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WESTERN AUSTRALIA

EPBC 2018/8367

Mitchell Freeway Extension Hester Ave to Romeo Rd

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Western Australia.*

EPBC 2018/8367 Annual
Compliance Report 2023/24

June 2024

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Brief Amendments

Report Compilation & Review	Name and Position	Document Revision	Date
Author:	Clare Collett Senior Environment Officer	Draft v1	June 2024
Reviewer:	Tony Carlino Principal Environment Officer	Draft v1	June 2024
Author:	Clare Collett Senior Environment Officer	Rev 1	June 2024
Reviewer:	Paul West Principal Environmental Officer Contractor	Rev 1	June 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) ALASTAIR COWANPosition (please print) PROJECT DIRECTOROrganisation (please print including ABN/ACN if applicable) MAN ROADSDate 25/6/24

1 INTRODUCTION

Mitchell Freeway is the main arterial road that connects Perth's northern suburban areas with Perth's central business district. The Mitchell Freeway Extension (the "Action") is located within the City of Wanneroo and consists of the extension of the freeway from its previous terminus at Hester Avenue to Romeo Road and the duplication of a section of Wanneroo Road.

The Mitchell Freeway extension works include:

- Constructing a new 5.6 km four lane freeway (two lanes in each direction)
- Completion of northbound on ramp and southbound off ramp at Hester Avenue interchange
- Grade separated interchange at Lukin Drive
- Rail tunnel for the existing rail to exit the freeway median to Butler train station
- Terminate freeway at Romeo Road with a grade separated interchange
- Principal Shared Path on the western side of the freeway
- Romeo Road constructed as dual carriageway with 2 lanes east to Wanneroo Road
- Footpaths/shared paths proposed for Romeo Road
- New/upgraded at-grade intersections at Romeo Road/Wanneroo Road.

The Wanneroo Road upgrade works include:

- Constructing a 5.5 km dual carriageway from Dunstan Road to Trian Road. The existing carriageway will be used where possible
- Intersection improvement to Wanneroo Road and Nowergup Road
- Improvements to the old Wanneroo Road alignment currently acting as a service road
- Modifications to formalise the service road providing safe access and egress to adjoining properties.

Construction works on the Mitchell Freeway extension are complete and the Mitchell Freeway Extension from Hester Avenue to Romeo Road was opened to road users on 10 July 2023.

Vegetation clearing for the Wanneroo Road upgrade works commenced in late May 2024, with works to be undertaken over the next 12-18 months.

1.1 EPBC 2018/8367 Approval Background

The Action was referred to the then Department of the Environment and Energy (now Department of Climate Change, Energy, the Environment and Water (DCCEEW)) for assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) as the Action was considered to impact matters of national environmental significance (MNES), including Banksia Woodlands of the Swan Coastal Plain Threatened Ecological Community (BWSCP TEC), Carnaby's Cockatoo (*Calyptorhynchus latirostris*) habitat and Forest Red-tailed Black Cockatoo (FRTBC, *Calyptorhynchus banksii naso*) habitat.

The Project was determined to be a 'Controlled Action' under the EPBC Act and was assessed through Preliminary Documentation. Conditional approval of the Action was received on 10 July 2020 (EPBC 2018/8367) and included a number of conditions that Main Roads Western Australia (Main Roads) is required to fulfil.

1.2 Purpose

The Action commenced on 12 April 2021. This compliance report has been produced as required by Condition 11 of EPBC approval 2018/8367 and covers the period from 13 April 2023 to 12 April 2024 (the reporting period).

2 SUMMARY OF COMPLIANCE

The Project was found to be mostly compliant with the requirements of the EPBC Approval 2020/8833, with Main Roads not compliant with Condition 5.

Table 1 of this report outlines the compliance status of each approval condition over the reporting period, including the non-compliance with Condition 5.

Conditions deemed completed are shaded grey.

2.1 Corrective measures

Non-compliance findings will be managed through the corrective measures outlined in Table 1.

