



MACKAY CONSERVATION GROUP

The Environment Centre
156 Wood St, Mackay
PO BOX 826
Mackay Qld 4740

Tel: (07) 49530808
Fax: (07) 49530153
Mob: 0403 304 081
ABN: 41 123 903 975

Email: mcqmail@bigpond.com

Web: www.mackayconservationgroup.org.au

Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

Phone: +61 2 6277 3526

Fax: +61 2 6277 5818

ec.sen@aph.gov.au

4th April 2014

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Environmental_Offsets

Terms of Reference

1. That the following matter be referred to the Senate Environment and Communications References Committee for inquiry and report by 16 June 2014:

The history, appropriateness and effectiveness of the use of environmental offsets in federal environmental approvals in Australia, including:

the principles that underpin the use of offsets;

- a. the processes used to develop and assess proposed offsets;
 - b. the adequacy of monitoring and evaluation of approved offsets arrangements to determine whether promised environmental outcomes are achieved over the short and long term; and
 - c. any other related matters
2. That in conducting the inquiry the committee consider the terms of reference in (1) with specific regard to, but not restricted to, the following projects in central Queensland in Mackay Conservation Group's area:
 - a. **Waratah Coal's Galilee Coal Project; p.3**
 - b. **North Queensland Bulk Port's Abbot Point Coal Terminal Capital Dredging Project; p.11**
 - c. **Sonoma Coal Mine Coral Creek Expansion and Offset Unlikely to Work; p.13**
 - d. **Newlands Wollombi Coal Mines Newland Nature Refuge ; p.13**
 - e. **Xstrata's Rolleston Coal Mine; p.14**

Case Study 1:

Waratah Coal's Galilee Coal Project: The Legitimacy of Offsetting a Commonwealth listed Nature Refuge

Biodiversity offset requirements of the Galilee Coal Project (Northern Export Facility) also referred to as the China First Coal Project, including the development of a Biodiversity Offset Strategy (the Offset Strategy) that assesses the offset requirements at the State and Commonwealth level, identifies an approach for delivery of offsets and analyses potential offset availability.

Offsets for the project are defined as all offsets required under the Queensland Government's Environmental Offset Policy 2008 and subordinate policies, and the offsets provided for Matters of National Environmental Significance under the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*.

The project consists of a new coal mine in the Galilee Basin near Alpha and includes the Bimblebox Nature Refuge gazetted in 2001, as well as a railway to the coal port at Abbot Point. It is a State Significant Project under the State Development and Public Works Act 1971 for which an Environmental Impact Statement was required. It is also a Controlled Action under the Commonwealth *Environmental Protection and Biodiversity Conservation Act 1999*.

Relevant offset policies include:

Environmental Protection and Biodiversity Conservation Act 1999 Environmental Offsets Policy 2012, and the Queensland Government Environmental Offsets Policy Jan 2014 Vers. 1.1

The project requires compensation and offsets for the following biodiversity values:

- Bimblebox Nature Refuge;
- Brigalow Threatened Communities;
- Grassland Threatened Communities;
- Endangered Regional Ecosystems
- Of Concern regional Ecosystems
- Essential habitat (Large-podded trefoil);
- EPBC Threatened flora (Black Ironbox); and
- EPBC Threatened fauna (six species)

Waratah Coal is seeking to locate and secure a larger, strategic offset area that contains multiple offset values. The intent is to maximise the biodiversity outcomes achieved and result in more viable offsets for the long-term. It is proposed to compensate for Bimblebox Nature Refuge by assessing land within the Desert Uplands Bioregion (of which this nature refuge is a part) that contains the same vegetation communities, similar or better biodiversity values, and that the offset become a future protected area to be protected and enjoyed by the broader public in perpetuity.

MCG Comments:

3.91 The burden of proof in demonstrating the success of a restoration project or the value of an offset should be borne by the proponent. The proponent should demonstrate that the trade is in favour of the environment, using agreed measurement protocols verified by independent audit. (Hawke report review of EPBC Act))

No public information is available about the proposed Bimblebox Nature Refuge offset but it is likely to be the Boongoondoo grazing property about 62 km northwest of Bimblebox Nature Refuge. While we hear anecdotally it is in excellent condition information is not available to the public on whether it can meet biodiversity values for all offset listed requirements. No independent audit has been produced that we are aware of.

Bimblebox Nature Refuge is already a protected area listed by the Australian government in 2000 as an IUCN Class VI nature refuge where mining is not recommended. It was created as a nature refuge within the National Reserve System of Protected Areas to conserve some important remaining regional ecosystems against the large scale losses of clearing of native vegetation which was prevalent at the time. Some surrounding areas such as adjacent Kiara grazing property are almost completely cleared.

By allowing the loss of this refuge to mining the Australian government is approving the offsetting of a protected area. When this is done it represents a net loss of biodiversity and other environmental values, because the same land is being used twice as an “offset” for different kinds of adverse impacts; first for the clearing of trees for grazing lands and second for a mining project.

This is against world’s best practice guidelines for the use of offsets.

A similar situation of such “double dipping” appears likely to occur in the proposed Galilee Basin State Development Area’s coal rail corridors. In the draft proposal offsets will only last as long as the agreement or management plan i.e. they are likely to last only as long as the project for which they are created. So for a mine that could be a mine life of 30 years or a rail life of 90 years. After that they would lack protection from clearing or other impacts adversely their high environmental values.

They cannot be legitimately used for another offset agreement because it will mean a net loss to the environment.

“Permanent” Protection Requirement for Offsets for the Irrevocable Damage of High Conservation Values

There is a problem as to the viability of the proposed offset hubs program the Queensland government plans for mining the Galilee Basin because of the lack of adequate “permanent” protection and the requirement that offsets should provide permanent protection if a net loss of biodiversity is to be avoided.

Ensure permanence by using appropriate land tenure agreements, for example as recommended in the Australian Bowen Basin. The impact on biodiversity represented by open cut mining can be permanent, because restoration within human timeframes may be either challenging or very uncertain. Therefore, *in some cases offsets need to be permanent.*

Several options are available to provide protective tenure, including gazetting as National Park, Conservation Park or Nature Refuge; statutory covenants; and conservation agreements.

Where ecosystem service impacts are permanent, the offsets may need to be permanent.

(Independent Report on Biodiversity Offsets. International Union for the Conservation of Nature (IUCN) & International Council on Mining and Metals (ICMM) Jan 2013.

Offsets should be permanently guaranteed where damage is permanent or severe. The most an offset can be guaranteed for in Queensland is for perpetuity which means 99 years under Queensland law. So offsets in Queensland cannot match the “permanency” of 999 years as defined under Australian commonwealth law. Permanent offsets established under the EPBC Act 1999, and this is the case for Bimblebox Nature Refuge, should last at least 999 years.

7.2 As a general guide, the best legal mechanisms for protecting land *are intended to be permanent* and are secure (that is, they are difficult to change or alter). *These two elements are important because they mean that land set aside as an offset will continue to provide a secure benefit to the impacted protected matter.*

...

p.19

where the security of an offset is diminished, the risk to any protected matters, and subsequently the magnitude of offsets required, will increase.

EPBC Environmental Offsets Policy¹

In addition, allowing the offsetting of Bimblebox Nature Refuge does not meet the intent of the EPBC offsets policy as where damage is to be permanent, as acknowledged by Waratah Coal, the offset itself should be protected permanently. There can be no guaranteed permanent conservation gain as required in the EPBC Offsets Policy as the Queensland government’s plan is to declare the proposed offset property a Nature Refuge. Only National Parks in Queensland have protection from any future mining and the offset will last only as long as the conditions stated in the offset covenant which can be no longer than the legally defined perpetuity of 99 years.

Ecologist Russell Fairfax says it takes 200+ years for *Eucalyptus whitii/melanophloia* to reach maturity in the Desert Uplands as it only grows during very wet La Nina years. The endangered black-throated finch found in Bimblebox Nature Refuge relies on this tree species for food and nesting. Any offset that contained enough mature *E. whitii/melanophloia* trees to provide suitable habitat for this bird species would have to be guaranteed for at least 200 years. Queensland law can only offer 99 years of protection for the offset. Australian law can offer 999 years so it should prevail in this situation.

Equivalency Requirement for Offsets

Bimblebox Nature Refuge contains regional ecosystems RE10.5.5, RE10.3.28 and RE10.5.1 which cover almost all of the refuge. All of these regional ecosystems are listed as suitable habitat for the black-throated finch in the Australian government’s Recovery Plan for the Black-throated finch.

All or nearly all of the bird species of conservation significance at the regional level for each of these regional ecosystems have been recorded within Bimblebox Nature Refuge. Many of these species nest within this refuge.

¹ <http://www.environment.gov.au/system/files/resources/12630bb4-2c10-4c8e-815f-2d7862bf87e7/files/offsets-policy.pdf>

Equivalency requires that the balance of losses and gains represents a fair exchange. This requires quantitative measurement of losses and gains to biodiversity and the scaling of compensatory gains. (Independent Report on Biodiversity Offsets. International Union for the Conservation of Nature (IUCN) & International Council on Mining and Metals (ICMM) Jan 2013.

