

Remediation Order

ORDER ISSUED TO:

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

Reference: DOC22/5220
Date of issue: 4 February 2022

BY: email [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), its associated regulations and Part 5A of the Local Land Services Act 2013 (LLS Act) and the regulations under that part.

[REDACTED] is the owner of [REDACTED]
[REDACTED] within the [REDACTED] Local Government Area (the **Property**).

Information and evidence obtained to date, including assessment of aerial/satellite imagery and vegetation mapping supports that **damage**, caused by **clearing** 350 hectares of remnant native vegetation (the **Areas of interest** mapped at **Attachment A**) occurred on the Property between August 2018 and April 2021.

At all material times, it was an offence against section 60N of the LLS Act for a person to clear native vegetation, except in accordance with:

- allowable activities authorised under Division 4 and Schedule 5A
- clearing authorised by a land management (native vegetation) code under Division 5
- clearing authorised by an approval of the Panel under Division 6
- clearing authorised under section 60O (clearing authorised under other legislation)
- clearing is a forestry operation authorised under Part 5B (Private native forestry).

Purpose

Under the BC Act the Environment Agency Head (or delegate) may order a person to carry out specified remediation work or achieve a specified remediation outcome in response to damage caused by the commission of certain environmental offences.

The purpose of this Remediation Order is to remediate the area of interest to be consistent with terms of a moderate impact, invasive native species certificate under the Land Management (Native Vegetation) Code 2018.

Opinion

I, [REDACTED], Senior Team Leader, North West Compliance and Regulation (STL NWCR), am satisfied that native vegetation has been damaged in or as a result of the commission of an offence against section 60N of the LLS Act.

Order

Pursuant to section 11.15 of the BC Act and under delegation from the Environment Agency Head, I, [REDACTED], STL NWCR, 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 ten (10) years from the date of issue; unless varied or revoked in accordance with the BC Act.

3. Remediation work

Soil disturbance

- 3.1. Annual or non-persistent perennial species may be introduced into the remediation areas up to 5 times throughout the duration of this order but in not more than 3 consecutive years.
- 3.2. In the case of clearing of invasive native species and regrowth set out in 3.4 of this order, clearing shall be done so there is minimal disturbance to soil.

Woody vegetation remediation and management

- 3.3. Native vegetation is to be allowed to regenerate in the Remediation Areas as the priority method of remediation. To protect regenerating vegetation and fauna habitat, the following activities are prohibited within the Remediation Areas.
 - Clearing of native vegetation – except for regrowth species listed in section 3.4 of this order only.
 - Removal of fallen timber
 - Cultivation – except for the sowing of annual and perennial species listed in section 3.1 of this order, including cereal crops designed to outcompete wood regrowth.
 - Construction of infrastructure
 - Aerial Spraying
- 3.4. The Remediator may clear regrowth of the following invasive native species:
 - Black Cypress Pine (*Callitris endlicheri*)
 - White Cypress Pine (*Callitris glaucophylla*)
 - Hop Bush (*Dodonaea viscosa*)
 - Poplar Box (*Eucalyptus populnea*)
 - Belah (*Casuarina cristata*)
 - Budda (*Eremophila mitchellii*)
 - Wilga (*Geijera parviflora*)
- 3.5. The Remediator must retain all trees and shrubs that are not invasive native species as listed in 3.4 with a diameter at breast height over bark greater than 20cm.

3.6. The Remediator is to maintain existing remnant native woody vegetation of the following species:

- Poplar Box (*Eucalyptus populnea*)
- Gum Coolibah (*Eucalyptus intertexta*)
- Kurrajong (*Brachychiton populneus*)
- Belah (*Casuarina cristata*)
- Western Rosewood (*Alectryon oleifolius*)
- Ironwood/Buloke (*Allocasuarina luehmannii*)

Weed management

3.7. The Remediator must implement measures to ensure **exotic flora** do not have a significant impact on the **biodiversity values** of the Remediation Areas.

