

Review Team of DPE etc., indicate that damage occurred at the property to category 2-regulated land comprised of native vegetation. Information and evidence obtained to date also indicates that damage occurred in or as a result of clearing of native vegetation from rurally regulated land contrary to section 60N of the LLS Act and that none of the available defences listed in the Act and associated regulations in relation to the offence apply. Furthermore;

- i. [REDACTED] is confirmed to be the person who cleared native vegetation from the property;
 - ii. Native vegetation was 'cleared' by:
 - a. Excavator;
 - b. Bobcat; and
 - c. Chainsaw.
 - iii. Vegetation at the property is of native composition (consistent with the definition of section 60B of the LLS Act) consisting of the following plant community type ('PCT'). This PCT (when ground-truthed) was known as:
 - a. PCT 727 – *Broad-leaved Peppermint – Brittle Gum – Red Stringybark dry open forest on the South Eastern Highlands Bioregion.*
 - iv. The property and locations where the offence occurred is defined as *Category 2 – Vulnerable Regulated Land* as per section 60D of the LLS Act. In addition, a *Category Explanation Report* provided by the Environment & Heritage Map Review Team supports that land is Category 2 – Regulated land.
 - v. *Category 2 – Vulnerable Regulated Land* is published on the Native Vegetation Regulatory Map which is publicly available.
 - vi. [REDACTED] was provided copies of maps which show the areas of the property which are mapped as *Category 2 – Vulnerable Regulated Land* when separate Land Management Certificates were issued.
- J. The works required by this remediation order provide for the maintenance, restoration and remediation of damaged areas.

Opinion

I, [REDACTED], Senior Team Leader, Southeast Compliance and Regulation ('**STL SECR**'), am satisfied that native vegetation has been cleared resulting in the damage to *Category 2 – Vulnerable Regulated Land*.

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 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. Soil disturbance in the Remediation Areas is prohibited, except in accordance with written approval from the Department.

Remediation

For the area titled '**Remediation Area**' within Annexure B, the following must be completed:

- 3.2. **Immediately cease** the modification, removal or alteration of native vegetation;
- 3.3. **Immediately cease** the use of heavy machinery, vehicles and mechanical devices is prohibited within remediation areas;
- 3.4. **Immediately cease** any application/distribution of any seed or exotic vegetation species to the Remediation Area;
- 3.5. **Within 14 days** of receiving this order, if present at the property all livestock must be excluded;
- 3.6. **Within 120 days of receiving this order**, if livestock is present at the property, the remediator must erect a fence for the purposes of excluding livestock from the remediation area. The fence must be constructed consistent with sections 3.10 to 3.12 below.
- 3.7. **At all times**, allow natural regeneration of native vegetation regrowth to succeed; and
- 3.8. **If at any time** exotic species, commercial crops, or non-native plant species are found within the Remediation Area, the Remediator must destroy all exotic species, commercial crops or non-native plant species by either spot application of herbicide or by removal by non-mechanised means as soon as practicable and in any event within **7 days** of becoming aware.
- 3.9. **Once a year when existing native vegetation trees are fruiting:** the Remediator will cut branches of **various species** of fruiting native vegetation and lay cuttings within the Remediation Area.
 - 3.9.1. Branchlets will be no more than 1 meter in length;
 - 3.9.2. The branchlets must be sourced from the property, within 80 meters of the riparian corridor; and
 - 3.9.3. Branchlets will not be cut from a threatened species.

Fencing

If there is no livestock present at the property, no fence will need to be erected. However, for the duration of this order, if livestock is introduced to the property, fences must be erected to exclude stock to the following standard:

- 3.10. A fence must be erected to exclude all livestock from remediation areas.
 - 3.10.1. During fence construction, no heavy machinery which will disturb groundcover or native vegetation will operate within 22.5 meters from the centre of [REDACTED].
 - 3.10.2. At no point can a constructed fence be located any closer than 22.5 meters away from the centre of [REDACTED].
 - 3.10.3. The Remediator may decide to construct the fence further than 22.5 meters from the centre of [REDACTED] for the purposes of allowing a buffer between the fence line and the remediation area for fence line maintenance and management. This is permitted **so long as**, at no point will the Remediation Area (**Attachment B**) be impacted by vegetation removal for fence line

maintenance, **and**, the 22.5-meter buffer distance from the centre of [REDACTED] is maintained.