The proposed offset for Bimblebox Nature Refuge contains RE10.5.5 but in much lower area i.e. approximately 20 sq. Km as opposed to almost 80 sq. km for Bimblebox Nature Refuge. It does not contain any of the other REs listed as suitable in the EPBC Recovery Plan for the Black-throated finch save a very small area of RE10.3.28. On ground seasonal surveys will have to be undertaken to see which other conservation significant species are within the offset that are also found in Bimblebox Nature Refuge. Approval for the Waratah Coal Mine and rail has been given before ensuring that the offset will actually work to provide offset equivalency and a good environmental outcome defined as

2.36 As noted in Chapter 3, the Commonwealth should give full faith and credit to state systems that are proven to provide **good environmental outcomes**. Where approval bilateral agreements are used in the future, the Commonwealth will need a monitoring, performance audit and oversight power to ensure that the process accredited is achieving the outcomes it claimed to accomplish. Performance audit criteria will need to be specified for the accredited system before approval is granted. (Hawke Review of EPBC Act)

IUCN Convention on Biological Diversity 1992

We have reviewed the Statement of Reasons for the Commonwealth Environment Minister's approval of the Waratah Coal coal mine, railway and coal stockyards and supporting infrastructure from near Alpha in the Galilee Basin to Abbot Point in Queensland on 19 December 2013 (EPBC2009/4737).

It notes that Section 139 of the EPBC Act provides in part:

- (1) In deciding whether or not to approve the taking of an action, and what conditions to attach to an approval the Minister must not act inconsistently with:
 - (a) Australia's obligation's under
 - a. (i) the Biodiversity Convention

(p.10)

Yet nowhere in the Statement of Reasons does it address how the decision complied with the IUCN Convention on Biological Diversity.

In 2000 the Australian Government declared Bimblebox Nature Refuge an IUCN Class IV Nature Refuge. The objectives for the management of this type of refuge are described as:

Primary objective

To maintain, conserve and restore species and habitats.

Other objectives

- To protect vegetation patterns or other biological features through traditional management approaches;
- To protect fragments of habitats as components of landscape or seascape-scale conservation strategies;
- To develop public education and appreciation of the species and/or habitats concerned;

- To provide a means by which the urban residents may obtain regular contact with nature.

Distinguishing features

Category IV protected areas usually help to protect, or restore:

- 1) flora species of international, national or local importance;
- 2) fauna species of international, national or local importance including resident or migratory fauna; and/or
- 3) habitats

What makes category IV unique?

Category IV provides a management approach used in areas that have already undergone substantial modification, necessitating protection of remaining fragments, with or without intervention.

In the Commonwealth's agreement with the then owners for the acquisition of Glen Innes station for the purpose establishing a Private Protected Area (i.e. Bimblebox Nature Refuge) which was to be part of the National Reserve System and its primary purpose was to be "nature conservation". (See also a copy of the full agreement in Appendix I)

Item L (Management) C/W and Owner Agreement (Appendix I)

*The primary purpose of all management actions including the use of grazing be the maintenance and where possible the **enhancement of biodiversity values***

Section 7.3.2 Power to Dispose sets the following conditions:

The Organisation must not, without the agreement of the Commonwealth, transfer, or agree to sell or transfer, the Land to any party. The Organisation may propose that the property be transferred or sold to:

- (a) Another Appropriate Environmental Organisation which will be required to first enter into an agreement with the Commonwealth in substantially the same terms and conditions as those contained in this agreement in which that other body agrees, inter alia, to use the land for the same purpose and implement the agreed plan of management, or
- (b) The State Government which will be required to first enter into an agreement with the Commonwealth to gazette and manage the property as a protected area under appropriate legislation, or
- (c) A company or association approved by the Commonwealth, which company or association will be required to first enter into an agreement with the Commonwealth in substantially the same terms and conditions as those contained in this agreement in which that other company or association agrees, inter alia, to use the land for the same purpose and implement the agreed plan of management.

Section 7.5 *Repayment of Funds* makes it clear the permanent management of the land is to be biodiversity protection.

7.5.1 If the Organisation ceases to continue managing the Land to the standard specified in this Agreement prior to the end of 999 years from the date of signing this Agreement the Organisation shall be liable to repay to the Commonwealth the Funds. The Commonwealth may by notice in writing to the Organisation, instead of repaying the Funds, require the

Organisation to transfer the Land to another association or body which is an Appropriate Environmental Organisation which must enter into an agreement with the Commonwealth in substantially the same terms and conditions as those contained in this agreement in which that other body agrees, inter alia, to use the land for the same purpose and implement the approved plan of management.

It is clear from these sections of the agreement that the Commonwealth's intent was for permanent (999 years at the Commonwealth level) protection of the nature conservation values of this particular property within the National Reserve System of Protected Areas.

Section 8.3 The Organisation (land owners) agrees/acknowledges that the land is to be managed for 999 years in accordance with the following general principles for the management of protected areas:

- preserve and protect the land in its natural condition as part of the National Reserve System
- preserve and protect indigenous flora and fauna and habitats
- exterminate or control exotic flora and fauna
- preserve and protect specific ecological, scenic, cultural and other nominated features
- protect from injury by fire
- provide for limited visitor use
- other uses as detailed in Item L

A clause in Item L (Management) is clear that the land owners and the Commonwealth government have the responsibility to exclude activities harmful to the conservation values of the property. This includes mining!

- **to eliminate and thereafter prevent exploitation or occupation inimical to the purposes of designation.**
The purposes of the area should be defined in a plan of management or an equivalent document. Any activity which is deleterious or contrary to the management intent of the area should be excluded. In practice, minor areas of exploitation or occupation may have been developed before reservation of an area. These may be within the protected area or adjoining it. These activities should not have a deleterious effect on the area, for example through pollution. Examples of deleterious activities may include mining, logging, grazing and inappropriate recreation activities. Policies should be in place to phase out these activities.

Section 7.6 Encumbrances

7.6.1 The Organisation must not:

- a) enter into any agreements, arrangements or commitments which are inconsistent with the purpose for which Funds are provided; and
- (b) encumber the Land without the prior written approval of the Commonwealth.

In Section 7.6 the Commonwealth government also makes it clear that they are in charge of the land use purpose of the land which is environmental protection. They assume the ultimate responsibility for that.

As a signatory party of the *International Convention on Biological Diversity*, Australia was required to develop a strategy and plan to protect the nation's biodiversity. The National Strategy for the Conservation of Australia's Biological Diversity was produced in 1996 and later supplemented with a set of objectives and targets for nine priority biodiversity outcomes for the Australian Government, states and territories to achieve. The objectives included a requirement to:

- Establish and manage a comprehensive, adequate and representative system of protected areas covering Australia's biological diversity.²

This is the National Reserve System of Protected Areas. It uses the IUCN protected area management strategies for each IUCN class of protected area.

In approving the use of an environmental offset to allow open cut and underground mining of Bimblebox Nature Refuge the Australian Environment Minister Greg Hunt has clearly not met the conditions of the Commonwealth's agreement with the owners of Bimblebox Nature Refuge, and his obligation under the International Convention on Biological Diversity to ensure compliance with the requirement to permanently protect the nature conservation and biodiversity values of this property.

The community group and subsequent owners who bought this land and subsequently increased its environmental values in accordance with the management plan for the property did so because at the time of original purchase the land was under direct threat of clearing and surrounding lands were being cleared. The land was bought to prevent its clearing and conserve and enhance its environmental values.

The Minister's obligation in this instance is to provide permanent protection of a part of the National Reserve System. This something the Queensland government is unable to do because under the Queensland *Nature Conservation Act 1992* mining of nature refuges is allowed, and the state government can provide at best perpetual (99 year) protection.

The Australian government is required to provide permanent (999 years) protection for lands within the National Reserve System. As permanent protection is more likely to ensure no net loss of the biodiversity values of Bimblebox Nature Refuge than the state's perpetual level of protection, and allows potential mining, the Commonwealth Environment Minister has the primary responsibility under law and international agreement to ensure the conservation values of Bimblebox Nature Refuge are not lost. The Queensland government cannot meet that level of protection.

Additionality

Additionality requires that offset gains are caused by offset actions and not by other factors. In other words, the offset gains would not have happened in business-as-usual scenarios.

Independent Report on Biodiversity Offsets. International Union for the Conservation of Nature (IUCN) & International Council on Mining and Metals (ICMM) Jan 2013.

The Australian Environment Minister Greg Hunt provides for the possibility of an offset located some 60 km to the north west to compensate for some of the environmental values that will be permanently lost if Bimblebox Nature Refuge is mined. In doing so he is ostensibly arguing that the loss of a known area of high conservation value can be compensated for by setting aside another greater area of high and possibly similar conservation value to achieve a positive outcome for conservation.

In fact the situation is one of net loss for conservation and biodiversity, because *the area selected for the offset is not underlain by coal and not likely to be mined in the future*. The owners have kept it in good condition so it is *under no immediate threat of biodiversity and other environmental losses*.

² <http://www.environment.gov.au/biodiversity/publications/strategy/index.html>

No requirement for Commonwealth Level of Protection for the Proposed Offset for Bimblebox Nature Refuge

Any covenant the Queensland government signs with the offset owners such as another Nature Refuge agreement, can only provide at best perpetual (99 years) for an irreparable impact and not permanent protection such as the Australian government agreement provided for Bimblebox Nature Refuge.

In his Statement of Reasons Australian Environment Minister makes no mention of requiring a Nature Refuge gazettal at the Commonwealth level or requiring the same IUCN class of management as it required for Bimblebox Nature Refuge i.e. Class IV. Queensland Nature Refuges are gazetted at an IUCN Class VI lower level of protection management.

There is no mention that the offset unlike Bimblebox Nature Refuge would be placed within the National Reserve System (NRS) of Protected Areas. So it appears protection will be at the lower State level not the NRS level.

In many cases Queensland offset agreements are to last only as long as the life of the impact, which can be as short as the life of a mine e.g. thirty years for the Waratah Coal project. Then the offset has no protection and cannot be used again as an offset because it would be fulfilling the offset function for the loss of more than one area of high conservation value and clearly a net loss of biodiversity and other environmental values.

