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EPBC Act Compliance Report

Albany Highway (H001) Road widening - Kojonup South
SLK 254.9 to SLK 266, WA (EPBC 2017/7934)

Reporting Period: 22 May 2022 to 22 May 2023

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1 Introduction

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. No vegetation clearing or Works using the EPBC Approval 2017-7934 were undertaken during the current reporting period (22 May 2022 to 22 May 2023).

1.1 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.

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).

1.2 Purpose of this Report

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

Construction was completed in 2020 and no vegetation clearing was undertaken during the current reporting period (22 May 2022 to 22 May 2023).

Table 1 of this report outlines project compliance against each approval condition over the 12 month period between 22 May 2022 to 22 May 2023.

2 Compliance

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 2022 to 22 May 2023).</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></p> <p><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> <p><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></p> <p><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></p> <p><i>c) restrict the movement of machines and other vehicles to the limits of the areas to be cleared.</i></p>	Compliant	<p>The Construction Environmental Management Plan (CEMP) for the Project included operational controls to manage the risk of introduction and spread of weeds and dieback:</p> <ul style="list-style-type: none"> • Vehicle hygiene inspection checklists were utilised to manage potential weed spread on earth-moving machinery. • No known dieback infested soil, mulch, fill or other material was permitted to be brought into the Works area by the Contractor. • The Contractor was required to ensure plant, machinery, equipment, tools and footwear were cleaned down prior to arrival and departure from the site. Clean down measures included brushing, gouging, scraping and/or water blasting to remove any compacted soil or plant matter. • Conditions were imposed on the Contractor that any machinery, vehicles, plant or equipment identified as not being free of sods of soil or vegetation prior to entry to the Works area would be refused entry and returned to its supplier for cleaning off site (although this condition did not need to be enacted, since the machinery arrived clean). • The clearing line was demarcated on site prior to the commencement of clearing to prevent entry into areas of native vegetation that occurred beyond the limits of the areas to be cleared. <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 2022 to 22 May 2023).</p>

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>Condition 3a of EPBC 2017/7934 requires an offset site to be acquired within one year of commencing the action (i.e. 22 May 2019). Condition 3d of EPBC 2017/7934 requires provision of the offset site details to DAWE within one year of commencing the action. Given DWER has not acquired an offset site with the money Main Roads provided the fund in February 2019 (our ref D21#503413), Main Roads requested, and subsequently received extensions from (then) DAWE to Condition 3a and 3d of EPBC 2017/7934 until 22 May 2023.</p> <p>DWER has identified Lot 7874 on Plan 146691, Kojonup as being suitable to purchase to offset the impacts from EPBC 2017/7934. Lot 7874 is located approximately 25km southwest of the Kojonup South approvals area. Although both DWER and DBCA were working towards completing the acquisition before 30 June 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 (our ref D23#467364) regarding whether Main Roads should seek another extension to ensure it remained in compliance with EPBC 2017/7934, but did not receive a response.</p> <p>DWER has formally approved the use of the relevant Part V Offset Fund for the acquisition and DBCA is currently proceeding with the purchase, which is in its final stages.</p> <p>The status of this condition will be further reported in the 2023-24 compliance report.</p>

Condition Number	Condition	Status	Evidence/Comments
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.
8	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: <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 within five business days of the date of publication; c. keep all compliance reports publicly available on the website until this approval expires; d. exclude or redact sensitive ecological data from compliance reports published on the website; and e. where any sensitive ecological data has been excluded from the version published, submit the full compliance report to the Department within 5 business days of publication. 	Compliant	<ul style="list-style-type: none"> a. The action commenced on 22 May 2019. This compliance report covers compliance for the reporting period 22 May 2022 to 22 May 2023. This compliance report will be published on the Main Roads website prior to 15 August 2023. b. The Department will be notified by email within five business days of the date of publication of this report. c. This report will remain publicly available on the Main Roads website until the expiration date of the project approval (i.e. 31 December 2038). d. No sensitive ecological data has been included in this report. e. No sensitive ecological data has been included in this report.

Condition Number	Condition	Status	Evidence/Comments
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> <ul style="list-style-type: none"> a. the condition which is or may be in breach; and b. a short description of the incident and/or non-compliance. 	Not applicable	No incidents occurred and Main Roads was not aware of any non-compliance with the EPBC 2017/7934 conditions within the reporting period 22 May 2022 to 22 May 2023.
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> <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. 	Not applicable	No incidents occurred and Main Roads was not aware of any non-compliance with the EPBC 2017/7934 conditions within the reporting period 22 May 2022 to 22 May 2023.
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.

Condition Number	Condition	Status	Evidence/Comments
12	For each independent audit, the approval holder must: <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.
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 2022 to 22 May 2023).</p> <p>However, Condition 3a and 3d of EPBC 2017/7934 remains outstanding and Main Roads will provide the completion data to the Department when the offset site has been acquired.</p>