



# Remediation Order

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Information and evidence obtained to date, including expert examination of satellite images and aerial photographs, associated vegetation mapping and a response to a Section 12.8 notice indicates that damage, caused by clearing 142.5 hectares of native vegetation (the area of interest mapped at **Attachment A**) occurred on the Property between 21 February 2013 and 12 November 2014.

At all material times, it was an offence against section 12 of the NV Act for a person to carry out or authorise clearing of native vegetation, except in accordance with a development consent granted in accordance with the NV Act or a property vegetation plan.

## Opinion

I, [REDACTED] Senior Team Leader, Compliance and Regulation, am satisfied that native vegetation has been damaged in or as a result of the commission of an offence against section 12 of the NV Act.

## Delegation

I, [REDACTED] Senior Team Leader, Compliance and Regulation, hold delegated authority on behalf of the Environment Agency Head for the purposes of section 11.15 of the BC Act.

## Order

I, [REDACTED], Senior Team Leader, Compliance and Regulation, order [REDACTED] (the **Remediator**) to carry out the following remediation work for a period of nineteen (19) years from the date of this Order, subject to condition 3.2 below under 'Duration'.

## Requirements

### 1. Remediation Area

- 1.1 In this Order, **Remediation Area** 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. Remediation outcomes

- 2.1 To restore and conserve species and habitats within the Remediation Area.
- 2.2 To restore ecological function and biodiversity values within the Remediation Area.

### 3. Duration

- 3.1 This Order will be in force for 19 years unless varied under the conditions of this Order or revoked in accordance with the BC Act.

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- 3.2 If after 10 years the remediator may, at his own expense, obtain independent ecological evidence, to ascertain an independent expert opinion as to whether the objectives of the Remediation Order have been met. Provided that the independent expert is of the opinion that the objectives of the Remediation Order have been met, the Department may vary or revoke the Remediation Order.

## 4. Remediation Work

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

### Soil disturbance

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

### Remediation

- 4.2 Native vegetation is to be allowed to regenerate in the Remediation Area as the priority method of remediation. In order to protect regenerating vegetation and fauna habitat, the following activities are prohibited within the Remediation Area:
- clearing of native vegetation – except as a requirement of this Order or with written approval from the Department;
  - removal of fallen timber;
  - cultivation;
  - construction of infrastructure;
  - aerial spraying;
  - grazing, other than sustainable grazing.
- 4.3 Sow the Remediation Area that has been subjected to cultivation with native grasses as prescribed in **Attachment C**.
- 4.4 If after a period of four years, over-storey species regeneration is occurring at a rate lower than 10 stems per hectare, then, plant over-storey species in accordance with the directions given in **Attachment C**.

### Weed management

- 4.5 The Remediator must implement measures to ensure **weeds** do not have a significant impact on the **biodiversity values** of the Remediation Area.
- 4.6 Without limiting this clause, the Remediator must ensure that weeds occupy less than 5% of total groundcover of the Remediation Area. Control measures permitted include:
- spot application of herbicide;
  - manual removal;
  - biological control.

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## Pest animals

- 4.7 The Remediator must implement measures to reduce the density of **pest animals** to a level that is not having a significant impact on the biodiversity values of the Remediation Area; and maintain densities at or below that level using any approved means.

## Livestock

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

## Fire

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

## Fencing

- 4.10 Fences are to be maintained to ensure the exclusion of stock from the Remediation Area.
- 4.11 If the Remediator wishes to continue grazing rights within the land outside the Remediation Area, the boundaries of the defined Remediation Area must be fenced to a standard that excludes stock.
- 4.12 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.

## Access

- 4.13 The Remediator must provide reasonable access to staff of the Department for the purposes of administering this Order.
- 4.14 The Department must provide reasonable notice of an intention to inspect the Remediation Area.

## Hazards, chemicals and waste

- 4.15 The use of insecticides, herbicides and soil ameliorants is not permitted on the Remediation Area except as approved in writing by the Department.
- 4.16 **Waste** is not to be placed, stored or kept in the Remediation Area.
- 4.17 All staff, contractors and other visitors entering the Remediation Area is to be made aware of this Order and instructed to comply with its requirements.

