



ORDER ISSUED TO:

[REDACTED]
[REDACTED]
[REDACTED]

Order Number: DOC23/598872
CCMS Case Ref. No.: 202103420
Issue Date: 7 July 2023
Property: [REDACTED]

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

BY: Registered Post and Email – [REDACTED]

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 October 2021 and November 2021. The clearing of vegetation on the property has been verified through a desktop assessment of aerial imagery, site inspection and response to notices.

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

Information and evidence obtained to date, including a site inspection and notices indicates that damage occurred on the Property to land mapped Category 2 Sensitive Regulated Land between October 2021 and November 2021. The native vegetation damaged is mapped as Threatened Ecological Community and mapped as Flax – Leaved Paperbark – Prickly Leaved Tea Tree Forests and Broad-Leaved paperbark on Swamp Sclerophyll Forests on Coastal Floodplains.

None of the available defences listed in the BC Act and/or Part 5A LLS Act and associated regulations are available.

The Native Vegetation Regulatory (**NVR**) Map Method Statement explains the scientific method used to prepare the NVR Map in accordance with requirements of the LLS Act and the LLS Regulation. The NVR Map Method Statement is available at <https://www.environment.nsw.gov.au/resources/bcact/native-vegetation-regulatory-map-method-170495.pdf>

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, am satisfied that the following has been damaged:

- a) native vegetation on category 2-sensitive regulated land under Part 5A of the LLS Act, namely 1.09 hectares of native vegetation at [REDACTED] [REDACTED] [REDACTED])

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

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 fifteen years (15) years from the date of this Order.

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

Remediation Order

3. REQUIREMENTS – WHAT YOU MUST DO TO COMPLY

In this Order, Remediation Area means the area referred to 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 By 21/07/2023 you must remove all stock from the Remediation Area, control stock and prevent stock from entering the remediation area.
- 3.1.2 The Remediator must ensure that no stock are found within the Remediation Area.
- 3.1.3 Any stock found within the Remediation Area must be removed by the Remediator as soon as practicable and in any event within two (2) days of becoming so aware.
- 3.1.4 If at any time any exotic species, commercial crops or non-native plant species are found within the Remediation Area, the Remediator must destroy all such exotic species, commercial crops or non-native plant species by either spot application of herbicide or by removal by non-mechanised means as soon as practicable and in any event within one month of becoming aware.
- 3.1.5 You must abate human disturbances to the Remediation Area.
- 3.1.6 You must inform all purchasers of the land affected by this Order.
- 3.1.7 You 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 By 28/07/2023 you must submit a letter or email outlining your ongoing compliance with 3.1 General Requirements of the Remediation Order and every year on the 28 July for the duration of the Order. Send letters or email to [REDACTED] [@environment.nsw.gov.au](mailto:[REDACTED]@environment.nsw.gov.au) with attention to Senior Team Leader, Compliance and Regulation or sent 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. Ensure that stock are prevented from entering the remediation area by 14/07/2023,
2. Controlling weeds by selectively poisoning and manually removing weeds.
3. Prevent human disturbances to the remediation area for the duration of the Order, with the exception of work required for the management of weeds.
4. Send in completed monitoring report and other reporting by the 28/07/2023 and every year thereafter.

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.
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>
Pick	Pick has the same meaning as defined in section 1.6 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> .

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.
- 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, Compliance and Regulation
Department of Planning and Environment
(by Delegation)

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

Remediation Order

