



ORDER ISSUED TO:

██████████ and ██████████
██████████
██████████

Order Number: DOC23/830652
CCMS Case Ref. No.: 202304952
Issue Date: 21/11/2023
Property: ██████████ ('the Property').

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

BY registered post: RPP44 63800 09400 43369 97603 & email: ██████████

Date of issue: 21/11/2023

Who are we: The Department of Planning and Environment 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 of Planning and Environment) 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. DEPARTMENT OF PLANNING AND ENVIRONMENT OBSERVATIONS

The Department is investigating a report of unauthorised clearing of native vegetation on the property between April 2021 and May 2023.

It is an offence pursuant to section 60N of the *Local Land Services Act (2013)* ('**LLS Act**') to clear native vegetation on regulated rural land.

Information and evidence obtained to date which includes a site inspection, formal records of interview, a review of high-quality aerial photography and a review of approvals for the landholding confirm that ~30 ha of damage occurred on the Property.

Information and evidence obtained to date also indicates that the damage occurred in or as a result of clearing native vegetation from the property and that none of the available defences listed in Part 5A LLS Act and associated regulations in relation to the offence, are applicable..

The Remediation Area is required to be designated on the in force Native Vegetation Regulatory Map, prepared pursuant to Division 2 of the LLS Act, as *Category 2 – Sensitive Regulated Land*.

2. REASONS FOR VIEW FORMED

I, [REDACTED], Senior Team Leader of Compliance and Regulation (South East), am satisfied that the following has been damaged:

- a) native vegetation on *Category 2 – Regulated Land* and *Category 2 – Vulnerable Regulated Land* under Part 5A of the LLS Act

in or as a result of the commission of an offence against the Part 5A of the LLS Act or the regulations under that Part.

In order to:

- a) control, abate or mitigate the damage to the vegetation concerned; and
- b) maintain, remediate or restore the damaged vegetation concerned.

I, [REDACTED], Senior Team Leader of Compliance and Regulation (South East), order [REDACTED] and [REDACTED] ('**the Remediators**') 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 twenty (20) years from the date of this Order:

I, [REDACTED], Senior Team Leader of Compliance and Regulation (South East), 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 Attachment 2.

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 **Immediately from the issue date of this Order** the remediator must abate human disturbances to the Remediation Area, with the exception of work required for the management of priority weeds.



Remediation Order

- 3.1.2 The Remediator must retain vegetation within the areas labelled 'Remediation Area' on the map labelled 'Attachment 2 - Remediation Area Map'.
- 3.1.3 **Within 28 days of the issue date of this Order** the remediator must erect signage so that any person entering the Remediation Area becomes aware of the Remediation Area and does not use the land in a manner that would contradict this Order.
- 3.1.4 If at any time any weeds, exotic species, or non-native plant species are found within the Remediation Area, the Remediators must destroy all such weeds, exotic species, or non-native plant species by either spot application of herbicide or by removal by non-mechanised means as soon as practicable, or as directed by the Department.
- 3.1.5 If at any time any pest herbivores are found within the Remediation Area, the Remediators must make attempts to control the pest herbivores by non-mechanised means.
- 3.1.6 The Remediators must ensure fallen timber and debris present in the Remediation Area are retained for the purposes of habitat.
- 3.1.7 **For the duration of this Order** the construction of any buildings or structures is not permitted within the Remediation Areas.
- 3.1.8 **For the duration of this Order** the use of all allowable activities under Schedule 5A of the LLS Act are restricted to those permitted on *Category 2 – Regulated Sensitive Land*.
- 3.1.9 The remediator must inform all purchasers of the land of this Order.
- 3.1.10 The remediator must notify the Environmental Agency Head within 14 days if you intend on selling the land subject to this Order.

3.2 Reporting Requirements

- 3.2.1 **Annually, for each year this Order is in force** the remediator must submit a completed Annual Monitoring Report. The Annual Monitoring Report must contain the points which are stated below. You must submit a completed report by 30th November every year for the duration of the Order. All reports must be emailed to:

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 202304952
PO Box 733
Queanbeyan NSW 2620

Annual monitoring report and record keeping:

The following records must be made by the Remediators for all inspections:

- Annual monitoring may be completed by the landholder(s) or a representative.
- The date(s) on which the inspection was undertaken.
- The name of the person who undertook the inspection
- Observations made during the inspection including:
 - o Presence or absence of pest animals in the Remediation Areas; and
 - o Risk of fire to the Remediation Areas.

Remediation Order

- Remediation work required, including the target conditions (if applicable) and time frames for completion.
- Details of any work required within the Remediation Areas.
- The proposed date(s) of that work.
- Photographs to the north, east, south and west at each monitoring point located within Table 1 and Attachment 2.
- The annual monitoring report and photographs will be used to monitor progress of remediation at the property. As the Department has the right to amend, vary or revoke an order, monitoring reports will provide an opportunity to measure whether changes are required.

Table 1: Location of monitoring points

Monitoring Point	Latitude	Longitude	Easting	Northing
Monitoring Point 1	████████	████████	████████	████████
Monitoring Point 2	████████	████████	████████	████████

Note: The Remediator may install a star picket, small surveying peg, or wooden stake to locate the same monitoring point between inspections.

