



# Remediation Order

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[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

Order Number: DOC22/78146  
CCMS Case Ref. No.: 202102672  
Issue Date: 10 February 2022  
Property: [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] and [REDACTED]**

**Date of issue: 10 February 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

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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 PLANNING AND ENVIRONMENT OBSERVATIONS

The Department is investigating a report of clearing of native vegetation in a rural regulated area on the property between 23 August 2017 and July 2020. The clearing of vegetation on the property has been verified through a desktop assessment of aerial imagery, site inspection, 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 (NVR), 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 Land 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 Land 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, 95.63 hectares 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 (20) years from the date of this Order.



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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 Livestock must be removed from the Remediation Area and prevented from entering the Remediation Area for the Term, subject to the exceptions in paragraphs 3.1.2 and 3.1.3.
- 3.1.2 After the end of a period of three (3) years from date of issue:
- (a) in each calendar year, each and any part of the Remediation Area may be subject to strategic grazing at a maximum stocking rate of ten (10) dry sheep equivalents per hectare for a maximum of two (2) weeks twice a year on that part, with a six (6) week minimum rest period between grazing on that part;
  - (b) for the avoidance of doubt, grazing under this paragraph 3.1.2 can be undertaken within different parts of the Remediation Area at different times, so that the maximum period of grazing per year within one part of the Remediation Area need not be undertaken at the same time as the maximum period of grazing per year within another part of the Remediation Area;
  - (c) if livestock exceed the stocking rate of ten (10) dry sheep equivalents per hectare in any part of the Remediation Area, the excess livestock are to be removed from that part of the Remediation Area; and
  - (d) if grazing under paragraph (a) commences within 5 days after frost, heavy grazing can be undertaken for three (3) weeks rather than two (2) weeks on that occasion and the grazing can exceed the maximum stocking rate of ten (10) dry sheep equivalents per hectare limitation in subparagraphs (a) and (c). Grazing after frost under this subparagraph (d) is to stop if there is more than 60% bare earth during any period where any government authority at any level has made a drought declaration that applies to or includes any part of the land comprising the Remediation Area, or if there is more than 20% bare earth at all other times (where “bare earth” is, for the avoidance of doubt, the area not covered by any vegetation, litter, animal dung, stones or rock). Within 14 days after grazing pursuant to this subparagraph (d) commences, the Secretary is to be notified by email or letter sent to one of the addresses in paragraph 3.2.
- Note:** Certain exotic grass species are best controlled by heavy grazing as soon as possible after frost.
- 3.1.3 People may access the Remediation Area (including access by farm vehicles or equipment) where necessary to carry out ordinary environmental maintenance works within the

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Remediation Area such as fencing, control of feral pests and weed control, bushfire hazard reduction, or to otherwise comply with this Remediation Order, or for the purpose of grazing permitted by this Remediation Order.

- 3.1.4 No dams are to be constructed within the Remediation Area during the Term.
- 3.1.5 While fencing of the Remediation Area during the Establishment Period is not mandatory, such steps must be taken as may be necessary to comply with paragraphs 3.1.1 to 3.1.5.
- 3.1.6 New fencing is not mandatory, but any new fencing constructed within or forming the boundary of the Remediation Area must not use barbed wire.
- 3.1.7 The Remediator may demarcate the boundaries of the Remediation Area as shown on the map in Attachment 1 by 10 April 2022 for the purposes of protecting the area from any potential disturbances.
- 3.1.8 The demarcation of the Remediation Area must be:
- Designed and implemented to ensure the protection of the Remediation Area at all times;
  - Be highly visible from a distance;
  - Maintained to ensure protection of the Remediation Area
- 3.1.9 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 3.1.7 to 3.1.8, the Landholder must replace or repair the demarcation as soon as practicable to ensure it meets the requirements referred to in conditions 3.1.7 to 3.1.8.
- 3.1.10 By 10 May 2022, you must remove and prevent weeds within the Remediation Area by using selective methods of poisoning and manual removal. Weed control must be undertaken within the Remediation Area during each subsequent year for the Term at appropriate intervals for the stages of vegetative growth for the weeds that are present. “Weeds” for the purpose of this paragraph means:
- a plant that is a pest as defined by s 15(2) of the *Biosecurity Act 2015*;
  - the list of High Threat Weeds within the meaning in the Biodiversity Assessment Method 2020;
  - weeds of concern listed by the Local Council pursuant to a power conferred on it by an Act or Regulation of New South Wales; and
  - weeds likely to impact on agriculture productivity and defined by the NSW Department of Primary Industry and Environment or Local Land Services pursuant to a power conferred on them by an Act or Regulation of New South Wales.
- 3.1.11 You must notify the Environment Agency Head within 14 days of listing the property for sale if you intend to sell the land subject to this Order.
- 3.1.12 The progress of the Remediation Plan at five (5) year intervals is to be in accordance with the benchmark conditions as outlined in Table 1.

