

2022 Annual Compliance Report

Environment Protection and Biodiversity Conservation Act 1999

2020/8692

Yorkeys Knob Boating Facility

2 February 2022 to 1 February 2023

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Document control options

Prepared by	██████████
Title	Project Manager (Boating Infrastructure)
District & Region	Far North Queensland
Branch & Division	Maritime Safety Queensland, CSSR
Project/program	Yorkeys Knob New Boat Ramp Facility
Project number	TMR ref 0274M803200, EPBC 2020/8692
Project location	Yorkeys Knob, Cairns QLD
Status	Final
DMS ref. no.	

VERSION HISTORY			
Version No.	Date	Changed by	Nature of amendment
1	21 February 2023	██████████	Initial preparation of draft document
2	21 April 2023	██████████	Final

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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): _____

Position (please print): **Project Manager (Boating Infrastructure)**

Organisation: **Department of Transport and Main Roads, ACN: 394 076 902 91**

Date: **21/4/2023**

Description of activities

EPBC number – EPBC 2020/8692

project name – Yorkeys Knob Boating Infrastructure Project, near Cairns, Queensland

approval holder – Department of Transport and Main Roads

ACN – 394 076 902 91

the approved action -

location of the project – Yorkeys Knob, Cairns, Queensland

person accepting responsibility for the report – [REDACTED]

dates for the reporting period of the report – 2 February 2022 to 1 February 2023

date of preparation of the report – Feb - April 2023

EPBC 2020/8692 Approval Conditions Compliance Table

Condition No./ ref	Condition	Is the project compliant with this condition	Evidence / Comments
	1. The approval holder must not clear any Ant Plant or any tree known to contain, or suspected of containing, one or more Ant Plants.	YES	No Ant plants or trees containing Ant plants have been cleared during the works because no Ant plants are within the development footprint as detailed in the pre-clearance survey below.
	2. The approval holder must not clear outside the project area as part of the action.	NO	As detailed below an incident involving some minor additional accidental mangrove clearing occurred at the start of the project in March 2022. These works were within the project area but just outside the approved proposed vegetation clearing area and were remote from the identified Ant Plants south of the project area. Details of this incident and proposed remediation measures are outlined below
	3. To minimise impacts on the Ant Plant the approval holder must, at least two months prior to the commencement of the action, undertake pre-clearance surveys of all Ant Plant habitat within the project area that is proposed to be cleared. Pre-clearance surveys must be undertaken by an independent and suitably qualified field ecologist.	YES	Pre-clearance Survey provided Appendix 1
	9. 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.	YES	TMR emailed DAWE on the 9 th February 2022 notifying the commencement of works and subsequently received confirmation from DAWE of receipt see Appendix 2

10. 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.

YES

The action commenced on 2 February 2022 (As per Attachment 2) within six months of the amended decision notice issued on 20 September 2021

11. The approval holder must maintain accurate and complete compliance records.

YES

TMR has a records management system to meet this condition

12. 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.

YES

the department has not asked for compliance records other than as required by condition 15 Annual compliance report (this document)

Note: Compliance records may be subject to audit by the department or an independent auditor in accordance with section 458 of the EPBC Act, and or used to verify compliance with the conditions. Summaries of the result of an audit may be published on the department's website or through the general media.

	<p>13. The approval holder must:</p> <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 that the plan was approved by the Minister in writing; c. exclude or redact sensitive ecological data from plans that are to be published on the website or provided to a member of the public; and d. keep plans published on the website, or an alternative mechanism approved by the Minister, for the period this approval has effect. 	<p>YES</p>	<p>Given there are no Ant Plants within the construction footprint there are no management plans associated with this permit.</p>
	<p>14. The approval holder must ensure that all monitoring data (including sensitive ecological data), surveys, maps, and other spatial data and metadata required under the conditions of this approval, are prepared in accordance with the department's Guidelines for biological survey and mapped data (2018) and submitted electronically to the department in accordance with each annual compliance report required under condition 15.</p>	<p>YES</p>	<p>See pre-clearance survey Appendix 1</p>

