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WESTERN AUSTRALIA

EPBC Annual Compliance Report

EPBC 2020/8833

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**Mitchell Freeway
Principal Shared Path Gaps Project
Ocean Reef Road to Hepburn Avenue**

Reporting Period: January 2025 to January 2026

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Approver:	Director Environment and Heritage	Rev 0	02/04/2026

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Declaration of Accuracy

I declare that to the best of my knowledge, all the information contained in, or accompanying this document is complete, current and correct. I am duly authorised to sign this declaration on behalf of the proponent/approval holder. I am aware that:

- a) giving false or misleading information is a serious offence under section 137.1 of the *Criminal Code Act 1995* (Cth);
- b) section 137.2 of the *Criminal Code Act 1995* (Cth) makes it an offence for a person to produce a document to another person in compliance or purported compliance with a law of the Commonwealth where the person knows that the document is false or misleading;
- c) section 140 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) makes it an offence for an approval holder to provide information in response to an approval condition where the person is reckless as to whether the information is false or misleading; and
- d) section 491 of the EPBC Act makes it an offence for a person to provide information or documents to specified persons who are known by the person to be performing a duty or carrying out a function under the EPBC Act or the Environment Protection and Biodiversity Conservation Regulations 2000 (Cth) (EPBC Regulations) where the person knows the information or document is false or misleading.

Signed  (approval holder)

Full name: Martine Scheltema

Position: Director Environment and Heritage

Organisation: Main Roads Western Australia (ABN: 50 860 676 021)

Date 02/04/2026

1 INTRODUCTION

1.1 Description of Activities

Mitchell Freeway is the main arterial road that connects Perth's northern suburban areas with Perth's central business district and southern suburbs. The Mitchell Freeway Principal Shared Path (PSP) Gaps Ocean Reef Road to Hepburn Avenue Project (the Project), is located within the City of Joondalup.

Main Roads Western Australia (Main Roads) (ABN: 50 860 676 021) is the proponent of the Project, which is located within and adjacent to the Mitchell Freeway road reserve. The Project consists of:

- The installation of a new PSP along the eastern side of Mitchell Freeway, including the upgrading of existing PSPs to current design standards.
- The construction of noise walls to mitigate freeway noise on nearby residential areas between Ocean Reef Road to Hepburn Avenue.
- Verge side emergency stopping bays.
- Modification of freeway on-ramps to accommodate Intelligent Transport Systems (ITS) works.
- Drainage improvement works on Mitchell Freeway.

Works commenced for the Project on 21 January 2022, with minor works still ongoing.

1.2 Location of the Approved Action

The location of the approved action is shown in Figure 1.

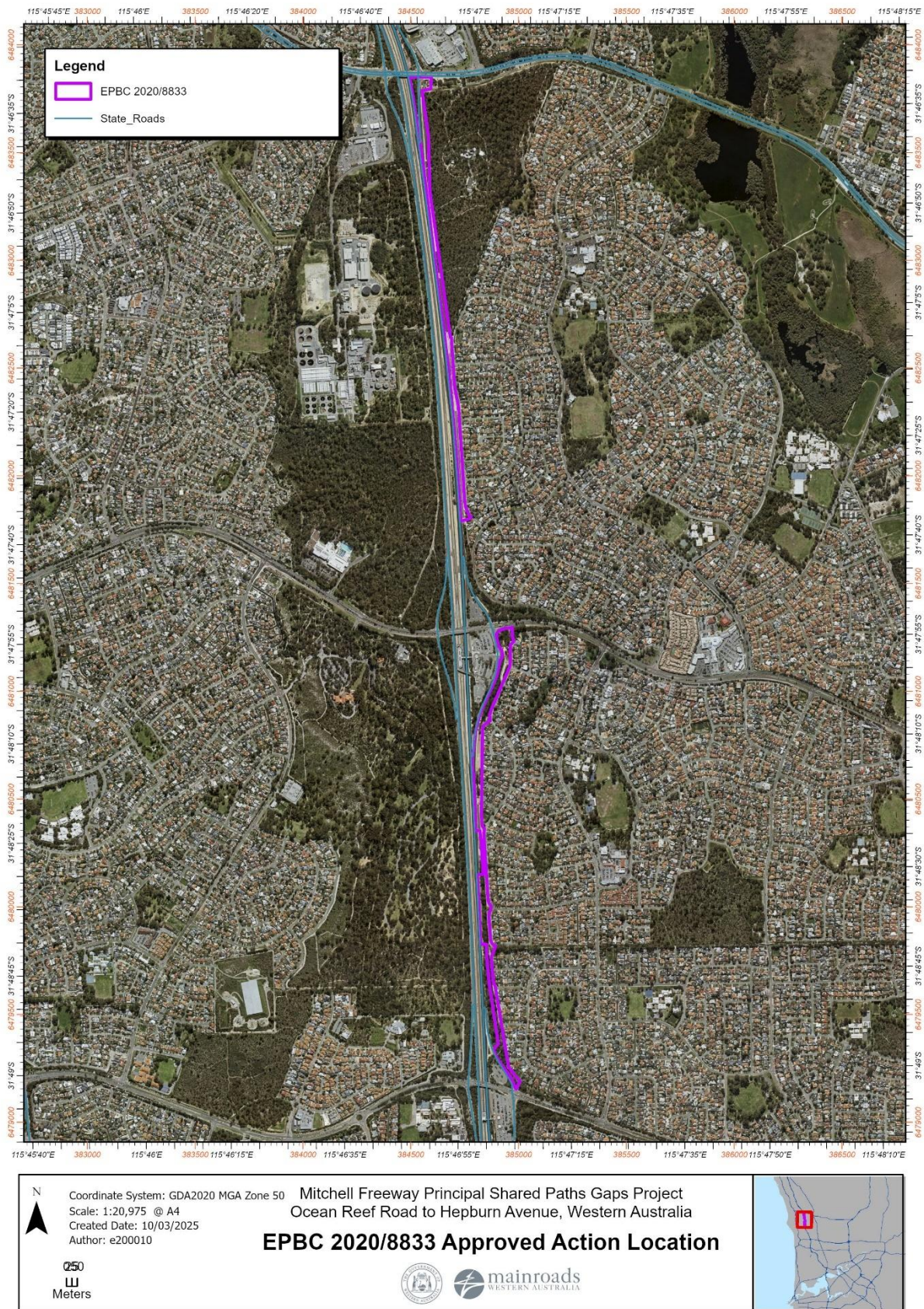


Figure 1. Location of Approved Action

1.3 EPBC 2020/8833 Approval Background

The Project was referred to the Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW; the Department) in January 2017 for assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The Department determined the Project was a 'Controlled Action' and the project was assessed through Preliminary Documentation due to its potential impacts to matters of national environmental significance (MNES) that include Tuart Woodlands of the Swan Coastal Plain Threatened Ecological Community (TWSCP TEC), Carnaby's Cockatoo (*Zanda latirostris*) habitat and Forest Red-tailed Black Cockatoo (FRTBC, *Calyptorhynchus banksia naso*) habitat. The Department granted conditional approval for the Project on 5 October 2021 under the EPBC number 2020/8833.

1.4 Purpose of this Report

This Annual Compliance Report (ACR) has been produced to satisfy Condition 11 of approval EPBC 2020/8833 and covers the period from 21 January 2025 to 20 January 2026.

This report assesses compliance with all conditions of the approval and will be published on the Main Roads website.

2 SUMMARY OF COMPLIANCE

The Project was found to be fully compliant with the requirements of EPBC Approval 2020/8833.

No vegetation clearing was undertaken during the reporting period; however, minor construction works were ongoing.

Table 1 in Appendix A of this report details the Project's compliance with regard to each approval condition over the 12-month reporting period: 21 January 2025 to 20 January 2026.

If a condition falls outside of the scope of the current reporting period it is considered "Not Applicable" (N/A).

Conditions deemed "Completed" are shaded grey.

2.1 New Environmental Risks

No new environmental risks for the project have been identified during the reporting period.

APPENDICES

Appendix A: Compliance Table

Table 1. Compliance with Conditions of EPBC Approval 2020/8833

Condition Number	Condition	Status	Evidence/Comments
1	<p>For the protection of black cockatoos and Tuart TEC, when undertaking the action, the approval holder must not clear:</p> <ol style="list-style-type: none"> more than 3.02 ha of foraging and potential breeding habitat for black cockatoos within the development envelope. more than two suitable nesting hollows within the development envelope. more than 12.16 ha of Tuart TEC within the development envelope. 	Compliant	<p>No clearing of black cockatoo habitat and Tuart TEC was undertaken under this approval during the reporting period.</p> <p>Clearing of black cockatoo habitat and Tuart TEC to date within the Development Envelope, is:</p> <ul style="list-style-type: none"> 2.51 ha of foraging and potential breeding habitat for black cockatoos. One suitable nesting hollow (on 8 February 2023) was cleared for the Project. No suitable nesting hollows were cleared during the reporting period. 7.44 ha of Tuart Woodlands of the Swan Coastal Plain Threatened Ecological Community. <p>The extent of the clearing to date is shown in Figures 2 and 3 (see Appendix B).</p>
2	<p>To mitigate impacts to nesting black cockatoos, the approval holder must, within 72 hours prior to clearing the two suitable nesting hollows, investigate these hollows to determine if they are currently utilised for nesting by black cockatoos. The investigation must be undertaken by a suitably qualified field ecologist. If any black cockatoos are utilising any hollow in any tree, the approval holder must:</p> <ol style="list-style-type: none"> clearly identify and mark the tree in which black cockatoos are identified utilising any hollow; and not clear any tree containing a currently utilised suitable nesting hollow or any vegetation within a ten metre radius of any such 	Compliant	<p>No suitable nesting hollows were cleared during the reporting period.</p> <p>One tree with a suitable nesting hollow was cleared on 8 February 2023 (Figure 1). The hollow was investigated by a suitably qualified field ecologist, on the 6th February 2023.</p> <p>No signs of breeding activity were noted, and black cockatoos were not seen or heard within the survey area. The investigation determined that no Black</p>

Condition Number	Condition	Status	Evidence/Comments
	tree branch must not be cleared during the current breeding season as determined by a suitably qualified field ecologist.		cockatoos were utilising any hollow in the tree that was removed (Appendix 2).
3	<p>To offset the loss of suitable nesting hollows within the development envelope, the approval holder must:</p> <ol style="list-style-type: none"> within 48 hours following clearing of suitable nesting hollows, notify the Department in writing of the number of cleared suitable nesting hollows for black cockatoos. within 30 days following completion of the action, notify the Department in writing if no suitable nesting hollows for black cockatoos were cleared. install, in accordance with the artificial nesting hollow installation guidelines, at least three artificial nesting hollows for each suitable nesting hollow cleared, prior to the next breeding season. install the artificial nesting hollows in a location approved in writing by DBCA. implement the artificial nesting hollows and ensure that each installed artificial nesting hollow is monitored and maintained in accordance with the artificial nesting hollow maintenance guidelines for ten years from installation, with maintenance actions undertaken before the commencement of each breeding season. not install artificial nesting hollows in a manner that requires additional clearing of foraging and potential breeding habitat for black cockatoos or within 10 metres of the edge of the road seals or buildings, to reduce the risk of vehicle strike and human disturbance. ensure that each installed artificial nesting hollow is inspected at least twice each year, and at least four weeks apart, by a suitably qualified field ecologist during the breeding season for ten years from installation of the artificial nesting hollow to record any evidence of use by black cockatoos. 	Compliant	<ol style="list-style-type: none"> The department was notified on the 9 February 2023 that one tree with a suitable hollow was removed on the 8 February 2023 Not applicable Six Artificial Hollows were installed at the Austin Bay Nature Reserve on the 6 February 2023. (Appendix 2) DBCA provided approval for the location for installation of the artificial nesting hollows in writing on the 13 January 2023 Each installed artificial nesting hollow was monitored during the reporting period in accordance with the artificial nesting hollow maintenance guidelines. The monitoring determined that no maintenance actions were required No clearing was undertaken for the installation of the hollows. The hollows were not installed within 10 metres of the edge of the road seals or buildings Three monitoring events, at least four weeks apart, were undertaken between 11 September 2025 and 14 November 2025 to record any evidence of use by black cockatoos (Appendix C – Austin Bay Black Cockatoo Monitoring Report). When required, based on the outcomes of the monitoring reports, Main Roads will continue to maintain the artificial nesting hollows until a suitably qualified field ecologist verifies in