Limits to Offsets

Where "Biodiversity losses would not be adequately compensated by offsets".
(Australia's Dept. of Environment 2011)

The basic offset criteria requirements for the use of an offset to compensate for the mining of Bimblebox Nature Refuge have not been met. There is a need for more than 99 years of protection for Bimblebox Nature Refuge. There is an established signed agreement between the owners of Bimblebox Nature Refuge and the Australian government. This provides the more than 200+ years of permanent protection of Bimblebox Nature Refuge necessary to protect the tree species the endangered black-throated finch needs for food and nesting habitat, as well as other high conservation and biodiversity values the proposed offset may not contain.

We understand there has been a new plant species discovered in Bimblebox in more recent surveys for example. We have recorded the speckled warbler in Bimblebox Nature Refuge, which is extremely rare in grazed country because it needs undisturbed ground cover. It is a species of regional conservation significance for the Desert Uplands.

This makes it clear Australian Environment Minister Greg Hunt must meet the Australian government's obligation under the management agreement it signed in 2000 with the owners of Bimblebox Nature Refuge to protect it from mining. It is apparent it should never have been considered for offset consideration in the first place especially as the Waratah Coal coal mining exploration permit was not applied for until years after the Management Agreement between the then Australian Department of the Environment and Heritage and the owners of Glen Innes station (now Bimblebox Nature Refuge) was made.

Case Study 2

North Queensland Bulk Port's Abbot Point Coal Terminal Capital Dredging Project

Offsets, where appropriate, should be in addition to the best possible development practices. There must be real benefits to the Outstanding Universal Values of the World Heritage Area.

Figgis (IUCN) "Managing Australia's World Heritage"

The offset for this project relates to the equivalent of 150% of the fine sediments that are proposed to be dumped offshore from port boundaries and in the Great Barrier Reef Marine Park from the capital dredging project. The fines comprise approximately 20 per cent of the total volume of 3 million cubic metres (~5.4 million tonnes) that will be dredged for the T0, T2 and T3 coal terminals.

Greg Hunt, Minister for the Environment, set conditions for the offset that require 1.5 times the dredge fines amount i.e. ~ 0.9 million cubic metres (1.62 million tonnes) to be reduced from sediment flows from the Burdekin and Don Rivers over three years.

One of the requirements for offsets is that they be feasible. This also applies in the Queensland and Australian government offset policies.

In over a decade of operation the Australia and Queensland governments' Reef Water Quality program, delivered by Natural Resource Groups along the Great Barrier Reef coast has only manage to reduce sediment loads from rivers flowing into the Great Barrier Reef World Heritage marine waters by 320,000 tonnes. So it appears unlikely that the offset requirement of ~1.62 million tonnes is achievable within the three year time frame, given current technologies and available resources.

Another requirement is that all other possibilities should be tried before choosing to use an offset. Other options exist such as land disposal in already disturbed saline coastal areas. A smaller scale example exists in Airlie a few years ago where the then Whitsunday Shire Council allowed the dumping of Potential Acid Sulfate Soils (PASS), dredged to form Abel Point marina, in the flood plain of the Proserpine River. The spoil was buried in a turkey dam then covered. Staff told me last month that there have been no problems with the buried spoil to date. We know of an offer from the present owner of the former Guthalungra Prawn Farm to North Queensland Bulk Ports (NQBP) to accept the dredge spoil and bury it in abandoned prawn lagoons.

But this method of disposal would be more expensive and the offer was turned down by NQBP.

Dredge spoil dumping is regulated under the London Protocol 1996. It requires application of a "precautionary approach" which requires that "appropriate preventative measures are taken when there is reason to believe that wastes or other matter introduced into the marine environment are likely to cause harm even when there is no conclusive evidence to prove a causal relation between inputs and their effects".

The London Protocol also requires that the polluter pays the costs of safe disposal. While it is in their financial interests to find the lowest disposal costs, they also have the burden of proof to demonstrate that the selected disposal method is the least harmful option. Land disposal where possible is preferred in the London Protocol.

Not enough evidence was presented to show all land disposal options were not viable.

Another requirement is that the offset be located as closely as possible to the impact site so it can compensate for locally affected values. The proposed offset is aimed at reducing sediment loads within the near shore not the outer marine waters.

It will have little impact on the water quality rating of the inshore waters because other sources of sediment loads are so large, adversely affecting water quality, and it will add to the sediment load of the outer marine waters. That does not represent a “no net loss” situation for this World Heritage area. This cannot be “averaged out” to claim a net gain as the near shore and outer marine areas are two different environments

Where is proof of the required net gain in water quality from this use of an offset and proof that there will be a net gain for the OUVs of the Great Barrier Reef Marine Park?

The Queensland government’s Strategic Assessment report for the World Heritage committee found that the inshore waters of the Great Barrier Reef Marine Park south of Cooktown have a C+ rating for water quality. A major reason for this is that sediments entering the GBR Marine Park are now five times the concentrations of pre-European times. This makes it difficult for port managers to dump dredge spoil within port boundaries adjoining the GBR coast without adding to the problem. They have proposed dumping it farther out within the GBR Marine Park waters. This sets a precedent for spreading pollution into an area with a much higher water quality rating. Given there is an onshore option this is unacceptable considering the world heritage values of these marine waters. While the Marine Parks Act allows dumping it has never allowed dumping in such large volumes outside the port boundaries.

Another requirement is that the offset be located as closely as possible to the impact site. The proposed offset is aimed at reducing sediment loads within the near shore not the outer marine waters. It will have little impact on the water quality rating of the inshore waters because other sources of sediment loads are so large, and it will add to the sediment load of the outer marine waters. Where is the required net gain in water quality from the use of an offset?

Marine biologist Tony Fontes who also runs a diving tourism business in the Whitsundays has a video that demonstrates that there is plenty of marine life the proposed dredge spoil dumping site. He also has a GBRMPA poster showing the ecological connectivity between the near shore GBR marine Park waters and the adjoining terrestrial environment. The poster includes illustrations of the life cycle of coral trout, an important commercial fishing species. Tony describes how the dumping ground area provides essential habitat areas for the juvenile stage of this species. That disruption of ecological connectivity for this species is not addressed in the EIS or Australian Environment Minister’s Statement of Reasons for Approval of this project. This adds to the evidence for a lack of net gain for biodiversity for the GBR Marine Park if offsets are allowed which permit the ongoing dumping of large volumes of near-shore dredged sediments in offshore environments.

Case Study 3

Sonoma Coal Mine Coral Creek Expansion and Offset Unlikely to Work

QCoal built a coal mine near the town of Collinsville. In its first EIS it promised the Collinsville community it would not expand into Coral Creek which was a public recreational area for the community as well as having the vulnerable (EPBC and NCA listed) tree species *Eucalyptus raveretiana* along its banks near the mine.

Within a few years QCoal applied for state permission to mine a section of Coral Creek and create a creek diversion. This was for only six months of thermal coal. An offset was proposed for the loss of the *E. raveretiana*. This is a species which is only found where it can access groundwater so the water table should be relatively close to the surface and soils above the water table should have good water holding capacity. The offset along the creek diversion is unlikely to work because the mine will have to undertake extensive dewatering to access the coal below the creek bed, thus lowering the water table in and surrounding the impact areas, and drying out the soils above, making it difficult for any *E. raveretiana* planted in the offset able to survive.

We were unable to even estimate just how much of this species will remain in the Burdekin River catchment (it is only present in isolated pockets near waterways) because all Essential Habitat Areas have yet to be mapped by DEHP.

Nearly every mining application in the Burdekin catchment lists this tree species as being impacted.

Case Study 4

Newlands Wollombi Coal Mines Offset

Xstrata and now Glencore run these two adjacent coal mines west of Eungella and Mackay in Central Queensland. Xstrata created the Newlands Nature Refuge around 2007 to offset losses of high conservation values of three EPBC listed ecological communities. Recently they applied for and were given permission to place an underground coal mine under the Nature Refuge. The refuge contains a number of wetlands and will be subject to hydrological changes as the underground mine causes subsidence. Xstrata denies that this is having adverse impacts on the high conservation values of the refuge offset.

When the refuge was established Mackay Conservation Group who had commented on the EIS for the Newlands expansion and were invited to be on an oversight management committee for the refuge, found themselves literally shut out of access to the refuge when members went to conduct bird surveys. A subsidiary of Xstrata, Colintas Holdings, a grazing management company had locked the entrance gate. No community oversight committee was ever formed.

Mining under a nature refuge and denying community participation in its management do not constitute best practice for offsets. Results of environmental monitoring surveys and audits of the condition of the offset should also be available to the public as a matter of public interest in ensuring the quality of the offset is not declining.

Case Study 5

Xstrata's Rolleston Mine

This mine is located near Springsure in Central Queensland in a wetland area frequently subject to flooding. The mine has been severely flooded and is in an upland catchment area whose tributary runs into the Fitzroy River. There are many coal mines along this river and severe flood events send polluted mine waste waters down the Fitzroy River and into the offshore waters of the Great Barrier Reef World Heritage Area.

The Rolleston Mine has gone through two expansions and now has an EIS out for public comment on a proposed third expansion. EPBC Matters of National Environmental Significance affected with each expansion include three threatened ecological grassland, vine scrub and brigalow communities as well as some listed wetland and migratory bird species. For each expansion offsets have been proposed and accepted by the Australian Department of the Environment but none had even begun to be implemented when I checked last year, years after they were first declared. Yet damaging actions to the wetlands and the threatened ecological communities had been allowed to proceed at a large scale.

