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WESTERN AUSTRALIA

EPBC Annual Compliance Report

EPBC 2017/7934

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**Albany Highway (H001) Road widening –
Kojonup South SLK 254.9 to SLK 266**

D24#1065889

Reporting period: 22 May 2023 to 22 May 2024

Document Control

Report Compilation & Review	Position	Document Revision	Date
Author:	Senior Environment Officer	Rev A	11/08/24
Reviewer:	Principle Environment Officer	Rev A	12/08/24
Approved for Issue:	Director Environment and Heritage	Rev 0	13/08/24

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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 Martine Scheltema (approval holder)

Full name (please print) **Martine Scheltema**

Position (please print) **Director Environment And Heritage**

Organisation (please print including ABN/ACN if applicable) **Main Roads Western Australia**
ABN: 50 860 676 021

Date: **13/08/2024**

1 Introduction

1.1 Project Background, Location and Status

Main Roads Western Australia (Main Roads) upgraded approximately 11km of Albany Highway between 254.9 – 266.0 Straight Line Kilometres (SLK), immediately south of the Kojonup town site for the purpose of improving road safety (the Project). The scope of work comprised vegetation clearing, earthworks, culvert installation, drainage works and pavement widening. Main Roads' Great Southern Region delivered the project over two years, with construction completed in 2020. A total of 4.63 ha of native vegetation of the approved 5.5ha was cleared for this Project.

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

Main Roads' Great Southern Region proposed to clear vegetation for the Project subject to a bilateral agreement made under Section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The Project was referred to the former Department of the Environment and Energy (the Department) in 2017 (our ref D18#414359) and determined to be a Controlled Action due to its potential impacts on listed threatened species. In 2018, the project was altered due to its extension further south to SLK 266 and a variation request was made under section 156A of the EPBC Act. The Department granted approval to Main Roads to clear native vegetation for the Kojonup South Project (the Action) through the EPBC 2017-7934 approval dated 26 February 2019 (our ref D19#153882), which included a number of conditions that Main Roads is required to fulfil.

No vegetation clearing or Works using the EPBC Approval 2017-7934 were undertaken during the current reporting period (22 May 2023 to 22 May 2024).

In accordance with Condition 4 of the EPBC 2017-7934 approval, Main Roads advised the Department on 29 May 2019 that the Action commenced on 22 May 2019 (our ref D19#434770).

1.3 Purpose of this Report

This compliance report has been produced to satisfy Conditions 8 of approval EPBC 2017-7934.

2 Summary of Compliance

Construction was completed in 2020 and no vegetation clearing was undertaken during the current reporting period (22 May 2023 to 22 May 2024).

One non-compliance with Condition 3 of EPBC 2017/7934 occurred during this reporting period, which was reported to DCCEEW on 12 April 2024 and subsequently closed out on 9 May 2024.

Table 1 of this report outlines project compliance against each approval condition over the 12 month period between 22 May 2023 to 22 May 2024.

2.1 Corrective measures

No corrective or remedial actions were deemed required and no environmental impacts occurred as a result of the non-compliance with Condition 3 of EPBC 2017/7934.

2.2 New Environmental Risks

No new environmental risks for the Project have become apparent during the reporting period

Table 1: Compliance with Conditions of EPBC Approval 2017-7934

Condition Number	Condition	Status	Evidence/Comments
1	The approval holder may only clear land within the project area shown at Attachment 1 and must not clear more than 5.5 hectares of black cockatoo habitat or 0.035 hectares of Eucalypt Woodlands TEC.	Compliant	<p>Between 22 May and 26 June 2019, 4.08ha of the approved 5.5ha Black Cockatoo habitat and all of the approved 0.035ha of Eucalypt woodlands TEC was cleared for the Project. An additional 0.55ha of the approved 5.5ha Black Cockatoo habitat was cleared for the Project between 20 May and 12 July 2020. In total, 4.63ha of the approved 5.5ha Black Cockatoo habitat and all of the approved 0.035ha of Eucalypt woodlands TEC was cleared for the Project.</p> <p>In 2019 and 2020, the clearing line was demarcated on site prior to the commencement of clearing to ensure clearing was only undertaken within the area shown at Attachment 1 of EPBC Approval 2017-7934.</p> <p>Construction was completed in 2020 and no vegetation clearing or works using the EPBC Approval 2017-7934 were undertaken during the current reporting period (22 May 2023 to 22 May 2024).</p>

