



# Remediation Order

## ORDER ISSUED TO:

[REDACTED]  
[REDACTED]

Reference: DOC20/849890  
Date of issue: 2 February 2021

BY: Registered post; cc: [REDACTED]

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

### Basis for issuing Remediation Order

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.

[REDACTED] and [REDACTED] are the current owners of [REDACTED], [REDACTED], in the Walgett Shire Council Local Government Area (**the Property**).

Information and evidence obtained to date, including an assessment of aerial / satellite imagery and a vegetation assessment supports that **damage**, caused by **clearing** 164 hectares of native vegetation (**the Areas of interest** mapped at **Attachment A**) occurred on the Property between August 2017 and October 2018.

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]
- [REDACTED]
- [REDACTED]

(the **Remediators**) to carry out the following remediation work for the duration specified.

## Requirements

### 1. Remediation Area

- 1.1. In this Order, Remediation Areas means the areas marked "Remediation Area" 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 10 years unless varied or revoked in accordance with the BC Act.

### 3. Remediation work

- 3.1. Implementation of the following measures must be commenced within 30 days of the issue of this Order.

#### **Soil disturbance**

- 3.2. Soil disturbance in the Remediation Areas is prohibited, except in accordance with written approval from the Department.
- 3.3. Cultivation is not permitted throughout the remediation area.

#### **Remediation**

- 3.4. 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 as a requirement of this Order or with written approval from the Department.
  - Removal of fallen timber.
  - Construction of infrastructure.
  - Aerial spraying.

#### **Woody vegetation**

- 3.5. The Remediator is to ensure the restoration of native woody vegetation species at the following rates of stems per hectare above 20 cm diameter at breast height, where required. These stem retention rates are in line with those required in a moderate impact Invasive Notice Species Certificate:
  - Coolabah (*Eucalyptus coolabah*) - 20 stems per ha, or 10 ha per 100 ha.
  - Black Box (*Eucalyptus largiflorens*) - 20 stems per ha, or 10 ha per 100 ha.
  - Belah (*Casuarina cristata*) - 20 stems per ha, or 10 ha per 100 ha.

- Budda, False Sandalwood (*Eremophila mitchellii*) - 20 stems per ha, or 10 ha per 100 ha.
- Bimble Box, Poplar Box (*Eucalyptus populnea*) – 20 stems per ha, or 10 ha per 100 ha.

### **Weed management**

- 3.6. The Remediator must implement measures to ensure exotic flora do not have a significant impact on the biodiversity values of the Remediation Areas.
- 3.7. Without limiting this clause, the Remediator must ensure that exotic flora occupy less than 5% of total groundcover of the Remediation Areas. Control measures permitted include:
- Spot application of herbicide.
  - Manual removal.
  - Biological control.

### **Pest animals**

- 3.8. 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**

- 3.9. The Remediator must implement measures to keep the Remediation Areas free of stock, except in accordance with a sustainable grazing regime approved by the Department.

### **Fire**

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

### **Fencing**

- 3.11. The Remediator must erect signage so that any person entering the Remediation Area is aware; and does not use the land in a manner that would contradict this Order.
- 3.12. The Remediator is to erect fencing around Cultural sites within the vicinity of the Remediation Areas.

### **Access**

- 3.13. The Remediator must provide reasonable access to staff of the Department for the purposes of administering this Order.
- 3.14. The Department must provide reasonable notice of an intention to inspect the Remediation Areas.

### **Hazards, chemicals and waste**

- 3.15. The use of insecticides, herbicides and soil ameliorants is not permitted on the Remediation Areas except as approved in writing by the Department.
- 3.16. Waste is not to be placed, stored or kept in the Remediation Areas.
- 3.17. 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.

## 4. Inspections and records

### Inspections

- 4.1. The Remediator is to 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 Areas, there are two 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
██████████	██████████	██████████	██████	██████
██████████	██████████	██████████	██████	██████
██████████	██████████	██████████	██████	██████

### Records

- 4.3. The following records must be made by the Remediator for all inspections:
  - Inspections and reporting must be conducted utilising the following methodology:
  - The western end of the transect at the coordinates given must be permanently marked to ensure the location starting point is the same at each monitoring point.
  - At each of the three (3) monitoring points, four images must be taken to record the view facing north, east, south and west. Each image must be identified by the monitoring point number, direction and date taken. Each image must be included in the annual report.
  - The Remediator must traverse one hundred metres (100m) to the east of this point. Distance can be measured by tape or GPS.
  - All canopy tree species, seedlings and saplings are to be counted within an area 10 metres either side of the transect. These counts are to be multiplied by 5 to estimate the density of stems per hectare. These counts must be provided to the Department annually.
  - Utilising the Local Land Services Guide for Assessing Native Groundcover, an estimate is to be given of the percentage of ground cover that is:
    - Native Species
    - Exotic Species
    - Priority Weeds
    - Bare Earth
  - Observations made during the inspection including:
    - Presence or absence of pest animals in the Remediation Areas.
    - Risk of fire within the Remediation Areas.
    - Remediation work required; including condition targets and time frames for completion.
  - Details of any work required within the Remediation Area.
  - The proposed date(s) of that work.
- 4.4. All records required to be kept by this Order must be:
  - Accurate.
  - Legible.