Condition Number	Condition	Status	Evidence/Comments
	h) continue to maintain the artificial nesting hollows until a suitably qualified field ecologist verifies in writing that at least one artificial nesting hollow has shown evidence of black cockatoo nesting for three consecutive years.		writing that at least one artificial nesting hollow has shown evidence of black cockatoo nesting for three consecutive years. The monitoring report for 11 September 2025 to 14 November 2025 advised that no maintenance was required.
4.	If, after nine years from commencement of the action, the approval holder is unable to provide the verification by a suitably qualified field ecologist required under Condition 3.e., the approval holder must, within ten years after commencement of the action: <ul style="list-style-type: none"> a) submit to the Minister for approval a proposal for an offset that meets the requirements of the Environmental Offsets Policy and will compensate for the permanent loss of the two suitable nesting hollows. If the Minister approves the proposal, the proposal must be implemented. b) submit to the Department a detailed assessment of the factors that caused the failure to achieve black cockatoo nesting in any artificial nesting hollow for three consecutive years. 	Not applicable	The action commenced on 21 January 2022. Condition 3e) requires artificial nesting hollows are installed, monitored and maintained appropriately.
5.	All data, enquiries and findings of the monitoring and investigation required by Condition 3 must be published on the proponent's website to contribute to potential research into the use of artificial nesting hollows by black cockatoos. These must be published within 60 days of a suitably qualified field ecologist providing verification as required under Condition 3 or within 25 business days after submitting the assessment report required under Condition 4.b.	Compliant	All data, enquiries and findings of the monitoring and investigation required by Condition 3 is included within the Appendices of the ACRs (see Appendix C). All ACRs are published on Main Roads' external website at https://www.mainroads.wa.gov.au/community-environment/environment/construction-project-reports/ Verification required by Condition 3h) and 4b) is not required yet.
6.	To offset the residual significant impacts on black cockatoos and Tuart TEC, prior to the commencement of the action the approval holder must provide the Department with:	Compliant - Completed	Main Roads provided the Department with written evidence that an area of no less than 31.9 ha within the Lake Clifton Offset property has been allocated

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Condition Number	Condition	Status	Evidence/Comments
	<ul style="list-style-type: none"> a) written evidence that an area of no less than 31.9 ha within the Lake Clifton Offset property has been allocated as an offset for this particular action; and b) a description and map clearly specifying the location, boundaries, offset attributes and shapefiles (including latitude and longitude coordinates) of the 31.9 ha area within the Lake Clifton Offset property. 		as an offset for this particular action and a description and map clearly specifying the location, boundaries, offset attributes and shapefiles (including latitude and longitude coordinates) of the 31.9 ha area within the Lake Clifton Offset property on 15 October 2021
7.	The approval holder must notify the Department in writing of the date of commencement of the action within 10 business days after the date of commencement of the action.	Compliant - Completed	Commencement of the action was on 21 January 2022 and Main Roads notified the Department in writing on 27 January 2022, advising of the commencement. -
8.	If the commencement of the action does not occur within 5 years from the date of this approval, then the approval holder must not commence the action without the prior written agreement of the Minister.	Compliant - Completed	The action commenced on 21 January 2022 which was within 5 years of the approval.
9.	The approval holder must maintain accurate and complete compliance records.	Compliant	Main Roads has maintained records in accordance with this condition and their legal obligations under the <i>State Records Act 2000</i> (Western Australia).
10.	If the Department makes a request in writing, the approval holder must provide electronic copies of compliance records to the Department within the timeframe specified in the request.	Not applicable	To date, no request for compliance records has been received.
11.	<p>The approval holder must prepare a compliance report for each 12 month period following the date of commencement of the action, or otherwise in accordance with an annual date that has been agreed to in writing by the Minister. The approval holder must:</p> <ul style="list-style-type: none"> a) publish each compliance report on the website within 60 business days following the relevant 12 month period b) notify the Department by email that a compliance report has been published on the website and provide the weblink for the compliance report within 5 business days of the date of publication 	Compliant	<p>This compliance report has been prepared and submitted to meet this condition. This compliance report is published on the Main Roads website at https://www.mainroads.wa.gov.au/community-environment/environment/construction-project-reports/.</p> <p>This report will be published on the Main Roads website prior to 21 April 2026 and the Department will be notified via email of the compliance report publication.</p>

Condition Number	Condition	Status	Evidence/Comments
	<ul style="list-style-type: none"> c) keep all compliance reports publicly available on the website until this approval expires d) exclude or redact sensitive ecological data from compliance reports published on the website e) where any sensitive ecological data has been excluded from the version published, submit the full compliance report to the Department within 5 business days of publication. 		
12.	<p>The approval holder must notify the Department in writing of any: incident; non-compliance with the conditions; or non-compliance with the commitments made in plans. The notification must be given as soon as practicable, and no later than two business days after becoming aware of the incident or non-compliance. The notification must specify:</p> <ul style="list-style-type: none"> a) any condition which is or may be in breach; b) a short description of the incident and/or non-compliance; and c) the location (including co-ordinates), date, and time of the incident and/or non-compliance. In the event the exact information cannot be provided, provide the best information available. 	Not applicable	There have not been any incidents or non-compliance with the conditions or the commitments made in plans, during the reporting period.
13.	<p>The approval holder must provide to the Department the details of any incident or non-compliance with the conditions or commitments made in plans as soon as practicable and no later than 10 business days after becoming aware of the incident or non-compliance, specifying:</p> <ul style="list-style-type: none"> a) any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future; b) the potential impacts of the incident or non-compliance; and c) the method and timing of any remedial action that will be undertaken by the approval holder. 	Not applicable	There have not been any incidents or non-compliance with the conditions or the commitments made in plans, during the reporting period.
14.	The approval holder must ensure that independent audits of compliance with the conditions are conducted as requested in writing by the Minister.	Not applicable	To date, no request for compliance audits has been received.

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Condition Number	Condition	Status	Evidence/Comments
15.	For each independent audit, the approval holder must: <ul style="list-style-type: none"> a) provide the name and qualifications of the independent auditor and the draft audit criteria to the Department; b) only commence the independent audit once the audit criteria have been approved in writing by the Department; and c) c. submit an audit report to the Department within the timeframe specified in the approved audit criteria. 	Not applicable	To date, no request for compliance audits has been received.
16.	The approval holder must publish the audit report on the website within 10 business days of receiving the Department’s approval of the audit report and keep the audit report published on the website until the end date of this approval.	Not applicable	To date, no request for compliance audits has been received.
17.	Within 30 days after the completion of the action, the approval holder must notify the Department in writing and provide completion data.	Compliant	The project is now in post-construction, noting that the project may return to construction based on operational needs.

Appendix B: Figures - Black Cockatoo Habitat and Tuart TEC Clearing

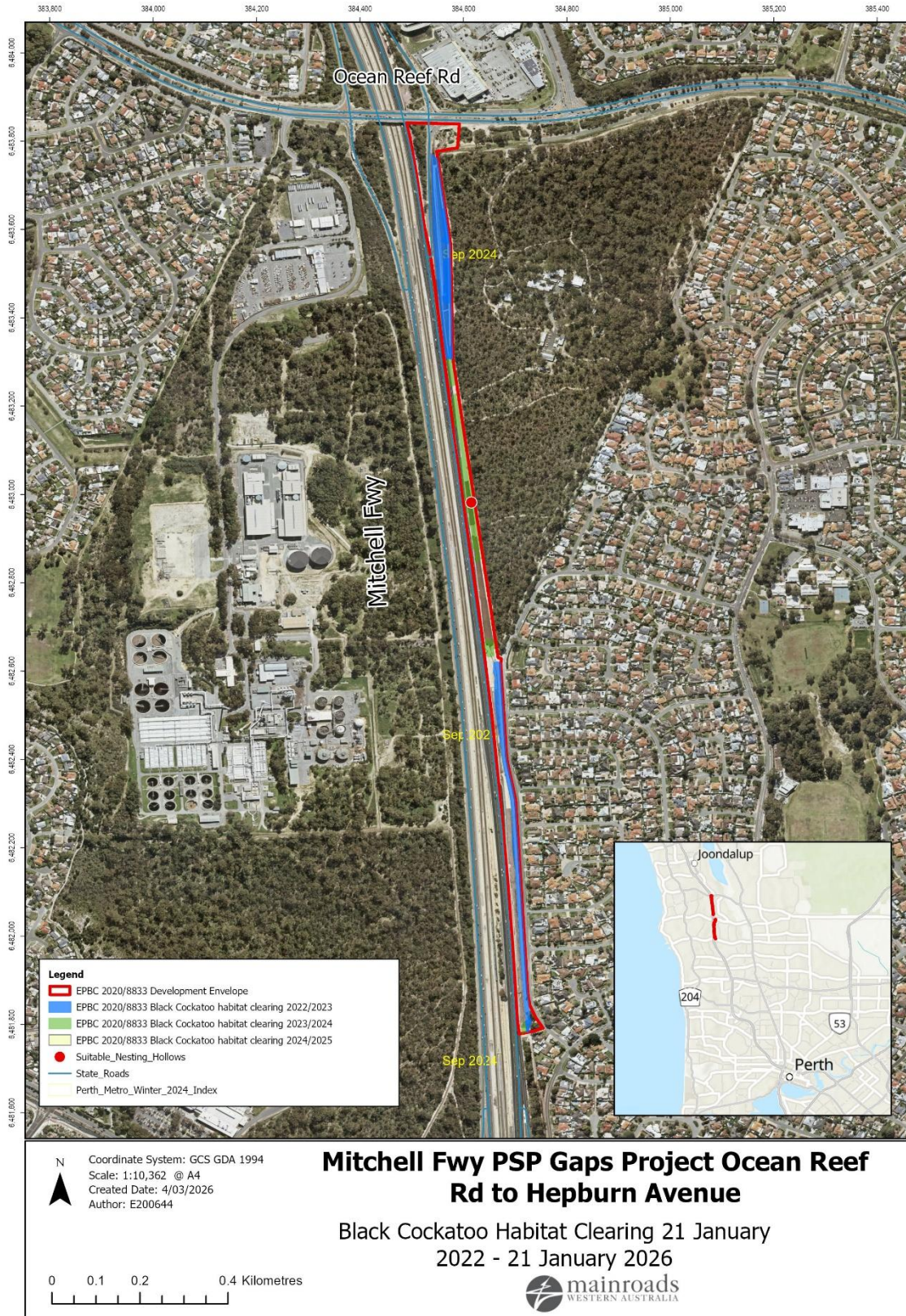
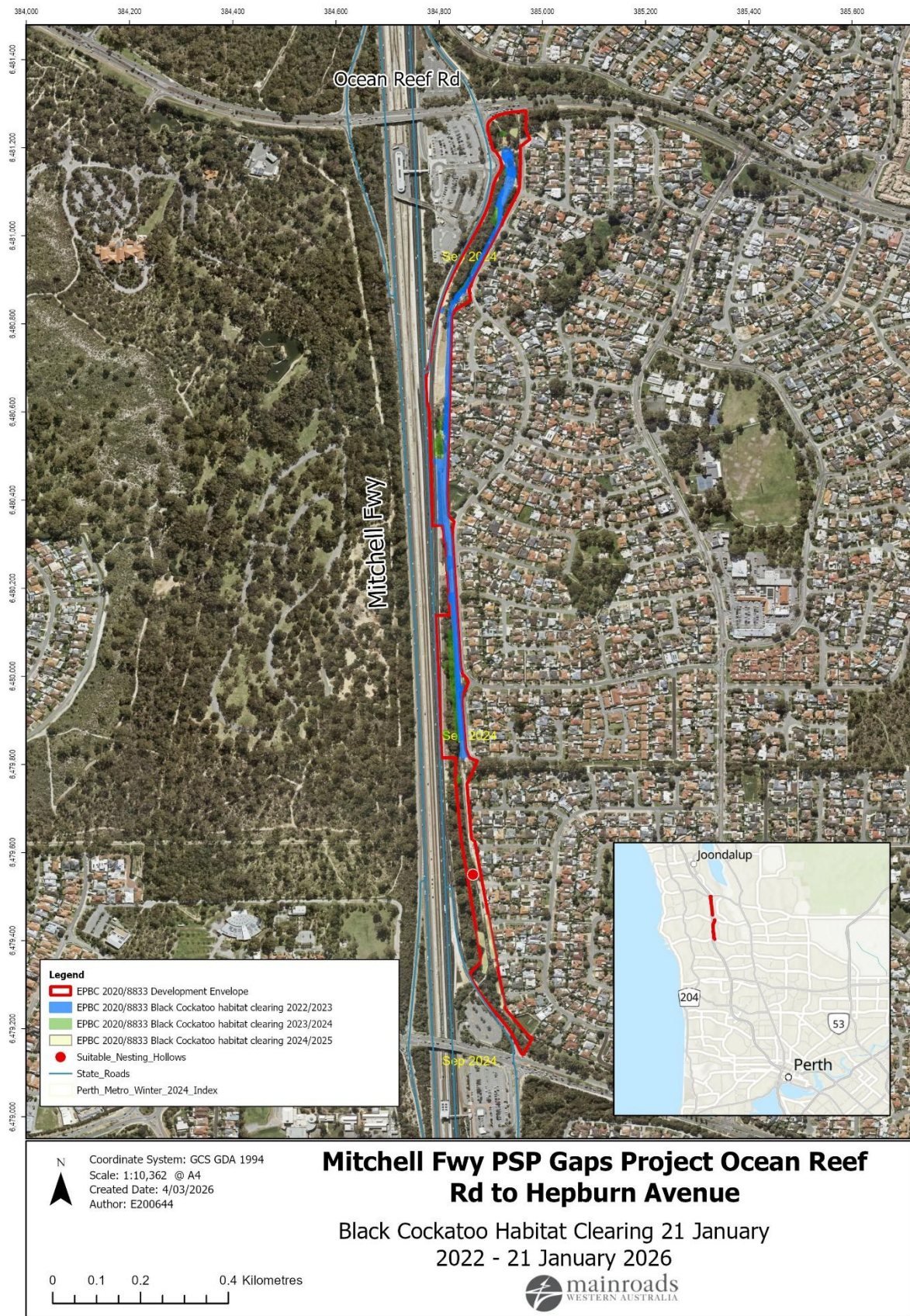


