behalf of a legal entity, the persons signing warrant that they have the authority to sign.
- (c) For the purposes of this clause, the parties agree that the following methods validly identify the person signing and indicate that person's intention to sign this document and any variation of it:
 - (i) insertion of an image (including a scanned image) of the person's own unique signature on to the document;
 - (ii) insertion of the person's name on to the document; or
 - (iii) use of a stylus or touch finger on a touch screen to sign the document:
provided that in each of the above cases, words to the effect of '*Electronic signature of me, [NAME], affixed by me on [DATE/TIME]*' are also included on the document;
 - (iv) use of a reliable electronic signature and exchange platform (such as DocuSign or AdobeSign) to sign the document; or
 - (v) as otherwise agreed in writing (including via email) between the parties.
- (d) The parties agree that the above methods are reliable as appropriate for the purpose of signing this document and that electronic signing of this document by or on behalf of a party indicates that party's intention to be bound.

21. Variation

- (a) This Deed may only be varied in writing and in accordance with the Biodiversity Conservation Act.

Note: Examples of circumstances where a variation will generally be agreed include circumstances where land is to be added to the Conservation Area, or to incorporate funded management actions.
- (b) Unless otherwise agreed, the Owner must pay the NSW BCT's costs, including legal costs, of preparing any variation to this Deed that is proposed by the Owner, and registering the variation.

Note: In some cases the NSW BCT may agree to pay some of the costs associated with a variation, for example where the variation will improve Biodiversity conservation.

22. Force majeure

- (a) The Owner is:
 - (i) not required to comply with its obligations under this Deed; and
 - (ii) is not liable for any loss or liability suffered or incurred by the NSW BCT as a result of the Owner's inability to comply with its obligations,
to the extent that the Owner is prevented from complying, or its ability to comply is delayed, due to a Force Majeure Event. This applies for so long as the Force Majeure Event continues to prevent the Owner from complying.

- (b) If the Owner's ability to comply with its obligations under this Deed is affected by a Force Majeure Event it must:
- (i) promptly notify the NSW BCT as soon as it becomes aware that it is (or is likely to be) so affected, giving reasonable details of the Force Majeure Event and the obligations that will be affected;
 - (ii) take all reasonable steps to prevent, limit and minimise the effect of the Force Majeure Event on its obligations and comply again with its obligations as soon as reasonably possible; and
 - (iii) keep the NSW BCT informed of the expected duration of the effect of the Force Majeure Event and the steps it takes to comply with clause 22(b)(ii).

Note: See also clause 10 which requires the Owner to give the NSW BCT notice of certain events affecting the Conservation Area.

23. Dispute resolution

- (a) If a party believes that a Dispute has arisen, then, subject to clause 23(c), that party may not commence court proceedings unless it has first given the other party a Dispute Notice and attempted to resolve the Dispute in accordance with this clause 23.
- (b) If a Dispute Notice is given then the Owner and the NSW BCT must each appoint a representative to use all reasonable endeavours to:
- (i) promptly (and in any event within 28 days after receiving the Dispute Notice meet (in person or using electronic or telecommunications technology)); and
 - (ii) at such meeting, act in good faith to attempt to resolve the Dispute described in the Dispute Notice.
- (c) Nothing in this clause 23 prevents:
- (i) any party from seeking urgent interlocutory relief in relation to a breach of this Deed; or
 - (ii) the NSW BCT or the Minister exercising the NSW BCT's or the Minister's rights under the Biodiversity Conservation Act.

Note: This clause is not intended to limit the rights of the NSW BCT to commence civil proceedings under Part 13, Division 2 of the Biodiversity Conservation Act and does not apply where the Owner is in breach of its obligations under this Deed.

24. Disclosure of Deed and information

The Owner consents to the Disclosure Information being made publicly available as part of the register of private land conservation agreements maintained by DPE and acknowledges that that Disclosure Information may be made available to the public on the government website maintained in accordance with the Biodiversity Conservation Act.

25. Costs

Each party must pay its own costs and disbursements in relation to:

- (a) the preparation, negotiation and finalisation of this Deed.
- (b) everything it must do under this Deed unless otherwise specified in this Deed.

Note: Costs associated with registration are addressed in clause 17 and costs associated with variations are addressed in clause 21.

26. Discretion and no fetter

- (a) Except as otherwise set out in this Deed, and subject to any Law, the NSW BCT may give or withhold an approval or consent to be given under this Deed, and any such approval or consent may be subject to any conditions determined by the NSW BCT, in the NSW BCT's absolute and unfettered discretion. The NSW BCT is not obliged to give its reasons for withholding approval or consent, or giving approval or consent subject to conditions.
- (b) Nothing in this Deed is to be construed as requiring the NSW BCT to do anything that would cause the NSW BCT to be in breach of any of its obligations at Law, and without limitation

nothing in this Deed is to be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

27. Liability limited to NSW BCT only

The Owner acknowledges that neither the Crown in right of the State, nor the State's employees or agents, is in any way liable for the acts or omissions of the NSW BCT under this Deed.

28. Default and NSW BCT's rectification rights

28.1 Notice on default

If the Owner breaches any term of this Deed then the NSW BCT may give notice to the Owner:

- (a) specifying the breach; and
- (b) requiring that the breach be remedied within a reasonable time after the date of the notice.

28.2 NSW BCT may rectify

The NSW BCT may, but is not obliged to, do anything that the NSW BCT considers necessary to remedy any default by the Owner under this Deed (including having an Authorised Entrant, or any employee, agent or contractor of the NSW BCT, enter the Land to remedy the default), and whenever the NSW BCT elects to take any steps to remedy a default by the Owner all Costs incurred by the NSW BCT will be a liquidated debt and must be paid by the Owner to the NSW BCT on demand.

29. Termination

- (a) This Deed may be terminated by written notice:
 - (i) immediately, by the NSW BCT, where the Owner has not complied with a notice given by the NSW BCT in accordance with clause 28.1(b); or
 - (ii) otherwise in accordance with the Biodiversity Conservation Act.
- (b) The Owner acknowledges that the Minister is entitled to direct the NSW BCT to terminate this Deed under section 5.23(7) of the Biodiversity Conservation Act. The Owner will not make a Claim against the NSW BCT if the Minister makes such a direction and acknowledges that no compensation is payable by the Minister or the NSW BCT to the Owner in respect of variation or termination of this Deed except where compensation is payable under the Biodiversity Conservation Act or at Law.

30. Notices

30.1 Giving notices

- (a) A notice under this Deed is only given if it is in writing and is delivered, posted or emailed (as appropriate) to the Notice Address.
- (b) A party may change their Notice Address by giving the other parties at least 5 Business Days written notice of the changed details.

