



**mainroads**  
WESTERN AUSTRALIA

# EPBC Act Compliance Report

Toodyay Road Widening and Upgrade Project,  
Western Australia (EPBC 2016/7665)

Reporting period: 21 January 2020 to  
20 January 2021

Report Compilation & Review	Name and Position	Date	Document Revision
Author	Lyn Van Gorp (Senior Environment Officer)	16 April 2021	Draft v1
Reviewer	Paul West (Senior Environment Officer)	19 April 2021	Rev 0

# Contents

<b>1</b>	<b>INTRODUCTION .....</b>	<b>3</b>
1.1	Approval under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> .....	3
1.2	Purpose of this Report .....	3
1.3	Status of the Project.....	3
<b>2</b>	<b>COMPLIANCE.....</b>	<b>4</b>
<b>3</b>	<b>APPENDICES .....</b>	<b>13</b>
	Appendix A: Figures showing clearing undertaken during reporting period .....	14
	Appendix B: Location of suitable nesting hollows cleared during the reporting period .....	17

# 1 INTRODUCTION

Main Roads Western Australia (Main Roads) is undertaking widening and upgrade of Toodyay Road between 12.71 and 40.14 Straight Line Kilometres (SLK), in the Shire of Toodyay (the project). The road improvements are intended to improve the safety of Toodyay Road including to remove substandard curves that currently impair driver vision.

## 1.1 Approval under the *Environment Protection and Biodiversity Conservation Act 1999*

The project was referred to the former Department of the Environment (now the Department of Agriculture, Water and the Environment (the Department)) in March 2016 for assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The project was determined to be a controlled action on 8 April 2016 due to its potential impacts on listed threatened species and communities. The Department granted approval for the project on 4 December 2018 (EPBC 2016/7665), which included a number of conditions that Main Roads is required to fulfil.

## 1.2 Purpose of this Report

This compliance report has been produced to satisfy Conditions 12 and 13 of approval EPBC 2016/7665. Table 1 of this report outlines project compliance against each approval condition over the 12 month period between 21 January 2020 and 20 January 2021.

## 1.3 Status of the Project

The action commenced on 21 January 2019. The Main Roads Wheatbelt Region is delivering the project in stages based on funding availability. During the reporting period, the following activities were undertaken:

- Construction activities continued in the section of road between approximately 35 and 38 SLK
- Clearing and commencement of construction of road upgrades between 24.13 and 27.21 SLK
- Clearing and commencement of construction of road upgrades and minor realignment between 38.91 and 40.14 SLK.

## 2 COMPLIANCE

**Table 1: Compliance with Conditions of EPBC Approval 2016/7665**

Condition Number	Condition	Status	Evidence/Comments
1	<p>For the protection of the protected matters in the project area, the approval holder must not clear more than:</p> <p>a. 54.87 hectares within the project area; and</p> <p>b. 94 suitable nesting hollows.</p>	Compliant	<p>a. A total of 5.36 hectares (ha) of native vegetation was cleared for the project during the reporting period (illustrated in Appendix A). Combined with previous clearing undertaken for the project, a total of 7.85 ha has been cleared for the project to date.</p> <p>b. A total of two (2) suitable nesting hollows were cleared during the reporting period; representing the total number of suitable nesting hollows removed for the project to date.</p>
2	<p>If the approval holder intends to clear one or two known nesting hollows, it must demonstrate that all avoidance and mitigation measures have been implemented and obtain separate written agreement of the Department before commencing such clearing.</p>	Compliant	<p>No known nesting hollows were cleared during the reporting period, nor have any been cleared for the project to date.</p>

Condition Number	Condition	Status	Evidence/Comments
3	<p>The approval holder must establish and maintain a register of the locations and other relevant details of all suitable nesting hollows and known nesting hollows identified within the project area. Within 48 hours prior to clearing of suitable nesting hollows and known nesting hollows during the Black Cockatoo breeding season (between 1 June and 28 February of every year) the approval holder must:</p> <ul style="list-style-type: none"> <li>a. Clearly identify suitable nesting hollows and known nesting hollows within the project area and update the register;</li> <li>b. ensure that a suitably qualified person monitors all known nesting hollows to determine when chick(s) have fledged.</li> </ul>	Compliant	<p>A register of all suitable nesting hollows and known nesting hollows identified within the project area has been established and a copy can be made available to the Department upon request.</p> <p>Two (2) suitable nesting hollows were cleared during the reporting period. A pre-clearing fauna inspection was undertaken within 48 hours prior to removing these trees to determine whether black cockatoo nesting was occurring. The pre-clearing fauna assessment of these two habitat trees identified that no black cockatoos were utilising the hollows<sup>1</sup>. No known nesting hollows were cleared during the reporting period.</p>
4	<p>The approval holder must not clear any vegetation within a 10 metre radius of known nesting hollows until a suitably qualified person has verified that the Black Cockatoo chick(s) in that known nesting hollow has fledged.</p>	Compliant	<p>There is one previously confirmed known nesting hollow located in the vicinity of the project area. No works were undertaken within 10 metres of this tree during the reporting period.</p>

<sup>1</sup> Bamford, M (2020). Memo report of findings from potential black cockatoo nesting hollow inspection Toodyay Rd clearing. Unpublished memo report prepared by Bamford Consulting Ecologists for Main Roads Western Australia. December 2020.

