

DATED

2nd July

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**VOLUNTARY
CONSERVATION AGREEMENT**

BETWEEN

**THE MINISTER FOR THE ENVIRONMENT OF
THE STATE OF NEW SOUTH WALES**

AND

THE COUNCIL OF THE CITY OF SHELLHARBOUR

1 PARTIES

- 1.1 THE HONOURABLE ROBERT JOHN DEBUS, the Minister for the Environment of the State of New South Wales, being the Minister for the time being administering the *National Parks and Wildlife Act, 1974* ("the Minister" which expression shall where the context admits, be deemed to include his successors in office)
- 1.2 THE COUNCIL OF THE CITY OF SHELLHARBOUR of Lamerton House, Lamerton Crescent, Blackbutt ("the Owner")

2 RECITALS

- 2.1 The Owner is the registered proprietor of that parcel of land being part of the Croom Regional Sporting Complex at Albion Park being parts of lots 1 DP216772 and 3 DP549511, Parish of Jamberoo, County of Camden ("the conservation area") as shown on Diagram "A".annexed to this Deed.
- 2.2 The Owner and the Minister acknowledge:
- 2.2.1the conservation area contains ten (10) percent of the population of the Illawarra greenhood orchid *Pterostylis gibbosa*, which is listed as "endangered" on Schedule 1, Part 1 of the *Threatened Species Conservation Act, 1995* and on the *Commonwealth Environment Protection and Biodiversity Conservation Act, 1999*.
- 2.2.2the conservation area contains one of the few remnants of open forest habitat which covered the drier parts of the Illawarra coastal plain at the time of European settlement. The conservation area is a significant example of the Illawarra Lowlands Grassy Woodland which is listed as an "endangered ecological community" on Schedule 1, Part 3 of the *Threatened Species Conservation Act, 1995*. The dominant trees of this open forest are thin-leaved stringybark *Eucalyptus eugenioides*, cabbage gum *E. amplifolia*, woollybutt *E. longifolia*, forest red gum *E. tereticornis* and a paperbark tree *Melaleuca decora*, while the understorey and ground cover vegetation is fairly open with a mixture of shrubs, grasses and sedges. *Olearia burgessii*, a nationally rare plant species, and at least five regionally significant terrestrial orchid species have been recorded within the conservation area.
- 2.2.3the open forest in the conservation area has important heritage values. The remnant shows the condition of the land

when the first European settlers arrived in the region and protects native plant species which were once common on the Illawarra coastal plain and formed an important resource for Aboriginal people.

2.2.4 the open forest flora in the conservation area forms an important locally adapted seed resource that could be sustainably used for re-establishment of native trees and understorey plants in the surrounding area.

2.3 The Owner and the Minister wish steps to be taken to ensure the protection and preservation of the native plants and local indigenous fauna of the conservation area in particular the above mentioned population of the Illawarra greenhood orchid and all elements of its habitat.

2.4 The owner has agreed with the Minister to enter into this Deed pursuant to section 69B of the Act for the purpose of protecting and preserving the native plants and fauna in the conservation area.

3 OPERATIVE PART

3.1 Interpretation

In this Deed, including the recitals, unless the context otherwise requires:

3.1.1 "the Act" means the *National Parks and Wildlife Act, 1974* and any regulations made under the Act;

3.1.2 "the Minister" includes the servants and agents of the Minister;

3.1.3 "the Owner" includes the Owner and successors in title as referred to in section 69E of the Act;

3.1.4 "the Director-General" means the Director-General of NSW National Parks and Wildlife appointed under the Act and includes any person for the time being acting as such;

3.1.5 "the conservation area" includes any part of the land;

3.1.6 "development" has the same meaning as provided for in section 69A of the Act;

3.1.7 "plan of management" means a plan of management prepared for the conservation area by the Director-General pursuant to section 72(1(e)) of the Act and clause 5.1 of this Deed;

3.1.8 "native plant" has the same meaning as contained in section 5 of the Act;

3.1.9 "fauna" has the same meaning as contained in section 5 of the Act and includes any animal-life that is indigenous to New South Wales or is known to periodically or occasionally migrate to New South Wales, whether vertebrate or invertebrate and in any stage of biological development, but does not include:

3.1.9.1 humans; or

3.1.9.2 fish within the meaning of the *Fisheries Management Act, 1994*;

3.1.10 "local indigenous flora" means all native vegetation indigenous to the conservation area as shown in the latest edition of Harden G. J. (Ed.) *Flora of New South Wales*, Volumes 1-4 (1993);

3.1.11 "local indigenous fauna" means all fauna which is indigenous to the conservation area;

