



**mainroads**  
WESTERN AUSTRALIA

**EPBC 2020/8833**

**Mitchell Freeway Principal  
Shared Path Gaps Project  
Ocean Reed Road to  
Hepburn Avenue, WA**

*We're working for  
Western Australia.*

EPBC 2023/8833 Annual  
Compliance Report 2023/24

April 2024

D24#406753  
April 2024

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# Document Control

<b>Report Compilation &amp; Review</b>	<b>Name and Position</b>	<b>Document Revision</b>	<b>Date</b>
Author:	Clare Collett Senior Environment Officer	Draft v1	March 2024
Reviewer:	Tony Carlino Principal Environment Officer	Draft v1	March 2024
Author:	Clare Collett Senior Environment Officer	Rev 0	March 2024

### Declaration of accuracy

In making this declaration, I am aware that sections 490 and 491 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) make it an offence in certain circumstances to knowingly provide false or misleading information or documents. The offence is punishable on conviction by imprisonment or a fine, or both. I declare that all the information and documentation supporting this compliance report is true and correct in every particular. I am authorised to bind the approval holder to this declaration and that I have no knowledge of that authorisation being revoked at the time of making this declaration.

Signed  \_\_\_\_\_

Full name (please print) Mike Kapitola

Position (please print) Project Director

Organisation (please print including ABN/ACN if applicable) Main Roads CAN/ABN 50 860 676 021

Date 2 / 4 / 24

# 1 INTRODUCTION

## 1.1 Project Background, Location and Status

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

More specifically, the project includes:

- The installation of a new PSP along the eastern side of the 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 and
- Drainage works on the Mitchell Freeway.

## 1.2 Approval under the *Environment Protection and Biodiversity Conservation Act 1999*

Main Roads Western Australia (MRWA) (50 860 676 021) referred the Project to the then Department of Agriculture, Water and Environment (DAWE), now the Department of Climate Change, Energy the Environment and Water (the Department) for assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) as the Project was considered to impact matters of national environmental significance (MNES) that include Tuart Woodlands of the Swan Coastal Plain Threatened Ecological Community (TWSCP TEC), Carnaby's Cockatoo (*Calyptorhynchus latirostris*) habitat and Forest Red-tailed Black Cockatoo (FRTBC, *Calyptorhynchus banksia naso*) habitat.

The Project was determined by Department to be a 'Controlled Action' and was assessed through Preliminary Documentation. The Department issued approval of the Project on 5 October 2021 (EPBC 2020/8833) and included a number of conditions that Main Roads Western Australia (Main Roads) is required to fulfil.

## 1.3 Purpose of this report

Construction of the Project commenced on 21 January 2022. This compliance report has been produced as required by Condition 11 of EPBC approval 2020/8833 and covers the period from 22 January 2023 to 21 January 2024 (the reporting period)

# 2 SUMMARY OF COMPLIANCE

The Project was found to be fully compliant with the requirements of the EPBC Approval 2020/8833. Table 1 of this report outlines the compliance with each approval condition over the reporting period. Conditions deemed completed are shaded grey.