Need for Strategic Assessment Planning

This highlights the problem of unsustainable development we continually see of ever expanding mines not having their full extent assessed initially as part of a Strategic Assessment at a river basin or bioregional scale. A strategic assessment strategy would show where mineral and coal resources are in a river basin and /or bioregion, as well as showing where areas of high conservation values are. Areas that could be mined without causing a net loss of high conservation and biodiversity values, ecological connectivity and ecosystem services and water resources could be delineated, as well as areas for offsets where it was proven that no other option was available and the mining project could be shown to be in the public interest, socially and environmentally as well as economically in the long-term.

Offsets, in conjunction with a comprehensive biodiversity monitoring program, could be planned at a larger scale which would protect more environmental values and ecological connectivity and environmental services, and which would not be subject to damage from mining and mining infrastructure corridors passing through them, as is now planned for high conservation areas in offset hubs in the Galilee Basin State development area which would be subject to coal rail corridors operating 24/7 365 days a year passing through the middle of the main central offset hub.

We simply do not have adequate biodiversity monitoring data available for much of Queensland to be confidently deciding where offsets would be viable.

As things stand now offsets are being used to facilitate development in many cases where development should not proceed, This is not what they are meant to do. The "one-stop-shop" of approving major developments at the state level will result in much less federal oversight and less attention to MNES under the EPBC Act and offsets that last much less than the 999 years of permanent protection the Australian department of the Environment could require and what is needed where wildlife need habitats that can take centuries to develop.

Sincerely,

Patricia Julien
Research Analyst
Mackay Conservation Group

APPENDIX I: Bimblebox Nature Refuge Agreement

Agreement

between the

COMMONWEALTH OF AUSTRALIA

represented by the

Department of the Environment and Heritage

and

Ian Henry HERBERT, Catherine HERBERT, Carl Damon RUDD and Kerri Elizabeth RUDD

in relation to Financial Assistance for the purchase of land to establish a Private Protected Area
which will be part of the National Reserve System

Community Acquisition - Glen Innes³

³ Bimblebox Nature Refuge covers all of Glenn Innes property.

Table of Clauses

1. INTERPRETATION	2
2. OPERATION OF AGREEMENT	6
3. PAYMENT OF FUNDS AND SECURITY	6
4. ORGANISATION'S CONTRIBUTION AND OTHER CONTRIBUTIONS	7
5. USE OF THE FUNDS	7
6. PERFORMANCE OF PROJECT	7
7. ACQUISITION OF LAND AND ESTABLISHMENT OF A PRIVATE PROTECTED AREA FOR NATURE CONSERVATION	7
8. PRINCIPLES OF MANAGEMENT OF PROTECTED AREA	11
9. MANAGEMENT OF THE FUNDS	12
10. ASSETS	12
11. RECORD KEEPING AND REPORTING	13
12. FINANCIAL STATEMENTS AND ACQUITTAL OF FUNDS	13
13. ELIGIBILITY OF PROPONENT TO CONTINUE WITH THIS AGREEMENT	14
14. PROJECT MATERIAL	12
15. ACKNOWLEDGMENT & PUBLICATIONS	15
16. DISCLOSURE OF INFORMATION	15
17. CONFLICT OF INTEREST	13
18. SUBCONTRACTING	17
19. ACCESS TO ORGANISATION'S LAND	17
20. INDEMNITY	18
21. INSURANCE	18

22. DISPUTE RESOLUTION	19
23. TERMINATION AND SUSPENSION, AND RECOVERY OF FUNDS	15
24. COMPLIANCE WITH LAW	21
25. NEGATION OF EMPLOYMENT, PARTNERSHIP AND AGENCY	21
26. WAIVER	21
27. TRANSFER AND VARIATION	22
28. APPLICABLE LAW	22
29. NOTICES	22
30. ANIMAL ETHICS	17
THE SCHEDULE	24
A. Project Investigator (Organisation)	24
Project Officer Mr Ian Herbert	24
B. Liaison Officer (Department) Mr Greg Hayes	24
C. The Project	24
D. Project Period	24
E. Project Time frame	24
F. Communication Activities and Acknowledgment	25
G. Funds	25
H. Approved Budget	25
I. Records and Reporting Requirements	25
J. Insurance	25
K. Acquisition of Land	20
L. Management of Land	27
M. Signage	22

**THIS AGREEMENT IS MADE ON
PARTIES**

2000

COMMONWEALTH OF AUSTRALIA ('the **Commonwealth**') for the purposes of this Agreement represented by and acting through the Department of the Environment and Heritage ('the **Department**') of the first part;

AND

Ian Henry HERBERT of PO Box 794 ROCKHAMPTON QLD 4700 of the second part;

AND

Catherine HERBERT of PO Box 794 ROCKHAMPTON QLD 4700 of the third part;

AND

Carl Damon RUDD of 12 Morse St EMERALD QLD 4720 of the fourth part;

AND

Kerri Elizabeth RUDD of 12 Morse St EMERALD QLD 4720 of the fifth part (the second, third, fourth and fifth parties shall together be referred to as the **Organisation**).

PURPOSE

- A. The *National Reserve System* is specified as a purpose of the Natural Heritage Trust of Australia Reserve (the 'Reserve') established under section 4 of the Natural Heritage Trust of Australia Act 1997 (the 'Act').
- B. The primary objective of the *National Reserve System* is to assist with the establishment and maintenance of a comprehensive, adequate and representative systems of reserves.
- C. In furtherance of that objective, the Minister for the Environment has approved a grant of financial assistance to the Organisation under section 20 of the Act on the terms and conditions set out in this Agreement.
- D. The grant of financial assistance will be debited from the Natural Heritage Trust of Australia Reserve.

OPERATIVE PART

1. Interpretation

1.1 In this Agreement, unless the contrary intention appears:

‘**Accountant**’ means a person who is:

- (a) registered as a company auditor or a public accountant under a law in force in a State or Territory; or
- (b) a member of the Institute of Chartered Accountants or the Australian Society of Certified Practising Accountants; and is
- (c) neither an employee of nor associated with the Organisation;

‘Appropriate Environmental Organisation’ means an organisation listed on the ‘Register of Environment Organisations’ being that register of approved environmental organisations listed under item 6.1.1 of table 6 in subsection 78(4) of the Income Tax Assessment Act 1936, and which has the eligibility requirements under section 78AB of that Act or an organisation eligible to receive tax deductible donations under that Act.

‘Approved Budget’ means budget approved under Item H for each financial year;

‘Assets’ mean any goods or land acquired or produced by the Organisation for or in the course of the Project wholly or partly using the Funds;

‘Confidential Information’ means information that:

- (a) is by its nature confidential;
- (b) is designated by either party as confidential; or
- (c) either party knows is confidential;

but does not include information which:

- (d) is or becomes public knowledge other than by breach of this Agreement;
- (e) is in the possession of either party without restriction in relation to disclosure before the date of receipt from the other party; or
- (f) has been independently developed or acquired by the parties;

‘Conflict of Interest’ means any financial or property interest of the Organisation or any circumstance affecting the Consultant that is likely to conflict with, or adversely affect the ability of the Organisation to perform the obligation of the Organisation under this Agreement.

‘CPI’ means the consumer price index released quarterly by the Australian Bureau of Statistics (catalogue 6401.0) and which is used as indexation for the value of the Funds.

‘Department’ means that Department of the Government of the Commonwealth of Australia responsible for the oversight of Australia’s National Reserve System, which is currently the Department of the Environment and Heritage, and which is from time to time responsible for the administration of this Agreement, or an agent appointed by the Department for the purpose of managing this Agreement.

‘Funds’ means the funds to be paid by the Commonwealth under this Agreement to the Organisation as specified in Item G;

‘Intellectual Property’ includes all copyright (including rights in relation to phonograms and broadcasts), all rights in relation to inventions (including patent rights), plant varieties, registered and unregistered trademarks (including service marks), registered designs, and circuit layouts, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields;

‘IUCN Protected Area Management Category’ means one of six categories applied to an area covered by the IUCN definition of a Protected Area and describing the level of the full spectrum of management objectives that applies specifically to that Protected Area.

‘Land’ means the land described in Item K.

‘Liaison Officer’ means the person specified by name or position in Item B or any substitute notified in writing by the Department to the Organisation;

‘Material’ includes information and the subject matter of any category of Intellectual Property rights;

‘Minister’ means the Minister of State of the Commonwealth who is responsible for the administration of the National Reserve System, and includes any Minister acting for and on behalf of that Minister;

‘National Reserve System’ means the purpose specified by the name ‘National Reserve System’ as a purpose of the Natural Heritage Trust of Australia Reserve, established under section 4 of the Natural Heritage Trust of Australia Act 1997 and if that purpose ceases to exist, such other purpose as, in the opinion of the Department, at the relevant time, is most nearly equivalent to that purpose of the National Reserve System.

‘Other Contribution’ means the contribution to the Project other than the Commonwealth under this Agreement or the Organisation, as specified in Item H;

‘Organisation’s Contribution’ means the contribution, if any, from the Organisation for the Project specified in Item H;

‘Organisation’ means Ian Henry HERBERT, Catherine HERBERT, Carl Damon RUDD and Kerri Elizabeth RUDD;

‘Plan of Management’ means a detailed plan prioritising and scheduling management actions for the Protected Area.