Figure 2a. Black Cockatoo Habitat Clearing 21 January 2022 – 21 January 2026



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Figure 2b. Black Cockatoo Habitat Clearing 21 January 2022 – 21 January 2026

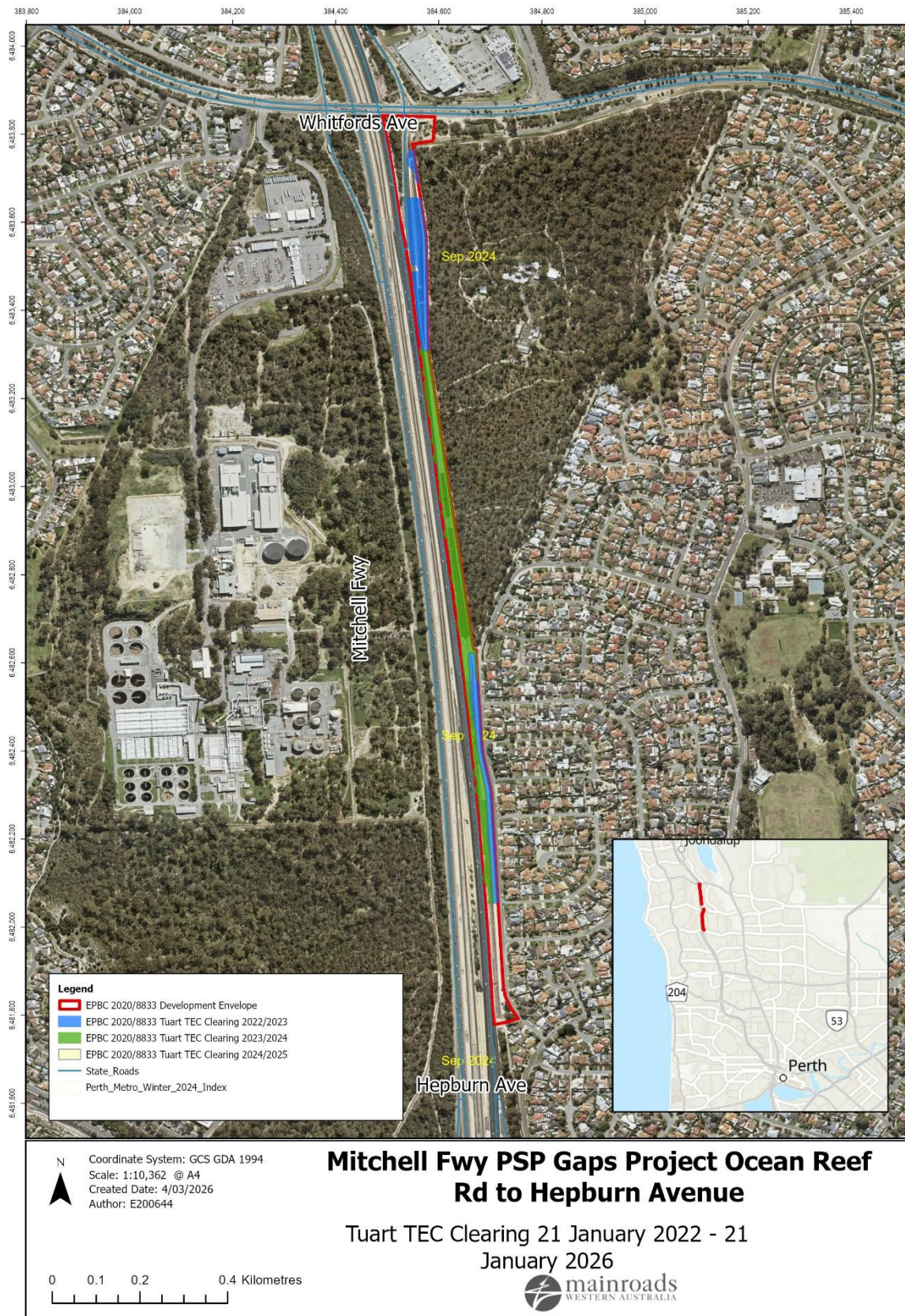


Figure 3a. Tuart TEC Clearing 21 January 2022 – 21 January 2026

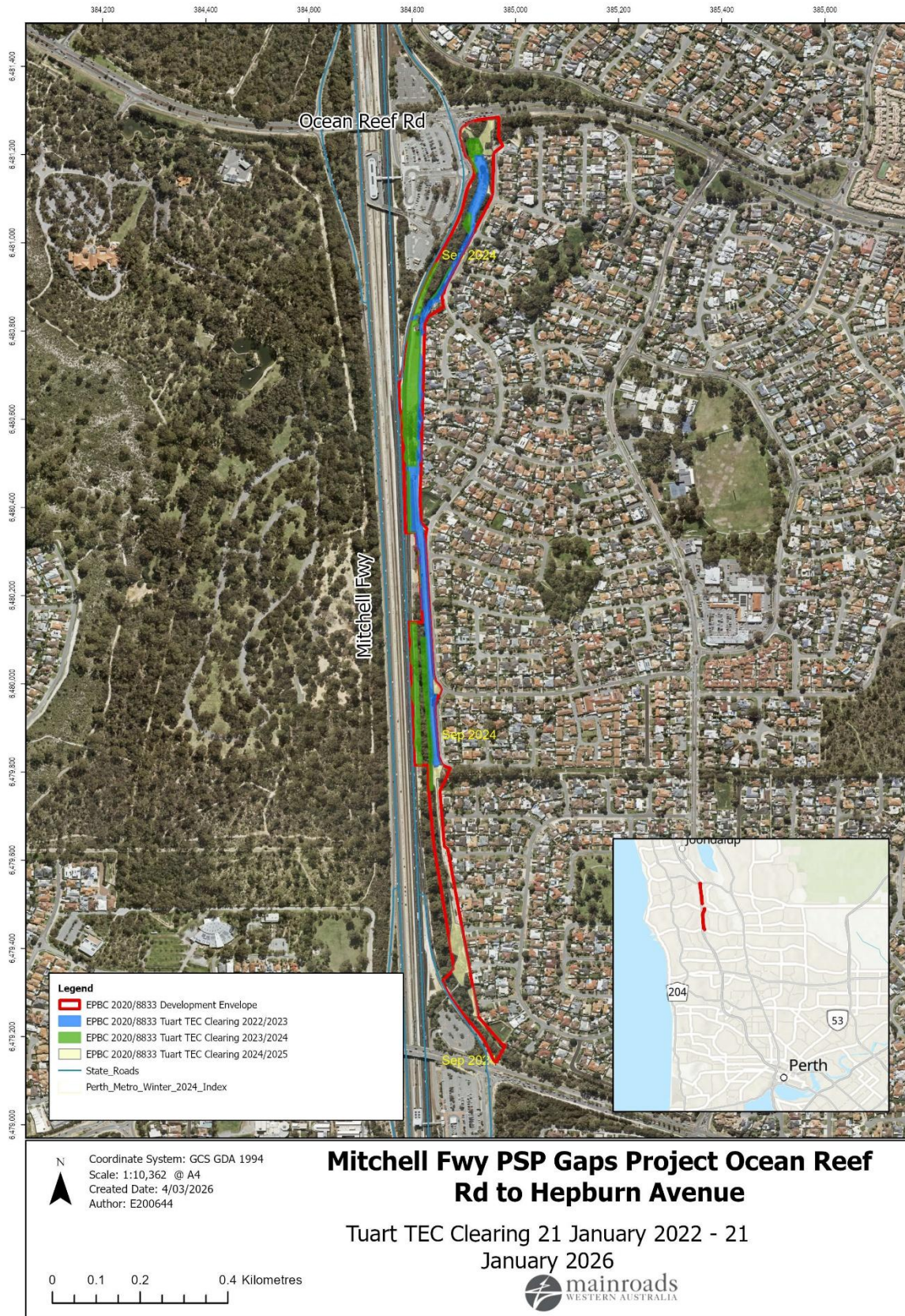


Figure 3b. Tuart TEC Clearing 21 January 2022 – 21 January 2026

Appendix C: Austin Bay Black Cockatoo Artificial Hollow Monitoring Report 2025



PHOENIX

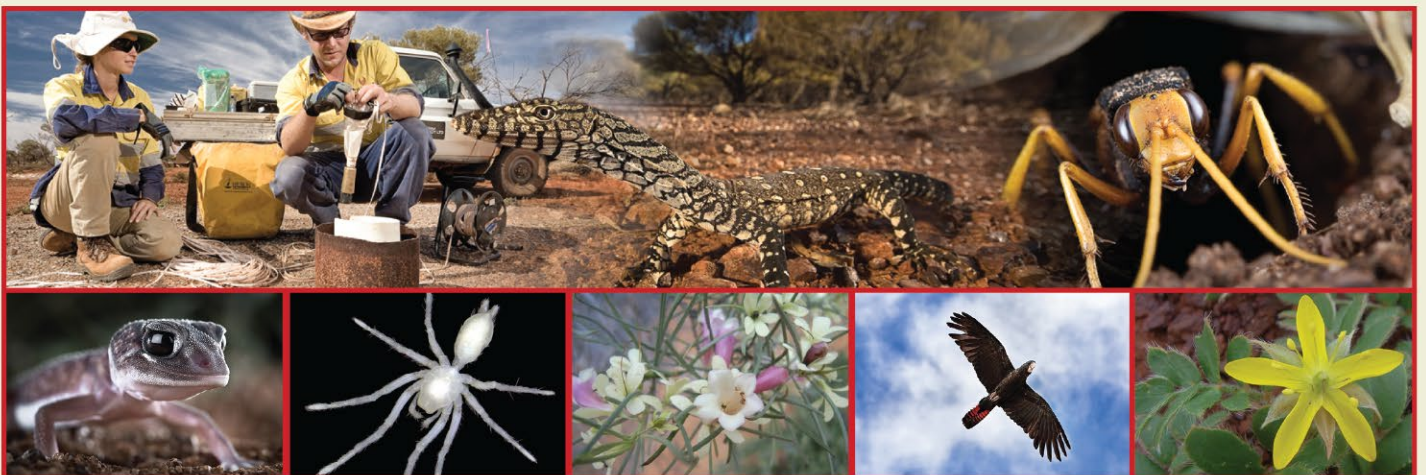
ENVIRONMENTAL SCIENCES

Black Cockatoo Artificial Hollow Monitoring at Austin Bay for the Mitchell Freeway Southbound Project during the 2025 breeding season

Prepared for Main Roads WA

March 2026

Final



Black Cockatoo Artificial Hollow Monitoring for the Austin Bay for the Mitchell Freeway Southbound Project
Prepared for Main Roads WA

Version history

Author/s	Reviewer/s	Version	Version number	Date submitted	Submitted to
██████	██████	Draft for client comments	0.1	10-Dec-25	██████
██████		Final, client comments addressed	1.0	16-Mar-26	██████

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1 INTRODUCTION

The Smart Freeways Mitchell Freeway Southbound Project (the Project) includes the installation of a Principal Shared Pathway (PSP) and noise walls along the eastern side of the Mitchell Freeway at various sections between Ocean Reef Road and Hepburn Avenue. The Project was assessed as a Controlled Action under the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and received conditional approval on 5 October 2021 (EPBC 2020/8833) (Appendix 1). Main Roads also obtained a Clearing Permit for the Project (CPS 9225/1).

Two suitable nesting hollows/black cockatoo habitat trees were located within the Project development envelope. In accordance with EPBC 202/8833 Condition 3c and CPS 9225 Condition 8e, Main Roads was required to install at least 3 artificial nesting hollows for each suitable nesting hollow/black cockatoo habitat tree cleared. Landcare installed 6 artificial hollows on 6 February on behalf of Main Roads WA within the Austin Bay Native Reserve, approximately 12 km south of Mandurah, WA in February 2023 (Figure 1; Table 1).

In accordance with EPBC 2020/8833 Condition 3d & 3e Main Roads must ensure that each artificial nesting hollow is:

1. monitored and maintained in accordance with the artificial nesting hollow maintenance guidelines for 10 years from installation, with maintenance actions undertaken before the commencement of each breeding season
2. inspected at least twice each year, and at least four weeks apart, by a suitably qualified field ecologist during the breeding season for 10 years from the installation of the artificial nesting hollow to record any evidence of use by the black cockatoos.

In accordance with Condition 8 (g) of CPS 9225 Main Road must ensure that the artificial nest hollows are:

1. monitored and maintained in accordance with the DPaW Fauna Notes - How to monitor and maintain artificial hollows for Carnaby's Cockatoo (DPaW 2015), for a period of at least 10 years.