## 3.2 Reporting Requirements

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- 3.2.1 By 10 June 2022, you must submit a letter or email outlining your compliance with Part 3.1 General Requirements of this Remediation Order.
- 3.2.2 Every year of the Term by 10 June, you must submit a letter or email outlining your ongoing compliance with Part 3.1 'General Requirements' of the Remediation Order for the duration of the Remediation Order. For the avoidance of doubt this letter or email is not required to address the expiry criteria or associated plots in paragraph 3.3.3. Send letters or emails to [northeast@environment.nsw.gov.au](mailto:northeast@environment.nsw.gov.au) or sent by Registered Post to:

Senior Team Leader, Compliance and Regulation  
Department of Planning and Environment  
  
Locked Bag 914 Coffs Harbour NSW 2450

- 3.2.3 An independent report prepared by a suitably qualified and experienced person addressing the satisfaction of the expiry criteria in paragraph 3.3.3 is only required to demonstrate that the criteria have been achieved, once those criteria are met.

### 3.3 Term and Expiry Criteria

- 3.3.1 The Term of this Remediation Order commences on 10 February 2022 and ends on the applicable date specified by paragraph 3.3.2.
- 3.3.2 The requirements in this Remediation Order end:
- 3.3.2.1 on 10 February 2042, if the expiry criteria in paragraph 3.3.3 are achieved on or before 10 February 2042 and you comply with the requirements in Part 3.1; or
- 3.3.3 The expiry criteria are satisfied if the characteristic identified in **Table 1**, measured or counted separately for five (5) random plots areas of the remediation area that had been cleared of native vegetation meets the criterion in the year numbered columns of **Table 1**. The five (5) plots are to be 20m x 50m each.

**Table 1: Expiry criteria**

Benchmark	5 Years	10 Years	15 Years	20 Years
(i) Number of trees greater than 3m	Equal to or greater than 5	Equal to or greater than 6	Equal to or greater than 6	Equal to or greater than 6
(ii) Number of species of native trees	Equal to or greater than 5	Equal to or greater than 6	Equal to or greater than 6	Equal to or greater than 6
(iii) Number of species of	Equal to or	Equal to or	Equal to or	Equal to or

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Shrub	greater than 8	greater than 9	greater than 9	greater than 9
(iv) Number of species of native grass and grass-like species	Equal to or greater than 9	Equal to or greater than 10	Equal to or greater than 10	Equal to or greater than 10
(v) Number of species of native forb	Equal to or greater than 16	Equal to or greater than 17	Equal to or greater than 17	Equal to or greater than 17
(vi) Native Tree Cover %	Equal to or greater than 5%	Equal to or greater than 10%	Equal to or greater than 25%	Equal to or greater than 40%
(vii) Native Shrub Cover %	Equal to or greater than 5%	Equal to or greater than 10%	Equal to or greater than 25%	Equal to or greater than 42%
(viii) Native Grass Cover %	Equal to or greater than 5%	Equal to or greater than 10%	Equal to or greater than 20%	Equal to or greater than 23%
(ix) Litter Cover %	Equal to or greater than 1%	Equal to or greater than 15%	Equal to or greater than 30%	Equal to or greater than 45%
(x) Exotic Flora Cover %	1%	0.5%	0.1%	0.01%

## 4. AN EXAMPLE OF HOW YOU CAN COMPLY

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

1. Construct a stock proof fence around the boundary of the remediation area by 10 April 2022, or
2. The Remediator must demarcate the boundaries of the Remediation Area as shown on the map in Attachment 1 by 10 April 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) Be highly visible from a distance;
  - (c) 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 10/03/2022.
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.