Condition Number	Condition	Status	Evidence/Comments
2	<p>To mitigate impacts to the Eucalypt Woodlands TEC and black cockatoo habitat, the approval holder must implement Condition 7 of Clearing Permit CPS 7898/2.</p> <p><i>Condition 7 "Dieback and Weed management" of Clearing Permit CPS 7898/2 states:</i> <i>When undertaking any clearing authorised under this Permit, the Permit Holder must take the following steps to minimise the risk of the introduction and spread of weeds and dieback.</i></p> <ul style="list-style-type: none"> <i>a) clean earth-moving machinery of soil and vegetation prior to entering and leaving the combined areas shaded yellow on attached Plan 7898/2 (a). Plan 7898/2 (b). Plan 7898/2 (c). Plan 7898/2 (d). Plan 7898/2 (e). Plan 7898/2 (f) and Plan 7898/2 (g);</i> <i>b) ensure that no known dieback or weed-affected soil, mulch, fill or other material is brought into the area to be cleared; and</i> <i>c) restrict the movement of machines and other vehicles to the limits of the areas to be cleared.</i> 	Compliant	Construction was completed in 2020 and no vegetation clearing or Works using the EPBC Approval 2017-7934 were undertaken during the current reporting period (22 May 2023 to 22 May 2024).

Condition Number	Condition	Status	Evidence/Comments
3	<p>To compensate for the loss of up to 5.5 hectares of black cockatoo habitat, the approval holder must, within one year of the commencement of the action, or as otherwise agreed to by the Minister in writing:</p> <p>a. submit to the Minister for approval the details of an offset site(s) that:</p> <ul style="list-style-type: none"> i. is to be acquired and managed for conservation. ii. includes a minimum of 39 ha of black cockatoo habitat or is to be rehabilitated/revegetated so that it eventually (within a timeframe agreed to by the Minister) contains 39 ha of black cockatoo habitat. iii. meets the principles of the EPBC Environmental Offsets Policy. <p>b. make a financial contribution to an approved conservation fund to fully fund the purchase and management for conservation of the approved offset site(s) or fully fund the rehabilitation/revegetation of the approved offset site(s), as detailed in Condition 3(a).</p> <p>c. provide written evidence to the Department that the financial contribution has been made to the approved conservation fund.</p> <p>d. provide the Department with the offset attributes, shapefiles and textual descriptions and maps to clearly define the location and boundaries of the approved offset site(s).</p>	Partially Compliant	<p>In February 2019, Main Roads complied with Condition 3b of EPBC 2017/7934 by making a financial contribution of \$174,330 to the WA Department of Environment and Water Regulation (DWER) to fully fund the purchase and management of an approved offset site. Evidence of the payment was provided to (then) DAWE on 11 June 2020, as per Condition 3c of EPBC 2017/7934.</p> <p>However, Condition 3a of EPBC 2017/7934 originally required an offset site to be acquired within one year of commencing the action (i.e. 22 May 2019). Condition 3d of EPBC 2017/7934 originally required provision of the offset site details to the Department within one year of commencing the action. Given DWER had not acquired an offset site with the money Main Roads provided the fund in February 2019, Main Roads requested and subsequently received extensions from the Department to Conditions 3a and 3d of EPBC 2017/7934 until 22 May 2023, with the approval conditions varied accordingly.</p> <p>In early 2023, DWER identified Lot 2 on Deposited Plan 416249, Kojonup as being suitable to purchase to offset the impacts from EPBC 2017/7934. Although both DWER and the WA Department of Biodiversity, Conservation and Attractions (DBCA) were working towards completing the acquisition before 22 May 2023, DWER advised it was not able to guarantee that the acquisition would be completed before this date. Given this uncertainty, Main Roads sought clarification from DCCEEW on 18 May 2023 regarding whether Main Roads should seek another extension to ensure it remained in compliance with EPBC 2017/7934. No response was received.</p> <p>Given DWER and DBCA had not finalised the acquisition of the offset site using the funds Main Roads provided to acquire an offset site by 22 May 2023, Main Roads was not able to provide the offset site details to the Department by 22 May 2023. Accordingly, Main Roads advised the Department on 12 April 2024 that it was non-compliant with Conditions 3a and 3d of EPBC 2017/7934.</p>

Condition Number	Condition	Status	Evidence/Comments
3 (continued)			<p>The offset property was purchased by DBCA in October 2023. On 9 May 2024, Main Roads submitted the details of the offset site to the Department for ministerial approval. A response from DCCEEW has not been received from Main Roads regarding the offset site.</p> <p>If the Minister approves the offsite site, Main Roads will provide the Department with the offset spatial data, in accordance with Condition 3d of EPBC 2017-7934.</p> <p>The status of this condition will be further reported in the 2024-25 compliance report.</p>
4	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	Main Roads advised the Department on 29 May 2019 that the Action approved by EPBC 2017/7934 commenced on 22 May 2019 (our ref D19#434770).
5	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.	Not applicable	The project was approved on 26 February 2019 (EPBC 2017/7934) and the Action commenced on 22 May 2019
6	The approval holder must maintain accurate and complete compliance records.	Compliant	Main Roads has maintained records in accordance with this condition and its legal obligations, under the <i>WA State Records Act 2000</i> .
7	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 direction has been received from the Department to provide electronic copies of any compliance records.

