



CONSERVATION AGREEMENT

between the

MINISTER FOR THE ENVIRONMENT AND HERITAGE

on behalf of the

COMMONWEALTH OF AUSTRALIA

and

BILL & MARELLE BLUNDEN

in relation to the

**PROTECTION, CONSERVATION AND MANAGEMENT OF LISTED SPECIES
OR ECOLOGICAL COMMUNITIES UNDER THE *ENVIRONMENT
PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999***

ON 835 ELLIOTTS ROAD

MYRTLE CREEK BUNGAWALBYN NSW

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THIS CONSERVATION AGREEMENT is made on day of 2004.

PARTIES

This is an agreement between:

David Kemp, Minister for the Environment and Heritage on behalf of the Commonwealth Government, c/- the Department of the Environment and Heritage, John Gorton Building, King Edward Terrace, Parkes in the Australian Capital Territory ("the Commonwealth")

and

Bill and Marelle Blunden of 835 Elliotts Road, Myrtle Creek Bungwalbin in the State of New South Wales ("the Landholders")

(hereinafter called "the parties").

LOCATION

48 This Agreement ¹⁸relates to the protection and conservation of biodiversity in areas of Portions ~~17, 18, 23, 24, 27 & 33~~; Parish of Barrawanga; Shire of Richmond River as shown generally on the map at Schedule 1 to this Agreement (the Area)

PURPOSE

- A. Subsection 305(1) of the EPBC Act provides that the Minister may, on behalf of the Commonwealth, enter into agreements for the protection and conservation of biodiversity in the Australian jurisdiction.
- B. The Minister and the Landholders have agreed that the Commonwealth and the Landholders should work together to manage the Area for the object of enhancing the conservation of the biodiversity of the Area, and in particular, to conserve, protect and manage listed threatened species under the EPBC Act, and their habitats, found in the Area.
- C. The Minister is satisfied that management of the Area in accordance with this Agreement will result in a net benefit to the conservation of biodiversity, and will not be inconsistent with a recovery plan, threat abatement plan or wildlife conservation plan under the EPBC Act.
- D. The agreement has the effect of binding the Commonwealth, the Landholders, and anyone else who is a successor to the whole or any part of any interest that the Landholders had when the Agreement was entered into, in any place covered by the Agreement for the term of this agreement.

OPERATIVE PART

1. Interpretation

1.1 In this Agreement, unless a contrary intention appears:

Area means the area or place described under the heading Location and at Schedule 1.

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999*.

Funds means the financial assistance provided by the Commonwealth to the Organisation under clause 5.

Landholders means the owner or occupant of the Area, and is a party to this Agreement.

Minister means the Minister administering the Environment Protection and Biodiversity Conservation Act 1999 ("EPBC Act") or a delegate to the Minister under the EPBC Act.

Parties means the parties to this Agreement and their legal successors and permitted assigns.

Plan of Management means the Plan of Management for the Area dated the day of 2003, a copy of which is Schedule 3 to this Agreement.

Writing means any representation of words, figures or symbols capable of being rendered in a visible form.

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 Plan of Management;

- (i) any Schedule or 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 a Schedule or attachment (if any), the terms and conditions of the clauses prevail;
- (k) reference to a Schedule or an attachment is a reference to a Schedule or an attachment to this Agreement, including as amended or replaced from time to time.

1.3 This Agreement records the entire agreement between the parties in relation to its subject matter.

1.4 Any reading down or severance of a particular provision does not affect the other provisions of this Agreement.

2. Commencement and Duration

2.1 This Agreement commences on the date on which it is made and continues until **one year** after its commencement (unless terminated in accordance with the EPBC Act or the Agreement).

3. Management of the Area

3.1 The Area is to be managed in accordance with the Plan of Management in Schedule 3

4. Alteration to the Plan of Management

4.1 The Plan of Management may only be changed by agreement between the Parties.

5. Commonwealth Financial Assistance

5.1 The Commonwealth agrees to provide financial assistance to the Landholders as per the attached schedule 5

6. Notification of Change of Ownership

6.1 The owner shall notify the Minister in writing of any agreement entered into by the owner to effect any change of ownership or control of the Area, or any portion of the Area and that notice shall detail the name and address of all parties to the agreement and the nature of the change of ownership or control. An example of this would be a proposal to subdivide the Area.

