



**ORDER ISSUED TO:**

[REDACTED]  
[REDACTED]  
[REDACTED]

Order Number: DOC23/698855  
CCMS Case Ref. No.: 202204041  
Issue Date: 10<sup>th</sup> October 2024  
Property: [REDACTED]

[REDACTED] ('the Property').

**ORDER TO CARRY OUT REMEDIATION WORK UNDER SECTION 11.15 OF THE *BIODIVERSITY CONSERVATION ACT 2016* (NSW)**

**BY Email:** [REDACTED] and [REDACTED]

**Date of issue:** 10/10/2024

**Who are we:** The Department of Climate Change, Energy, the Environment and Water (the Department) has responsibilities regarding the administration and enforcement of the *Biodiversity Conservation Act 2016* (NSW) (**the BC Act**) and its associated Regulations, and responsibilities regarding the enforcement of Part 5A of the *Local Land Services Act 2013* (NSW) (**the LLS Act**) and the Regulations under that Part.

**Why we serve remediation orders:** Pursuant to section 11.15 of the BC Act, if the Environment Agency Head (the Secretary of the Department) is satisfied that an area, habitat, plant, animal or native vegetation as specified in section 11.15(1) has been damaged in or as a result of the commission of an offence against the BC Act or regulations or against Part 5A of the LLS Act or regulations, the Environment Agency Head may order a person to carry out specified remediation work in a specified manner and within a specified time.

**What you are required to do:** The works required by this remediation order provide for the control, abatement and mitigation of the damage and/or maintenance, remediation, restoration of the damaged area of the Property. Section 11.16(2) of the BC Act requires you to carry out remediation work required by this Order.

**When are you required to act:** Immediately from the Date of issue.

**What happens if you don't comply:** 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.

**What your appeal rights are:** 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 <http://www.lec.justice.nsw.gov.au>.



# Remediation Order

## 1. OBSERVATIONS

The Department has been investigating a report of an alleged offence of damaging habitat of a threatened species or ecological community, in contravention of section 2.4 of the *Biodiversity Conservation Act* (2016) ('**BC Act**').

Contravention of the above Act at the Property is alleged to have occurred between September 2019 and March 2023.

### Offence against section 2.4 of the BC Act

Information and evidence obtained to date, including a site inspection and subsequent assessment of harm conducted by an accredited Ecologist pursuant to the BC Act, formal record of interview, a review of high-quality aerial photography and a review of available biodiversity information, all indicate that damage has occurred to the habitat of a threatened species and a threatened ecological community in contravention of section 2.4 of the BC Act between September 2019 and March 2023.

## 2. REASONS FOR VIEW FORMED

I, [REDACTED] Acting Director Regional Delivery (North West), am satisfied that the following habitat has been harmed:

- a) Golden Sun Moth (*Synemon Plana*), a gazetted endangered species in NSW at the time of the offence.

in or as a result of the commission of an offence against section 2.4 of the BC Act.

In order to:

- a) maintain, remediate or restore the damaged habitat concerned.

I, [REDACTED] Acting Director Regional Delivery (North West), order [REDACTED] ('**the Remediator**') to carry out the following remediation work on the Property within the time specified, if any, for each work, or where no time is specified, for a period of five (5) years from the date of this Order:

I, [REDACTED], Acting Director (North West), holds delegated authority on behalf of the Environment Agency Head for the purposes of section 11.15 of the BC Act.

## 3. REQUIREMENTS – WHAT YOU MUST DO TO COMPLY

In this Order, Remediation Area means the areas referred to within the Remediation Plan prepared by Capital Ecology and the Map of Remediation Area, attached to this Order.

This Order must be complied with from the issue date of the Order, for the Term of the Order.

### 3.1 General Requirements

**3.1.1** Upon issue of this Order the requirements of the attached Remediation Plan, prepared by Capital Ecology and referenced as 'Capital Ecology project no. 3283' (the Remediation Plan), are to be carried out in their entirety throughout the duration of this Order. These requirements are numbered from 1 to 8.3 within the attached Remediation Plan.



# Remediation Order

3.1.2 The Remediator must inform the Department of a sale of the Property, within 14 days of offer and acceptance. The Remediator must inform all potential purchasers of the property of this Order.