30.2 Time notice is given

A notice is to be treated as given or made in accordance with the following rules:

- (a) if it is delivered in person, when it is left at the relevant physical address of the recipient;
- (b) if it is sent by post within Australia, on the earlier of the following:
 - (i) the date it is actually delivered;
 - (ii) the date confirmed to be the delivery date pursuant to the tracking service; and
 - (iii) where it is sent by:
 - (A) express post service, 2 Business Days after being posted; or
 - (B) any form of post, other than express post, 4 Business Days after being posted;

- (c) if it is sent by email, as soon as it is sent provided that:
- (i) the sender does not receive a message indicating that there has been an error in the transmission; and
 - (ii) the sender also sends the notice by way of an alternative method of service (but clauses 30.2(a) and 30.2(b) will not apply to the alternative method).

Note: See clause 12 in relation to the Owner's obligation to give notice to the NSW BCT on change of ownership.

SAMPLE

Attachment 1: Dictionary and Interpretation

Part 1. Dictionary

In this Deed, unless a contrary intention appears, a capitalised word or words has the meaning given in the corresponding row in the table below. The definitions that apply to Attachment 3 only are included within Attachment 3.

Word/s	Meaning
Aboriginal Objects	The same meaning that “Aboriginal objects” has in the NPW Act <i>Note: This definition may change from time to time with changes in Law, but on the Agreement Date this meaning was “any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains”</i>
Aboriginal Places	The same meaning that “Aboriginal places” has in the NPW Act <i>Note: This definition may change from time to time with changes in Law, but on the Agreement Date this meaning was “any place declared to be an Aboriginal place under section 84” of the NPW Act</i>
Agreement Date	The date on which the last party executes the Deed, being the date set out in Item A
Attachment	A numbered attachment at the end of this Deed
Authorised Entrant	Any one or more of the following: <ul style="list-style-type: none"> – the NSW BCT – the Environment Agency Head – an officer of DPE or the NSW BCT – any person that the NSW BCT, the Environment Agency Head or an officer of DPE or the NSW BCT requests the Owner to allow onto the Land to carry out Research and/or Monitoring where the Owner has consented to such request (such consent not to be unreasonably withheld or delayed)
Authorised Officer	A person who is appointed as an authorised officer under Part 12 of the Biodiversity Conservation Act <i>Note: This definition may change from time to time with changes in Law, but on the Agreement Date, the Environment Agency Head may appoint any person (including a class of persons) as an authorised officer</i>
Authority	Any federal, state or local government authority, body or department having jurisdiction in relation to the Land or this Deed and includes any governmental or semi-governmental or local governmental authority, administrative or judicial body or tribunal, department, commission, public authority, agency, minister, statutory corporation or instrumentality
Biodiversity	The meaning given to it in section 1.5 of the Biodiversity Conservation Act <i>Note: This definition may change from time to time with changes in Law, but on the Agreement Date this meaning was “the variety of living animal and plant life from all sources, and includes diversity within and between species and diversity of ecosystems”</i>

Word/s	Meaning
Biodiversity Conservation Act	The <i>Biodiversity Conservation Act 2016 (NSW)</i> and any regulations from time to time in force under that Act
Biodiversity Conservation Regulation	The <i>Biodiversity Conservation Regulation 2017 (NSW)</i>
Biodiversity Values	The meaning given to it in section 1.5 of the Biodiversity Conservation Act <i>Note: This definition may change from time to time with changes in Law, but on the Agreement Date this meaning was:</i> <ul style="list-style-type: none"> – <i>vegetation integrity</i>—being the degree to which the composition, structure and function of vegetation at a particular site and the surrounding landscape has been altered from a near natural state, – <i>habitat suitability</i>—being the degree to which the habitat needs of threatened species are present at a particular site, – <i>threatened species abundance</i>—being the occurrence and abundance of threatened species or threatened ecological communities, or their habitat, at a particular site, – <i>vegetation abundance</i>—being the occurrence and abundance of vegetation at a particular site, – <i>habitat connectivity</i>—being the degree to which a particular site connects different areas of habitat of threatened species to facilitate the movement of those species across their range, – <i>threatened species movement</i>—being the degree to which a particular site contributes to the movement of threatened species to maintain their lifecycle, – <i>flight path integrity</i>—being the degree to which the flight paths of protected animals over a particular site are free from interference, – <i>water sustainability</i>—being the degree to which water quality, water bodies and hydrological processes sustain threatened species and threatened ecological communities at a particular site”
Business Day	A day that is not: <ul style="list-style-type: none"> – a Saturday, Sunday, public holiday or bank holiday in Sydney, Australia; or – 24, 27, 28, 29, 30 or 31 of December
Claim	Any claim, damage, demand, liability, Cost, loss, suit, proceeding (whether actual or potential), right of action and claim for compensation
Clearing and Earthworks Envelopes	The distances and other restrictions set out in Part 4 of the Management Plan
Conservation Area	The area described in Item E beside the words “Conservation Area”

Word/s	Meaning
Cost	Any cost, expense, charge, payment, outgoing, loss or other expenditure of any nature whether direct, indirect or consequential and whether accrued or paid and includes legal costs and expenses on whichever is the higher of a full indemnity basis or solicitor and own client basis
Deed	This deed and includes any attachments, annexures or schedules attached to this deed
Development	The meaning given to it in section 1.6 of the Biodiversity Conservation Act <i>Note: This definition may change from time to time with changes in Law, but on the Agreement Date this meaning was:</i> “(a) the use of land, and (b) the subdivision of land, and (c) the erection of a building, and (d) the carrying out of a work, and (e) the demolition of a building or work, and (f) any other act, matter or thing referred to in section 26 of the Environmental Planning and Assessment Act (NSW) 1979 that is controlled by an environmental planning instrument, but does not include the demolition of a temporary structure”
Dictionary	This Attachment titled “Dictionary and Interpretation” and includes any replacement or updated component of such Attachment from time to time
Disclosure Information	The information contained in this Deed, including a copy of the Deed and details of the location of the Land, Management Plan and any funding arrangements (where applicable)
Dispute	A dispute, difference or claim in connection with this Deed (but excluding any dispute, difference or claim in connection with clause 28 or 29)
Dispute Notice	A notice setting out: – the nature, or subject matter, of the Dispute, including a summary of any efforts made to resolve other than in accordance with the Dispute Resolution Process; – the identity of any other person centrally involved in the Dispute; – the intent to invoke the Dispute Resolution Process; and – (if practicable) the outcomes which the notifying party wishes to achieve
Dispute Resolution Process	The process set out in clauses 23(a) and 23(b)
DPE	The Department of Planning and Environment
End Date	The date set out in Item B beside the words “End Date”
Environment Agency Head	The meaning given to it in section 1.6 of the Biodiversity Conservation Act <i>Note: This definition may change from time to time with changes in Law, but on the Agreement Date this meaning was “the Secretary of the Department of Planning and Environment”</i>

Word/s	Meaning
FloraBank Model Code of Practice	The model code of practice published by Florabank from time to time <i>Note: As at the Agreement Date, the model code of practice is available at http://www.florabank.org.au/default.asp?V_DOC_ID=807</i>
Force Majeure Event	An event that is beyond the reasonable control of the Owner, including any natural disaster, fire, flood, accident, war, riot, act of terrorism, biohazard or a serious epidemic, but only to the extent that such events were beyond the Owner’s reasonable control. A force majeure event does not however include any obligation to pay money, a labour dispute or shortage of materials or labour
Healthy Condition (of ground cover)	A threshold of condition of the ground layer vegetation where both of the following criteria are recorded and observed across the majority (80%) of the paddock/zone: – Ground cover and soil protection - greater than [XX]% of ground cover of vegetation (including all living plants <1m in height) and any associated dead plant material, fungi, mosses and lichens; and – Height and structure - tussocks of key native grasses [insert site specific examples using common names and species] with an average sward height of greater than [YY]cm tall over the area.