6.2 Nothing in this instrument shall render a person liable for any breach of its terms committed after that person ceases to be the registered proprietor of the Area.

7. Management and use of Funds

- 7.1 Except with the Commonwealth's prior written agreement, the Landholders must manage and use the funds provided in this Agreement as per the instructions at Schedule 6 attached.

8. Agreement Not To Be Varied or Discharged without consent of the Commonwealth

- 8.1 Any covenant operating in conjunction with this Agreement may not be varied or discharged without the consent of the Minister being first obtained.

9. Assets

- 9.1 The Landholders may decide whether to purchase any asset deemed necessary to enable the tasks specified in the Plan of Management to be undertaken. Care of assets purchased under this agreement is detailed at Schedule 7 attached.

10. Records and Reports

- 10.1 The Landholders must provide to the Commonwealth on request periodic reports in the manner stated in the Plan of Management of the Landholders' progress in undertaking the Agreement.
- 10.2 The operation of this clause 10 survives the expiration or earlier termination of the Term of the Agreement.
- 10.3 For detail on financial reporting Refer Schedule 8 attached

11. Taxes, Duties and Government Charges

- 11.1 Subject to this clause, all relevant taxes, duties and government charges imposed or levied in Australia, now or in the future, in connection with this Agreement will be borne by the Landholders.
- 11.2 For GST implications, refer Schedule 9

12. Access to the Landholder's Area

- 12.1 The Landholders agrees to give to the Minister, or to any persons authorised in writing by the Minister, reasonable access to the Area for the purpose of:
- (a) monitoring the Agreement;
 - (b) conducting any works which are required to preserve or prevent degradation of the environmental values protected under the Agreement; and

- (c) obtaining information necessary to provide advice to the Landholders in relation to the implementation of the Agreement.

Where an access route is specified in the Agreement or has been otherwise agreed in writing by the parties, the Commonwealth, or the said persons authorised by the Commonwealth shall follow such route (except in cases of emergency or where it is not reasonably practicable to do so) and shall follow all directions given by the Landholders where it is reasonably practicable to do so.

12.2 The Minister will ensure that all laws, permits, licences and other authorisations are obtained and complied with for the purposes of carrying out any works specified in sub-clause 12.1.

12.3 Except in relation to loss or damage which may arise in respect of works required to be done to preserve or prevent degradation of the environmental values protected under this Agreement and which have been properly done, the Minister shall keep the Landholders indemnified against any loss, damage or legal liability which may arise in respect of personal injury to or death of any person or for damage to property howsoever arising from any entry to the Area, by a person authorised under 12.1, to the extent that such injury death or damage is attributable to any act or omission negligent or otherwise of the Minister, the Commonwealth or persons authorised in writing by the Commonwealth to enter the Area.

12.4 As a general principle vehicular access to the Area shall be limited in order to avoid potential harmful impacts. Right of access to the Area which is required by authorised persons such as representatives of utilities including telecommunications and others, shall be determined by the Landholders as appropriate and notified to the Commonwealth.

12.5 The Landholders agrees to notify the Minister, in writing, of any works proposed to be undertaken on the Area, by any person not authorised by the Minister under 12.1 above, including the lodging of building permit applications.

13. Assignment and novation

13.1 The Landholders cannot assign his or her obligations, and agrees not to assign its rights, under this Agreement without, in either case, prior approval in writing from the Minister.

13.1 The Landholders agrees not to consult with any other person for the purposes of entering into an arrangement that will require novation of the Agreement without first consulting the Minister.

14. Dispute resolution

14.1 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;
- (d) fourthly, the parties will try to resolve the dispute by arbitration; and
- (e) lastly, if:
 - there is no resolution or agreement; or
 - 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.

14.2 Despite the existence of a dispute, the parties will (unless requested in writing not to do so) continue to perform the Agreement.

