



Knox Creek Plain EPBC Approval 2014/7143



Annual Report 2023

For the period 1 January 2023 to 31 December 2023

Prepared for submission to the Department of Climate Change, Environment, Energy and Water
epbcmonitoring@dcceew.gov.au

March 2024

Prepared for and on behalf of

Kimberley Agricultural Investment Pty Ltd

ABN 60 154 270 194

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by

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Document Control

Date	Version	Reviewed / endorsed by
2 April 2024	Rev A	For client review
3 April 2024	REV O	For submission

This report has been prepared in consideration of the EPBC *Annual Compliance Report Guidelines 2014*, available at <https://www.dcceew.gov.au/sites/default/files/documents/annual-compliance-report-guidelines-revised.pdf>

PROPONENT DETAILS

Registered Business Name: Kimberley Agricultural Investment Pty Ltd

ACN: 154 270 194

ABN: 60 154 270 194

Placed and Date of Incorporation: Registered by Australian Securities and Investments Commission 15/11/2011.

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Acronyms and Abbreviations Used

CAR	Compliance Assessment Report
DCCEEW	Department of Climate Change, Environment, Energy and Water
DPIRD	Department of Primary Industries and Regional Development
DSD	(Former) Department of State Development, now JTSI
DWER	Department of Water and Environmental Regulation
EMP	Environmental Management Program
EPA	Environmental Protection Authority
EPBC	Environment Protection and Biodiversity Conservation (Act 1999)
FPDP	Final Project Design Plan
IRG	Independent Review Group
JTSI	Department of Jobs, Technology, Science and Innovation
KAI	Kimberley Agricultural Investment Pty Ltd
WA	Western Australia


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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 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 I have no knowledge of that authorisation being revoked at the time of making this declaration.

Signed 

Full Name **JAMES ENGELKE**

Position **GENERAL MANAGER**

Organisation **KIMBERLEY AGRICULTURAL INVESTMENT PTY LTD**

ABN **60 154 270 194**

Date **3 April 2024**

1.0 Overview

On June 16, 2015, the Australian Government Department of the Environment, under delegation of the Minister for the Environment, issued Kimberley Agricultural Investment Pty Ltd (KAI) conditional approval to develop the Knox Creek Plain for irrigated agriculture. Approval 2014/7143 contains fifteen conditions targeted at ensuring the protection of Matters of National Environmental Significance, listed under the *Environment Protection and Biodiversity Conservation (EPBC) Act 1999*. Approval 2014/7143 permits the clearing and development of up to 6,280 hectares of land on the Knox Creek Plain. An additional (minimum) 6,415 hectares is required to buffer the impacts of the development on nearby landscapes.

This document reports on progress against implementation of the conditions of approval, for the period ending 31 December 2023, and has been prepared under the annual compliance report requirement contained in Condition 3 of EPBC 2014/7143.

It will be supplemented by the 2023 Annual Environmental Management Program (EMP) audit of compliance with the requirements of Statement 938, being prepared by the Western Australian Department of Primary Industries and Regional Development (DPIRD) as Proponent for the Statement 938 approval. Statement 938 was issued under the WA Environmental Protection Act 1986 by the Western Australian Minister for the Environment, in relation to the development of the M2 agricultural area in the north-east Kimberley. The approval area includes the Knox Creek Plain.

A Final Project Design Plan (FPDP) for the Knox Plain, as required under Statement 938, was approved by the WA Department of Water and Environmental Regulation on 4 May 2020. KAI notified the (former) Department of Agriculture, Water and the Environment (DAWE) of the commencement of the development of the Knox Plain in May 2020. Approximately 410 hectares was cleared on the eastern boundary of the Knox development, in 2020.

Following a hiatus while the WA Government resolved issues surrounding the identification of *Typhonium sp. kununurra* on the Knox Plain, clearing and development re-commenced in 2022. In April 2021, the WA Government issued a 'licence to take' *Typhonium sp. kununurra* under Section 40 of the *Biodiversity Conservation Act 2016*. Consequently, the maximum clearing area on the Knox Plain has been reduced to meet the requirements of the the associated *Typhonium Threatened Species Management Plan*, dated March 2023 (DPIRD, 2023a). Figure 1 provides the approved Knox Plain layout, allowing for the footprint adjustment.

A total of 3,098ha on the Knox Plain had been cleared for development by 31 December 2022, including the initial 410ha reported in the 2020 Annual Environment Report. By 31 December 2023, clearing of the farm and infrastructure areas had been completed, totaling 5443.15 hectares. No further clearing of the farm and infrastructure areas is anticipated.

For comparison purposes, Figure 2 provides satellite imagery dated 11/12/2023. Figure 3 visually validates the clearing completed to the end of the 2023 dry season, showing vegetation density with preference to low biomass vegetation typical of northern pastoral landscapes, in order to highlight the vegetation differences with non-cleared areas.