Austin Bay is located within the range of Carnaby's Cockatoo (*Zanda latirostris*) (EN), Baudin's Cockatoo (*Calyptorhynchus baudinii*) (EN), and Red-tailed Black Cockatoo (*Calyptorhynchus banksii naso*) (VU). On the Swan Coastal Plain, Carnaby's Cockatoo breeds between July and December (DAWE 2022). Red-tailed Black Cockatoo may breed opportunistically at any time of the year; however, their primary breeding period occurs between April to June and August to October, and the breeding period for Baudin's Cockatoo is August to January (DAWE 2022).

In 2023 and 2024, Phoenix was commissioned to undertake monitoring of the artificial nesting hollows. Neither of these surveys detected breeding of black cockatoos in the artificial nesting hollows. In July 2025, Phoenix was commissioned to undertake a third year of monitoring.

1.1 SCOPE OF WORK

The scope of work entails the following:

- monitoring of 6 artificial nesting hollows at Austin Bay (Figure 1; Table 1; Appendix 1) between July 2024 and December 2024 over a minimum of 3 monitoring events
- these inspections must be in accordance with DPaW Fauna Notes - *How to monitor and maintain artificial hollows for Carnaby's cockatoo guideline* (DPaW 2015)
- during inspections, identify any artificial nesting hollow maintenance needs in accordance with DPaW (2015)

- within 2 days of maintenance needs being identified, notify Main Roads via email of the hollow, identification number for each hollow requiring maintenance and the maintenance requirements for each hollow
- within 5 weeks of completion of the final monitoring event of all artificial nesting hollows, provide to Main Roads a two separate monitoring reports
- the report for Austin Bay must provide all records required by Conditions 3 (d) & (f) of EPBC 2020/8833 and Condition 11.3.(e)-(i) of CPS 9225
- provision of a report suitable for publication on the Main Roads website for public accessibility, and provision to the WA Department of Biodiversity, Conservation and Attractions (DBCA) and the Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW).

2 METHODS

The black cockatoo nest monitoring was conducted in accordance with *How to monitor and maintain artificial hollows for Carnaby's cockatoo* (DPaW 2015). Each artificial hollow was visited 3 times between July and December 2025 (Table 1).

Prior to the surveys, site locations were loaded onto field tablets. Data was collected electronically using a customised data collection template and include:

- site code
- signs of use as per DPaW Fauna Notes - How to monitor and maintain artificial hollows for Carnaby's Cockatoo guideline (2015):
 - birds prospecting hollows
 - fresh chewings
 - birds perching, birds entering/existing hollows
 - birds flushed from hollows
 - gender of observed birds
 - chick calls
 - eggs observed (inc. status if possible – incubated or abandoned)
 - chick/s observed, chick/s fledged
 - other indicators, e.g. gender mix of flocks, evidence of nesting at base of trees
- condition of hollow, current suitability for use, and maintenance requirements.

The base of each tree which hosts an artificial nesting hollow was knocked or scratched if no birds already at the top of the hollow. If a female was not flushed from knocking, then pole camera was used to inspect the hollow. The following categories were recorded:

- *evidence of nesting activity* will be noted where fresh chewing is present on the sacrificial post and/or birds are seen prospecting hollows.
- *a confirmed breeding event* will be noted where eggs are seen in the hollow and/or other clear evidence observed that a chick is present (i.e. female seen at the hollow entrance when brooding eggs, and/or parents seen preparing to feed chick in the hollow).

Maintenance checks of artificial hollows were assessed at each hollow:

- condition of chewing posts
- condition of attachment points
- condition of hollow bases
- stability of tree or pole used to mount the artificial nesting hollow.

Table 1 Artificial nesting hollow locations and survey dates

Site code	Latitude	Longitude	Date installed	Dates visited in 2025		
				11 Sep	16 Oct	14 Nov
1033	██████	██████	06 February 2023	✓	✓	✓
1074	██████	██████	06 February 2023	✓	✓	✓
1083	██████	██████	06 February 2023	✓	✓	✓
1084	██████	██████	06 February 2023	✓	✓	✓
1085	██████	██████	06 February 2023	✓	✓	✓
1100	██████	██████	06 February 2023	✓	✓	✓

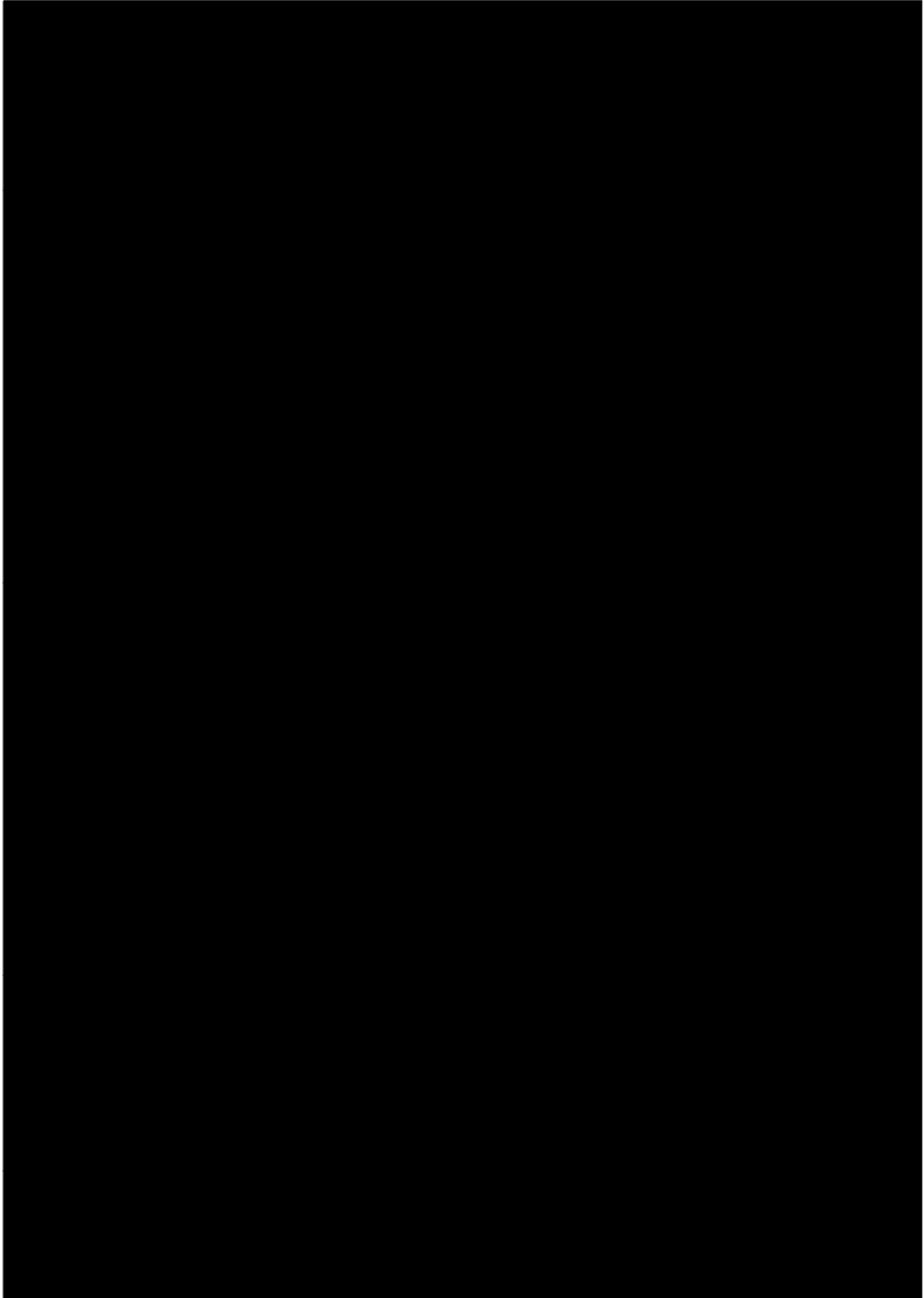


Figure 1 Artificial nesting hollow locations

3 RESULTS AND DISCUSSION

Black cockatoos were not recorded using any of the artificial nesting hollows during any of the hollow checks in 2025 (Table 2). Several other bird species were noted at the site during all visits, particularly Galahs and Australian Ringneck; however, no other species were observed using the artificial nesting hollows.

One hollow (1074) had evidence of old chew marks on the sacrificial pole, indicating the hollow was inspected by a hollow nesting species. However, it could not be confirmed if the chew marks were from a black cockatoo as other parrot and cockatoo species are known to chew around suitable nesting hollows.

The results of the 2025 breeding season monitoring survey are consistent with the 2024 and 2023 surveys, which also recorded no black cockatoo breeding activity in the artificial nesting hollows (Phoenix 2023, 2024). The artificial breeding hollows are still in good condition and maintenance is not required.

Table 2 Survey results

Site code	11 Sep 2025	16 Oct 2025	14 Nov 2025	Condition of hollow	Requires maintenance
1033	Empty. No chew.	Empty. No chew.	Empty. No chew.	Good	No
1074	Some old chewing.	Some old chewing.	Some old chewing.	Good	No
1083	Empty. No chew.	Empty. No chew.	Empty. No chew.	Good	No
1084	Empty. No chew.	Empty. No chew.	Empty. No chew.	Good	No
1085	Empty. No chew.	Empty. No chew.	Empty. No chew.	Good	No
1100	Empty. No chew.	Empty. No chew.	Empty. No chew.	Good	No

REFERENCES

- DAWE. 2022. *Referral guideline for 3 WA threatened black cockatoo species Carnaby's Cockatoo (Zanda latirostris), Baudin's Cockatoo (Zanda baudinii) and the Forest Red-tailed Black-cockatoo (Calyptorhynchus banksii naso)*. Department of Agriculture, Water and the Environment, Canberra. Available at: <https://www.dcceew.gov.au/environment/epbc/publications/referral-guideline-3-wa-threatened-black-cockatoo-species-2022>
- DPaW. 2015. *How to monitor and maintain artificial hollows for Carnaby's cockatoo*. Department of Parks and Wildlife, WA.

Appendix 1 Mitchell Freeway Southbound EPBC 2020/8833 Approval Condition



APPROVAL

Mitchell Freeway Principal Shared Path Gaps Project Ocean Reef Road to Hepburn Avenue, WA, (EPBC 2020/8833)

This decision is made under sections 130(1) and 133(1) of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (the EPBC Act). Note that section 134(1A) of the EPBC Act applies to this approval, which provides in general terms that if the approval holder authorises another person to undertake any part of the action, the approval holder must take all reasonable steps to ensure that the other person is informed of any conditions attached to this approval, and that the other person complies with any such condition.

Details

Person to whom the approval is granted (approval holder)	Main Roads
ACN or ABN of approval holder	50 860 676 021
Action	To construct and upgrade a shared path and noise walls along Mitchell Freeway between Ocean Reef Road and Hepburn Avenue in the northeast of Perth, WA [See EPBC Act referral EPBC 2020/8833]

Approval decision

My decision on whether or not to approve the taking of the action for the purposes of the controlling provision for the action is as follows.

Controlling Provisions

Listed Threatened Species and Communities	
Section 18	Approve
Section 18A	Approve

Period for which the approval has effect

This approval has effect until 4 August 2036

Decision-maker

<i>Name and position</i>	Kylie Calhoun Assistant Secretary Environment Assessments West (WA, SA, NT) Branch
---------------------------------	--

Signature



Date of decision 5 October 2021

Conditions of approval

This approval is subject to the conditions under the EPBC Act as set out in ANNEXURE A.

ANNEXURE A – CONDITIONS OF APPROVAL

Part A – Conditions specific to the action

Avoidance and mitigation

1. For the protection of **black cockatoos** and **Tuart TEC**, when undertaking the action, the approval holder must not **clear**:
 - a. more than 3.02 ha of **foraging and potential breeding habitat** for **black cockatoos** within the **development envelope**.
 - b. more than two **suitable nesting hollows** within the **development envelope**.
 - c. more than 12.16 ha of **Tuart TEC** within the **development envelope**.

2. To mitigate impacts to nesting **black cockatoos**, the approval holder must, within 72 hours prior to **clearing** the two **suitable nesting hollows**, investigate these hollows to determine if they are currently utilised for nesting by **black cockatoos**. The investigation must be undertaken by a **suitably qualified field ecologist**. If any **black cockatoos** are utilising any hollow in any tree, the approval holder must:
 - a. clearly identify and mark the tree in which **black cockatoos** are identified utilising any hollow; and
 - b. not **clear** any tree containing a currently utilised **suitable nesting hollow** or any vegetation within a ten metre radius of any such tree branch must not be cleared during the current **breeding season** as determined by a **suitably qualified field ecologist**.

