

Enforceable Undertaking

UNDERTAKING PROVIDED BY:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Reference Number: M/4669

Case Reference Number:

Issue Date: 15 January 2024

Property:

[REDACTED]
[REDACTED].

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

SECTION A – GENERAL INFORMATION

1. Details of the company or individual giving the undertaking

Name of Company or individual: [REDACTED]

Address: [REDACTED]

2. Details of alleged contravention and environmental harm that arose from the alleged contravention

1. [REDACTED] is the registered proprietor of [REDACTED] and [REDACTED] known as [REDACTED] (the **Property**).
2. The Property is the principal place of residence of [REDACTED].
3. The Property is approximately 1174 hectares in area and is used for agricultural purposes, including cropping and grazing of livestock.
4. Between 29 August 2017 and 30 March 2019, [REDACTED] cleared 534 hectares of native vegetation from the Property in a regulated rural area (**Clearing**).
5. The Clearing was undertaken by means of machinery (including a bulldozer) and burning. The Clearing was not authorised by any legislation.

Section 13.27 of the *Biodiversity Conservation Act 2016*

6. [REDACTED] undertook the Clearing on the Property which resulted in damage to two (2) distinct plant community types, being PCT 37 Black Box woodland wetland (**PCT 37**) and PCT 39 Coolabah – River Coolabah -Lignum woodland wetland (**PCT 39**).
7. The Clearing caused the removal of habitat for and harm to 49 vulnerable, endangered or critically endangered species with a known association with PCT 37.
8. The Clearing caused the removal of habitat for and harm to 48 vulnerable, endangered or critically endangered species with a known association with PCT 39.
9. The Clearing of PCT 37 and PCT 39 is also clearing of Coolibah-Black Box Woodland in the Darling Riverine Plains, Brigalow Belt South, Cobar Peneplain and Mulga Lands Bioregion. This community is listed under the *Biodiversity Conservation Act 2016* (**BC Act**) and the *Commonwealth Environmental Protection Biodiversity Conservation Act 1999* as an endangered ecological community (EEC).
10. The Clearing has caused harm and likely harm to the environment to the extent that removing and thinning native vegetation causes significant harm to the environment through direct impact to a listed NSW and Commonwealth EEC. The particular harm to the EEC includes change to the community structure, change in species composition, disruption of ecological processes, invasion and establishment of exotic species and fragmentation of habitat.

3. Acknowledgment that the Department has alleged a contravention of the LLS Act

The Department of Climate Change, the Environment, Energy and Water (the **Department**) alleges that the Clearing carried out by [REDACTED] was contrary to section 60N of the *Local Land Services Act 2013* (**LLS Act**).

4. Details of the restitution that will be made to benefit the environment and the community

Without admission, in an effort to resolve the dispute between the parties, [REDACTED] hereby:

1. Offers to enter into this Enforceable Undertaking with the Department on terms set out in Section C in complete satisfaction of any action that the Department may otherwise consider taking against [REDACTED] in relation to the alleged conduct under the LLS Act.
2. Acknowledges that this Enforceable Undertaking will be made publicly available by the Department and may be referred to in media or publications.

SECTION B – COMMENCEMENT AND DURATION OF THIS UNDERTAKING

1. This Undertaking comes into effect when both the following have occurred:
 - i. The Undertaking is executed by [REDACTED]; and
 - ii. The Undertaking so executed is accepted by the authorised delegate of the Office of Environment and Heritage at the Department.
2. This Undertaking is to remain in effect in perpetuity.

SECTION C – ENFORCEABLE UNDERTAKING

1. Terms of Undertaking

Without admission, [REDACTED] undertakes, for the purpose of section 13.27(1) of the BC Act, to set aside that part of the Property identified as “Conservation Area” (shown in red outline) on the map at

Section 13.27 of the *Biodiversity Conservation Act 2016*

Attachment A (the Area) and manage that area in accordance with the following requirements so as to enable natural regeneration in the Area:

1. Enter into a Conservation Agreement with the Department comprising a set aside area of 653.90 hectares that is suitable to the Department;
2. Make payment of \$300,000 to the Department in 6 annual instalments of \$50,000.00 with the first instalment to be paid on registration of the Conservation Agreement; and
3. Make payment of \$50,000.00 to the Department on account of the Department's legal and investigative costs in 6 annual instalments of \$8,333.33 with the first instalment to be paid on registration of the Conservation Agreement.

2. Statement of capacity to comply with the terms of the Undertaking

█ has the financial ability to comply with the terms of this Undertaking.

3. Commitment to ensure that the alleged contravention will not re-occur

█ commits to ensuring that he seeks the advice of the appropriate authorities, such as █ and/or Local Land Services, prior to engaging in actions similar to the Clearing.


EXECUTION

Execution by the Owners

Signature of Owner	█
Name of individual (print)	█
Date	15/1/2024

Accepted by the Environment Agency Head of the Department pursuant to section 13.27 of the *Biodiversity Conservation Act 2016* (NSW) on 15 January 2024 and signed on behalf of the Department.

Delegate Signature	█
Name of Delegate (print)	█ Biodiversity Conservation
Date	15 January 2024

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Section 13.27 of the *Biodiversity Conservation Act 2016*

Attachment A

Section 13.27 of the *Biodiversity Conservation Act 2016*

