

PRIVATE LAND CONSERVATION PARTNERSHIPS

Corporate Plan Reference:	<i>Theme 1: The Noosa Environment – Our environment is protected, enhanced and valued by the community.</i>
Endorsed by Council	16 January 2020
Guideline Owner and Department:	Director Environment & Sustainable Development

GUIDELINE BACKGROUND

The purpose of this guideline is to provide direction to Council staff on the implementation of the Voluntary Conservation Agreement (VCA) and Land for Wildlife (LfW) Programs. These programs help support conservation efforts by landholders to protect and enhance biodiversity in Noosa Shire on private land.

POLICY GUIDELINE

This Guideline applies to voluntary conservation initiatives on private land within Noosa Shire as part of the wider biodiversity network consisting of core protected areas, biodiversity corridors and the bushland reserve network.

Although Noosa Shire has large areas under conservation protection, a significant amount of vegetation and habitat exists on private lands. Noosa Council recognises that private land conservation is well placed to make a significant contribution to conservation as part of a broader strategic objective to protect and enhance biodiversity and connectivity across Noosa Shire, as well as provide benefits to landholders and communities.

LAND FOR WILDLIFE PROGRAM

The Land for Wildlife (LfW) program started in Victoria in 1981 with the aim of supporting private landholders to deliver natural resource outcomes. The State of Victoria remains the head of power to the program with all participating bodies holding a Memorandum of Understanding (MoU) with the State. Noosa Council has been part of the LfWSEQ collaboration since 1998, alongside 10 other SEQ Council's. The agreement articulates specified program standards and obligations to maintain the integrity of the LfW brand.

With over 50% of biodiversity values contained on private land in SEQ, LfW plays an integral role in partnering with private landholders to conserve the biodiversity and natural amenity of the region. The LfW program aligns with regional, state and federal objectives, with the program being embedded in many SEQ Council policies and strategies, such as pest management and biodiversity. The program engages with the community to improve catchment and waterway health through erosion and sediment control, revegetation and remnant vegetation protection through the integration of wildlife habitat with agricultural and other land uses. It creates wildlife corridor linkages in strategic locations and between core protected areas, enabling genetic interchange needed to avoid inbreeding in isolated populations.

LfW is a voluntary conservation program that creates partnerships with eligible landholders. Council Officers undertake property assessments and provide advice and engagement on the management of properties for its conservation values. The LfW Program is delivered as part of Council's Private Land Conservation Partnerships and is consistent with the Conservation Land Guideline.

Eligibility

Residents that are eligible for the LfW program include:

- Landholders that have a minimum of 1 hectare of conservation area on their property considered 'retained habitat' or 'habitat under restoration' as defined in the Land for Wildlife Queensland Guideline.
- Landholders demonstrating their intention and commitment to manage their property to maintain and enhance native flora and fauna in a way that attempts to integrate nature conservation with other land management objectives.

Support for Land for Wildlife

Council will provide support for new and existing Land for Wildlife members subject to available resources consisting of:

- An initial site visit, property assessment, report, and provision of a sign and resource material to new members.
- Quarterly newsletter.
- Delivery of Land for Wildlife events such as workshops and field days.
- Property revisits as requested by existing members.
- An incentives program which may consist of other initiatives consistent with the intent of the Land for Wildlife program such as free native tubestock, training/assistance with environmental weed management, equipment loans such as fauna cameras, nest boxes, resource books, and open property days

VOLUNTARY CONSERVATION AGREEMENT (VCA) PROGRAM

The VCA Program is a voluntary agreement between Council and eligible landholders to permanently protect a nominated conservation area within their property. Through this agreement, Council may provide a range of financial incentives to assist the landholder with this process.

The head of power to deliver the VCA program rests with the Environment Levy Policy. The Conservation Land Guideline provides a mapping methodology that identifies Council strategic approach and priority land parcels of interest.

Eligibility

Residents that are eligible for the VCA program include:

- Landholders with land parcels of high biodiversity values, of significant size and located next to or within Core Protected Areas; or
- Landholders with land parcels that occur within biodiversity corridors between Core Protected Areas (See Map Appendix 1); and
- Landholders who have demonstrated a commitment to achieving conservation outcomes, and are confident that by partnering with Council in the VCA program they will protect and enhance the conservation area as guided by an Environment Management Plan.