Word/s	Meaning
Identified Legal Requirements	<p>Any one or more of the requirements listed below:</p> <ul style="list-style-type: none"> – under the <i>Biosecurity Act 2015 (NSW)</i>: <ul style="list-style-type: none"> + an emergency order under section 44; + a control order under section 62; + a requirement to assist an authorised officer under section 103; or + a biosecurity direction under section 128; – a weed control notice issued under and prior to the repeal of the <i>Noxious Weeds Act 1993 (NSW)</i>; – under the <i>Local Land Services Act 2013 (NSW)</i>: <ul style="list-style-type: none"> + a pest control order under section 130, + an eradication order under section 144, + a requirement for destruction of pests under section 152, or + a requirement to assist an authorised officer under section 179 – a direction under section 37A of the <i>State Emergency and Rescue Management Act 1989 (NSW)</i> in relation to a state of emergency or a direction under section 22A of that Act, – under the <i>Rural Fires Act 1997 (NSW)</i>: <ul style="list-style-type: none"> + any notified steps under section 63, + a direction under section 45 for the prevention, control or suppression of any bush fire, + a bush fire hazard reduction notice under section 66, + an emergency fire fighting act within the meaning of that Act, + emergency bush fire hazard reduction work within the meaning of that Act, – otherwise as part of any managed bushfire hazard reduction work that is carried out in accordance with a current bushfire hazard reduction certificate that applies to the work or the provisions of any bushfire code applying to the land specified in the certificate
Infrastructure	<p>The meaning given to “infrastructure” and “rural infrastructure” in Part 3 of Schedule 5A of the <i>Local Land Services Act 2013 (NSW)</i></p> <p><i>Note: This definition may change from time to time with changes in Law, but on the Agreement Date this meaning includes: a building, structure or work, fences, roads, tracks, irrigation channels or pipelines, stock or domestic water supply pipelines, soil conservation earthworks, cut lines for stock movement, bore drains, drains to water storages, telephone lines or cables, power lines or cables or areas for movement of large machinery, shearing, machinery, grain, hay or similar sheds, stock handling facilities, dams, ground tanks, windmills, bores, pumps, tanks or water points</i></p>
Item	A sequential item in the terms schedule at the end of this Deed
Land	The land described in Item E beside the word “Land”

Word/s	Meaning
Law	The common law, any requirement of any rule, statute, proclamation, regulation, ordinance or by-law, present or future, and whether state, federal or otherwise and the requirements of any Authority
Management Plan	The attachment titled “Management Plan” at Attachment 2 and includes any replacement or updated component of such Attachment from time to time
Minister	The Minister responsible for administering the Biodiversity Conservation Act
Monitoring	Observing and making records (in any form) of any one or more of the following: <ul style="list-style-type: none"> – the status of and changes to Biodiversity and Biodiversity Values – compliance by the Owner with this Deed and the Biodiversity Conservation Act
Native Plant	<p>The meaning given to it in section 5 of the NPW Act</p> <p><i>Note: This definition may change from time to time with changes in Law, but on the Agreement Date this meaning was “native plant means any tree, shrub, fern, creeper, vine, palm or plant that is native to Australia, and includes the flower and any other part thereof”</i></p>
Native Vegetation	<p>The meaning given to it in section 1.6 of the Biodiversity Conservation Act</p> <p><i>Note: This definition may change from time to time with changes in Law, but on the Agreement Date this meant any plants (including trees, saplings, shrubs, scrub, groundcover) native to New South Wales (ie established in New South Wales before European settlement)</i></p>
New Owner	Any transferee, assignee or novatee of part or all of the Owner’s interest under this Deed, including by way of a sale of the Land, or any part of the Land
Note	Any indented or <i>italicised</i> text in this point 8 font and prefaced by the word “Note:”
Notice Address	The address set out in Item C or Item D beside the words “Address for service of notices” for the party to whom the notice is to be given
Notified Occupant	Any Occupant that the NSW BCT is aware of because the Owner has provided the notification required under clause 12(a)
NPW Act	The <i>National Parks and Wildlife Act 1974 (NSW)</i> and any regulations from time to time in force under that Act
Occupancy Agreement	Any lease or licence or other agreement which permits entry to or occupancy of any part of the Land (including the Conservation Area)
Occupant	Any person who occupies any part of the Land pursuant to an Occupancy Agreement (but does not include an Owner)

Word/s	Meaning
Owner	<p>The person described as “Owner” at Part B at the beginning of this Deed, any successor or assign under Part 2(a)(v) of this Dictionary and any person who is an “owner” within the meaning given to “owner” in section 1.6 of the Biodiversity Conservation Act</p> <p>Note: This definition may change from time to time with changes in Law, but on the Agreement Date this meaning was:</p> <p>(a) every person who, either at law or in equity:</p> <p>(i) is entitled to the land for any estate of freehold in possession, or</p> <p>(ii) is a person to whom the Crown has lawfully contracted to sell the land under the Crown Lands Act 1989 or any other Act relating to the alienation of lands of the Crown, or</p> <p>(iii) is entitled to receive, or is in receipt of, or if the land were let to a tenant would be entitled to receive, the rents and profits in respect of the land, whether as beneficial owner, trustee, mortgagee in possession or otherwise, and</p> <p>(b) a person who leases land under the Crown Lands Act 1989, the Crown Lands (Continued Tenures) Act 1989 or the Western Lands Act 1901, and</p> <p>(c) any other person who, under the regulations, is taken to be the owner of the land, but (unless the regulations otherwise provide) does not include a beneficiary of a trust relating to the land</p>
Owner Associate	Any representative, servant, contractor, consultant, agent, lessee, licensee or invitee of the Owner
Passive Commercial Activities	Commercial activities that are passive in nature, including ecotourism, environmental education and environmental market schemes (eg Biodiversity and Carbon trading)
Passive Recreational Activities	Recreational activities that are passive in nature, including nature-based recreations such as birdwatching, bush walking, camping (including camp fires), mountain biking and rock climbing
Permitted Exception	An activity specified in clause 3 of Part 2 of the Management Plan provided it is carried out lawfully and in accordance with the requirements within that part, and only in the Management Zones for which the activity is permitted
Pest	Any member of the animal kingdom that has been: <ul style="list-style-type: none"> – specified as a pest in the Site Values Report; or – declared by a pest control order under the <i>Local Land Services Act 2013 (NSW)</i> to be a pest
Pest Control	The control of a Pest using methods recommended by the NSW BCT or other relevant NSW Government authority, which minimise damage to non-target native animals