2.2 New Environmental Risks

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

3 COMPLIANCE

Table 1. 2023/2024 Compliance with EPBC 2018/8367

Condition Number	Condition Description	Status	Evidence/Comments
1	<p>To minimise impacts to EPBC Act listed species and ecological communities, the approval holder must not clear more than 165 hectares of vegetation within the development envelope. Within the development envelope, the approval holder must not clear more than:</p> <ul style="list-style-type: none"> a) 50.07 ha of Banksia Woodlands of the Swan Coastal Plain Threatened Ecological Community b) 132.07 ha of foraging habitat for the Carnaby's Black Cockatoo; c) 104.25 ha of foraging habitat for the Forest Red-Tailed Black Cockatoo; and d) 328 potential breeding trees for the Carnaby's Black Cockatoo 	Compliant	<p>Clearing to date has comprised 87.87 hectares of vegetation within the Development Envelope, including:</p> <ul style="list-style-type: none"> a) 22.86 ha of Banksia Woodlands of the Swan Coastal Plain Threatened Ecological Community (No Banksia Woodlands of the Swan Coastal Plain Threatened Ecological Community was cleared during the reporting period); b) 72.82 ha of foraging habitat for the Carnaby's Black Cockatoo (0.18 ha of foraging habitat for the Carnaby's Black Cockatoo was cleared in the reporting period); c) 55.67 ha of foraging habitat for the Forest Red-Tailed Black Cockatoo (0.18 ha of foraging habitat for the Forest Red-Tailed Black Cockatoo was cleared in the reporting period); and d) 144* potential breeding trees for the Carnaby's Black Cockatoo (One potential breeding tree was cleared during the reporting period). <p>The extent of the clearing is shown in Figures 1 to 4.</p> <p>*Only one potential breeding tree was cleared in the current reporting period; however due to a data error that has recently been identified, 48 potential breeding trees cleared in 2021 reporting period, were not previously reported. Accordingly the total potential breeding trees cleared to date is 144.</p>
2	To avoid and mitigate the impacts of fragmentation and Dieback on the Banksia Woodlands of the Swan Coastal Plain Threatened Ecological Community, the approval holder must install and maintain a fence along the entire boundary of the development envelope with the Neerabup National Park. The fence must be at least 1.8 metres high, capable of excluding uncontrolled access, completed within twelve months of the commencement of the action and maintained for the life of the approval.	Compliant	As previously reported, 1.8 m fence to meet the requirement of Condition 2 was installed on 31 December 2022.
3	In order to avoid and mitigate the impacts of Dieback, weeds, fire and nutrient cycling on the Banksia Woodlands of the Swan Coastal Plain Threatened Ecological Community, the approval holder must implement the Construction Environmental Management Plan from the commencement of the action for the life of the approval.	Compliant	Construction has been conducted in accordance with the Construction Environmental Management Plan. An environmental compliance audit was conducted on 2 October 2023. The audit included an assessment of compliance against EPBC 2018/8367 conditions as well as other approvals. The audit confirmed that Main Roads was compliant with this condition (audit can be provided upon request – refer D24#117674 & D24#118717).
4	<p>To avoid and mitigate the impacts of contamination from surface water runoff on EPBC Act listed species and ecological communities, the approval holder must:</p> <ul style="list-style-type: none"> a) Locate all infiltration basins inside of the development envelope; b) Ensure that all infiltration basins are designed and constructed so as to be able to capture and infiltrate 	Compliant.	<p>Main Roads has been in close contact with the Western Australian Department of Biodiversity, Conservation and Attractions (DBCA) throughout the stormwater drainage design process. Designs were provided to DBCA at various stages of development e.g. 15%, 85%, 100% etc. DBCA have confirmed in writing that they are satisfied with the 100% design. This confirmation was provided with the 2022 Compliance Report.</p> <p>This condition required Main Roads to submit designs for stormwater drainage works adjacent to the Neerabup National Park to DBCA for review and provide confirmation to the Department in writing prior to the</p>

Condition Number	Condition Description	Status	Evidence/Comments
	<p>surface water runoff from a 1 year minimum Average Recurrence Period rainfall event;</p> <p>c) Prevent surface water runoff in areas adjacent to the Banksia Woodlands of the Swan Coastal Woodland Threatened Ecological Community; and</p> <p>d) Submit the design(s) for all stormwater drainage works adjacent to the Neerabup National Park for review by the Western Australian Department of Biodiversity, Conservation and Attractions. The approval holder must not commence construction of stormwater drainage works until the Western Australian Department of Biodiversity, Conservation and Attractions has confirmed in writing that the design(s) will effectively manage stormwater drainage. The approval holder must provide the confirmation to the Department in writing prior to the commencement of the stormwater drainage works.</p>		commencement of the stormwater drainage works. This confirmation was provided to DAWE on 5 November 2021, prior to commencement of drainage works.
5	<p>To compensate for the residual significant impact on EPBC Act listed species and ecological communities, the approval holder must submit an Offsets Strategy for approval by the Minister within twenty-four months from the commencement of the action. The Offsets Strategy must:</p> <p>a) Identify a suitable environmental offset(s) for the Banksia Woodlands of the Swan Coastal Plain, Carnaby's Black Cockatoo and Forest Red-Tailed Black Cockatoo that satisfies the requirements of the Department's EPBC Act Environmental Offsets Policy;</p> <p>b) Includes detailed baseline information and achievable goals for habitat quality improvement demonstrating how the proposed offset(s) meet the requirements of the Department's EPBC Act Environmental Offsets Policy;</p> <p>c) Specify the management and monitoring activities to be undertaken, including any management and monitoring targets to be met, at the offset site(s);</p> <p>d) Specify goal/s, timeframes and budget for implementation of management and monitoring activities;</p> <p>e) Specify how management and monitoring results will be reported to the Department and the public;</p> <p>f) Specify management and monitoring triggers and corrective actions that will be implemented in the event that targets are not met;</p> <p>g) Details of how the offset(s) will be protected in perpetuity.</p>	Non - Compliant	<p>In accordance with Condition 5 of EPBC 2018/8357, Main Roads was required to submit an offset strategy for approval by the Minister within twenty-four months from the commencement of the action. The action commenced on the 12 April 2021, with the offset strategy due for submission on the 12 April 2023.</p> <p>On the 4 April 2023 Main Roads notified DCCEEW that it was not able to submit an offset strategy for the project by 12 April 2023 that would meet the Department's requirements.</p> <p>Main Roads had developed an offset strategy for the project and had secured a number of properties as potential offset sites. In accordance with the Department's past interpretation of the EPBC Offset Policy and previously approved offset strategies, Main Roads considered that it had sufficient and suitable offset properties for the project. However, due to changes to the Department's offset assessment approach, which resulted in some properties now becoming unsuitable, Main Roads considered the offset strategy was insufficient to meet the Department's new expectations regarding offsets.</p> <p>In accordance with Condition 12 of EPBC 2018/8357, Main Roads notified the Department that it was non-compliant with Condition 5 of the approval on the 13 April 2023, as the Offset Strategy had not been submitted by the required date. The details of the non-compliance were reported in accordance with Condition 13 on the 26 April 2023 (evidence of this has been previously supplied to the Department).</p> <p>On the 5 May 2023 Main Road requested a variation under Section 143 (B). The variation sought an extension of the timeframe for submission of the offset strategy from 24 to 36 months from the commencement of the action (ie until 12 April 2024). A response to Main Roads' request to vary the offset strategy submission date from 24 to 36 months from the commencement of the action was not provided by DCCEEW.</p> <p>Main Roads is finalising the development of an offset strategy in line with the Department's current approach to offsets and Main Roads plans to submit this strategy in August 2024.</p>