‘Program’ means the National Reserves Systems program which aims to establish and maintain a comprehensive, adequate and representative systems of reserves, and under which the Commonwealth is able to give the Funds to the Organisation;

‘Project’ means the project described in Item C;

‘Project Period’ means the period specified in Item D;

‘Project Officer’ means the person specified by name or position in Item A or any substitute notified in writing by the Organisation to the Department;

‘Project Material’ means all Material:

- (a) brought into existence under this Agreement as part of, or for the purpose of, performing this Agreement;
- (b) incorporated in the Material referred to in paragraph (a); or

(c) copied or derived from Material referred to in paragraphs (a) or (b);

‘Protected Area’ means a protected area in accordance with the IUCN definition of a protected area for nature conservation, namely “an area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means.”

‘Restrictive Covenant’ means an agreement which is binding on successors in title to protect the nature conservation values of the property.

‘State’ means the State or Territory in which the Land is situated.

1.2 In this Agreement, unless the contrary intention appears:

- (a) words importing a gender include any other gender;
- (b) words in the singular include the plural and words in the plural include the singular;
- (c) clause headings are inserted for convenient reference only and have no effect in limiting or extending the language of provisions to which they refer;
- (d) words importing persons include a partnership and a body whether corporate or otherwise;
- (e) all references to dollars are to Australian dollars;
- (f) reference to any statute or other legislation (whether primary or subordinate) is to a statute or other legislation of the Commonwealth as amended or replaced from time to time;
- (g) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (h) reference to an Item is to an Item in the Schedule;
- (i) the Schedule and any attachments form part of this Agreement;
- (j) where any conflict arises between the terms and conditions contained in the clauses of this Agreement and any part of the Schedule (and attachments if any), the terms and conditions of the clauses prevail;
- (k) where any conflict arises between any part of the Schedule and any part of an attachment, the Schedule prevails; and
- (l) reference to the Schedule (or an attachment) is a reference to the Schedule (or an attachment) to this Agreement, including as amended or replaced from time to time by agreement in writing between the parties.

- 1.3 This Agreement records the entire agreement between the parties in relation to its subject matter.
- 1.4 No variation of this Agreement is binding unless it is agreed in writing between the parties.
- 1.5 Any reading down or severance of a particular provision does not affect the other provisions of this Agreement.

2. *Operation of Agreement*

- 2.1 This Agreement shall commence on the date first appearing in this Agreement.

3. *Payment of Funds and Security*

- 3.1 Subject to Parliamentary appropriation, the Commonwealth agrees to pay the Funds to the Organisation in accordance with the payment schedule in Item G.
- 3.2 All net income received by the Organisation by way of interest earned on the Funds will be added to, and will form part of, the Funds for all purposes of this Agreement.
- 3.3 Where Item G provides that the Funds are to be paid by progressive instalments, the Commonwealth shall be entitled, without derogating from any other right it may have, to defer payment of an instalment until the Department has certified that the Organisation has completed to the satisfaction of the Commonwealth the part of the Project previous to the part to which that instalment relates, including the provision of any acquittances required under this Agreement, or that appropriate arrangements are in place to ensure the satisfactory and timely completion of any outstanding tasks.
- 3.4 Notwithstanding such deferral of any payments, the Organisation shall continue to perform its obligations under this Agreement.
- 3.5 The Organisation acknowledges that:
 - (a) the contribution of funding to the Project by the Commonwealth in excess of the Funds is dependent on the approval of a further specific application for funding by the Commonwealth, which may be given or refused on any criteria the Commonwealth considers appropriate and is not limited to an assessment of the Organisation's performance under this Agreement.
 - (b) despite any in-principle approval the Commonwealth may have given for the funding of the Project beyond the Project Period, the Commonwealth is not under any obligation to contribute any further funding in excess of the Funds, and will not be under any liability for not doing so; and
 - (c) the contribution of any further funding for the Project by the Commonwealth is dependent on the execution of a further agreement by the Organisation on terms satisfactory to the Commonwealth.

3.6 The Organisation agrees to provide such security for the performance of its obligations under this Agreement as is requested by the Commonwealth.

4. *Organisation's Contribution and Other Contributions*

4.1 The Organisation agrees to provide the Organisation's Contribution for the Project.

4.2 The Organisation agrees to use its best endeavours in obtaining Other Contributions, and further agrees to notify the Commonwealth without delay if any Other Contributions are not received in accordance with the Item H.

4.3 The Organisation accepts responsibility for the provision of any additional funds which may be required to complete the Project.

4.4 The Organisation agrees to participate in such demonstration/communication activities as are specified in Item F.

5. *Use of the Funds*

5.1 The Organisation agrees to use the Funds:

- (a) only for the purposes of the Project; and
- (b) only in accordance with the Approved Budget at Item H.

5.2 The Organisation may make a transfer of funds between expenditure items within an Approved Budget subject to the following limitations:

- (a) the Organisation must seek approval in writing from the Department for any transfer(s) which exceed a total of 10% of the total Approved Budget for the financial year;
- (b) the total amount of transfers in any financial year shall not exceed 20% of the Approved Budget for that financial year.

6. *Performance of Project*

6.1 In performing the Project the Organisation agrees to:

- (a) carry out the activities making up the Project as specified in Item C at a high standard;
- (b) meet the time frames and other performance requirements for the Project set out in Items C and E;

6.2 Ian Henry HERBERT, Catherine HERBERT, Carl Damon RUDD and Kerri Elizabeth RUDD shall be jointly and severally liable for the performance and observance of this Agreement.

7. Acquisition of land and establishment of a private protected area for nature conservation

7.1 Title to land

7.1.1 The title to the Land will vest in the Organisation (which may be linked to a parent trustee organisation if required by state law).

7.2 Restrictions on Use

7.2.1 The Organisation agrees to establish the Land as a Private Protected Area for Nature Conservation purposes.

7.2.2 The Organisation must prepare a Plan of Management in accordance with the principles in Item L. The Organisation must not use the Land (or permit the Land to be used) for any purpose other than a Protected Area in accordance with the Plan of Management.

7.3 Restrictive Covenant/power to dispose

7.3.1 Restrictive Covenant

If the Organisation does not execute within 14 days of being required in writing by the Commonwealth to do so, an instrument in the form which is provided for the registration of the Restrictive Covenant by the Registrar-General (or equivalent statutory officer) for the State or Territory in which the Land is situated and does not do whatever is reasonably necessary to procure the registration of the Restrictive Covenant, the Organisation, by executing this Agreement, irrevocably appoints the Liaison Officer as the attorney for the Organisation in accordance with clause 7.4.3.

The Organisation undertakes to own and manage the property in accordance with the Principles of Management of Protected Area outlined in Clause 8 of this Agreement.

7.3.2 Power to dispose

The Organisation must not, without the agreement of the Commonwealth, transfer, or agree to sell or transfer, the Land to any party. The Organisation may propose that the property be transferred or sold to:

(a) Another Appropriate Environmental Organisation which will be required to first enter into an agreement with the Commonwealth in substantially the same terms and conditions as those contained in this agreement in which that other body agrees, inter alia, to use the land for the same purpose and implement the agreed plan of management, or

(b) The State Government which will be required to first enter into an agreement with the Commonwealth to gazette and manage the property as a protected area under appropriate legislation, or

(c) A company or association approved by the Commonwealth, which company or association will be required to first enter into an agreement with the Commonwealth in substantially the same terms and conditions as those contained in this agreement in

which that other company or association agrees, inter alia, to use the land for the same purpose and implement the agreed plan of management.

(d) If the Organisation seeks Commonwealth agreement to transfer, or to sell the Land to a party which is not listed on the Register of Environmental Organisations or is not a company or association referred to in paragraph 7.3.2.(c) above, the Organisation must first offer to sell or transfer the Land at market value to the Commonwealth (or an Appropriate Environmental Organisation nominated in writing for that purpose by the Liaison Officer). The Commonwealth or the party nominated by the Commonwealth (which may include the State Government) must notify the Organisation in writing within 14 days after receipt of the offer whether it accepts the offer. If the Organisation fails to comply with this clause 7.3.2(d), the Organisation will be in default for the purposes of clause 27.

Sale/Transfer value

- 7.3.3 If the Organisation and the Commonwealth have been unable to agree in writing upon the market value of the Land within one month after the Organisation has offered to sell or transfer the Land, the parties must refer the market value for resolution, in accordance with Clause 22, by an independent valuer practicing as a valuer in the State, whose decision shall be final and binding on the parties.
- 7.3.4 If the Organisation and the Commonwealth are unable to agree upon the person who is to be appointed as the independent valuer within one month after one party has requested the other party to so agree, the parties must request the President or other most senior official of the Division of the Australian Institute of Valuers and Land Economics in the State to appoint the independent valuer to determine the market value and the decision of the independent valuer shall be final and binding on the parties.

Notifying the Commonwealth

- 7.3.5 The Organisation agrees to notify the Commonwealth immediately if it is unable to effectively manage the Protected Area for the purpose of nature conservation in accordance with the agreed Plan of Management.

7.4 *Security for Funding*

- 7.4.1 Without restricting the generality of Clause 3.6, the Organisation must, within 14 days of being required to do so in writing by the Commonwealth, grant a mortgage on the Land to the Commonwealth to secure the repayment of the Funds if the Commonwealth becomes entitled to demand repayment, securing the amount of the Funds (or such part of the Funds as the Commonwealth specifies in the notice in writing).
- 7.4.2 The mortgage shall be in the general form of mortgage which is contained in the Real Property Act 1900 (New South Wales) where the Land is situated in New South Wales or its nearest equivalent statutory form under the Act of the State or Territory in which the Land is situated and shall contain such other terms and conditions as are, in the reasonable opinion of the Commonwealth, necessary to protect the interests of the Commonwealth in obtaining repayment.

