

Enforceable Undertaking

Given pursuant to section 13.27(1) of the *Biodiversity Conservation Act 2016* (NSW)

1. Persons giving the undertaking

1.1 This Undertaking is given to the Department of Planning and Environment (DPE) for the purposes of section 13.27(1) of the *Biodiversity Conservation Act 2016* (NSW) (the Act) by:

a) [REDACTED]; and

b) [REDACTED]

of [REDACTED], [REDACTED] described as lot [REDACTED] in deposited plan DP [REDACTED] ('the property').

2. Background

2.1 The property is owned by [REDACTED] and [REDACTED] (the owners) and is used as their principal place of residence. Also living at the property are the owners' two children and [REDACTED]

2.2 The property is about 2.2 ha in area and used for primarily residential purposes with hobby agricultural activities also being undertaken by the owners at the property.

2.3 After the 2019/2020 bushfires about 85% of the property was impacted by fire. In about January 2020, the owners cleaned up the bushfire affected areas. Clearing and removal of vegetation on the property occurred during this process.

2.4 Cleaning up of fire impacted vegetation and weed management was conducted without consultation with the regulatory body.

2.5 The area cleaned up included grassland which constitutes part of gazetted Endangered Ecological Community *River Flat Eucalypt Forest on the Coastal Floodplains of NSW* .

2.6 DPE considers that the cleaning up referred to above was conduct which resulted in 'picking' a plant of an Endangered Ecological Community contrary to sections 2.2 and/or 2.4 of the Act.

2.7 In response to an investigation conducted by DPE in relation to the post bushfire cleaning up, the owners:

a) acknowledge that it is alleged by DPE that their conduct possibly contravened ss 2.2 and/or 2.4 of the Act; and

b) acknowledge the seriousness of any harm, or potential harm to the environment or community

c) offer this Undertaking to DPE in complete satisfaction of any action that DPE may otherwise consider taking against the owners in relation to the alleged conduct subject to the provisions of section 13.27 of the Act.

d) Make a positive commitment to cease the conduct, ever since the investigation has began the owners have ceased land management activities.

3. Commencement of this Undertaking

3.1 This Undertaking comes into effect when both the following have occurred:

- a) The Undertaking is executed by [REDACTED] and [REDACTED]; and
- b) The Undertaking so executed is accepted by the Environment Agency Head of DPE.

4. Undertaking

4.1 Without admissions, the owners undertake for the purposes of section 13.27(1) of the Act as follows:

- a) The owners will complete revegetation works outlined in the 'Revegetation Management Plan' (RVP) document attached hereto as **Annexure A**. Tasks listed in the RVP include (but are not limited to):
 - i. replanting of site-specific vegetation which constitutes the plant community type
 - ii. maintenance, protection and management of newly planted tubestock; and
 - iii. undertake weed control.

Progress on the above tasks will be reported to DPE annually against the monitoring indicators listed below in Table 1.

- b) Not applicable.
- c) Not applicable.
- d) Not applicable.
- e) The owners, [REDACTED] and [REDACTED], are now aware that:
 - i. the property is mapped on the Biodiversity Values Map with various Endangered Ecological Communities (EEC) on the property;
 - ii. DPE has responsibility for the regulation of threatened species and EEC's;
 - iii. DPE may be able to assist with vegetation management options in the future;
 - iv. the property is zoned as C2 (Environmental Conservation), C4 (Environmental Living) and W1 (Natural Waterways) and accordingly Eurobodalla Shire Council is the primary regulatory authority for vegetation management at the property;
 - v. Eurobodalla Shire Council may be able to assist in allowing permits of consents to alter and/or manage vegetation at the property;
 - vi. All of the above will assist in ensuring that the owners will not contravene section 2.2 or 2.4 of the Act in the future.
- f) The owners will provide, at their expense, a copy of any documents reasonably required by DPE in relation to the Undertaking.
- g) In the event that the property is sold within five years of execution of this Undertaking, the owners will make a donation to Landcare of the outstanding balance of the sum to be invested (as set out in Table 1 below) to a maximum of \$3300.

