

CONSERVATION AGREEMENT

BETWEEN

**THE MINISTER ADMINISTERING
THE NEW SOUTH WALES NATIONAL PARKS AND
WILDLIFE ACT (1974)**

AND

Roger Anthony Clarke and Linda Elizabeth Spinaze

FOR

“Southwater Downs”

Dated June 2010

Roger Anthony Clarke

Linda Elizabeth Spinaze

National Australia Bank Limited

Minister

CONSERVATION AGREEMENT UNDER PART 4 DIVISION 12 OF THE NATIONAL PARKS AND WILDLIFE ACT 1974

The date of the agreement is the date the Minister signs – do not insert a date.

THIS AGREEMENT made the _____ day of _____, Two thousand and _____, **BETWEEN** the Minister for the time being administering the *National Parks and Wildlife Act, 1974* ("the Minister" which expressions shall where the context admits, be deemed to include successors in office) of the one part and **Roger Anthony Clarke** and **Linda Elizabeth Spinaze** ("the Owner") of 4210 Illawarra Highway Robertson, NSW of the other part.

WHEREAS:

- A The Owner is the registered proprietor of that parcel of land being Lot 12, Deposited Plan 616304, Parish of Kangaloon, County of Camden ("**the Land**"). That part of the Land shown by hatching on Diagram A annexed to this Agreement is the conservation area ("**the conservation area**"), being the part of Lot 12 DP 616304. The conservation area covered by this Agreement equals 1.2 hectares. **(Need to wait until diagram is done to have this figure)**
- B The Owner and the Minister recognise that the conservation area contains Sassafras - Blackwood - Lilly Pilly temperate rainforest of the Robertson area, Sydney Basin which is 85% cleared in the Hawkesbury-Nepean Catchment Management Area (Biometric, 2010).
The overstorey includes Lilli Pilli *Syzygium smithii*, Blackwood *Acacia melanoxylon* and Sassafras *Doryphora sassafras*. The understorey includes Prickly Coprosma *Coprosma quadrifida* and Native Mulberry *Hedycarya angustifolia*. Vines and climbers include Wonga Vine *Pandorea pandorana*, Austral Sarsaparilla *Smilax australis* and Common Milk Vine *Marsdenia rostrata*.
- C The Owner and the Minister recognise that the conservation area contains Robertson Rainforest in the Sydney Basin listed as an Endangered Ecological Community on Schedule 1 of the *Threatened Species Conservation Act, 1995*.
- D The Owner and the Minister recognise that the conservation area contains habitat suitable for Stuttering Barred Frog *Mixophyes balbus* listed as Endangered on Schedule 1 of the *Threatened Species Conservation Act, 1995* and Gang-gang Cockatoo *Callocephalon fimbriatum*, Spotted-tailed Quoll *Dasyurus maculatus*, Eastern Bentwing-bat *Miniopterus schreibersii oceanensis*, Olive Whistler *Pachycephala olivacea*, Grey-headed Flying-fox *Pteropus poliocephalus* and Greater Broad-nosed Bat *Scoteanax rueppellii* listed as Vulnerable on Schedule 2 of the *Threatened Species Conservation Act, 1995*.
- E The Owner and the Minister recognise that the conservation area is located within the Great Escarpment of the Great Eastern Ranges.
- F Accordingly, the parties hereby enter into the following conservation agreement under Section 69B Part 4 Division 12 of the *National Parks and Wildlife Act 1974*.
- G The Owner and the Minister agree to take steps to protect and manage the conservation values of the conservation area as set out in Annexures B and C.