<p>15. The approval holder must prepare a compliance report for each 12 month period following the date of commencement of the action, or otherwise as agreed 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 web-link 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; 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. <p>Note: Compliance reports may be published on the department's website.</p>	<p>YES</p>	<p>The preparation, publication and notification has been completed as evidenced by this report.</p>
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	<p>16. The approval holder must notify the department in writing of any: incident; non-compliance with the conditions. 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:</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. <p>In the event that the exact information cannot be provided, the best information available must be provided.</p>	<p>YES</p>	<p>One incident occurred during the construction phase of the works, involving some additional accidental mangrove clearing which was a non-conformance of condition 2 above. Notifications and information was provided in accordance with this condition and also as required under State legislation. See Attachment 3</p>
	<p>17. 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. 	<p>YES</p>	<p>One incident occurred during the construction phase of the works, involving some additional accidental mangrove clearing and was fully reported in accordance with this condition and also fully reported and actioned in accordance with State legislation responsibilities.</p> <p>In accordance with the attached draft non-conformance report Attachment 4 the project team is implementing the following three primary elements:</p> <ol style="list-style-type: none"> 1. Implement measures to reduce the footprint of required vegetation clearing (approved) wherever possible with the objective of maintaining total clearing to at or below the original approved footprint. 2. Undertake drone surveys at the conclusion of works to assess vegetation clearing extense and quantify the extent of natural recovery in the incident area. 3. Implement further rehabilitation measures in the event the desired objectives have not been achieved.

<p>18. The approval holder must ensure that independent audits of compliance with these conditions of approval are conducted as requested in writing by the Minister.</p>	<p>N/A</p>	<p>an independent audit has not been requested by the Minister</p>
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<p>19. 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. submit an audit report to the department within the timeframe specified in the approved audit criteria. 	<p>N/A</p>	<p>an independent audit has not been requested by the Minister</p>
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<p>20. 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.</p>	<p>N/A</p>	<p>an independent audit has not been requested by the Minister</p>
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<p>21. Within 20 business days after whichever is the earlier of:</p> <ul style="list-style-type: none"> a. the completion of the action; or b. 60 business days before the end date of the period for which this approval has effect; <p>the approval holder must notify the department in writing of the date of the completion of the action and submit all completion data to the department.</p>	<p>YES</p>	<p>Neither of these milestones have been met</p>
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22. Within 20 business days after the completion of the construction phase of the action the approval holder must notify the department in writing of the date of the completion of the construction phase of the action and submit all completion data to the department.

YES

The construction phase is still underway with completion expected in mid-2023 based on the current program subject to weather

Non compliances and corrective actions

Attachment 4 details the non-compliance and proposed corrective actions associated with the vegetation clearing incident detailed in the table above.

Measures were implemented to ensure the incident wasn't repeated which were effective, given no further incidents occurred.

TMR and its contractor have wherever possible implemented measures to reduce the footprint of approved vegetation clearing with the objective of removing the net impact of this incident against the approved clearing footprint.

A post works drone survey and assessment of mangrove recovery in the incident area is to occur at the end of the construction works and results will be reported to DAWE and DAF and subsequently used to implement further actions if required.

Appendix 1 – EPBC 2020-8692 commencement notification

[Redacted]

From: [Redacted]
Sent: Wednesday, 9 February 2022 9:14 AM
To: [Redacted]
Cc: [Redacted]
Subject: EPBC 2020/8692 Yorkeys Knob Boating Infrastructure Project - Commencement Notification

Categories: DMS

Hi DAWE

In accordance with condition 9 of EPBC 2020/8692, The State of Queensland Acting from the Department of Transport and Main Roads wishes to notify DAWE that construction works commenced via a possession of site being granted to our contractor on 2 February 2022.

Please let me know if you require any further information, it is expected that the construction works will take approximately 12 months.

Kind Regards

[Redacted]

[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Appendix 2 – EPBC 2020-8692 pre-clearance survey



BMT Commercial Australia Pty Ltd
Level 5, 348 Edward Street
Brisbane Qld 4000
Australia
PO Box 203, Spring Hill 4004

Tel: + [REDACTED]
Fax: + [REDACTED]

ABN 54 010 830 421

www.bmt.org

Technical Memorandum

From: [REDACTED] To: [REDACTED]
Date: 23 July 2021 CC: [REDACTED]
Subject: **Yorkeys Knob Boating Infrastructure Project - Pre-clearance Surveys**

CONDITIONS OF APPROVAL – ANT PLANT PRE-CLEARANCE SURVEY (EPBC 2020/8692)

The Yorkeys Knob Boating Infrastructure Project (EPBC 2020/8692) was referred under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) to the Department of Agriculture, Water and the Environment (DAWE) on 14 July 2020.

