



Remediation Order

ORDER ISSUED TO:



Order Number: DOC24/290441
CCMS Case Ref. No.: 202305826
Issue Date: 27 June 2024
Property: [REDACTED] ('the Property').

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

By registered post: RPP4463900051003556213601 **& email:** [REDACTED]

Date of issue: 27/06/2024

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

The Department is investigating a report of unauthorised clearing of native vegetation on the property between October 2017 and November 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 10Ha of native vegetation was removed from the Property without authorisation.

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.

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*.

The Remediation Area is approximated to be 38.4 hectares (and illustrated in Annexure Two). The Remediation Area is designated to facilitate the regeneration of native vegetation on the property.

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 – Sensitive Regulated Land* under Part 5A of the LLS Act

in or as a result of the commission of an offence against section 60N of the LLS Act.

In order to:

- a) control, abate or mitigate the damage to the vegetation concerned.

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

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, the Remediation Area ('**RO Area**') is a defined area of interest within [REDACTED] on [REDACTED] at [REDACTED]. The RO Area is further illustrated in Attachment 2.

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



Remediation Order

3.1 General Requirements

- 3.1.1 **From the issue date of this Order**, the remediator must abate human disturbances to the Remediation Area, except for work required for the management of priority weeds or works specified by this order.
- 3.1.2 The Remediator must retain vegetation within the areas labelled 'Remediation Area' on the map labelled 'Attachment 2 - Remediation Area Map' except for works carried out in accordance with condition 3.1.9.
- 3.1.3 **Upon issue of this order**, the Remediator must exclude stock from the Remediation Area, as indicated in Attachment 2 – 'Remediation Area Map'. Should grazing of livestock be required, a sustainable grazing regime authored by a suitably qualified person, is required to be submitted to the Department for review and approval prior to grazing occurring.
- 3.1.4 **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.
- 3.1.5 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 as soon as practicable, or as directed by the Department.
- 3.1.6 If at any time any pest herbivores are found within the Remediation Area, the Remediators must make attempts to control the pest herbivores.
- 3.1.7 The Remediators must ensure fallen timber and debris present in the Remediation Area are retained for the purposes of habitat, except for the maintenance of existing tracks.
- 3.1.8 **For the duration of this Order** the construction of any buildings or structures is not permitted within the Remediation Area.
- 3.1.9 **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*, although the following Ecological Thinning principles are permitted:
- No single native species is to be removed entirely from the Remediation Area,
 - Native trees and shrubs should be thinned to no less than the minimum density of 225 stems per hectare and evenly spaced within the Remediation Area,
 - All trees above a stem diameter of 25 centimetres above breast height must be retained within the Remediation Area,
 - Management of *Acacia Mearnsii* (Black Wattle) may only be carried out using methods that is likely to result in nil disturbance to soil and groundcover.
 - Ecological Thinning Activities does not result in the introduction of any non-native vegetation to the Remediation Area.
- 3.1.10 The remediator must inform all purchasers of the land of this Order.
- 3.1.11 The remediator must notify the Environmental Agency Head within 14 days if you intend on selling the land subject to this Order.



Remediation 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 Climate Change, Energy, the Environment & Water
 Attention: Senior Team Leader, Compliance and Regulation – South East
 Reference: CCMS 202305826
 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 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				
Monitoring Point 3				
Monitoring Point 4				

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:



Remediation Order

- 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. The RO Area will be governed by the Schedule 5A 'Allowable Activities', relative to Category 2 – Sensitive Regulated Land.
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 2024 and every year thereafter by 30 November.

DEFINITIONS

In this Order, the following definitions apply:

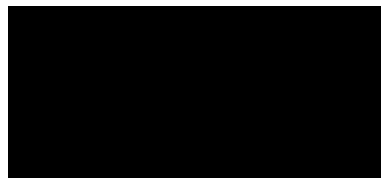
Term	Definition
BC Act	Means the <i>Biodiversity Conservation Act 2016</i>
Damage	Damage has the same meaning as defined in section 11.14 of the <i>Biodiversity Conservation Act 2016</i>
DBH	Diameter of a tree trunk at breast height over bark is measured approx. 1.3m from the ground. If there are multiple stems on a tree, then the diameter is measured on the largest stem.
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>
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 yellow and marked "Remediation Area" being parts of [REDACTED] on [REDACTED].
Remediator(s)	[REDACTED]
Reporting period	Reporting period Means each annual period from the commencement of this Order
Term	Means 20 years
The Property	[REDACTED]. The Property is shown schematically on the map in Attachment 1.
You	The Remediator(s) (see above)



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 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.