14.3 This clause does not preclude either party from commencing legal proceedings for urgent interlocutory relief.

16. Variation

16.1 The Parties acknowledge that this Agreement may be varied at any time by a variation agreement entered into by the Parties in accordance with subsection 308(1) of the EPBC Act.

17. Termination by agreement

17.1 This Agreement may be terminated by agreement between the parties, in accordance with subsection 308(3) of the EPBC Act.

18. Termination or variation by the Minister

18.1 The Parties acknowledge that if the Minister is satisfied that this Agreement is not capable of achieving its purpose, the Minister may, in accordance with subsection 308(4) of the EPBC Act, without the consent of the Landholders:

- (a) terminate the agreement; or,
- (b) vary the agreement in any way the Minister thinks necessary to ensure that it becomes capable of achieving its purpose.

18.2 If the Minister under the preceding subclause varies the Agreement, the Landholders may, by notice in writing to the Minister, terminate the Agreement.

- 18.3 If the Agreement is terminated by the Minister in accordance with this clause due to the non-performance of the Landholders of all or any of the activities specified in the Plan of Management, the Minister may seek the repayment of all money paid to the Landholders up to the total amount paid by the Minister.

19. Negation of employment, partnership and agency

- 19.1 The Landholders agrees not to represent him or herself, and to use his or her 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.
- 19.2 The Landholders is not by virtue of this Agreement an officer, employee, partner or agent of the Commonwealth, nor does the Landholders have any power or authority to bind or represent the Commonwealth.

20. Waiver

- 20.1 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.
- 20.2 Whole or partial exercise by a party of any of its rights does not prevent the further exercise of any right.

In this clause 'rights' means rights or remedies provided by this Agreement or at law.

21. Costs

Each Party will bear their own costs of and in relation to this Agreement (including all taxes, levies etc. for which the Party may be liable) unless otherwise provided for in the Agreement.

22. Governing law

As the Commonwealth seat of government resides in Canberra, the laws in the Australian Capital Territory apply to this Agreement.

23. Notification of matters adversely affecting environmental values

- 23.1 The Landholders and the Minister will:
- (a) advise each other of any proposed action or event which could adversely affect the environmental values under protection, conservation or management under this Agreement;
 - (b) advise each other of any information, proposals or suggestions that may assist in the protection, conservation or management of the environmental values under this Agreement;
 - (c) respond promptly to all communications from each other relating to the Agreement.

24. Notices

24.1 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 Landholders to the Commonwealth – marked for the attention of Mr Cormac Farrell at The Department of the Environment and Heritage GPO Box 787 Canberra ACT 2601 or as otherwise notified by the Commonwealth; or
- (b) if given by the Commonwealth to the Landholders – signed by Mr Mark Flanigan and marked with the address Department of the Environment and Heritage GPO Box 787 Canberra ACT 2601 or as otherwise notified by the Landholders.

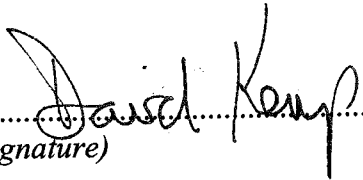
24.2 Any notice, request or other communication is to be delivered by hand, sent by pre-paid post or transmitted electronically, and if it is sent or transmitted electronically a copy is to be sent to the addressee by pre-paid post.

24.3 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, to a place within the mainland of Australia, upon the expiration of 20 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.

SIGNED AS AN AGREEMENT

SIGNED for and on behalf of the
COMMONWEALTH of AUSTRALIA
by


.....
(signature)

The Hon Dr David Kemp MP
Minister for the Australian Department of
Environment and Heritage

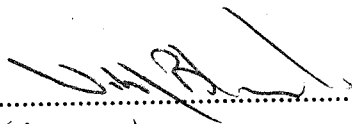
Date: 12/2/04

In the Presence of Witness:

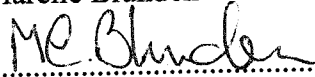

.....
(signature)


.....
(name)

SIGNED for and on behalf of the
LANDHOLDERS
by


.....
(signature)

Marelle Blunden


.....
(name)

Bill Blunden

Date: 5-03-04

In the Presence of Witness:

.....
(signature)

.....
(name)

SCHEDULE 1. Map of the Area

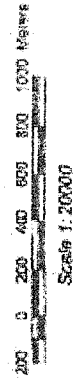
The plan below defines the Area of high nature conservation values within the Portion. This will be the Area to which this Agreement applies.