## Costs

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



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## 5. Monitoring and monitoring

- 5.1 The Remediator is to inspect the Remediation Area 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 non-native flora and weeds.
- 5.2 In the Remediation Area, there are six monitoring points located at the GPS co-ordinates given in **Table 2** and mapped at **Attachment B**. The co-ordinates must be permanently marked to ensure the location is the same for each monitoring period.

**Table 1: Location of monitoring points**

Monitoring Point	Latitude	Longitude	Easting	Northing

- 5.3 The following records must be made by the Remediator for all inspections (in the form provided in **Attachment D**):
  - a) the date(s) on which the inspection was undertaken;
  - b) the name of the person who undertook the inspection;
  - c) photographs to the north, east, south and west at each monitoring point;
  - d) observations made during the inspection;
  - e) details of any work required within the Remediation Area;
  - f) the proposed date(s) of that work.
  
- 5.4 All records required to be kept by this Order must be:
  - a) made in the forms provided;
  - b) accurate;
  - c) legible;
  - d) kept for the duration of this Order;
  - e) provided to the Department annually;
  - f) produced in a legible form to any authorised officer of the Department of Planning, Industry and Environment who asks to see them.

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## 6. Reporting

### Initial Works Report

6.1 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:

- a) confirmation of the exclusion of stock and dates of any actions taken to remove stock;
- b) the percentage of ground cover that is comprised of non-native flora and weeds;
- c) an assessment of pest animal presence within the Remediation Area;
- d) advice of any completed, required, or proposed work within the Remediation Area.

### Annual Monitoring Report

6.2 Within 12 months of the date of issue of this Remediation Order, the Remediator must prepare and submit an Annual Monitoring Report to the Department (**Attachment E**). An annual monitoring report must be submitted to the Department every 12 months whilst this Remediation Order is in force. Each report must contain the records made for all inspections (see clauses 5.1, 5.2, 5.3 and 5.4).

6.3 Reports may be submitted to the Department using any of the following methods:

- a) By registered post to:

Compliance & Regulation  
Biodiversity & Conservation  
P.O. Box 2111  
Dubbo NSW 2830

**OR**

- b) By courier or by hand to:

Compliance & Regulation  
Biodiversity & Conservation  
Level 1  
48-52 Wingewarra Street  
Dubbo NSW 2830

**OR**

- c) By email to:

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

Marked for attention of the Compliance and Regulation

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## Definitions

In this Order, the following definitions apply:

Term	Definition
Areas of interest	Areas where native vegetation was cleared in contravention of section 12 of the <i>Native Vegetation Act 2003</i> ; mapped at <b>Attachment A</b> .
BC Act	<i>Biodiversity Conservation Act 2016</i>
Biodiversity values	Has the same meaning as defined in section 1.5 of the BC Act
Habitat	Has the same meaning as defined in section 1.6 of the BC Act
Clearing	Has the same meaning as defined in section 7 of the <i>Native Vegetation Act 2003</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
Native vegetation	Has the same meaning as defined in the <i>Native Vegetation Act 2003</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>
Pest 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
Stock	Means all livestock, including but not limited to cattle, horses, sheep, alpacas, domesticated pigs and domesticated goats, and excludes native wildlife
Weed	Means a plant that is a pest species as defined by section 15 of the Biosecurity Act 2015 – list available at: <a href="http://weeds.dpi.nsw.gov.au/">http://weeds.dpi.nsw.gov.au/</a> or any other species that is exotic and is impacting on biodiversity values
Waste	Has the same meaning as defined in the <i>Protection of the Environment Operations Act 1997</i>
Property	[REDACTED]
Remediation Area	The areas located on the Property shown schematically on the map in <b>Attachment B</b> and marked “Remediation Area”
Remediator	[REDACTED]

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Term	Definition
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
Endangered ecological community	Has the same meaning as defined in Section 1.6 of the <i>Biodiversity Conservation Act 2016</i> for 'threatened ecological community'

## Warning and information this Order

### Why we serve remediation orders:

A remediation order can be issued by the Environment Agency Head (or their delegate) under section 11.15 of the *Biodiversity Conservation Act 2016* (BC Act). The written order compels a person to carry out specified remediation work or achieve a specified remediation outcome in response to damage caused as a result of certain environmental offences.