In certain circumstances, landholders with land outside these areas and criteria may be considered for VCA if the land has a unique environmental significance, for example the land retains the last remaining stand of an endangered ecosystem or species.

All applications for VCAs will be assessed and prioritised by the Environment Levy Working Group according to available resources. The Environment Levy Policy criteria, Voluntary Conservation Agreement assessment matrix, and Conservation Land Guideline will be used to assess and prioritise applications.

Administrative and Legal Requirements

The Voluntary Conservation Agreement (VCA)

A Voluntary Conservation Agreement is a legal document that outlines the terms agreed to between the landholder and Council relevant to the conservation area that is under statutory protection (see example agreement Appendix 3).

The VCA includes details of:

- Statutory Conservation Protection
- Environmental Management Plan
- Financial incentives

The following applies to the VCA:

- The agreement is developed in consultation with the landholder.
- The maximum term of the VCA is 5 years.
- The VCA can be extended past 5 years if agreed by both parties and there are compelling reasons to continue environmental works on a review of the associated Environment Management Plan (e.g. an extreme event such as fire or flood that has damaged restoration works or works critical to the survival of a threatened species).
- The VCA terminates when land changes ownership or when the term of the Environment Management Plan is complete. If ownership of the property changes, Council may seek to engage the new landholder in

a new VCA agreement if it is necessary to continue works as identified in the associated Environment Management Plan.

- Areas on VCA properties outside the conservation area can continue to be used for other purposes (e.g. grazing, orchards, open space, future house site).
- A VCA does not grant any public right of access to the land.

Landholders are encouraged to seek independent legal and financial advice prior to placing statutory conservation protection over their land and entering into a VCA. Due to the associated start-up costs incurred by Council, before formalising a VCA, a letter of agreement to proceed will be provided to the landholder for signing. Any third party interest holders on the property title (such as a mortgagee) must provide consent for the VCA to proceed.

The Statutory Conservation Protection

Council offers three statutory conservation protection mechanisms under the VCA program. These are:

Conservation Covenant

Under the *Land Act 1994*, a conservation covenant is registered over the conservation area on the property and runs with the title over successive owners. A conservation covenant requires development of a survey plan, preparation of legal documents, and lodgement with the Titles Office. The conservation covenant is a legal agreement between the property owner (the covenantor) and Council (the covenantee). Compliance action in the event of breaches of the covenant conditions is the responsibility of Council.

Nature Refuge

A Nature Refuge gazetted under the *Nature Conservation Act 1992* can be placed over all or part of a property and runs with the title over successive owners. A Nature Refuge offers the highest level of protection however is subject to Queensland Government requirements such as minimum size of the conservation area (greater than 10ha) and high biodiversity values. Compliance action in the event of breaches of the Nature Refuge conditions is the responsibility of the Queensland Government.

Split Zoning

Council can also split zone a property to place the conservation area under Environmental Management and Conservation zoning, which is then protected under provisions of the Noosa Planning Scheme. Split zoning a property requires submitting a planning scheme amendment to the State, and is processed as a batch of amendments on a regular basis. The balance of the property outside the conservation area remains in its original zoning (usually rural). Compliance action in the event of breaches of the planning scheme provisions is the responsibility of Council. Landowners whose properties do not meet the eligibility criteria for a VCA can request that a nominated portion of their property be split zoned as Environmental Management and Conservation under the Noosa Plan. In this circumstance there would be no formal VCA agreement with Council.

Environmental Management Plan

Council will develop an Environmental Management Plan (EMP) in consultation with the landholder. At the end of the 5 year term and at the request of the landholder, the EMP may be reviewed to guide landholders with future actions. The EMP will include:

- a description of the conservation area and its environmental values;
- any threatening processes;
- management actions required;
- timeframes to deliver the EMP.

Support for VCA's

Financial Incentives

Existing VCA's:

Council will continue to honour existing VCA's that were entered into with the Sunshine Coast Regional Council. Council may also offer existing VCA landowners the option of placing an additional layer of protection over the property via split zoning the existing conservation area into Environmental Management and Conservation zoning.

The agreed incentives will continue as per the individual landholder's VCA with the annual incentive being reviewed against CPI every 5 years. Incentives are paid annually following a property assessment by a Council officer with any unallocated funds relating to a particular property expiring at the end of each financial year (i.e. they are not carried forward). When a property changes hands, the statutory conservation protection remains, and the VCA expires. An agreement between the new landholder and Council may be entered into depending on VCA program priorities, and applications will be considered at the request of the new landholder.

