

**ORDER ISSUED TO:**

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

Order Number: 202002372-23

CCMS Case Ref. No.: 202002372

Property: [REDACTED]

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

**BY: Email and express post**

**Date of issue: 8 March 2024**

**Who are we:** The Department of Climate Change, Energy, the Environment and Water (**Department**) 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 at paragraph 3.1 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>.

## 1. DEPARTMENT OF CLIMATE CHANGE, ENERGY, THE ENVIRONMENT AND WATER OBSERVATIONS

The Department has investigated the clearing of native vegetation and the picking of plants that are part of a threatened ecological community on the Property between 11 September 2019 and 5 October 2020.

Under Section 60N(1) of the LLS Act it is an offence to clear native vegetation in a regulated rural area without an authorisation.

Under Section 2.2(1)(b) of the BC Act it is an offence to pick plants that are part of a threatened ecological community without an authorisation.

Information and evidence obtained to date, including a site inspection, an expert ecologist report, interviews, aerial photograph interpretation and herbicide testing indicates that, between 11 September 2019 and 5 October 2020, damage occurred on the Property to Category 2 native vegetation, specifically:

- The critically endangered ecological community Shale Sandstone Transition Forest
- The endangered ecological community Western Sydney Dry Rainforest
- Native vegetation of the plant community type Sydney Hinterland Grey Myrtle Riparian Forest
- Native vegetation of the plant community type Sydney Hinterland Grey Gum Transition Forest

The damage caused to these vegetation types comprised:

- Poisoning plants by using herbicides including glyphosate, triclopyr and picloram;
- Destroying plants using machinery including a bobcat and excavator and stacking the plants; and
- Removing plants from the ground using machinery including a bobcat and excavator subsequently removing them

Information and evidence obtained to date also indicates that the damage occurred in or as a result of clearing of native vegetation contrary to section 60N of the LLS Act and picking of plants of a threatened ecological community contrary to Section 2.2(1) of the BC Act. It also indicates 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 & Regulation, Greater Sydney Branch, am satisfied that the following has been damaged in or as a result of the commission of offences against Section 2.2(1) of the BC Act and Section 60N of the LLS Act:

- a) a plant or animal that is of or is part of a threatened species or threatened ecological community on the Property, namely, 12.72 ha of the critically endangered ecological community Shale Sandstone Transition Forest and 0.11 ha of the endangered ecological community Western Sydney Dry Rainforest, and
- b) native vegetation on Category 2-Regulated land under Part 5A of the LLS Act, namely, 12.72 ha of the critically endangered ecological community Shale Sandstone Transition Forest and 0.11 ha of the endangered ecological community Western Sydney Dry Rainforest, 0.69 ha of the plant community type Grey Myrtle Dry Rainforest and 3.40 ha of the plant community type Sydney Hinterland Transition Woodland.

In order to:

- a) maintain, remediate or restore the damaged area, habitat, plant, animal or vegetation concerned;

I, [REDACTED], Senior Team Leader Compliance & Regulation, Greater Sydney Branch, 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 twenty five (25) years from the date of this Order (**Term**):

The Senior Team Leader, Greater Sydney Branch, 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

In this Order, Remediation Area means the area identified as the Remediation Area in the Map annexed and marked “A” to this Order (**Remediation Area**).

This Order must be complied with from the date of the Order for the Term.

#### 3.1 Requirements

- 3.1.1 The Remediator is required to implement the Remediation Plan dated 29 February 2024 v3 Final prepared by Eco Logical Australia Pty Ltd (**Remediation Plan**) annexed and marked “B” to this Order in the Remediation Area for the Term.
- 3.1.2 The Remediation Plan will remain in force unless amended or revoked by the Department.
- 3.1.3 By 31 March 2024, you must erect signage so that any person entering the Remediation Area becomes aware of the Remediation Area and does not use the land in a manner that would contradict the Remediation Plan.
- 3.1.4 You must inform all purchasers of the land of this Order.
- 3.1.5 You must notify the Environment Agency Head within 14 days if you intend on selling the land subject to this Order.
- 3.1.6 All reports must be scanned and emailed to [gs.complianceregulation@environment.nsw.gov.au](mailto:gs.complianceregulation@environment.nsw.gov.au) or sent by Registered Post to:

Senior Team Leader, Compliance and Regulation  
Greater Sydney Branch  
Department of Climate Change, Energy, the Environment and Water  
Locked Bag 5022  
Parramatta NSW 2124

## DEFINITIONS

In this Order, the following definitions apply:

Term	Definition
BC Act	means the <i>Biodiversity Conservation Act 2016</i> .
Damage	means damage has the same meaning as defined in section 11.14 of the <i>Biodiversity Conservation Act 2016</i> .
The Department	means the NSW Department of Climate Change, Energy, the Environment and Water (previously the Department of Planning and Environment).
LLS Act	means <i>The 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	means this document: a Remediation Order issued under section 11.15 of the <i>Biodiversity Conservation Act 2016</i> .
Remediation Area	means the area identified as the Remediation Area in the Map annexed and marked “A” to this Order

Remediation Plan	means the Remediation Plan dated 29 February 2024 v3 Final prepared by Eco Logical Australia Pty Ltd
Remediators	means [REDACTED]
Reporting period	means each annual period from the commencement of this Order.
Term	means 25 years.
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 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.
- 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.