A Remediation Order will not negate the potential for enforcement action (including penalty notice or prosecution) under the BC Act, NV Act or *Local Land Services Act 2013*. A Remediation Order is separate to any potential enforcement action.

**What you are required to do:** The work required by this remediation order provides 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. 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.

**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.

If you fail to comply with this Order, the Environment Agency Head or their Delegate may authorise any other person to enter the Property and carry out all or 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).

**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.

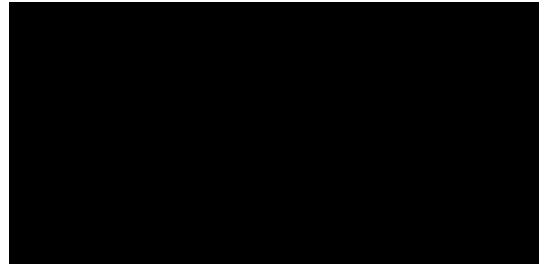


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More information on appeals can be found on the NSW Land and Environment Court website <http://www.lec.justice.nsw.gov.au>.

Under section 11.15(4) of the BC Act this Order may be varied or revoked by a further order.



Senior Team Leader  
Compliance and Regulation  
Biodiversity and Conservation Division  
(by delegation)

Attachments:

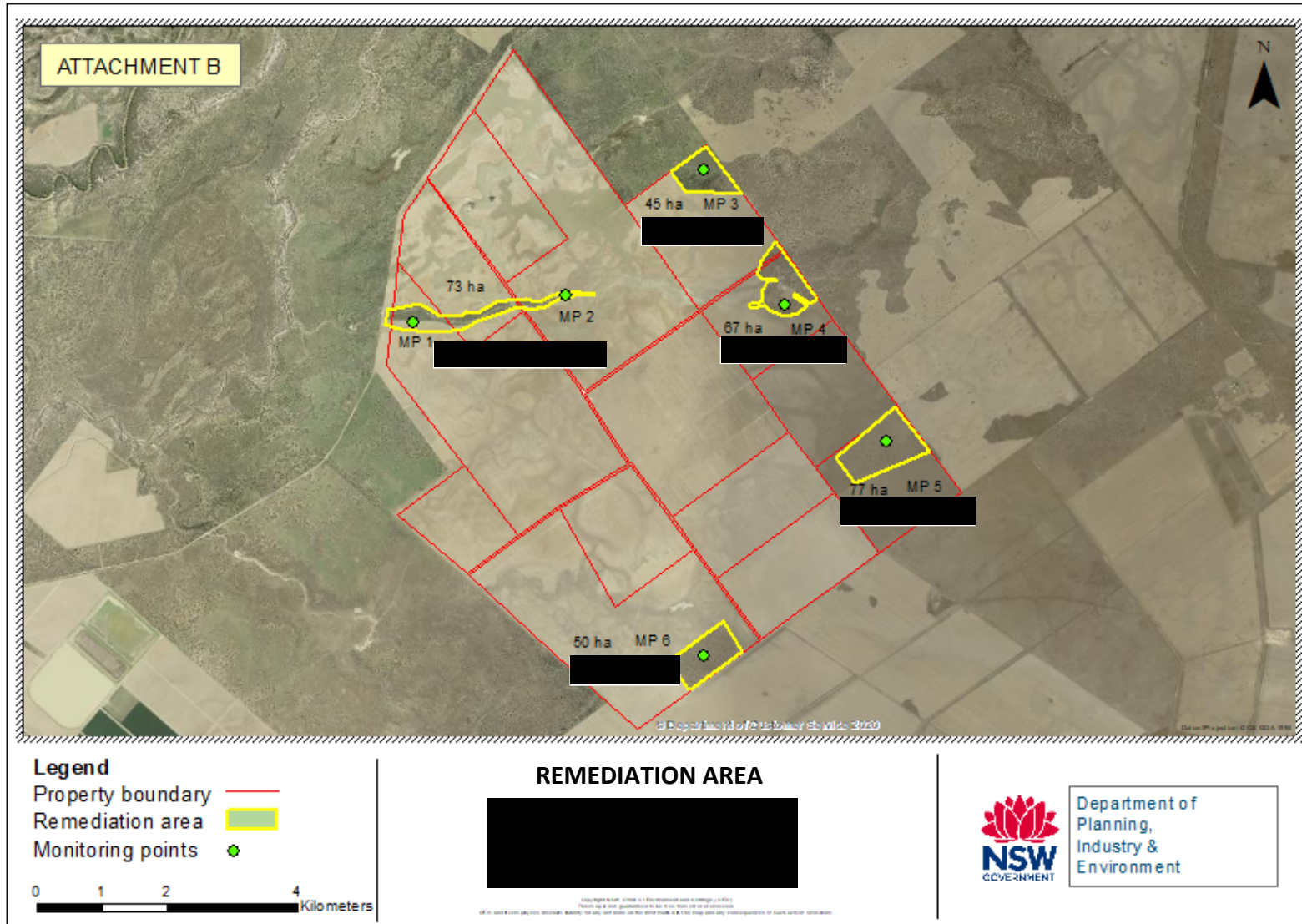
- A - Map of the 'Areas of interest'
- B - Map of the 'Remediation Area'
- C - Revegetation requirements
- D - Monitoring report template
- E - Annual report template