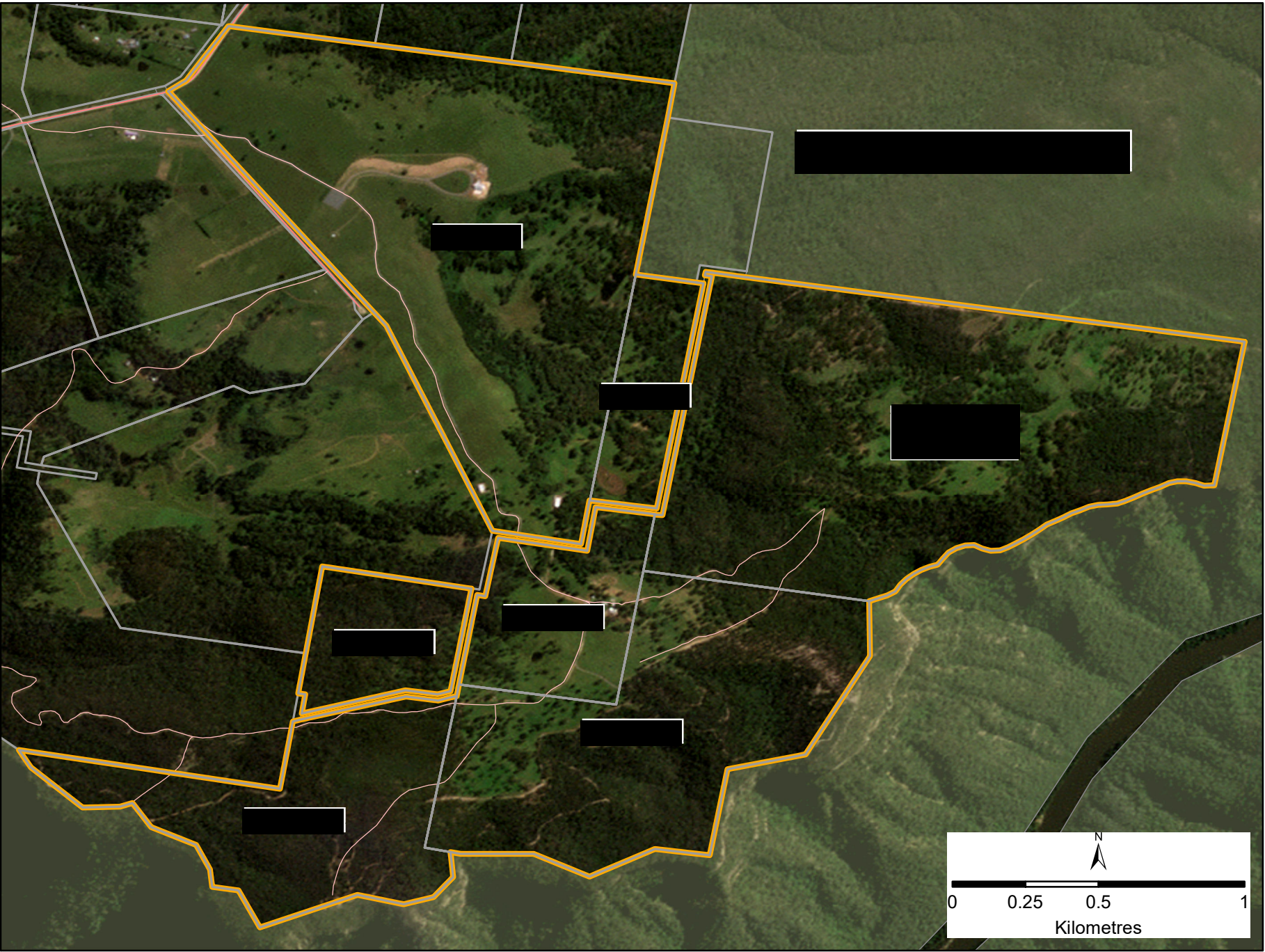
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
Senior Team Leader Compliance and Regulation (SE)
(by Delegation)

Attachment:

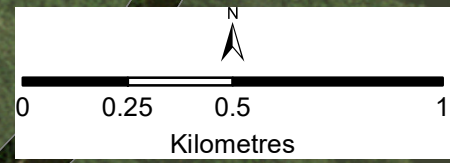
1. Map of the Property
2. Remediation Area Map