New VCA's:

Where an eligible landholder and Council enter into a new VCA which includes statutory protection and/or an Environmental Management Plan for the conservation area, Council will provide the following resources:

Establishment costs

Council will outlay costs to establish a covenant, Nature Refuge or split zoning on the nominated section of the property. Costs include developing a survey plan of the covenant area, Nature Refuge dedication costs, legal fees, and Council officer time.

Financial Incentive

A financial incentive may be provided for the annual implementation of an Environmental Management Plan for up to 5 years, with the annual incentive being reviewed against CPI every 5 years. These include:

- Costs to develop the Environmental Management Plan for the conservation area under statutory protection.
- An annual incentive to implement the Environmental Management Plan will be capped as follows:
 - Minimum available annual incentive of \$1,630 per annum for Conservation Areas up to 5 hectares in size.
 - For conservation areas over 5 hectares an additional \$108 will be available for every extra hectare, up to a maximum total of \$5425 each year.
 - Ongoing financial support will not exceed 5 years unless specified in the EMP.
 - Costs cannot be claimed for unexpended VCA funds from previous financial years.

What funds can be used for under the EMP

The type of works or materials required will be identified in the agreed EMP. Examples include:

- engagement of contractors for ecological restoration works and fencing;
- engagement of contractors for pest control;
- engagement of consultants for services such as ecological surveys or fire management planning and approved works;
- purchase of materials such as herbicide and/or hand tools;
- purchase of wildlife apparatus such as nest boxes.

Funds cannot be used for the purchase of machinery such as chainsaws, mowers, brush-cutters or tractors.

VCA properties may be eligible for grants and other funding from state and federal governments such as environmental or carbon offsets.

VCA funds cannot be used for works that are a regulatory requirement such as a condition of development or subject to compliance action by a regulatory authority.

Commissioning works

The EMP priorities will be discussed on-site annually with a Council officer, the landholder and contractor/consultant to agree and review works undertaken and identify upcoming works. Agreed works will be confirmed in writing by Council and co-ordinated by the landholder and contractor/consultant. Once works have been completed to the satisfaction of Council and the landholder, the contractor/consultant will be paid by

Council. Where the EMP provides an allowance for supply of materials, the landholder shall obtain a quote from the supplier and provide to Council for written approval prior to funding being expended and provide a tax invoice for reimbursement of funds. Once the 5 year term is complete, the landholder is eligible for an ongoing annual property visit from a Council Officer upon request through the Land for Wildlife program. This may involve discussions on further land conservation management and priorities.

ROLES AND RESPONSIBILITIES

The Environment Levy Working Group will make recommendations on which properties to enter into agreements with.

The VCA Program will be managed by the Environment Services Branch.

DEFINITIONS

“**Biodiversity**” refers to the variety of all life forms - all the different plants, animals and micro-organisms, and the ecosystems of which they are a part.

“**Conservation Land Guideline**” is a mapping methodology to identify environmentally significant land for potential acquisition or for private land conservation outcomes.

“**Core Protected Areas**” are large biodiverse areas that consist collectively of public land already under conservation protection such as National Park, Bushland Reserves and Nature Refuges.

“**Environment**” refers to the use of the word to describe the natural (not man-made) environment of the region and includes the natural ecological systems of air, water, soil and associated species of flora and fauna.

“**Environment Levy**” refers to a Levy raised by Noosa Council (in accordance with section 94 of the Queensland *Local Government Act 2009*), on all rateable properties within its jurisdiction, in order to meet the objectives in this policy.

“**Biodiversity Corridors**” are broad tracts of vegetated, cleared and partly cleared land, extending across the Noosa landscape that consolidate or connect core habitat, and can occur across private and/or public land.