- 7.4.3 If the Organisation fails to execute a mortgage, in accordance with Clause 7.4.1 within 14 days after being presented by the Commonwealth with the mortgage for execution, or an instrument leading to the registration of a restrictive covenant in accordance with Clause 7.3, the Liaison Officer may execute the mortgage or that instrument as attorney for the Organisation and the Organisation, by executing this Agreement irrevocably appoints the Liaison Officer as the attorney of the Organisation for that purpose and undertakes to confirm and ratify whatever the Liaison Officer may lawfully do for the purpose of executing the mortgage or that instrument, procuring the production of the instrument of title for the Land and procuring the registration of the mortgage or that instrument.
- 7.4.4 The Commonwealth agrees to discharge the mortgage once funds have been repaid in accordance with Clause 7.5.

7.5 *Repayment of Funds*

7.5.1 If the Organisation ceases to continue managing the Land to the standard specified in this Agreement prior to the end of 999 years from the date of signing this Agreement the Organisation shall be liable to repay to the Commonwealth the Funds. The Commonwealth may by notice in writing to the Organisation, instead of repaying the Funds, require the Organisation to transfer the Land to another association or body which is an Appropriate Environmental Organisation which must enter into an agreement with the Commonwealth in substantially the same terms and conditions as those contained in this agreement in which that other body agrees, inter alia, to use the land for the same purpose and implement the approved plan of management.

7.6 *Encumbrances*

7.6.1 The Organisation must not:

- (a) enter into any agreements, arrangements or commitments which are inconsistent with the purpose for which Funds are provided; and
- (b) encumber the Land without the prior written approval of the Commonwealth.

8. *Principles of Management of Protected Area*

8.1 The Organisation agrees/acknowledges that the land is to be managed as a Protected Area in accordance with the IUCN Guidelines and will be managed in accordance with the IUCN Category designated in Item L.

8.2 The Organisation agrees to manage the land in accordance with the requirements of Item L.

8.3 The Organisation agrees/acknowledges that the land is to be managed for 999 years in accordance with the following general principles for the management of protected areas:

- preserve and protect the land in its natural condition as part of the National Reserve System
 - preserve and protect indigenous flora and fauna and habitats
 - exterminate or control exotic flora and fauna
 - preserve and protect specific ecological, scenic, cultural and other nominated features
 - protect from injury by fire
 - provide for limited visitor use
 - other uses as detailed in Item L

8.4 The Organisation agrees/acknowledges that the specific objectives for the land are those listed in Item K.

9. *Management of the Funds*

- 9.1 Unless stipulated to the contrary in Item I, the Organisation shall pay all of the Funds received by it into an account maintained with an established financial institution such as a bank, building society or credit union operating in Australia, specifically for the purposes of the Project. The Organisation shall identify the receipt and expenditure of those moneys in separate accounts within the Organisation's accounting records.
- 9.2 The Organisation shall cause to be kept proper accounts and records of its transactions and affairs in relation to use of the Funds in accordance with accounting principles generally applied in commercial practice and as required by law, and shall do all things necessary to ensure that all payments out of its moneys are correctly made and properly authorised and adequate control is maintained over the incurring of liabilities.
- 9.3 The Organisation agrees to notify identifying details of the account maintained under Clause 9.1, and provide documentary evidence of compliance with this clause, to the Commonwealth on request.
- 9.4 Any payment of funds made by the Commonwealth under this Agreement shall be paid to Ian Henry HERBERT and Catherine HERBERT and those funds shall be taken to have been paid to the Organisation.

10. *Assets*

- 10.1 Ownership of each Asset will vest in the Organisation.
- 10.2 Assets must be used during the Project Period only for the purposes of the Project, unless otherwise approved in writing by the Department.
- 10.3 Assets must be identified in the Approved Budget.
- 10.4 Details of the sale, disposal or write-off of Assets during the Project Period must be included in the financial statements provided by the Organisation under this Agreement.
- 10.5 In the event that any Assets are disposed of, lost, stolen or damaged during the Project Period, any moneys (including insurance payouts) received in relation to such disposal, loss, theft or damage must be used for the purposes of the Project and disclosed in the financial statements.
- 10.6 The Organisation will be fully responsible for, and will bear all risks arising in relation to, the use of the Assets in the Project, and agrees to maintain all appropriate fire and other general insurances in respect of the Assets, unless specific exemption is given, in writing, by the Department.
- 10.7 This clause is subject to clause 7.

11. Record Keeping and Reporting

- 11.1 The Organisation agrees to keep full and accurate record books covering all aspects of the Project and to retain such records for at least the number of years specified in Item I from the date of receipt of Funds from the Commonwealth.
- 11.2 The records kept by the Organisation must include records of the performance of the Project, including whether time frames and performance requirements for the Project have been met.
- 11.3 The Organisation agrees to report promptly to the Commonwealth throughout the Project Period concerning:
- 11.3.1 any significant developments in or concerning the Project; and
 - 11.3.2 any significant delays or difficulties encountered in performing the Project in accordance with this Agreement.
- 11.4 The Organisation agrees to provide the Commonwealth with written reports on the progress of the performance of the Project at the times and in the manner specified in Item I.
- 11.5 The Organisation agrees to provide the Commonwealth with a Final Report in respect of the Project as specified in Item L.
- 11.6 The Commonwealth may require the establishment of a Steering Committee whose membership, role and responsibilities will be as set out in Item L.
- 11.7 The Organisation agrees to liaise with and report regularly to any Steering Committee established under Clause 11.6.

12. Financial Statements and Acquittal of Funds

- 12.1 Within two (2) months of the completion of the financial year, of the restrictive covenant referred to in Clause 7.3.1, or earlier termination of this Agreement, the Organisation must forward to the Department;
- (a) an audited statement of receipts and expenditure in respect of the Project certified by an Accountant which shall include a definitive statement as to whether the financial accounts are true and fair, and a statement of the balance of the Organisation's banking accounts relating to this project; and
 - (b) a statement of compliance signed by the Chief Executive Officer and the Chief Finance Officer of the Organisation certifying whether all of the Funds received were expended for the purpose of and in accordance with this Agreement and whether the Organisation's contribution and the contributions of other parties apart from the Commonwealth were expended for the purposes of the Project.
- 12.2 After settlement and registration of the restrictive covenant (whichever is the latter) referred to in clause 7.3.1 or at the earlier termination of the Agreement, all Funds unexpended or not acquitted to the satisfaction of the Department shall be repaid to the Commonwealth within 60 days of the Department notifying the Organisation that it requires such payment.

- 12.3 If any monies due to the Commonwealth remain unpaid or unrepaid after the date on which they should have been paid or repaid the Commonwealth is entitled to be compensated for the loss suffered by reason of the withholding of those moneys. The recompense to the Commonwealth for the loss, caused by either the expense of borrowing other money in place of, or the loss of investment opportunity of, money unpaid or unrepaid, is to be interest on the amount of the money unpaid or unrepaid at the weighted average yield of the 13 week Treasury Notes allotted in the latest tender of those Notes prior to the date on which the money unpaid or unrepaid first becomes payable or repayable plus a margin of one percent.
- 12.4 The Organisation agrees, if requested in writing by the Commonwealth, to make available for inspection by officers of, or by other persons appointed by, the Commonwealth, all books, accounts, receipts, printed or electronic material and other documents relating to the expenditure by the Organisation of the whole or any part of the Funds.

13. *Eligibility of proponent to continue with this agreement*

- 13.1 The Organisation must immediately notify the Commonwealth in writing if it becomes aware of any matters which may affect its eligibility to continue as a Funding recipient or its capacity to comply with the provisions of this Agreement.

14. Project Material

- 14.1 Intellectual Property in all Project Material vests or will vest in the Organisation. The Organisation grants to the Commonwealth a permanent, irrevocable, royalty-free, world-wide, non-exclusive licence (including a right of sublicense) to use, reproduce, adapt and exploit the Project Material.
- 14.2 To the extent that any pre-existing Material owned by the Organisation or a third party is incorporated in the Project Material, the Organisation grants to the Commonwealth a permanent, irrevocable, royalty-free, world-wide, non-exclusive licence (including a right of sublicense) to use, reproduce, adapt and exploit any such existing Material in conjunction with the other Project Material.
- 14.3 If requested by the Commonwealth, the Organisation agrees to bring into existence, sign, execute or otherwise deal with any document which may be necessary or desirable to give effect to this Clause 14.
- 14.4 The Organisation warrants that it is entitled, or will be entitled at the relevant time, to deal with the Intellectual Property in the Project Material in the manner provided for in this Clause 14.

15. Acknowledgment & Publications

- 15.1 The Organisation must acknowledge in a form of words approved by the Liaison Officer the provision by the Commonwealth of financial assistance, in any public statement which mentions the Land or the Project in any material, printed or otherwise, produced for or as a result of this agreement, as well as on signs displayed at all entrances to the Land that the Commonwealth and the Organisation are engaged in a joint project in relation to the Land.
- 15.2 The Organisation shall erect and maintain a sign at the main entrance to the Land which contains contact information and acknowledges the assistance by the Commonwealth in the form designated in Item M.

16. Disclosure of Information

- 16.1 Either party may, subject to any agreement by the parties to the contrary, disclose to any person or publish any contract material with the exception of any Confidential Information or Material. The Department may give written approval to the Organisation to disclose or publish Material, but in giving such written approval, the Department may impose such terms and conditions as it thinks fit.
- 16.2 The Department may at any time require the Organisation to give and to arrange for its officers, employees, agents and sub-contractors engaged in the performance of the Project to give written undertakings, in a form required by the Department, relating to the non-disclosure of Confidential Information. The Organisation will promptly arrange for all such undertakings to be given.