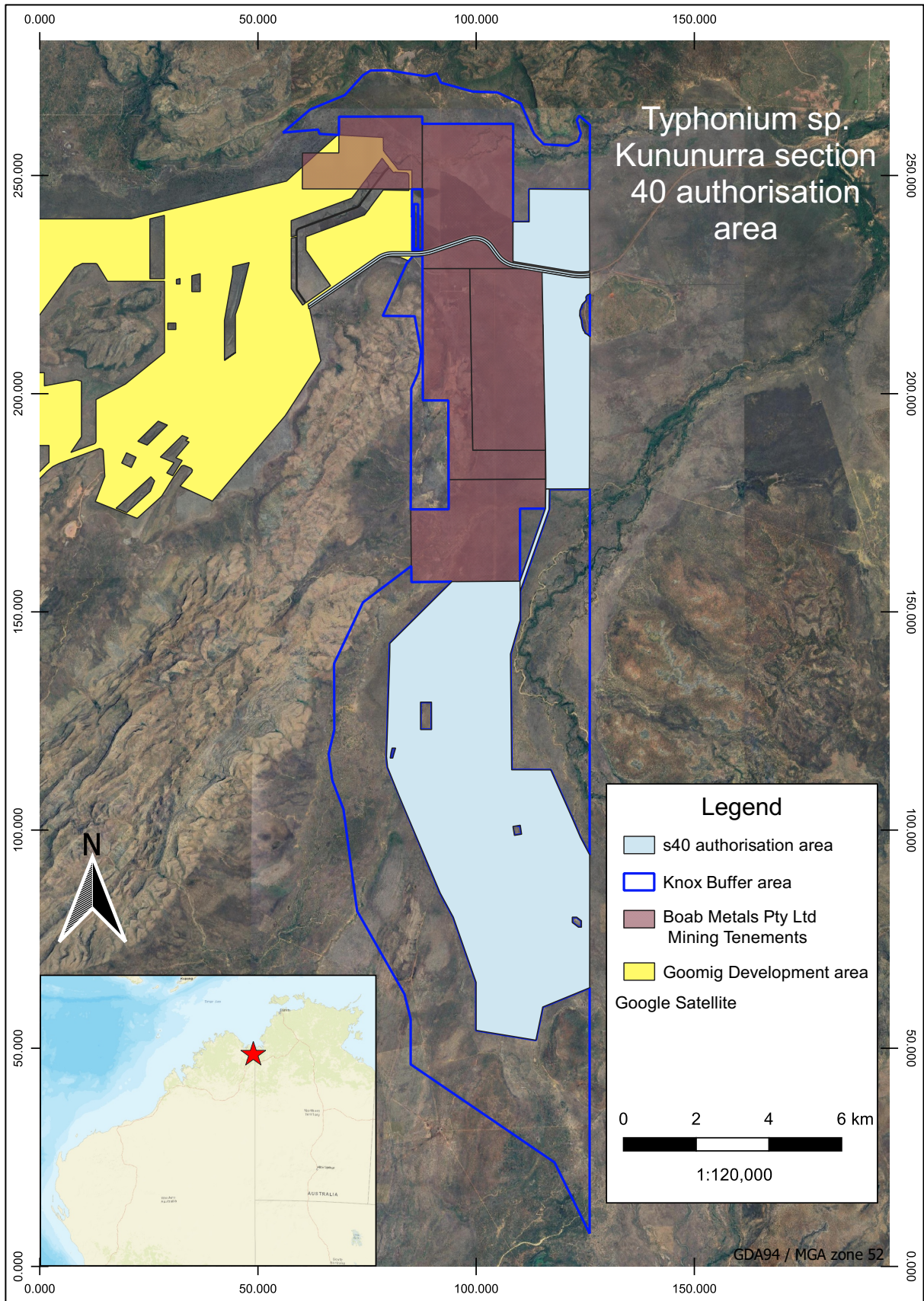


Figure 1. Knox Creek Plain – Revised Development Envelope: Typhonium sp. kununurra Revision March 2023

(Source: DPIRD)

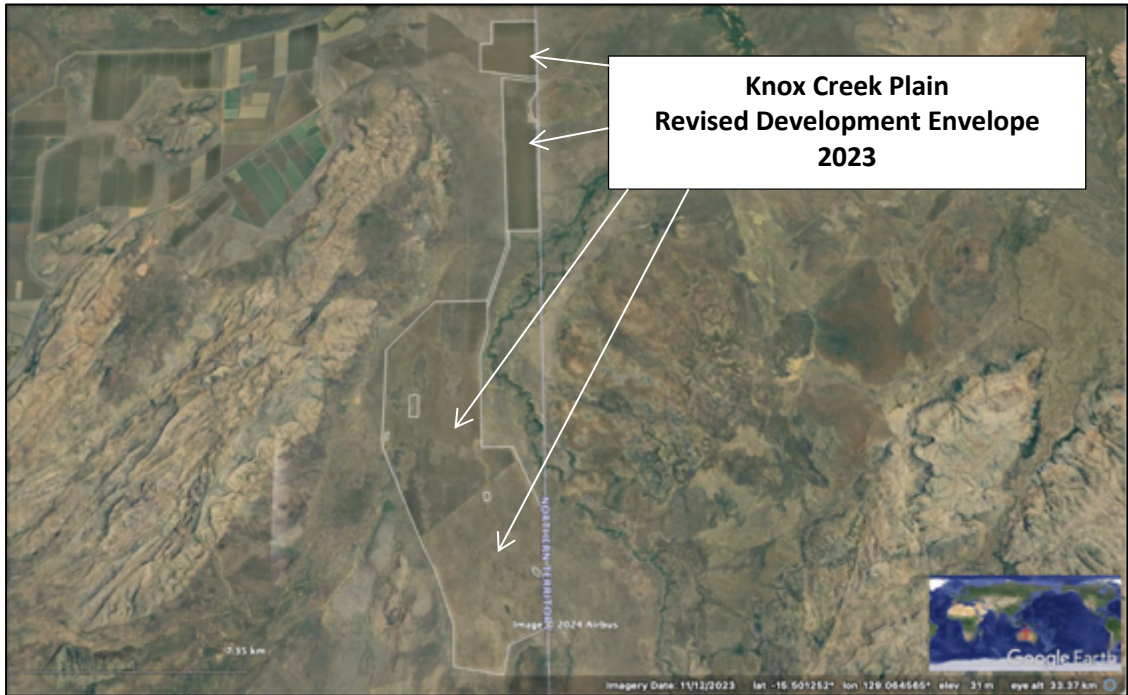


Figure 2. Knox Plain Satellite Imagery: November 2023

(Source: Google Earth)

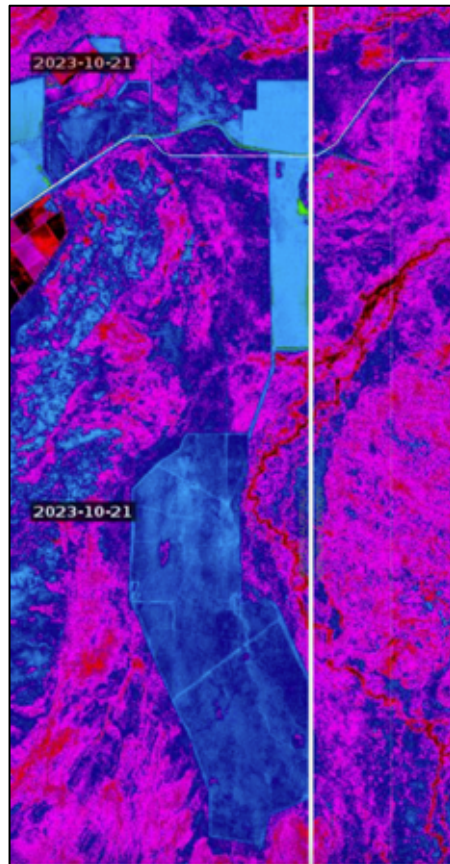


Figure 3. Knox Plain Satamap Low Biomass Vegetation Index: October 2023

(Source: www.satamap.com.au)

1.1 Development Progress – 2023

The development of the Knox Creek Plain for agriculture continued in 2023, including the completion of the supply channel through the Goomig development and Sorby Hills area to Knox, and the further preparation of farming lands and continued construction of farm buildings, as illustrated in Figure 4.

