

Remediation Order

ORDER ISSUED TO:

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

Reference: DOC22/1011510
Date of issue: 6 December 2022
CCMS Case: 202203774

By email: [REDACTED]

By registered post: [REDACTED]

By registered post: [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 (**'the Department'**) is responsible for the enforcement of the *Biodiversity Conservation Act 2016* (**'BC Act'**), Part 5A of the *Local Land Services Act 2013* (**'LLS Act'**) as well as Regulations under each of these Acts.

[REDACTED] are joint landowners of [REDACTED] within the Shoalhaven Local Government Area (**'the Property'**). **Table 1** lists relevant land parcels within the property (the **Areas of interest** mapped at **Attachment A**).

Table 1: Land parcels

Lot	Deposited Plan
[REDACTED]	[REDACTED]

Information and evidence obtained to date, including an assessment of aerial imagery and a site inspection supports that **harm**, caused by **clearing** native vegetation occurred on the Property between December 2019 and November 2021.

Section 60C of the LLS Act defines "clearing" native vegetation as one or more of the following: *'cutting down, felling, uprooting, thinning or otherwise removing native vegetation, killing, destroying, poisoning, ringbarking or burning native vegetation'*. It is an offence against section 60N of the LLS Act for a person to remove native vegetation from rurally regulated land without authorisation.

Opinion

I, [REDACTED], Senior Team Leader, South East Compliance and Regulation (**'STL SECR'**), am satisfied that native vegetation has been cleared resulting in harm to biodiversity and environmental assets.

Remediation Order

Order

Pursuant to section 11.15 of the BC Act and under delegation from the Environment Agency Head I, [REDACTED] STL SECR order [REDACTED] (**the Remediator**) 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 twelve (12) years 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. For the area titled ‘Remediation Area’ – where vegetation was removed is to be actively managed. **Within 60 days of issuance of this order** this area will be managed by undertaking the following:
 - 3.2.1. allow natural regeneration from any existing seed bank;
 - 3.2.2. stockpiles must be maintained *in situ* as they are providing habitat to wildlife. Specific weed management within and around the stockpiles must be undertaken;
 - 3.2.3. undertake **seasonal** weed management in this location (including the stockpiles);
 - 3.2.4. Grazing of livestock is permitted via the approval of a sustainable grazing regime submitted to the Department’.

Note: if bare soil is still present in subsequent inspections and monitoring, a more focussed vegetation management technique may be required for succession of native pasture and groundcover.

- 3.3. To protect regenerating vegetation and fauna habitat; the following activities are **prohibited** within the Remediation Areas:

Remediation Order

- Clearing of native vegetation – except with written approval from the Department;
- Heavy machinery or any vehicle use;
- Water extraction;
- Cultivation, cropping, harvesting etc.;
- Construction of infrastructure; and/or
- Aerial spraying.

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:
- Manual removal;
 - Spot spraying; and
 - Natural 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. Remediation Area – Livestock is permitted to enter Remediation Area, so long as you comply with the approved sustainable grazing regime submitted to the Department.

Water extraction

- 3.8. No water is to be extracted from the remediation area.

Fencing

- 3.9. No fencing is proposed for Remediation Area, however is encouraged to promote regeneration of the existing seed bank by limiting compaction.
- 3.10. For the Remediation Area, 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. Signs must be reasonably placed at regular intervals so anyone entering can sight the sign.

Access

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

Hazards, chemicals and waste

Remediation Order

- 3.13. The use of insecticides, herbicides and soil ameliorants is not permitted on the Remediation Areas except as approved in writing by the Department.
- 3.14. Waste is not to be placed, stored or kept in the Remediation Areas.
- 3.15. 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

- 3.16. The Remediators will bear all costs associated with implementing the conditions of this Order.

4. Inspections and records

Inspections and monitoring

- 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 Area, 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 2: Location of monitoring points

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

Note: The Remediator may install a star picket, surveying peg, or small wooden stake to locate the same monitoring point between inspections.

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 of the 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:

Remediation Order

- Accurate;
- In a legible form;
- Kept for the duration of this Order;
- Provided to the Department six-monthly (by the end of June and December of each year).

5. Reporting

Initial works report

- 5.1. The Remediators must prepare and submit an Initial Works Report to the Department within **60 days of the date of issue** of this Order. This report must contain:
- For the Remediation Area – Confirmation of the efforts of lawful weed management;
 - All records contained above in section 4.3;
 - An assessment of pest animal presence within the Remediation Areas;
 - The percentage of ground cover that is comprised of exotic flora and priority weeds; and
 - 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 sixty (60) days from the date of issue and twice yearly thereafter (as stated in section 4.1). Monitoring Reports must contain the records made for all inspections (see section 4.3).

- 5.3. Reports will be submitted to the Department by:

- Mail, courier, or hand to:
Compliance and Regulation
Biodiversity and Conservation South East
Level 3, Block D, 84 Crown Street
P.O. Box 514
Wollongong NSW 2580

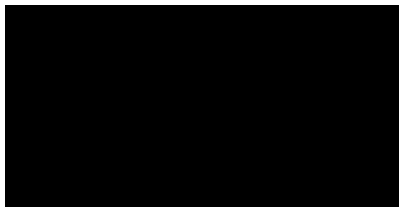
OR

- Email to:

ROG.south@environment.nsw.gov.au

Marked to the attention of “Compliance and Regulation”

Remediation Order



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Senior Team Leader
South East Compliance and Regulation
Biodiversity and Conservation Division
(by Delegation)

Remediation Order

Definitions

In this Order, the following definitions apply:

Term	Definition
Areas of interest	Areas where native vegetation has been cleared
BC Act	<i>Biodiversity Conservation Act 2016</i>
Clearing	Has the same meaning as defined in section 60C of the <i>Local Land Services Act</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>
LLS Act	<i>Local Land Services Act 2013</i>
Native vegetation	Has the same meaning as defined in the <i>Local Land Services Act 2013</i> .
Natural control	Refers to any process which may occur naturally, without the aid or assistance of humans
Order	This document – a Remediation Order issued under section 11.15 of the <i>Biodiversity Conservation Act 2016</i>
Pick	Has the same meaning as defined in section 1.6 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	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>

Remediation Order

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'; and
- B. Maps of the 'Remediation Area'.

Remediation Order






<p>Legend</p> <p> Boundary</p>	<p>Annexure A - Area of Interest</p> 	<p>0 50 100 200 Meters</p>   Planning & Environment
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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.

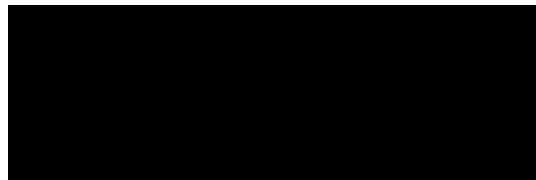
Remediation Order



Legend

-  Monitoring Point
-  RO Area
-  Boundary

Annexure B - Remediation Area



0 50 100 200 Meters