Offsets

3. To offset the loss of **suitable nesting hollows** within the **development envelope**, the approval holder must:
 - a. within 48 hours following **clearing** of **suitable nesting hollows**, notify the **Department** in writing of the number of **cleared suitable nesting hollows** for **black cockatoos**.
 - b. within 30 days following **completion of the action**, notify the **Department** in writing if no **suitable nesting hollows** for **black cockatoos** were **cleared**.
 - c. install, in accordance with the **artificial nesting hollow installation guidelines**, at least three **artificial nesting hollows** for each **suitable nesting hollow cleared**, prior to the next **breeding season**.
 - c. install the **artificial nesting hollows** in a location approved in writing by **DBCA**.
 - d. implement the **artificial nesting hollows** and ensure that each installed **artificial nesting hollow** is monitored and maintained in accordance with the **artificial nesting hollow maintenance guidelines** for ten years from installation, with maintenance actions undertaken before the commencement of each **breeding season**.
 - e. not install **artificial nesting hollows** in a manner that requires additional **clearing** of **foraging and potential breeding habitat** for **black cockatoos** or within 10 metres of the edge of the road seals or buildings, to reduce the risk of vehicle strike and human disturbance.
 - f. ensure that each installed **artificial nesting hollow** is inspected at least twice each year, and at least four weeks apart, by a **suitably qualified field ecologist** during the **breeding season** for ten years from installation of the **artificial nesting hollow** to record any evidence of use by **black cockatoos**.

- b. notify the **Department** by email that a **compliance report** has been published on the **website** and provide the weblink for the **compliance report** within 5 **business days** of the date of publication
- c. keep all **compliance reports** publicly available on the **website** until this approval expires
- d. exclude or redact **sensitive ecological data** from **compliance reports** published on the **website**
- e. where any **sensitive ecological data** has been excluded from the version published, submit the full **compliance report** to the **Department** within 5 **business days** of publication.

Note: **Compliance reports** may be published on the **Department's** website.

Reporting non-compliance

- 12. The approval holder must notify the **Department** in writing of any: **incident**; non-compliance with the conditions; or non-compliance with the commitments made in **plans**. The notification must be given as soon as practicable, and no later than 2 **business days** after becoming aware of the **incident** or non-compliance. The notification must specify:
 - a. any condition which is or may be in breach
 - b. a short description of the **incident** and/or non-compliance; and
 - c. the location (including co-ordinates), date, and time of the **incident** and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.
- 13. The approval holder must provide to the **Department** the details of any **incident** or non-compliance with the conditions or commitments made in **plans** as soon as practicable and no later than 15 **business days** after becoming aware of the **incident** or non-compliance, specifying:
 - a. any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future
 - b. the potential impacts of the **incident** or non-compliance; and
 - c. the method and timing of any remedial action that will be undertaken by the approval holder.

Independent audit

- 14. The approval holder must ensure that **independent audits** of compliance with the conditions are conducted as requested in writing by the **Minister**.
- 15. For each **independent audit**, the approval holder must:
 - a. provide the name and qualifications of the independent auditor and the draft audit criteria to the **Department**
 - b. only commence the **independent audit** once the audit criteria have been approved in writing by the **Department**; and
 - c. submit an audit report to the **Department** within the timeframe specified in the approved audit criteria.
- 16. The approval holder must publish the audit report on the **website** within 10 **business days** of receiving the **Department's** approval of the audit report and keep the audit report published on the **website** until the end date of this approval.

Completion of the action

- 17. Within 30 days after the **completion of the action**, the approval holder must notify the **Department** in writing and provide **completion data**.

Part C - Definitions

In these conditions, except where contrary intention is expressed, the following definitions are used:

Artificial nesting hollow/s means deliberately positioned artificial or repurposed natural structures suitable for **nesting** usage by **black cockatoos** constructed in accordance with the **Artificial nesting hollow installation guidelines**

Artificial nesting hollow installation guidelines means the WA Department of Parks and Wildlife- Fauna Notes – *How to design and place artificial hollows for Carnaby’s cockatoos* (28 April 2015) available at https://www.dpaw.wa.gov.au/images/plants-animals/threatened-species/carnabys_artificial_hollows_-_design_and_place_2015.pdf.

Artificial nesting hollow maintenance guidelines means the WA Department of Parks and Wildlife – Fauna Notes – *How to monitor and maintain artificial hollows for Carnaby’s cockatoo* (28 April 2015) available from: https://www.dpaw.wa.gov.au/images/plants-animals/threatened-species/carnabys_artificial_hollows_-_monitor_and_maintain_2015.pdf.

Black Cockatoos means **EPBC Act** listed threatened species Carnaby’s Black Cockatoo (*Calyptorhynchus latirostris*) and Forest Red-tailed Black Cockatoo (*Calyptorhynchus banksii naso*).

Breeding season means the period of 1 March to 31 December in any year, during which **black cockatoos** undertake nesting.

Business day/s means a day that is not a Saturday, a Sunday or a public holiday in Western Australia.

Clear/Cleared/Clearing means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting or burning of vegetation (but not including weeds – see the *Australian weeds strategy 2017 to 2027* for further guidance): available from <http://www.agriculture.gov.au/pests-diseases-weeds/pest-animals-and-weeds/review-aus-pest-animal-weed-strategy/aus-weeds-strategy>

Commence/Commencement of the action means the first instance of any specified activity associated with the action including **clearing** and **construction**. **Commencement of the action** does not include minor physical disturbance necessary to:

- i. undertake pre-clearance surveys or monitoring programs
- ii. install signage and /or temporary fencing to prevent unapproved use of the project area
- iii. protect environmental and property assets from fire, weeds and pests, including installation of temporary fencing, and use of existing surface access tracks; or
- iv. install temporary site facilities for persons undertaking pre-commencement activities so long as these are located where they have no impact on the **protected matters**.

Completion data means an environmental report and spatial data clearly detailing how the conditions of this approval have been met. The **Department’s** preferred spatial data format is **shapefile**.

Completion of the action means the date on which all specified activities associated with the action have permanently ceased.

Compliance records means all documentation or other material in whatever form required to demonstrate compliance with the conditions of approval in the approval holder’s possession or that are within the approval holder’s power to obtain lawfully.

Compliance report/s means written reports:

- i. providing accurate and complete details of compliance, **incidents**, and non-compliance with the conditions and the **plans**

- ii. consistent with the **Department's Annual Compliance Report Guidelines** (2014): found at <https://www.environment.gov.au/epbc/publications/annual-compliance-report-guidelines>
- iii. include a **shapefile** of any clearance of any **protected matters**, or their habitat, undertaken within the relevant 12 month period
- iv. annexing a schedule of all **plans** prepared and in existence in relation to the conditions during the relevant 12 month period.

DBCA means the Western Australia Department of Biodiversity, Conservation and Attractions.

Department means the Australian Government agency responsible for administering the **EPBC Act**.

Development envelope means the area labelled "Development Envelope" and bound by the red line on the map at Attachment A.

EPBC Act means the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).

Environmental Offsets Policy means the Australian Government Department of Sustainability, Environment, Water and Communities (2012) *EPBC Act environmental offsets policy*: available from <https://www.environment.gov.au/epbc/publications/epbc-act-environmental-offsets-policy>.

Foraging and potential breeding habitat means as defined in the *EPBC Act Referral Guidelines for three species of Western Australian black cockatoos: Carnaby's cockatoo* (endangered) (*Calyptorhynchus latirostris*), *Baudin's cockatoo* (vulnerable) (*Calyptorhynchus baudinii*) and *Forest red-tailed black cockatoo* (vulnerable) (*Calyptorhynchus banksii naso*) (October 2012).

Incident means any event which has the potential to, or does, impact on one or more **protected matter(s)** other than as authorised under this approval.

Independent audit/s: means an audit conducted by an independent and **suitably qualified person** as detailed in the *Environment Protection and Biodiversity Conservation Act 1999 Independent Audit and Audit Report Guidelines* (2019): available from: <http://www.environment.gov.au/epbc/publications/independent-audit-report-guidelines>.

Lake Clifton Offset Property means the area labelled "Proposed offset area" and enclosed by a yellow line and crosshatched in yellow designated "Proposed offset area" on the map at Attachment B.

Minister means the Australian Government Minister administering the **EPBC Act**, including any delegate thereof.

Plan/s means any of the documents required to be prepared, approved by the **Minister**, implemented by the approval holder and published on the **website** in accordance with these conditions (includes action management plans and/or strategies).

Protected matter/s means a matter protected under a controlling provision in Part 3 of the **EPBC Act** for which this approval has effect.

Sensitive ecological data means data as defined in the Australian Government Department of the Environment (2016) *Sensitive Ecological Data – Access and Management Policy V1.0*.

Shapefile/s means location and attribute information of the action provided in an Esri shapefile format. Shapefiles must contain '.shp', '.shx', '.dbf' files and a '.prj' file that specifies the projection/geographic coordinate system used. Shapefiles must also include an '.xml' metadata file that describes the shapefile for discovery and identification purposes.

Suitably qualified field ecologist means a person who has professional qualifications and at least three (3) years of work experience designing and implementing surveys for **black cockatoos** using relevant protocols, standards, methods and/or literature. If the person does not have appropriate professional qualifications, the person must have at least five (5) years of work experience designing and implementing surveys for **black cockatoos**.

Suitably qualified person means a person who has professional qualifications, training, skills and/or experience related to the nominated subject matter and can give authoritative independent assessment, advice and analysis on performance relative to the subject matter using the relevant protocols, standards, methods and/or literature.

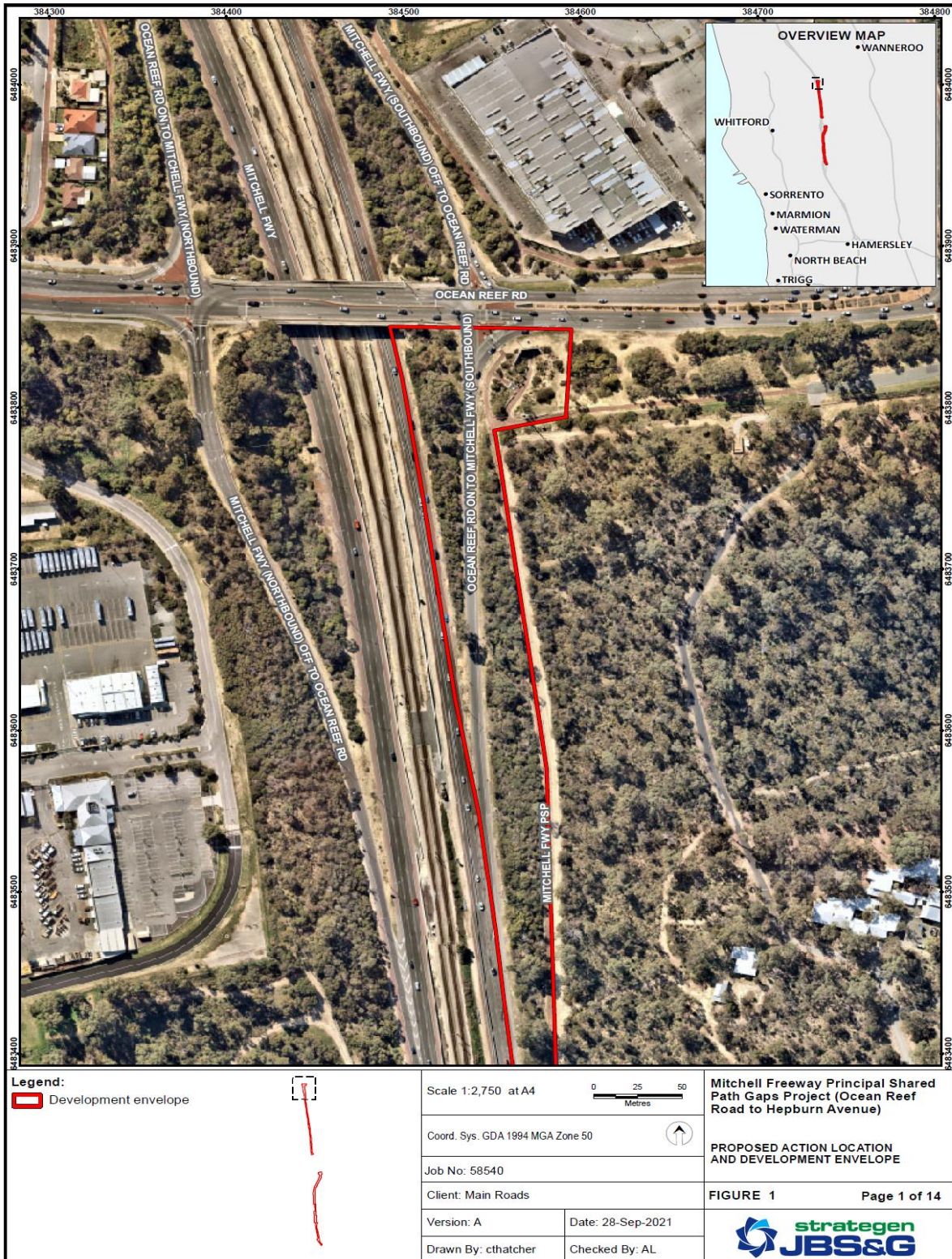
Suitable nesting hollow/s means any hollow that appears to be deep enough and with an opening large enough to be used by **black cockatoos** for nesting.

Tuart TEC means the EPBC Act Listed Tuart Woodlands of the Swan Coastal Plain Threatened Ecological Community.