## 2.4 New Environmental Risks

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

**Table 1. 2023/2024 Compliance with EPBC 2020/8833**

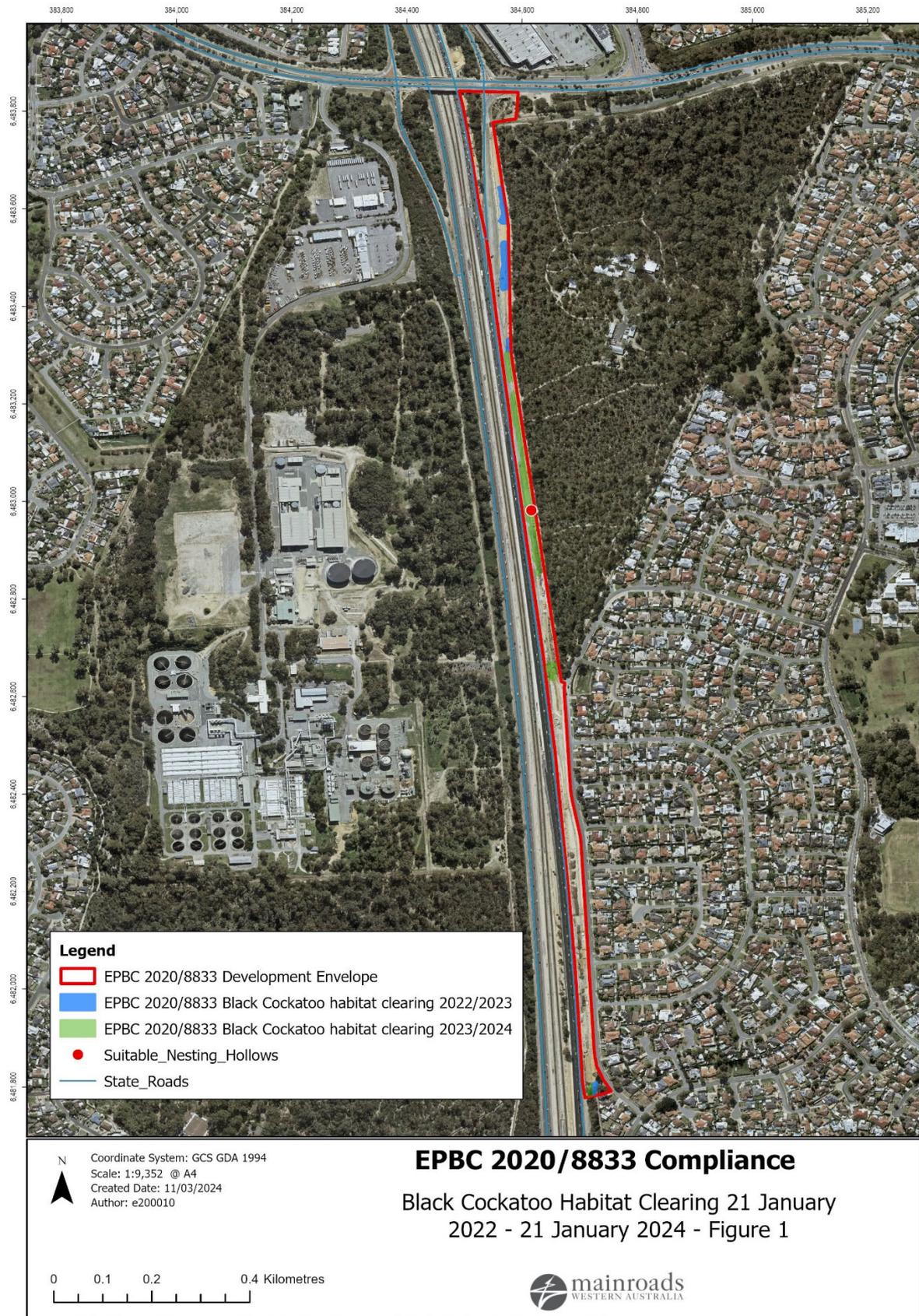
Condition Number	Condition Description	Status	Evidence/Comments
1	<p>For the protection of black cockatoos and Tuart TEC, when undertaking the action, the approval holder must not clear:</p> <ul style="list-style-type: none"> <li>a) more than 3.02 ha of foraging and potential breeding habitat for black cockatoos within the development envelope.</li> <li>b) more than two suitable nesting hollows within the development envelope.</li> <li>c) more than 12.16 ha of Tuart TEC within the development envelope.</li> </ul>	<b>Compliant</b>	<p>Clearing of black cockatoo habitat and Tuart TEC to date within the Development Envelope, is:</p> <ul style="list-style-type: none"> <li>• 2.13 ha of foraging and potential breeding habitat for black cockatoos;</li> <li>• One suitable nesting hollow (on 8 February 2023)</li> <li>• 6.65 ha of Tuart Woodlands of the Swan Coastal Plain Threatened Ecological Community</li> </ul> <p>The extent of the clearing to date is shown in Figures 1 to 4.</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> <ul style="list-style-type: none"> <li>a) clearly identify and mark the tree in which black cockatoos are identified utilising any hollow; and</li> <li>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.</li> </ul>	<b>Compliant</b>	<p>One tree with a suitable nesting hollow was cleared on 8 February 2023 (Figure 1). The hollow was investigated by Tony Kirby, a suitably qualified field ecologist, on the afternoon/evening of the 6th February 2023 between 17:50 and 19:45 hrs.</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 cockatoos were utilising any hollow in the tree that was removed (Appendix 2 - D23#267508).</p>
3	<p>To offset the loss of suitable nesting hollows within the development envelope, the approval holder must:</p> <ul style="list-style-type: none"> <li>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.</li> <li>b) within 30 days following completion of the action, notify the Department in writing if no suitable nesting hollows for black cockatoos were cleared.</li> <li>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.</li> <li>d) install the artificial nesting hollows in a location approved in writing by DBCA.</li> <li>e) 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.</li> <li>f) 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.</li> <li>g) 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</li> </ul>	<b>Compliant.</b>	<ul style="list-style-type: none"> <li>a) The department was notified on the 9 February 2023 that one tree with a suitable hollow was removed on the 8 February 2023 (Appendix 2 - D23#146762)</li> <li>b) Not applicable during reporting period</li> <li>c) Six Artificial Hollows were installed at the Austin Bay Nature Reserve on the 6 February 2023. (Appendix 2 - Installation report D23#218586 and Shapefile of installation locations D23#472918)</li> <li>d) DBCA provided approval for the location for installation of the artificial nesting hollows in writing on the 13 January 2023 (Appendix 2 - D23#112624)</li> <li>e) Each installed artificial nesting hollow was monitored during the reporting period in accordance with the artificial nesting hollow maintenance guidelines (Appendix 2 – D24#346321). The monitoring determined that no maintenance actions were required.</li> <li>f) 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 (Appendix 2 - Installation report D23#218586 and Shapefile of installation locations D23#472918)</li> <li>g) Five monitoring events, at least four weeks apart, were undertaken between the 31 July 2023 and 24 November 2023 to record any evidence of use by black cockatoos (Appendix 2 – Austin Bay Black Cockatoo Monitoring Report D24#346321).</li> </ul>