- 16.3 The Organisation agrees with respect to services to be performed under this Agreement to comply with the Information Privacy Principles set out in section 14 of the Privacy Act 1988 ('the Act') and to comply in so far as is practicable with any policy guidelines laid down by the Commonwealth or issued by the Privacy Commissioner from time to time relating to the handling of personal information.
- 16.4 This clause will survive the expiration or termination of this Agreement.

17. Conflict of Interest

- 17.1 The Organisation warrants that, to the best of its knowledge after making diligent inquiry, at the date of signing this Agreement no commercial conflict with the interests of the Commonwealth exists or is likely to arise in the carrying out of its obligations under this Agreement.
- 17.2 If, during the term of this Agreement, such a conflict of interest arises, or appears likely to arise, the Organisation agrees to:
- (a) notify the Commonwealth immediately in writing;
 - (b) make full disclosure of all relevant information relating to the conflict;
- and
- (c) take such steps as the Commonwealth may reasonably require to resolve or otherwise deal with the conflict.
- 17.3 If the Organisation does not notify the Commonwealth or is unable or unwilling to resolve or deal with the conflict as required, the Commonwealth may terminate this Agreement in accordance with the provisions of Clause 23.
- 17.4 The Organisation shall not, and shall ensure that any employee of the Organisation does not, engage in any activity or obtain any interest during the course of this Agreement that is likely to conflict with or restrict the Organisation in performing the Project, and shall make its best endeavours to ensure that any agent or subcontractor does not so engage.

18. Subcontracting

- 18.1 The Organisation agrees not to sub-contract the performance of the whole or any part of the Project without the prior written approval of the Commonwealth. Approval shall not be unreasonably withheld.
- 18.2 Despite any approval to sub-contract from the Commonwealth, the Organisation remains fully responsible for the performance of its obligations under this Agreement and is fully responsible for ensuring the suitability of a subcontractor and that work carried out by the subcontractor is satisfactory.

19. Access to Organisation's Land

- 19.1 The Organisation agrees to give to the Liaison Officer or any persons authorised in writing by the Liaison Officer, reasonable access to the Land, and permit those persons to inspect the Land.
- 19.2 The Organisation agrees to grant reasonable access to the Land to interested members of the public under a permit system on application.

20. Indemnity

20.1 The Organisation agrees to indemnify the Commonwealth from and against any:

- (a) liability incurred by the Commonwealth;
- (b) loss of or damage to property of the Commonwealth; or
- (c) loss or expense incurred by the Commonwealth in dealing with any claim against it including legal costs and expenses on a solicitor/own client basis and the cost of time spent, resources used or disbursements paid by the Commonwealth, arising from:
- (d) any act or omission by the Organisation, its officers, employees, agents or subcontractors in connection with this Agreement;
- (e) any breach by the Organisation of its obligations or warranties under this Agreement;

irrespective of whether there was fault on the part of the person whose conduct gave rise to that liability, loss or damage, or loss or expense.

20.2 The Organisation's liability to indemnify the Commonwealth under Clause 20.1 will be reduced proportionately to the extent that any negligent act or omission of the Commonwealth contributed to the relevant liability, loss or damage, or loss or expense.

20.3 The right of the Commonwealth to be indemnified under this Clause 20 is in addition to, and not exclusive of, any other right, power or remedy provided by law, but the Commonwealth is not entitled to be compensated in excess of the amount of the relevant liability, loss or damage, or loss or expense.

20.4 In this Clause 20, "Commonwealth" includes officers, employees and agents of the Commonwealth.

20.5 This clause 20 will survive the expiration or termination of this Agreement.

21. Insurance

21.1 The Organisation agrees, for so long as any obligations remain in connection with this Agreement:

- (a) to effect and maintain the insurance specified in Item J for all the Organisation's obligations under this Agreement, including those which survive the expiration or termination of this Agreement;
- and
- (b) upon request, provide proof of insurance acceptable to the Commonwealth.

22. *Dispute Resolution*

22.1 The parties agree that any dispute arising during the course of this Agreement will be dealt with as follows:

- (a) first, the party claiming that there is a dispute will send to the other a notice setting out the nature of the dispute;
- (b) secondly, the parties will try to resolve the dispute by direct negotiation, including by referring the matter to persons who may have authority to intervene and direct some form of resolution;
- (c) thirdly, the parties have 10 business days from the sending of the notice to reach a resolution or to agree that the dispute will be submitted to mediation or some other form of alternative dispute resolution procedure; and
- (d) lastly, if:
 - (i) there is no resolution or agreement; or
 - (ii) there is a submission to mediation or some other form of alternative dispute resolution procedure, but there is no resolution within 15 business days of the submission, or such extended time as the parties may agree in writing before the expiration of the 15 business days,then, either party may commence legal proceedings.

22.2 Despite the existence of a dispute, the Organisation will (unless requested in writing not to do so) continue to perform its obligations under this Agreement.

22.3 This clause 22 does not prevent either party from acting under Clause 23, or from applying to a Court for an order, in case of urgency.

23. Termination and suspension, and Recovery of Funds

23.1 Where:

- (a) notwithstanding any other clause in this Agreement, as a result of a change in government policy after the signing of the contract of sale for the property funds for funding under the Program are to cease or be reduced;
- (b) the Commonwealth is reasonably satisfied that the terms and conditions of this Agreement have not been complied with by the Organisation;
- (c) the Commonwealth, by notice in writing, requests the Organisation to take action to meet a time frame, performance requirement or expected outcome specified in the Schedule and, after one month from the date of the notice, the Organisation has failed to take that action;
- (d) the Commonwealth is reasonably satisfied that any material statement made in an application for the Funds is incorrect or incomplete in a way which would have affected the original decision to approve the Funds;
- (e) the Commonwealth is not reasonably satisfied that the purposes and activities of the Organisation remain compatible with the objectives of the Project;
- (f) the Organisation fails to comply, or in the reasonable opinion of the Commonwealth fails to adequately comply, with its reporting obligations under the Agreement;
- (g) the Organisation, by notice in writing given to the Commonwealth, withdraws from the performance of the Project;
- (h) the Organisation goes into insolvency, liquidation or a receiver or receiver and manager or mortgagee's or chargee's agent is appointed or, in the case of an individual, becomes bankrupt or enters into a scheme of arrangement with creditors; or
- (i) if the Organisation is in receipt of funding under any other agreement made with the Commonwealth under the legislation referred to in the Recitals and breaches that other agreement;

the Commonwealth may, in its absolute discretion, by notice in writing given to the Organisation:

- (j) terminate this Agreement; or
- (k) suspend payment of the Funds pending a review by the Commonwealth of the future performance of the Project.

23.2 Where the Commonwealth terminates this Agreement under Clause 23.1 the Commonwealth shall not be obliged to pay to the Organisation any outstanding amount of the Funding.

23.3 Subject to provisions of Clause 5, the Commonwealth may at any time,

- (a) recover from the Organisation as a debt due to the Commonwealth; or
- (b) set off against any other amount payable by the Commonwealth to the Organisation;

any amount of the Funds which:

- (c) the Commonwealth is reasonably satisfied has been expended or committed by the Organisation in contravention of this Agreement;
- (d) cannot be acquitted against the Approved Budget to the reasonable satisfaction of the Commonwealth; or
- (e) is not repaid to the Commonwealth in accordance with Clause 12.

24. *Compliance with Law*

24.1 The Organisation shall in carrying out this Agreement comply with the provisions of any relevant statutes, regulations, by-laws, and requirements of any Commonwealth, State, Territory or local authority.

25. *Negation of Employment, Partnership and Agency*

25.1 The Organisation agrees not to represent itself, and to use its best endeavours to ensure that its officers, employees, agents and subcontractors do not represent themselves, as being an officer, employee, partner or agent of the Commonwealth, or as otherwise able to bind or represent the Commonwealth.

25.2 The Organisation is not by virtue of this Agreement an officer, employee, partner or agent of the Commonwealth, nor does the Organisation have any power or authority to bind or represent the Commonwealth.

26. *Waiver*

26.1 If a party does not exercise (or delays in exercising) any of its rights, that failure or delay does not operate as a waiver of those rights.

26.2 A single or partial exercise by a party of any of its rights does not prevent the further exercise of any right.

26.3 In this Clause 26, 'rights' means rights or remedies provided by this Agreement or at law.

27. *Transfer and Variation*

- 27.1 The Organisation cannot transfer its obligations, and agrees not to transfer its rights, under this Agreement without, in either case, prior approval in writing from the Commonwealth.
- 27.2 The Organisation agrees not to consult with any other person for the purposes of entering into an arrangement that will require variation of the Agreement without first consulting the Commonwealth.

28. *Applicable Law*

- 28.1 The laws in the Commonwealth of Australia and the State of Queensland apply to this Agreement.

29. *Notices*

- 29.1 Any notice, request or other communication to be given under this Agreement is to be in writing and dealt with as follows:
- (a) if given by the Organisation to the Department – marked for the attention of the Liaison Officer at the address indicated in Item B or as otherwise notified by the Department; or
 - (b) if given by the Department to the Organisation – signed by the Liaison Officer and marked with the address indicated in Item A or as otherwise notified by the Organisation.
- 29.2 Any notice, request or other communication is to be delivered by hand, sent by pre-paid post or transmitted electronically, and if it is sent or transmitted electronically a copy is to be sent to the addressee by pre-paid post.
- 29.3 A notice, request or other communication will be deemed to be received:
- (a) if delivered by hand, upon delivery;
 - (b) if sent by pre-paid ordinary post within Australia, upon the expiration of 2 business days after the date on which it was sent; and
 - (c) if transmitted electronically, upon receipt by the sender of an acknowledgment that the communication has been properly transmitted to the recipient.