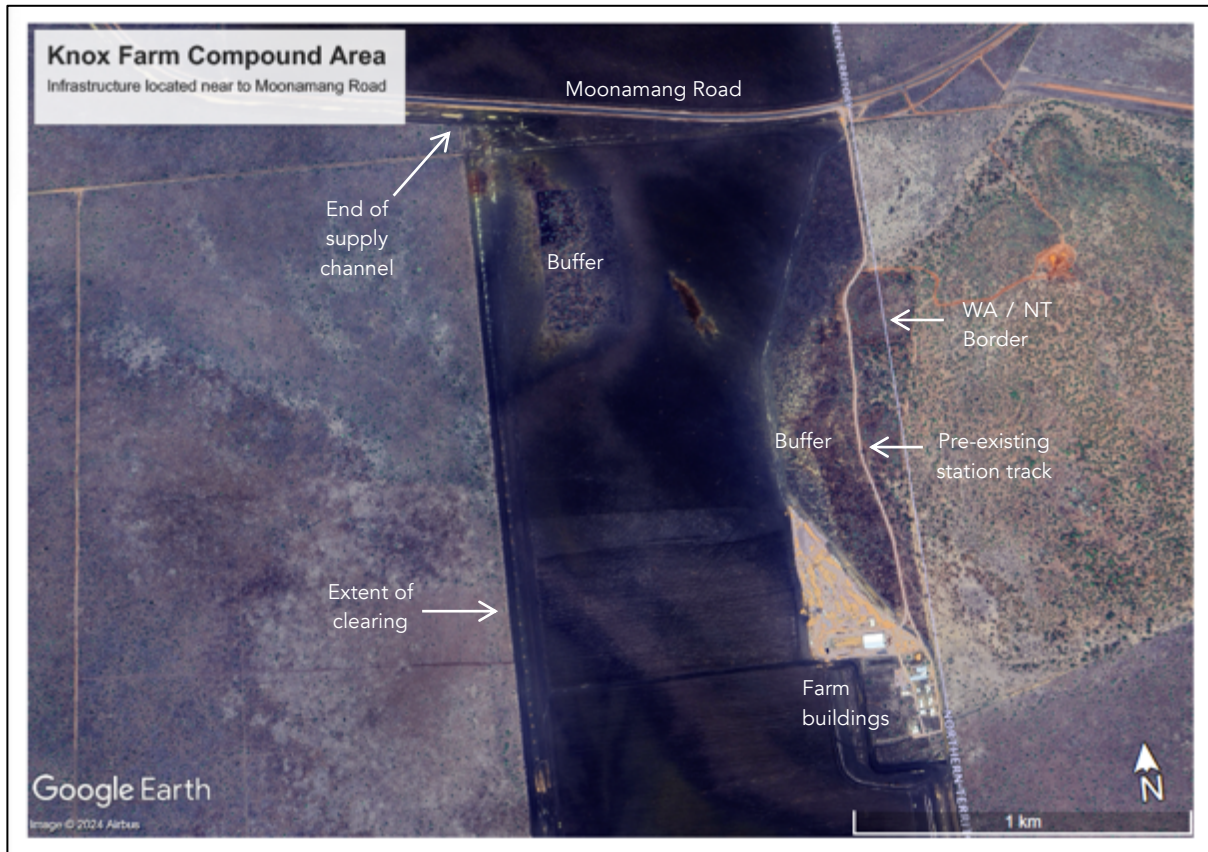


Figure 4. Knox Farm Compound Area Satellite Imagery – November 2023

(Source: Google Earth)

Images from a site inspection conducted on 1 August 2023 are provided in Table 1.

Table 1. Knox Creek Plain Site Inspection Images - 1 August 2023






<p>Plate 1</p> <p>Irrigation channel extended from Goomig farmland to Knox Plain adjacent to Moonamang Road.</p> <p>View south.</p>	
<p>Plate 2</p> <p>Knox farm buildings</p> 	
<p>Plate 3</p> <p>North-facing view to Knox farm buildings. WA / NT Border to the right.</p> 	

Plate 4

South facing view away from Knox farm buildings. Pink flagging tape mid-photo delineates clearing boundary.

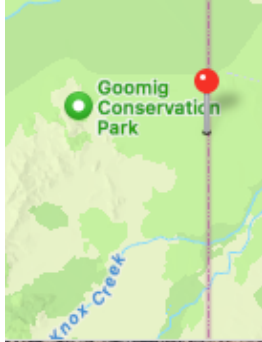


Plate 5

View south to Knox infrastructure corridor in centre of development. Buffer either side.



Plate 6

Central southern Knox clearing, facing west over farm area.



Plate 7

Southern Knox, eastern boundary, facing south.

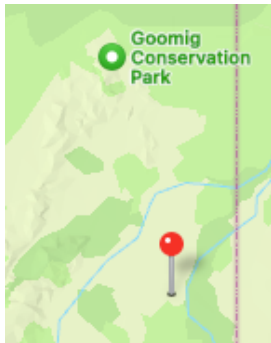


Plate 8

Southern Knox clearing.

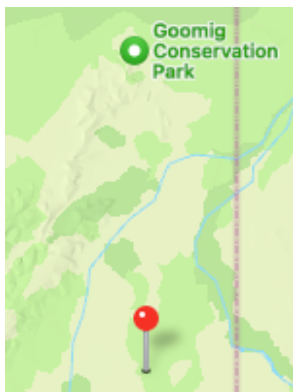


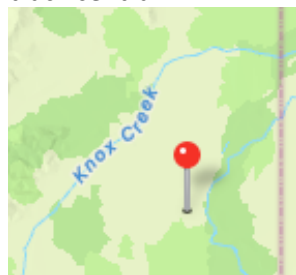
Plate 9

South-western Knox, UNCLEARED pastoral land (ie, pre-existing condition).



Plate 10

Central Knox, view to Sorby Hills. Clearing to left and right of fence. Pre-existing station track central.



1.2 Summary of Compliance Assessment Findings and Recommendations

A 'potential' non-compliance has been applied to *Condition 3*, relating to the timing of the completion and submission of the 2022 annual report.

With the resolution of the 'Typhonium' issues and its associated impacts on the farm design, KAI and DPIRD are working closely to streamline relevant approvals (Knox, Goomig) and associated management plans. This process continues. Streamlining of reporting requirements will assist in the future timeliness of annual report preparation. EPBC approval 2014/7143 relies in part on the Statement 938 Knox Environmental Management Plan (Knox EMP), which falls within the proponenty of DPIRD, and timing requirements which are outside of KAI's current control.

Revisions of management plans relevant to both Commonwealth and State environmental approvals for both the Knox and Goomig (Weaber Plain) developments are under way.

Fundamental to the streamlining of approvals, processes and environmental outcomes is the proposed formal recognition of a single Independent Review Group to oversee water-related monitoring and management, to minimise impacts on and threats to listed aquatic Matters of National Environmental Significance (MNES) in the Keep River. Efforts to formally merge the Knox and Weaber (Goomig) IRGs should be prioritised to ensure there is no technical or administrative non-compliances observed in relation to *Condition 14* in the future, once operations commence on Knox.

In relation to Conditions 14 (IRG) and 15 (Keep River MNES), the assessments of 'compliant' or 'not applicable' have been applied, despite the Knox IRG not meeting independently during 2023. As farming has not yet commenced, the management of stormwater and irrigation tailwater from Knox farms, and therefore the management of downstream runoff risk, was not required in 2023. The following is noted:

The Weaber Plain IRG met on 28 March 2023. The IRG advises on appropriate management and monitoring for both the Weaber (Goomig) and Knox areas as they are congruent and both fall within the Keep River catchment, the location of the MNES of interest to the IRG through EPBC 2014-7143 and EPBC 2010-5491. Although two different proponents (DPIRD and KAI) are responsible for the Weaber and Knox approvals respectively, the single IRG membership reviews monitoring and management recommendations relating to surface and groundwater changes in the Goomig (Weaber) and Knox areas of the Keep River catchment. There is a

50% overlap in membership of the two groups. It is logical that they be formally merged. Ministerial endorsement of the combined Weaber-Knox IRG is required and it is recommended that the Proponents jointly write to DCCEEW seeking support for the joint IRG.

The Weaber Plain (Goomig) IRG membership consists of

David Menzel (Chair) – also approved Knox IRG Chair.

Dr Ray Evans – also approved Knox IRG member - technical expert with at least five years experience in northern Australian surface water and groundwater hydrology.

Dr Mark Silburn (Queensland Government) - technical experts with at least five years experience in northern Australian surface water and groundwater hydrology.

Dr David Morgan (Murdoch University) - *Glyphis* and *Pristis* expert.

Dr Richard George, an approved Knox IRG Member, also attends the Weaber IRG meetings.

Dr Helen Larsen previously retired from the Knox and Weaber IRGs. Dr David Morgan was appointed to the Weaber IRG as the *Glyphis* and *Pristis* expert, to replace Dr Larsen.

