

Remediation Order

upon which the clearing of native vegetation contrary to section 60N of the LLS Act occurred. The Remediation Area is located within [REDACTED] of the Property.

BASIS FOR ISSUING REMEDIATION ORDER

- G. The Department has investigated an allegation relating to the unauthorised clearing of native vegetation in a regulated rural area on the Property between April 2018 and November 2018.
- H. Under section 60N of the LLS Act, it is an offence to clear native vegetation in a regulated rural area.
- I. The Department's investigation determined that the clearing of 49.75 ha of native vegetation in a regulated rural area occurred on the Property between April 2018 and November 2018 and that the clearing was conducted contrary to section 60N of the LLS Act, and none of the available defences listed in the LLS Act and associated Regulations apply.
- J. The works required by this Order provide for the remediation of damage sustained to the Property by clearing native vegetation in a regulated rural area contrary to section 60N of the LLS Act. Section 11.16(2) of the BC Act requires you to carry out the remediation work required by this order.
- K. It is an offence against section 11.22 of the BC Act to contravene this Order without reasonable excuse or to intentionally obstruct anyone carrying out remediation work under this Order. Contravention of this Order has a maximum penalty of Tier 2. The maximum penalty that a court may impose for a Tier 2 offence is \$660,000 (plus \$66,000 for each day the offence continues) for a corporation, and \$132,000 (plus \$13,200 for each day the offence continues) for an individual.
- L. Section 11.23(1) of the BC Act allows for a person given a Remediation Order to appeal against the giving of the Order (or any terms of the Order) to the NSW Land and Environment Court within 30 days of the service of the Order. However, even if an appeal is lodged, you must comply with this Order, unless the Court orders otherwise. More information on appeals can be found on the NSW Land and Environment Court website at <http://www.lec.justice.nsw.gov.au>.

OPINION

- M. I, [REDACTED], Director South West Branch, Biodiversity and Conservation Division, am satisfied that native vegetation has been damaged in or as a result of the commission of an offence against section 60N of the LLS Act.

ORDER TO CARRY OUT REMEDIATION WORK

- N. In order to mitigate the damage to the area concerned:

I, [REDACTED], Director South West Branch, Biodiversity and Conservation Division, order [REDACTED] (the **Remediator**) to carry out the following remediation work on the Property **for a period of thirty (30) years** from the date the Remediation Plan associated with this Order is approved in writing by the Department (**the Term**):

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1 REMEDIATION AREA

- 1.1 In this Order, Remediation Area means the areas identified for remediation on the map at Attachment-1 of this Order. This includes a cleared area of 34ha (Area-1) and a 32.2ha area of retained vegetation (Area-2).

2 REQUIREMENTS

- 2.1 The Remediator **must** engage the services of a suitably qualified person to be endorsed by the Department in writing to prepare a Remediation Plan. The Remediator **must** provide the Department with the suitably qualified persons full name, company name (if relevant), ABN or ACN, and overview of individuals qualifications and experience relevant to environmental rehabilitation works or projects within six (6) weeks of the issue date of this Order.
- 2.2 The Remediator **must** provide the Department with a copy of a Remediation Plan prepared by the endorsed suitably qualified person for review and consideration by the Department within eight (8) weeks of the issue date of this Order.
- 2.3 The Remediation Plan is subject to the approval of the Department. No works are to commence until the proposed Remediation Plan submitted by the Remediator has been approved in writing by the Department.
- 2.4 The Remediation Plan **must** cover supplementary planting of Area-1 of the Remediation Area and **must** be consistent with the requirements of the NSW Department of Primary Industries, Office of Water *Guidelines for vegetation management plans on waterfront land*.
- 2.5 The Remediation Plan **must** deliver a plant community type consistent with Plant Community Type, PCT15: Black Box open woodland wetland with chenopod understorey mainly on the outer floodplains in south-western NSW (mainly Riverina Bioregion and Murray Darling Depression Bioregion). Within 40m either side of the drainage line needing "supplementary planting", River Red Gum (*Eucalyptus camaldulensis*) can be used in the species mix but not exceeding the density of Black Box (*E. largiflorens*) planted.
- 2.6 The Remediation Plan **must** include provision for access to the Remediation Area (including access by farm vehicles or equipment) where necessary to carry out ordinary environmental maintenance works within the Remediation Area such as fencing, control of feral pests and weed control, bushfire hazard reduction, or to otherwise comply with this Order.
- 2.7 No dams, sheds or other rural infrastructure are to be constructed within the Remediation Area during the Term of the Order unless pre-approved in writing by the Department.
- 2.8 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 Remediator **must** construct a fence (including access gates) around the perimeter of the Remediation Area to prevent access to the Remediation Area by stock. If areas adjoining the Remediation Area do not contain stock and a fence is not required, the Remediator **must** propose a method of clearly identifying the Remediation Area from other areas of the Property.
- 2.9 The Remediation Plan **must** include measures for the removal and management of weeds, exotic species, non-native plants, and commercial crops within the Remediation Area for the Term of the Order.