## Reporting Requirements

Annually, for each year this Order is in force the remediator must submit a completed Annual Monitoring Report, prepared by a suitably qualified person as per section 8.2 of the Remediation Plan via the following means:

[rog.south@environment.nsw.gov.au](mailto:rog.south@environment.nsw.gov.au)

or

sent by Registered Post to:

NSW Department of Planning and Environment  
 Attention: Senior Team Leader, Compliance and Regulation – South East  
 Reference: CCMS 202204049  
 PO Box 514  
 Wollongong NSW 2520

## DEFINITIONS

In this Order, the following definitions apply:

Term	Definition
BC Act	Means 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 Climate Change, Energy, the Environment and Water.
LLS Act	Means 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	This document: a Remediation Order issued under section 11.15 of the <i>Biodiversity Conservation Act 2016</i>
Suitably qualified person	An Ecologist accredited pursuant to the BC Act for the purpose of applying the <i>Biodiversity Assessment Method</i> .
Priority weed	Means a plant that is a pest as defined by section 15 of the <i>Biosecurity Act 2015</i> .
Remediation Area	Means the areas located on the Property that are referred to and indicated within the Remediation Plan and the attached Map of Remediation Area.
Remediator	[REDACTED]
Reporting period	Reporting period Means each annual period from the commencement of this Order
Term	Means 5 years
Threatened Ecological Community	means a critically endangered ecological community, an endangered ecological community or a vulnerable ecological community listed in Schedule 2 of the BC Act.
The Property	[REDACTED]
You	The Remediator (see above)

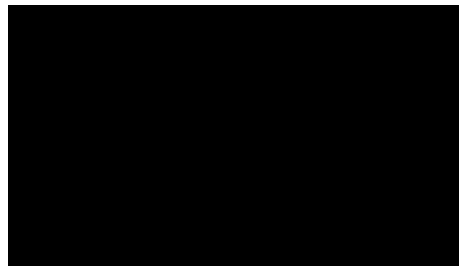


# Remediation Order

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## WARNING AND INFORMATION ABOUT THIS ORDER

- If you fail to comply with this Order the Environment Agency Head or his/her 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).
- If you fail to comply with this Order, any person may seek an order from the NSW Land and Environment Court requiring you to rectify that breach of the legislation (section 13.14 of the BC Act).
- This Order is issued under section 11.15 of the BC Act.
- Under section 11.15(4) of the BC Act this Order may be varied or revoked by a further order.
- 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 LLS Act (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) under the BC Act or LLS Act. A Remediation Order is separate to any potential enforcement action.



Acting Director Regional Delivery North West  
(by Delegation)

### Attachments:

1. Remediation Plan prepared by Capital Ecology and Map of Remediation Order

# Remediation Order

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2 October 2024

[Redacted]  
Capital Plus 1  
Level 1, 28 Bougainville St, Manuka, ACT, 2603  
PO Box 3508 Manuka ACT 2603  
P: [Redacted]  
E: [Redacted]

**Remediation Plan for [Redacted]**  
Capital Ecology project no. 3282

Dear [Redacted],

As detailed in Appendix A of the attached Remediation Plan, a draft Remediation Order has been issued to [Redacted] due to damage to Golden Sun Moth *Synemon plana* habitat at [Redacted] (Figure 1). As detailed in the draft Remediation Order, a remediation plan that seeks to restore and rehabilitate the habitat of the impacted species must be developed for [Redacted].

Accordingly, the attached Remediation Plan details the proposed management actions and activities to protect, manage, and rehabilitate the Golden Sun Moth habitat in [Redacted].

We trust that this Remediation Plan provides the required information. If you have any questions regarding the information we have provided, please do not hesitate to contact us.

Yours sincerely,

[Redacted Signature]

Director / Principal Ecologist      Senior Ecologist  
Accredited BAM Assessor (No: BAAS17089)      Accredited BAM Assessor (No: BAAS20006)

capital ecology us  
PO Box 624      ACT 607 364 236      Phone: [Redacted]  
Gungahlin ACT 2911      ABN: 51 607 364 238      Email: [act@capital-ecology.com.au](mailto:act@capital-ecology.com.au)      [www.capitalecology.com.au](http://www.capitalecology.com.au)  
We acknowledge the Traditional Custodians of the land on which we work. We pay our respects to Elders past and present.

# Remediation Order