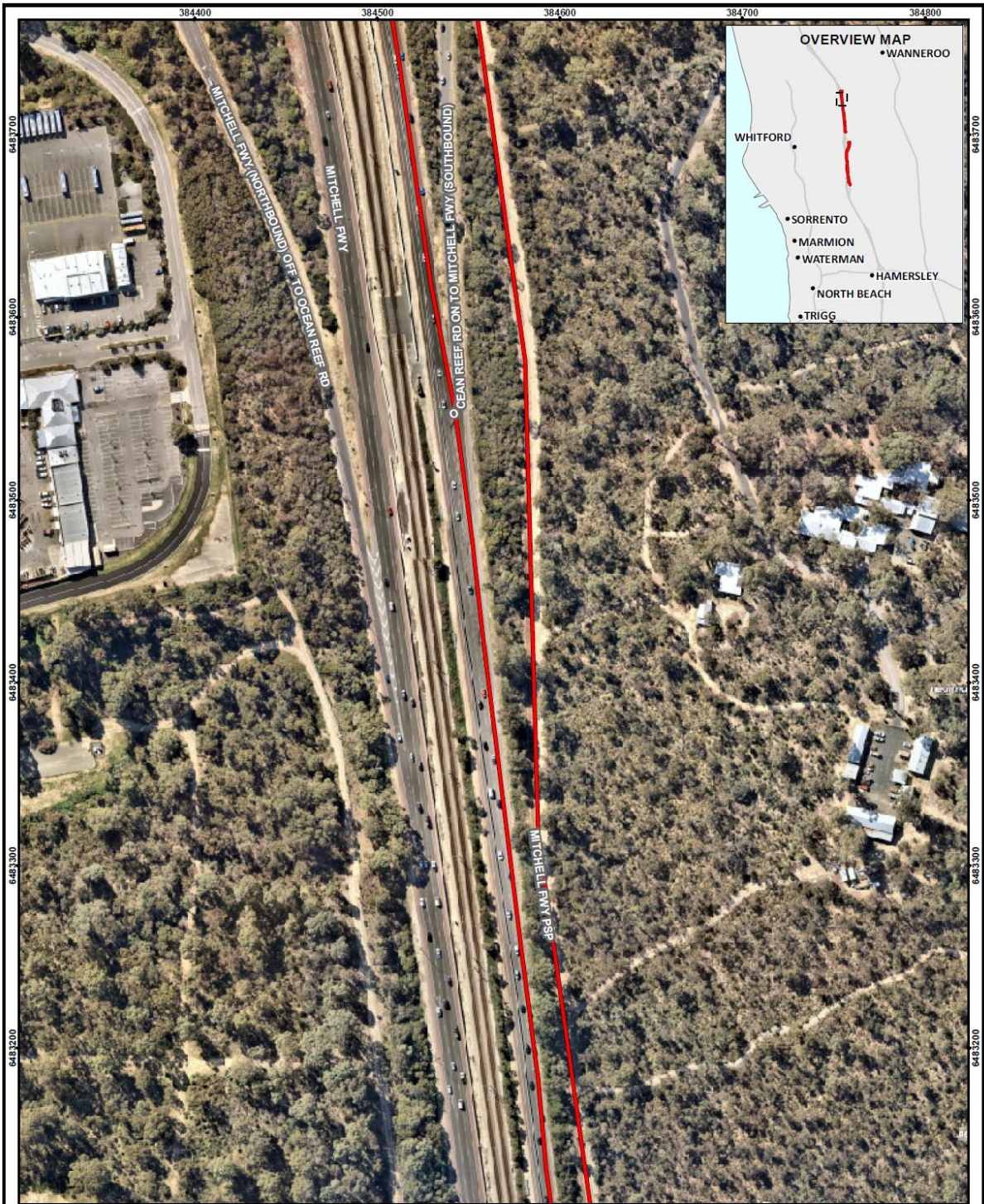
Website means a set of related web pages located under a single domain name attributed to the approval holder and available to the public.

ATTACHMENTS


Attachment A – Development Envelope



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 Image Reference: www.nearmap.com@ - Imagery Date: August 2021.



Legend:

 Development envelope



Scale 1:2,750 at A4



Coord. Sys. GDA 1994 MGA Zone 50



Job No: 58540

Client: Main Roads

Version: A

Date: 28-Sep-2021

Drawn By: cthatcher

Checked By: AL

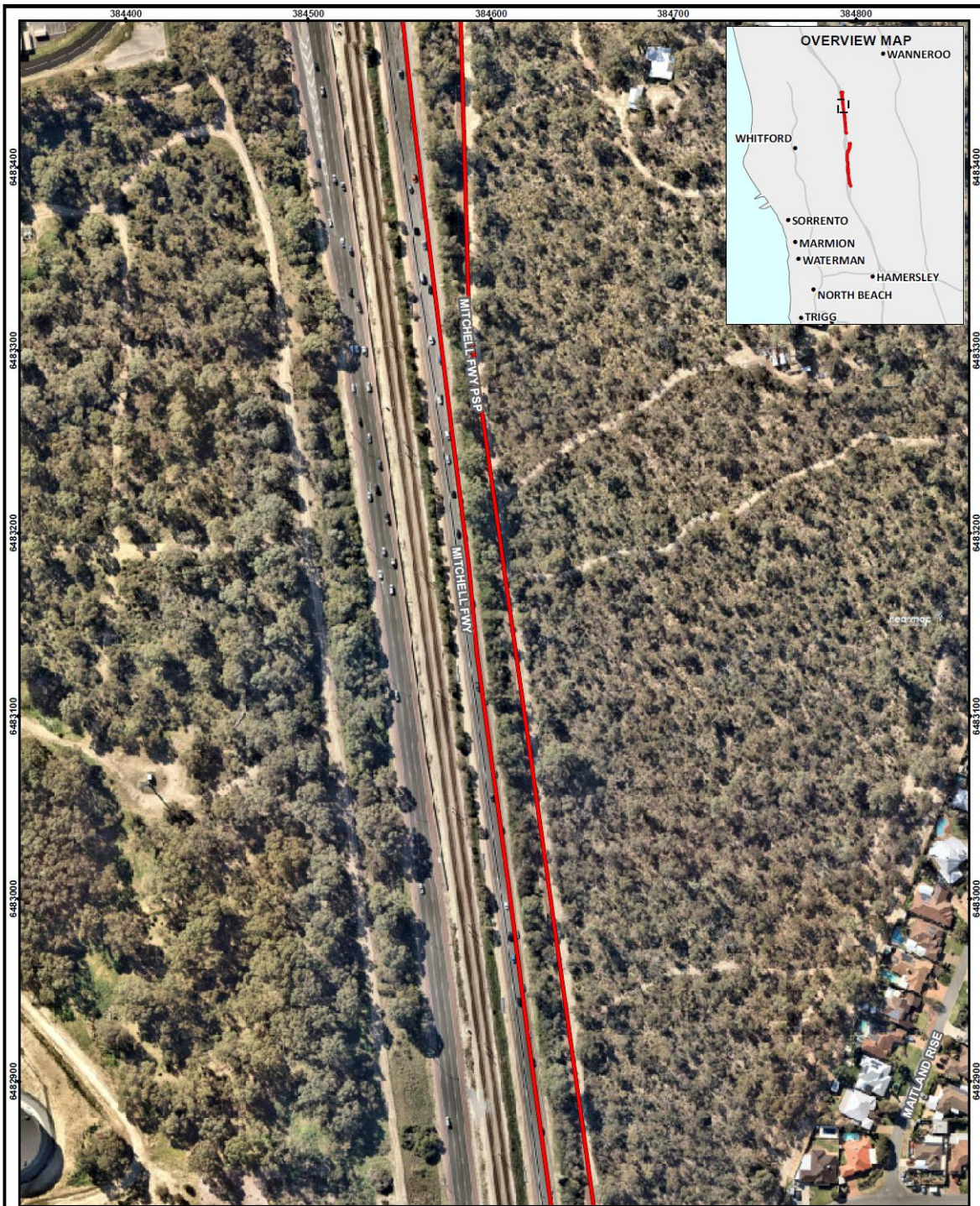
Mitchell Freeway Principal Shared Path Gaps Project (Ocean Reef Road to Hepburn Avenue)

PROPOSED ACTION LOCATION AND DEVELOPMENT ENVELOPE

FIGURE 1

Page 2 of 14



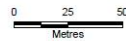


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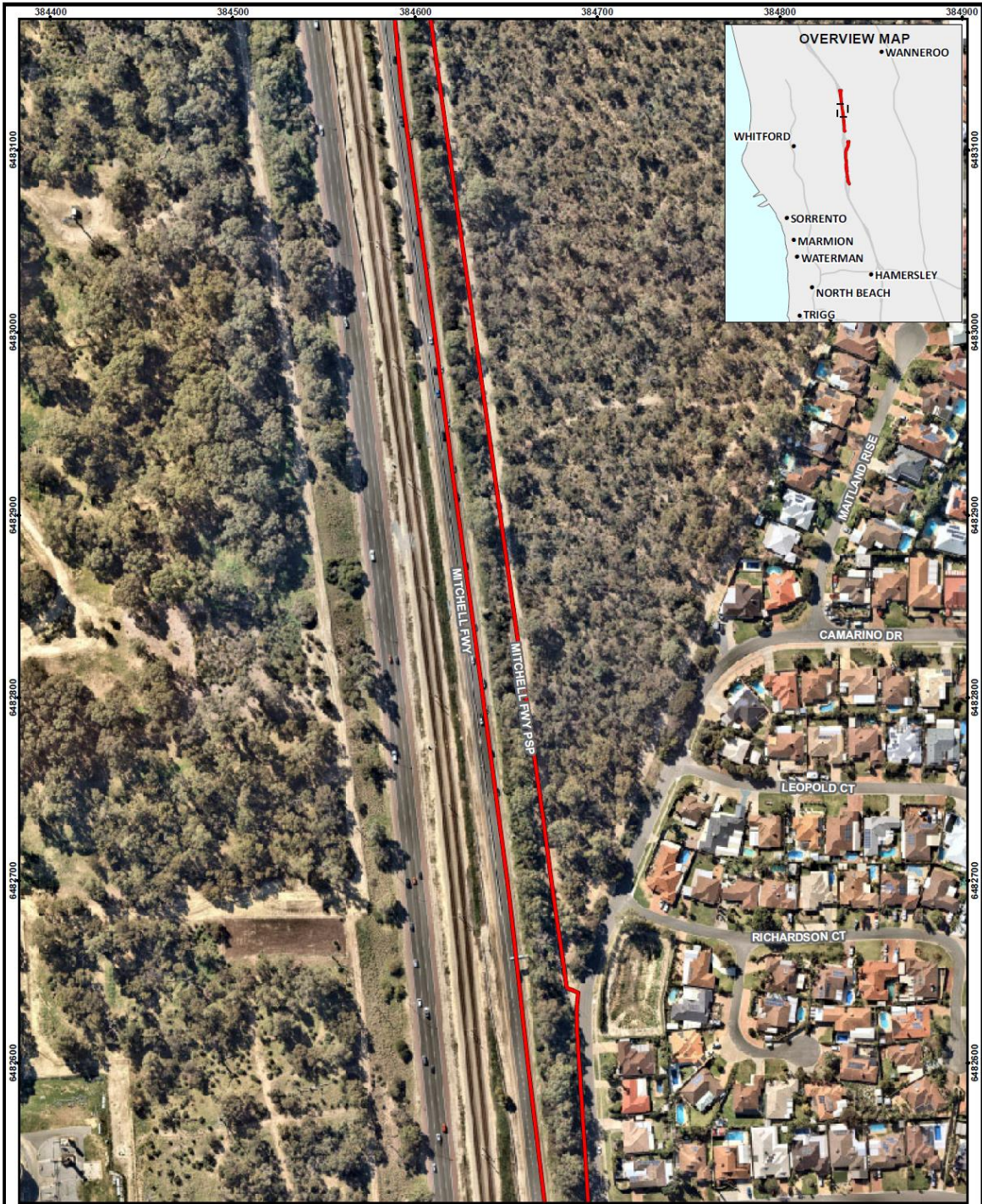
PROPOSED ACTION LOCATION AND DEVELOPMENT ENVELOPE

FIGURE 1

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Legend:
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Job No: 58540