Word/s	Meaning
Pesticide	<p>The same meaning that it has in section 5 of the <i>Pesticides Act 1999 (NSW)</i>.</p> <p>Note: The definition may change from time to time with changes in law but on the Agreement Date this meaning was that a Pesticide was:</p> <p>(a) an agricultural chemical product (within the meaning of the <i>Agvet Code</i>), or</p> <p>(b) a veterinary chemical product (within the meaning of the <i>Agvet Code</i>) that:</p> <p>(i) is represented as being suitable for, or is manufactured, supplied or used for, the external control of ectoparasites of animals, and</p> <p>(ii) is concentrated and requires dilution or mixing in water before use, and</p> <p>(iii) is not prescribed under the <i>Stock Medicines Act 1989</i> as a low-risk veterinary chemical product</p> <p>Note: the definition of Pesticide includes herbicide</p>
Prohibited Activity	An activity specified as a Management Restriction in Part 2 of the Management Plan
Protected Animal	<p>The same meaning that it has in section 1.6 of the Biodiversity Conservation Act</p> <p>Note: This definition may change from time to time with changes in Law, but on the Agreement Date this meaning was “an animal of a species listed or referred to in Schedule 5 of the <i>Biodiversity Conservation Act</i>” and “animal means any animal, whether vertebrate or invertebrate and in any stage of biological development, but does not include:</p> <p>(a) humans, or</p> <p>(b) fish within the meaning of the <i>Fisheries Management Act 1994</i>”</p>
Protected Person	<p>Each and all of the following:</p> <ul style="list-style-type: none"> – the NSW BCT – the Environment Agency Head – the employees or officers of the Department of Planning and Environment – the members and committees of the Board of the NSW BCT – the employees and officers of the NSW BCT – any other person acting under the delegation, direction or control of the NSW BCT, the Environment Agency Head or the NSW BCT for any purpose – the Crown in right of the State of New South Wales
Registration	Registration of this Deed, or the variation or termination of this Deed, in the Register kept under the <i>Real Property Act 1900 (NSW)</i> and includes, where the context allows, an application to register this Deed and “Register” has a corresponding meaning
Research	The investigation into and study of facts relating to Biodiversity and Biodiversity Values, and the conservation of Biodiversity and Biodiversity Values

Word/s	Meaning
Review Period	Each 5 year period commencing on the Agreement Date and each 5 th anniversary of the Agreement Date
Seed Collection	The collection of native plant seed for the purposes of ecological restoration works
Sell	To sell, transfer, gift, assign or otherwise dispose of and "Sale" has a corresponding meaning
Site Sketch Plan	A plan in registrable form which is part of this Deed showing the boundaries of the Conservation Area, but not a deposited plan or subdivision plan which is separate to this Deed
Site Values Report	The document described in Item I
Special Conditions	The terms and conditions set out in Item J
Standard Provisions	Clauses 1 to 30 of this Deed, and this Dictionary
State	The State of New South Wales
Stock Grazing Monitoring Form	The form attached to this Deed at Part 5 of the Management Plan under the heading "Stock Grazing Monitoring Form"
Subdivide	To physically or legally (or both) split or separate the Land into portions or to make any application to an Authority for such a split or separation
Term	The period commencing on the Agreement Date and ending on the End Date
Threatened Ecological Communities	Vegetation communities that are: <ul style="list-style-type: none"> – known to occur within the Conservation Area and specified as a threatened ecological community in the Site Values Report; or – listed in Schedule 2 to the Biodiversity Conservation Act; or – listed in accordance with the <i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>
Threatened Species	The same meaning as in section 1.6 of the Biodiversity Conservation Act <i>Note: This definition may change from time to time with changes in Law, but on the Agreement Date a list of threatened species was available at https://www.legislation.nsw.gov.au/#/view/act/2016/63/sch1</i>
Tracks and Infrastructure Map	The map of that name contained within the Management Plan
Vehicle	Motorised vehicles including motor bikes, quad bikes, farm machinery, cars, utes
Weed	A plant that has been: <ul style="list-style-type: none"> – specified as a weed in the Site Values Report; or – declared to be a noxious weed under and prior to the repeal of the <i>Noxious Weeds Act 1993 (NSW)</i>
Weed Control	The control of a Weed using methods recommended by the NSW BCT or other relevant NSW Government authority, which minimise damage to non-target native plants

Part 2. General interpretation and other provisions

The following rules of interpretation and standard provisions apply when interpreting this Deed:

- (a) In the interpretation of this Deed, the *Interpretation Act 1987 (NSW)* applies as if this Deed were an "instrument" for the purposes of that legislation as well as each of the following rules, unless the context otherwise requires:
- (i) headings and Notes are inserted for convenience only and do not affect the interpretation of this Deed;
 - (ii) any reference to an action, or carrying out an action, in this Deed includes a reference to doing anything or refraining from doing anything;
 - (iii) any body (including an institute, association or Authority) that ceases to exist or whose powers or functions are transferred, refers to the body that replaces it or substantially inherits its powers or functions;
 - (iv) nothing in this Deed is to be interpreted against a party solely on the ground that the party put forward this Deed or any part of it;
 - (v) a reference to any party to this Deed includes that party's successors and permitted assigns; and
 - (vi) a reference to the word 'include' or 'including' is to be construed without limitation and any examples included in this Deed to illustrate the effect of a provision are not to be construed to limit the extent of the matters that may be captured.
- (b) If the Owner (including any Owner who becomes the "Owner" for the purposes of this Deed after the Agreement Date) comprises more than one person, each of them is liable individually under this Deed and each of them is also liable jointly with any one or more of the others who comprise the Owner.
- (c) Where anything depends on the consent or approval of a party, then, unless this Deed says otherwise, that consent or approval may be given or withheld in the absolute discretion of that party, and, if given, may be given subject to conditions.
- (d) If a clause or part of a clause 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 Deed, but the rest of this Deed is not affected.
- (e) This Deed comprises the whole of the agreement between the parties in respect of the subject matter of this Deed.
- (f) The Owner acknowledges that, except as expressly stated in this Deed, the Owner has not relied on any representation, warranty or undertaking of any kind made by or on behalf of the NSW BCT in relation to the subject matter of this Deed.
- (g) Each party must, at its own expense, promptly execute all documents and do, or use reasonable endeavours to cause a third party to do, all things that another party from time to time may reasonably request in order to give effect to, perfect or complete this Deed and all transactions contemplated by it.