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8. Send in completed monitoring report and other reporting by the 10 June 2022 and every year thereafter.

## 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 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

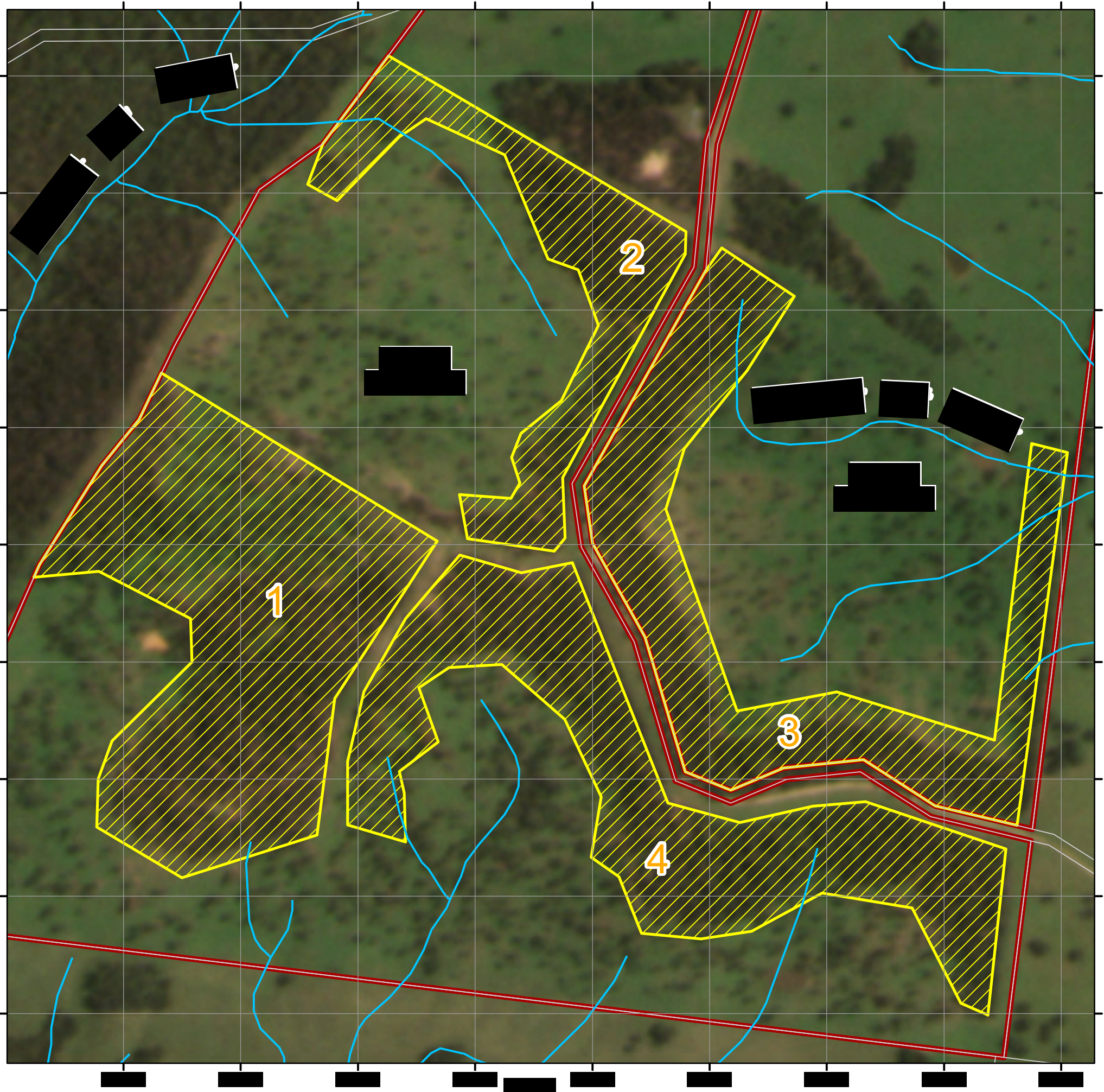
## Biodiversity Conservation Act 2016 s11.15 Remediation Order