Knox IRG Terms of Reference were endorsed in a previous reporting period. There has been no change to the Knox Terms of Reference, noting that formal changes and a request to merge with the Weaber Plain IRG (despite different approval holders) could be done concurrently.

It is timely to undertake these changes as Knox nears its agricultural production commencement.

Refer to Table 2 for further information on these matters.

2.0 Approval Changes in 2023

Variation to conditions

No condition variations were issued in 2023. The Proponent notes that a draft variation proposed by DCCEE in August 2022 has not been finalised.

Statement 938 changes and review of Environmental Management Plan

Ministerial Statement 938 covers both the Weaber Plain (Goomig) and Knox Creek Plain developments. On 12 December 2017, the proponentcy transferred from the WA Department of State Development (DSD) to DPIRD. The Department of Water and Environmental Regulation (DWER) requested, in mid-2017, that the proponent for Statement 938 conduct a full review of the EMP, in line with new DWER guidelines issued in March 2017. The revised EMP will amalgamate the existing Weaber (Goomig) and Knox EMPs, which have both been approved under Statement 938.

The revised EMP for the Weaber and Knox areas had not been finalised by DPIRD for approval by DWER, at the end of this reporting period. It will be submitted to the DCCEE as required under the (revised) condition 5 of the Knox Creek Plain EPBC approval when the WA government and DWER complete the revision process. Following the completion of the *Typhonium sp. kununurra* management planning in 2023 (DPIRD 2023a), the full EMP review can now be completed.

3.0 Compliance with EPBC 2014/7143 Conditions

Table 2 provides a summary of progress during the period 1 January 2023 to 31 December 2023.

This report will be supplemented by the Statement 938 Annual Compliance Assessment Report (CAR), currently being prepared by the Department of Primary Industries and Regional Development (DPIRD).

3.1 Compliance Designation

In accordance with Section 3.7 of the *Annual Compliance Report Guidelines* (Commonwealth of Australia, 2023), the following designations have been applied to findings –

Compliant

'Compliance' is achieved when all the requirements of a condition have been met, including the implementation of management plans or other measures required by those conditions.

Non-compliant

A designation of 'non-compliant' must be given where the requirements of a condition or elements of a condition, including the implementation of management plans or other measures required by those conditions, have not been met.

Not applicable

A designation of 'not applicable' must be given where the requirements of a condition or elements of that condition fall outside of the scope of the current reporting period. For example, a condition that applies to an activity that has not yet commenced.

The assessment provided in Table 2 is based on evidence collated by KAI, and is informed by a site inspection conducted on 1 August 2023.

3.2 Compliance Assessment

Table 2. EPBC 2014/7143 Knox Creek Plain - Compliance Table 2023

Condition Reference	Requirement	Is the Project compliant with this condition?	Evidence / Comments
1	Within 30 days after the commencement of the action, the person taking the action must advise the Department in writing of the actual date of commencement.	Not applicable. Completed.	The action commenced on 26 May 2020. KAI provided written advice to DAWE on 12 June 2020 confirming the commencement of the action. The Department acknowledged receipt of the letter and the commencement of the action in correspondence 15/016402 dated 17 June 2020. This condition is therefore considered to have been met.
2	The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement the management plans required by this approval, and make them available upon request to the Department. Such records may be subject to audit by the Department or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with conditions of approval. Summaries of audits will be posted on the Department's website. The results of audits may also be publicised through the general media.	Compliant.	KAI is maintaining records of environmental investigations and compliance with the requirements of EPBC 2014/7143.
3	By 31 March of each year after commencement of the action, the person taking the action must publish a report on their website addressing compliance with the conditions of this approval over the previous 12 months, including implementation of any management plans as specified in the conditions. Non-compliance with any of the conditions of this approval must be reported to the Department within two days of the person taking the action becoming aware of the non-compliance and at the same time as the compliance report is published. The person taking the action must continue to publish the report until such time as agreed in writing by the Minister or the approval has expired.	Potentially non-compliant.	The 2022 report was provided to update the Minister for the Environment on progress against compliance with EPBC 2014/7143. The 2022 report was emailed to the Department on 13 July 2023. The 2022 report and supporting documents were uploaded to the website www.kai-australia.com.au on 31 July 2023. The 'potentially non-compliant' assessment relates to the timing of the submission of the report, and is therefore a technical non-compliance. Evidence: EPBC 2014-7143 Condition 3 Knox Annual Report Lodgement Email Sent 2023-07-13. www.kai-australia.com.au

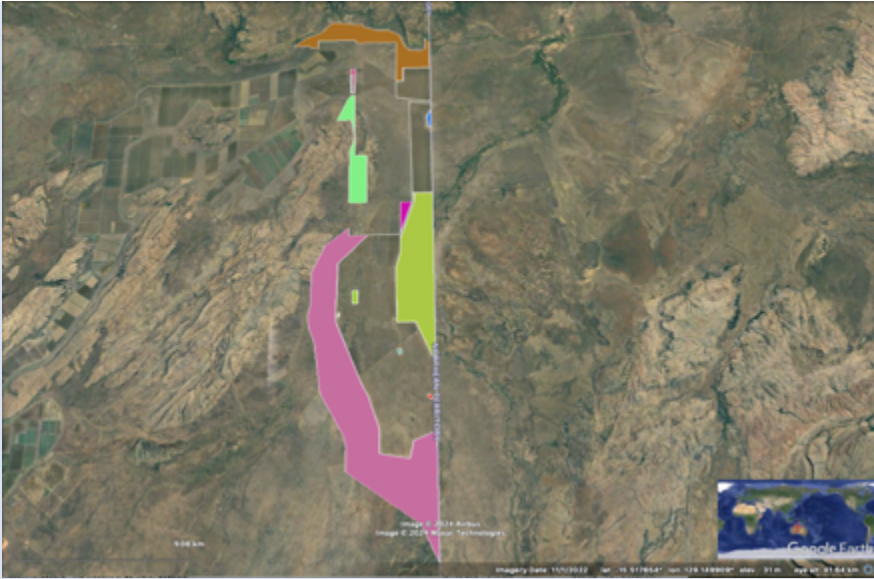
Condition Reference	Requirement	Is the Project compliant with this condition?	Evidence / Comments
4	Upon the direction of the Minister, the person taking the action must ensure that an independent audit of compliance with the conditions of approval is conducted and submitted to the Minister. The person taking the action must not commence the audit until the independent auditor and audit criteria have been approved by the Minister. The audit report must address the criteria to the satisfaction of the Minister.	Not applicable.	No audit requests received to date.
5	The person taking the action may choose to revise the <i>Knox Creek Plain Environmental Management Program, August 2015</i> ; Bare-rumped Sheathtail Bat Management Plan; and Aquatic Fauna Management Plan, approved by the Minister without submitting it for approval (including under section 14A of the EPBC Act), if the taking of the action in accordance with the revised plan would not be likely to have a new or increased impact. If the person taking the action makes this choice they must: a) Notify the Department in writing that the approved plan has been revised and provide the Department, at least four weeks before implementing the revised plan, with: i. An electronic copy of the revised plan; ii. An explanation of the differences between the revised plan and the approved plan; and iii. The reasons the person taking the action considers that the taking of the action in accordance with the revised plan would not be likely to have a new or increased impact.	Not applicable.	There were no revisions to management plans in 2023.
5A	The person taking the action may revoke its choice under condition 5 at any time by giving written notice to the Department. If the person taking the action revokes its choice to implement the revised plan, without approval under Section 143A of the EPBC Act, the plan approved by the Minister must be implemented.	Not applicable.	Not applicable.
5B	If the Minister gives a notice to the person taking the action that the Minister is satisfied that the taking of the	Not applicable	Not applicable