Condition Number	Condition Description	Status	Evidence/Comments
	The approval holder must not continue to clear habitat for EPBC Act listed species and ecological communities after 12 October 2024 unless the Offset Strategy has been approved in writing by the Minister. The approved Offset Strategy must be implemented for the remainder of the life of the approval.		
6	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	Commencement of the action was on 12 April 2021 and Main Roads notified the Department in writing on 15 April 2021, advising of the commencement (evidence of this has been previously supplied to the Department).
7	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).
8	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.
9	The approval holder must: <ul style="list-style-type: none"> a) submit plans electronically to the Department; b) publish each plan on the website within 20 business days of the date of this approval decision, or the date that the plan is approved by the Minister, unless otherwise agreed to in writing by the Minister; c) exclude or redact sensitive ecological data from plans published on the website or provided to a member of the public; and d) keep plans published on the website until the end date of this approval. 	Compliant	No plans have been submitted for approval post-approval. The Construction Environmental Management Plan included in the Preliminary Documentation for EPBC 2018/8367 was published on Main Roads website at https://www.mainroads.wa.gov.au/projects-initiatives/all-projects/metropolitan/Mitchell-freeway-extension/ .

Condition Number	Condition Description	Status	Evidence/Comments
10	The approval holder must ensure that any monitoring data (including sensitive ecological data), surveys, maps, and other spatial and metadata required under conditions of this approval, is prepared in accordance with the Department's Guidelines for biological survey and mapped data (2018) and submitted electronically to the Department in accordance with the requirements of the plan.	Compliant	No monitoring data has been collection during the reporting period. All future monitoring data will be prepared in accordance with the Department's Guidelines for biological survey and mapped data (2018) and submitted electronically to the Department.
11	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: <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 five 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; and 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. 	Compliant	This compliance report has been prepared and submitted to meet this condition. This compliance report will be published on the Main Roads website at https://www.mainroads.wa.gov.au/community-environment/environment/construction-project-reports/ (under "Mitchell Freeway Extension – Hester Avenue to Romeo Road")
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 two business days after becoming aware of the incident or non-compliance. The notification must specify: <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) 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. 	Compliant	Main Roads was non-compliant with Condition 5 of EPBC 2018/8367 during the reporting period. As per Condition 12 of EPBC 2018/8367, this non-compliance was reported to DCCEEW on 13 April 2023 and details of the non-compliance were reported in accordance with Condition 13 of the approval on 26 April 2023. No other non-compliances were recorded during the reporting period.
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:	Compliant	Main Roads was non-compliant with Condition 5 of EPBC 2018/8367 during the reporting period. As per Condition 12 of EPBC 2018/8367, this non-compliance was reported to DCCEEW on 13 April 2023 and details of the non-compliance were reported in accordance with Condition 13 of the approval on 26 April 2023. No other non-compliances were recorded during the reporting period.

Condition Number	Condition Description	Status	Evidence/Comments
	<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) c. the method and timing of any remedial action that will be undertaken by the approval holder. 		
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.
15	<p>For each independent audit, the approval holder must:</p> <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.	Not Applicable	The action is currently being implemented. The Department will be notified within 30 days of completion.



Figure 1 Total Clearing



Figure 2 Banksia Woodlands TEC Clearing



Figure 3 Carnaby's Cockatoo Habitat Clearing



Figure 4 FRTBC Habitat Clearing