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Drawn By: cthatcher

Checked By: AL

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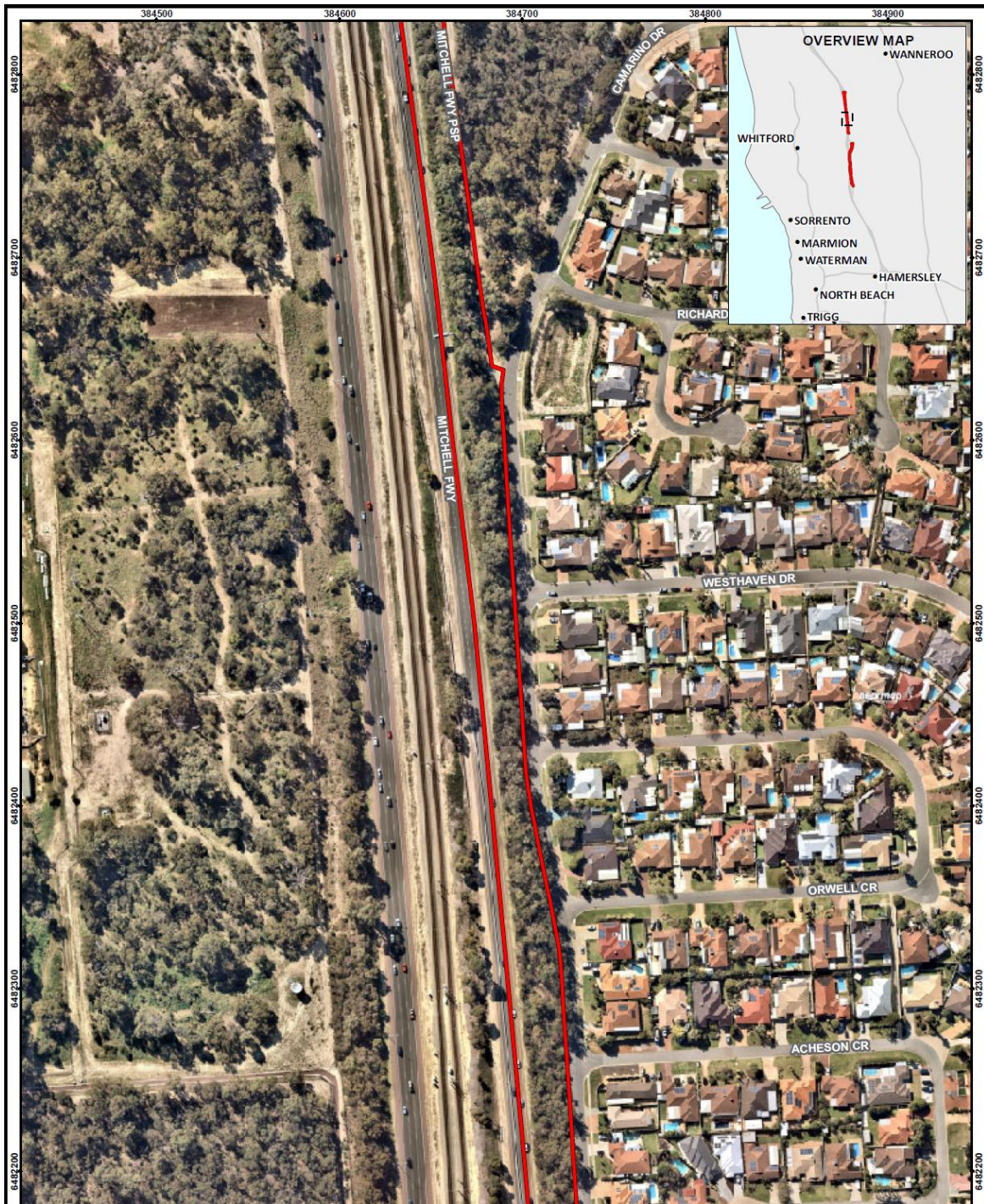
PROPOSED ACTION LOCATION AND DEVELOPMENT ENVELOPE

FIGURE 1

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Legend: Development envelope 	Scale 1:2,750 at A4 	Mitchell Freeway Principal Shared Path Gaps Project (Ocean Reef Road to Hepburn Avenue) PROPOSED ACTION LOCATION AND DEVELOPMENT ENVELOPE FIGURE 1 Page 5 of 14
	Coord. Sys. GDA 1994 MGA Zone 50 	
Job No: 58540 Client: Main Roads Version: A Drawn By: cthatcher	Date: 28-Sep-2021 Checked By: AL	

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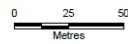


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Coord. Sys. GDA 1984 MGA Zone 50



Job No: 58540

Client: Main Roads

Version: A

Date: 28-Sep-2021

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Checked By: AL

Mitchell Freeway Principal Shared Path Gaps Project (Ocean Reef Road to Hepburn Avenue)

PROPOSED ACTION LOCATION AND DEVELOPMENT ENVELOPE

FIGURE 1


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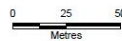


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Coord. Sys. GDA 1994 MGA Zone 50



Job No: 58540

Client: Main Roads

Version: A

Date: 28-Sep-2021

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Mitchell Freeway Principal Shared Path Gaps Project (Ocean Reef Road to Hepburn Avenue)

PROPOSED ACTION LOCATION AND DEVELOPMENT ENVELOPE

FIGURE 1

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Job No: 58540		
Client: Main Roads		
Version: A	Date: 28-Sep-2021	
Drawn By: ctatcher	Checked By: AL	

Mitchell Freeway Principal Shared Path Gaps Project (Ocean Reef Road to Hepburn Avenue)

PROPOSED ACTION LOCATION AND DEVELOPMENT ENVELOPE

FIGURE 1 Page 8 of 14



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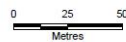


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Coord. Sys. GDA 1994 MGA Zone 50



Job No: 58540

Client: Main Roads

Version: A

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Drawn By: cthatcher

Checked By: AL

Mitchell Freeway Principal Shared Path Gaps Project (Ocean Reef Road to Hepburn Avenue)

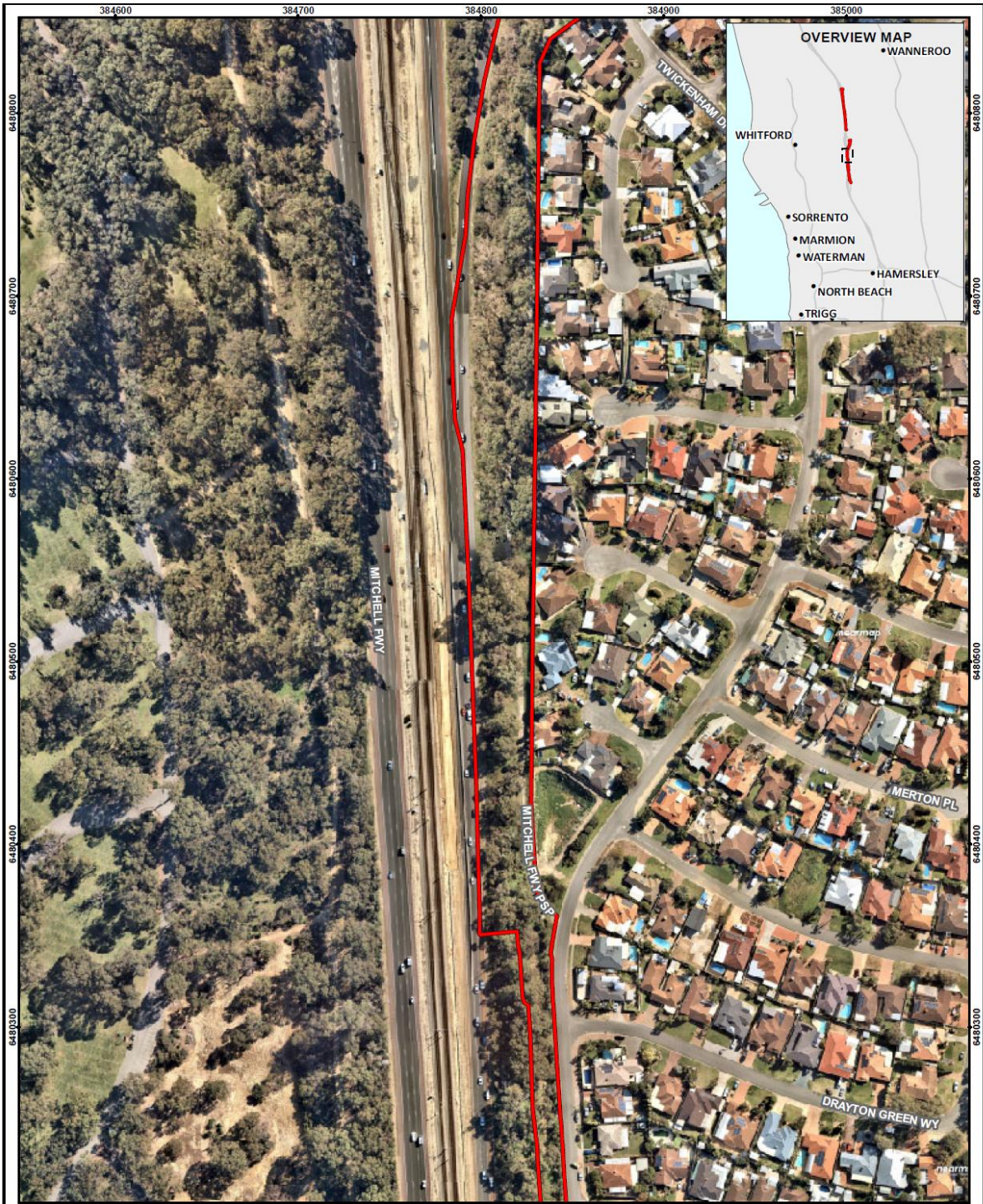
PROPOSED ACTION LOCATION AND DEVELOPMENT ENVELOPE



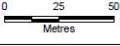


FIGURE 1

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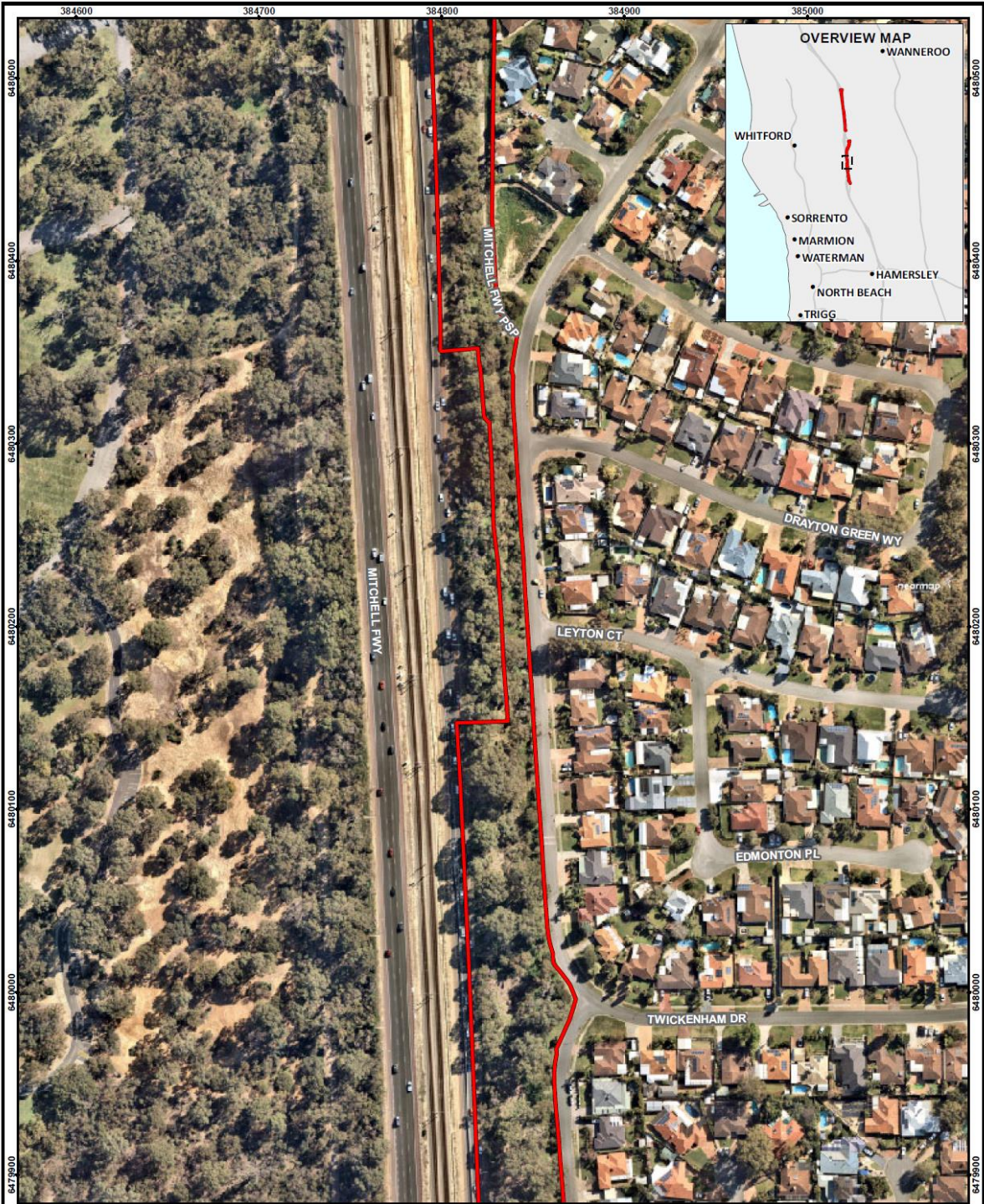