Condition Number	Condition Description	Status	Evidence/Comments
	<p>during the breeding season for ten years from installation of the artificial nesting hollow to record any evidence of use by black cockatoos.</p> <p>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.</p>		<p>h) 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 writing that at least one artificial nesting hollow has shown evidence of black cockatoo nesting for three consecutive years</p>
4	<p>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:</p> <p>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.</p> <p>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.</p>	<b>Not Applicable.</b>	The action commenced on the 21 January 2022.
5	<p>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.</p>	<b>Compliant.</b>	<p>As required, relevant data, enquiries and findings of the monitoring and investigation required by Condition 3, have been published on Main Roads external website  <a href="https://www.mainroads.wa.gov.au/community-environment/environment/construction-project-reports/">https://www.mainroads.wa.gov.au/community-environment/environment/construction-project-reports/</a>.</p>

Condition Number	Condition Description	Status	Evidence/Comments
6	<p>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:</p> <ul style="list-style-type: none"> <li>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</li> <li>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.</li> </ul>	<b>Compliant.</b>	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 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 the 15 October 2021 (Appendix 2 - D21#1029433)
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.	<b>Compliant.</b>	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 (Appendix 2 - D22#77214).
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.	<b>Compliant.</b>	The action commenced on the 21 January 2022 which was within 5 years of the approval.
9	The approval holder must maintain accurate and complete compliance records.	<b>Compliant.</b>	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.	<b>Not Applicable.</b>	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"> <li>a) publish each compliance report on the website within 60 business days following the relevant 12 month period</li> <li>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</li> <li>c) keep all compliance reports publicly available on the website until this approval expires</li> <li>d) exclude or redact sensitive ecological data from compliance reports published on the website</li> <li>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.</li> </ul>	<b>Compliant.</b>	This compliance report has been prepared and submitted to meet this condition. This compliance report will be published on the Main Roads website at <a href="https://www.mainroads.wa.gov.au/community-environment/environment/construction-project-reports/">https://www.mainroads.wa.gov.au/community-environment/environment/construction-project-reports/</a> .
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"> <li>a) any condition which is or may be in breach;</li> <li>b) a short description of the incident and/or non-compliance; and</li> </ul>	<b>Not Applicable.</b>	There have not been any incidents or non-compliance with the conditions or the commitments made in plans, during the reporting period.

