

Enforceable Undertaking

UNDERTAKING PROVIDED BY:

Mt Mulga Investments Pty Ltd

ACN: 116 010 112

80 Baylon Road

Queanbeyan NSW 2620

Reference Number: 202102891-1

Case Reference Number: 202102891

Issue Date:

Property: Area within Lot31/DP750828 as shown in the Map at Attachment A
'Stanhope', Langes Lane, West Wyalong NSW 2671

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: Mt Mulga Investments Pty Ltd

Address: 'Stanhope', Langes Lane, West Wyalong NSW
2671

2. Mt Mulga Investments Pty Ltd (**Mt Mulga**) is the owner of the land parcel Lot 31/DP750828 (**Lot 31**), which forms part of the landholding 'Stanhope' at Langes Lane, West Wyalong NSW 2671 (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 Mt Mulga permitted the clearing of approximately 21 hectares of native vegetation on the Property between October 2020 and April 2021 for the purposes of harvesting Broombush (*Melaleuca uncinata*).
5. Mt Mulga admits that it engaged in clearing of Broombush on the Property between October 2020 and April 2021 for the purposes of commercial harvesting.

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6. It is alleged by the Department that the clearing by Mt Mulga was 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. It is alleged by the Department that there was unauthorised clearing of native vegetation in a regulated rural area on the Property between October 2020 and April 2021. The area is within part of Lot 31 and will be referred to as the **Remediation Area** for the purposes of these undertakings.
7. Mt Mulga accepts that, as at the date of the clearing, the area cleared was mapped on the transitional native vegetation regulatory (**NVR**) map as Category-2 Sensitive Regulated land with biodiversity values, and continues to be categorised as Category-2 Sensitive Regulated land as at the date of this Enforceable Undertaking. The mapping shows the Remediation Area as containing a listed Critically Endangered Ecological Community (**CEEC**) in NSW (Mallee and Mallee-Broombush dominated woodland and shrubland, lacking *Triodia*).
8. Mt Mulga accepts that the Remediation Area is mapped as Category 2 sensitive regulated land and that Category 2 sensitive regulated land contains a habitat of a threatened species or threatened ecological community. The Department asserts that Broombush (*melaleuca uncinata*) is a vegetation type that forms part of a critically endangered community within the Remediation Area.
9. In addition to being an offence pursuant to section 60N of the LLS Act, it is alleged by the Department that the clearing was an offence under section 2.4 of the BC Act.
10. Mt Mulga proposes under these Enforceable Undertakings (**Undertakings**) to provide for the cessation of harvesting and rolling operations in control, abatement and mitigation of the damage and/or maintenance, remediation, restoration of the damaged area of the Remediation Area.
11. Mt Mulga acknowledges:
 - 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 2.4 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 areas of the Remediation Area that was subject to the conduct shows regrowing Broombush and mallee eucalypts considerably lower than the surrounding native vegetation;
 - e. that these undertakings create a positive commitment by Mt Mulga to cease clearing Broombush or native vegetation in the Remediation Area; and
 - f. that the Enforceable Undertaking will be made publicly available by the Department and may be referred to in media or publications.

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SECTION B – UNDERTAKINGS

- A. In order to mitigate the alleged damage to the area concerned Mt Mulga Investments Pty Ltd (the **Landholder**) undertakes, for the purposes of section 13.27 of the BC Act, to carry out the following remediation work on the Remediation Area **for a period of ten (10) years** from the date the undertakings are accepted by the Environment Agency Head (the **Term**).

1 REMEDIATION AREA

- 1.1 In these undertakings, Remediation Area means the area identified for remediation on the map at Attachment-1A and 1B.
- 1.2 The Remediation Area is located within Lot 31/DP750828 of the Property.