As per Item 3 under the draft Conditions of Approval for the project, a targeted Ant Plant (*Myrmecodia beccarii*) pre-clearance survey (the survey) was undertaken on 9th June 2021.

The survey was undertaken by independent and suitably qualified field ecologists led by Gemma Tucker of BioTropica Australia. Refer to Attachment A for Gemma's qualifications.

The targeted flora survey was undertaken within all habitats within the project area that are proposed to be cleared. The survey involved inspections of all habitats and potential host trees for ant plant within the proposed area to be cleared. Figure 1 shows the proposed areas to be cleared and the extent of the survey effort.

No ant plants were recorded by BioTropica within the proposed area to be cleared. Ant plants were confirmed adjacent to the proposed area to be cleared as identified in previous surveys undertaken by BMT 2018, and the current BioTropica survey (refer Figure 1).

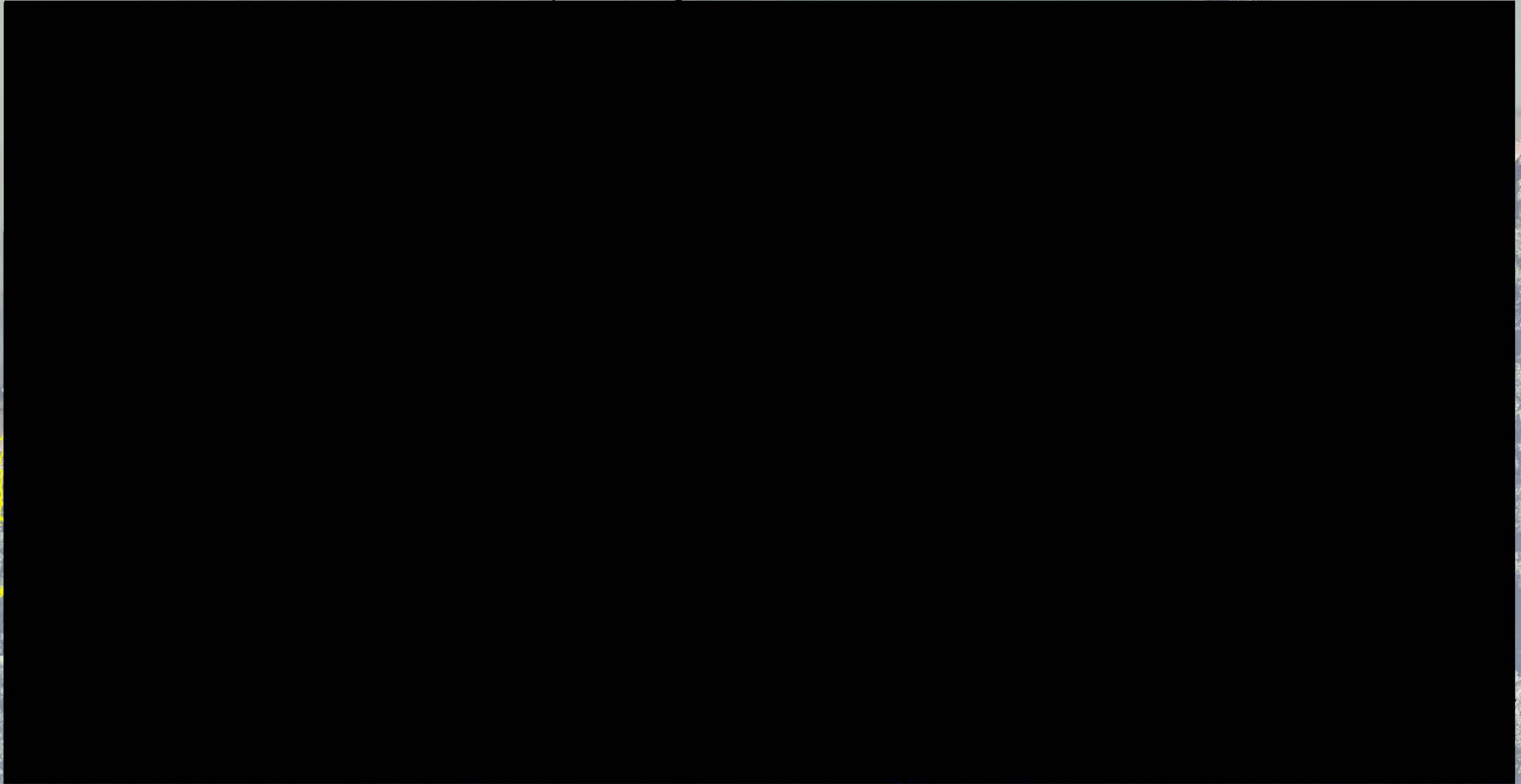
The ant plants adjacent to the proposed area to be cleared will not be directly impacted by the project.