RELEVANT LEGISLATION

Noosa Council Environment Levy Policy 2018

Qld Environmental Offsets Policy 2014

Qld Land Act 1994

Qld Nature Conservation Act 1992

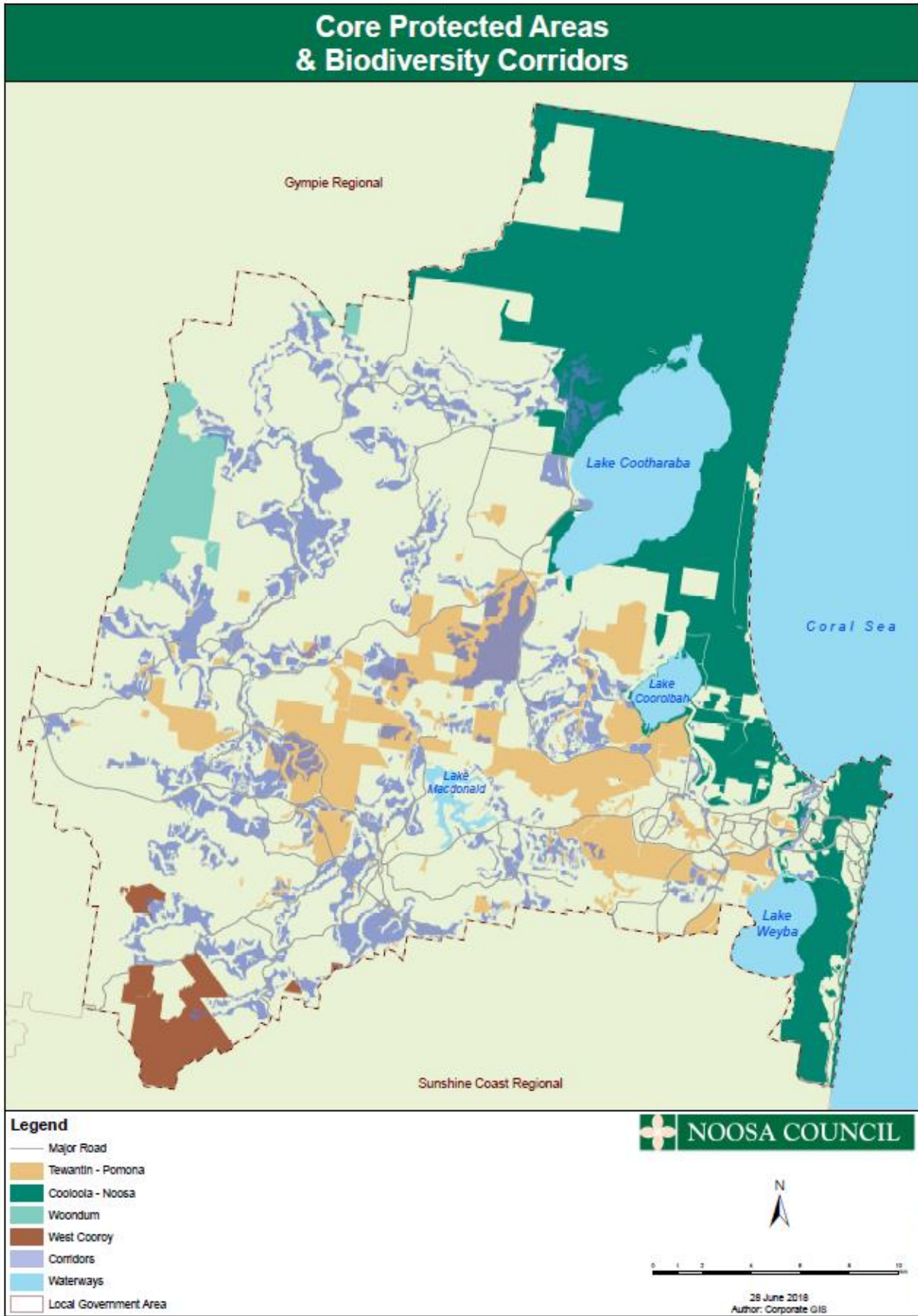
Qld Planning Act 2016

Qld Vegetation Management Act 1999

Version control:

Version	Reason/ Trigger	Change (Y/N)	Endorsed/ Reviewed by	Date
1.0	Create new		Council	20/09/2018
2.0	Revision	Y	Council	16/01/2020

Appendix 1 - Core Protected Areas and Biodiversity Corridors



Appendix 2 –Binding Covenant Example document

QUEENSLAND TITLES REGISTRY
Land Title Act 1994 and Land Act 1994

COVENANT

FORM 31 Version 3
Page 1 of 5

Dealing Number

Lodger (Name, address, E-mail & phone number)

**Lodger
Code**



OFFICE USE ONLY

Privacy Statement

Collection of information from this form is authorised by legislation and is used to maintain publicly searchable records. For more information see the Department’s website.

