Department of Climate Change, Energy, the Environment and Water

[redacted]

Our reference: DOC24/750259-4
Contact: [redacted]
Date: 15 April 2025

[redacted]

**By Email and Registered Post**

Dear [redacted],

**REMEDIATION ORDER - NOTICE (DOC24/750259-4) UNDER SECTION 11.15 OF THE BIODIVERSITY CONSERVATION ACT 2016 (NSW)**

**Lot [redacted] in DP [redacted], Lot [redacted] in DP [redacted], Lot [redacted] in DP [redacted] [redacted] (the Property)**

The Department of Climate Change, Energy, the Environment and Water (the Department) is responsible for administering and enforcing the Biodiversity Conservation Act 2016 (BC Act) and enforces Part 5A of the Local Land Services Act 2013 (LLS Act).

Attached is a Remediation Order DOC24/750259-4 issued under section 11.15 of the BC Act.

The Department has issued this Remediation Order in response to findings from our recent investigation CCMS 202305604. This Remediation Order was issued in draft form to [redacted] with no comment made to consider alteration.

Regards,

[redacted]

**Senior Team Leader**

**Conservation Programs, Heritage and Regulation Group**

**Department of Climate Change, Energy, the Environment, and Water**

# Remediation Order

Department of Climate Change, Energy, the Environment and Water

**ORDER ISSUED TO:**

[redacted]

| | |
|---|---|
| Order Number: | DOC24/750259-4 |
| CCMS Case Ref. No.: | 202305604 |
| Issue Date: | 15 April 2025 |
| Property: | Lot [redacted] in DP [redacted], Lot [redacted] in DP [redacted], Lot [redacted] in DP [redacted] [redacted] |

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

**BY: Registered Post & Email**

**Date of issue: 15 April 2025**

**Who are we:** The Department of Climate Change, Energy, the Environment & Water 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 Climate Change, Energy, the Environment & Water) 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.

# Remediation Order



**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 our 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.

## 1. DEPARTMENT OF CLIMATE CHANGE, ENERGY, THE ENVIRONMENT & WATER OBSERVATIONS

The Department has investigated clearing of native vegetation on the Property between 1 June 2022 and 5 March 2024. Under Part 5A of the *Local Land Services Act 2013*, Part 5A, Division 3 it is an offence pursuant to Clause 60N unauthorised clearing of native vegetation in a rural regulated area**.**

Information and evidence obtained to date including analysis of imagery, inspections, a Record of Interview with the Nominated Corporate Representative [redacted], indicates that damage occurred on the Property to Category 2 land when approximately 0.61 hectares of sensitive regulated native vegetation that was subject to a remediation order was cleared between 1 June 2022 and 5 March 2024. Information and evidence obtained to date also indicates that the damage occurred in or as a result of clearing of native vegetation contrary to section 60N of the LLS Act after the available defences listed in the BC Act and/or Part 5A LLS Act and associated regulations in relation to the offence were applied to the total cleared area.

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

## 2. REASONS FOR VIEW FORMED

I, [redacted] Senior Team Leader am satisfied that the following has been damaged:

a) native vegetation on category 2- sensitive regulated land under Part 5A of the LLS Act, namely, .61 hectares of native vegetation.

in or as a result of the commission of an offence against Section 60N of the *Local Land Services Act 2013*.

# Remediation Order



In order to:

a) control, abate or mitigate the damage to the area, habitat, plant, animal or vegetation concerned;

I, [redacted] Senior Team Leader, 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 20 years from the date of this Order:

Senior Team Leader 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 draft Remediation Area identified on Attachment 1.

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

### 3.1 General Requirements

3.1.1 By 14 May 2025 you must remove all stock from the Remediation Area, control stock and prevent them from entering the remediation area.

3.1.2 By 14 May 2025 you must remove and prevent weeds by using selective methods of poisoning and manual removal. You must undertake weed control every 13 weeks from 12 May 2025.

3.1.3 By 14 May 2025 you must abate human disturbances to the Remediation Area.

3.1.4 By 14 May 2025 you 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.

3.1.5 You must inform all purchasers of the Property of this Order.

3.1.6 You must notify the Environmental Agency Head within 14 days if you intend on selling the Property subject to this Order.

3.1.7 All reports must be scanned and emailed to **admin-northeast@environment.nsw.gov.au**

or sent by Registered Post to:

# Remediation Order

Senior Team Leader, Compliance and Regulation
Department of Climate Change, Energy, the Environment & Water
Locked Bag 914
Coffs Harbour, NSW 2450

### 3.2 Reporting Requirements

3.2.1 By 25 May 2025 the remediator must submit a letter or email outlining your compliance with 3.1 General Requirements of the Remediation Order.

3.2.2 By 30 June 2025 the remediator must submit a letter or email outlining your ongoing compliance with 3.1 General Requirements of the Remediation Order and every year on the 30 June for the duration of the Order.