Table 1: Undertaking deliverables and monitoring indicators of compliance of undertaking milestones:

Proposed activity	Estimated Cost (AUD)	Monitoring indicator
1. Replanting of site specific vegetation	3325.00	<p><i>Measure 1.1:</i> provide annual receipts to DPE by 31 December for the first five years of this undertaking commencing from the first December after this undertaking being accepted.</p> <p><i>Measure 1.2:</i> provide annual receipts to DPE for mulch used to assist with the growth and progress of the rehabilitation area.</p> <p><i>Measure 1.3:</i> provide a monitoring report to DPE by 31 December which includes photos showing the coverage of replanting at the property.</p>
2. Maintenance, protection and management of newly planted tubestock	Included in (1) above	<p><i>Measure 2.1:</i> replanting of tubestock if it dies off or is adversely impacted.</p> <p><i>Measure 2.2:</i> providing receipts to The Department by 31 December of each year for tubestock guards to be used at the property.</p>
3. Weed management	5312.50	<p><i>Measure 3.1:</i> provide a monitoring report to DPE by 31 December which includes photos showing the rehabilitated area with less than 5% weed infestation.</p>
4. Monitoring report (including photos)		<p>By 31 December of the first five calendar years after this undertaking is accepted, the owners will submit a monitoring report to DPE (to the approved address) which will be consistent with the template attached to this undertaking proposal (see Annexure B attached).</p>
<p>Total sum to be invested in Undertaking over a 5 year period: \$8,637.50. This cost will be borne solely by the land owners.</p>		

5. Acknowledgments

5.1 The owners acknowledge that:

- a) The Department of Planning and Environment (DPE) will make this Undertaking publicly available including by publishing it on DPE's public register of section 13.27 undertakings on its website. Identifying details of the owners and other occupants of the property will be redacted for privacy and reputational reasons (this includes the redaction of maps or any part which would otherwise identify the property);
- b) DPE will, from time to time, make public reference to this Undertaking including in news media statements and in DPE's publications;

c) a summary of DPE Compliance Program review reports referred to in Annexure B of this Undertaking may be held with this Undertaking in the public register.

Executed by the owners:

Signature of individual	[REDACTED]
Name of individual(print)	[REDACTED]
Date	2/6/2022
Signature of individual	[REDACTED]
Name of individual(print)	[REDACTED]
Date	2/6/2022

Accepted by the Environment Agency Head of DPE pursuant to section 13.27 of the *Biodiversity Conservation Act 2016* (NSW) on 13/06/2022 and signed on behalf of DPE:

Delegate: Sharon Molloy ED Biodiversity and Conservation

Date: 13th June 2022



Enforceable undertaking monitoring report



Enforceable Undertaking [REDACTED] [REDACTED]		
Reporting Period		Deliverable
Initial report 2022		
2022 – 2023		
2023 – 2024		
2024 – 2025		
2025 – 2026		
2026 – 2027		

Annual reporting points:

Measure	Response
The date(s) on which the inspection was undertaken	
The name of the person who undertook the inspection	
Photographs to the north, east, south and west at each monitoring point	
Percentage of ground cover comprised of weeds	
Observations made during the inspection including: <ul style="list-style-type: none"> • Presence or absence of pest animals in the undertaking area 	

Enforceable undertaking monitoring report

<ul style="list-style-type: none"> Risk of fire within the undertaking areas. 	
Details of any remediation work required within the undertaking Areas, including condition targets	
Number of receipts submitted in this monitoring report	
Combined value (\$ AUD) of all receipts submitted in this monitoring period	

All records required to be kept by this report must be:

- Accurate
- In a legible form
- Kept for the duration of this Order
- Provided to the Department annually.

Annual monitoring report

1.1. A Monitoring Report must be submitted to the Department annually whilst this enforceable undertaking is in force. The initial report is due twelve (12) months from the date of issue and annually thereafter. Monitoring Reports must contain the records listed in the above table.

1.2. Reports may be submitted to the Department by:

- Mail, courier, or hand to:
 - Compliance and Regulation
 - Biodiversity and Conservation South East
 - Level 3, Block D, 84 Crown Street
 - P.O. Box 514
 - Wollongong NSW 2580

OR

- Email to:

ROG.south@environment.nsw.gov.au

Marked to the attention of "Compliance and Regulation"