Attachment 2: Management Plan

Part 1. Conservation Area boundary map

SAMPLE

Part 2. Management of the Conservation Area Restrictions and Permissions

Owner Duties

1. The Owner agrees to manage the Conservation Area in accordance with this Management Plan and will not carry out or permit to be carried out any act or omission that may harm:
 - (a) Biodiversity Values, or
 - (b) Biodiversity, including any Protected Animals, Native Plants, Threatened Species, Threatened Ecological Communities, and their habitats,in, on, under or in relation to the Conservation Area, except to the extent that the act or omission is a Permitted Exception or is required to comply with an Identified Legal Requirement.

Management Restrictions

2. Without limiting the activities that are prohibited under clause 1 of this Part 2 of this Management Plan, the Owner must not do any one or more of the following:
 - (a) clear Native Vegetation;
 - (b) cultivate the land, sow crops or plant or promote growth of exotic plants;
 - (c) graze livestock or permit livestock or non-native fauna to occupy the Conservation Area;
 - (d) carry out, or allow to be carried out, any Development in, on, under or in relation to the Conservation Area;
 - (e) construct any Infrastructure, including tracks or fences, beyond that shown on the Tracks and Infrastructure Map;
 - (f) carry out earthworks, including soil disturbance or removal of rock, beyond that described in the Clearing and Earthworks Envelopes;
 - (g) remove fallen timber, dead wood or other dead vegetation;
 - (h) use fertilisers;
 - (i) use Pesticides (including herbicides) ;
 - (j) use Vehicles off tracks and roads shown on the Tracks and Infrastructure Map; or
 - (k) Subdivide:
 - (i) the Conservation Area; or
 - (ii) the Land, except where it has satisfied the NSW BCT that the Subdivision will not have any negative impact on the Biodiversity or Biodiversity Values in on or in relation to Conservation Area. The Owner must obtain the NSW BCT's written consent prior to taking any steps to Subdivide the Land,except, in the case of each activity set out above, to the extent that the activity is a Permitted Exception or is required to comply with an Identified Legal Requirement.

Permitted Exceptions (Management Permissions)

3. Despite the restrictions in clause 2 of Part 2 of the Management Plan, the Owner may conduct, or cause or permit any one or more of the following activities in the Conservation Area:
 - (a) maintenance of Infrastructure shown on the Tracks and Infrastructure Map, and in accordance with Clearing and Earthworks Envelopes
 - (b) collection of non-hollow fallen timber for the heating of the Owner's dwelling on the Land and for camp fires in the Conservation Area
 - (c) grazing of domestic stock if permitted in accordance with Part 5 of this Management Plan
 - (d) Weed Control and Pest Control, and use of Pesticides (including herbicides) for Weed Control and Pest Control in accordance with the label and registered off label use
 - (e) erosion control
 - (f) use of Vehicles off tracks and roads shown on the Tracks and Infrastructure Map where undertaking:
 - (i) mustering of stock that have entered the Conservation Area
 - (ii) Weed Control
 - (iii) erosion control works
 - (iv) Pest Control

- (v) maintaining Infrastructure shown on the Tracks and Infrastructure Map
- (vi) any management actions that the Owner is required to undertake under Attachment 3 in accordance with the standards specified in that Attachment 3
- (g) any management actions the Owner is required to undertake under Attachment 3 in accordance with the standards specified in that Attachment 3
- (h) Seed Collection, where undertaken in accordance with the FloraBank Model Code of Practice
- (i) use of horses and dogs (including off the tracks marked on the Tracks and Infrastructure Map) when used for mustering stock that have entered the Conservation Area or use of dogs for Passive Recreational Activities provided that they are under the control of the Owner or those authorised by the Owner
- (j) Passive Recreational Activities
- (k) Passive Commercial Activities

Note: The Owner is responsible for obtaining all necessary consents to carry out Permitted Exceptions, and to ensure that any Permitted Exceptions are conducted in accordance with all other relevant laws.

Part 3. Tracks and Infrastructure within the Conservation Area

The Infrastructure present in the Conservation Area at the Agreement Date is described in table below under the heading "Tracks and Infrastructure within the Conservation Area" and shown in the Tracks and Infrastructure Map below.

Tracks and Infrastructure within the Conservation Area

	Description
Buildings	e.g. None in Conservation Area. In the main domestic area (exclusion zone 1) there are agricultural sheds in and a cabin in the north east.
Roads and tracks	e.g. The main access track is unsealed 2WD through Conservation Area into SW of exclusion zone 1. Internal tracks well maintained 4wd grass or sand/gravel. Further planned network of tracks as per map D. These will be for fire and walking access.
Fences	e.g. Old post and wire on western (6 strand barb) and seven strand barb northern boundary in moderate condition. New steel post and wire fence with ring lock and two top barbs on remainder (east and south) in good condition < 20 years old. No internal fencing.
Dams/other water infrastructure	e.g. There are three dams, two on the main drainage line within the Conservation Area and one in exclusion zone 1. There are four solar pumps (see map D for locations). There is an old well beside the track to west of exclusion zone 1.
Bushfire hazard reduction works	e.g. The boundary slashed regularly and tracks maintained plus slashing of domestic area (exclusion zone 1).
Stockyards	no
Electricity transmission	no

Track and Infrastructure Map

SAMPLE

Part 4. Clearing and Earthworks Envelopes

Note: please refer to condition 5 Continued operation of State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017. For parts of the Conservation Area that are covered by the SEPP the relevant requirements to follow will be those of the SEPP not the permissions set out in the table.

Clearing and earthworks may only be undertaken in the Conservation Area:

- (a) to the minimum extent necessary where required to maintain the Infrastructure specified in Part 3 of the Management Plan; and
- (b) in any case, to the maximum distances set out in the table in this Part 4, being distances:
 - (i) of the total width for linear Infrastructure (such as tracks and fences); or
 - (ii) from the outer edge of the structure for point Infrastructure.

Infrastructure	Maximum distance
Permanent boundary fence	6 m (either side of the fence)
Permanent internal fence	6 m total width of clearing
Temporary fence	3 m total width of clearing
Road or track	6 m total width of clearing
Pipeline	3 m total width of clearing
Buildings other than habitable buildings. Includes Shearing, or machinery shed	20 m from the outer edge of the structure or 12 m if a small holding*
Irrigation channels or pipelines, stock or domestic water supply pipelines, soil conservation earthworks, cut lines for stock movement, bore drains, drains to water storages, telephone lines or cables, power lines or cables or areas for movement of large machinery, stock handling facilities, ground tanks	15 m from the outer edge of the structure No provision for small holding*
Tank (other than a ground tank)	3 m from the outer edge of the structure
Dam	15 m from the outer edge of the structure or 12 m if a small holding*
Stockyards	15 m from the outer edge of the structure or 12 m if a small holding*
Bore	10 m from the outer edge of the structure or 6 m if a small holding*
Pump	3 m from the outer edge of the structure
Water point	3 m from the outer edge of the structure
Windmill	10 m from the outer edge of the structure or 6 m if a small holding*

Infrastructure	Maximum distance	
Electricity transmission Refer to Clause 24 Electricity transmission infrastructure, Schedule 5A Allowable activities clearing of native vegetation, <i>Local Land Services Act 2013 (NSW)</i> .	Nominal operating voltage of power line	Maximum clearing distance
	Not more than 11 kV	20 m
	Above 11 kV up to and including 33 kV	25 m
	Above 33 kV up to and including 66 kV	30 m
	Above 66 kV up to and including 132 kV	45 m
	Above 132 kV up to and including 330 kV	60 m
	Above 330 kV	70 m
Telecommunications infrastructure	15 m for Western and Central Zone. No allowance for Coastal Zone or small holdings in any Zone	

SAMPLE

Part 5. Grazing and Ground Cover Management

Not applicable, livestock are not permitted in the Conservation Agreement area

Note: Clause 3(c) of Part 2 of this Attachment states that grazing by livestock is permissible if in accordance with and permitted by this part.

