



ORDER ISSUED TO:

ADDEJ INVESTMENTS PTY LTD [ACN: 148 893 449]
Unit 2 at 51 Nelson Road
Yennora NSW 2161

Order Number: DOC23/298631

CCMS Case Ref. No.: 202203839

Issue Date: 11/08/2023

Property:

[REDACTED]

[REDACTED] (Attachment 1).

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

BY registered post: RPP44 63900 05100 31428 94603.

BY email: [REDACTED].

Date of issue: 11 August 2023

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 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 PLANNING AND ENVIRONMENT OBSERVATIONS

The Department has been investigating a report of:

- 1) The clearing of native vegetation in breach of section 60N of the *Local Land Services Act* (2013) ('**LLS Act**'); and
- 2) The offence of contravening certain requirements of approvals, certificates or codes as described in clause 139 of the *Local Land Services Regulation* (2014) ('**LLS Reg**').

The contravention of the above Act and Regulation at the Property is alleged to have occurred at various times since 2017 (where clearing has exceeded allowable activities) however, much of the alleged offence against section 60N of the LLS Act and clause 139 of the LLS Reg occurred between December 2021 and February 2023.

Offence against section 60N of the LLS Act

Information and evidence obtained to date which includes a site inspection, formal records of interview, responses to statutory notices, physical evidence obtained from the property and a review of approvals for the landholding all indicate that damage occurred on the Property. Damage had occurred to *Category 2 – Regulated* land which comprises of native vegetation and appears to have occurred between *December 2021* and *February 2023*. The damage caused to *Category 2 – Regulated Land* comprised of the removal of approximately 8.0 ha of native vegetation. 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 apply.

Under the LLS Act, it is an offence to clear native vegetation in a regulated rural area contrary to section 60N of the LLS Act

Offence against clause 139 of the LLS Reg

Information and evidence obtained to date, including a site inspection, formal records of interview, responses to statutory notices, physical evidence obtained from the property and a review of approvals for the landholding all indicates that conditions relating to environmental restrictions within land management certificate LMC02988 were contravened. Observations include:

- Addej Investments Pty Ltd obtained land management certificate ('**LMC**') reference LMC02988 from the Local Land Services.
- The certificate contains conditions to clearing on pages 5 and 6 of the certificate.
- Condition 3 of LMC02988 states that: '*Clearing may cause no more than minimal disturbance to soil and groundcover*'. However, based on the above information and evidence gathered during the investigation, the Department is satisfied this condition was contravened.

Under clause 139 of the LLS Reg, it is an offence to contravene an approval, certificate or code.

The Remediation Area is required to be designated as *Category 2 – Regulated Land*. The Department has formed this opinion based on reviewing aerial images from 1990, reviewing the conformance of such remnant vegetation with Part 5A of the LLS Act, a spatial assessment of available images and a Category Explanation Report obtained from the Map Review Team. Accordingly, the Property is taken to be *Category 2 – Regulated Land*.

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* under Part 5A of the LLS Act.
- b) native groundcover on *Category 2 – Regulated Land*

in or as a result of the commission of an offence against the Part 5A of the LLS Act or the regulations under that Part.



Remediation Order

In order to:

- a) control, abate or mitigate the damage to the vegetation concerned; and
- b) maintain, remediate or restore the damaged vegetation concerned.

I, [REDACTED], Senior Team Leader of Compliance and Regulation (South East), order Addej Investments Pty Ltd (**'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 fifteen (15) 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, Remediation Area means the areas referred to within Attachment 2.