If you have any queries on the above matter please do not hesitate to contact me on (07) 3831 6744.

Yours Faithfully

[REDACTED]

[REDACTED]
BMT



Half Moon Bay
Golf Course



LEGEND

- Ant plant records (BMT 2018)
- Ant plant records (BioTropica 2021)
- Pre-clearance survey (BioTropica 2021)
- Proposed development footprint (Royal HaskoningDHV - 8 July 2021)

Title:

Ant Plant (*Myrmecodia beccarii*) Pre-clearance Survey

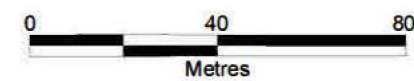
Figure:

1

Rev:

B

BMT endeavours to ensure that the information provided in this map is correct at the time of publication. BMT does not warrant, guarantee or make representations regarding the currency and accuracy of information contained in this map.



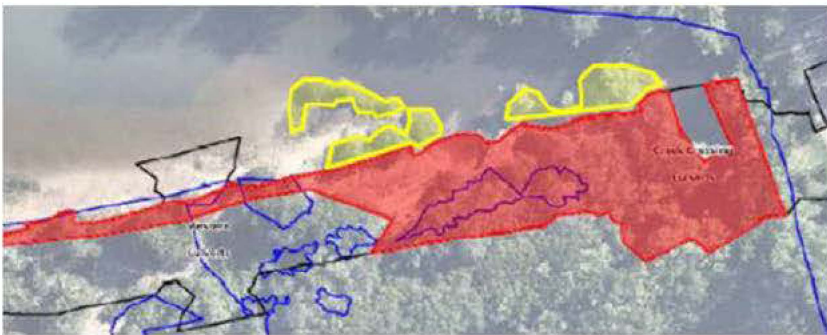
Appendix 3 – EPBC 2020-8692 incident notification

[REDACTED]

From: [REDACTED]
Sent: Friday, 4 March 2022 4:32 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: EPBC 2020/8692 Yorkeys Knob Boating Infrastructure Project Notification of non conformance

H [REDACTED]

I regret to inform you that our contractor has in error undertaken works including the removal of a small number of shoreline mangrove trees that are outside of the specified impact footprint. See indicative image below with vegetation in question marked in yellow.



In accordance with condition 16 I wish to notify the following;

- (a) This action represents a non-conformance of permit condition 2 "The approval holder must not clear outside the **project area** as part of the action."
- (b) TMR is waiting on a report from our contractor to gain specific details, however it would appear the EMP processes to demarcate the clearing area for general vegetation were not followed in full and/or communications with the excavator operator were not clear. This has resulted in a two small areas of mangroves being cleared in a narrow area between the creek and the access road, which were outside the proposed impact footprint.
- (c) This incident was identified following TMR review of drone images of the works site on the 3/3/2022, the location is 16deg 48'10.51"S , 145deg 43'5.27"E

Once TMR gains the incident and rectification report I will provide this to DAWE as per condition 17.

Please note that this incident is also a non-compliance of our state approvals administered by the Department of Agriculture and Fisheries(DAF) regarding the removal/damage to marine plants. For this reason we have also notified DAF and will be consulting with DAF regarding proposed rehabilitation works in addition to yourselves.

In reporting this incident I wish to advise DAWE that this incident was remote from the ant plants previously identified adjacent the works site. As per our preclearance survey no ant plants were identified in the works area and the ant plants identified adjacent were demarcated with a suitable buffer zone and will remain so for the duration of the project.

Once I have more information I will provide it and then discuss further the proposed rehabilitation works.

Kind Regards
[REDACTED]
[REDACTED]

[REDACTED]

From: [REDACTED]
Sent: Wednesday, 23 February 2022 2:25 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: EPBC 2020/8692 Yorkeys Knob Boating Infrastructure Project - Commencement Notification [SEC=OFFICIAL]

Dear [REDACTED]

I apologise for the delay in getting back to you. Please see attached a letter in relation to your notification of commencement for EPBC 2020/8692.

For any further questions please do not hesitate to contact the EPBC Monitoring Mailbox.