## DEFINITIONS

In this Order, the following definitions apply:

| Term | Definition |
|---|---|
| BC Act | The *Biodiversity Conservation Act 2016*. |
| Damage | Damage has the same meaning as defined in section 11.14 of the *Biodiversity Conservation Act 2016*. |
| The Department | The NSW Department of Climate Change, Energy, the Environment & Water (DCCEEW). |
| LLS Act | The *Local Land Services Act 2013*. |
| Native vegetation | Has the same meaning as defined in Part 5A of the *Local Land Services Act 2013*. |
| Order | This document: a Remediation Order issued under section 11.15 of the *Biodiversity Conservation Act 2016*. |
| Remediation Area | The areas located on the Property shown schematically on the map in Attachment 1 hatched in yellow and marked "Remediation Area" being parts of Lot [redacted] DP [redacted] |
| Remediators | [redacted] |
| Reporting period | Reporting period means each annual period from the commencement of this Order. |
| Term | Means 20 years. |
| The Property | Lot [redacted] in DP [redacted], Lot [redacted] in DP [redacted], Lot [redacted] in DP [redacted] [redacted] |

# Remediation Order



## 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 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]

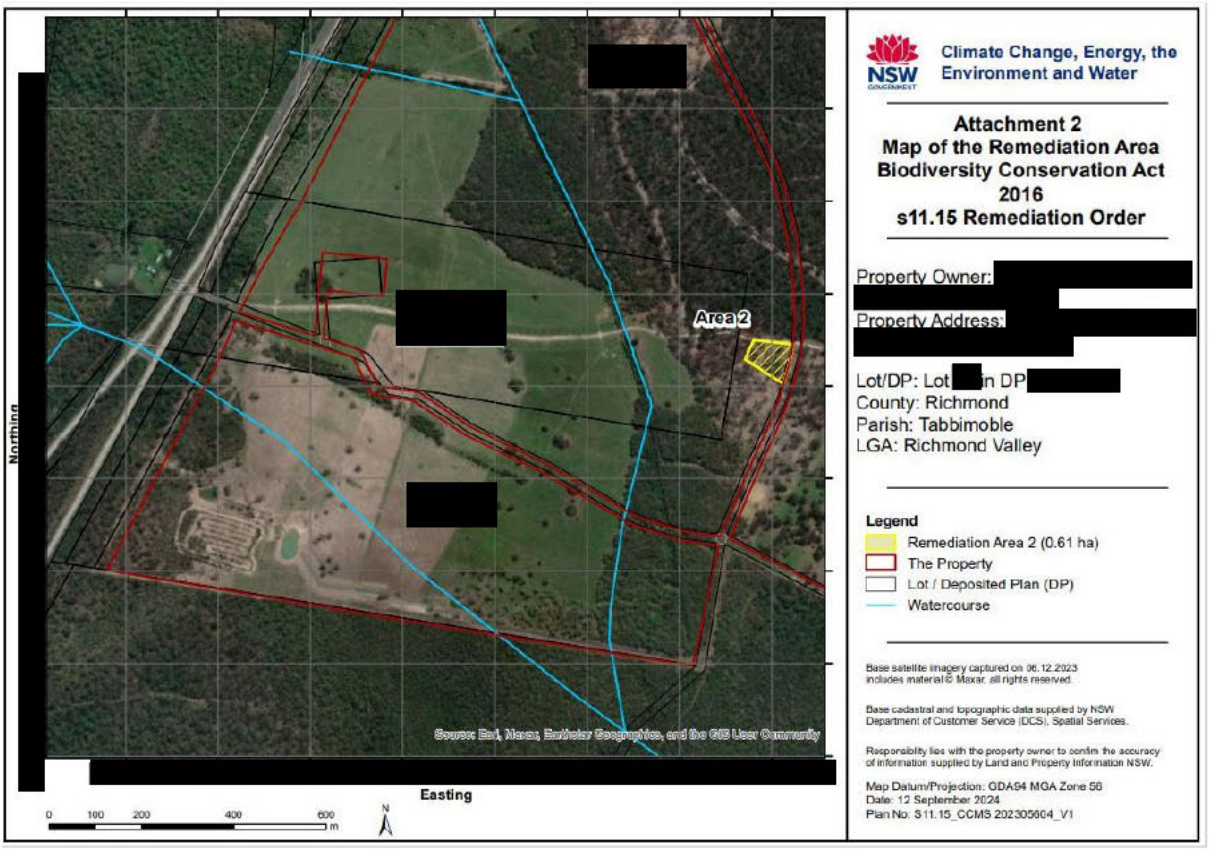
. . . . . .

[redacted]

**Senior Team Leader**
**Conservation Programs, Heritage and Regulation Group**
**Department of Climate Change, Energy, the Environment, and Water**
**(by Delegation)**

# Remediation Order



**Attachment 1:**

1. Map of the Remediation Area