



Remediation Order

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Order Number: DOC22/29315
CCMS Case Ref. No.: 202002172
Issue Date: 27 January 2022
Property: [REDACTED]
[REDACTED] (the property)

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

ISSUED VIA: Registered Post and Email – [REDACTED]
[REDACTED]

Date of issue: 27 January 2022

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



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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 PLANNING AND ENVIRONMENT OBSERVATIONS

The Department is investigating a report of clearing of native vegetation in a rural regulated area on the property between March 2020 and September 2020. The clearing of vegetation on the property has been verified through a desktop assessment of aerial imagery, site inspections, record of interview and response to notices.

Under Local Land Services Act 2013, Division 3 Regulation of clearing of native vegetation in regulated rural areas, it is an offence pursuant to section 60N Unauthorised clearing of native vegetation in a regulated rural area.

Information and evidence obtained to date indicate that none of the available defences listed in the BC Act and/or Part 5A LLS Act and associated regulations in relation to the offence apply for the extent of clearing event on the property.

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.

The NVR Map Method Statement explains the scientific and analytical method used to develop the NVR Map in accordance with requirements of the Local Lands Service Act (2013) (LLS Act) and the LLS Regulation. (<https://www.environment.nsw.gov.au/resources/bcact/native-vegetation-regulatory-map-method-170495.pdf>)

Land is mapped to each category based on past clearing or disturbance events, as detected by satellite and aerial imagery, and updated land use data. In limited situations, the legislation may specify criteria to override any previous analyses changing the original designation specified by the map method. The method statement does not otherwise assess the type, condition or environmental value of vegetation.

Part 5A of the Local Lands Service Act (2013) (LLS Act) and the LLS Regulation specifies legislative criteria to be applied to make the two sub-categories of Category 2 regulated land (Category 2 – sensitive regulated land and category 2 – vulnerable regulated land). These areas on the map include (but are not limited to) land with significant biodiversity value, land vulnerable to erosion, offset areas or agreement areas.

For more information on the NVR Map see the [About the Native Vegetation Regulator Map Factsheet](#).

2. REASONS FOR VIEW FORMED

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

- a) native vegetation on category 2-regulated land under Part 5A of the LLS Act, namely 4 hectares of native vegetation at [REDACTED]

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

In order to:

- a) maintain, remediate or restore the damaged area and 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 twenty-five (25) years from the date of this Order. Upon the period of remediation being completed, the remediation area will continue to fall under the regulations set out in the in perpetuity Clearing Property Vegetation Plan set aside regulations.

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I, [REDACTED], Senior Team Leader, hold 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 area referred to in the attached map.

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

3.1 General Requirements

- 3.1.1 By 08/03/2022 you must remove all stock from the Remediation Area, control stock and prevent stock from entering the remediation area.
- 3.1.2 By 08/03/2022, the Remediator must demarcate the boundaries of the Remediation Area as shown on the map in Attachment 1 for the purposes of protecting the area from any potential disturbances.
- 3.1.3 The demarcation of the Remediation Area must be:
 - Designed and implemented to ensure the protection of the Remediation Area at all times;
 - Implemented at regular intervals of not more than 50 metres using star pickets or posts;
 - Be highly visible from a distance;
 - Maintained to ensure protection of the Remediation Area;
- 3.1.4 If at any time the Landholder becomes aware that the demarcation of the Remediation Area does not continue to meet the requirements referred to in conditions 3.1.1, 3.1.2 and 3.1.3, the Landholder must replace or repair the demarcation as soon as practicable to ensure it meets the requirements referred to in conditions 3.1.1, 3.1.2 and 3.1.3.
- 3.1.5 The Landholder must inspect the Remediation Area four (4) times each reporting period, with a minimum of 80 days between each inspection for the purposes of determining whether the demarcation of the Remediation Area continues to meet the requirements referred to in conditions 3.1.1, 3.1.2 and 3.1.3.
- 3.1.6 The Landholder must ensure that no stock are found within the Remediation Area.
 - 3.1.7 Any stock found within the Remediation Area must be removed by the Landholder as soon as practicable and in any event within two (2) days of becoming so aware.
 - 3.1.8 If at any time any exotic species, commercial crops or non-native plant species are found within the Remediation Area, the Landholder must destroy all such exotic species, commercial crops or non-native plant species by either spot application of herbicide or by removal by non-mechanised means as soon as practicable and in any event within seven (7) days of becoming aware.
 - 3.1.9 By 08/05/2022 you must remove and prevent weeds by using methods as suggested in condition 3.1.8.
 - 3.1.10 By 08/03/2022 you must abate human disturbances to the Remediation Area.
 - 3.1.11 By 08/03/2022 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.
 - 3.1.12 In line with the in perpetuity Clearing Property Vegetation Plan set aside regulations covering the remediation area, allowable activities are not permitted in the remediation area at any time, except for minimal disturbance required in the undertaking of the following activities: control of noxious and feral weeds, noxious pest animals, maintenance of public utilities, removal of imminent risk of personal injury or damage to property and traditional Aboriginal cultural activities.