Kind regards,

[REDACTED]
[REDACTED]
Environment Compliance Branch
Compliance Division
Department of Agriculture, Water and the Environment
GPO Box 858, CANBERRA ACT 2601

From: [REDACTED]
Sent: Wednesday, 9 February 2022 10:14 AM
To: [REDACTED]
Subject: EPBC 2020/8692 Yorkeys Knob Boating Infrastructure Project - Commencement Notification

Hi DAWE

In accordance with condition 9 of EPBC 2020/8692, The State of Queensland Acting from the Department of Transport and Main Roads wishes to notify DAWE that construction works commenced via a possession of site being granted to our contractor on 2 February 2022.

Please let me know if you require any further information, it is expected that the construction works will take approximately 12 months.

Kind Regards

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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Appendix 4 - EPBC 2020-8692 non-conformance/corrective actions report

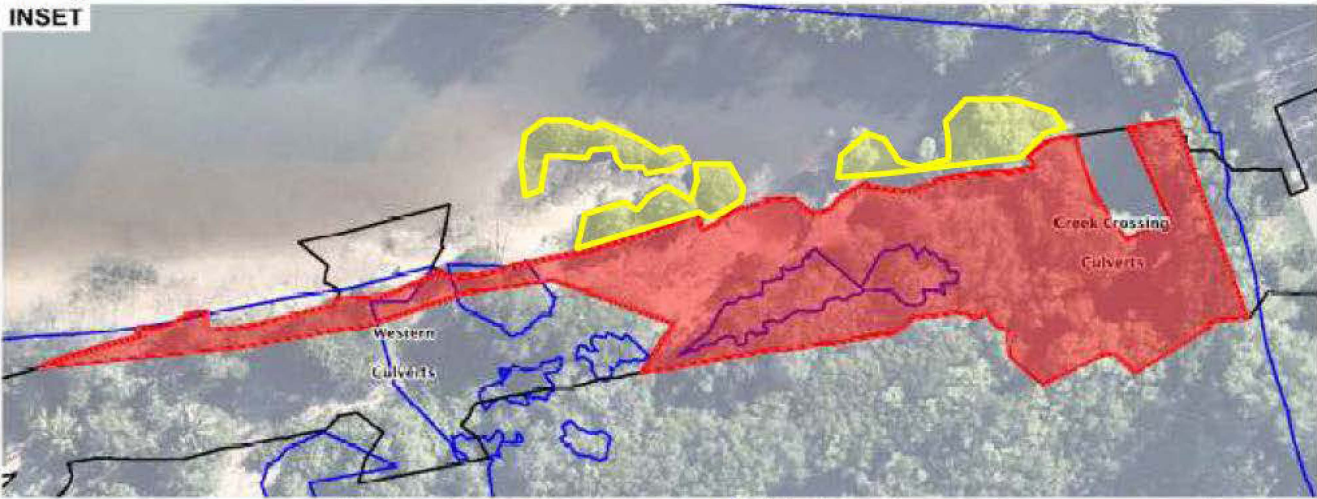
Project:	Yorkeys Knob Boat Ramp Project	Project NCR Ref:	001
Client:	Department of Transport and Main Roads	Date Raised:	03/03/2022
Subcontractor (if applicable):	N/A	Incident Report #:	N/A
NONCONFORMANCE DETAILS		Supplementary information attached? <input type="checkbox"/>	
Lot Number:	CLG-101		
Lot Type:	Clearing		
Structure / Location:	Northern Side of Site Access Road between Ch110 and Ch60		

Nonconformance Particulars:

- Minor
 Moderate
 Significant
 Critical
 Catastrophic

After completion of the clearing works, it was noted that the extent of clearing conducted on the northern side of the Access Rd in between CH60 and CH110, exceeded the extent of the approved Marine Plant Impact Area as shown on the below figure with red shading.

INSET



Pre-Clearing Picture (below). Unapproved Clearing shown in yellow at near low tide.



Post-Clearing Picture (below). Unapproved Clearing shown in yellow at near low tide.



