



Planning,  
Industry &  
Environment

## Enforceable undertaking

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

by



## Purpose

This undertaking is 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

Address

### 2. Summary of the alleged contravention

It is alleged by the Department that between 5 September 2016 and 23 April 2017, [REDACTED] contravened Section 12 of the *Native Vegetation Act 2003* (**NV Act**) in that they caused native vegetation to be cleared on land known as [REDACTED], Oakdale NSW (**the Property**).

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

[REDACTED] engaged contractors who cleared over 10 hectares of native vegetation from the Property. 8.5 hectares of this was in excess of the activities allowed as routine agricultural management activities under Section 11 of the NV Act.

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

By entering into this enforceable undertaking, [REDACTED] 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

Vegetation canopy density in the cleared area was reduced from 90-95% to 20% or less. The majority of the ground cover and shrub vegetation was also removed. Soil disturbance associated with the use of large machinery occurred and deep mulch piles inhibiting regrowth remain in the cleared area.

Approximately half of the vegetation cleared is now recognised as the critically endangered ecological community Sydney Turpentine Ironbark Forest in the Sydney Basin Bioregion.

### 6. Details of the restitution that will be made to benefit the environment and the community:

[REDACTED] will:

1. Pay the sum of four hundred thousand dollars (\$400,000) by cheque to the Department no later than 31 December 2022 or within three months of settlement of sale of the Property, whichever is sooner;
2. Commence that payment by making monthly payments of at least five thousand dollars (\$5,000.00) to the Department, commencing on 31 January 2020; and
3. Pay the balance remaining to the Department by 31 December 2022 or, if the Property is sold and settlement is to occur more than three months before 31 December 2022, pay the balance remaining to the Department within three months of the date of that settlement..

7. An acknowledgement that this undertaking may be publicised

agree that, subject to their names and residential address being redacted, 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

have the financial ability to comply with the terms of this undertaking.

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

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

undertake to comply with paragraph 6.

Section C - Offer of undertaking

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

Signed: [Redacted Signature]

Name: [Redacted Name]

Date 16/12/19

Witness name [Redacted Name]

Witness signature [Redacted Signature]

Date 16/12/19

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

Signed: [Redacted Signature]

Name: [Redacted Name]

Date 16/12/19

Witness name [Redacted Name]

Witness signature [Redacted Signature]

Date 16/12/19

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: Sharon Molloy

Name: SHARON MOLLOY

Position: A/Executive Director, Biodiversity and Conservation Division  
Department of Planning, Industry and Environment  
(by Delegation)

Date 18/12/2019

WITNESS NAME      SONYA ERRINGTON  
SIG                      [Signature]  
DATE                    ~~16.12.19~~ 18.12.19