NOW THIS AGREEMENT WITNESSES:

1. INTERPRETATION

1.1 In this Agreement unless the contrary intention appears:-

"**Aboriginal Object**" has the same meaning as in Section 5 of the Act;

"**Aboriginal Place**" has the same meaning as in Section 5 of the Act;

"the **Act**" means the *National Parks and Wildlife Act, 1974* and any regulations from time to time in force thereunder;

"**conservation area**" means that part of the Land shown by hatching on the diagram annexed to this Agreement as Annexure A;

"**conservation values**" includes, without limitation, any native fauna and their habitats, native plants and their habitats, cultural heritage, and geo-heritage;

"**controlled burning**" means the controlled application of fire under specified environmental and weather conditions to a predetermined area and at the time, intensity and rate of spread required to attain planned resource management objectives;

"**critical habitat**" has the same meaning as in Section 4 of the *Threatened Species Conservation Act 1995*;

"**cultural heritage**" refers to the historic, archaeological, social, cultural and contemporary values of the physical evidence and traditions of peoples, including Aboriginal peoples;

"**damage**" means incurring injury that impairs the values or usefulness of the conservation area;

"the **Department**" means the NSW Government Department responsible for administering Section 69A to KA of the Act;

"**development**" has the same meaning as provided for in Section 69A of the Act;

"**Director-General**" has the same meaning as Section 5 of the Act;

"**fauna**" has the same meaning as in Section 5 of the Act;

"**geo-heritage**" means geological deposits and landforms that are considered to have conservation values;

"**indigenous fauna**" means all native fauna belonging naturally to the conservation area;

"**indigenous plants**" means all native plants belonging naturally to the conservation area;

"**Land**" means that parcel of land described in Recital A;

"**Management Scheme for the conservation area**" means management scheme prepared for the conservation area in consultation with the owner, annexed to this Agreement as Annexure C;

"**Minister**" means the Minister for the time being administering the Act and where not repugnant to the context includes the servants and agents of the Minister;

"**native fauna**" has the same meaning as "protected fauna" in Section 5 of the Act;

"**native plant**" has the same meaning as in Section 5 of the Act;

"**Owner**" has the meaning as in s69A of the Act and includes any successor in title to the owner within the meaning of s 69E of the Act;

"**pest animal**" means any non-native animal having, or with the potential to have, an adverse economic, environmental or social impact;

"**pesticide**" has the same meaning as in Section 5 of the *Pesticides Act 1999* which includes herbicides, insecticides, fungicides, baits and rodenticides;

- 3.4 This Agreement includes Annexure C, setting out the Management Scheme for the conservation area including the management of conservation values and other matters referred to in Annexure B.
- 3.5 Detailed management guidelines and actions for the conservation of the conservation area may be prepared, subject to the endorsement of the Owner and the Director-General and the terms of this Agreement.

4. USE OF THE LAND BY SERVANTS, AGENTS, LESSEES OR LICENSEES

The Owner must incorporate the terms of this Agreement in any lease or licence issued over the conservation area, and at all times ensure that any servant, contractor, consultant, agent, lessee, licensee occupying the conservation area shall be aware of the relevant provisions of this Agreement.

5. CHANGE OF OWNERSHIP

The Owner must notify the Director-General in writing of any change of Ownership or control of the conservation area within 28 days after the change of ownership and control. The notice must include the name and address of the new owner.

6. RIGHT TO INSPECT

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

7. OBLIGATIONS OF THE MINISTER

The Minister covenants with the Owner as follows: -

- 7.1 The Minister must bear the costs of, and incidental to, the preparation of this Agreement including payment of the Owner's reasonable legal costs connected with the execution of the Agreement and any necessary stamp duty and registration fees.
- 7.2 The Minister agrees to notify the Registrar General when this Agreement has been entered into, varied or terminated so that the Registrar General can carry out his or her responsibilities pursuant to section 69F of the Act.
- 7.3 The Minister will arrange for the provision of technical advice and any other assistance to the Owner as the Minister deems necessary to assist with the implementation of this Agreement.
- 7.4 The Minister agrees to the extent of his or her statutory responsibilities that the signing of this Agreement shall not render the Owners ineligible for any compensation and assistance which may, under future legislation, become available to landowners who enter into a conservation agreement pursuant to the Act or any other Act.

8. NON-COMPLIANCE

In the event that the owner fails to comply with this Agreement, including, without limitation, damaging or causing damage to the conservation area, the Department may issue a written notice to the owner requiring the owner to remedy the non-compliance or damage within a specified time period. This clause does not affect any rights of the parties under section 69G of the Act.

