ORDER ISSUED TO:

[redacted]

Order Number:	DOC25/128503
CCMS Case Ref. No.:	202103102
Issue Date:	30 October 2025
Property:	[redacted] known as Lot[redacted] on DP[redacted] (‘**the Property**’)

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

Served by email: [redacted]

Date of issue: 30 October 2025.

Who are we: The Department of Climate Change, Energy, the Environment and Water has responsibilities regarding the administration and enforcement of the *Biodiversity Conservation Act 2016* (NSW) (**the BC Act**) and its associated Regulations.

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 and 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, 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 and remediation 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 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.

Remediation Order

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

The Department has investigated a report of *'picking a plant of a threatened ecological community'* that is gazetted within New South Wales at the Property between July 2018 and October 2019 as well as between January 2020 and August 2021; and October 2022 and March 2023. A map of the Property is at **Annexure A**.

Under the *Biodiversity Conservation Act 2016* (NSW), it is an offence pursuant to section 2.2(1)(b) to pick a plant which comprises of a threatened ecological community (**TEC**). It is also an offence against section 2.4(1) to damage the habitat of a threatened species or a TEC.

Information and evidence obtained to date, including multiple site inspections, an ecological assessment, a review of aerial photography, and formal records of interview all indicate that damage occurred at the property to **three separate** TEC's. These TEC's are:

a. *Swamp Oak Floodplain Forest*;
b. *Freshwater Wetland on Coastal Floodplains*; and
c. *River-Flat Eucalypt Forest on Coastal Floodplains*.

In addition, the information and evidence obtained by the Department confirms that damage occurred on the Property through three separate picking events between 2018 – 2019 **and** 2020 – 2021 **and** 2022 – 2023.

The damage caused to the TEC's suggests it occurred by the use of machinery such as a slasher, and mower. The damage included the removal of understorey vegetation and groundcover by the use of such machinery. Furthermore, vegetation at the Property was mapped as habitat of threatened fauna species, specifically that of the Yellow-Bellied Glider (*Petaurus australis*) and Swift Parrot (*Lathamus discolor*).

The Department's investigation has concluded that none of the available defences listed in the BC Act, regarding the alleged offences committed pursuant to section 2.2(1)(b) and 2.4(1) are applicable in this matter. At all times the landholder is responsible for land management activities on the Property, pursuant to section 13.29 of the BC Act.

The works required by this Remediation Order provide for the maintenance and remediation of damaged areas.

2. REASONS FOR VIEW FORMED

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

a) a plant that is of, or is part of a threatened ecological community on the Property, namely:
   i. *Swamp Oak Floodplain Forest* (Endangered, NSW);
   ii. *Freshwater Wetland on Coastal Floodplains* (Endangered, NSW); and
   iii. *River -Flat Eucalypt Forest on Coastal Floodplains* (Endangered, NSW); and

b) habitat of a threatened species on the Property, namely, that of the Yellow-Bellied Glider (*Petaurus australis*) and Swift Parrot (*Lathamus discolor*);

in or as a result of the commission of an offence against sections 2.2(1)(b) and 2.4(1) of the BC Act.

In order to:

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

b) maintain and remediate the damaged area, habitat, plant, and vegetation concerned:

Remediation Order

I, [redacted], Senior Team Leader, Southeast Compliance and Regulation, 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 term of:

- A minimum five (5) years from the last documented 'alleged picking offence' in March 2023, being 1 March 2028, provided that the success criteria in the Vegetation Management Plan are satisfied
  OR
- Until such time as the Vegetation Management Plan success criteria are met, up to a maximum period of a further five (5) years from 1 March 2028, being 1 March 2033.

whichever occurs first.

[redacted] 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 within **Annexure B**.

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

3.1 Remediation Requirements

3.1.1 The Remediator is required to implement in full the Vegetation Management Plan (**VMP**) prepared by Environmental Services and Education Australia (**ESEA**) dated 29 October 2025 at **Annexure C** for a minimum term of 5 years from the last documented 'alleged picking offence' being 1 March 2023 and until such time as the VMP success criteria are met, or until such time as the VMP success criteria are met, up to a maximum period of a further five (5) years from 1 March 2028, being 1 March 2033.

3.1.2 The annual target conditions specified in section 7.2 of the VMP must be confirmed or refined, by agreement of the parties' experts, and approved by the Department, within ninety (90) days of the date of this Order.

3.1.3 Unless otherwise provided for in the VMP:

3.1.3.1 **Immediately** cease the use of machinery or vehicles within the Remediation Areas;

3.1.3.2 **Immediately** cease the modification to, alteration of, or removal of vegetation or groundcover, including slashing, within the Remediation Areas.