LEGEND

- Swampy Oak
- Coastal Cypress Forest
- Coastal Broadwood

*Approximate
disposition of
forestry to be
compartments
AREA COVERED BY
THIS AGREEMENT*



Map prepared by: Lynette Gurne
15 February 2005

Base Data Supplied by: BSW Department
of Information and Technology

Blunden Property - Forest Ecosystems - Category 1



SCHEDULE 2. Values of the Area

The Area covered in this agreement has the following natural heritage values

- Approx. 6 km of creek including sections of Physics and Bungawalbyn creeks and the junction of those creeks, as well as associated riparian vegetation. This is surrounded by a wet sclerophyll forest with a rainforest understorey with relatively few weeds, and has not been grazed recently.

Species of note.

- *Myxophes iterates* (Giant Barred Frog) – a significant population of this frog has been detected in previous surveys by researchers from Southern Cross University. No estimates of population size are currently available.
- It is also noted that the areas covered in this agreement also provide habitat for a wide range of species listed under the State legislation, and may contain habitat for additional species listed under the EPBC Act.



Giant Barred Frog (*Mixophes iterates*)

SCHEDULE 3

PLAN OF MANAGEMENT

FOR

835 Elliotts Road

Myrtle Creek, Bungawalbyn NSW

11 January 2004

1. PURPOSE

1.1 The purpose of this Plan of Management (hereinafter called the "the Plan") is to prescribe management practices that when implemented by the Landholders will provide a net benefit to the conservation of biodiversity in the Area identified in Schedule 1 to the Conservation Agreement between the Minister for the Environment and Heritage ("the Minister") and Bill and Marelle Blunden ("the Landholders"). In particular, the implementation of this Plan is to contribute to the protection, conservation and management ~~in perpetuity~~ of listed species and ecological communities under the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), and their habitats, found in the Area.

1.2 The Plan forms part of the above-mentioned Conservation Agreement and is to be read in conjunction with the Agreement.

2. GENERAL MANAGEMENT PRESCRIPTIONS

2.1 The Landholders are to implement a management regime for the Area that will have a net benefit to the conservation of biodiversity, in particular EPBC Act listed species and ecological communities, found in the Area. As part of this management regime the Landholders will not undertake the proscribed activities or actions listed below either in the Area, or in a manner that may be contrary to the conservation of biodiversity in the Area, unless in receipt of a written agreement (with or without conditions) by the Commonwealth for the activity or action to be undertaken. Any conditions accompanying an agreement must be relevant to limiting or preventing adverse impacts on the conservation of biodiversity in the Area.

The proscribed activities are:

- (a) the harvesting of trees;
- (b) the clearing of native vegetation;
- (c) non-sustainable levels of native plant material removal;
- (d) the removal or disturbance of soil, gravel, sand, clay, rock, mineral or other natural resource;
- (e) slashing or burning of vegetation;
- (f) the use of fertiliser;
- (g) the use of effluent of any kind for irrigation or other purposes;
- (h) the subdivision of the Area;
- (i) the dumping of rubbish or contaminating material;
- (j) the grazing of stock;
- (k) the lighting of fires;
- (l) the broadscale use of herbicides or other chemicals;

- (m) the control of native animals;
- (n) the introduction of non-native flora or fauna; and
- (o) the construction of any tracks.

2.2 A Commonwealth agreement under clause 2 of the Plan is not an approval, permit, licence, or any other form of authorisation provided for under the EPBC Act.

3. DETAILED MANAGEMENT TASKS

3.1 The Minister and the Landholders will, within 60 business days of signing the Agreement, develop a mutually agreed Plan of works ("the Plan") to be implemented by the Landholders for the purpose outlined in clause 1 of the Plan. The Plan is to be derived from all or a sub-set of the tasks identified in Schedule 4 to the Agreement, and is to be attached to the Plan. The Schedule must at the very least forecast management tasks that will need to be commenced within the first financial year of the Agreement coming into force.

