



# Remediation Order

---

**ORDER ISSUED TO:**

[REDACTED]

Order Number: DOC24/520313  
CCMS Case Ref. No.: 202204039  
Issue Date: 6 August 2024

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

**BY EMAIL:** [REDACTED]

**Date of issue: 6 August 2024**

**Who are we:** The Department of Climate Change, Energy, the Environment and Water (DCCEEW) 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 DCCEEW) 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 CLIMATE CHANGE, ENERGY, THE ENVIRONMENT AND WATER OBSERVATIONS

DCCEEW investigated an Environment Line report of clearing of native vegetation on the Property.

Information and evidence obtained to date, including a notice to provide information and/or records (notice number DOC24/197167 issued under section 12.8 of the BC Act), a site inspection on 9 May 2024, and an assessment of aerial imagery, indicates that between August 2021 and February 2022, 17.75 hectares of native vegetation was cleared on category-2 regulated land on the Property.

The Property is owned by [REDACTED] and [REDACTED] (the Landholders).

The native vegetation was cleared by machinery operated by [REDACTED] acting under direction of the Landholders' representative [REDACTED].

Under section 60N of the LLS Act a person who clears native vegetation in a regulated rural area is guilty of an offence unless the person establishes any of the defences under section 60N of the LLS Act. The Landholders and their representative have not established that any of the defences listed under section 60N of the LLS Act apply to the clearing of native vegetation on the Property. The Landholders and their representative have not established that the clearing of native vegetation on the Property was authorised under other legislation as set out in section 60O of the LLS Act.

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 regulated land. When DCCEEW issues this Order as final, the Remediation Area will become category-2 sensitive regulated land for the Term of the Order, after which it will revert to category-2 regulated land.

## 2. REASONS FOR VIEW FORMED

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

- a) 17.75 hectares of native vegetation on category 2-regulated land under Part 5A of the LLS Act,

in or as a result of the commission of an offence against section 60N of the LLS Act.

In order to maintain, remediate or restore the damaged area and vegetation concerned:

I, [REDACTED], Senior Team Leader Compliance and Regulation, Hunter Central Coast 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 (20) years from the date of this Order.

[REDACTED], Senior Team Leader Compliance and Regulation, Hunter Central Coast 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 defined in Attachment A – Remediation Area.

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

All records and correspondence required by this Order must be sent to:

# Remediation Order

---

Senior Team Leader Compliance and Regulation, Hunter Central Coast Branch

by email to: [hunter.compliance@environment.nsw.gov.au](mailto:hunter.compliance@environment.nsw.gov.au) (preferred)

or by mail to Locked Bag 1002, DANGAR, NSW 2309

## 3.1 Requirements

- 3.1.1 Within three months of the date of issue of this Order, the Remediator must submit a Remediation Plan for the Remediation Area.
- 3.1.2 The Remediation Plan must be prepared by a person suitably qualified in restoration ecology. The suitably qualified person must be approved by the DCCEEW.
- 3.1.3 The Remediator must nominate the name of the suitably qualified person (including resume and contact details) to DCCEEW within four weeks of the date of issue of this Order.
- 3.1.4 DCCEEW will approve or reject the Remediator's nomination of a suitably qualified person within two weeks of the nomination receipt.
- 3.1.5 The Remediation Plan must demonstrate how the Remediator will restore the Remediation Area towards benchmark condition for the Plant Community Type (PCT) 3767 Upper Hunter Escarpment Colluvial Ironbark Forest.
- 3.1.6 The Remediation Plan must include restoration targets for year one (1), five (5), ten (10), fifteen (15) and twenty (20).
- 3.1.7 The Remediation Plan must include a method of weed control that does not inhibit the regeneration of native vegetation.
- 3.1.8 The Remediation Plan must prohibit stock from the Remediation Area for the Term of this Order.
- 3.1.9 The Remediation Plan must prohibit all vehicles, conveyances, and machinery from the Remediation Area for the Term of this Order except where provision is made for this in the Remediation Plan for maintenance or management purposes.
- 3.1.10 The Remediation Plan must prohibit cropping or sowing of exotic species in the Remediation Area for the Term of this Order.
- 3.1.11 The Remediation Plan must prohibit the installation of structures or temporary structures in the Remediation Area for the Term of this Order.
- 3.1.12 The Remediation Plan must prohibit the use of imported mulch in the Remediation Area for the Term of this Order.
- 3.1.13 The Remediation Plan must prohibit the use of imported fill or waste materials of any type in the Remediation Area for the term of this Order.
- 3.1.14 The Remediation Plan must include measures to effectively control pests and feral animals in the Remediation Area for the Term of this Order.
- 3.1.15 The Remediation Plan must be drafted for the Term of this Order.
- 3.1.16 The Remediation Plan is subject to the approval of the DCCEEW.
- 3.1.17 The Remediation Plan will remain in force unless amended or revoked by the DCCEEW.

# Remediation Order

- 3.1.18 The Remediation Plan must include a monitoring and reporting regime where records are made by the Remediator, and an annual report is submitted to the DCCEEW on each anniversary of the date of issue of this Order for the Term of this Order.
- 3.1.19 The approved Remediation Plan must be implemented by the Remediator for the Term of this Order and will become an annexure to this Order.
- 3.1.20 Within four weeks of DCCEEW issuing the final Order, the Remediator 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. DCCEEW will provide the Remediator with the wording for this signage.
- 3.1.21 At the conclusion of the Term of this Order, you must comply with the LLS Act to avoid further penalty.
- 3.1.22 You must notify the Environment Agency Head within 14 days if there is an intention of selling the land subject to this Order during the Term of this Order.
- 3.1.23 You must inform all purchasers of the land of this Order during the Term of this Order.
- 3.1.24 All reports must be emailed to [hunter.compliance@environment.nsw.gov.au](mailto:hunter.compliance@environment.nsw.gov.au) or sent by Registered Post to:

Senior Team Leader Compliance and Regulation  
 Hunter Central Coast Branch  
 Biodiversity Conservation and Science  
 Department of Climate Change, Energy, the Environment and Water  
 Locked Bag 1002, DANGAR NSW 2309

## 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> .
DCCEEW	The NSW Department of Climate Change, Energy, the Environment and Water
LLS Act	The <i>Local Land Services Act 2013</i> .
Native vegetation	Has the same meaning as defined in section 60B of the <i>Local Land Services Act 2013</i> .
Clearing native vegetation	Has the same meaning as defined in section 60C of the <i>Local Land Services Act 2013</i> .
Landholder	Has the same meaning as defined in section 60D of the <i>Local Land Services Act 2013</i> .
Landholder of the Property	[REDACTED]
Regulated rural area	Has the same meaning as defined in section 60D of the <i>Local Land Services Act 2013</i> .

# Remediation Order

Rural area of the State	Has the same meaning as defined in section 60A of the <i>Local Land Services Act 2013</i> .
Category 2-regulated land	Has the same meaning as defined in section 60D of the <i>Local Land Services Act 2013</i> .
Category-2 sensitive regulated land	Has the same meaning as defined in section 60D 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 A outlined in red and marked "Remediation Area" being parts of [REDACTED] and [REDACTED] in [REDACTED], as defined by the Map and GPS coordinates shown in Attachment A: Remediation Area
Remediator	[REDACTED]
Reporting period	Reporting period means each annual period from the commencement of this Order.
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 20 years from the date of issue of this Order.
The Property	Means [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.
- DCCEEW 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.



# Remediation Order



Senior Team Leader Compliance and Regulation  
Hunter Central Coast Branch  
(by Delegation)



# Remediation Order

## Attachment A – Remediation Area