3.1.3.3 **Immediately** abate all human disturbance within the Remediation Areas.

3.1.3.4 **Immediately** cease any development activities within the Remediation Areas.

3.2 Other Requirements

3.2.1 **Within 14 days of the issue date of this Order** all livestock must be excluded from the Remediation Areas and must remain excluded for the Term of this Order.

3.2.2 **Within 30 days of the issue date of this Order** 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 the Remediation Order.

3.2.3 The Remediator must inform all purchasers of the Property of this Order.

3.2.4 The Remediator must notify the Environment Agency Head within 14 days if the Remediator intends on selling the land subject to this Order.

3.2.5 The Remediator must notify the Environment Agency Head within 14 days of any change in ownership or occupancy of the Property that it becomes aware of.

3.2.6 Any reports prepared in accordance with the VMP may be sent to the Department via one of the following contact details:

By email: southeast.southwest@environment.nsw.gov.au

By registered post:

CCMS Case 202103102
Senior Team Leader, Compliance and Regulations (South East)
Department of Climate Change, Energy, the Environment and Water
PO Box 514
Wollongong NSW 2520

Remediation Order

DEFINITIONS

In this Order, the following definitions apply:

Term	Definition
BC Act	*Biodiversity Conservation Act 2016* (NSW).
Damage	Damage has the same meaning as defined in section 11.14 of the BC Act.
EEC	Endangered Ecological Community as listed in the BC Act, Schedule 2, Part 2.
Machinery	Excavator, bobcat, bulldozer, slasher, skid steer, or any vehicles.
Landholder	As defined in section 1.6 of the BC Act.
Order	This Document – a Remediation Order issued under section 11.15 of the *Biodiversity Conservation Act 2016*, as varied.
Pick	In relation to a plant includes '*gather, take, cut, remove from the ground, destroy, poison, crush or injure the plant or any part of the plant*'.
Plant	Means any '*plant, whether vascular or non-vascular and in any stage of biological development, and includes fungi and lichens, but does not include marine vegetation*'.
Property	[redacted], legally known as Lot [redacted] on DP [redacted].
TEC	Threatened Ecological Community as listed in the BC Act.
Term	The Term of this Order is for: • Five (5) years from the last documented 'alleged picking offence' in March 2023, being 1 March 2028, and until such time as the Vegetation Management Plan success criteria are met, **OR** • Until such time as the Vegetation Management Plan success criteria are met, up to a maximum period of a further five (5) years from 1 March 2028, being 1 March 2033. whichever occurs first.
The Remediator	The person to whom the Remediation Order is issued. For the purposes of this Remediation Order, the Remediator is [redacted]
Remediation Areas	The areas located on the Property shown schematically on the map in **Annexure B** and marked "Remediation Areas".
Remediation Area – Zone 1	As shown in **Annexure B**. Corresponds with the threatened ecological community *Freshwater Wetland on Coastal Floodplains*.
Remediation Area – Zone 2	As shown in **Annexure B**. Corresponds with the threatened ecological community: *River-Flat Eucalypt Forest on Coastal Floodplains*.
Remediation Area – Zone 3	As shown in **Annexure B**. Corresponds with the threatened ecological community *Swamp Oak Floodplain Forest*.
Stock	Means all livestock (including, but not limited to, cattle, horses, sheep, alpacas, domesticated pigs and domesticated goats); it does not include native wildlife.
Vegetation Management Plan	Means the Vegetation Management Plan prepared by Environmental Services and Education Australia (**ESEA**) dated 29 October 2025.

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 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, 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. A Remediation Order is separate to any potential enforcement action. However, in relation to the areas and matters the subject of this Order, the Department confirms that no further enforcement action will be taken, except in respect of monitoring compliance with this Order.

[redacted]

[redacted]

Senior Team Leader, Compliance and Regulation (SE)

