

Remediation Order

ORDER ISSUED TO:

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

Reference	DOC17/547493
Case reference:	11452-2017
Date of issue:	10 August 2023

BY: Registered mail and cc: [REDACTED]

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

Basis for issuing Remediation Order

The Department of Planning and Environment is responsible for the enforcement of the *Biodiversity Conservation Act 2016* (BC Act), Part 5A of the *Local Land Services Act 2013* (LLS Act) and the now repealed *Native Vegetation Act 2003* (NV Act), as well as Regulations under each of these Acts.

Although the NV Act was repealed on 25 August 2017, any offence committed against the NV Act prior to that date remains subject to regulatory actions by the department. Clause 58 of the *Biodiversity Conservation (Savings and Transitional) Regulation 2017* enables the provisions of the NV Act relating to proceedings for an offence, penalty notices, court orders and remediation orders to continue to apply.

[REDACTED] and [REDACTED] are the owner of [REDACTED] [REDACTED] within the [REDACTED] (the Property). The relevant land parcel is [REDACTED]

Information and evidence obtained to date, including an assessment of aerial / satellite imagery and a vegetation assessment supports that damage, caused by clearing 305 hectares of native vegetation (the Areas of interest mapped at Attachment A) occurred on the Property between January 2017 and August 2017.

At all material times, it was an offence against section 12 of the NV Act for a person to carry out or authorise clearing of native vegetation, except in accordance with a development consent granted in accordance with the NV Act or a property vegetation plan.

Opinion

I, [REDACTED], Acting Senior Team Leader, North West Compliance and Regulation (A/STL NWCR), am satisfied that native vegetation has been damaged in or as a result of the commission of an offence against section 12 of the NV Act.

Order

Pursuant to section 11.15 of the BC Act and under delegation from the Environment Agency Head, I, [REDACTED], A/STL NWCR, order [REDACTED] and [REDACTED] [REDACTED] (the Remediators) to carry out the following remediation work for the duration specified.

Requirements

1. Remediation Areas

- 1.1. In this Order, Remediation Areas means the areas marked “Remediation Areas” on Attachment B.
- 1.2. This Order requires the Remediator to inform the Environment Agency Head of any change in the ownership or occupancy of the land concerned at least 21 days prior to any such change occurring.

2. Duration

- 2.1. This Order will be in force for two (2) years and six (6) months from the date of issue; unless varied or revoked in accordance with the BC Act.

3. Remediation work

Soil disturbance

- 3.1. Soil disturbance in the Remediation Areas is prohibited, except in accordance with written approval from the Department.

Remediation

- 3.2. Native vegetation is to be allowed to regenerate in the Remediation Areas as the priority method of remediation. To protect regenerating vegetation and fauna habitat; the following activities are prohibited within the Remediation Areas:
 - Clearing of native vegetation – except with written approval from the Department
 - Removal of fallen timber
 - Cultivation
 - Construction of infrastructure
 - Aerial spraying.
- 3.3. Sow the Remediation Areas that have been subjected to cultivation with native grasses as prescribed in Attachment C.

Weed management

- 3.4. The Remediators must implement measures to ensure exotic flora do not have a significant impact on the biodiversity values of the Remediation Areas.
- 3.5. Without limiting this clause, the Remediators must ensure that exotic flora occupy less than 5% of total groundcover of the Remediation Areas. Control measures permitted include:
 - Spot application of herbicide
 - Manual removal
 - Biological control.

Pest animals

- 3.6. The Remediators must implement measures to reduce the density of exotic animals to a level that is not having a significant impact on the biodiversity values of the Remediation Areas; and maintain densities at or below that level using any approved means.

Livestock

- 3.7. The Remediators must implement measures to keep the Remediation Areas free of stock, except in accordance with a sustainable grazing regime approved by the Department.

Fire

- 3.8. The Remediators must implement measures to prevent fire occurring within the Remediation Areas and to suppress and extinguish any fire that does occur.