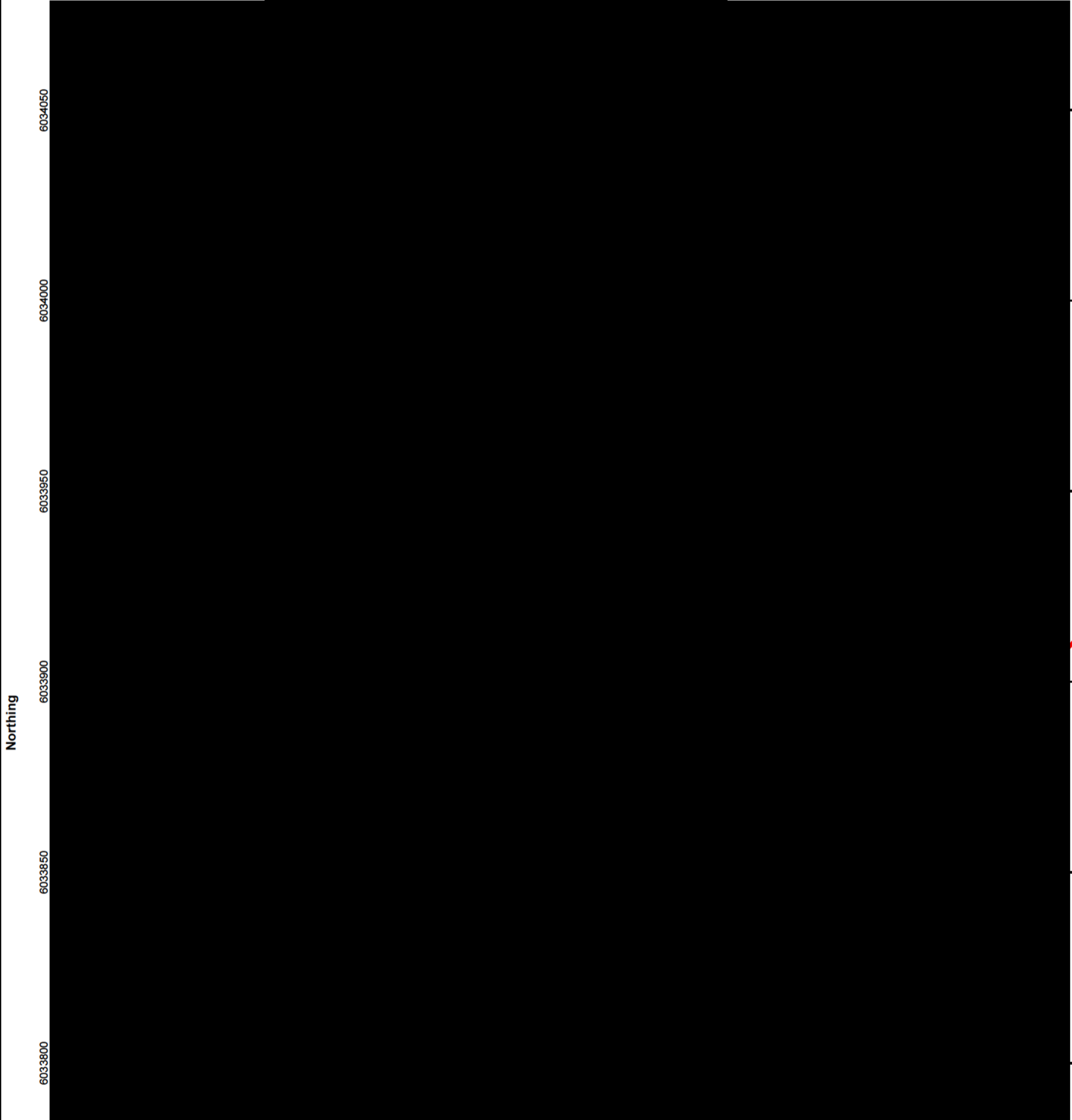
Attachment 1B: Map of the Remediation Area Biodiversity Conservation Act 2016 s13.27(1) Enforceable Undertaking

Property Owners: [Redacted]

LLS: South East
LGA: Eurobodalla

Enforceable Undertaking: EU000008

[Redacted]

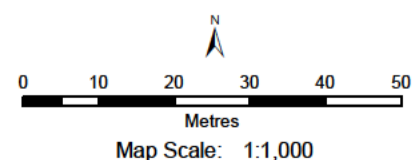


- Legend**
- Riparian, Replanting
 - Vegetation, Natural regeneration buffer
 - Vegetation, Replanting buffer

Base imagery extracted from Vegetation Management Plan
[Redacted] Georectified on 05.07.2022.
RMS Error: 0.3025 m.

Base cadastral and topographic data supplied by NSW
Land and Property Management Authority.

Responsibility lies with the property owner to confirm the
accuracy of information supplied by the NSW Land
and Property Management Authority.



Map Datum/Projection: GDA 94 MGA Zone 56
Date: 5 July 2022