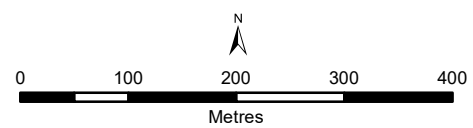
Property Owner [Redacted]  
 Remediation Order: 202102672  
 Address [Redacted]

County [Redacted]  
 Parish [Redacted]  
 LGA [Redacted]  
 Area: 88.3 hectares, 882736.1 square metres

“Remediation Area” consists of Sub Remediation areas 1, 2, 3 & 4



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



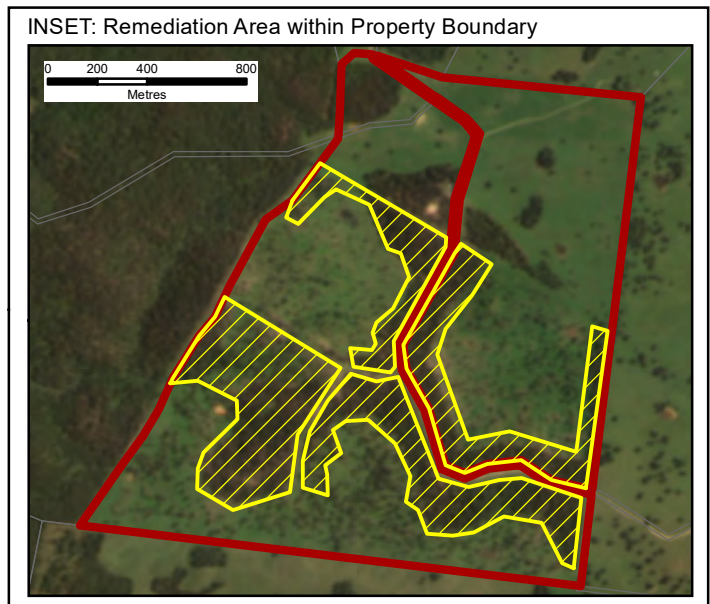
Map Datum/Projection: GDA 94 MGA Zone 56

Base satellite imagery captured in January 2022 includes material © 2022 Planet Labs PBC. All rights reserved.

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 the NSW Land and Property Management Authority.