Condition Reference	Requirement	Is the Project compliant with this condition?	Evidence / Comments
	<p>action in accordance with the revised plan would be likely to have a new or increased impact, then:</p> <p>i. Condition 5 does not apply, or ceases to apply, in relation to the revised plan; and</p> <p>ii. The person taking the action must implement the plan approved by the Minister.</p> <p>To avoid any doubt, this condition does not affect any operations of conditions 5 or 5A in the period before the day the notice is given.</p> <p>At the time of giving the notice, the Minister may also notify that for a specified period of time condition 5 does not apply to the plan required under the approval.</p>		
	<p>Conditions 5, 5A and 5B are not intended to limit the operation of section 143A of the EPBC Act which allows the person taking the action to submit a revised plan to the Minister for approval.</p>		
6	<p>If the Minister believes that it is necessary or convenient for the better protection of the listed threatened or migratory species to do so, the Minister may request that the person taking the action make specified revisions to the management plans specified in the conditions and submit the revised management plan for the Minister's written approval. The person taking the action must comply with any such request. The revised approved management plan must be implemented. Unless the Minister has approved the revised management plan, then the person taking the action must continue to implement the management plan originally approved, as specified in the conditions.</p>	Not applicable	Not applicable.
7	<p>If, at any time after five years from the date of this approval, the person taking the action has not substantially commenced the action, then the person taking the action must not substantially commence the action without the written agreement of the Minister.</p>	<p>Not applicable.</p> <p>Completed.</p>	<p>410 hectares were cleared in May, June 2020. A total of 3,098 hectares were cleared to 31 December 2022, including the 410 cleared in 2020. By 31 December 2023, clearing of the farm and infrastructure areas had been completed, totaling 5443.15 hectares.</p>

Condition Reference	Requirement	Is the Project compliant with this condition?	Evidence / Comments
8	Unless otherwise agreed in writing by the Minister, the person taking the action must publish all management plans referred to in these conditions of approval and any baseline information and monitoring results required by these plans on their website. Each management plan must be published on the website within one month of being approved and all baseline information and monitoring results must be published on the website annually, beginning twelve months after the commencement of the action. The person taking the action must continue to publish the approved management plans and baseline information until such time as agreed in writing by the Minister or the approval has expired.	Compliant.	Management plans, previous EPBC 2014/7143 Annual Environment Reports and previous Statement 938 EMP Compliance Assessment Reports can be found on KAI's website at www.kai-australia.com.au The Statement 938 Compliance Assessment Report for the 2023 year was still in preparation by DPIRD at the time of completion of this annual EPBC report. 2023 monitoring reports, including groundwater data, were under review by DPIRD at the time of preparation of this annual EPBC report.
9	Any amendments to Sections of the Knox Creek Plain Environmental Management Program May 2015 referred to in the conditions below must be submitted to the Department and approved by the Minister prior to any amendments being implemented.	Not applicable. Condition revoked.	Not applicable.
10	To avoid and/or minimise impacts on listed threatened and migratory species from impacts resulting from the action, the person taking the action must not clear more than 6,280ha of vegetation, as specified by 'Proposed Development Area' in Annexure 1.	Compliant.	A total of 5,443.15 hectares of farmland and infrastructure corridors were cleared on the Knox Creek Plain between 2020 and December 2023. Refer to Figures 1, 2 and 3 for the revised envelope and clearing areas.
11	To protect the critically endangered Bare-rumped Sheathtail Bat (<i>Saccolaimus saccolaimus nudicluniatius</i>) from impacts resulting from the action, the person taking the action must:	Compliant. Completed.	As reported in the 2022 EPBC 2014-7143 Annual Environment Report, Bare-rumped Sheathtail Bat (BRSB) habitat and tree assessments were completed under the guidance of Dr Kyle Armstrong from Specialized Zoological. Subsequently, following requests for resolution of outstanding queries regarding Condition 11 (noting that the BRSB is no longer listed as 'Critically Endangered', but is now listed under the EPBC Act as 'Vulnerable', DCCEE provided advice as follows:
11A	Ensure the clearance of the Development Area does not result in the death of any Bare-rumped Sheathtail Bats	Compliant.	
11B	Conduct Bare-rumped Sheathtail Bat roosting tree surveys of potential Bare-rumped Sheathtail Bat habitat areas in accordance with the advice of a Bare-rumped Sheathtail Bat expert. Bare-rumped Sheathtail Bat roosting tree surveys must identify, tag and map all potential or confirmed Bare-rumped Sheathtail Bat roost	Completed.	

Condition Reference	Requirement	Is the Project compliant with this condition?	Evidence / Comments
	trees in the potential Bare-rumped Sheathtail Bat habitat areas and be completed within six months prior to clearance of potential Bare-rumped Sheathtail Bat habitat areas; and		As discussed, further to your request for variation of the conditions attached to this EPBC Act approval and our consideration of a proposed draft, I confirm that, as you have undertaken a survey of the 'potential Bare-rumped Sheathtail Bat (BRSB) habitat areas' with the advice of relevant experts, it is open to you to determine, without any variation of the conditions, that neither BRSB, nor trees in which BRSB might roost, occur in the 'potential BRSB habitat areas' and, on that basis, that the action will not result in the death of any BRSB and that you do not need to have a BRSB Management Plan approved.
11C	If the Bare-rumped Sheathtail Bat roosting tree surveys identify potential or confirmed Bare-rumped Sheathtail Bat roost trees in the potential Bare-rumped Sheathtail Bat habitat areas, then submit to the Department a Bare-rumped Sheathtail Bat Management Plan (BRSBMP). The BRSBMP must detail how all potential and confirmed Bare rumped Sheathtail Bat roost trees in the potential Bare-rumped Sheathtail Bat habitat areas will be avoided, mitigated or offset. The BRSBMP must be submitted for approval by the Minister. The person taking the action must not commence clearance of potential Bare-rumped Sheathtail Bat habitat areas until the BRSBMP is approved by the Minister. The BRSBMP must be approved by the Minister prior to implementation	Not applicable.	No potential or confirmed BRSB roost trees were identified during the surveys. A BRSB Management Plan is therefore not required. Consequently, KAI considers that Condition 11 is now resolved.
	The approved BRSBMP must be implemented and include commitments to:		
11C(i)	Consider the implementation of more focused survey methods, such as mist netting, to obtain more refined results. This may be particularly beneficial in the event that the number of potential or confirmed Bare-rumped Sheathtail Bat roost trees identified during Bare-rumped Sheathtail Bat roosting tree surveys is high:	Not applicable.	Not applicable.
11C(ii)	Conduct all clearance of potential Bare-rumped Sheathtail Bat habitat areas outside of the Bare-rumped Sheathtail Bat breeding season	Not applicable.	Not applicable.
11C(iii)	Conduct a pre-clearance disturbance regime in accordance with the advice of a Bare-rumped Sheathtail Bat expert	Not applicable.	Completed in 2022 and reported in the 2022 annual report for EPBC 2014-7143.
11C(iv)	Fell any potential or confirmed Bare-rumped Sheathtail Bat roost trees that cannot be avoided, with care, in the presence of a Bare-rumped Sheathtail Bat expert, and in	Not applicable.	Not applicable.

