

Remediation Order

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

Order Number: DOC23/640403
CCMS Case Ref. No.: 202102430
Issue Date: 21 July 2023
Property: [REDACTED]

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

ISSUED VIA: Registered Post and Email [REDACTED]

Date of issue: 21 July 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 is investigating a report of clearing of native vegetation in a rural regulated area on the property between 6 January 2020 and 31 January 2020. The clearing of vegetation on the property has been verified through a desktop assessment of aerial imagery, response to Statutory Notices and a site inspection.

Information and evidence obtained to date, include, information from site inspection, Section 12.8 Notice to Provide Information and/or Records and available imagery, indicate that damage to native vegetation occurred on the property, between 6 January 2020 and 31 January 2020. None of the available defences listed in Part 5A LLS Act and associated regulations in relation to the offence apply for the extent of clearing event on the property.

Mr Lockyer Rogers was responsible for engaging a contractor to carry out poisoning of native vegetation on his property [REDACTED] between 6 January 2020 and 31 January 2020. At this time there was no fence on the boundary of [REDACTED] and [REDACTED]. The poisoning of native vegetation occurred on [REDACTED] with no consent from the landholder the New South Wales Government.

The Remediation Area is to designated on the in force Native Vegetation Regulatory Map, prepared pursuant to Division 2 of the LLS Act, as Category 2 – Regulated Land

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

2. REASONS FOR VIEW FORMED

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

- a) Native vegetation on category 2 regulated land under Part 5A of the LLS Act, on Travelling Stock Reserve [REDACTED] landowner New South Wales 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], Acting 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 two (2) year from the date of this Order.

[REDACTED], Acting Senior Team Leader holds delegated authority on behalf of the Environment Agency Head for the purposes of section 11.15 of the BC Act.

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3. REQUIREMENTS – WHAT YOU MUST DO TO COMPLY

In this Order, Remediation Area means refer to an 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 30 June 2025 you must remove all stock from the Remediation Area, control stock and prevent them from entering the remediation area.

3.1 Reporting Requirements

- 3.2.1 By 7 July 2025 you must submit a letter or email outlining your compliance with 3.1 General Requirements of the Remediation Order. Send letters or email to bac.nebadmin@environment.nsw.gov.au

Or by Registered Post to:

Senior Team Leader, Compliance and Regulation
Department of Planning 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. Remove all stock from the remediation area by 30 June 2025.
2. Construct a stock proof fence along the western boundary of the remediation area and [REDACTED] and use plain wire top and bottom (adequate ground clearance) to allow native fauna movement or place fauna over the fence or construct a pig proof fence with netting type fence on the bottom and plain wire on the top.
3. Advise the Department by letter or email that you have constructed a stock proof fence along the western boundary of the remediation area and [REDACTED].

Remediation Order

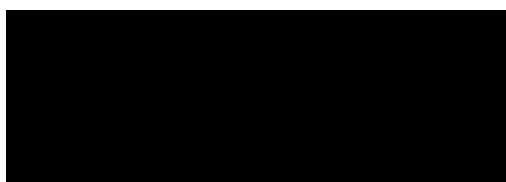
DEFINITIONS

In this Order, the following definitions apply:

Term	Definition
BC Act	Means the <i>Biodiversity Conservation Act 2016</i>
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>
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]
Term	Means the duration of this Order
The Property	[REDACTED] landowner New South Wales Government

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.
- DPE 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.



Acting Senior Team Leader, North East Branch
Department of Planning and Environment
(by Delegation)

Remediation Order

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

Remediation Order Recipient:

Remediation Order: 202102430

Address:

Lot/DP:

County:

Parish:

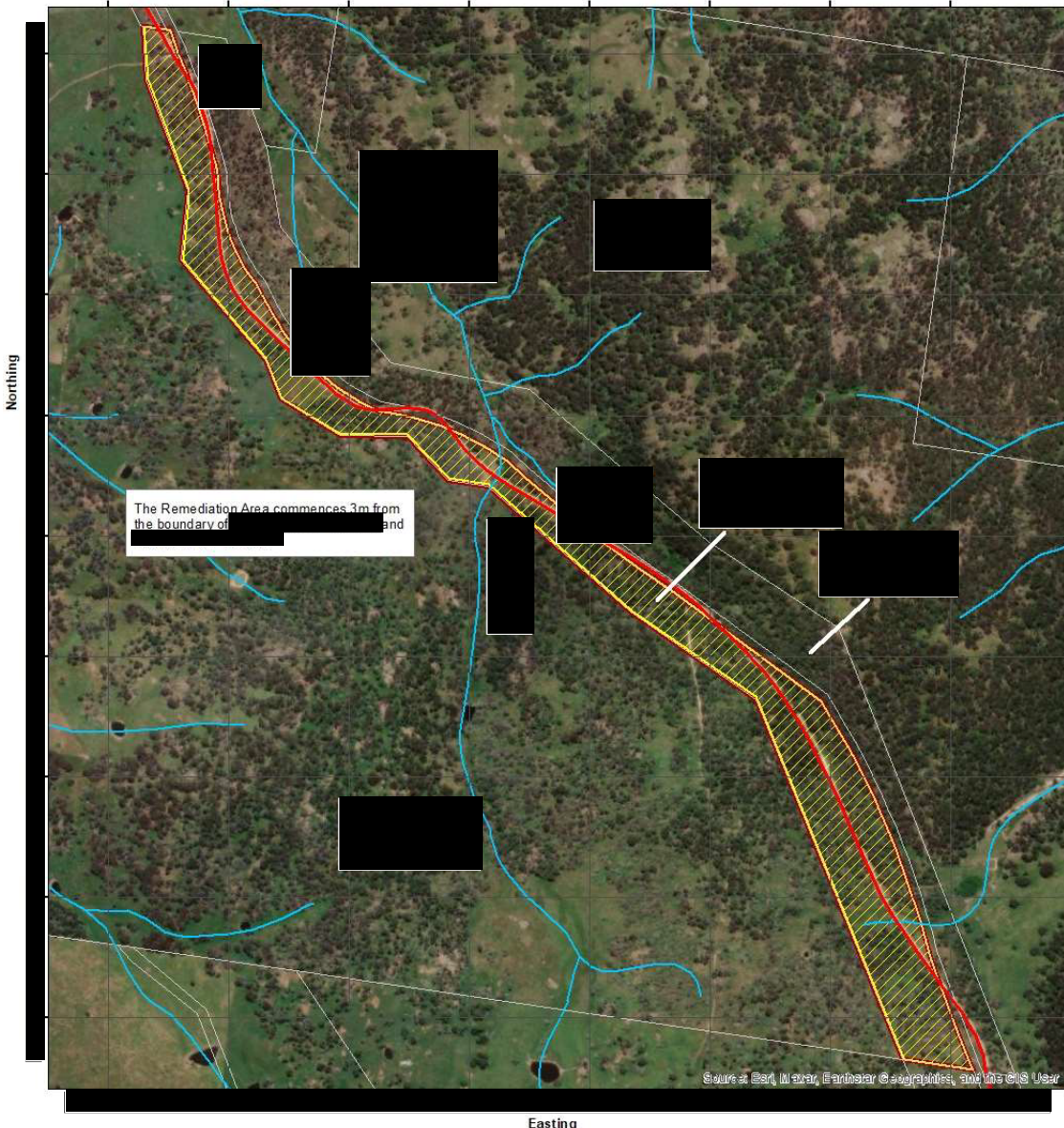
LGA:

Area: 25.9 hectares

258730.4 square metres



Planning & Environment



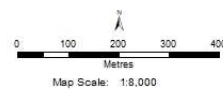
Legend

- Remediation Area
- Crown Land, TSR
- Lot / Deposit Plan (DP)
- Watercourse
- Road

Base imagery captured on the 28.11.2022 includes material © ESRI, Maxar.

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.



Map Datum/Projection: GDA 94 MGA Zone 56
Date: 13 July 2023
Plan No: S11.15_201900846_V2