Potential Impact of Non-Compliance

1. The non-conformance causes an approval condition breach as clearing took place outside the approved clearing limits/project area.
2. The environmental impacts seem minor to moderate for the following reasons:
 - a. The small footprint of the impacted area,
 - b. The overall reduction of the clearing area across the project being still less than the approved footprint,
 - c. The likelihood of rehabilitation (see corrective action section).
 - d. As per the vegetation clearing plan in the EMP the mangrove stands were removed cut off at ground level, so the ground was no disturbed. For this reason, the remaining stumps and root systems will continue to capture sediment, mitigate erosion and promote reshooting of mangroves (see attached photos).
 - e. Overtime as the stumps began to decay their effectiveness to provide erosion protection will diminished so it is important to promote recolonisation of the area.
 - f. Given this specific section of creek opposite the Marina was particularly sparse of shoreline vegetation prior to the works the small, segmented area of mangroves removed in error do not represent a significant impact on the broader habitat. However, rehabilitation works proposed will promote a significant improvement in habitat value.

Casual Factors:

3. Hall developed a Vegetation Clearing Plan in line with the project documents and approvals (Annexure E to CEMP)
4. Prior to works commencing, Hall marked the road alignment with survey pegs, sitting at a 1m offset from the edge of embankment/cut (both sides).
5. Clearing was intended to be limited to the absolute necessary footprint to allow construction rather than extending to the maximum approved footprint.
6. A pre-clearance flora survey was completed prior to the works by TMR, confirming no ant plants were present within the proposed works area
7. All ant plant locations adjacent to the work area were located and visually marked as well.
8. A pre-clearance fauna survey was completed prior to works commencing.
9. The pegged alignment was meant to be the clearing limit for the works and was communicated as such between the site team.
10. The first stage of works was to clear the banks of the creek and install a temporary crossing. When this activity was complete thick vegetation immediately to the north had to be cleared to provide suitable access to peg the access way.
11. As clearing progressed, the first 30-40m of the northern side had no pegs to mark the road alignment, due to the edge of the alignment being low lying, within the tidal zone in relation to the natural surface.
12. At the time the pegging was completed, high tide water levels prevented access to the adjacent area of the access road.
13. The Project Manager was aware that most of this specific area will be built up and stabilised with rip-rap rock as part of the permanent road works and made the incorrect assumption that the batter of these works would extend to the shoreline and impact the mangrove stands in question. This led to the direction to remove the sparse mangrove stands. This was not cross-checked against the road alignment data or the Environmental Management Plan, which specified the Marine Plant Impact extents

14. The site supervisor and excavator operator were advised that the foreshore line in this area represented the extent of clearing works.
15. From approximately chainage 120m onwards, the northern alignment pegs were in place to guide the clearing works.
16. The clearing outside the approved boundary remained unnoticed until pointed out by a TMR representative following review of works photos at a later date.
17. The additional area cleared amounts to approximately 0.0244ha (244m²)

CORRECTIVE ACTION

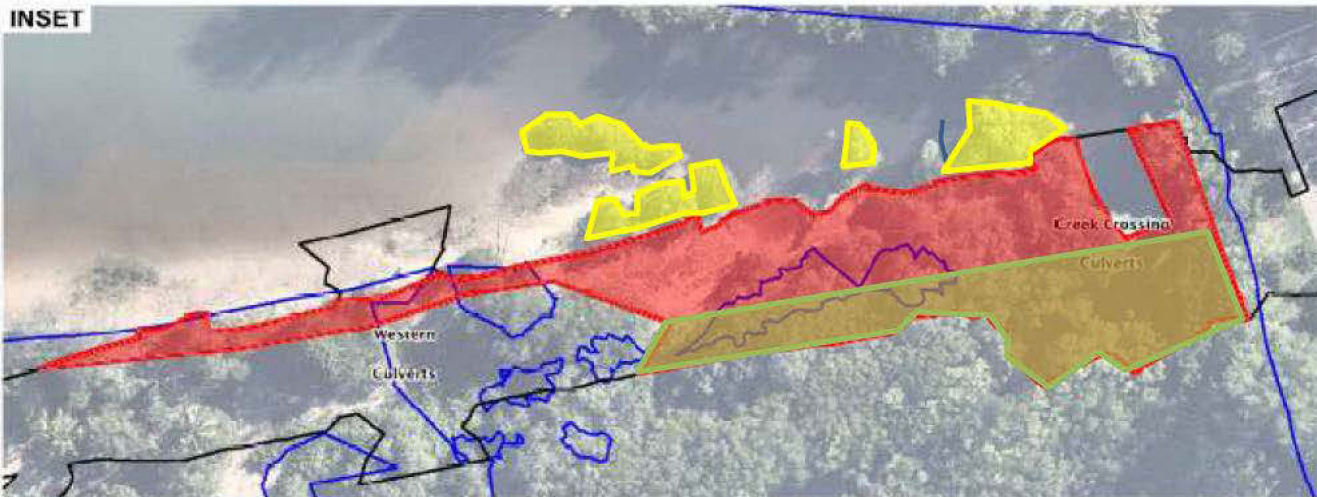
Supplementary information attached?