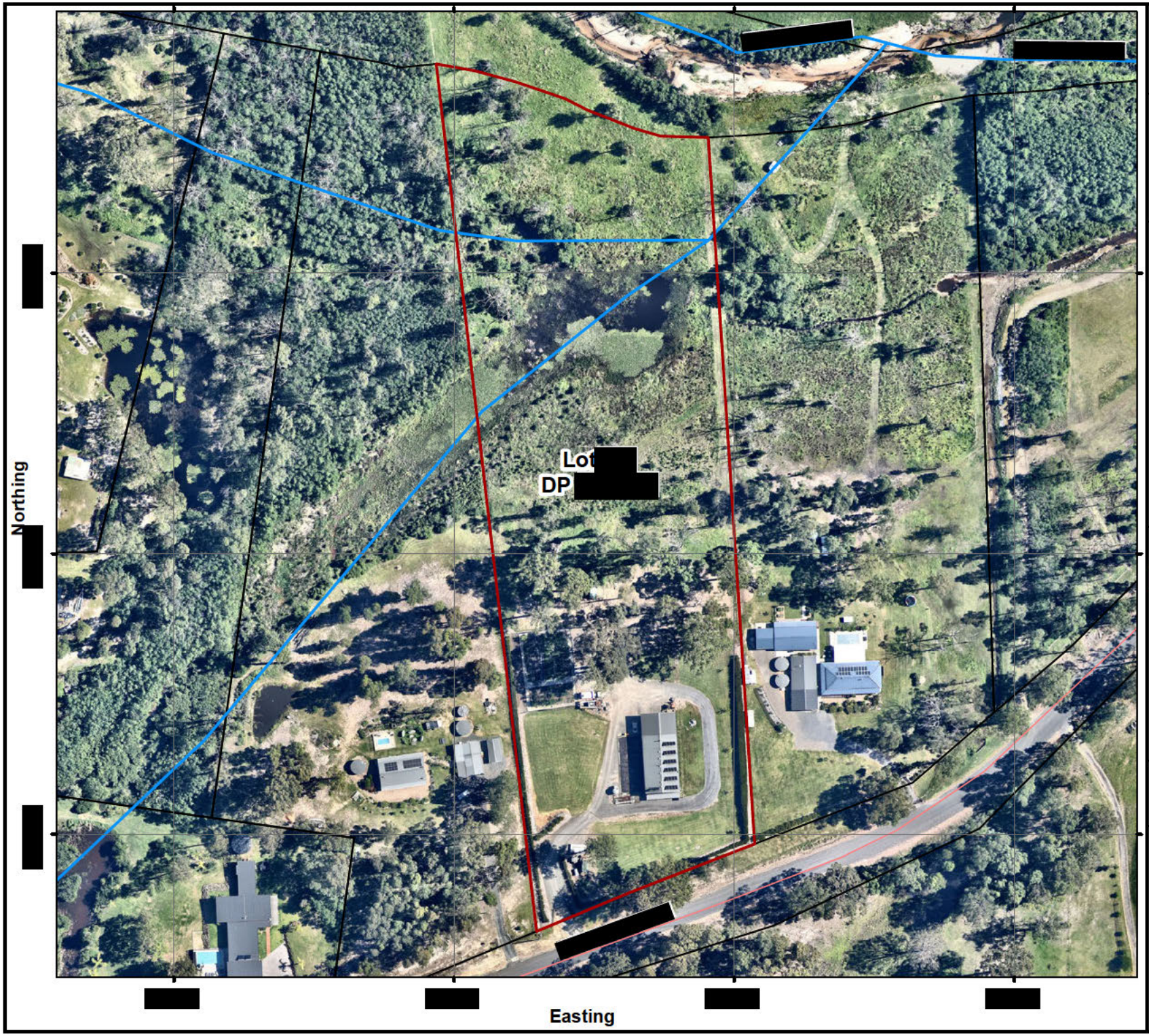
(by Delegation)

Annexures:

A. Map of the Property.

B. Map of the Remediation Areas.

C. Vegetation Management Plan.



Climate Change, Energy, the Environment and Water

NSW GOVERNMENT

Annexure A

Property
Biodiversity Conservation Act 2016
s11.15 Remediation Order

Property Owner:	[redacted]
Property Address:	[redacted] Australia
Lot/DP:	Lot [redacted] in DP [redacted]
County:	St Vincent
Parish:	Tomaga
LGA:	Eurobodalla
RO Area:	2.45 ha 24469.11 sq m