3.1.12 "seed-containing hay" is hay that is harvested specifically for use in revegetation work and contains intact, viable seeds as well as leaf and stalk material;

3.1.13 "Regional Office" means the local NSW National Parks and Wildlife Service administrative/management office that has responsibility for the geographic area that includes the conservation area;

3.1.14 "controlled burning" means the lighting of a fire for a specific management purpose, including fuel management, hazard reduction, vegetation and habitat management, and research, in weather conditions that will cause the fire to burn at the predetermined intensity required for the purpose, and within predetermined boundaries;

3.1.15 "exotic flora" means all flora other than native plants;

3.1.16 "exotic fauna" means all animals other than fauna, but does not include:

3.1.16.1 humans; or

3.1.16.2 fish within the meaning of the *Fisheries Management Act, 1994*;

3.1.17 "reasonable" in relation to carrying out an activity, means using the best methods available and carrying out the activity in such a way as to have minimal impact on the conservation values of the conservation area;

3.1.18 A word denoting the singular number includes the plural number and vice versa.

3.1.19 A word denoting a gender includes all genders.

3.1.20 A word denoting an individual or person includes a corporation, firm, authority, government or governmental authority and vice versa.

3.1.21 Any covenant or agreement on the part of two or more persons shall be deemed to bind them jointly and severally.

3.1.22 A reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, any statutory instrument issued under, that legislation or legislative provision.

4 USE OF THE CONSERVATION AREA

4.1 The Owner covenants with the Minister as follows:

4.1.1 *General responsibilities*

4.1.1.1 The Owner must not do or omit to do or cause or permit to be done any act to be done which may adversely affect any fauna or native plants or their habitats in the conservation area.

4.1.2 *Development*

4.1.2.1 The Owner must not construct any new road, access track, building or internal fencing or carry out any other development in the conservation area except as provided in clause 4.1.2.2 of this deed.

4.1.2.2 The Owner is permitted, consistent with the terms of the Plan of Management, to erect signs and maintain walking tracks for interpretative purposes and passive recreation provided that such signs are erected and the walking tracks are maintained in such a manner so as to avoid disturbance to the populations of *Pterostylis gibbosa* to minimise any damage to the conservation area.

4.1.3 *Native plants*

4.1.3.1 The Owner must not destroy or cause the destruction or removal of any native plants (including trees, shrubs, grasses) from the conservation area other than as provided for in clause 4.1.3.2.

4.1.3.2 The Owner may, consistent with the Plan of Management:

4.1.3.2.1 mow vegetation to maintain walking tracks for interpretative purposes and passive recreation;

4.1.3.2.2 remove seed or native plant cuttings from the conservation area for the purpose of propagation from local indigenous flora;

4.1.3.2.3 destroy native plants if this occurs as part of a controlled burn carried out in accordance with the fire management plan in the Plan of Management.

4.1.3.3 The Owner must not sow or plant trees, grasses or other plants in the conservation area other than local indigenous flora.

4.1.4 *Fauna*

4.1.4.1 The Owner must not undertake or permit to be undertaken any shooting, trapping, baiting or removal of fauna in the conservation area, without the prior written consent of the Director-General.

4.1.5 *Control of exotic flora and exotic fauna*

4.1.5.1 The Owner must not introduce into the conservation area any exotic flora or exotic fauna.

4.1.5.2 The Owner must control, and where possible remove all exotic flora and exotic fauna from the conservation area.

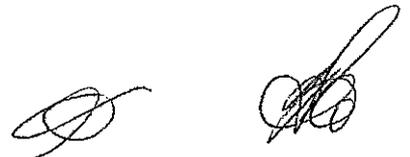
4.1.5.3 The Owner must take such reasonable measures as may be prescribed in the Plan of Management.

4.1.5.4 The Owner must take reasonable measures as may be necessary to prevent exotic flora and exotic fauna spreading from adjacent lands into the conservation area.

4.1.5.5 The Owner must not permit domestic animals including pets and domestic livestock in the conservation area, except as provided for in the Plan of Management.

4.1.6 *Fertiliser, pesticides, herbicides and poisonous baits*

4.1.6.1 The Owner must not permit the use or application of fertiliser or pesticides in the conservation area.



4.1.6.2 The Owner must not permit the use or application of herbicide or poisonous baits in the conservation area unless the use is a measure prescribed in the Plan of Management or the Director-General otherwise gives his prior written consent.

4.1.7 Fire management

4.1.7.1 The Owner must take the steps as specified in the Plan of Management and any other practical steps to prevent the occurrence of bush fires on and to minimise the danger of the spread of bush fires on or from the conservation area.

