



Planning,
Industry &
Environment

21st March 2022

Enforceable undertaking

Undertaking given under Section 13.27 of the *Biodiversity Conservation Act 2016*
to the Secretary,
Department of Planning, Industry and Environment

by

Atilol Holdings Pty Ltd

ACN 163 060 759

BC Act undertaking

Purpose

The purpose of this undertaking is to document undertakings given to the Department of Planning, Industry and Environment (**the Department**) pursuant to section 13.27 of the *Biodiversity Conservation Act 2016* (BC Act) in connection with a matter in relation to which the Environment Agency Head has a function under the BC Act.

Section A - general information

1. Details of the company or individual giving the undertaking

Name of company or individual Atilol Holdings Pty Ltd

Address Level 8, 91 Phillip Street, Parramatta NSW 2150

2. Summary of the alleged contravention

It is alleged by the Department that between 6 November 2016 and 9 May 2017, Atilol Holdings Pty Ltd contravened section 118A(2)(b) of the *National Parks and Wildlife Act 1974* (NPW Act) in that it picked plants that are of a threatened species on land owned by Atilol Holdings Pty Ltd, located at [REDACTED] (the Property).

It is also alleged by the Department that between 29 December 2018 and 26 March 2019, Atilol Holdings Pty Ltd contravened section 2.2(1)(a) of the *Biodiversity Conservation Act 2016* (BC Act) in that it picked plants that are of a threatened species on the Property.

3. Details of the alleged contravention, e.g. incident details

Atilol Holdings Pty Ltd undertook, and/or engaged contractors to undertake, clearing works on the Property which resulted in damage to species identified as threatened under the NPW Act and BC Act. The alleged contravention resulted in damage to the habitat of three threatened species of flora by the picking of *Pultenaea parviflora*, *Dillwynia tenuifolia* and *Grevillea juniperina*, and endangered ecological community plant community type *Cooks River/Castlereah Ironbark Forest in the Sydney Basin Bioregion*.

4. An acknowledgement that the Department has alleged a contravention of the NV Act (as it then was).

By entering into this enforceable undertaking, Atilol Holding Pty Ltd acknowledge the nature of the allegation against them made by the Department in paragraphs 2 and 3 above.

5. Details of any environmental damage that arose from the alleged contravention

The clearing works have directly impacted the vegetation patch, including the direct loss and mortality of individual flora from within the vegetation extent, and the loss and removal of habitat and foraging resources. The clearing works diminished the carrying capacity for biota of the vegetation patch and its overall species richness, and has likely contributed to an overall cumulative loss of biodiversity in the locality.

The clearing works impacted the environment in the following ways, which may cumulatively result in the loss of resilience of the ecological community:

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- 1) Causing high level disturbance facilitating the dense mono-specific regrowth of aggressive native species of shrubs and the penetration and colonisation of the vegetation assemblage by exotic weeds;
 - 2) Localised reduction and loss of stored aerial and soil seed due to the removal and disturbance of topsoil and the loss of serotinous flora species;
 - 3) Localised change in the microclimate of the vegetation assemblage and habitat due to loss of canopy cover;
 - 4) Localised change in the hydrology of the vegetation assemblage and habitat due to the loss of structural features capturing surface water;
 - 5) Localised change in soil conditions of the vegetation assemblage and habitat due to direct impact to the soil profile and removal of stabilising vegetation;
 - 6) Localised change in species interactions such as pollination and seed dispersal; and
6. Details of the restitution that will be made to benefit the environment and the community:

Atilol Holdings Pty Ltd will:

1. Pay the sum of one hundred thousand dollars (\$100,000) by cheque to the Department in accordance with paragraph (2) below, which is to be wholly contributed to Saving Our Species Projects for *Grevillea juniperina subsp. juniperina*, *Dillwynia tenuifolia* and *Pultenaea parviflora* as part of the Department's 'Saving Our Species' Program.
 2. Atilol Holdings will make the payment to the Department as per (1) in the following instalments:
 - a. \$40,000 within one week of the execution of this Enforceable Undertaking;
 - b. \$20,000 by no later than 25 February 2023;
 - c. \$20,000 by no later than 25 February 2024; and
 - d. \$20,000 by no later than 25 February 2025.
7. An acknowledgement that this undertaking may be publicised

Atilol Holdings Pty Ltd acknowledge that this undertaking may be:

1. Published on the Department's website;
 2. Referenced in materials or documents prepared by or on behalf of the Department; and
 3. Where appropriate, published in newspapers or other publications.
8. A statement of capacity to comply with the terms of the undertaking

Atilol Holdings Pty Ltd have the financial ability to comply with the terms of this undertaking.

9. A commitment to ensure that the alleged contravention will not reoccur

Atilol Holdings Pty Ltd commit to ensuring that they seek the advice of the appropriate authorities, such as Council or Local Land Services, prior to engaging in similar actions.

Section B – enforceable terms

1. A commitment to the matters in paragraph 6 of this undertaking

Atilol Holdings Pty Ltd undertake to comply with paragraph 6

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Section C - Offer of undertaking

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

Signed: [Redacted]

Name: [Redacted]

Date 21st March 2022

Witness name

Witness signature

Date 21.03.2022

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

Signed: [Redacted]

Name: [Redacted]

Date 21st March 2022

Witness name

Witness signature

Date 21.03.2022

Section D – Department of Planning, Industry 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: [Redacted]

Position: Coordinator General, Environment Energy and Science
Department of Planning, Industry and Environment
(by Delegation)

Date 21/03/2022