1. The Owner may allow livestock to graze within the Conservation Area, in areas of grassy ecosystems, provided grazing is undertaken in accordance with the following and the conditions specified in clause 2 of this Part 5 below:

Grazing Management: Management Zone [*] may be grazed by livestock only within the [agreed Grazing Window] whilst maintaining groundcover in Healthy Condition.

The *Grazing Window* is a period set out in the management plan and is based on key growth times for the target native grasses and exotic plants recorded in the management zone.

Management Zone [*] must be:

- (a) rested from stock grazing for a minimum of [*] years, then:
- (b) grazed for:
 - (i) a maximum of [*] period[s] per year,
 - (ii) no more than [*] days per grazing period, and
 - (iii) a total number of grazing days per year not exceeding [*] days

for control of [weed/s] and/or excessive grass biomass whilst maintaining groundcover in Healthy Condition.

Grazing Exclusion: Management Zone [*] excludes grazing for the duration of the agreement.

2. Standard conditions for all allowable grazing:
 - (a) If the ground cover within a management zone is observed by the Owner or deemed by the NSW BCT to be below the defined threshold of Healthy Condition, livestock must be removed from the management zone, or not introduced into the management zone. Should this occur, stock must not be reintroduced until the next Grazing Window and until ground cover meets the defined threshold of Healthy Condition.
 - (b) Numbers/type of stock, day/s of year, and duration of grazing period in the Conservation Area must be recorded by the Owner on the Stock Grazing Monitoring Form to assist with on-going management and monitoring.
 - (c) The NSW BCT acknowledges that the condition of the ground cover may be affected by native herbivores. If native herbivore control is carried out, it must be conducted in accordance with Special Conditions in Item J of this Deed.
 - (d) If necessary, extended use of stock grazing for Weed Control or biomass reduction (for short periods) may occur outside of these conditions with prior written agreement from the NSW BCT and provided grazed paddocks are maintained in Healthy Condition.
 - (e) Use of the Conservation Area for stock shelter is appropriate for the duration of sheep-weather warnings, as issued by the Bureau of Meteorology

Stock Grazing Monitoring Form

SAMPLE

Attachment 3: Funded management attachment

Part 1. Payments

Payment Table

Payment timing	Amount (excluding GST)
After the Agreement Date	\$[* amount]
After the end of the first Reporting Period	\$[* amount for the first year]
After the end of the second Reporting Period	\$[* amount for the second year]
After the end of the third Reporting Period	\$[* amount for the third year]
After the end of the fourth Reporting Period	\$[* amount for the fourth year]
After the end of the fifth Reporting Period	\$[* amount for the fifth year]
After the end of the sixth Reporting Period	\$[* amount for the sixth year]
After the end of the seventh Reporting Period	\$[* amount for the seventh year]
After the end of the eighth Reporting Period	\$[* amount for the eighth year]
After the end of the ninth Reporting Period	\$[* amount for the ninth year]
After the end of the tenth Reporting Period	\$[* amount for the tenth year]
After the end of the eleventh Reporting Period	\$[* amount for the eleventh year]
After the end of the twelfth Reporting Period	\$[* amount for the twelfth year]
After the end of the thirteenth Reporting Period	\$[* amount for the thirteenth year]
After the end of the fourteenth Reporting Period	\$[* amount for the fourteenth year]
After the end of the fifteenth Reporting Period and each subsequent Reporting Period	\$[* amount for the fifteenth year and subsequent years]

Part 2. Funded Management Actions

1. The Owner agrees to complete the Funded Management Actions listed in Part 3 of this Attachment:
 - (a) within designated Management Zones of the Conservation Area shown in Part 4 of this Attachment;
 - (b) from the Agreement Date until [XXXX], or as specified; and
 - (c) to the required minimum standards or guidelines listed for each activity in Part 3 of this Attachment (if any).
2. The Owner agrees to provide the NSW BCT with an Annual Report in accordance with clause 2 of Part 5 of this Attachment.

Part 3. Funded Management Actions Table

Management Issue	Long term Target / Indicator	Zone	Action - Maintain	Action - Enhance	Action - Restore	Management Action Goal	Timing	Required Minimum Standard - In <u>addition</u> to text below, the landholder must / should conduct action in accordance with relevant guidelines

Part 4. Map of Management Zones

SAMPLE

Part 5. Funded Management Conditions

1. Implementing Funded Management Actions

- (a) The Owner agrees to use all reasonable endeavours to Complete each Funded Management Action by the relevant Required Date.
- (b) Despite clause 1(a) of this Part 5 the obligation to carry out a Funded Management Action continues until the Funded Management Action has been carried out even if the Required Date has passed and the relevant Payment Amount will be delayed until that Funded Management Action has been Completed.
- (c) The Owner's obligation to carry out a Funded Management Action will be satisfied if the Funded Management Action is carried out by a third party, however the Owner's obligations are not released and the Owner is still responsible where the Owner contracts or otherwise allocates responsibility for complying with the Owner's obligations to another person.
- (d) An obligation to carry out a Funded Management Action may include an obligation to refrain from an action or activity from a certain date or event, and where that is the case that obligation applies, whether or not that action or activity had been done on the Conservation Area prior to that date or event.
- (e) Where a Funded Management Action requires the Owner to refrain from an action or activity, the Owner must not carry out that action or activity and must not cause, authorise or permit any other person to carry out that action or activity.
- (f) The Owner must comply with all Laws and obtain all necessary licences, consents, authorisations, permits or approvals necessary to carry out the Owner's obligations under, or activities permitted under, this Funded Management Attachment, including for any Funded Management Actions and the Permitted Exceptions.

2. Landholder Report

- (a) The Owner must complete and submit a report to the NSW BCT for approval within 14 days after the end of each Reporting Period:
 - (i) using the Annual Report Template;
 - (ii) demonstrating satisfactory Completion of each Funded Management Action required to be Completed within that Reporting Period by:
 - (A) specifying the relevant Funded Management Action that has been Completed; and
 - (B) attaching Supporting Evidence.