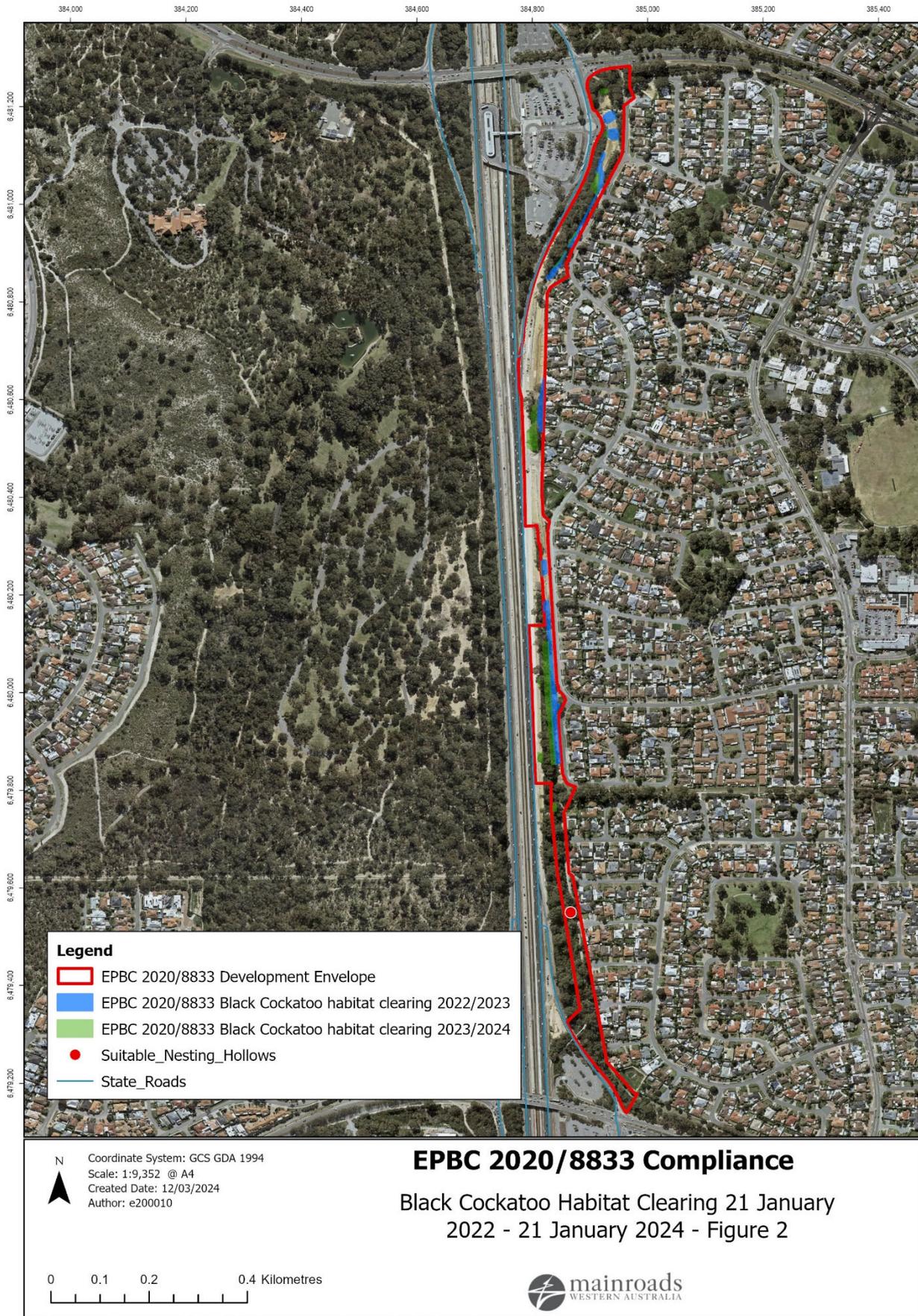
Condition Number	Condition Description	Status	Evidence/Comments
	c) c. the location (including co-ordinates), date, and time of the incident and/or non-compliance. In the event the exact information cannot be provided, provide the best information available.		
13	The approval holder must provide to the 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 10 business days after becoming aware of the incident or non-compliance, specifying: <ul style="list-style-type: none"> <li>a) any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;</li> <li>b) the potential impacts of the incident or non-compliance; and</li> <li>c) c. the method and timing of any remedial action that will be undertaken by the approval holder.</li> </ul>	<b>Not Applicable.</b>	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.	<b>Not Applicable.</b>	To date, no request for compliance audits has been received.
15	For each independent audit, the approval holder must: <ul style="list-style-type: none"> <li>a) provide the name and qualifications of the independent auditor and the draft audit criteria to the Department;</li> <li>b) only commence the independent audit once the audit criteria have been approved in writing by the Department; and</li> <li>c) c. submit an audit report to the Department within the timeframe specified in the approved audit criteria.</li> </ul>	<b>Not Applicable.</b>	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.	<b>Not Applicable.</b>	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.	<b>Compliant.</b>	The action is currently being implemented. The Department will be notified within 30 days of completion.