- 3.10.4. Gates are to be self-closing or remain closed and locked at all times;
- 3.10.5. Gates may only be opened to allow access for the purpose of this order.
- 3.10.6. If at any time the Remediator becomes aware that the fence does not continue to meet the requirements referred in Section 3.11, the Remediator must replace or repair the fence as soon as practicable to ensure it meets requirements referred to above.

If a fence to be constructed is a wire fence:

- 3.10.7. The fence must be five (5) strands of wire;
- 3.10.8. The highest and lowest strands must be constructed of plain wire (not barbed, razor or similar material);
- 3.10.9. The fence may be high-tension as to avoid the use of barbed wire;

If a fence to be constructed is to be a post and rail fence:

- 3.10.10. The fence must be a minimum of three (3) rails; and
- 3.10.11. The top rail must be a minimum of 1.3 meters above ground level.

3.11. Fencing for the purpose of excluding stock with the aim of restoring vegetation a fence must meet the following requirements must be met:

- 3.11.1. fences must be constructed so no heavy machinery enters the remediation area;
- 3.11.2. fences must not use barbed wire on the top strand;
- 3.11.3. fences must be of a standard that excludes all stock from entering it;
- 3.11.4. any gates in the fence must be constructed of steel with self-closing locks;
- 3.11.5. any maintenance or fence construction must occur from outside of the remediation area, without any machinery entering the remediation area at any point.

3.12. Fences are to be maintained to ensure the total exclusion of stock from Remediation Areas.

Prohibited activities

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

- Heavy machinery, handheld machinery or any vehicle use;
- Clearing of native vegetation – except with written approval from the Department;
- The removal of any dead vegetation – except with written approval from the Department;
- Removal of stockpiles vegetation;
- Replanting of exotic species;
- Stock grazing;
- Water extraction;
- Cultivation, cropping, harvesting etc.;
- Construction of infrastructure beyond the erection of any fence required to exclude stock for the purpose of this remediation order; and/or
- Aerial spraying.

Weed management

- 3.14. **If at any time** exotic species, commercial crops, or non-native plant species are found within the Remediation Area, the Remediator must destroy all exotic species, commercial crops or non-native plant species by either spot application of herbicide or by removal by non-mechanised means as soon as practicable and in any event within **7 days** of becoming aware.
- 3.15. The Remediator must implement measures to ensure **exotic flora** do not have a significant impact on the **biodiversity values** of the Remediation Areas.
- 3.16. 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 with handheld pump and spray nozzle; and
 - Natural control.

Pest animals

- 3.17. 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

- 3.18. No livestock is permitted to enter Remediation Areas, for any purpose.

Water extraction

- 3.19. No water is to be extracted from the Remediation Area.

Access

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

Hazards, chemicals and waste

- 3.22. The storage of insecticides, herbicides and soil ameliorants is not permitted on the Remediation Areas except as approved in writing by the Department.
- 3.23. Herbicides may only be used in the remediation areas on exotic weeds, and only through spot spraying methodology.
- 3.24. Waste is not to be placed, stored or kept in the Remediation Areas.
- 3.25. 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

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

4. Inspections and records

Inspections

- 4.1. The Remediators must inspect the Remediation Areas once per 365-day period for the purposes of determining the percentage of ground cover that is comprised of **exotic flora** and priority weeds and to assess the condition of regenerating species.

4.2. In the Remediation Areas, there are two monitoring points 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. These monitoring points must be inspected and reported on in each report.

Table 2: Location of monitoring points

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

Note: The Remediator may install a star picket, small surveying peg, or 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:

- Any written approvals or advice from The Department of any activities to occur in remediation areas;
- 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;
- The proposed date(s) of that work and time frames for completion.
- Confirmation of the date which cut fruiting vegetation was placed within the remediation area.

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 (by the end of December of each year this order is active).

5. Reporting

Initial works report

5.1. The Remediators must prepare and submit an Initial Works Report to the Department within **120 days of the date of issue** of this Order. This report must contain:

- Confirmation of stock exclusion from the remediation area;
- Photographs confirming fencing has been erected in all remediation areas;
- All records contained above in section 4.4, to the standard outlined 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 **one hundred and twenty (120)** days from the date of issue and then monitoring reports are due as per the specified time frames noted within section 4. 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"



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

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:

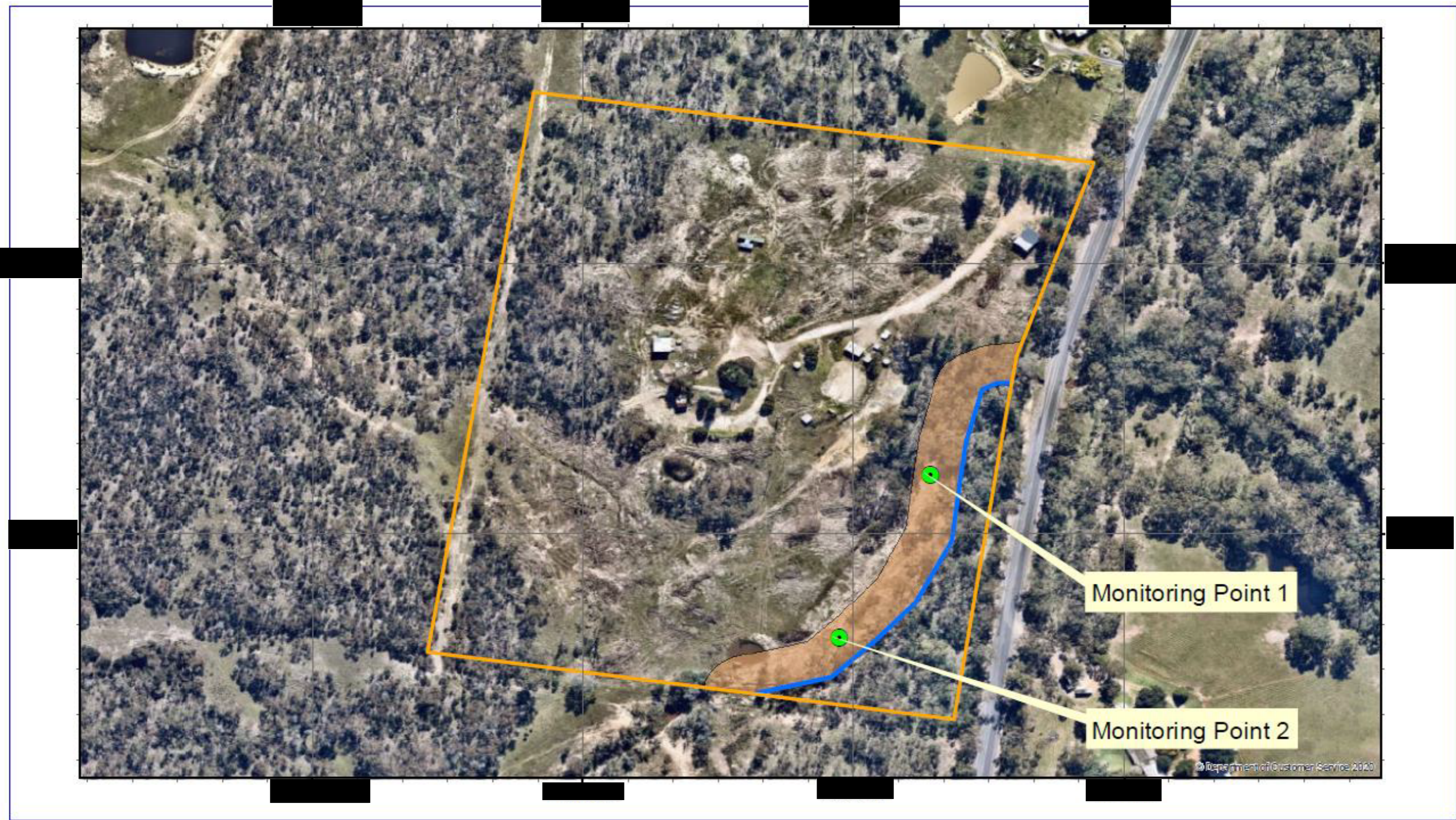
- A. Map of the 'Areas of interest'; and
- B. Maps of the 'Remediation Areas';

Attachment A: Areas of interest (AOI)



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<h3>Legend</h3> <p> Property Boundary</p> <p> </p>	<h3>Attachment A: Area of Interest</h3> <p></p> <p><small>Copyright © 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.</small></p>	<p>0 0.04 0.08 0.12 0.16 km</p> <p></p> <p><small>The base map is derived from: IPF © 2014 A. 1004</small></p> <p> NSW GOVERNMENT Planning & Environment</p>
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Legend

- Boundary of [REDACTED]
- [REDACTED]
- Monitoring Points
- Remediation Area

Attachment B: Remediation Area

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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.

0 0.04 0.08 0.12 0.16
km

Datum/Projection: GCS GDA 1994

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