Legend

- The Property
- Lot / Deposited Plan (DP)
- Watercourse

0 12.5 25 50 75 100 m

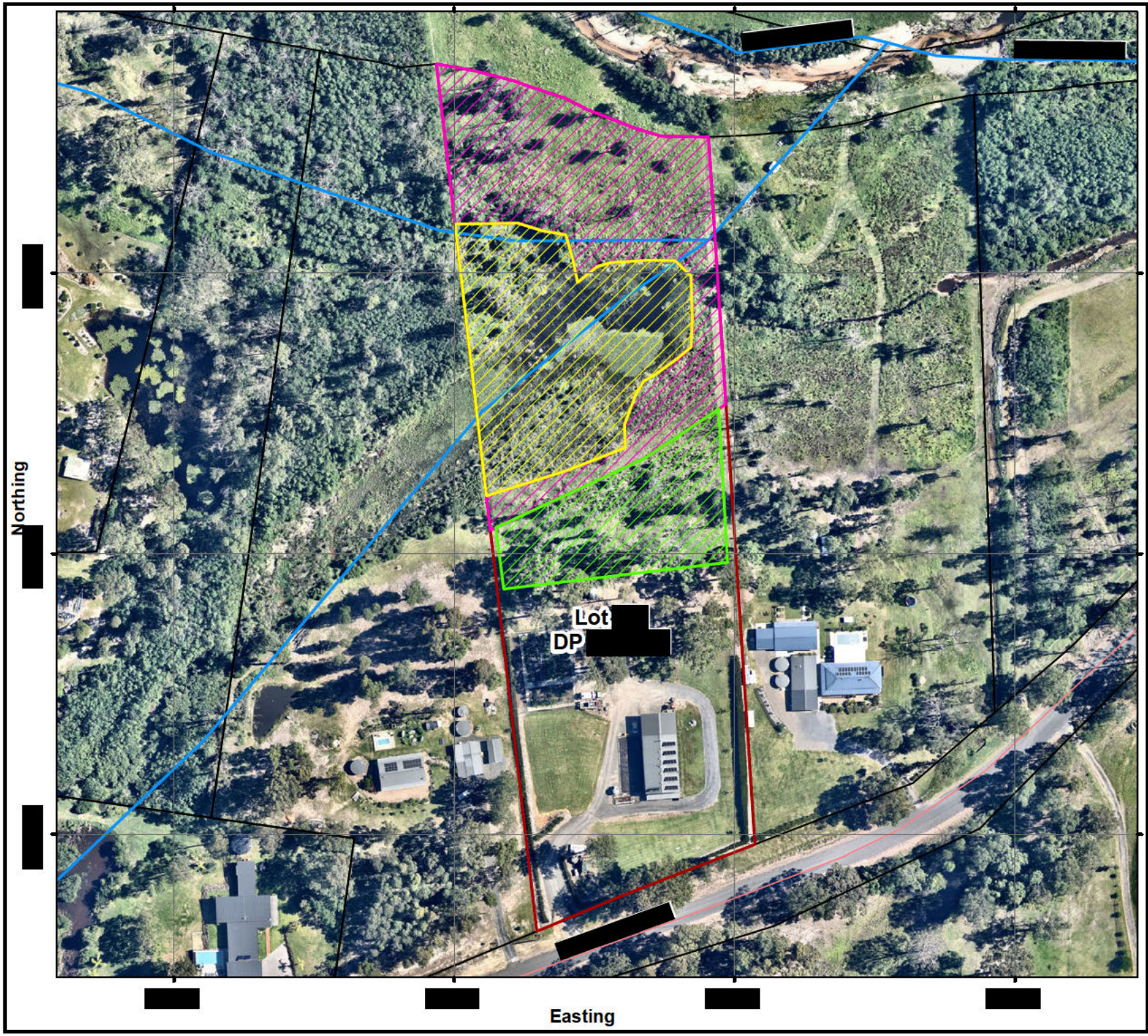
N

Base imagery captured on the 22 January 2024 includes material © Nearmap.

Base cadastral and topographic data supplied by NSW Department of Customer Service (DCS), Spatial Services.

Responsiblity lies with the property owner to confim the accuracy of information supplied by Land and Property Information NSW.

Map Datum/Projection: GDA94 MGA Zone 56
Date: 21 November 2024
Plan No: S11.15_202103102_A1_V1



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NSW GOVERNMENT

Annexure B

Remediation Area
Biodiversity Conservation Act 2016
s11.15 Remediation Order

Property Owner:	[redacted]
Property Address:	[redacted]
Lot/DP:	Lot [redacted] in DP [redacted]
County:	St Vincent
Parish:	Tomaga
LGA:	Eurobodalla
RO Area:	2.45 ha 24469.11 sq m

Legend

Area

- Type A
- Type B
- Type C
- The Property
- Lot / Deposited Plan (DP)
- Watercourse

0 12.5 25 50 75 100 m

N

Base imagery captured on the 22 January 2024 includes material © Nearmap.

Base cadastral and topographic data supplied by NSW Department of Customer Service (DCS), Spatial Services.