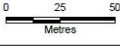


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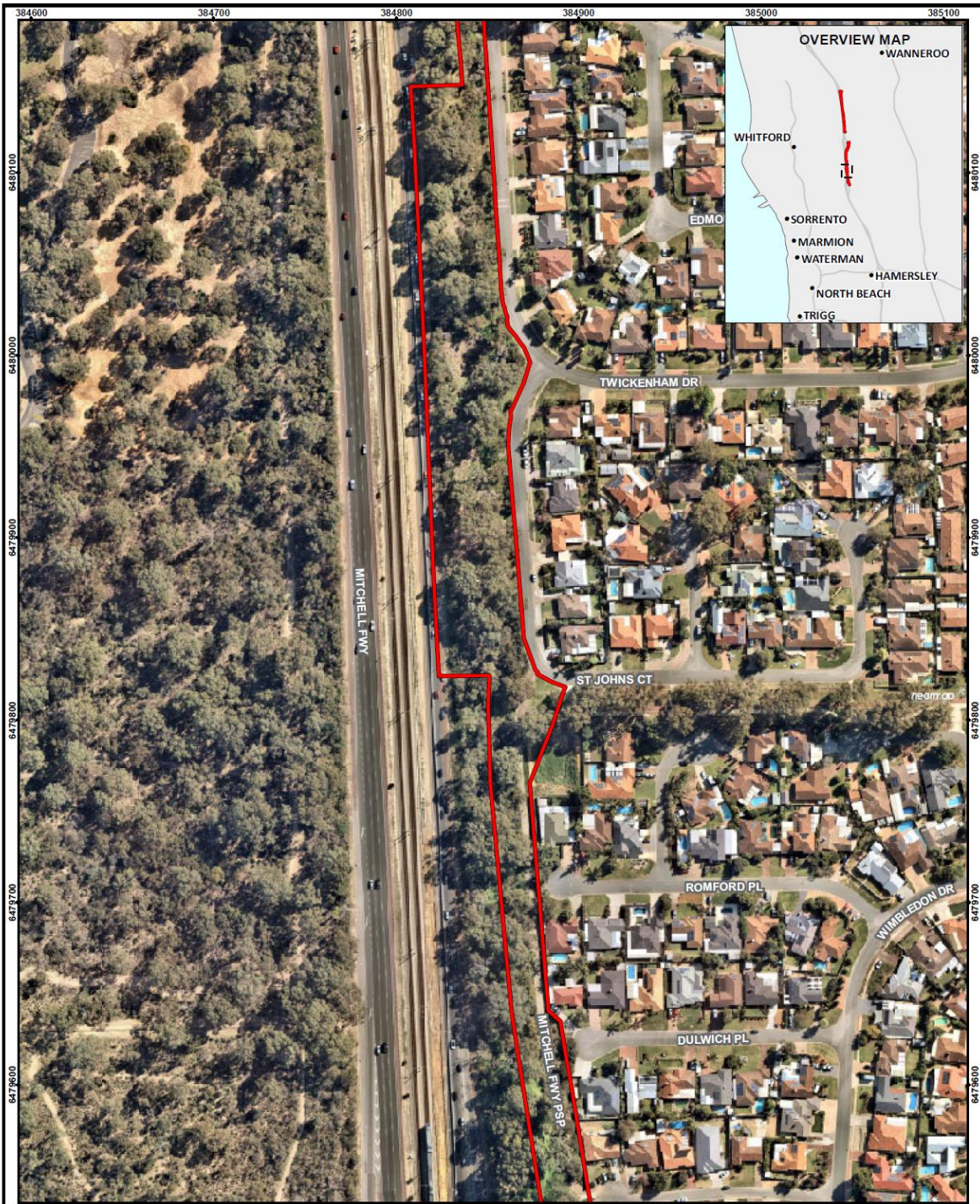
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	Coord. Sys. GDA 1994 MGA Zone 50			FIGURE 1 Page 10 of 14 
	Job No: 58540	Client: Main Roads	Version: A	
	Drawn By: cthatcher	Checked By: AL		


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	Coord. Sys. GDA 1994 MGA Zone 50		
	Job No: 58540		FIGURE 1 Page 11 of 14
	Client: Main Roads		
	Version: A	Date: 28-Sep-2021	
	Drawn By: cthatcher	Checked By: AL	

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Scale 1:2,750 at A4



Coord. Sys. GDA 1984 MGA Zone 50



Job No: 58540

Client: Main Roads

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Date: 28-Sep-2021

Drawn By: cthatcher

Checked By: AL

Mitchell Freeway Principal Shared Path Gaps Project (Ocean Reef Road to Hepburn Avenue)

PROPOSED ACTION LOCATION AND DEVELOPMENT ENVELOPE

FIGURE 1

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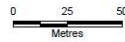
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Legend:
 Development envelope



Scale 1:2,750 at A4



Coord. Sys. GDA 1994 MGA Zone 50



Job No: 58540

Client: Main Roads

Mitchell Freeway Principal Shared Path Gaps Project (Ocean Reef Road to Heppburn Avenue)

PROPOSED ACTION LOCATION AND DEVELOPMENT ENVELOPE

FIGURE 1

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Version: A

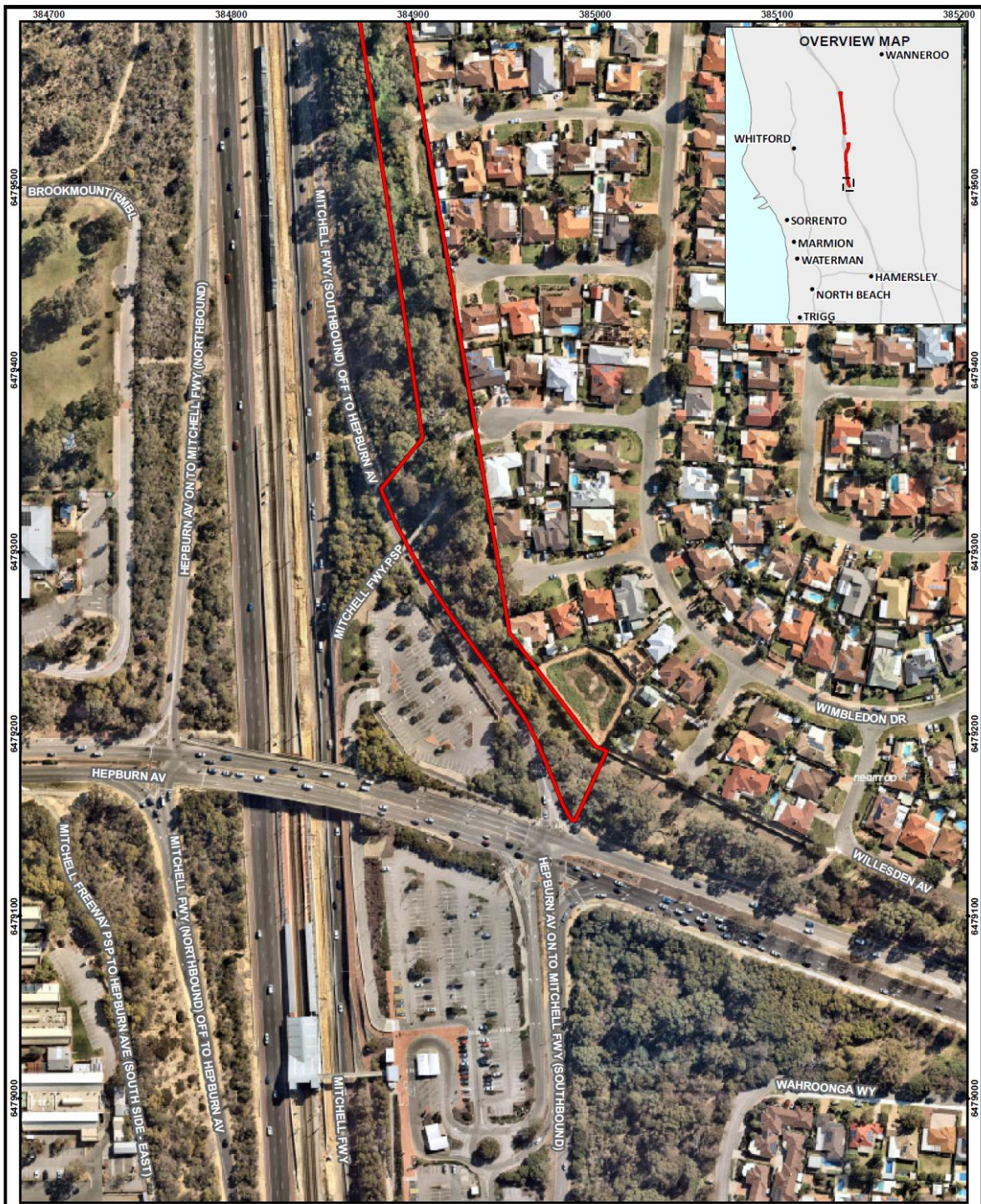
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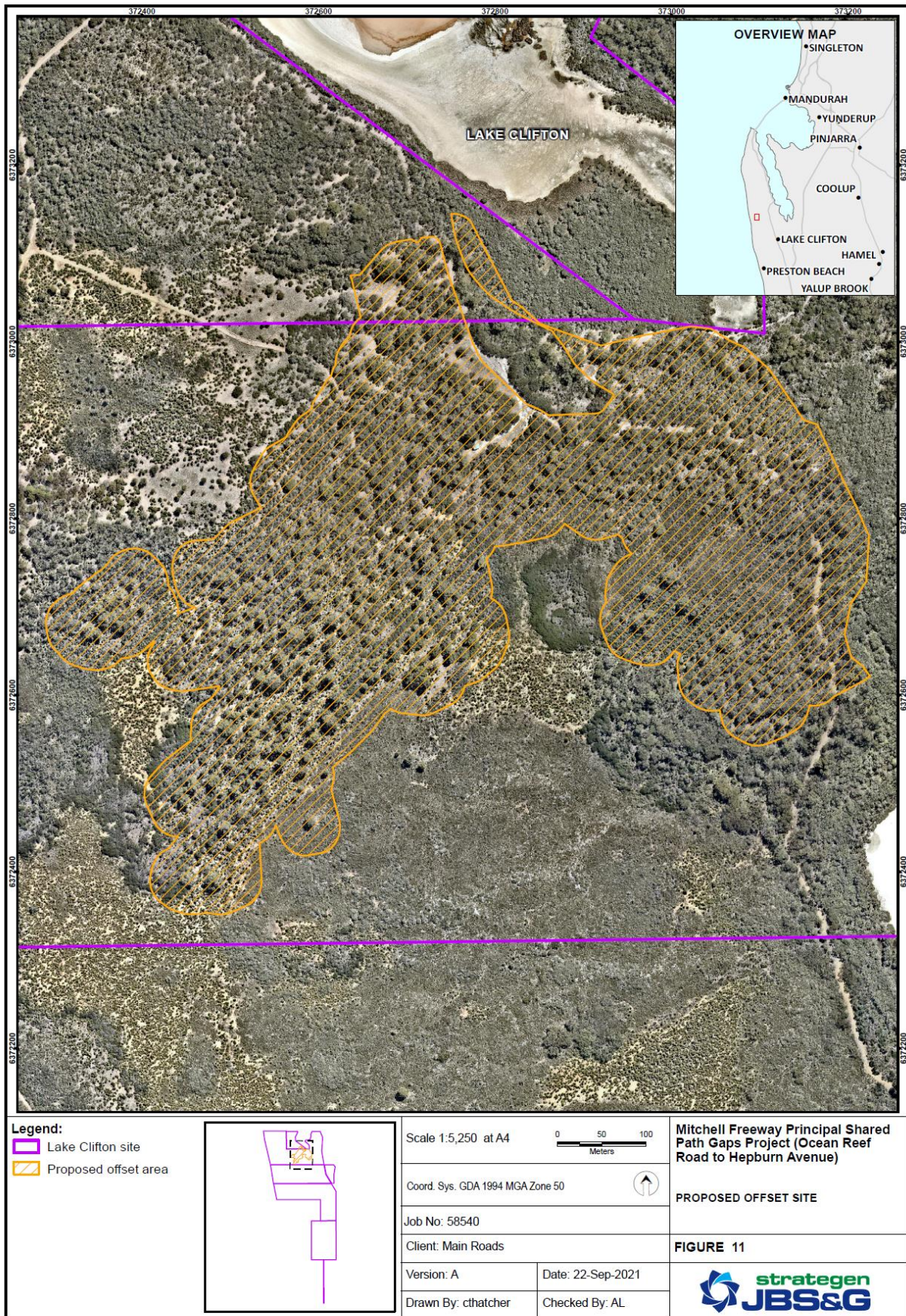
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Legend: Development envelope	Scale 1:2,750 at A4 	Mitchell Freeway Principal Shared Path Gaps Project (Ocean Reef Road to Hepburn Avenue)
	Coord. Sys. GDA 1994 MGA Zone 50 	PROPOSED ACTION LOCATION AND DEVELOPMENT ENVELOPE
	Job No: 58540	FIGURE 1 Page 14 of 14
	Client: Main Roads Version: A Drawn By: cthatcher	Date: 28-Sep-2021 Checked By: AL

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Attachment B – Lake Clifton Offset Property



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