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## ATTACHMENT C

### Revegetation requirements – cultivated areas

**Endemic Grasses:** To reduce the likelihood of weed invasion and to promote soil stability, a mix of the following endemic grass species should be sown in the Remediation Area where it has been previously cultivated and sown to a level greater than 60% groundcover per hectare of the remediation area:

- Mitchell Grass (*Astrebla elymoides*)
- Queensland Bluegrass (*Dichanthium sericeum* subsp. *sericeum*)
- Curly Windmill Grass (*Enteropogon acicularis*)
- Windmill Grass (*Chloris truncata*)
- Native Millet (*Panicum decompositum*).
- Warrego Summer Grass (*Paspalidium jubiflorum*)
- Fairy Grass (*Sporobolus caroli*)
- Wallaby Grass (*Austrodanthonia fulva*)

**Overstorey regeneration:** if tree species fail to regenerate in accordance with conditions 4.3 and 4.4 of this Order; plant the following species at the rates provided in **Table 3**, consistent with benchmark conditions for the *Coolabah open woodland wetland with chenopod/grassy ground cover on grey and brown clay floodplains*, which is associated with the *Coolabah-Black Box Woodland in the Darling Riverine Plains, Brigalow Belt South, Cobar Peneplain and Mulga Lands Bioregion* **endangered ecological community**.

**Table 3: Planting rates for tree species**

Scientific name	Common Name	Planting rate	Planting location
<i>Acacia pendula</i>	Weeping Myall	2 stems per hectare	More than 50m from upper edge of depressions or watercourses
<i>Acacia salicina</i>	Cooba	2 stems per hectare	Within 50m from upper edge of depressions or watercourses
<i>Acacia stenophylla</i>	River Cooba	2 stems per hectare	Within 50m from upper edge of depressions or watercourses
<i>Eucalyptus largiflorens</i>	Black Box	5 stems per hectare	In depressions or lining watercourses
<i>Eucalyptus coolabah</i>	Coolabah	5 stems per hectare	In depressions or lining watercourses
<i>Eucalyptus populnea</i> subsp. <i>bimbil</i>	Poplar Box	3 stems per hectare	More than 50m from upper edge of depressions or watercourses

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<i>Capparis mitchellii</i>	Wild Orange	2 stems per hectare	More than 50m from upper edge of depressions or watercourses
<i>Casuarina cristata</i>	Belah	3 stems per hectare	More than 50m from upper edge of depressions or watercourses
<i>Geijera parviflora</i>	Wilga	2 stems per hectare	Adjacent to a eucalypt
<i>Eremophila mitchellii</i>	Budda	2 stems per hectare	More than 50m from upper edge of depressions or watercourses
<i>Eremophila maculata</i>	Spotted Fuchsia	1 stem per hectare	More than 50m from upper edge of depressions or watercourses