3.2 Unless otherwise stated by the Minister, the Minister and the Landholders are to review, and where necessary amend the Schedule every year at a time nominated by the Minister. The Minister and the Landholders must, in writing, mutually agree to any amendments made to the Schedule.

3.3 For each management task to be implemented, the Schedule must identify, but not be limited to:

- (a) the purpose and relative importance of the task;
- (b) the proposed commencement and completion date;
- (c) how the task is to be implemented;
- (d) the itemised resources required to undertake the task; and
- (e) where funds are required, the source of those funds.

3.4 An amendment to the Schedule that has been mutually agreed to by both the Minister and the Landholders is not to be taken as an amendment to the Agreement.

3.5 Tasks identified under the Plan are to be implemented using best practice techniques appropriate to the conservation of the biodiversity of the Area, and in particular, to conserve, protect and manage listed species and ecological communities under the EPBC Act found in the Area.

4. PERIODIC REPORTING

4.1 Unless otherwise stated in writing by the Minister, the Landholders are to provide to the Minister within 20 business days after the completion of each financial year, a report specifying progress made in undertaking the Agreement.

4.2 The report is to include, but not be limited to:

- (a) physical extent of tasks completed in the Schedule;
- (b) future tasks that could or should be undertaken not identified in the Schedule; and
- (C) whether it is believed the Agreement is working effectively, and areas that could be improved.

5. ASSISTANCE TO LANDHOLDERS

5.1 The Minister will provide funds and/or resources to the Landholders to assist in the implementation of the Plan, and in particular the tasks identified in the Schedule.

5.2 The Minister will also provide advice to the Landholders, as is reasonably necessary, to assist in the implementation of the Plan.

SCHEDULE 4 Management Tasks

For the purposes of clause 3 of the Agreement's Plan of Management the Minister and the Landholders shall derive a Schedule of detailed management tasks based on the task listed presented below. A task scheduled in the Plan of Management has no effect to the extent (if any) to which it is inconsistent with a law of the Commonwealth or New South Wales, or absolves the parties of their obligations to comply with laws of the Commonwealth or New South Wales relevant to the undertaking of the task.

Habitat Management

AIMS: To conserve and restore Giant Barred Frog Habitat.

1. The Landholder will erect 5.5 km of fencing to exclude stock from specified areas of Physics and Bungawalbyn creeks.
2. The fences must be in place by the end of **June 2004**.
3. The Landholder will maintain these fences and ensure that any stock that enter areas covered in this agreement are removed as soon as possible.

Management of Threatened Species

AIMS: To maintain and enhance populations of Giant Barred Frog (Myxophes iterates).

4. The Landholders will conduct a monthly visual inspection of the areas covered in this agreement (where possible due to vegetation growth) and note the condition of the site and any other observations that may be relevant.
5. The Landholders will take all reasonable steps towards preventing the incursion of weeds, feral animals and uncontrolled fires into areas covered in this agreement.
6. The Landholders will ensure that information on their property environmental management system (Production + Environment Manager) is kept up-to-date.
7. The Landholders will encourage and assist (where possible) further scientific surveys of the areas covered in this agreement.
8. Any significant changes to the areas covered in this agreement (such as logging or invasion by exotic species) will be reported to the Department of the Environment and Heritage as soon as possible.

SCHEDULE 5 Commonwealth Financial Assistance

The Minister agrees to provide financial assistance to the Landholders as follows:

1. The sum of \$2 000 (being the first instalment of the Stewardship component of this agreement) will be paid as a lump sum on completion of signing of this Agreement; **(Items 4-8 of Schedule 4)**
2. The sum of \$15 400 to assist with fencing works will be paid as a lump sum once a detailed plan of works is agreed to (as prescribed under section 3.1 of Schedule 3); **(Items 1-2 of Schedule 4)**
3. The sum of \$3 000 (being the final instalment of the Stewardship component of this agreement) will be paid as a lump sum once the fencing agreed to under Schedule 3 is completed. **(Items 3-8 of Schedule 4)**
4. A computerised Environmental Management System (EMS) that is funded by the Australian Government will be provided to the landholder as part of a trial of EMS software. While this software and associated training is being provided free of charge, the landholders are obliged under this agreement to both maintain and use this EMS software to allow an evaluation of its effectiveness. **(Item 6 of Schedule 4)**

Note: Text in bold denotes which Management Tasks in Schedule 4 the funding is supporting.