Corrective Actions already taken:

18. Non-Compliance discussed within the Project Team
19. Project documents i.e. Management and Approvals reviewed
20. Area inspected to ensure disturbance does not cause erosion or sediment issues (plant roots left in place and natural ground remained undisturbed). A silt curtain was in place at the time however no visual signs of erosion or sediment run off were observed over the following days.

Proposed Corrective Action:

21. The projects overall offset area calculation should remain unchanged due to reduced actual clearing area across the site. The figure below indicates the area not cleared in green. The yellow area indicates the additional clearing which amounts to approximately 0.0244ha (244m²). We propose to provide a comparison image/drawing upon completion of the works to verify the actual offset.



22. Hall will conduct the remaining project to minimise to the greatest extent possible marine plant impacts within the approved footprint, with the objective of keeping the gross marine plant impact area below the approved area to mitigate the impact of this incident. At the conclusion of the project works Hall will capture post works drone image (after all works are completed) and utilise pre-works drone image. Both these images shall be rectified, and the exact areas of marine plant impact will be calculated for the project and compared to the approved impact area.
23. At the conclusion of the project an inspection of the impact area will occur, to assess and document the mangrove recovery in the impact area firstly with a ground inspection and marking of the recovering area with fluoro tape and capture of this area with drone footage. This drone footage will be used to define the area of mangrove recovery.
24. Subject to the above corrective action outcomes above the following remedial actions shall occur:
 - a. **Action A** - In the event corrective action 22 and 23 shows the total marine plant impact area (at the incident site) is less than approved and the approved recovery area is greater than 244m² then no further rehabilitation actions would be proposed.
 - b. **Action B** - In the event corrective action 23 shows the total marine plant impact area is less than approved and the approved recovery area is less than 244m² then a program of mangrove planting (including monitoring) is to be implementing to achieve recovery of the 244m² impact area. Details of the planting and monitoring strategy will be submitted to DAF and DAWE prior to the implementation.
 - c. **Action C** - In the event corrective action 23 shows the net marine plant impact area is greater than that approved area (as a result of the incident) then a minimum of 500m² (double that impacted) of mangrove recovery rehabilitation in the incident area will be required. This will include promotion of natural colonisation with monitoring and/or a program of mangrove planting and monitoring. Until the objective has been achieved. Details of the planting and monitoring strategy will be submitted to DAF and DAWE prior to the implementation.
25. The outcomes of the Corrective Action investigations and subsequent actions to achieve the desired objectives will be collated in a memo style report that will be submitted to DAF and DAWE

Measures to prevent reoccurrence:		
<p>26. Hall shall review its Environmental Management Plan and all Project Approval Documents as a Project Team Exercise to ensure no misunderstanding of the plan's environmental requirements and associated approval conditions.</p> <p>27. The action shall be documented via a Minutes of Meeting and a revised Plan if changes are being made.</p>		
Report prepared by: [REDACTED]	Date: 03-Mar-2022	Signature: [REDACTED]
Client Response:		
Corrective Action Accepted:	<input type="checkbox"/>	Initial
Corrective Action Rejected:	<input type="checkbox"/>	Initial
Conditions / Comments:		
NCR CLOSE OUT	Supplementary information attached? <input type="checkbox"/>	
Approved Corrective Action Completed:		/ /
	Contractors Representative Sign:	Date:
		/ /
	Client's Representative Sign:	Date:
Comments:		