Legend

-  Land parcels
-  Property
-  Track - Vehicular
-  NPWS Estate

Planet Global Monthly
image March 2024

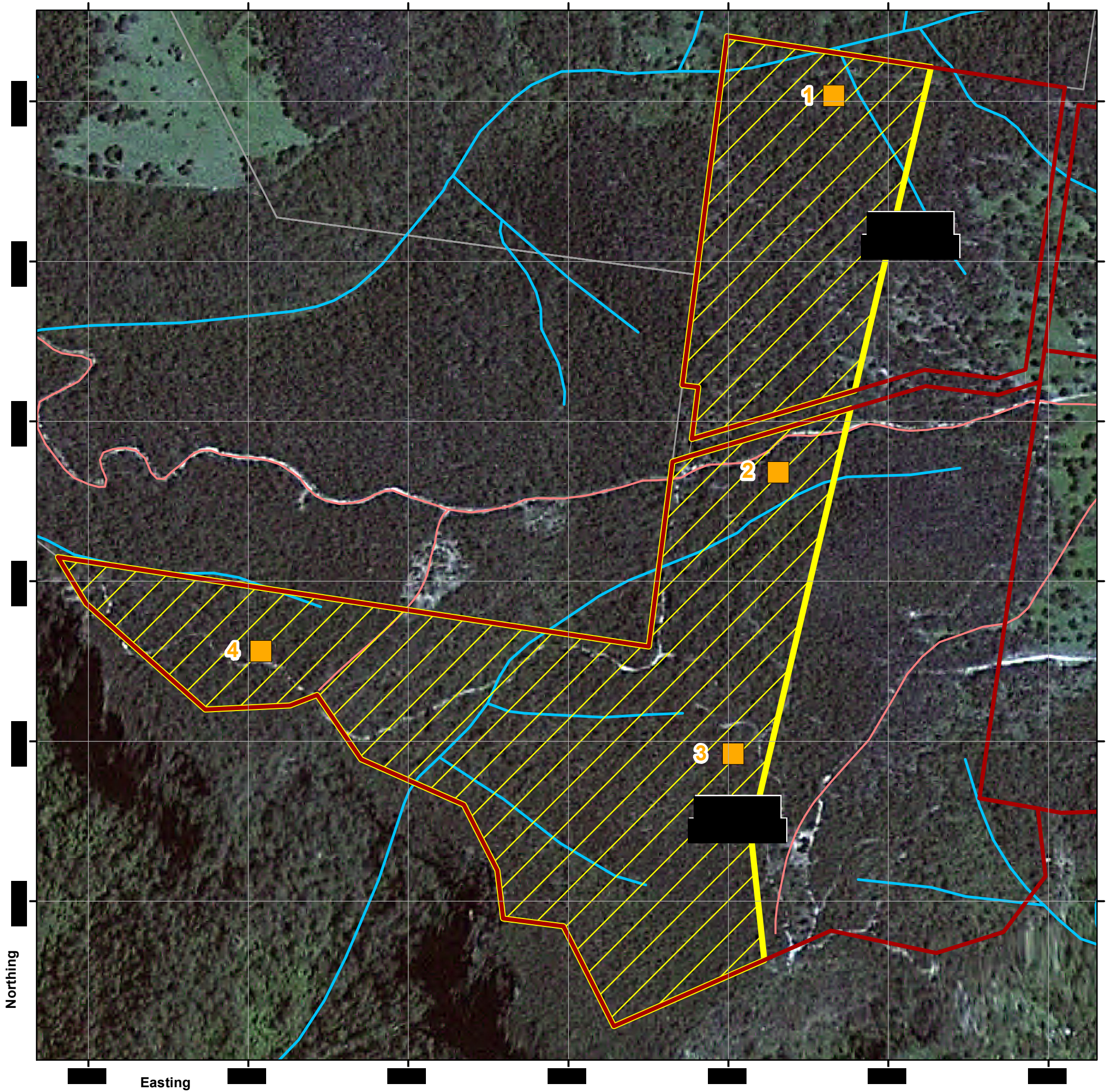


Attachment 1: Map of the Remediation Area

Biodiversity Conservation Act 2016, s11.15 Remediation Order

Property Owner: [REDACTED]
 Address: [REDACTED]
 Lot/DP: [REDACTED]
 Area: 38.4 hectares, Area: 383567.0 sq m

County: [REDACTED]
 Parish: [REDACTED]
 LGA: [REDACTED]



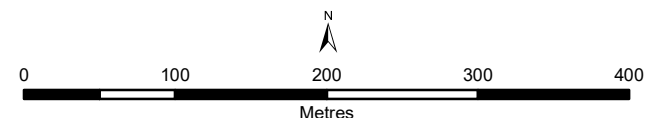
Monitoring Point	Easting	Northing	Monitoring Point	Easting	Northing
1	[REDACTED]	[REDACTED]	3	[REDACTED]	[REDACTED]
2	[REDACTED]	[REDACTED]	4	[REDACTED]	[REDACTED]

- Legend**
- Remediation Area
 - The Property
 - Lot / Deposited Plan (DP)
 - Watercourse
 - Vehicular track
 - Waypoints - see Table A

Base satellite imagery captured on February 2023 includes material © CNES, Distribution Spot Image S.A., France, 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 Department of Customer Service (DCS), Spatial Services.



Map Scale: 1:5,000

Map Datum/Projection: GDA 94 MGA Zone 56

Date: 17 June 2024

Plan No: S11.15_202305826_V2