4.1.7.2 The Owner must not light a fire, or cause a fire to be lit on the conservation area except as provided for in clause 4.1.7.3 of this Deed.

4.1.7.3 The Owner may light a fire or cause a fire to be lit on the conservation area only in the following circumstances:

4.1.7.3.1 where the Director General gives prior written consent;

4.1.7.3.2 where the lighting of the fire is a necessary component of bush fire hazard reduction work carried out in accordance with any notice served on the Owner under the *Rural Fires Act, 1997* or other applicable legislation;

4.1.7.3.3 where the lighting of the fire is in accordance with any fire guidelines for controlled burning as provided for in the Plan of Management; and

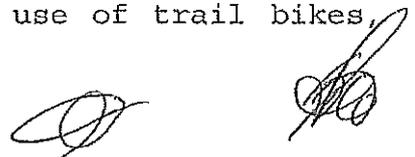
4.1.7.3.4 where life or property is in immediate threat by bush fire and the lighting of the fire is reasonably necessary to protect life or property.

4.1.8 Firewood

4.1.8.1 The Owner must not collect or permit the collection of green wood, standing wood and fallen hollow or non-hollow timber from the conservation area for firewood or any other purpose except as provided by clause 4.1.10.1 of this Deed.

4.1.9 Vehicles

4.1.9.1 The Owner must not permit the use of trail bikes,



four-wheel drive vehicles or any other vehicle in the conservation area.

4.1.10 *Removal of inorganic or biological material*

4.1.10.1 The Owner must prevent by all reasonable means the removal of any biological or inorganic component of the conservation area other than exotic flora and exotic fauna, except in the circumstances of scientific research, education, monitoring, or for the propagation of local indigenous flora, or any other necessary activity agreed to by the Owner and the Director-General.

4.1.11 *Management in accordance with a plan of management*

4.1.11.1 The Owner must manage the conservation area in accordance with any Plan of Management prepared under clause 5.1 of this Deed.

4.1.12 *Monitoring of land by Owner*

4.1.12.1 The Owner must inform the Director-General as soon as practicable after becoming aware of the deterioration of any of the natural values of the conservation area, or of any threat to these values of which the Owner is aware.

4.1.13 *Subdivision*

4.1.13.1 The Owner must not permit subdivision of the conservation area.

4.1.14 *Change of Ownership*

4.1.14.1 The Owner must notify the Director-General of any change of Ownership or control of the conservation area and must notify, in writing, the Director-General of the owner and address of the new owner at least 14 days prior to change of ownership or control.

5 **PLAN OF MANAGEMENT**

5.1 The Director-General may prepare in consultation with the Owner a Plan of Management for the conservation area.

5.2 The Plan of Management shall provide a scheme of operations for the protection of native plants and fauna in the conservation area.

6 **EXTENT OF PROHIBITIONS AND RESTRICTIONS**

6.1 None of the prohibitions or restrictions specified in this Deed shall apply to the actions necessary for:

6.1.1 maintenance of fences; and

6.1.2 the proper management of the conservation area as a protected environment for local indigenous flora and local indigenous fauna.

7 USE OF THE LAND BY LESSEES AND/OR LICENSEES

7.1 If during the currency of this Deed the Owner grants a lease or licence over the conservation area such lease or licence must contain a condition requiring the lessee or licensee to comply with and observe the provisions of this deed any breach of which will be considered a fundamental breach under the lease or licence giving the owner the right in its discretion to terminate immediately the lease or licence. A copy of the Deed must be annexed to any such lease or licence.

8 RIGHT TO INSPECT

8.1 The Minister, the Director-General and their servants and agents may at all times upon first giving reasonable notice to the Owner, their agent, lessee or licensee, enter upon the conservation area to ensure due compliance with this Agreement.

9 OBLIGATIONS OF THE MINISTER

9.1 The Minister covenants with the Owner as follows:

9.1.1 The Minister shall arrange for the provision of such assistance and technical advice to the Owner as the Minister deems necessary to ensure the protection and preservation of the natural environments, natural phenomena, local indigenous flora and local indigenous fauna of the conservation area.

9.1.2 The Minister shall bear the cost of and incidental to preparation of the Deed including payment of the Owner's reasonable legal costs connected with the execution of the Deed and any necessary stamp duty and registration fees.

9.1.3 The Minister agrees to the extent of his statutory responsibilities that the signing of this Deed shall not render the Owners ineligible for any compensation and assistance which may, under future legislation, become available to landowners who enter into a conservation agreement pursuant to the Act or any other act.

10 COMMENCEMENT

10.1 This Deed shall have effect from the day of execution.