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## Attachment D - Monitoring point inspection form

Monitoring Point:	Inspector:	Inspection number: [1] [2]	Date:     /     /
Weed cover (%):	Native cover (%):	Bare earth (%):	Litter cover (%):
Grazing severity <sup>1</sup> : [L] [M] [H]	Pest animals: [Y] [N]	Erosion severity: [L] [M] [H]	Fire damage: [Y] [N]
Stock present: [Y] [N]	Fence condition: [Excludes stock] [Requires repair]	Signed:	

Photograph (North):

Photograph (East):

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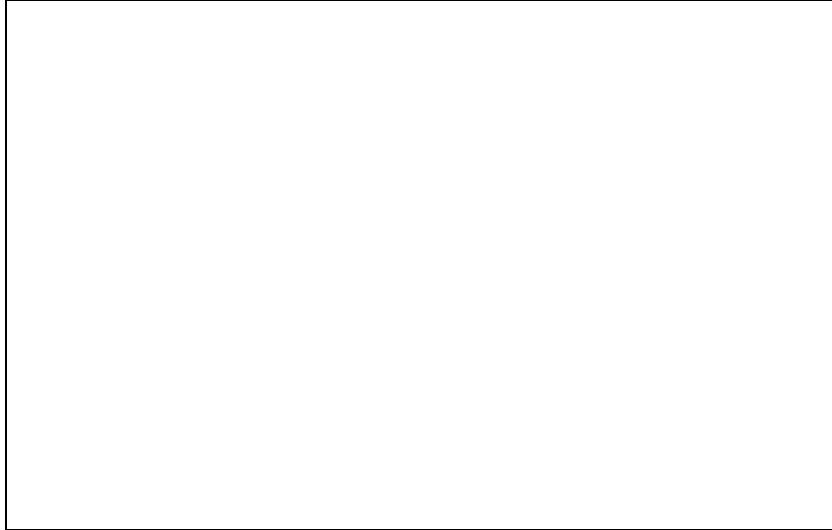
<sup>1</sup> Includes grazing from pest animals and over-abundant native herbivores



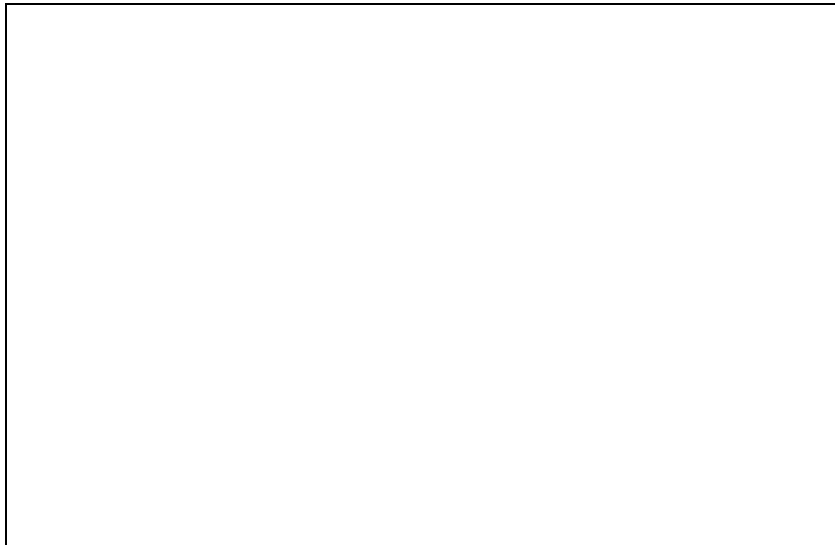
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Photograph (South):



Photograph (West):



Notes:

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## Attachment E – Annual reporting form

Date: / /

### 1. Remediation work completed

Weed control

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Pest animal control

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Fencing

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Fire hazard reduction

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### 2. Statement of condition of native vegetation

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### 3. Future remediation work required

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Signed:

Name:

Position:

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## Signature and certification

I / We declare and certify that the information in this monitoring report is true and correct.

Signature:	Signature:
Name:	Name:
Position:	Position:
Date: / /	Date: / /