Condition Reference	Requirement	Is the Project compliant with this condition?	Evidence / Comments
	accordance with the advice of a Bare-rumped Sheathtail Bat expert, so as to avoid mortality of Bare-rumped Sheathtail Bat individuals		
11C(v)	Translocate, with the service of a Bare-rumped Sheathtail Bat expert, any Bare rumped Sheathtail Bat that is captured following the felling of a potential or confirmed Bare-rumped Sheathtail Bat roost tree	Not applicable.	Not applicable.
11C(vi)	Report site locations (both original location site and, if a Bare-rumped Sheathtail Bat is captured, the translocated site) to the Department if any confirmed Bare rumped Sheathtail Bat roost trees are found	Not applicable.	Not applicable.
11C(vii)	Provide offsets of no less than \$100,000 to a trust fund for Bare-rumped Sheathtail Bat research for each confirmed Bare-rumped Sheathtail Bat roost tree cleared for the proposal, to a maximum contribution of \$500,000. The offset trust fund and research activities must be approved by the Minister prior to implementation; or	Not applicable.	Not applicable.
11C(viii)	Not clear selected potential or confirmed Bare-rumped Sheathtail Bat roost trees or any vegetation within a 30m zone around these trees	Not applicable.	Not applicable.
12	Buffer Management		
12A	The person taking the action must establish a buffer area of at least 6,415ha, as specified by "Proposed Buffer Areas" in Annexure 1.	Compliant.	Knox Plain buffer areas totalling 6,896.16 hectares have been identified in the Typhonium management plan endorsed by the WA government (DPIRD, 2023a). These areas are broadly illustrated below. This exceeds the minimum required buffer area.

Condition Reference	Requirement	Is the Project compliant with this condition?	Evidence / Comments
			
12B	The person taking the action must implement the action in accordance with Sections 10 and 11 of the Knox Creek Plain Environmental Management Program, August 2015.	Compliant.	<p>Proponent self-assessment indicates compliance with Condition 12B.</p> <p>KNOX EMP SECTION 10: BIODIVERSITY AND HABITAT MANAGEMENT SUB-PLAN Clearing areas are delineated. Satellite imagery (refer to Figures 2 and 3) and site inspections confirm no encroachment of the clearing and development areas into the buffer illustrated above (under Condition 12A). Topsoil is preserved and areas are only cleared as required.</p> <p>KNOX EMP SECTION 11: BUFFER MANAGEMENT SUB-PLAN As above, clearing areas are delineated. Satellite imagery (refer to Figures 2 and 3) and site inspections confirm no encroachment of the clearing and development areas into the buffer illustrated above (under Condition 12A). Buffer areas are not accessed unnecessarily.</p>
12C	The person taking the action must ensure that none of the following habitat trees or any vegetation within a	Compliant.	KAI is not clearing within the buffer area.

Condition Reference	Requirement	Is the Project compliant with this condition?	Evidence / Comments
	30m zone around these trees are cleared within the Buffer Area:		
12C(i)	Confirmed or potential Bare-rumped Sheath-tail Bat (<i>Saccolaimus Saccolaimus nudicluniatu</i> s) roosting trees;	Compliant.	KAI is not clearing within the buffer area.
12C(ii)	Gouldian Finch (<i>Erythrura gouldiae</i>) breeding trees;	Compliant.	KAI is not clearing within the buffer area.
12C(iii)	Red Goshawk (<i>Erythrotriorchis radiatus</i>) nesting trees; and	Compliant.	KAI is not clearing within the buffer area.
12C(iv)	Masked Owl (Northern) (<i>Tyto novaehollandiae kimberli</i>) nesting trees.	Compliant.	KAI is not clearing within the buffer area.
12C(v)	The location and date of any incidental sightings of the species listed in Condition 12.C above must be reported to the Department within 30 days of occurrence.	Compliant.	No incidental sightings of the species listed above have been made by employees or contractors of KAI in the Knox project area.
13	Weed and Pest Animal Management		
13A	The person taking the action must implement the action in accordance with Section 6 of the Knox Creek Plain Environmental Management Program August 2015.	Compliant.	<p>KNOX EMP SECTION 6: WEED AND PEST ANIMAL MANAGEMENT: Weed management has been undertaken in the development of the Knox farm areas. DPIRD conducted weed inspections of both the Goomig and Knox farm areas and buffers in 2023. Ten transects were inspected on Knox.</p> <p>Evidence: EPBC 2014-7143 Goomig and Knox 2023 weed monitoring data EPBC 2014-7143 Knox Weed monitoring report 2023</p>
14	Independent Review Group		
14A	The person taking the action must appoint an Independent Review Group (IRG) to review the impacts of the action on aquatic listed threatened and migratory species. The IRG must be established prior to the submission of the Aquatic Fauna Management Plan to the Minister for approval. If a condition of another approval held by the proponent requires an IRG identical in nature, the proponent may meet the relevant requirements of both conditions by appointing a single IRG. The IRG must be established by the person taking the action in accordance with the following requirements:	Compliant.	<p>The Weaber Plain IRG met on 28 March 2023. The IRG advises on appropriate management and monitoring for both the Weaber (Goomig) and Knox areas as they are congruent and both fall within the Keep River catchment, the location of the MNES of interest to the IRG through EPBC 2014-7143 and EPBC 2010-5491. Although two different proponents (DPIRD and KAI) are responsible for the Weaber and Knox approvals respectively, the single IRG membership reviews monitoring and management recommendations relating to surface and groundwater changes in the Goomig and Knox areas of the Keep River catchment. There is a 50% overlap in membership of the two groups.</p> <p>The assessment is therefore that the intent of Condition 14A has been met, particularly given that farming has not yet commenced on the Knox Creek Plain.</p>

Condition Reference	Requirement	Is the Project compliant with this condition?	Evidence / Comments
			Formal endorsement of a combined Goomig-Knox IRG is advised, and it is recommended that the Proponents jointly write to DCCEEW seeking Ministerial support for the joint IRG.
14A(i)	The IRG must be funded, resourced and managed by the person taking the action.	Compliant.	Resourcing and executive support to the Weaber Plain IRG is provided by DPIRD, with participation and input from KAI.
14A(ii)	The IRG must consist of independent scientific and technical experts, of whom at least one must be a <i>Glyphis</i> and <i>Pristis</i> expert and two must be technical experts with at least five years experience in northern Australian surface water and groundwater hydrology, approved by the Minister.	Compliant.	The Weaber Plain (Goomig) IRG membership consists of David Menzel (Chair) – also approved Knox IRG Chair. Dr Ray Evans – also approved Knox IRG member - technical expert with at least five years experience in northern Australian surface water and groundwater hydrology. Dr Mark Silburn (Queensland Government) - technical experts with at least five years experience in northern Australian surface water and groundwater hydrology. Dr David Morgan (Murdoch University) - <i>Glyphis</i> and <i>Pristis</i> expert. Dr Richard George , approved Knox IRG Member, also attends the Weaber IRG meetings. Dr Helen Larsen previously retired from the Knox and Weaber IRGs. Dr David Morgan was appointed to the Weaber IRG as the <i>Glyphis</i> and <i>Pristis</i> expert, to replace Dr Larsen.
14A(iii)	Terms of Reference for the IRG must be prepared by the person taking the action and submitted for approval by the Minister. The Terms of Reference must include the frequency of proposed meetings, tenure of membership, and chairing and quorum arrangements. The Terms of Reference must be approved by the Minister in writing prior to the submission of the <i>Aquatic Fauna Management Plan</i> to the Minister for approval.	Not applicable.	Knox IRG Terms of Reference were endorsed in a previous reporting period. There has been no change to the Knox Terms of Reference, noting that formal changes and a request to merge with the Weaber Plain IRG (despite different approval holders) is required. It is timely to propose any changes to the Terms of Reference as Knox nears its agricultural production commencement.
14A(iv)	The IRG must provide advice to the person taking the action on any revisions to the <i>Aquatic Fauna Management Plan</i> . The advice of the IRG must also be provided to the Minister.	Not applicable.	Not applicable.
14A(v)	The IRG must assess any exceedances of trigger values and advise changes to the person taking the action as required; and	Not applicable.	Farming on the Knox Plain has not yet commenced. However, Keep River monitoring results are considered by the Goomig IRG and reported as required under approval 2010/5491. Water quality triggers for the Keep River pools were considered by the Weaber Plain IRG in March 2023, as part of an Interim Management Approach presented by DPIRD as Proponents for the Goomig (Weaber Plain) development. Due to both the Knox and