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

3.1 General Requirements

- 3.1.1 **Immediately and from the issue date of this Order** the remediator must abate human disturbances to the Remediation Area.
- 3.1.2 **Within 28 days of the issue date of this Order** the remediator must remove and prevent weeds by using selective methods of poisoning and manual removal. The Remediator must undertake weed control every 13 weeks from 11/08/2023.
- 3.1.3 **Within 28 days of the issue date of this Order** the remediator must remove all stock from the Remediation Area, control stock and prevent them from entering the remediation area.
- 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 **For the duration of this Order** the construction of any buildings or structures is not permitted within the Remediation Areas.
- 3.1.6 **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*.
- 3.1.7 The remediator must inform all purchasers of the land of this Order.
- 3.1.8 The remediator 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 **Annually, for each year of this Order** 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 scanned and emailed to rog.south@environment.nsw.gov.au or sent by Registered Post to:



Remediation Order

Department of Planning and Environment
 Attention: Senior Team Leader, Compliance and Regulation – South East
 Reference: CCMS 202203839
 PO Box 514
 Wollongong NSW 2520

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 Percentage of ground cover comprised of weeds;
 - o Presence or absence of pest animals in the Remediation Areas; and
 - o Risk of fire to the Remediation Areas.
- Remediation work require, 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 B.
- 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	██████████	██████████	██████████	██████████
Monitoring Point 5	██████████	██████████	██████████	██████████

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:

- 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. Construct a stock proof was fence around the boundary of the remediation area by 08/09/2023.
2. Remove all stock from the remediation area by 08/09/2023.
3. Controlling weeds by selectively poisoning and manually removing weeds 4 times per year.
4. Prevent human disturbances to the remediation area for the duration of the Order, with the exception of work required for the management of weeds.
5. Send in completed monitoring report and other reporting by the 30 November 2023 and every year thereafter by 30 November.



Remediation Order

DEFINITIONS

In this Order, the following definitions apply:

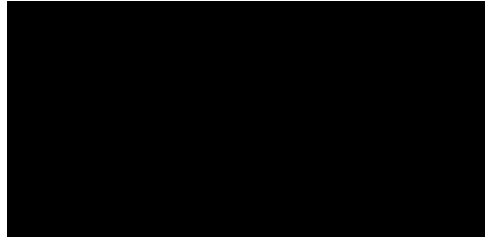
Term	Definition
BC Act	Means the <i>Biodiversity Conservation Act 2016</i>
Damage	Damage has the same meaning as defined in section 11.14 of the <i>Biodiversity Conservation Act 2016</i>
The Department	The NSW Department of Planning and Environment.
Equally	Means to the same extent. Example: if 200 stems 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 2 outlined in red and marked "Remediation Area" being parts of Lot 266 and 269 and 278 on DP 750053, and Lot 4 on DP 1248767.
Remediator(s)	Addej Investments Pty Ltd [ACN: 148 893 449]
Reporting period	Reporting period Means each annual period from the commencement of this Order
Term	Means 15 years (fifteen years)
The Property	[REDACTED] (Attachment 1).
Weed	Means a plant that is a pest as defined by section 15 of the <i>Biosecurity Act 2015</i> .
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.



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

Attachment:

1. The Property.
2. Map of the Remediation Areas.
3. Map of the Remediation Areas (with GPS points).

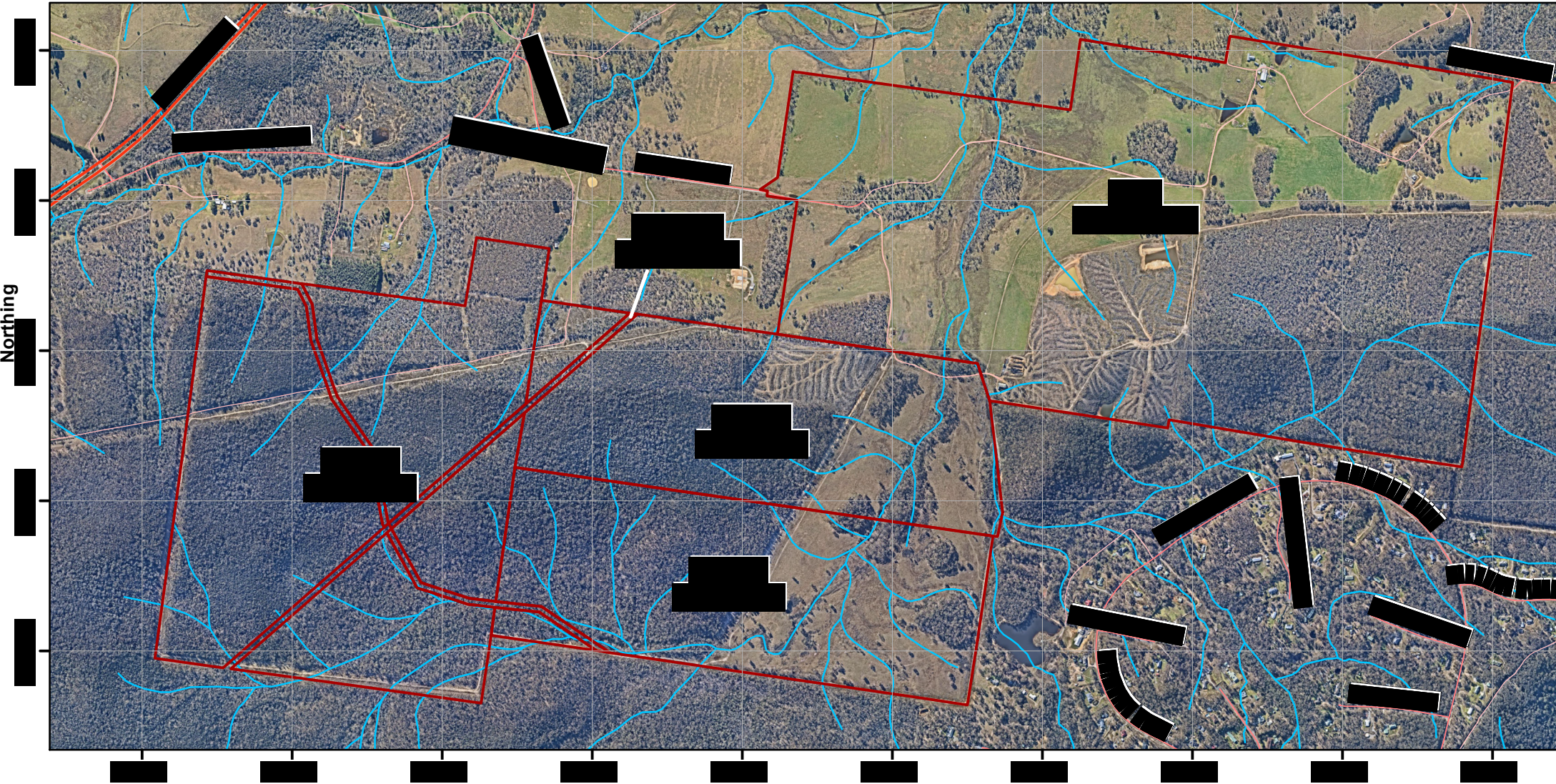


Attachment 1: Map of the Property Biodiversity Conservation Act 2016 s11.15 Remediation Order

Property Owner: Addej Investments Pty Ltd
Property Address: [REDACTED]

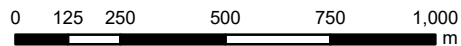
County: [REDACTED]
Parish: [REDACTED]
LGA: [REDACTED]

Lot/DP: [REDACTED]
Area: 41.42 ha, 414249.39 square m



Legend

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



Easting

Base imagery captured on the 22.05.2023 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: 11 August 2023