[REDACTED]

[REDACTED]

Senior Team Leader, Compliance and Regulation  
Greater Sydney Branch  
(by Delegation)

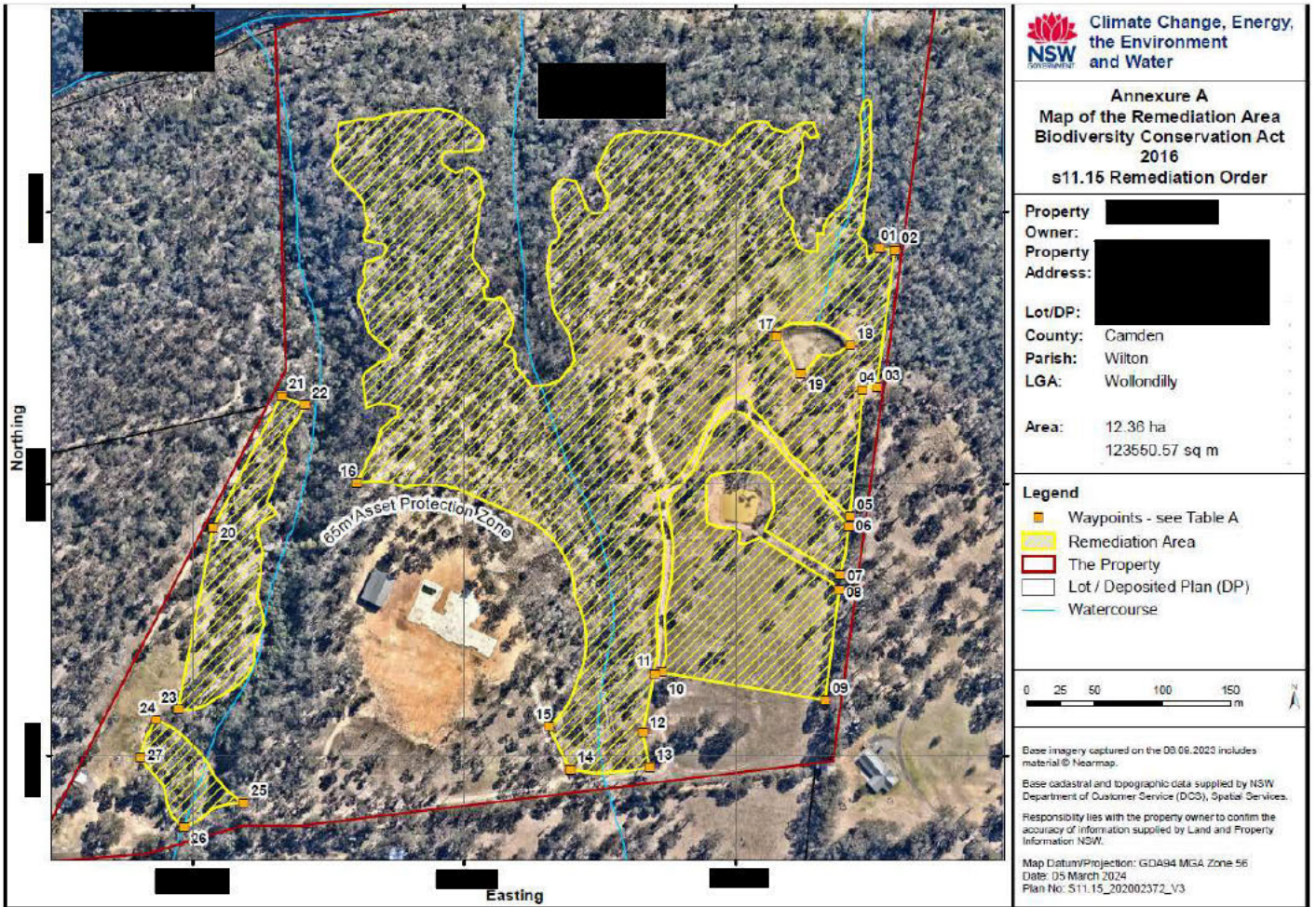
### Annexures:

- A. Remediation Area Map
- B. Remediation Plan dated 29 February 2024 v3 Final prepared by Eco Logical Australia Pty Ltd



"A"

### Remediation Area Map



**Table A – Coordinates for Waypoints marked on Map of Remediation Area**

<b>Waypoint ID</b>	<b>EASTING</b>	<b>NORTHING</b>	<b>LATITUDE</b>	<b>LONGITUDE</b>
01				
02				
03				
04				
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26				
27				

**“B”**

**Remediation Plan dated 29 February 2024 v3 Final prepared by Eco Logical Australia Pty Ltd**