

Enforceable Undertaking

UNDERTAKING PROVIDED BY:

[REDACTED]

Reference Number: DOC23/653843

Case Reference Number: 202102485

Issue Date: 14/08/2023

Property: [REDACTED]

ENFORCEABLE UNDERTAKING UNDER SECTION 13.27 OF THE *BIODIVERSITY CONSERVATION ACT 2016 (NSW)*

SECTION A – BACKGROUND

1. Details of the company or individual giving the undertaking:

Name of company or individual: [REDACTED]

Address: [REDACTED]

2. [REDACTED] is the owner of [REDACTED] (the **Property**).

3. The Department of Planning and Environment (the **Department**) has responsibilities regarding the administration and enforcement of the *Biodiversity Conservation Act 2016 (NSW) (BC Act)* and its associated *Regulations*, and responsibilities regarding the enforcement of Part 5A of the *Local Land Services Act 2013 (NSW) (LLS Act)* and the *Regulations* under that Part.

4. An investigation by the Department revealed that [REDACTED] permitted the removal of native vegetation of approximately 14.25 hectares on the **Property** during February 2021. However, extensive clearing did not take place. The activities did not disturb the topsoil and native seedbank, and the majority of canopy trees remained in place.

5. It is alleged by the Department that the clearing by [REDACTED] on the **Property** during February 2021 was in contravention of section 2.2(1b) of the BC Act – Picking plants that are part of a threatened ecological community Central Hunter Ironbark—Spotted Gum—Grey Box Forest in the New South Wales North Coast and Sydney Basin Bioregions (listed in Schedule 2 BC Act) and in contravention of section 60N of the LLS Act. Under that provision it is an offence to clear native vegetation in a regulated rural area – Corporation.

6. [REDACTED] acknowledges:

Enforceable Undertaking

- a. the nature of the allegations against it by the Department as set out above.
- b. that its conduct as set out above may constitute or is likely to constitute a breach of section 60N of the LLS Act and section 2.2(1b) of the BC Act.
- c. the seriousness of the harm or potential harm caused to the environment as a result of its conduct as set out above.
- d. that subject to the redaction of names and residential addresses the Enforceable Undertaking will be made publicly available by the Department and may be referred to in media or publications.

SECTION B – UNDERTAKINGS

- A. In order to mitigate the alleged damage to the area concerned, [REDACTED] undertakes, for the purposes of section 13.27 of the BC Act, to enter into a Conservation Agreement with the Biodiversity Conservation Trust (the **BCT**) as constituted under the BC Act.

1 CONSERVATION AGREEMENT

- 1.1 In these Undertakings, the Conservation Agreement means the Conservation Agreement (CA001) made under the BC Act between the BCT and [REDACTED] (Attachment 1).

2 MONITORING AND REPORTING

- 2.1 The Landholder will submit all reports and correspondence relating to these Undertakings to the Senior Team Leader Compliance and Regulation – Hunter Central Coast:

- a) By Registered Post to:
Senior Team Leader Compliance and Regulation –
Hunter Central Coast
NSW Department of Planning and Environment
Locked Bag 1002
Dangar
NSW 2309
or

- b) By courier or by hand to:
Senior Team Leader Compliance and Regulation –
Hunter Central Coast
NSW Department of Planning and Environment
[REDACTED]

- c) By email to: hunter.compliance@environment.nsw.gov.au

Enforceable Undertaking

3 RECORD KEEPING

3.1 [REDACTED] will retain copies of all records associated with these Undertakings for the Term. All records are to be true, accurate, correct and in legible form.

4 DEFINITIONS

In these Undertakings, the following definitions apply:

Term	Definition
BC Act	The <i>Biodiversity Conservation Act 2016</i> .
Pick	Pick has the same meaning as defined in section 1.6 of the <i>Biodiversity Conservation Act 2016</i> .
The Department	The NSW Department of Planning and Environment.
LLS Act	The <i>Local Land Services Act 2013</i> .
Native vegetation	Native vegetation has the same meaning as defined in section 60B of the <i>Local Land Services Act 2013</i>
Clearing native vegetation	Clearing native vegetation has the same meaning as defined in section 60C of the <i>Local Land Services Act 2013</i>

Enforceable Undertaking



SECTION C – ENFORCEABLE TERMS

[REDACTED] undertakes to comply with Section B.

SECTION D – OFFER OF UNDERTAKING

I offer this Undertaking and agree to be bound by the terms within it.

Signed:

Witness name:

Name:

Witness signature:

Date: 22/08/2023

Date: 22/08/2023

Signed:

Witness name:

Name:

Witness signature:

Date: 22/08/2023

Date: 22/08/2023

Enforceable Undertaking



SECTION E – DEPARTMENT OF PLANNING AND ENVIRONMENT ACCEPTANCE OF UNDERTAKING

I accept this Undertaking as an Enforceable Undertaking pursuant to section 13.27 of the *Biodiversity Conservation Act 2016*

Signed:



Position: Executive Director, Biodiversity and Conservation Division
Department of Planning and Environment
(by delegation)

Date: 5/10/2023

Attachments to Undertakings:

1. Conservation Agreement (CA001)