9. DISPUTE RESOLUTION

If a party to this Agreement is dissatisfied with the conduct of the other party under this Agreement, that party must notify the other and if the dispute cannot be resolved by discussions between the parties it shall be referred to the Director-General who will establish a mechanism whereby the dispute can be resolved.

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first above written.

SIGNED by

The Minister administering)
the National Parks and Wildlife Act, 1974)
for the purpose of rendering liable the)
Government of the State of New)
South Wales (but not so as to incur)
any personal liability) hereunder in)
the presence of:)

Minister

Date

Witness

Witness Name and address

Date

SIGNED by the OWNERS

Roger Anthony Clarke

Linda Elizabeth Spinaze

Date

Date

in the presence of

in the presence of

Witness signature

Witness signature

Witness Name and address

Witness Name and address

Date

Date

Landowners Name and address for service of notices:

Roger Clarke and Linda Spinaze
78 Sidaway St
Chapman ACT 2611

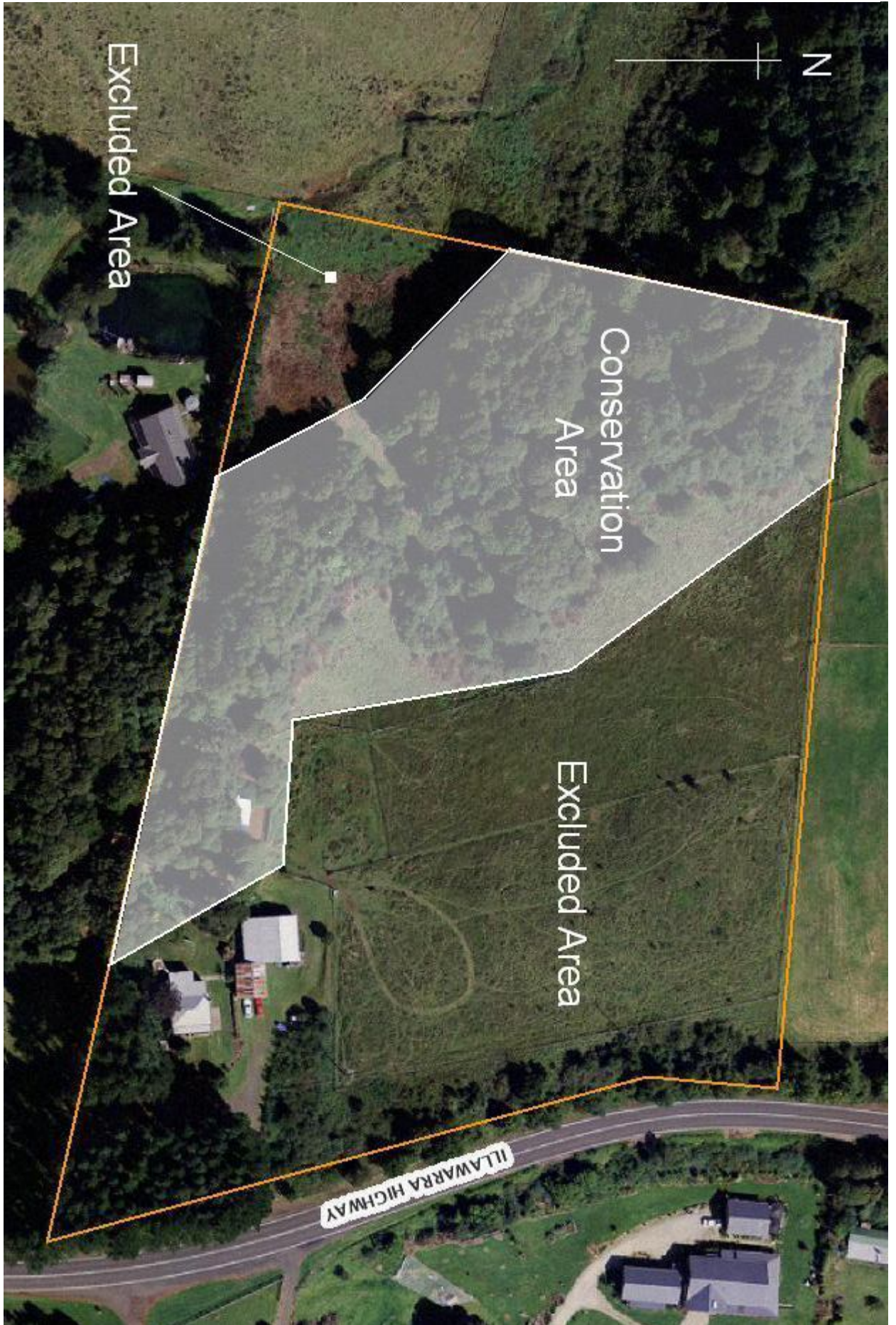
THE “National Australia Bank Limited” , the first mortgagee of the conservation area, consents to this Agreement.