Note: Evidence will vary depending on the nature of the Management Action. For example, photographs may be appropriate to demonstrate Completion of a particular milestone, or, where the Management Action requires works, appropriate evidence may be receipts from the contractor demonstrating that the work has been carried out.
- (b) The NSW BCT may require that the Owner provide further evidence supporting Completion of a Funded Management Action where, acting reasonably, it considers that the evidence provided with the Annual Report is not sufficient.
- (c) An Annual Report must be submitted by registered post, or by such other means as is agreed with the NSW BCT in relation to a particular Reporting Period.
- (d) The Owner will not be entitled to any payment from the NSW BCT in respect of a Reporting Period until the NSW BCT has received the Annual Report for that Reporting Period.
- (e) The Owner may request that the NSW BCT assist the Owner to complete the Annual Report by telephone or email conversation. However, the Owner must provide final confirmation that the Annual Report is correct and complete.
- (f) If there is a change in ownership of a Conservation Area during a Reporting Period:
 - (i) each Owner of the Conservation Area during that Reporting Period must submit an Annual Report in accordance with these Reporting Obligations in the period for which they were the "Owner" for the purposes of this Deed; and
 - (ii) any Owner who ceases to be the Owner of the Conservation Area during that Reporting Period must, within 30 days after they cease to be an Owner of the Conservation Area, submit an Annual Report for the period during which they were the Owner.

Note: Owners are encouraged to contribute to the Annual Report with added photos / photo-points and other information as relevant to management issues and outcomes observed in the Conservation Area.

3. Payments

- (a) Subject to clause 3(b) of this Part 5, the NSW BCT will make payments:
- (i) equal to the Payment Amount increased in accordance with clause 4 of Part 5 of this Funded Management Attachment as soon as practicable after the time specified for payment of that amount; and
 - (ii) to the Owner's Nominated Bank Account.
- (b) The NSW BCT is entitled to withhold, delay or not make any payments due under this Funded Management Attachment if:
- (i) the NSW BCT believes, acting reasonably, that the Owner has not complied with the Owner's obligations under this Deed;
Note: This includes provision of bank account details and obligations regarding reporting and entry.
 - (ii) ownership of the Land has been split, and this Deed has not been varied to allocate obligations, and entitlement to payment, as between the new Owners;
 - (iii) the Owner has not Completed a Funded Management Action which should have been Completed by the relevant payment date; or
 - (iv) the Term has expired or if this Deed has been otherwise terminated; or
 - (v) where clause 22 of this Deed applies.

Note: Site splitting can occur where different parts of the Land are gifted to 2 or more beneficiaries, including under a will, with the effect that legal ownership of different parts of the Land is separated. The Owner should contact the NSW BCT before taking any steps to gift or sell anything less than the whole of the Land to others to ensure that payments are not affected.

4. CPI increase

The parties acknowledge that the amounts specified as Payment Amounts in the Payment Table are present values and are exclusive of GST (for GST registered Owners) and that each amount is to be increased to the amount which is "PA" in the formula below:

$$PA = \frac{A \times B}{C}$$

Where:

- (a) A is the dollar value (\$) of the amount as set out in the Payment Table prior to indexation by CPI
- (b) B is the CPI for the June Quarter published immediately prior to the date that payment is due to be made
- (c) C is the CPI for the June Quarter published immediately prior to the Agreement Date provided that, each amount in the Payment Table will remain unchanged if applying the formula above would result in the amount decreasing.

5. Bank account details

- (a) The Owner must, before it is entitled to receive any payments under this Deed, give the NSW BCT written notice:
- (i) specifying the details of the Owner's bank account into which the Owner wishes to receive payments under this Deed, including the:
 - (A) account name;
 - (B) name of the bank;
 - (C) BSB; and
 - (D) account number; and
 - (ii) evidence of the written consent of all Owners of the Conservation Area to such bank account details.
- (b) The Owner may, from time to time, change the details of its bank account by giving the NSW BCT at least 5 Business Days written notice (which notice must contain the same details and consents referred to in clauses 5(a)(i) and 5(a)(ii) of this Part 5 of this Funded Management Attachment).

Note: The Owner must serve notice of its bank account details in accordance with clause 30. The Owner may only nominate another bank account that is also in the Owner's name. It is not possible to nominate a third party bank account.

- (c) For the avoidance of doubt, NSW BCT is not:
 - (i) required to start making any payments under this Deed until at least 5 Business Days after the date that the Owner provides a proper notice under clause 5(a) of this Part 5 of this Funded Management Attachment;
 - (ii) required to start making payments to any alternative or new bank account until at least 5 Business Days after the date that the Owner provides a proper notice under clause 5(b) of this Part 5 of this Funded Management Attachment;
 - (iii) liable to the Owner for any loss of any payments through failure of the financial institution in which the payments have been deposited; or
 - (iv) required to re-pay any amount that it paid to the Nominated Bank Account if the Owner's bank account details have not been properly updated in accordance with clause 5(b) of this Part 5 of this Funded Management Attachment.

6. GST

- (a) Where a Supplier makes a Taxable Supply to a Recipient, the Recipient must pay to the Supplier an additional amount equal to the GST payable by the Supplier (unless the consideration for that Taxable Supply is expressed to include GST). The additional amount must be paid when any consideration for the Taxable Supply is first paid or provided. The Supplier must provide to the Recipient a Tax Invoice at the time of payment, except where clause 6(c) of this Part 5 of this Funded Management Attachment applies.
- (b) If this Deed:
 - (i) requires a party to pay for, reimburse, set off or contribute to any expense, loss or outgoing suffered or incurred by any other party; and
 - (ii) the other party is entitled to an Input Tax Credit in respect of such payment, reimbursement or contribution,then the amount required to be paid, reimbursed, set off or contributed is reduced by the amount of any applicable Input Tax Credit. The reduction is to be made before the calculation of any additional amount payable under clause 6(a) of this Funded Management Attachment.
- (c) The parties acknowledge that, if the Owner is registered for GST, recipient created tax invoices will be issued from the Biodiversity Conservation Trust of New South Wales (ABN 37 151 321 702) to the Owner on payment of the payments required under this Funded Management Attachment.
- (d) The recipient created tax invoices will be for the supply by the Owner of the Owner's obligation to carry out the Funded Management Actions under this Deed.
- (e) Under this recipient created tax invoice agreement, the Owner guarantees that the Owner will not issue any Tax Invoice for the Supplies.
- (f) The Owner must notify the NSW BCT immediately if the Owner ceases to be registered for GST.
- (g) NSW BCT is registered for GST and the NSW BCT will notify the Owner promptly if NSW BCT ceases to be registered.

Note: The NSW BCT cannot register an Owner for GST or provide tax advice, and the Owner should obtain and rely on independent advice sourced by the Owner (e.g. the Owner's accountant) as to the appropriate GST status and position.

7. No right of set-off

The Owner has no right of set-off against a payment due to the NSW BCT, unless this Deed expressly provides for such a right.