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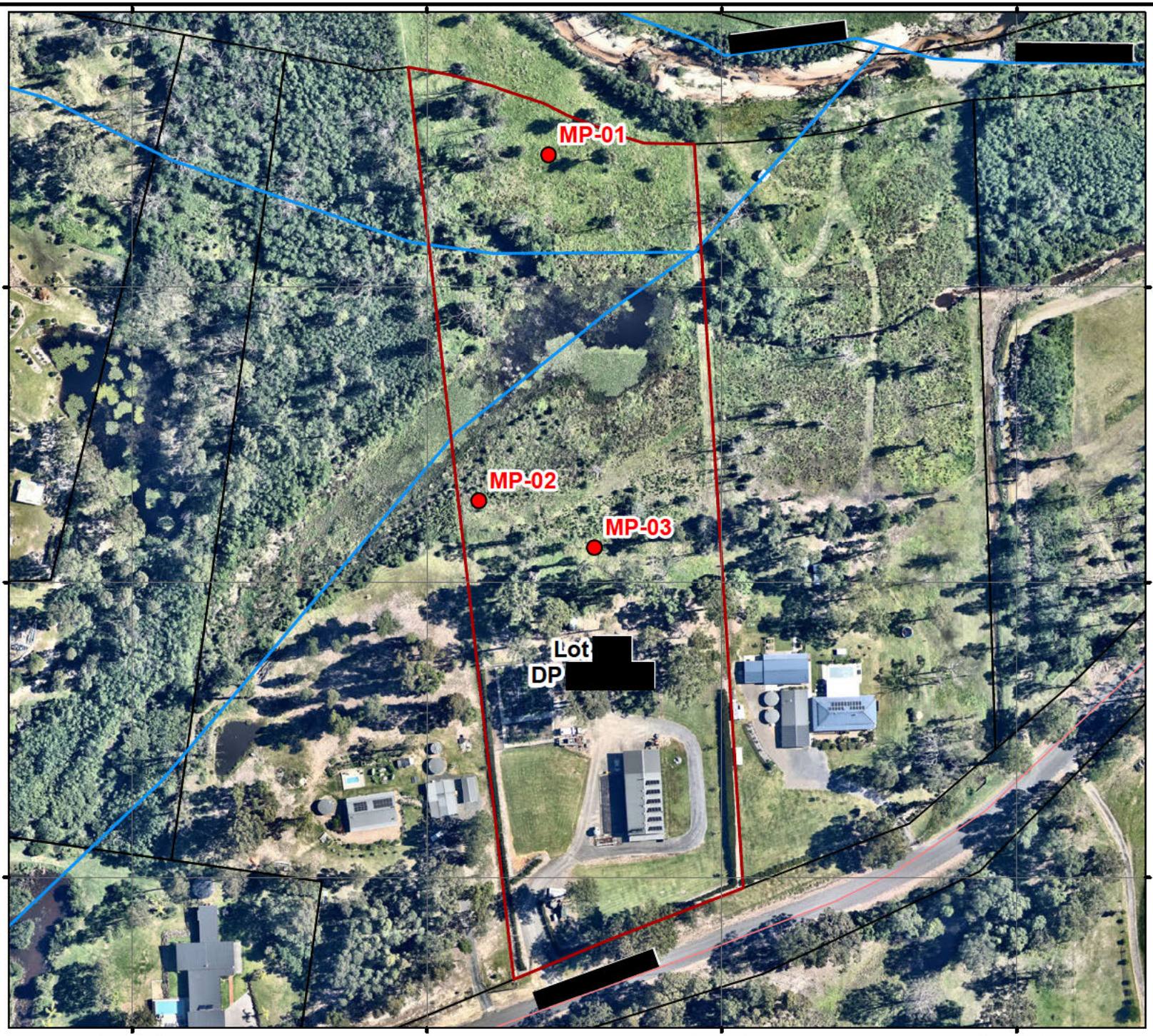
Map Datum/Projection: GDA94 MGA Zone 56
Date: 21 November 2024
Plan No: S11.15_202103102_A2_V1



Climate Change, Energy, the Environment and Water

NSW GOVERNMENT

Annexure C

Monitoring Points
Biodiversity Conservation Act 2016
s11.15 Remediation Order

Property Owner:	[redacted]
Property Address:	[redacted]
Lot/DP:	Lot [redacted] in DP [redacted]
County:	St Vincent
Parish:	Tomaga
LGA:	Eurobodalla
RO Area:	2.45 ha 24469.11 sq m

Legend

- Monitoring Point
- The Property
- Lot / Deposited Plan (DP)
- Watercourse

0 12.5 25 50 75 100 m

N

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Base cadastral and topographic data supplied by NSW Department of Customer Service (DCS), Spatial Services.

Responsiblity lies with the property owner to confim the accuracy of information supplied by Land and Property Information NSW.

Map Datum/Projection: GDA94 MGA Zone 56
Date: 21 November 2024
Plan No: S11.15_202103102_A3_V1