Condition Reference	Requirement	Is the Project compliant with this condition?	Evidence / Comments
			<p>Goomig farm areas being located within the Keep River Catchment, the application of this approach to the Knox Creek Plain is a congruent and pragmatic approach.</p> <p>Evidence: EPBC 2014-7143 IRG Meeting Agenda – 28 March 2023 EPBC 2014-7143 IRG Record of Meeting held on 28 March 2023</p>
14A(vi)	The Minister may seek advice from the IRG at any time.	Not applicable.	No requests from the Minister were received in 2023 in relation to the impacts of the Knox development on aquatic MNES.
15	Aquatic Fauna Management.		
15A	The person taking the action must implement the action in accordance with Sections 7, 8 and 9 of the <i>Knox Creek Plain Environmental Management Program August 2015</i> , to minimise impacts on listed threatened and migratory species in the Keep River.	Compliant.	<p>An audit of the <i>Knox Creek Plain Environmental Management Program</i> is being undertaken as part of the 2023 Statement 938 compliance assessment required by the WA EPA. A copy will be made available when received from the DPIRD (as Proponent for Statement 938). Self-assessment by KAI is as follows:</p> <p>KNOX EMP SECTION 7: SURFACE WATER MANAGEMENT SUB-PLAN: Not applicable. Farming has not yet commenced.</p> <p>KNOX EMP SECTION 8: GROUNDWATER MANAGEMENT SUB-PLAN: Compliant and/or Not applicable. Farming has not yet commenced. Actions relate to pre-irrigation bore establishment and monitoring (compliant) and post-irrigation activities (not applicable).</p> <p>KNOX EMP SECTION 9: DISCHARGE MANAGEMENT SUB-PLAN: Not applicable. Farming has not yet commenced.</p> <p>Relevant evidence: EPBC 2014-7143 DPIRD 2023b <i>Goomig Stormwater Discharge Monitoring and Management – Interim Management Approach</i>. EPBC 2014-7143 DPIRD 2023c <i>Keep River 2022-2023 Water Quality Monitoring and Management Report</i>. EPBC 2014-7143 EP2313434_0_COA – 2023 GW bores – Stressors and pesticides EPBC 2014-7143 EP2314079_0_COA – 2023 GW bores – Metals EPBC 2014-7143 Groundwater levels database – September 2023 EPBC 2014-7143 2023 Groundwater monitoring field results</p>

Condition Reference	Requirement	Is the Project compliant with this condition?	Evidence / Comments
15B	In order to mitigate impacts to listed threatened and migratory species in the Keep River from impacts resulting from the action, the person taking the action must prepare an Aquatic Fauna Management Plan (AFMP), in consultation with the IRG. The AFMP must be submitted for approval by the Minister. The person taking the action must not commence clearance of the Development Area until the AFMP is approved by the Minister. The approved AFMP must be implemented. If a condition of another approval held by the proponent requires an AFMP, the proponent may meet the relevant requirements of both conditions by submitting a single plan. If a single plan is submitted, the plan must identify to which approval the sections of the plan relate. The AFMP must include:	Compliant.	The Knox AFMP was approved by the Department on 23 December 2016, as previously reported. See notes above under Condition 14A regarding the joint operation of the Weaber and Knox IRGs. Revisions to the AFMP are anticipated by the IRG. Relevant evidence: EPBC 2014-7143 IRG Meeting Agenda – 28 March 2023 EPBC 2014-7143 IRG Record of Meeting held on 28 March 2023
15B(i)	A targeted, non-lethal baseline surveying program for listed threatened species that are likely to occur in the Keep River. This must include the critically endangered Speartooth Shark (<i>Glyphis glyphis</i>), the endangered Northern River Shark (<i>Glyphis garricki</i>), the vulnerable Dwarf Sawfish (<i>Pristis clavata</i>) and the vulnerable Freshwater Sawfish (<i>Pristis Microdon</i>), now known as Largetooth Sawfish (<i>Pristis pristis</i>). The methodology of the baseline surveying program must be developed in consultation with the IRG. Surveys must be conducted over a period of 3 years and must be undertaken in the four Keep River pools (K1, K2, K3 and K4) and at least three sites in the Keep River estuary.	Compliant. Completed.	Baseline aquatic fauna surveys of the Keep River were completed prior to the commencement of farming on the Weaber Plain, under EPBC 2010/5491. Post-development aquatic fauna surveys of the Keep River are being undertaken by Indo-Pacific Environmental Pty Ltd under the oversight of the IRG, in relation to the Weaber Plain development impacts. While not reflecting the impact of farming on the Knox, which has not yet commenced, the 2022 surveys (reported in 2023) found that: <i>Consistent with all previous surveys of the Keep River, no Glyphis (River Shark) species were captured in 2022. A solitary Pristis pristis (Largetooth Sawfish) individual was captured at K3 in brackish water, while six Pristis clavata (Dwarf Sawfish) were captured at site K1. This was the first time this species has been recorded at a non-estuarine site in the Keep River system, a result attributable to the higher than usual salinity levels at K1 in 2022. Total numbers of Pristis captured in 2022 were comparable to previous surveys and were within the range of numbers expected based on the magnitude of rainfall and runoff experienced during the preceding wet season, indicating that there have been no recent adverse impacts on Pristis in the lower Keep River (Indo-Pacific Environmental, 2023, piii).</i>
15B(ii)	An outcome-based risk assessment which is based on data collected during the baseline monitoring program and other relevant data to determine the potential risks to the listed threatened species named in Condition 15.B.i above as well as for the listed vulnerable Green	Compliant.	The outcome-based risk assessment (WRM, 2015) completed under the requirements of the Weaber Plain (Goornig) EPBC approval 2010/5491 is considered to have met the initial requirements of this sub-condition.

