



ORDER ISSUED TO:

Order Number: 202001400-1
CCMS Case Ref. No.: 202001400
Issue Date: [REDACTED]
Property: [REDACTED]

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

By email & Registered Post: [REDACTED]

Date of issue: 6 May 2021

Who are we: The Department of Planning, Industry 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, Industry 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, INDUSTRY AND ENVIRONMENT OBSERVATIONS

The Department is investigating a report of clearing of native vegetation on the Property between December 2019 and July 2020.

Under Local Land Services Act 2013, 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 inspections indicates that damage occurred on the Property to Category 2 native vegetation between December 2019 and July 2020. The damage occurred in or as a result of clearing of native vegetation contrary to section 60N of the LLS Act and that none of the available defences listed in the BC Act and/or Part 5A LLS Act and associated regulations in relation to the offence apply.

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

2. REASONS FOR VIEW FORMED

I, [REDACTED] Senior Team Leader, Compliance and Regulation, am satisfied that the following has been damaged:

- a) Native vegetation on category 2-regulated land under Part 5A of the LLS Act, namely, approx.5Ha of category 2 regulated land.

in or as a result of the commission of an offence against 60N of the Local Land Services Act.

In order to:

Maintain, remediate or restore the damaged area, habitat, plant, animal or vegetation concerned.

I, [REDACTED] Senior Team Leader, Compliance and Regulation, 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 15 years from the date of this Order:

Senior Team Leader, Compliance and Regulation 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

3.1 Requirements

- 3.1.1 In this Order, Remediation Area means the blue hatched areas labelled 'Remediation Area' on the attached map which is labelled 'Attachment 1 - Remediation Area Map'.
- 3.1.2 To mitigate the clearing that has occurred, the Remediator must retain vegetation within the areas labelled 'Remediation Area' on the map labelled 'Attachment 1 - Remediation Area Map'.
- 3.1.3 If at any time any weeds, exotic species, commercial crops or non-native plant species are found within the Remediation Area, the Remediator must destroy all such weeds, exotic species,

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commercial crops or non-native plant species by either spot application of herbicide or by removal by non-mechanised means as soon as practicable, or as directed by DPIE.

- 3.1.4 If at any time any pest herbivores are found within the Remediation Area, the Remediator must make attempts to control the pest herbivores by non-mechanised means.
- 3.1.5 The Remediator must ensure fallen timber and debris present in the Remediation Area are retained for the purposes of habitat.
- 3.1.6 The Remediator must not pick, cut, poison, remove or harm native vegetation in the Remediation Areas. Unless undertaken in accordance with allowable activities for category 2 sensitive land.

DEFINITIONS

In this Order, the following definitions apply:

Term	Definition
BC Act	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, Industry and Environment.
LLS Act	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	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]
Remediators	[REDACTED]
Suitably qualified person	A person with appropriate qualifications, training and at least five (5) years of experience relevant to the nominated subject matters to give authoritative assessment, advice and analysis. For this Order this specifically relates to restoration ecology.
Term	Means 15 years
The Property	[REDACTED]

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).



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- 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 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
(by Delegation)

Attachment:



1. Map of the Remediation Area 'Attachment 1'

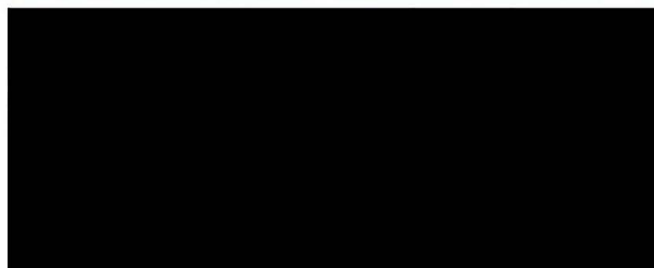
Attachment 1 - Remediation Area Map



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Legend

-  Remediation Area
-  Property boundary



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