Note: "no right of set-off" means the Owner must make payments required under this Deed to the NSW BCT without deducting amounts that the Owner believes the NSW BCT owes the Owner. Any amounts that the NSW BCT owes to the Owner under this Deed must be dealt with separately and must not be deducted.

8. Records

- (a) The Owner must create and keep records of the following:
 - (i) the months and years in which Funded Management Actions were undertaken in accordance with the standards specified in this Funded Management Attachment;
 - (ii) the details of any stock grazing undertaken in the Conservation Area using the Stock Grazing Monitoring Form; and
 - (iii) receipts and invoices for capital works or use of contractors for completion of Funded Management Actions.

- (b) The Owner must produce any records required to be kept by this Deed if the Owner is requested to do so in writing by the NSW BCT or an Authorised Officer.

9. Acknowledgment of Support

- (a) The Owner must acknowledge NSW Government's support in accordance with the Funding Acknowledgement Guidelines as notified by the NSW BCT including acknowledgement of NSW Government support on signage and in any other public communications.
- (b) The Owner must, unless the NSW BCT agrees otherwise, use the NSW Government's Waratah logo as set out in the Brand Guidelines in conjunction with all acknowledgements of NSW Government support in accordance with the Funding Acknowledgement Guidelines.

10. Publicity

- (a) The Owner must provide the NSW BCT with at least 15 Business Days' notice of any proposed announcements, launches or public events relating to the conservation agreement for the Conservation Area, and provide an opportunity for a representative of the NSW Government to attend and speak at any launch or public event.
- (b) The NSW Government may issue public communications on the provision of funding to the Owner and progress on completing the Funded Management Actions. Where practicable to do so, the NSW BCT will give the Owner advance notice of such communications and their content.

11. Termination of this Funded Management Attachment

If this Deed is terminated in respect of part only of the Conservation Area, then this Funded Management Attachment will cease to apply on and from the date of such termination, unless otherwise agreed in writing between the Owner and the NSW BCT.

12. General

The following interpretation provisions apply both to this Funded Management Attachment and the Deed as a whole:

- (a) A reference in this Deed to dollars or \$ means Australian dollars and all amounts payable under this Deed are payable in Australian dollars.
- (b) A reference in this Deed to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced.
- (c) A reference to a clause or part in this Deed, is a reference to a clause or part of this Deed.
- (d) A reference to this Deed includes the agreement recorded in this Deed.
- (e) Any tables, schedules, annexures and attachments within this Deed form part of this Deed.
- (f) Each obligation imposed on a party by this Deed in favour of another is a separate obligation. Unless otherwise specified in this Deed, the performance of one obligation is not dependent or conditional on the performance of any other obligation.
- (g) The fact that the Minister or NSW BCT fails to do, or delays in doing, something the Minister or NSW BCT is entitled to do under this Deed, does not amount to a waiver of any obligation of, or breach of obligation by, the Landowner.
- (h) By executing this Deed, a party intends to be bound by this Deed on and from the date that all other parties have also executed this Deed and for such last execution to constitute delivery of this Deed to each other party.
- (i) The parties agree that, to the extent that the benefits of this Deed extend to persons who are not parties to this Deed, this Deed will operate as a deed poll.
Note: By operating as a "deed poll" a person is entitled to enforce that person's right to a benefit under this Deed despite the person not being a party to it (e.g. the Environment Agency Head in its capacity as an Authorised Entrant).
- (j) This Deed is governed by and must be construed in accordance with the laws in force in New South Wales. The parties submit to the exclusive jurisdiction of the courts of New South Wales and the Commonwealth of Australia in respect of all matters arising out of or relating to this Deed, its performance or subject matter.
- (k) A term or condition of, or act done in connection with, this Deed does not operate as a merger of any of the rights or remedies of the parties under this Deed and those rights and remedies continue unchanged.

Part 6: Definitions

In this Funded Management Attachment, unless a contrary intention appears, a capitalised word or words has the meaning given in the corresponding row in the table below:

Word/s	Meaning
Annual Report	The annual report that the Owner must complete pursuant to clause 2(a) of Part 5 of the Funded Management Attachment
Annual Report Template	The form entitled "Annual Report Template" available on the NSW BCT website or as supplied to the Owner by NSW BCT from time to time
Brand Guidelines	The NSW Government Brand Guidelines published by the NSW Government and as updated from time to time
Completed	Carried out, finalised or achieved, depending on the context. For example, if the Funded Management Action is a milestone (eg reaching a certain density of Native Flora) then it will be "Completed" once the NSW BCT has been given evidence that the density has been reached, whereas where the relevant Funded Management Action comprises tasks or certain works, eg clearing lantana, then the Funded Management Action will be "Completed" once the NSW BCT is satisfied that such works have been carried out
CPI	The Consumer Price Index All Groups number relating to Sydney published from time to time by the Australian Bureau of Statistics (or if that index ceases to be published then such other index which is, in the reasonable opinion of the NSW BCT, a similar index which reflects changes in the cost of living in Sydney at the relevant time)
Funded Management Action	Each action or milestone set out in Part 2 or Part 3 of the Funded Management Attachment
Funded Management Actions Table	The table set out in the Funded Management Attachment immediately under the heading "Funded Management Actions Table"
Funded Management Attachment	This Attachment 3, and includes any replacement or updated component of such Attachment from time to time
Funding Acknowledgement Guidelines	The Funding Acknowledgement Guidelines for recipients of NSW Government infrastructure grants published by the NSW Government and as updated from time to time

Word/s	Meaning
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i> . The expressions "GST", "Input Tax Credit", "Recipient", "Supply", "Tax Invoice" and "Taxable Supply" have the meanings given to those expressions in the GST Act and "Supplier" means the party who made the Taxable Supply
Management Zone	An area within the Conservation Area identified as a zone on any map included in the Management Plan or on any map included in Attachment 3
Nominated Bank Account	The bank account nominated by the Owner in accordance with clause 5(a) of Part 5 of the Funded Management Attachment or as updated from time to time in accordance with clause 5(b) of Part 5 of the Funded Management Attachment
Payment Amount	Each amount set out in the Payment Table, increased in accordance with the method set out in clause 4 of Part 5 of the Funded Management Attachment
Payment Table	The table set out in Part 1 of the Funded Management Attachment immediately under the heading "Payment Table"
Reporting Obligations	The obligations set out in clause 2 of Part 5 of the Funded Management Attachment
Reporting Period	Each of the following: <ul style="list-style-type: none"> – the 12 month period commencing on the Agreement Date; and – each subsequent 12 month period commencing on each anniversary of the Agreement Date
Required Date	The timing set out for the relevant Funded Management Action in Part 2 of the Funded Management Attachment or within the Funded Management Actions Table
Supporting Evidence	Reasonable evidence appropriate to the Completion of the relevant Funded Management Action to demonstrate such Completion

X _____
NSW BCT delegate

X _____
Owner