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- 3.1.13 You must inform all purchasers of the land of this Order.
- 3.1.14 You 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 By 08/06/2022 you must submit a letter or outlining your compliance with 3.1 General Requirements of the Remediation Order.
- 3.2.2 By 08/06/2023, you must submit a completed monitoring report template outlining your ongoing compliance with 3.1 General Requirements of the Remediation Order and every year thereafter on the 8 June for the duration of the Order. Send letters or email to northeast@environment.nsw.gov.au or send by Registered Post to:
 - Senior Team Leader, Compliance and Regulation
 - Department of Planning, Industry and Environment
 - Locked Bag 914, Coffs Harbour COFFS HARBOUR 2450

4. AN EXAMPLE OF HOW YOU CAN COMPLY

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

1. Construct a stock proof was fence around the boundary of the remediation area by 08/03/2022, or
2. The Remediator must demarcate the boundaries of the Remediation Area as shown on the map in Attachment 1 by 08/03/2022 for the purposes of protecting the area from any potential disturbances.
3. The demarcation of the Remediation Area must be:
 - a) Designed and implemented to ensure the protection of the Remediation Area at all times;
 - b) Implemented at regular intervals of not more than 50 metres using star pickets or posts;
 - c) Be highly visible from a distance;
 - d) Maintained to ensure protection of the Remediation Area
4. If at any time the Landholder becomes aware that the demarcation of the Remediation Area does not continue to meet the requirements referred to in conditions 3, the Landholder must replace or repair the demarcation as soon as practicable to ensure it meets the requirements referred to in conditions 3.
5. Remove all stock from the remediation area by 08/03/2022.
6. Controlling weeds by selectively poisoning and manually removing weeds 4 times per year.
7. Prevent human disturbances to the remediation area for the duration of the Order, with the exception of work required for the management of weeds.
8. Send in completed monitoring report and other reporting by the 08/06/2022 and every year thereafter.

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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.
Equally	Means to the same extent. Example: if 200 stems of 4 species are required, each species should have 50 stems
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 Area	Means the areas located on the Property shown schematically on the map in Attachment 1 outlined in red and marked "Remediation Area" being parts of [REDACTED].
Remediator	[REDACTED]
Reporting period	Reporting period means each annual period from the commencement of this Order
Term	Means the duration of this Order
The Property	[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

- 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.

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Senior Team Leader, Compliance and Regulation
Department of Planning, Industry and Environment
(by Delegation)

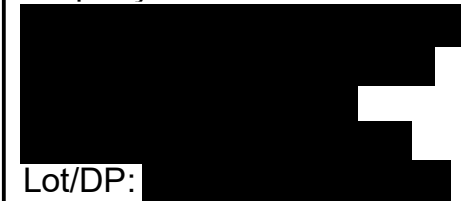
Attachment:

1. Attachment 1: Map of the Remediation Area Biodiversity Conservation Act 2016 s11.15 Remediation Order.
2. Attachment 2: Annual monitoring report form.