1. Covenantor

2. Description of Covenant / Lot on Plan	County	Parish	Title Reference
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3. Covenantee
Noosa Shire Council

4. Description of Covenant (include reference to relevant section of legislation)
Pursuant to Section 97A(3)(b)(i) of the Land Title Act 1994

5. Execution

The Covenantor being the registered owner of the lot described in item 2 covenants with the Covenantee in respect of the covenant described in item 4 and the attached schedule.

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

..... signature
 full name
 qualification / /

1 Witnessing Officer	Execution Date	Covenantor's Signature
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(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

..... signature
 full name
 qualification / /

2 Witnessing Officer	Execution Date	Covenantee's Signature
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(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

THIS COVENANT IS TO BE USED ONLY IN CONJUNCTION WITH A CONSERVATION AGREEMENT

1. Definitions

'The Act' means the *Land Protection (Pest and Stock Route Management) Act 2002*.

'Authority' means all authorities or instrumentalities (other than the Council) which have jurisdiction over the Conservation Works.

'Conservation Area' means the area or areas described in Item 2 of the Form 31 and includes any estate or interest in on or over such land, the airspace above the surface of the land and the subsoil of the land.

'Conservation Agreement' means any agreement in respect of the conservation of the Land or any part thereof between the Council and the registered proprietor of the Land, as amended from time to time in writing.

'Conservation Works' means the activities, if any, that the Covenantor is required to undertake under this document, the Conservation Agreement or the EMP.

'the Council' means the Covenantee specified in Item 3 of the Form 31.

'delegated officer' means any officer delegated by the Council or its Chief Executive Officer with authority to make decisions and give direction on behalf of the Council in relation to this covenant, the EMP or the Conservation Agreement.

'Development' has the meaning given in the *Sustainable Planning Act 2009*.

'Locally native vegetation' means vegetation that occurs naturally on the Land or in close proximity to the Land or in the Council's opinion would have once occurred in the local area of the Land.

'the Land' means that land described as Lot << on SP<<, County of March, Parish of <<, known as <<, Queensland in which the Conservation Area is located.

'EMP' means the environmental management plan (if any) agreed between the Covenantor and the Council, in relation to the Covenant Area, as amended from time to time.

'Notice' means any certificate, demand or notice to be made, given or served by a party under this document.

'Pest Management Strategy' means a strategy for the management of environmental pests published by the Council in accordance with the Act;

'Planning Scheme' means the Council's planning scheme as it applies to the Land from time to time;

'vegetation' means any tree, bush, fungi, algae or other terrestrial or aquatic thing including or natural parts or materials naturally produced of by or from such vegetation, whether living or dead.

'Vegetation Protection Local Law' means any local laws made by the Council which provide for the protection of native vegetation.

2. Purpose

The purpose of this covenant is to ensure that the Conservation Area is used to preserve the native animals and plants thereon in accordance with Section 97A(3)(b)(i) of the *Land Title Act 1994*.

3. Covenantor's Obligations

- 3.1. The Covenantor must, unless otherwise agreed in writing by the Council, undertake the Conservation Works and observe and comply with the following conditions:
- (a) comply with the Conservation Agreement and EMP;
 - (b) in addition to the Covenantor's obligations to control Class 1 and 2 pest declared under the Act, the Covenantor must also, unless specified otherwise in the EMP, make reasonable endeavours to keep the Conservation Area free of any Class 3 pests declared under the Act as well as any other environmental weeds listed in the Planning Scheme or any Pest Management Strategy;
 - (c) not object to the Council declaring all or any part of the Conservation Area to be a protected area under a Vegetation Protection Local Law;
 - (d) not by action or omission cause or allow any locally native vegetation in the Conservation Area to be trimmed, pruned, lopped, cut down, moved, removed, harvested, damaged or destroyed other than as specified in the EMP or in writing by a delegated officer;
 - (e) (unless required by law) not allow any fossicking, prospecting, exploration or mining, extraction or production of gas, petroleum, minerals, soil, timber or other substances to take place on the Covenant Area without the written consent of the Council. The Covenantor shall notify the Council of any proposal to conduct any such activity and shall not approve such proposal or allow any party to enter upon the Conservation Area for the purpose of such proposal, without prior written permission of the Council;
 - (f) not carry out Development in the Conservation Area other than as specified or approved in writing by a delegated officer;
 - (g) ensure that no fill, soil, rock, rubbish, ashes, garbage, waste or other material foreign to the Conservation Area is deposited in the Conservation Area unless specified in the EMP;
 - (h) not introduce any fauna, domestic animals or vegetation into the Conservation Area which are not indigenous to Australia, unless specified in the EMP;
 - (i) not allow vehicles in the Conservation Area except vehicles used for the purpose of undertaking Conservation Works in a manner agreed to in writing by a delegated officer or vehicles used for emergency services;
 - (j) not carry out any act on or in respect of the Conservation Area which in the Council's reasonable opinion may have a detrimental impact on the Conservation Area.
- 3.2. Notwithstanding the conditions set out in Clause 3.1, if any living or dead vegetation on the Conservation Area poses a risk to human safety, such vegetation may be cut down or trimmed so as to remove the risk with the prior written consent of a delegated officer stating that the Conservation Works specified in the notice are to be undertaken.