Condition Reference	Requirement	Is the Project compliant with this condition?	Evidence / Comments
	Sawfish (<i>Pristis zijsron</i>) and the listed migratory Australian Snubfin Dolphin (<i>Orcaella heinsohm</i>) and Indo Pacific Humpback Dolphin (<i>Sousa chinensis</i>), at an individual and local population level.		The IRG reviews monitoring data and exceedances of triggers in the Keep River, in relation to their potential impacts on listed MNES. Relevant evidence: EPBC 2014-7143 IRG Meeting Agenda – 28 March 2023 EPBC 2014-7143 IRG Record of Meeting held on 28 March 2023 EPBC 2014-7143 DPIRD 2023b <i>Goomig Stormwater Discharge Monitoring and Management – Interim Management Approach</i> . EPBC 2014-7143 DPIRD 2023c <i>Keep River 2022-2023 Water Quality Monitoring and Management Report</i> .
15B(iii)	Seasonal, site-specific baseline water quality and flow trigger values for the Keep River listed threatened and migratory species determined with reference to the ANZECC guidelines and the advice of the IRG. Until trigger values are established with the advice of the IRG, ANZECC guidelines trigger values for systems with high conservation/ecological value (as defined in the ANZECC guidelines) must be used. Sample analytes must also be determined with the advice of the IRG.	Compliant.	The IRG-informed water quality triggers contained within the ' <i>Goomig Stormwater Discharge Monitoring and Management</i> ' document (DPIRD, 2023b) will be applied to the Knox Plain, when irrigation commences. Evidence: EPBC 2014-7143 DPIRD 2023b <i>Goomig Stormwater Discharge Monitoring and Management – Interim Management Approach</i> .
15B(iv)	A monitoring program for the Keep River, Keep River pools, on the Development Area, and of relevant groundwater sites and parameters to be undertaken to monitor water quality and flow with the purpose of enabling early detection of changes so that corrective action can be taken to ensure that trigger values are not exceeded during construction and operation.	Compliant.	Keep River monitoring is undertaken as reported by DPIRD through the Weaber Plain approvals. Reporting is provided by DPIRD to the Weaber Plain IRG. Evidence: EPBC 2014-7143 DPIRD 2023b <i>Goomig Stormwater Discharge Monitoring and Management – Interim Management Approach</i> . EPBC 2014-7143 DPIRD 2023c <i>Keep River 2022-2023 Water Quality Monitoring and Management Report</i> .
15B(v)	A method or mechanism for predicting, modelling and/or monitoring the water quality of the seasonal first flush of water capable of detecting water quality trigger levels for listed threatened and migratory species, developed in consultation with the IRG. This may include onsite monitoring.	Compliant.	The Keep River water quality prediction modelling developed under the oversight of the IRG will be adopted for the Knox when irrigation commences. Evidence: EPBC 2014-7143 DPIRD 2023b <i>Goomig Stormwater Discharge Monitoring and Management – Interim Management Approach</i> .
15B(vi)	A targeted aquatic fauna monitoring program to be undertaken during construction and operation to	Compliant.	Post-Weaber Plain development aquatic fauna surveys of the Keep River have previously been undertaken by Indo-Pacific Environmental Pty Ltd under the oversight of the IRG.

Condition Reference	Requirement	Is the Project compliant with this condition?	Evidence / Comments
	measure the success of management measures to inform an adaptive management approach.		Relevant evidence: EPBC 2014-7143 Indo-Pacific 2023 – 2022 Keep River Report
15B(vii)	Details of management objectives, management actions, performance standards, corrective actions should trigger values be reached, adaptive management and contingency measures to mitigate impacts on listed threatened and migratory species in the Keep River from changes to flow, water quality from surface water, stormwater and groundwater during construction and operation.	Compliant.	The advice of the Weaber Plain IRG in relation to this sub-condition applies to the Knox development. The performance objectives, management responses, standards and actions developed and adopted in relation to EPBC 2010/5491 will be those applied to the Knox operations under EPBC 2014/7143. Relevant evidence: EPBC 2014-7143 DPIRD 2023b <i>Goomig Stormwater Discharge Monitoring and Management – Interim Management Approach</i> . EPBC 2014-7143 DPIRD 2023c <i>Keep River 2022-2023 Water Quality Monitoring and Management Report</i> .

Table 3. List of Evidence Cited

-  EPBC 2014-7143 2023 Groundwater monitoring field results.xlsx
-  EPBC 2014-7143 BRSB Email DCCEEW to KAI 2022-10-05.pdf
-  EPBC 2014-7143 Condition 3 2022 Knox Annual Report Lodgement Email Sent 2023-07-13.pdf
-  EPBC 2014-7143 DPIRD 2023a Knox Typhonium Management Plan - Version 1 - March 2023 - APPROVED PLAN.pdf
-  EPBC 2014-7143 DPIRD 2023b Goomig Stormwater Discharge Monitoring and Management - Interim Management Approach.pdf
-  EPBC 2014-7143 DPIRD 2023c Keep River 2022-2023 Water Quality Monitoring and Management Report.pdf
-  EPBC 2014-7143 EP2313434_0_COA - 2023 GW bores - Stressors and pesticides.pdf
-  EPBC 2014-7143 EP2314079_0_COA - 2023 GW bores- Metals.pdf
-  EPBC 2014-7143 Goomig and Knox 2023 weed monitoring data.xlsx
-  EPBC 2014-7143 Groundwater levels database - September 2023.xlsx
-  EPBC 2014-7143 Indo-Pacific 2023 - 2022 Keep River Report.pdf
-  EPBC 2014-7143 IRG Meeting Agenda - 28 March 2023.pdf
-  EPBC 2014-7143 IRG Record of Meeting held on 28 March 2023.pdf
-  EPBC 2014-7143 Knox Weed monitoring report 2023.docx

Documents can be provided on request.

4.0 References

Department of Primary Industries and Regional Development, 2023a, *Threatened Species Management Plan Version 1*. Typhonium sp. kununurra. March 2023. DPIRD, Perth.

Department of Primary Industries and Regional Development, 2023b, Goomig Stormwater Discharge Monitoring and Management (EPBC 2010/5491) Interim Management Approach. Unpublished. DPIRD, Kununurra.

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Kimberley Boab Consulting, 2015, *Knox Creek Plain Environmental Management Program August 2015*. Prepared for Kimberley Agricultural Investment Pty Ltd, Kununurra.

Kimberley Boab Consulting, 2016, *Knox Creek Plain Aquatic Fauna Management Plan*. Prepared for Kimberley Agricultural Investment Pty Ltd, Kununurra.

Kimberley Boab Consulting, 2019, *Knox Creek Plain Final Project Design Plan REV C*. Prepared for the Department of Primary Industries and Regional Development, WA.

Kimberley Boab Consulting, 2022, EPBC 2014/7143 Knox Creek Plain Annual Report 2021. Prepared for Kimberley Agricultural Investment Pty Ltd.

Kimberley Boab Consulting, 2022, EPBC 2010/5491 Annual Environment Report 1 May 2021 to 30 April 2022. Prepared for Department of Primary Industries and Regional Development.

Available at - <https://www.wa.gov.au/system/files/2022-11/2010-5491%20Annual%20Environment%20Report%20May%202021%20to%20April%202022%20-%20Signed.pdf>

Kimberley Boab Consulting, 2023, EPBC 2014/7143 Knox Creek Plain Annual Report 2022. Prepared for Kimberley Agricultural Investment Pty Ltd.

Specialised Zoological, 2022, Detecting the Bare-rumped Sheath-tailed Bat at Knox Plains, Western Australia. Prepared for the Department of Primary Industries and Regional Development, 4 July 2022, project reference SZ607.