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- 2.10 The Remediation Plan **must** include measures for the removal and management of pest herbivores species within the Remediation Area for the Term of the Order.
- 2.11 The Remediation Plan **must** include the removal of all commercial infrastructure within the Remediation Area within ten (10) weeks of the date of issue of this Order.
- 2.12 The Order and associated Remediation Plan will remain in force for the Term of the Order unless, amended, revoked, or varied by the Department.
- 2.13 The Remediation Plan **must** include a detailed Vegetation Management Plan for the area marked on the map at Attachment-1 as Area-2, the area of retained vegetation.
- 2.14 The approved Remediation Plan **must** be implemented by the Remediator for the Term of the Order and will become Annexure-1 to this Order.
- 2.15 The Remediator **must** notify the Department when the initial works associated with the Remediation Plan have been completed. The Remediator **must** complete and submit the Initial Works Report (IWR) template provided by the Department at Attachment-2 of this Order. The IWR **must** be submitted to the Team Leader Compliance and Regulation – South West by the **01/12/2022**.
- 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
- 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
- 2.16 The Remediation Plan **must** include a monitoring and reporting regime where records are made by the Remediator and an annual monitoring report is submitted to the Department. Monitoring Reports **must** include dates of any works, repairs or plantings within the Remediation Area, and the dates of any inspections conducted during the annual reporting period of the Remediation Area and the associated observations, findings, and management actions.
- 2.17 The Remediator **must** inform any future purchasers of the land, of this Order and the associated Remediation Plan.
- 2.18 The Remediator **must** notify the Team Leader Compliance and Regulation - South West within fourteen (14) days if you intend on selling the land subject to this Order.
- 2.19 The Remediator must submit all reports and correspondence relating to this Order 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

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PO Box 5336
Wagga Wagga NSW 2650

or

- 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

3 DEFINITIONS

In this order, 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	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> .
Order	Means this document: A Remediation Order issued under section 11.15 of the <i>Biodiversity Conservation Act 2016</i> .
Pest herbivores	Means hares, rabbits, and goats but does not include livestock.
Remediator	████████████████████

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Remediation Area	Means the areas shown on the map in Attachment-1 of this Order and located within [REDACTED] and [REDACTED].
Remediation Plan	Means a plan to remediate the Remediation Area identified by this Order and in accordance with the conditions of this Order, prepared by a suitably qualified person approved by the Department on behalf of the Remediator.
Reporting Period	Means each annual reporting period from the commencement of this Order and for the Term of this Order.
Suitably qualified person	Means a person to be approved by the Department with appropriate qualifications, training and at least five (5) years of experience relevant to the nominated subject matters to give authoritative assessment, advice and analysis. For this Order this specifically relates to restoration ecology.
Supplementary Planting	Means direct seeding or planting of indigenous (local native) species as tube stock or by direct seeding to add species where the full natural complement of species is not present. Supplementary planting will contain management actions relating to the planting process and a supplementary planting list of recommended species and survival targets.
Supplementary Planting Area	Means the area shown on the Remediation Map as Area-1 at Attachment-1 of the Order.
Term	Means the duration of the Order from the date of issue. Thirty (30) years.
The Property	Means the landholding [REDACTED] and [REDACTED], [REDACTED].
Weed	Means a plant that is a pest as defined by section 15 of the <i>Biosecurity Act 2015</i> .

WARNING AND INFORMATION ABOUT THIS ORDER

- It is an offence against section 11.22 of the BC Act to contravene this Order without reasonable excuse or to intentionally obstruct anyone carrying out remediation work under this Order. The maximum penalty that a court may impose for this offence is:
 - for a corporation, \$660,000 plus \$66,000 for each day the offence continues, and
 - for an individual, \$132,000 plus \$13,200 for each day the offence continues.
- If you fail to comply with this Order the Agency Head of the Department or his delegate may authorise any other person to enter the Property and carry out all or part of the work and may then recover the cost from you (section 11.18 of the BC Act).
- This Order is issued under section 11.15 of the BC Act.

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- Under section 11.15(4) of the BC Act this Order may be varied or revoked by a further order.
- Under section 11.23(1) of the BC Act, if you are aggrieved by the decision to make this Order you may appeal to the Land and Environment Court within 30 days of this Order being served on you. However, even if an appeal is lodged, you must comply with this Order, unless the Court orders otherwise.
- Under section 13.11 of the BC Act, your obligation to comply with the requirements of this Order continues until the Order is complied with, even if the due date for compliance has passed.
- The Department may conduct inspections to determine whether this Order is being complied with.
- Words and expressions have the same meaning as words and expressions used in the BC Act or Part 5A of the *Local Land Services Act 2013* (as the case may be), except where a word is specifically defined in this Order.
- A Remediation Order will not negate the potential for enforcement action (including penalty notice or prosecution). A Remediation Order is separate to any potential enforcement action.