Fencing

- 3.9. Fences are to be maintained to ensure the exclusion of stock from the Remediation Areas.
- 3.10. If the Remediators wishes to continue grazing rights within the land outside the Remediation Areas, the boundaries of the defined Remediation Areas must be fenced to a standard that excludes stock.
- 3.11. The Remediators must erect signage so that any person entering the Remediation Areas is aware; and does not use the land in a manner that would contradict this Order.

Access

- 3.12. The Remediators must provide reasonable access to staff of the Department for the purposes of administering this Order.
- 3.13. The Department must provide reasonable notice of an intention to inspect the Remediation Areas.

Hazards, chemicals and waste

- 3.14. The use of insecticides, herbicides and soil ameliorants is not permitted on the Remediation Areas except as approved in writing by the Department.
- 3.15. Waste is not to be placed, stored or kept in the Remediation Areas.
- 3.16. All staff, contractors and other visitors entering the Remediation Areas are to be made aware of this Order and instructed to comply with its requirements.

Costs

- 3.17. The Remediators must bear all costs associated with implementing the conditions of this Order.

4. Inspections and records

Inspections

- 4.1. The Remediators must inspect the Remediation Areas twice each year, with a minimum of 150 days between each inspection for the purposes of determining the percentage of ground cover that is comprised of exotic flora and priority weeds.
- 4.2. In the Remediation Areas, there is one (1) monitoring point located at the GPS co-ordinates given in Table 2 and mapped at Attachment B. The co-ordinates given must be permanently marked to ensure the location is the same each monitoring period.

Table 1: Location of monitoring points

Monitoring Point	Latitude	Longitude	Easting	Northing
Monitoring Point 1	██████	██████	██████	██████

Records

4.3. The following records must be made by the Remediator for all inspections:

- The date(s) on which the inspection was undertaken
- The name of the person who undertook the inspection
- Photographs to the north, east, south and west at each monitoring point
- Observations made during the inspection including:
 - Percentage of ground cover comprised of weeds
 - Presence or absence of pest animals in the Remediation Areas
 - Risk of fire within the Remediation Areas.
- Details of any remediation work required within the Remediation Areas, including condition targets
- The proposed date(s) of that work and time frames for completion.

4.4. All records required to be kept by this Order must be:

- Accurate
- In a legible form
- Kept for the duration of this Order
- Provided to the Department annually.

5. Reporting

Initial works report

5.1. The Remediators must prepare and submit an Initial Works Report to the Department within six weeks of the date of issue of this Order. This report must contain:

- Confirmation of the exclusion of stock and dates of any actions taken to remove stock.
- The percentage of ground cover that is comprised of exotic flora and priority weeds.
- An assessment of pest animal presence within the Remediation Areas.
- Advice of any completed, required, or proposed work within the Remediation Areas.

Annual monitoring report

5.2. A Monitoring Report must be submitted to the Department annually whilst this Remediation Order is in force. The initial report is due twelve (12) months from the date of issue and annually thereafter. Monitoring Reports must contain the records made for all inspections (see clause 4.3).

5.3. Reports may be submitted to the Department by:

- Mail, courier, or hand to:
 - Compliance and Regulation Unit
 - Biodiversity and Conservation North West
 - Level 1, 48-52 Wingewarra Street
 - P.O. Box 2111
 - Dubbo NSW 2830

OR

- Email to:

ROG.North@environment.nsw.gov.au

Marked to the attention of the Compliance and Regulation Unit



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A/Senior Team Leader
North West Compliance and Regulation
Biodiversity and Conservation Division
(by Delegation)

Definitions

In this Order, the following definitions apply:

Term	Definition
Areas of interest	Areas where native vegetation has been cleared
Clearing	Has the same meaning as defined in section 7 of the <i>Native Vegetation Act 2003</i>
Damage	Damage has the same meaning as defined in section 11.14 of the <i>Biodiversity Conservation Act 2016</i>
Exotic animals	Includes feral cats, wild dogs, feral pigs, feral goats, feral deer, foxes, hares, rabbits, and other exotic animal species but does not include livestock or native wildlife
Exotic flora	Plant species that are not "native vegetation" as defined in section 6 of the <i>Native Vegetation Act 2003</i>
Native vegetation	Has the same meaning as defined in the <i>Native Vegetation Act 2003</i>
Order	This document – a Remediation Order issued under section 11.15 of the <i>Biodiversity Conservation Act 2016</i>
PCT	Plant Community Type
Remediation Areas	The areas located on the Property shown schematically on the map in Attachment B and marked "Remediation Areas"
Stock	Means all livestock (including, but not limited to, cattle, horses, sheep, alpacas, domesticated pigs and domesticated goats); it does not include native wildlife
Sustainable grazing	Sustainable grazing is grazing by livestock, and the management of grasslands used for grazing, that is not likely to result in the substantial long-term decline in the structure and composition of native vegetation
Threatened Ecological Community	Has the same meaning as defined in the <i>Biodiversity Conservation Act 2016</i>
Waste	Has the same meaning as defined in the <i>Protection of the Environment Operations Act 1997</i>

Information about this Order

Compliance: this order takes immediate effect from the date of issue. 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.

Failure to 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.

Alternatively, the Environment Agency Head (or Delegate) may authorise another person to carry out the work who may then recover the cost from you or any person may seek an order from the NSW Land and Environment Court requiring you to rectify the breach.

Appeal: 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>.



Variation: This order may be varied or revoked in the same manner in which it was given.

Attachments:

- A. Map of the 'Areas of interest'
- B. Maps of the 'Remediation Areas'
- C. Revegetation requirements

Attachment A: Areas of interest (AOI)



-  AOI
-  Property



Map 1: Annexure A – AOI



Datum/Projection: GCS GDA 1994



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Environment

Map prepared by [redacted] 1/12/2021.
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This map is not guaranteed to be free from error or omission. The Department and its employees disclaim liability for any act done on the information in the map and any consequences of such acts or omissions.



Name	East	North	Long	Lat
Monitoring Point 1				

- Monitoring Point
- Monitoring Area
- Remediation Area
- Property

Map 2: Annexure B – Remediation Areas

Map prepared by [redacted] /12/2021.
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Datum/Projection: GCS GDA 1994

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Attachment C: Revegetation requirements

Endemic grasses

To reduce the likelihood of exotic flora / weed invasion and to promote soil stability a native grass seed mix, including the following endemic grass species should be sown in the Remediation Areas that have been previously cultivated:

- Speargrasses (*Austrostipa* sp.)
- Wiregrasses (*Aristida* sp.)
- Red Grass (*Bothriochloa macra*)
- Windmill Grass (*Chloris truncata*)
- Curly Windmill Grass (*Enteropogon acicularis*)
- Wallaby Grasses (*Rytidosperma* sp.).
- Warrego summer grass (*Paspalidium jubiflorum*)
- Fairy Grass (*Sporobolus caroli*)
- Umbrella Canegrass (*Leptochloa digitata*) (within 50m of a depression or watercourse)
- Native Millet (*Panicum decompositum*).

These species should be sown at >75% total groundcover per hectare in the Remediation Areas.

Tree species

To promote fauna habitat and assist natural regeneration of the overstorey, the following species should be planted at the rates below:

Scientific name	Common Name	Planting rate	Planting location
<i>Eucalyptus coolabah</i> subsp. <i>coolabah</i> or subsp. <i>excerata</i>	Coolabah	10 stems per hectare	All areas
<i>Eucalyptus largiflorens</i>	Black Box	10 stems per hectare	All areas
<i>Geijera parviflora</i>	Wilga	5 stems per hectare	All areas
<i>Capparis mitchellii</i>	Wild Orange	5 stems per hectare	All areas
<i>Eremophila maculata</i>	Spotted Fuchsia	5 stem per hectare	All areas