30. *Animal Ethics*

- 30.1 Where the Project involves the use and care of living non-human vertebrate animals or tissue for scientific purposes, the Organisation will be responsible for obtaining review and approval for such scientific purposes from a recognised animal ethics committee operating under the Australian Code of Practice for the Care and Use of Animals for Scientific Purposes.
- 30.2 The Organisation agrees to provide the Liaison Officer with a certificate of compliance with the appropriate guidelines prior to the commencement of any such scientific activities.
- 30.3 The Commonwealth reserves the right to terminate this Agreement in accordance with Clause 23 should the certificate referred to in Clause 30.2 not be provided.
- 30.4 The Organisation agrees to comply with any legislation, regulations, and/or codes of practice relating to animal welfare in force in the State.

THE SCHEDULE

A. Project Officer Mr Ian Herbert

Contact address: PO Box 794, ROCKHAMPTON QLD 4700

Telephone: (07) 49381818

Facsimile: n/a

Email: i.herbert@cqu.edu.au

B. Liaison Officer (Department) Mr Greg Hayes

Contact address: GPO Box 787, CANBERRA ACT 2601

Telephone: 02 6274 2262

Facsimile: 02 6274 2349

Email: greg.hayes@ea.gov.au

C. The Project

Project Number N315

Community Acquisition of Glen Innes by Ian Henry HERBERT, Catherine HERBERT, Carl Damon RUDD and Kerri Elizabeth RUDD

Funding provided from the National Reserves System Program for this project will be applied towards meeting the costs associated with acquisition of "Glen Innes" ('the land') and its establishment as a protected area on private land. These costs shall only include the direct purchase price of the property, valuation costs, legal costs and stamp duty. The Organisation shall manage the Land in accordance with this Agreement including the requirements of Item L. The Land is to be declared a Nature Refuge under the Queensland Nature Conservation Act 1992.

D. Project Period

The Project Period shall commence on the date of this Agreement.

E. Project Time frame

The land is to be acquired within six months of the date of this agreement. The land is to be declared a Nature Refuge under the Queensland Nature Conservation Act 1992 within twelve months after purchase of the land has been completed. Extension of this period may be granted where circumstances make this timeline impractical, upon written request to the Commonwealth.

A progress report on the project will be provided to the nominated Departmental Liaison

Officer at receipt of contract for sale, at settlement and when any special circumstances arise. Thereafter any reporting will be on an “as needs” basis.

F. Communication Activities and Acknowledgment

Copies of all media releases and other publicity material resulting from the project shall be forwarded to the Department.

Any publicity events associated with this project will be organised in consultation with Environment Australia and the Minister for Environment and Heritage to optimise opportunities for their representation at such events.

G. Funds

The Commonwealth will contribute up to TWO THIRDS of the costs associated with acquisition of the Land as defined in the Project Scope, up to a maximum of \$314,600. Payment of the Commonwealth’s contribution, not exceeding \$314,600 will be made to the Organisation within 30 days of receipt of evidence of a legal agreement being entered into to purchase the property

The Commonwealth reserves the option to be present at settlement of the property.

H. Approved Budget

Statement of Total Project Funding Sources:

Commonwealth: up to	\$314,600
Organisation’s Contribution:	\$170,400

I. Records and Reporting Requirements

The Organisation must retain financial records for at least 7 years from the date of receipt of Funds from the Commonwealth.

The Organisation must prepare and provide to the Department Management Plans and regular reports as specified in Item L.

Two (2) copies of all reports and other documentation and three (3) copies of the final, agreed Plan of Management must be forwarded to the Department.

J. Insurance

The Organisation shall maintain:

- workers' compensation insurance for an amount required by the relevant State or Territory legislation; and
- public liability insurance for an amount of not less than \$5,000,000 (five million dollars).
- insurance of all improvements on land purchased with the Funds, indexed to the CPI and reviewed annually.

K. Acquisition of Land

1. Land to be purchased or included in the NRS through management agreement:

‘Glen Innes’ is described as Lot 4 on Plan BF22, Parish of Saltbush, County of Beaufort, State of Queensland. It is located 55km north west of Alpha at Lat: 23:26 S, Long 146:24 E. The property (7,912 hectares) is significant for the extent of original vegetation remaining (7,632 hectares), its excellent condition and high biodiversity values. It includes vegetation communities listed as “of concern” under Queensland legislation including poplar box woodlands and silver leaved ironbark.

1.1 Objectives for the Land

The Land is to be purchased for the purpose of establishing a private protected area to protect the significant values of the site.

1.2 Significant features of the Land

- The property is situated in the southern half of the Desert Uplands biogeographic region and contains three regional ecosystems, which are currently the focus of land development. These are poplar box and silver leaved ironbark woodlands on texture contrast soils, silver leaved ironbark woodlands on alluvial soils and poplar box woodlands on alluvial soils. There is a small area of river red gum and coolibah on channels with brigalow in clumps.
- Sites within the property contain the greatest understorey floristic biodiversity for these vegetation types within the region.

L. Management of Land

1. The Land will be managed in accordance with the intent of IUCN Category IV, Habitat/Species Management Area: Protected area managed mainly for conservation through management intervention.

DEFINITION: Area of land and/or sea subject to active intervention for management purposes so as to ensure the maintenance of habitats and/or to meet the requirements of specific species.

OBJECTIVES OF MANAGEMENT:

- **to secure and maintain habitat conditions necessary to protect significant species, groups of species, biotic communities or physical features of the environment where these require specific human manipulation for optimum management.**

The protected area should be of sufficient size and natural or manipulated quality to maintain a species in its habitat or to maintain a portion of the life cycle of a particular species. Manipulation is selective alteration of habitats to favour a certain species.

- **to facilitate scientific research and environmental monitoring as primary activities associated with sustainable resource management.**

- **to develop limited areas for public education and appreciation of the characteristics of the habitats concerned and of the work of wildlife management.**

Public education and appreciation does not necessarily include active recreation. Any recreation within such areas should have no deleterious effects upon the nature conservation objective.

- **to eliminate and thereafter prevent exploitation or occupation inimical to the purposes of designation.**

The purposes of the area should be defined in a plan of management or an equivalent document. Any activity which is deleterious or contrary to the management intent of the area should be excluded. In practice, minor areas of exploitation or occupation may have been developed before reservation of an area. These may be within the protected area or adjoining it. These activities should not have a deleterious effect on the area, for example through pollution. Examples of deleterious activities may include mining, logging, grazing and inappropriate recreation activities. Policies should be in place to phase out these activities.

to deliver such benefits to people living within the designated area as are consistent with the other objectives of management.

Subsistence use of the area is acceptable where the scope and extent of such activity does not have a detrimental impact on biodiversity and is clearly defined in a Plan of Management or other similar document. Non-subsistence uses must be consistent with other objectives of management and their primary objective must be to deliver tangible benefits to people living within the designated area. Commercial harvesting of feral animals may be acceptable in this context. Where not provided for in a management plan or equivalent plan, non-subsistence uses for any commercial production or trade are unacceptable.

2. It is a condition of the use of Commonwealth funds for the purchase of the Land that the requirements relating to the use and management of the Land be complied with:

- The primary purpose of all management actions including the use of grazing be the maintenance and where possible the enhancement of biodiversity values.
- Procedures for the preparation and future review of the management plan are acceptable to Environment Australia including consultation with appropriate agencies and advisory bodies.
- A Management Committee is established which provides for representation by the Commonwealth and Queensland Parks and Wildlife Service.
- The composition and terms of reference for the Management Committee be agreed by the Commonwealth.
- At least 20% of the nature refuge will be excluded from grazing across land types.

- The existing permit for vegetation clearing is not actioned and is relinquished within 1 month of settlement of purchase.
- The Land is not to be subdivided.
- The Land is to be available for public access by prior arrangement.
- An extensive monitoring program be conducted to ensure and demonstrate the protection of biodiversity values as part of ecologically sustainable management and for the outcomes to be made available to encourage sustainable land management throughout the region.
- The Organisation has an ongoing obligation to advise the Commonwealth whether there is any fact or matter (such as an application or claim in relation to the land) that would affect the establishment of the proposed reserve, and provide full details of any such matter. Funding is provided on the basis that the Organisation has made, and will continue to make, all due inquiries to ascertain whether or not any such fact or matter exists.

3. Preparation of Management Plan

The Organisation agrees to prepare a comprehensive and agreed plan of management in accordance with the following timetable:

Draft	30 December 2000
Revised draft	31 March 2001
Agreement of Plan of Management	30 June 2001

4. General reporting

The Organisation agrees to provide a written report on performance against targets of the Plan of Management annually by 30 June each year.

All requirements relating to the role of the State of Queensland in reporting on the NRS program are to be forwarded to the Queensland Parks and Wildlife Service when requested.

M. Signage

The Organisation shall erect and maintain a sign at the main entrance to the land that will include contact information and an acknowledgment of assistance by the Commonwealth:

EXEC

SIGNED as an Agreement

SIGNED on behalf of the
COMMONWEALTH OF AUSTRALIA)

By

In the Presence of

.....
[Witness]

SIGNED on behalf of the Organisation

By Ian Henry HERBERT

(signature)

By Catherine HERBERT

(signature)

By Carl Damon RUDD

(signature)

By Kerri Elizabeth RUDD

(signature)

in the presence of

name)

(full

(signature)