**Attachment 1
Map of the Remediation Area
Biodiversity Conservation Act
2016
s11.15 Remediation Order**

Property Owner:



Lot/DP:

County:

Parish:

LGA:

Area: 4.03 ha, 40,321.2 metres sq

Legend

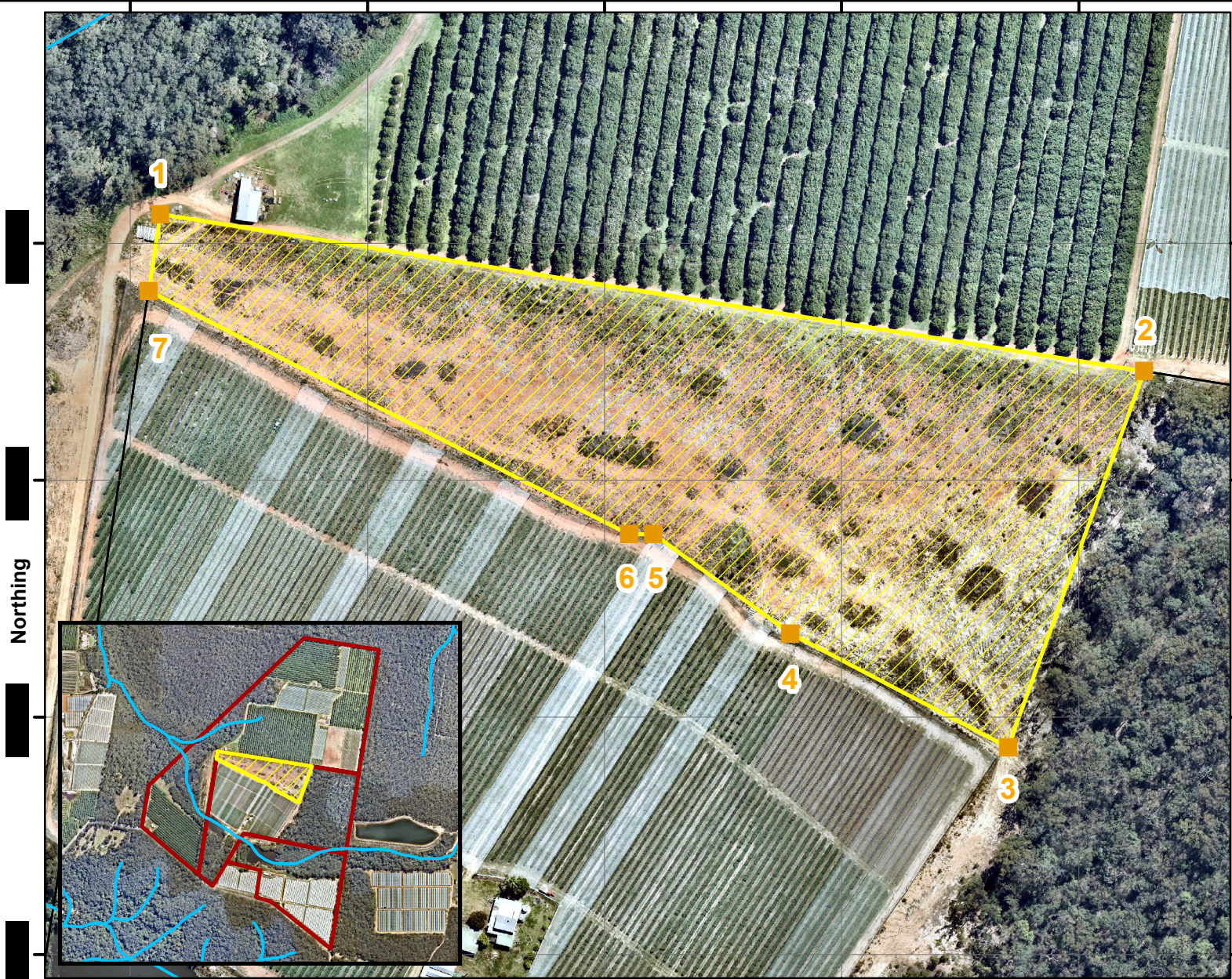
- Remediation Area
- The Property
- Lot / Deposited Plan (DP)
- Watercourse

Base aerial photography imagery captured on 06.10.2021 includes material © Nearmap.

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

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

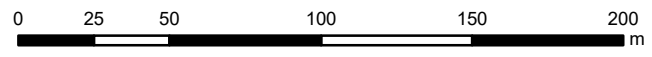
Map Datum/Projection: GDA94 MGA Zone 56
Date: 17 January 2022
Plan No: S11.15_CCMS 202002172_V1



Northing

Easting

Site	Easting	Northing	Site	Easting	Northing	Site	Easting	Northing	Site	Easting	Northing
1			3			5			7		
2			4			6					



Map Scale: 1:2,500