Plan No: S11_15_202203839_A1_V2

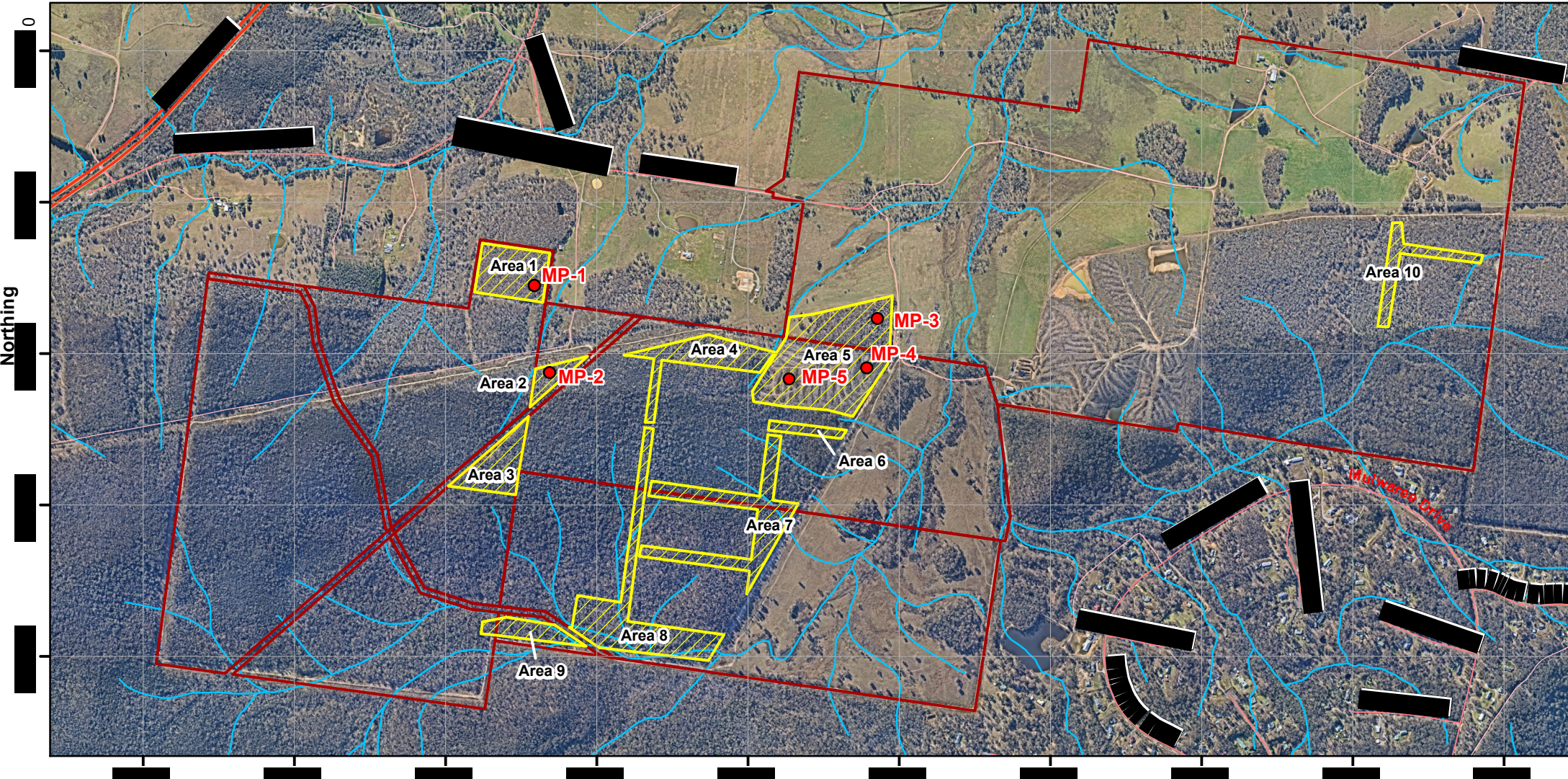


Attachment 2: Map of the Remediation Area Biodiversity Conservation Act 2016 s11.15 Remediation Order

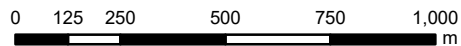
Property Owner: Addej Investments Pty Ltd
Property Address: [REDACTED]

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

Lot/DP: [REDACTED]
Area: 41.42 ha, 414249.39 square m



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



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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: 11 August 2023