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

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

4. AN EXAMPLE OF HOW YOU CAN COMPLY

One way of achieving compliance with this Order would be to:

1. Prevent human disturbances to the remediation area for the duration of the Order, with the exception of work required for the management of priority weeds.
2. Maintenance of fence lines must only be conducted to the *minimum extent necessary* which means that for fence line maintenance the full allowable activity may not be required.
3. Controlling priority weeds by selectively poisoning and manually removing priority weeds.
4. Send in completed monitoring report and other reporting by the 30 November 2023 and every year thereafter by 30 November.

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 Planning and Environment.
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>



Remediation Order

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 shown schematically on the map in Attachment 2 outlined in green and marked "Remediation Area" being parts of [REDACTED] on deposited plan [REDACTED].
Remediator(s)	[REDACTED] and [REDACTED]
Reporting period	Reporting period Means each annual period from the commencement of this Order
Term	Means 20 years
The Property	[REDACTED] – also known as [REDACTED] [REDACTED] The Property is shown schematically on the map in Attachment 1.
You	The Remediator(s) (see above)

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 of 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 of Planning and Environment 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.

[REDACTED]

[REDACTED]

Senior Team Leader Compliance and Regulation (SE)
(by Delegation)

Attachment:

1. Map of the Property
2. Remediation Area Map

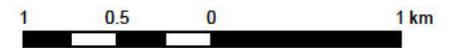


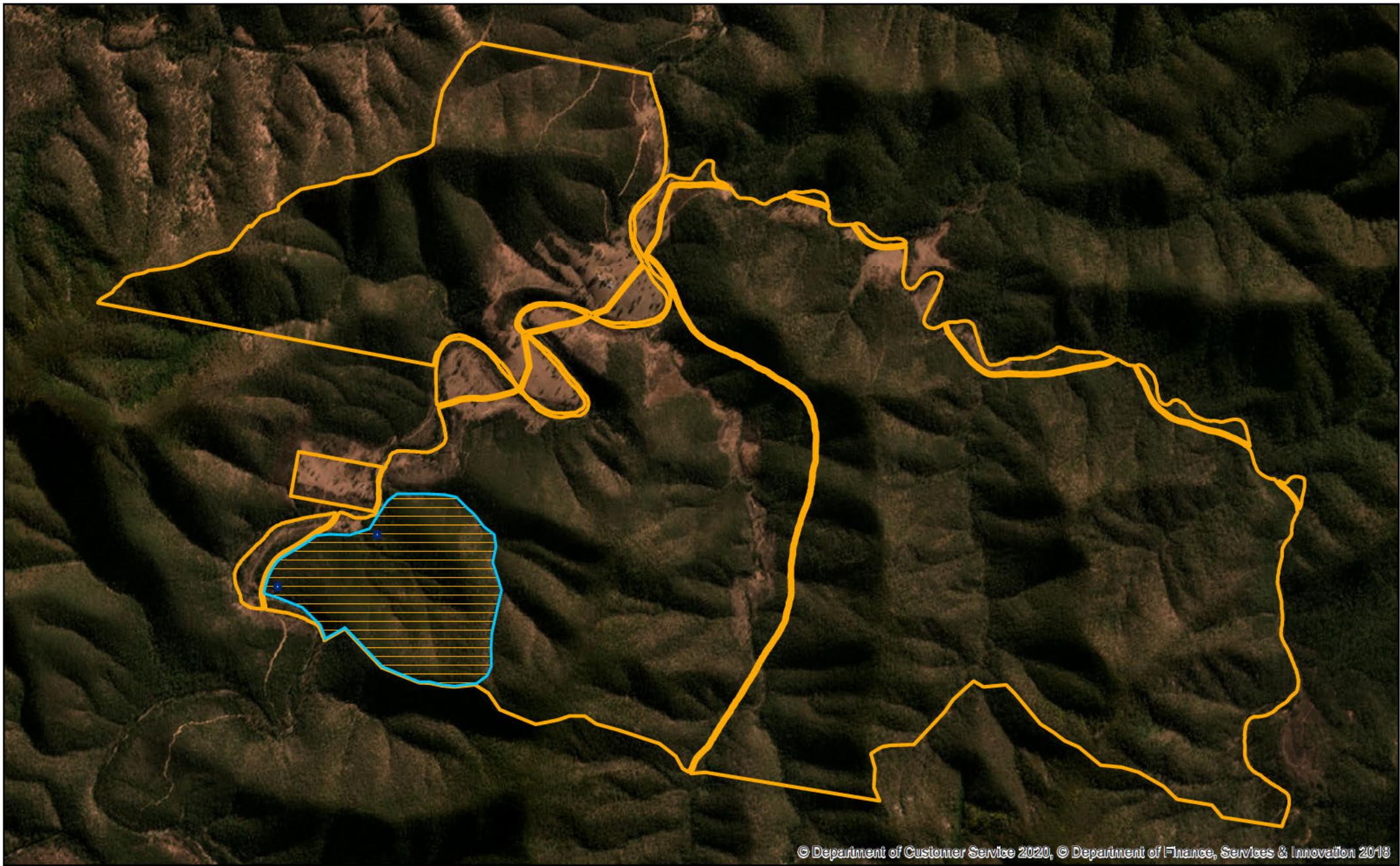
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Legend

 Boundary

Attachment 1 - Map of the Property





- Monitoring Points
- Remediation Area
- Boundary

Legend

Attachment 2 - Remediation Area Map