3.8. Without limiting this clause, the Remediator must ensure that exotic flora is controlled using only measures permitted include:

- Spot application of herbicide
- Manual removal
- Biological control.
- Mechanical removal

Pest animals

3.9. The Remediator 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

3.10. The Remediator may sustainably graze the Remediation areas in accordance with a **sustainable grazing** regime approved by the Department.

Fire

3.11. The Remediator must implement measures to prevent fire occurring within the Remediation Areas and to suppress and extinguish any fire that does occur.

Access

3.12. The Remediator must provide reasonable access to staff of the Department for the purposes of administering this Order.

3.13. The Department must provide reasonable notice of an intention to inspect the Remediation Areas.

Hazards, chemicals and waste

3.14. The use of insecticides, herbicides and soil ameliorants is not permitted on the Remediation Areas except as approved in writing by the Department and in accordance with section 3.8 of this order.

3.15. Waste is not to be placed, stored or kept in the Remediation Areas.

3.16. 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

3.17. The Remediator must bear all costs associated with implementing the conditions of this Order.

4. Inspections and records

Inspections

- 4.1. The Remediator/s must inspect the Remediation Areas once a year for the purposes of determining the percentage of ground cover that is comprised of **exotic flora** and priority weeds.
- 4.2. In the Remediation Areas, there are four monitoring points located at the GPS co-ordinates given in **Table 1** and mapped at **Attachment B**. The co-ordinates given must be permanently marked to ensure the location is the same each monitoring period.

Table 1: Location of monitoring points

Monitoring Point	Latitude	Longitude	Easting	Northing
Monitoring Point 1	██████████	██████████	██████	██████
Monitoring Point 2	██████████	██████████	██████	██████
Monitoring Point 3	██████████	██████████	██████	██████
Monitoring Point 4	██████████	██████████	██████	██████

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 at each 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 (woody regrowth management, exotic species management, sowing of annual and perennial species).
 - 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:
- Accurate
 - In a legible form
 - Kept for the duration of this Order
 - Provided to the Department annually.

5. Reporting

Initial works report

- 5.1. The Remediator must prepare and submit an Initial Works Report to the Department within six weeks of the date of issue of this Order. This report must contain:
- The percentage of ground cover that is comprised of exotic flora and priority weeds.
 - An assessment of pest animal presence within the Remediation Areas.
 - 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 twelve (12) months from the date of issue and annually thereafter. Monitoring Reports must contain the records made for all inspections (see clause 4.3).
- 5.3. Reports may be submitted to the Department by:

- Mail, courier, or hand to:
Compliance and Regulation Unit
Biodiversity and Conservation North West
Level 1, 48-52 Wingewarra Street
P.O. Box 2111
Dubbo NSW 2830

OR

- Email to:

ROG.North@environment.nsw.gov.au

Marked to the attention of the Compliance and Regulation Unit



Senior Team Leader
North West Compliance and Regulation
Biodiversity and Conservation Division
(by Delegation)

Definitions

In this Order, the following definitions apply:

Term	Definition
Areas of interest	Areas where native vegetation has been cleared
Clearing	Has the same meaning as defined in the <i>Local Land Services Act 2013</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 the <i>Local Land Services Act 2013</i>
Native vegetation	Has the same meaning as defined in 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>
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	Sustainable grazing is 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>

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>.

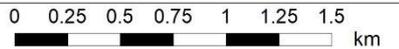
Variation: This order may be varied or revoked in the same manner in which it was given.

Attachments:

- A. Map of the 'Areas of interest'
- B. Map of the 'Remediation Areas'