Plan No: S11_15_202203839_A2_V2

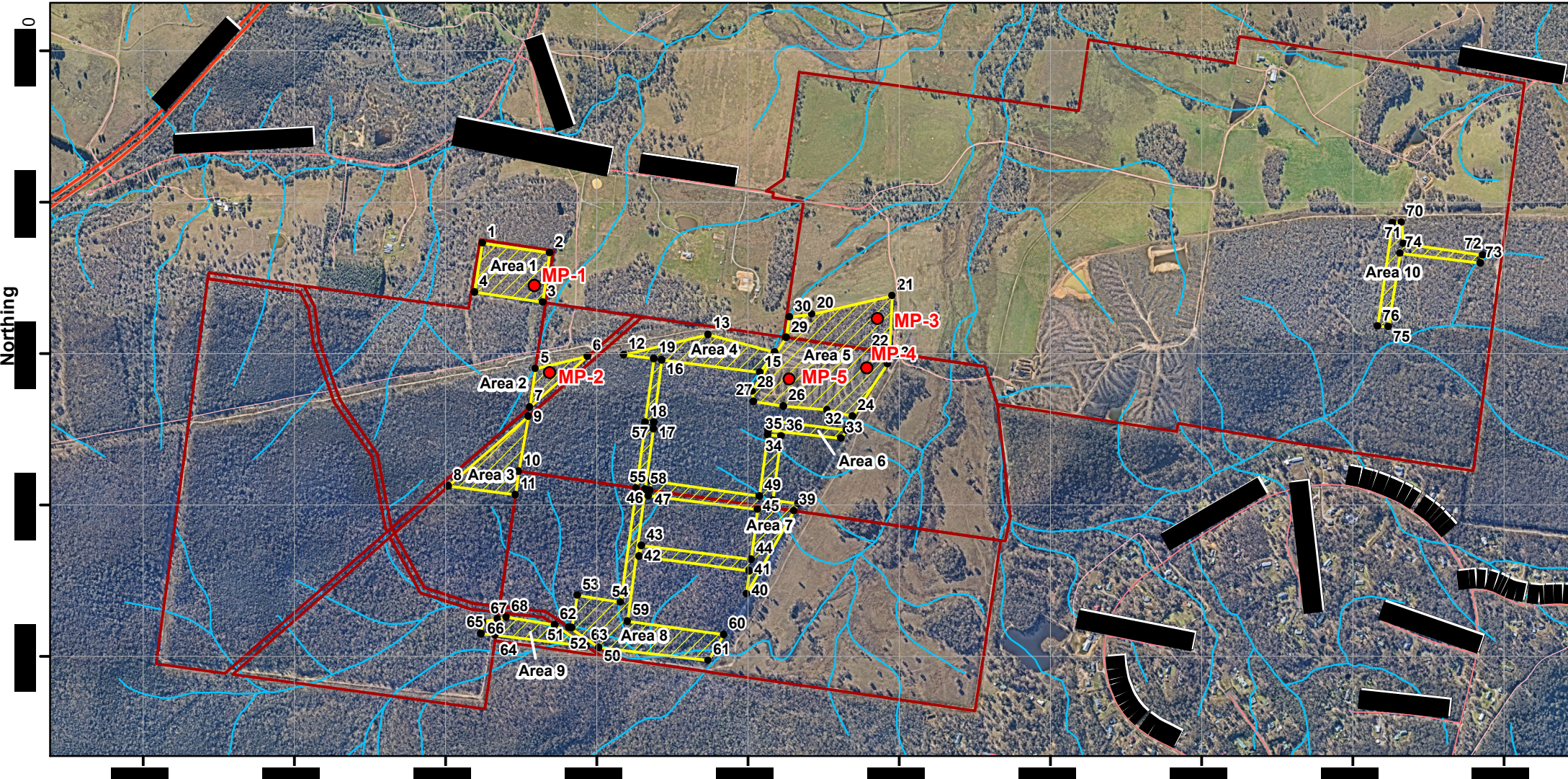


Attachment 3: Map of the Remediation Area Biodiversity Conservation Act 2016 s11.15 Remediation Order

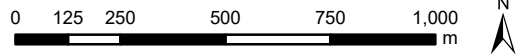
Property Owner: Addej Investments Pty Ltd
Property Address: [REDACTED]

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

Lot/DP: [REDACTED]
Area: 41.42 ha, 414249.39 square m



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



Base imagery captured on the 22.05.2023 includes the accuracy of information supplied by Land and Property Information NSW.

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: 11 August 2023

Plan No: S11_15_202203839_A3_V1