Date: _____

Witness: _____

Date: _____

ANNEXURE A
DIAGRAM A.



Roger Anthony Clarke

Linda Elizabeth Spinaze

The Minister

National Australia Bank Limited

2. AERIAL PHOTOGRAPH AND OTHER MAPPING

Map 1: “Southwater Downs” showing CA area, excluded areas and photo points



3. PHOTO-POINT PHOTOGRAPHS AND OTHER PHOTOGRAPHS

<<Include labeled photographs from specified photo-points and other locations (if appropriate) showing the conservation values identified above.>>.

ANNEXURE C

MANAGEMENT SCHEME FOR THE CONSERVATION AREA

The conservation values identified in Annexure B are to be managed in accordance with the principles and activities outlined below.

ITEM 1:

The following activities may be undertaken on, or in respect of, the conservation area in the manner specified as follows:

Control of Weeds and non-indigenous flora

- a) Carrying out weed control using the appropriate control methods
 - Use glyphosate based herbicide by direct application to cut surfaces (cut and paint or scrape and paint methods)
 - Spraying of the glyphosate and fluroxypyr based herbicides for control of Wandering Jew *Tradscantia fluminensis* can be used. This should be limited to according to the directions on the label and ensuring that there is no off-target damage.
 - Remove weeds by hand ensuring that all plant parts which can reproduce are removed and that soils do not become prone to erosion.
 - Other weed control methods may be undertaken with prior written permission of the Director-General.
 - Ensure control programs are commenced when timing and extent of weed removal will minimise adverse effects on wildlife (weeds may provide protection or habitat for native fauna).
 - Continue to check for weed invasion and regrowth and treat any outbreaks.
 - Check adjacent areas and gardens for invasive plant species and remove, or control their spread.

Control of Pest animals and non-indigenous fauna

- b) Monitoring impacts to the conservation area by pest animals and undertaking of on-going control programs for pest animals if appropriate.
 - Methods for monitoring pest animal activity can include;
 - observations and/or hearing calls,
 - the use of standard “sand plots”,
 - the use of non-poisoned “bait stations”,
 - scat counts, and
 - other quantitative techniques which can be designed in discussion with the Department or the Livestock Health and Pest Authority
 - Methods for control can include shooting, trapping and use of poisonous baits consistent with advice from the Department and the Livestock Health and Pest Authority.
 - Participate in community pest animal control programs, and encourage neighbours to implement pest animal control programs. (Contact your local National Parks office to find out if community control programs are occurring in your area)

Use by Domestic animal

- c) Use by the landowners’ domestic pets (dogs), only if kept under control/on a leash.

Grazing management

- d) Reducing the population of native grazing animals where grazing pressure is resulting in the degradation of the quality and structure of native vegetation and inhibiting natural regeneration and the owner is granted a licence to cull under Section 121 of the *NPW Act 1974*.

Fire management

- f) any works in the conservation area, especially any revegetation work and developments, which have the potential to impact on any cultural features. (Seek advice from the Department if any are identified, prior to any work commencing)
- g) the removal of any biological or inorganic component of the conservation area
- h) any works which will adversely affect the natural flows and bodies of water.

Roger Anthony Clarke

Linda Elizabeth Spinaze

National Australia Bank Limited

Minister