Condition Number	Condition	Status	Evidence/Comments
8	<p>The approval holder must prepare a compliance report for each 12 month calendar year period following the date of commencement of the action, or as otherwise agreed to in writing by the Minister. The approval holder must:</p> <ol style="list-style-type: none"> publish each compliance report on the website within 60 business days following the relevant 12 month period; notify the Department by email that a compliance report has been published on the website within five business days of the date of publication; keep all compliance reports publicly available on the website until this approval expires; exclude or redact sensitive ecological data from compliance reports published on the website; and 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	<ol style="list-style-type: none"> The action commenced on 22 May 2019. This compliance report covers compliance for the reporting period 22 May 2023 to 22 May 2024. This compliance report will be published on the Main Roads website prior to 16 August 2024. The Department will be notified by email within five business days of the date of publication of this report. This report will remain publicly available on the Main Roads website until the expiration date of the project approval (i.e. 31 December 2038). No sensitive ecological data has been included in this report. No sensitive ecological data has been included in this report.
9	<p>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 two business days after becoming aware of the incident or non-compliance. The notification must specify:</p> <ol style="list-style-type: none"> the condition which is or may be in breach; and a short description of the incident and/or non-compliance. 	Compliant	<p>One non-compliance with the EPBC 2017/7934 conditions occurred during the reporting period 22 May 2023 to 22 May 2024.</p> <p>As DWER and DBCA had not acquired an offset site using the funds Main Roads provided to acquire an offset site by 22 May 2023, Main Roads was unable to provide the offset site details to the Department by 22 May 2023. As such, Main Roads was not fully compliant with Condition 3 of EPBC 2017/7934.</p> <p>Within two business days of discussions with DCCEW regarding a potential non-compliance, Main Roads advised the Department on 12 April 2024 that it was non-compliant with Conditions 3a and 3d of EPBC 2017/7934.</p>

Condition Number	Condition	Status	Evidence/Comments
10	<p>The approval holder must provide to the Department the details of any incident or noncompliance 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> <ol style="list-style-type: none"> any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future; the potential impacts of the incident or non-compliance; and the method and timing of any remedial action that will be undertaken by the approval holder. 	Compliant	<p>One non-compliance with the EPBC 2017/7934 conditions occurred during the reporting period 22 May 2023 to 22 May 2024.</p> <p>As DWER and DBCA had not acquired an offset site using the funds Main Roads provided to acquire an offset site by 22 May 2023, Main Roads was unable to provide the offset site details to the Department by 22 May 2023. As such, Main Roads was not fully compliant with Condition 3 of EPBC 2017/7934.</p> <p>Within two business days of discussions with DCCEEW regarding a potential non-compliance, Main Roads advised the Department on 12 April 2024 that it was non-compliant with Conditions 3a and 3d of EPBC 2017/7934.</p> <p>Within the notification, Main Roads advised it would provide the outstanding offset site details to the Department when they were received. These details was subsequently provided on 9 May 2024.</p>
11	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 direction has been received from the Minister to undertake an independent audit.
12	<p>For each independent audit, the approval holder must:</p> <ol style="list-style-type: none"> provide the name and qualifications of the independent auditor and the draft audit criteria to the Department; only commence the independent audit once the audit criteria have been approved in writing by the Department; and submit an audit report to the Department within the timeframe specified in the approved audit criteria. 	Not applicable	To date, no direction has been received from the Minister to undertake an independent audit.

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Condition Number	Condition	Status	Evidence/Comments
13	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 direction has been received from the Minister to undertake an independent audit
14	Within 30 days after the completion of the action, the approval holder must notify the Department in writing and provide completion data.	Not applicable	<p>The Action has not been completed.</p> <p>Main Roads' Great Southern Region delivered the Project over two years, with construction completed in 2020 and no vegetation clearing or Works using the EPBC Approval 2017-7934 undertaken during the current reporting period (22 May 2023 to 22 May 2024).</p> <p>However, Condition 3a and 3d of EPBC 2017/7934 remains outstanding and Main Roads will provide the Department with the offset spatial data if the Minister approves the offsite site.</p>