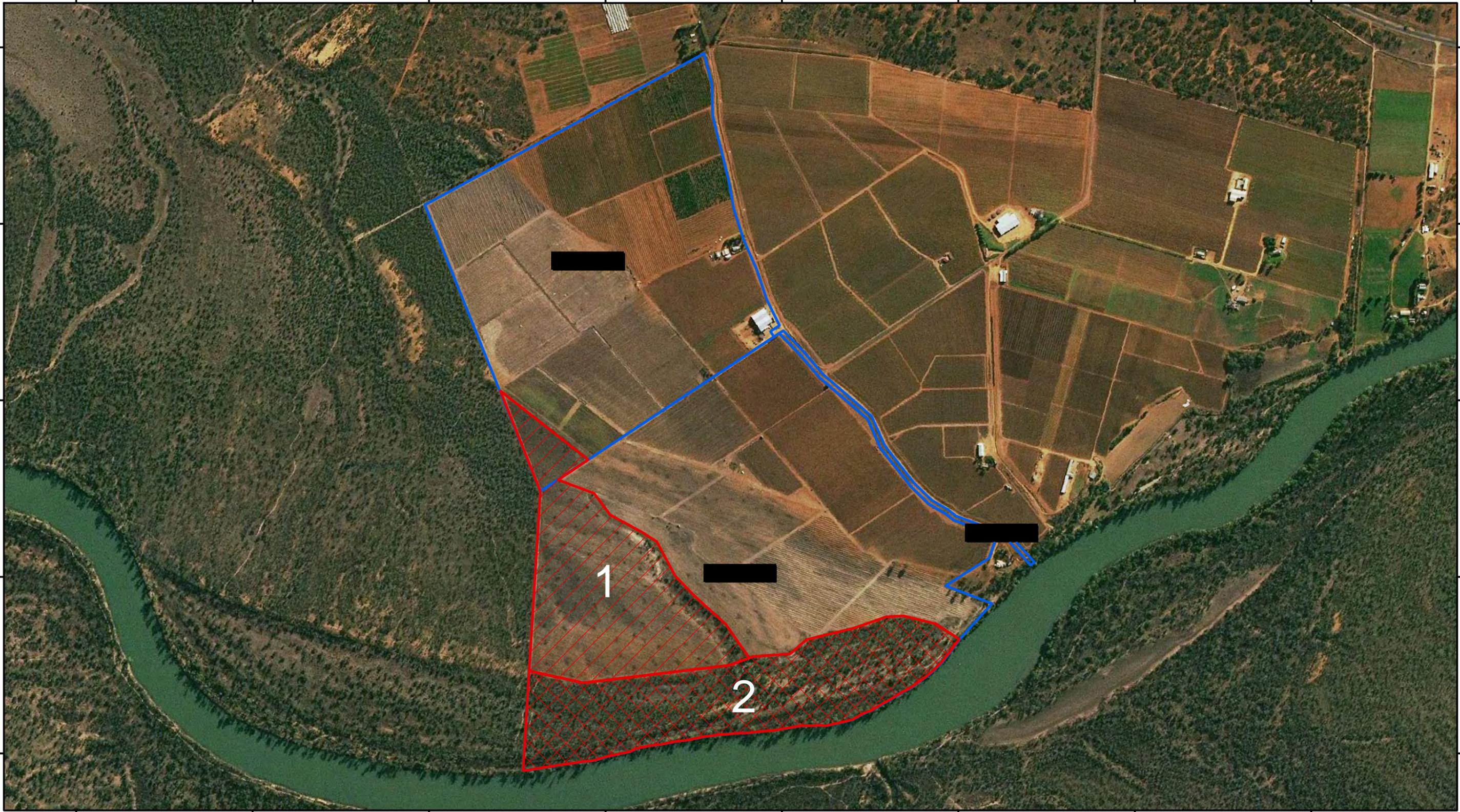
Director, South West Branch
Biodiversity, Conservation and Science Directorate
NSW Department of Planning and Environment
(by Delegation)

Attachments to Order:

1. Remediation Area Map
2. Initial Work Report Template

Annexures to Order:

1. Department Approved Remediation Plan Submitted by Remediator



Legend

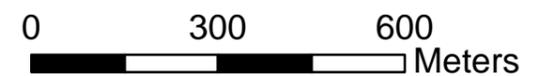
-  1. Agreed Draft Remediation Area (30 ha)
-  2. Draft Retained Remediation Area (32.2 ha)
-  Landholding

Attachment-1 Remediation Area Map

18505-2018



Copyright NSW Department of Planning and Environment. This map is not guaranteed to be free from error or omission. The Department and its employees disclaim liability for any act done on the information in the map and any consequences of such acts or omissions.



Datum/Projection: GCS GDA 1994



Planning & Environment

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