- 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:
- Confirmation of the exclusion of stock and dates of any actions taken to remove stock.
  - The percentage of ground cover that is comprised of exotic flora and priority weeds.
  - An assessment of pest animal presence within the Remediation Area.
  - Advice of any completed, required, or proposed work within the Remediation Area.

### Annual report

- 5.2. Within 12 months of the date of issue of this Remediation Order, the Remediator must prepare and submit a Monitoring Report to the Department. A Monitoring Report must be submitted to the Department every 12 months whilst this Remediation Order is in force. Each Monitoring Report must contain the records made for all inspections (see clause 4.3).

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

- 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**

- By email to:

[ROG.North@environment.nsw.gov.au](mailto:ROG.North@environment.nsw.gov.au)

Marked to the attention of the Compliance and Regulation Unit

## 6. Costs

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



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 was cleared in contravention of section 60N of the <i>Local Land Services Act 2013</i> ; mapped at <b>Attachment A</b> .
BC Act	<i>Biodiversity Conservation Act 2016</i>
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>
The Department	The NSW Department of Planning, Industry and Environment
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>
Native vegetation	Has the same meaning as defined in the <i>Local Land Services Act 2013</i>
LLS Act	<i>Local Land Services Act 2013</i>
NV Act	<i>Native Vegetation Act 2003</i>
Order	This document – a Remediation Order issued under section 11.15 of the <i>Biodiversity Conservation Act 2016</i>
PCT	Plant Community Type
Property	██
Remediation Areas	Means the area located on the property show in <b>Attachment B</b> and marked "Remediation Areas"
Remediator	██
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:** 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.

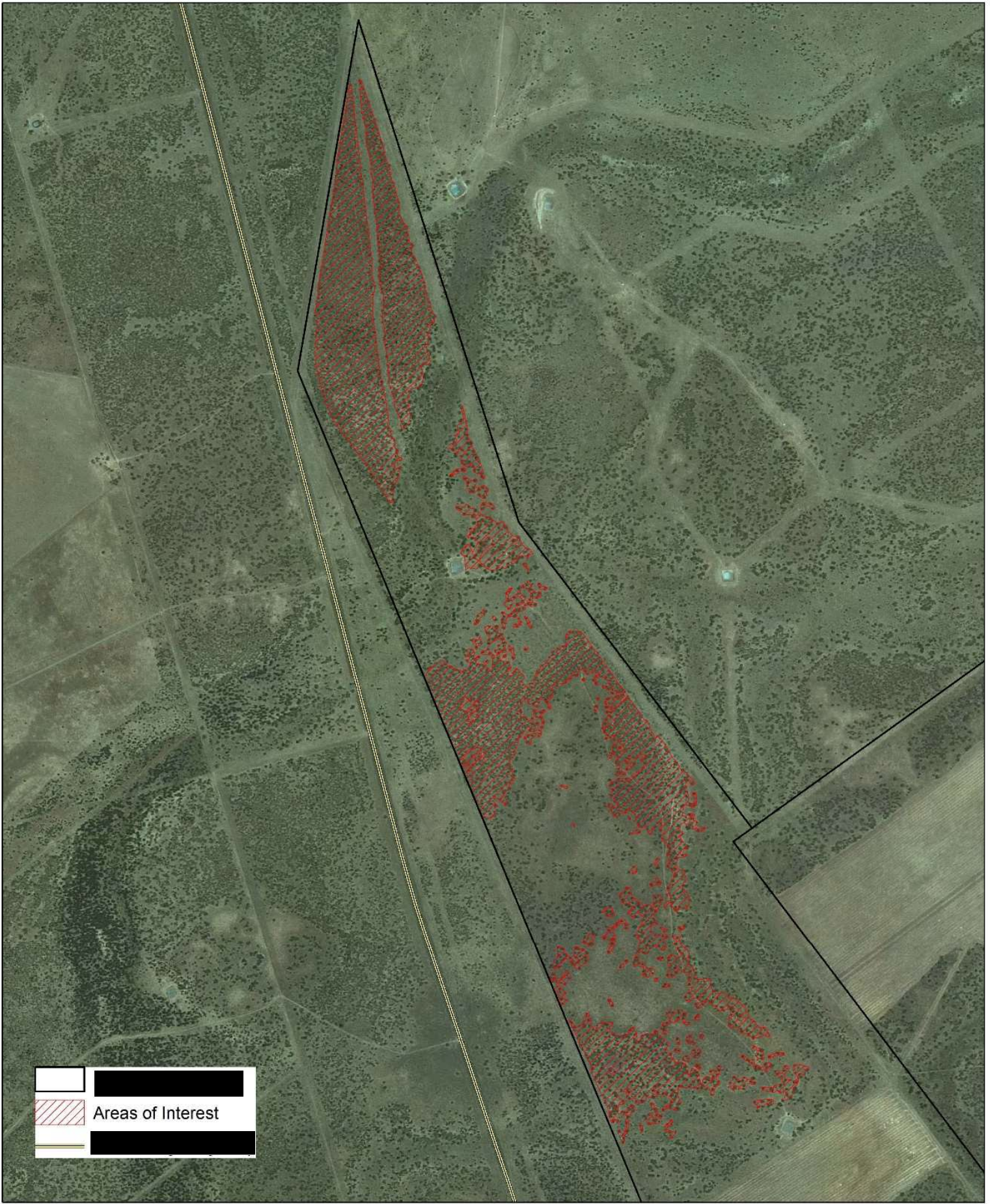
Your obligation to comply with the requirements of this Order continues until the Order is complied with, even if the due date for compliance has passed.