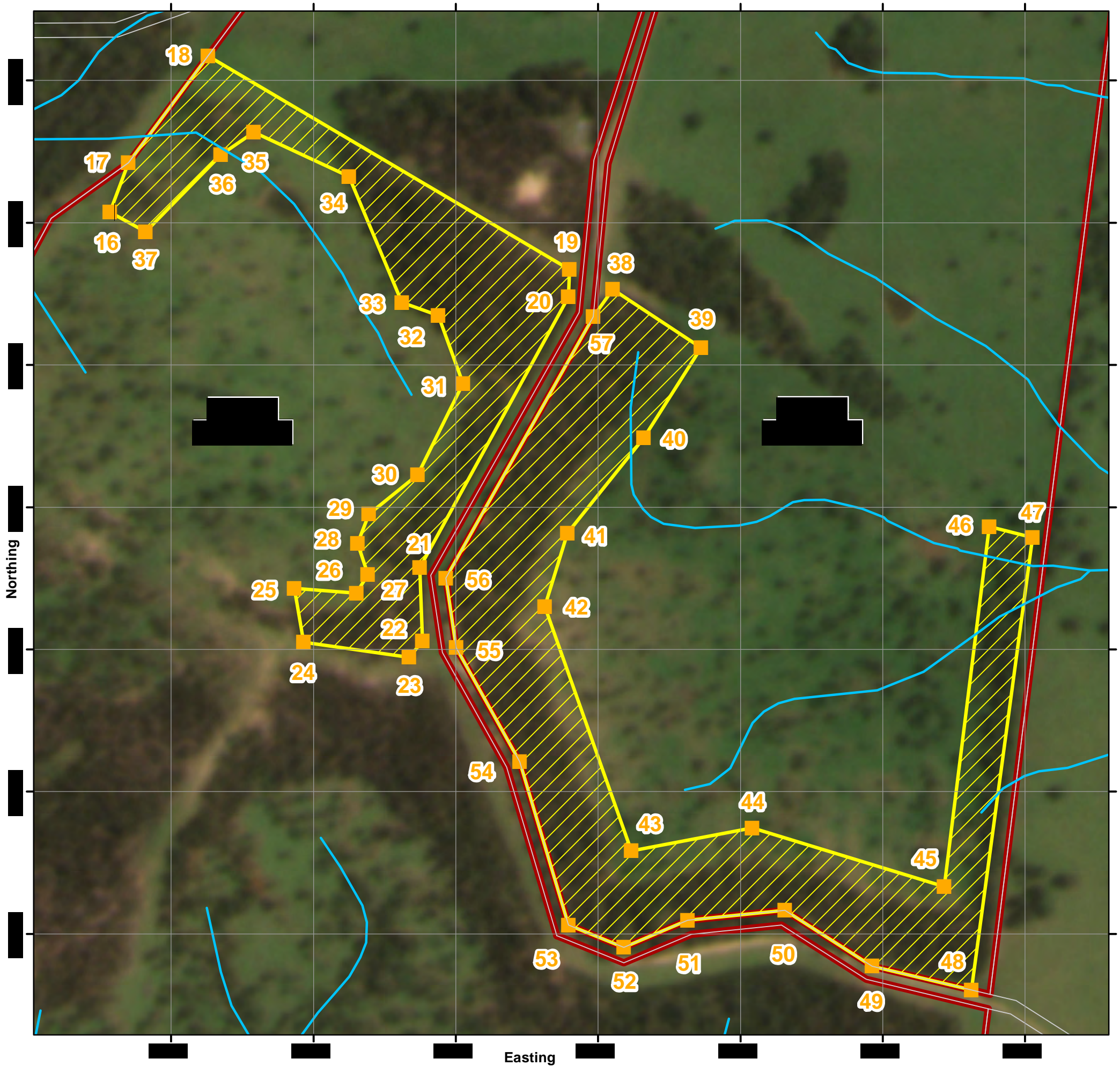
Date: 9 February 2022  
 Plan No: S11.15\_202102672\_V1



# Attachment 2: Map of the Remediation Areas 2 and 3 Biodiversity Conservation Act 2016 s11.15 Remediation Order

Property Owner: [REDACTED]  
 Remediation Order: 202102672  
 Address: [REDACTED]

County: [REDACTED]  
 Parish: [REDACTED]  
 LGA: [REDACTED]  
 Area: 33.4 hectares, 333751.4 square metres



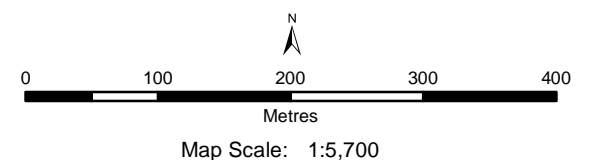
Site	Easting	Northing	Site	Easting	Northing	Site	Easting	Northing	Site	Easting	Northing	Site	Easting	Northing	Site	Easting	Northing
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	

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

Base satellite imagery captured in January 2022 includes material © 2022 Planet Labs PBC. All rights reserved.

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Map Datum/Projection: GDA 94 MGA Zone 56

Date: 9 February 2022

Plan No: S11.15\_202102672\_V1