2 REQUIREMENTS

- 2.1 Within four (4) weeks of the date of these Undertakings, the Landholder will remove all stock from within the Remediation Area. Stock is not permitted within the Remediation Area for the Term.
- 2.2 Within eight (8) weeks of the date of these Undertakings, the Landholder will remove all weeds, exotic species, non-native plants, and commercial crops from within the Remediation Area. The Landholder will effectively manage the removal of weeds, exotic species, non-native plants, and commercial crops from within the Remediation Area for the Term. Only selective methods (non-mechanised) of poisoning and/or manual removal are to be used.
- 2.3 Within eight (8) weeks of the date of these Undertakings, the Landholder will remove all pest herbivore species from within the Remediation Area. The Landholder will effectively manage the removal of pest herbivore species within the Remediation Area for the Term.
- 2.4 Fencing of the Remediation Area is not required unless areas adjoining the Remediation Area contain stock. If areas adjoining the Remediation Area contain stock the Landholder will construct a fence (including access gates) around the perimeter of the Remediation Area to prevent access to the Remediation Area by stock within ten (10) weeks of the date of these Undertakings.
- 2.5 If areas adjoining the Remediation Area do not contain stock and a fence is not required, the Landholder will install coloured markers post (at intervals of no greater than 50 meters) around the perimeter of the Remediation Area for the purposes of clearly identifying the Remediation Area from other areas of the Property within eight (8) weeks of the issue date of these Undertakings.
- 2.6 No dams, sheds or other rural infrastructure will be constructed within the Remediation Area during the Term unless pre-approved in writing by the Department.
- 2.7 The following activities are prohibited within the Remediation Area unless pre-approved in writing by the Department or are part of the works the subject of these undertakings:
- Soil disturbance (including cultivation),
 - Clearing of any native vegetation,
 - Grazing,

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- Removal of fallen timber,
 - Aerial or boom spraying, and
 - Storage of waste or rubbish.
- 2.8 The Landholder will be responsible for all costs associated with implementing and complying with the conditions of these Undertakings.
- 2.9 These Undertakings will remain in force for the Term unless withdrawn or varied under section 13.27(3).
- 2.10 The Landholder will provide reasonable access to staff of the Department for the purposes of monitoring and enforcing compliance with these Undertakings which includes providing access to inspect the Remediation Area as required.

3 MONITORING AND REPORTING

- 3.1 The Landholder will notify the Department when the initial works associated with these Undertakings have been completed. The Landholder will complete and submit an Initial Works Report (**IWR**) in the template provided by the Department at Attachment-2 of these Undertakings. The Landholder must submit the IWR to the Team Leader Compliance and Regulation South West within ten (10) weeks from the date of commencement of these Undertakings.
- 3.2 The Landholder will regularly inspect the Remediation Area and in any case at least four (4) times per calendar year for the purposes of determining:
- The presence of weeds, exotic species, non-native plants, and commercial crops within the Remediation Area,
 - The presence of pest herbivores within the Remediation Area,
 - The presence and impact of stock within the Remediation Area,
 - The condition and serviceability of fencing or marker posts, and
 - Whether any prohibited activities have occurred within the Remediation Area.
- 3.3 The Landholder will inform any future purchasers of the land, of these Undertakings.
- 3.4 The Landholder will notify the Team Leader Compliance and Regulation - South West within fourteen (14) days if the Landholder intends on selling the land subject to these Undertakings.
- 3.5 At any time should the Landholder need clarification or explanation of the requirements and obligations associated with these Undertakings, the Landholder should contact the Team Leader Compliance and Regulation - South West.
- 3.6 The Landholder will submit all reports and correspondence relating to these Undertakings to the Team Leader Compliance and Regulation - South West:
- a) By Registered Post to:
- Team Leader Compliance and Regulation – South West
NSW Department of Planning and Environment
PO Box 5336
Wagga Wagga NSW
2650 or

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b) By courier or by hand to:

Team Leader Compliance and Regulation – South West
NSW Department of Planning and Environment
7161 Olympic Highway
Wagga Wagga NSW
2650

or

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

4 RECORD KEEPING

4.1 The Landholder 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.

5 DEFINITIONS

In these Undertakings, the following definitions apply:

Term	Definition
BC Act	The <i>Biodiversity Conservation Act 2016</i> .
Damage	Damage has the same meaning as defined in section 11.14 of the <i>Biodiversity Conservation Act 2016</i> .
The Department	The NSW Department of Planning and Environment.
Exotic species or Non-Native Species	Means species introduced from outside of the area concerned; in the case of New South Wales, from overseas and/or interstate. Note: The source of this definition is Harden, G.W. ed. 1990- 2002. <i>Flora of New South Wales: Volumes 1 – 4</i> , University of NSW Press.
Livestock	Means all livestock (including, but not limited to, cattle, horses, sheep, alpacas, pigs and goats). It does not include native wildlife.
LLS Act	The <i>Local Land Services Act 2013</i> .
Native vegetation	Has the same meaning as defined in Part 5A of the <i>Local Land Services Act 2013</i> .
Pest herbivores	Means hares, rabbits, and goats but does not include livestock.

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Landholder	Means the person named in these Undertakings and who is responsible for adhering to and complying with the Undertakings.
Remediation Area	Means the areas shown on the attached maps to these Undertakings and located within the parcels of land identified by these Undertakings.
Reporting Period	Means each annual reporting period (1 July to 30 June) from the commencement of and for the Term of these Undertakings.
Term	Means the duration of the Undertakings.
The Property	Means the land parcels identified in these Undertakings that are subject to the conditions of these Undertakings.
Weed	Means a plant that is a pest as defined by section 15 of the <i>Biosecurity Act 2015</i> .

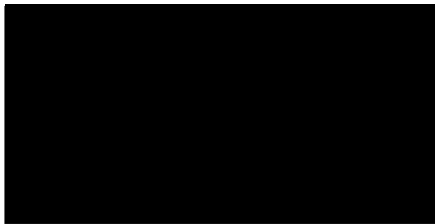
SECTION C – ENFORCEABLE TERMS

Mt Mulga Investments Pty Limited undertakes to comply with Section B.

SECTION D – OFFER OF UNDERTAKING

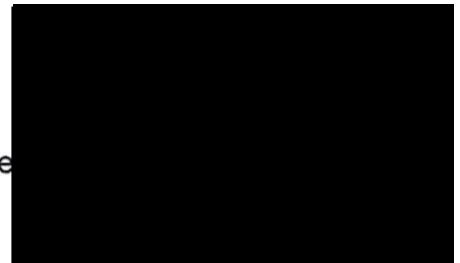
I offer this Undertaking and agree to be bound by the terms within it.

Signed:



Name:

Witness name:



Witness signature

Date:

6/3/2023

Date:

6/3/23

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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: 7 March 2023

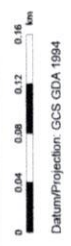
Attachments to Undertakings:

1. 1A and 1B (Remediation Area Maps)
2. Initial Work Report (Template)



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Map Ref: Attachment-1A | Map-1
 Author: Justin BUSUTTIL
 Date: 11/07/2022
 Imagery: Planet May 2021



Attachment-1A | Map-1 Enforceable Undertaking Mt Mulga Investments Pty Ltd 'Stanhope' Langes Lane, West Wyalong NSW

Legend

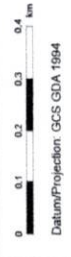
- Boundary Lot 31/DP750828
- Remediation Area
- Area Cleared

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Map Ref: Attachment-1B | Map-2
 Author: Justin BUSUTTIL
 Date: 11/07/2022
 Imagery: Planet May 2021



Attachment-1B | Map-2

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Mt Mulga Investments Pty Ltd

'Stanhope' Langes Lane, West Wyalong NSW

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Legend

- Boundary Lot31/DP750828
- Remediation Area
- Area Cleared