7 Buckley St Yorkeys Knob QLD

☉ 287°W (T) LAT: -16.802915 LON: 145.718318 ±4m ▲ 5m



Mangroves
AMPP

Yorkeys Knob
09 Mar 2022, 08:48:10

7 Buckley St Yorkeys Knob QLD

☉ 331°NW (T) LAT: -16.802924 LON: 145.718249 ±4m ▲ 0m



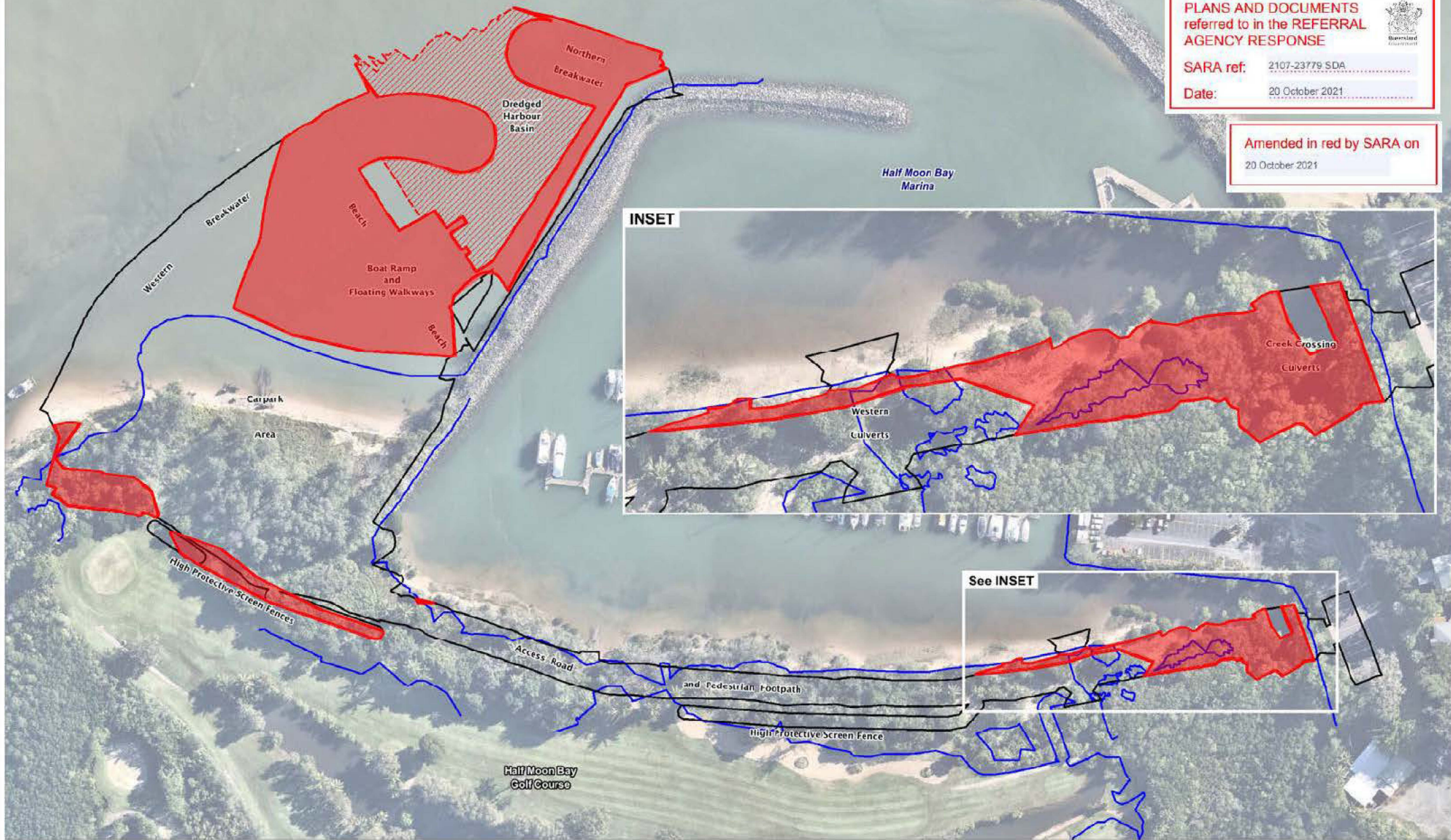
Mangroves
AMPP

Yorkeys Knob
09 Mar 2022, 08:48:38



SARA ref: 2107-23779 SDA
 Date: 20 October 2021

Amended in red by SARA on 20 October 2021



LEGEND

- Pre-development HAT line
- Proposed development footprint

Data source: Royal HaskoningDHV (8 July 2021)

- Total permanent impact of 1.475 ha
- Temporary impact (periodic dredging) of 0.486 ha

Title:

Impacts on Marine Plants

BMT endeavours to ensure that the information provided in this map is correct at the time of publication. BMT does not warrant, guarantee or make representations regarding the currency and accuracy of information contained in this map.

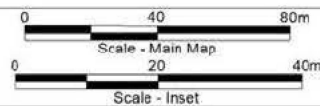


Figure: 3-1

Rev: G