4. Performance of Conservation Works

4.1. The Covenantor shall:

- (a) apply for and obtain any necessary approvals for the undertaking of the Conservation Works from any other Authority;
- (b) not commence Conservation Works until it has obtained all appropriate approvals.

4.2. The Conservation Works shall be undertaken in accordance with the requirements and to the satisfaction of the Council and any Authority.

4.3. In the event of non-compliance by the Covenantor with the Covenantor's obligations, the Council may, in its absolute discretion:

- (a) issue a written direction requiring the Covenantor to remedy the non-compliance; and/or
- (b) carry out any planting, replanting, rehabilitation or remedial work to restore any vegetation harmed or damaged caused by the non-compliance to a state as near as is practical to the state prior to such damage or harm.

4.4. Where the Council issues a written direction pursuant to Clause 4.3, the Covenantor shall comply with the directions within 14 days or such other time period as may be specified in the direction.

4.5. In the event that the Covenantor fails to comply with a written direction within the time allowed in accordance with Clause 4.4, the Council or its agents may enter the Land, perform the work required to rectify the non-compliance and recover from the Covenantor the costs of performing that work as a debt.

5. Access and Inspection

The Council and its officers and contractors shall be entitled to enter upon the Land at all reasonable times on reasonable notice to inspect the Conservation Works provided that in entering upon the Land it causes as little disturbance to the Conservation Area and the Covenantor as is possible in the circumstances. No such notice need be given by the Council in the event of an emergency such as an imminent risk of substantial damage to the Conservation Works or vegetation in the Covenant Area.

6. Notice of Intended Change in Ownership

Where the Covenantor intends to transfer title to the Land to another person, the Covenantor must notify the Council in writing of the intended transfer and the name and address of the proposed new owner of the Land at least 14 days prior to the change of ownership or control.

7. Settlement of Disputes

7.1 This clause shall apply to any dispute between the parties to this Covenant.

7.2 Any dispute as to the performance of this Covenant or arising out of this Covenant that has not been resolved by agreement between the parties must be clearly identified in a Dispute Notice served by one party on the other party.

7.3 Within five (5) days of the date of the Dispute Notice, the parties must meet to discuss the dispute and its possible determination.

- 7.4 The parties may, within seven (7) days of meeting in accordance with clause 7.3, agree to refer the dispute to mediation.
- 7.5 If the parties agree to mediate in accordance with clause 7.4, then the parties may either:
- (a) appoint a mediator agreed by the parties; or
 - (b) where the parties fail to agree to the appointment of a mediator within the period referred to in clause 7.4, either party may request for the President for the time being of the Queensland Law Society Incorporated to nominate a mediator which the parties must then appoint as the mediator.
- 7.6 The costs of any mediator appointed under clause 7.5 must be borne equally by the parties.
- 7.7 If any dispute notified under clause 7.2 remains unresolved, then at any time fourteen (14) days after the date of a Dispute Notice, and whether before or after reference of a dispute to a mediator under clause 7.5, either party may institute proceedings in the appropriate court for determination of the dispute.
- 7.8 The parties may mutually agree in writing to extend any time period specified in this clause 7.
- 7.9 Clause 7 of this Covenant does not prevent the Covenantor or the Council from obtaining any injunctive declaratory or other interlocutory relief from a court, which may be urgently required.