© Department of Customer Service 2020



Datum/Projection: GCS GDA 1994



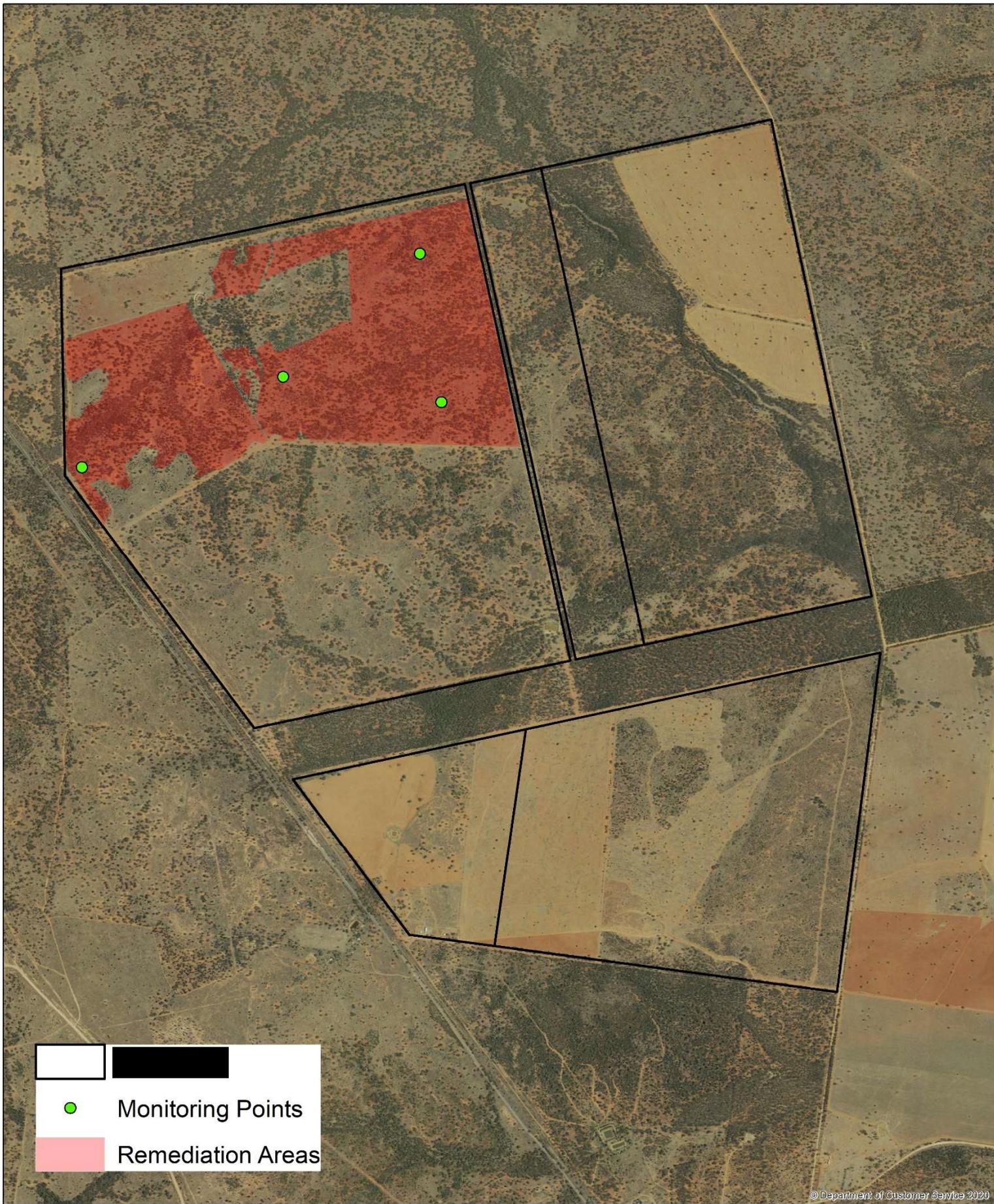
Attachment A - Areas of Interest

Areas of Interest

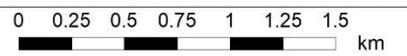
Copyright of Department of Planning Industry and Environment.
This map is not guaranteed to be free from error or omission. The Department and its employees disclaim liability for any act done on the information in the map and any consequences of such acts or omissions.



**Planning,
Industry &
Environment**



© Department of Customer Service 2020



Datum/Projection: GCS GDA 1994



Attachment B - Remediation Areas

Copyright of Department of Planning Industry and Environment.
 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.



**Planning,
 Industry &
 Environment**