# Appendix 1 – Figures Black Cockatoo Habitat and Tuart TEC Clearing

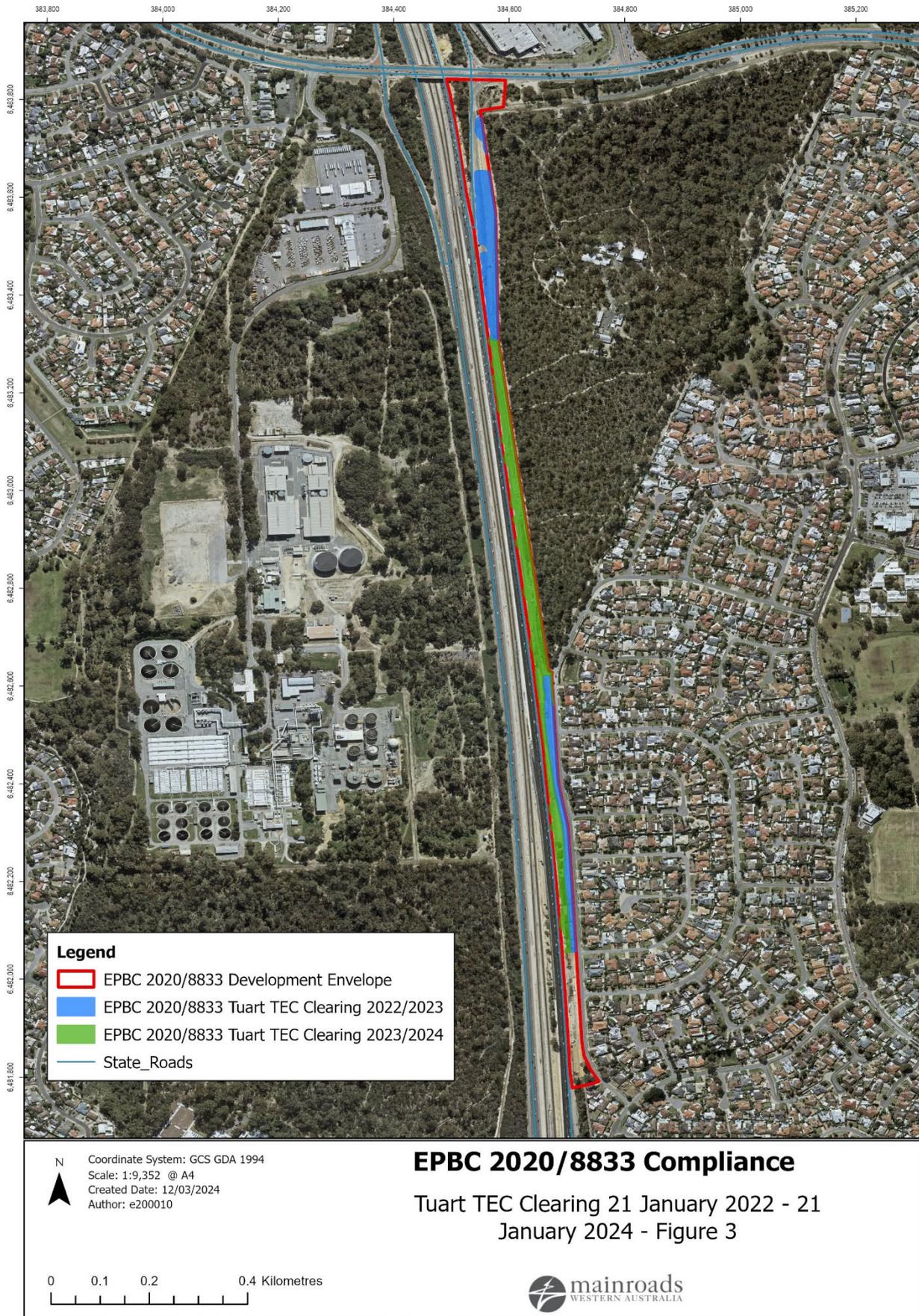


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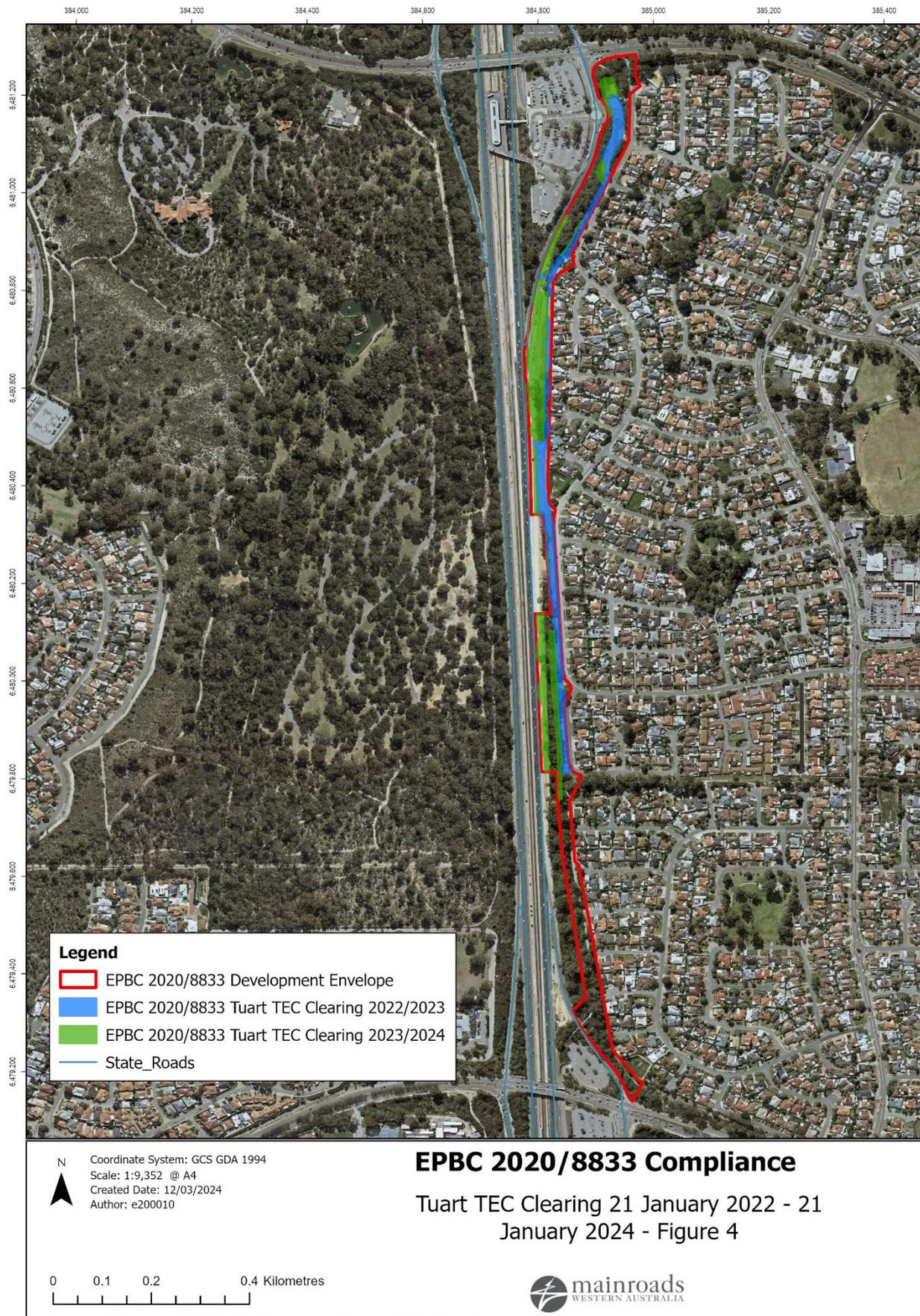
**Figure 1. Black Cockatoo Habitat Clearing 21 January 2022 – 21 January 2024**



**Figure 2. Black Cockatoo Habitat Clearing 21 January 2022 – 21 January 2024**



**Figure 3. Tuart TEC Clearing 21 January 2022 – 21 January 2024**



**Figure 4. Tuart TEC Clearing 21 January 2022 – 21 January 2024**

## Appendix 2 – List of Evidence Provided

Evidence Reference	Evidence Description
D23#267508	Pre clearing suitable nest hollow inspection report
D23#146762	Notification to the Department of the number of cleared suitable nesting hollows for black cockatoos
D23#218586	Artificial hollow installation report
D23#472918	Shapefile of Artificial hollow installation locations
D23#112624	DBCA approval for location for installation of the artificial nesting hollows
D24#346321	Austin Bay Black Cockatoo Artificial Hollow Monitoring Report
D21#1029433	Evidence of Compliance for Condition 6 EPBC 20208833
D22#77214	Evidence of Commencement of Action EPBC 20208833