SCHEDULE 6 Management and use of Funds

The Landholders shall not use any of the following as any form of security for the purpose of obtaining or meeting any existing form of loan, credit, payment or other interest:

- (a) the Funds;
- (b) this Agreement or any of the Commonwealth's obligations under this Agreement; or
- (c) any Assets resulting from the Agreement.

If, at the end of the Agreement Period, there remains an amount of Funding that has not been expended or not acquitted to the Commonwealth's satisfaction, then this amount must be refunded by the Landholders to the Commonwealth within 30 days or as otherwise agreed in writing with the Commonwealth. If the amount is not refunded to the Commonwealth within 30 days, or as otherwise agreed, Interest will accrue and be payable on the amount on a daily compounding basis after the expiry of the 30 days, or the period otherwise agreed.

SCHEDULE 7 Management of Assets

Replacement of any asset originally purchased through funding received from the Commonwealth under the terms of this agreement will be the responsibility of the Landholders.

For the period of funding under this Agreement, the Landholders must:

- (a) hold all Assets securely and safeguard them against theft, loss, damage, or unauthorised use;
- (b) maintain all Assets in good working order;
- (c) maintain all appropriate insurances for all Assets to their full replacement value and provide satisfactory evidence of this on request from the Commonwealth
- (d) if required by law, maintain registration and licensing of all Assets;
- (e) be fully responsible for, and bear all risks relating to, the use or disposal of all Assets.

ASSETS REGISTER

If directed in writing by the Minister, the Landholders is to maintain a register of all assets funded by the Commonwealth for the purposes of the Plan. The register is to be in tabular form and include the following details for each asset:

- Asset name;
- Date of purchase;
- Serial or other identifier number specific to the asset;
- Purchaser of asset;
- Purchase cost; and
- Reason for purchase of asset.

SCHEDULE 8 Financial Reporting

If directed by the Minister in writing, the Landholders must within the period stated in the Plan of Management or any earlier termination of the Term of the Agreement, provide the Minister with:

- (a) an auditable and detailed statement of receipts and expenditure in respect of the Funding, and
- (b) a statement certifying that all Funding received was expended for the purpose and in accordance with this Agreement.

The operation of this Schedule survives the expiration or earlier termination of the Term of the Agreement.

SCHEDULE 9 GST

The provisions of this clause in respect of GST apply if the Landholders is registered or is required to be registered for GST.

The Commonwealth is registered in accordance with the GST Act and will notify the Landholders of any change in the Commonwealth's GST registration status.

The Funds paid by the Minister under this Agreement include GST for supplies provided by the Landholders to the Commonwealth in accordance with this Agreement and which are Taxable Supplies within the meaning of the GST Act.

The Landholders must give the Commonwealth a tax invoice in accordance with the GST Act in relation to any Taxable Supply by the Landholders to the Commonwealth in connection with this Agreement prior to payment of Funds by the Commonwealth.

The Funding payable by the Commonwealth to the Landholders under this Agreement must not include any amount which represents GST paid by the Landholders on the Landholders' own inputs and for which an input tax credit is available to the Landholders.

If a payment to satisfy a claim or a right to claim under or in connection with this Agreement (for example, a claim for damages for breach of the Agreement) gives rise to a liability to pay GST, the payer must also pay, and indemnify the payee against, the amount of that GST.

If a party has a claim under or in connection with this Agreement for a cost on which that party must pay GST, the claim is for the cost plus all GST on that cost (except any GST for which that party is entitled to an input tax credit).

Any refund under subclause 8.4 must be inclusive of GST and must be accompanied by an Adjustment Note under the GST Act relating to Taxable Supplies for which the Landholders previously issued to the Commonwealth a tax invoice or allowed the Commonwealth to issue a RCTI.