**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'



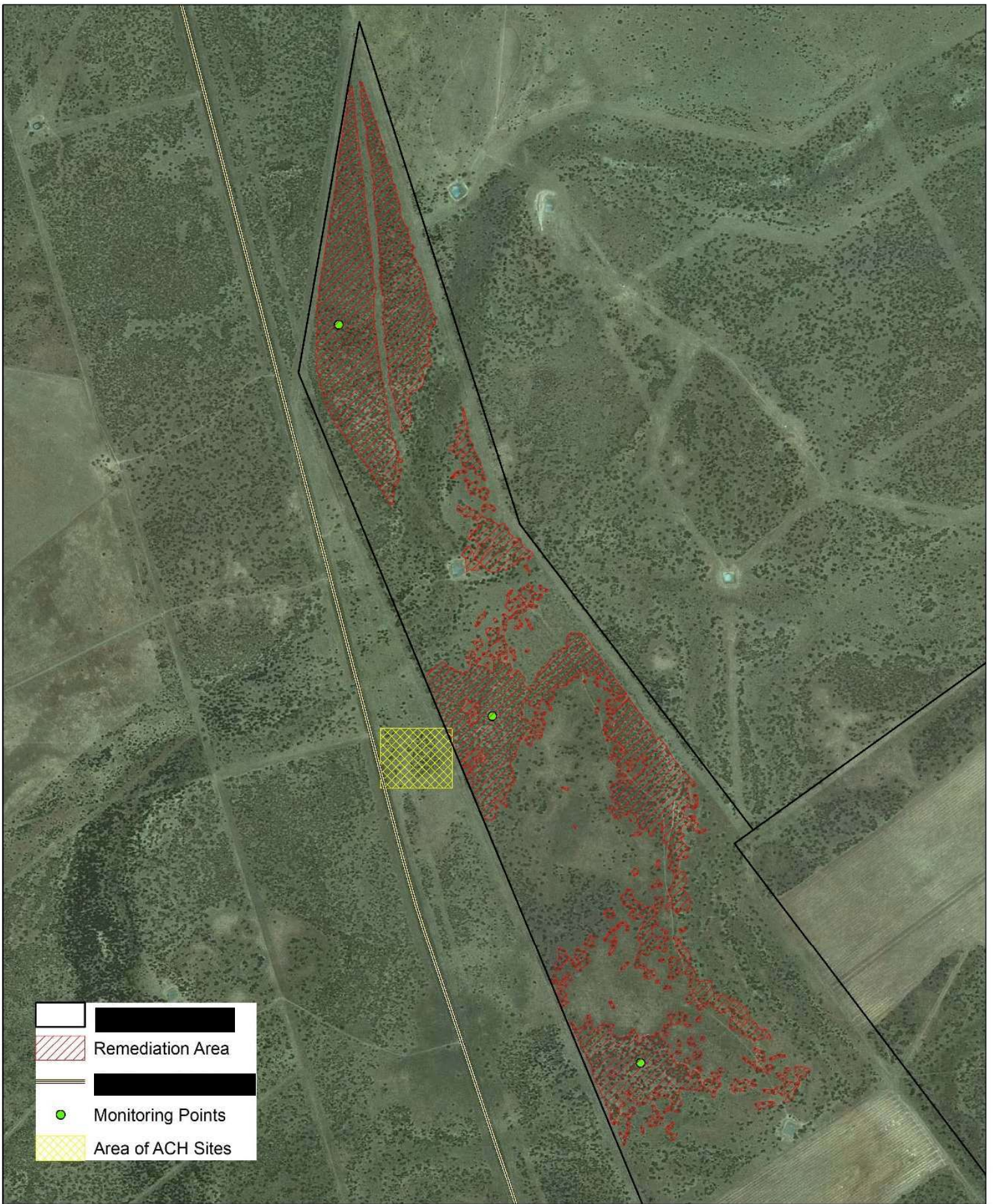
## Attachment A - Areas of Interest

0 0.25 0.5 km

Datum/Projection: GCS GDA 1994







## Attachment B - Remediation Areas

0 0.25 0.5 km  
Datum/Projection: GCS GDA 1994



Copyright NSW Department of Planning, Industry and Environment.  
This map is not guaranteed to be free from error or omission.  
DPI and its employees disclaim liability for any actions on the information in the map and any consequences of such acts or omissions.  
Map Prepared By: [Redacted] 22/9/2020



Planning,  
Industry &  
Environment