8. Services

- 8.1 A notice is sufficiently made, given, issued or served by a party if left at or forwarded by prepaid post in an envelope addressed to the other party or any of them (where there are more persons than one person comprising the other party) at the address of that party.
- 8.2 A notice if sent by prepaid post is deemed to have been made, given, issued or served at the time when in the due course of the post it would be delivered at the address to which it is directed whether or not it is actually received.
- 8.3 In proving service of a notice made, given or served by the Council it is only necessary for the Council to certify to that effect under the hand of the Chief Executive Officer.
- 8.4 A notice given by a party must be:
- (a) in writing;
 - (b) signed by the party, an officer of that party or the solicitor of that party; and
 - (c) a party receiving a notice is not obliged to enquire as to the authority of the person signing the notice.

9. Covenant Runs with the Land

This Covenant burdens the Land and runs with the Land and binds the successors in title to the Land and to any parcel into which the Land is reconfigured by any means.

10. No Effect on Rates and Charges and Compliance with Laws

For the avoidance of doubt, nothing in this Covenant:

- (a) affects the liability of the Covenantor to pay all taxes, rates, charges and levies lawfully imposed in respect of the Land; and
- (b) imposes a liability on the Council to make a monetary payment to the Covenantor in the form of compensation or otherwise.

11. Registration

- 11.1 The Covenantor shall do everything necessary at the Covenantor's expense to ensure that this Covenant is registered against the title to the Land within one month after the execution of this Covenant by Council.
- 11.2 The Council shall do everything necessary (including executing any documents) to give effect to this Covenant.

12. Waiver

- 12.1 No waiver by the Council of any breach by the Covenantor of any of the provisions of this Covenant shall be implied against the Council or be otherwise effective unless it is in writing under the hand of the Chief Executive Officer.
- 12.2 A single or partial exercise or waiver of a right relating to this document will not prevent any other exercise of that right or any other right.

13. Laches and Delay

No laches or delay by the Council at any time or times in enforcing any of its rights, powers and the like under this Covenant prejudice or affect those rights or powers.

14. Severence

If any provision of this Covenant cannot be given effect or full force and effect by reason of statutory invalidity that provision shall be severed or read down but so as to maintain and uphold so far as possible the remaining provisions of this covenant.

Appendix 3 - Example Voluntary Conservation Agreement document

VOLUNTARY CONSERVATION AGREEMENT

Dated the day of 20

BETWEEN: << of <<

AND: **Noosa Shire Council of 9 Pelican Street Tewantin in the State of Queensland**

BACKGROUND

- A. The Council and the Owner acknowledge the importance of the conservation of nature in Noosa Shire.
- B. The Council and Owner further acknowledge that the participation of private landowners is essential to the protection of biological diversity, including native flora and fauna and their habitats.
- C. The Council seeks to facilitate the protection of environmentally significant areas on private properties within the region, and is prepared to support property owners to achieve this.
- D. The Owner wishes to make a contribution to biodiversity conservation in Noosa Shire by entering into a formal arrangement with the Council for the protection of the conservation values of the Owner's Property.
- E. This Agreement is in relation to the management of the Conservation Area.

THE PARTIES AGREE AS FOLLOWS

1. Definitions

'Council' means Noosa Shire Council.

'Covenant' means the covenant pursuant to Section 97A(3)(b)(i) of the Land Title Act 1994 entered into by the Council and the Owner on or about the date of this agreement which is to be registered on the title to the Property.

'EMP' means the Environmental Management Plan for the Conservation Area entered into by the Council and the Owner in accordance with this agreement as amended from time to time.

'Expert' means the person who the parties appoint for the purposes of clauses 3.6 & 3.7.

'Conservation Area' means that part of the Property which is subject to the Covenant.

'Owner' means <<< the registered proprietor, in fee simple of the Property.

'Property' means the property known as <Address>, Queensland being Lot <<< on Plan <<< in the County of <<< Parish of <<< Title Reference <<<.

2. Agreement binds registered proprietor

- 2.1. The Owner's obligations only bind the Owner while the Owner is recorded as the registered proprietor of the Property.
- 2.2. Nothing in this Agreement renders the Owner liable for any breach of this Agreement occurring when the Owner is no longer the registered proprietor of the Property.

3. Environmental Management Plan (EMP) and Covenant

- 3.1. This Agreement includes the EMP and the Covenant.
- 3.2. The covenant shall be in the form annexed hereto in schedule 1.
- 3.3. The management of the Conservation Area is to be undertaken in accordance with this Agreement by the Owner.
- 3.4. The EMP has been, or will be, prepared by the Council in consultation with the Owner within 12 months of the date hereof.
- 3.5. The Council and the Owner may agree to change the EMP. Once both parties have executed the changed EMP, the changed EMP becomes part of this agreement in place of the previous EMP.
- 3.6. If the Owner and the Council do not agree on the terms of the EMP or upon any change which may be proposed to the EMP, either party may refer the dispute to the Expert whose decision in the matter shall be final.
- 3.7. In the event that the parties do not agree upon the appointment of an expert either party may after giving the other party 7 days' notice refer the matter to the President of the Queensland Law Society or nominee who shall appoint the Expert. The cost of appointing the Expert will be shared equally by the Council and the Owner.

4. What Council will do

Once the EMP is entered into by the Council and the Owner, the Council will incur expenses and/or reimburse the Owner for the Owner's expenses associated with the implementation of the EMP (provided that the management tasks attributable to the Owner under the EMP have been performed to the satisfaction of the Council) up to the sum of \$..... for each year that this agreement remains in force to a maximum term of 5 years.

- 4.1. Nothing in this agreement affects the obligations of the Owner to pay all rates, taxes, charges and levies lawfully imposed in respect of the Property.
- 4.2. The Council will pay any registration and surveying costs in relation to this Agreement and the Covenant.
- 4.3. The Council may give the Owner such other assistance to manage the Conservation Area as is provided for in the EMP.

5. Adjacent Land

The Owner shall not do or permit any other person to do, anything on that part of the Property adjacent to the Conservation Area which may adversely affect the Conservation Area or any plants or animals thereon.

6. Recovery of money

The Council reserves the right to recover from the Owner any money paid by the Council under Clause 4 in the event that such monies have not been spent for the purposes set out in this Agreement and in the EMP.

7. Effect on Easement (insert where relevant)

- 7.1. In the event that all or any part of the Conservation Area is also subject to a registered easement, this agreement does not prevent use of the easement in accordance with the existing terms of that easement.
- 7.2. The Owner shall not grant any new easements affecting all or any part of the Conservation Area and shall agree not to amend the terms of any existing easements affecting all or any part of the Conservation Area, unless the written consent of the Council is first obtained. The Council shall not unreasonably withhold its consent to any such easement or amendment if the terms thereof give due respect to the potential impact they may have on the native vegetation in the Conservation Area.

8. Indemnity

The Owner shall indemnify the Council against all claims, demands, costs, interest penalties and liabilities whatsoever arising out of or in connection with this agreement or its performance or breach, not solely and directly attributable to any breach of the terms of this Agreement by the Council.

9. Severability

If any provision of this Agreement is found to be invalid, the remainder of the Agreement continues to apply.

10. Extent of prohibitions and restrictions

None of the prohibitions and restrictions specified in this Agreement will apply to the extent necessary for reasonable protection of human life and property from wildfire or other threatening events.

Each party shall pay their own legal costs of and incidental to the preparation of this agreement.

11. Service of notices

11.1. Notice to the Council will be deemed given:

by mail 14 days after deposit in the post to the address in Clause 11.2 with postage pre-paid.

11.2. Address for service of the Council:

Chief Executive Officer
Noosa Council
PO Box 141
Tewantin
Qld 4565

11.3. Notice to the Owner under this agreement must be given at the address set out in Clause 11.4 and will be deemed to be so given:

- (a) 14 days after the deposit in the post of Notices to such address with postage pre-paid;
- or
- (b) when delivered by hand to such address.

Where reasonably possible, Council shall also confirm by telephone to the Owner that the Notices have been sent.

11.4. Address for service of the Owner:

.....

12. Time

Time shall in all cases be of the essence of this agreement.

13. Review

Subject to the resources available to the Council, from time to time, the Council and the owner shall jointly review the effectiveness of this Agreement and the EMP.

14. Delay

No delay by the Council at any time or times in enforcing any of its rights or powers under this Agreement shall prejudice or affect those rights or powers.

15. Dispute

Any dispute between the parties will be subject to the dispute resolution procedure set out at clause 7 of the Covenant.

16. Costs

Each party shall pay their own legal costs of and incidental to the preparation of this agreement.

Executed as an agreement.

SIGNED by _____)

(CEO or Delegated Officer) for and on)

behalf of the **NOOSA COUNCIL** in the)

presence of:)

.....
CEO or Delegated Officer

)

.....)

Witness)

.....
Name of Witness

EXECUTED by **(Insert name)**)

)

in the presence of:)

.....

.....
Witness

.....
Name of Witness