Condition Number	Condition	Status	Evidence/Comments
5	<p>To mitigate and offset the impacts to Black Cockatoos, within six months of clearing suitable nesting hollows and known nesting hollows, the approval holder must install at least two artificial nesting hollows for each suitable nesting hollow cleared and five artificial nesting hollows for each known nesting hollow cleared. Each artificial nesting hollow must:</p> <ol style="list-style-type: none"> <li>a. be installed either within the offset area, DBCA legislated lands and Waters or another location approved in writing by the Minister;</li> <li>b. be inspected by a suitably qualified person on at least two days (separated by at least a week) during the peak breeding season every year for the life of the approval. The suitably qualified person must record any evidence of use by Black Cockatoos and identify and report to the approval holder any maintenance required to ensure that all artificial nesting hollows remain suitable for use by Black Cockatoos;</li> <li>c. be installed, monitored and maintained in accordance with artificial hollow guidance for the life of the approval, with maintenance actions, if required, undertaken outside of the peak breeding season and before the commencement of the next breeding season; and</li> <li>d. not be installed in a manner that requires clearing of Black Cockatoo habitat or (to reduce the risk of vehicle strike) within 10 metres of the edge of any road corridor.</li> </ol>	Not applicable	<p>A total of two (2) suitable nesting hollows have been cleared for the project to date. These hollows were cleared on 4 December 2020. Accordingly, at least four (4) artificial nesting hollows will be installed prior to 4 June 2021, in accordance with the requirements of this condition. The details of these artificial hollows will be included in the 2022 compliance report for the project.</p>

Condition Number	Condition	Status	Evidence/Comments
6	<p>To offset residual significant impacts to the protected matters, within one year of the commencement of the action the approval holder must provide the following to the Department:</p> <ol style="list-style-type: none"> <li>title search results demonstrating that the title for at least 196 ha of Black Cockatoo habitat and at least 128 ha of Chuditch habitat within the offset area has been transferred by the approval holder to the DBCA;</li> <li>evidence that the offset area contains at least 196 ha of Black Cockatoo habitat and at least 128 ha of Chuditch habitat;</li> <li>the offset attributes and a shapefile for the offset area required by condition 6.a.;</li> <li>documentation demonstrating that the DBCA is satisfied with the amount and timing of management funding to be provided by the approval holder for the ongoing management of the offset area.</li> </ol>	Compliant	<ol style="list-style-type: none"> <li>As reported in the April 2020 compliance report, the title search results were provided to the Department on 12 March 2020.</li> <li>Evidence of the suitability of the offset site for Black Cockatoos and the Chuditch was provided to the Department on 29 March and 19 November 2018, and 12 March 2020.</li> <li>The final offset attributes and a shapefile of the offset area were provided to the Department on 12 March 2020.</li> <li>Evidence of DBCA's management requirements and Main Roads agreement to these was provided to the Department on 12 March 2020. A Memorandum of Understanding (MoU) between Main Roads and DBCA to formalise this agreement was signed in September 2020. A copy of this MoU was provided to Main Roads in March 2021 and will be provided to the Department separately.</li> </ol>
7	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	The action commenced on 21 January 2019. Main Roads notified the Department of commencement of the action in writing on 31 January 2019.
8	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 4 December 2018 and the action was commenced on 21 January 2019.



Condition Number	Condition	Status	Evidence/Comments
9	The approval holder must maintain accurate and complete compliance records.	Compliant	Main Roads has maintained records in accordance with this condition and their legal obligations, under the <i>State Records Act 2000</i> (Western Australia).
10	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.
11	The approval holder must ensure that any monitoring data (including sensitive ecological data), surveys, maps, and other spatial and metadata required under conditions of this approval, is prepared in accordance with the Department's <i>Guidelines for biological survey and mapped data</i> (2018) and submitted electronically to the Department within three months of the submission of the compliance report.	Not applicable	To date, no biological survey data has been required to be submitted under conditions of this approval.

Condition Number	Condition	Status	Evidence/Comments
12	<p>The approval holder must prepare a compliance report for each 12 month period following the date of commencement of the action, or as otherwise agreed to in writing by the Minister. The approval holder must:</p> <ul style="list-style-type: none"> <li>a. publish each compliance report on the website within 60 business days following the relevant 12 month period;</li> <li>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;</li> <li>c. keep all compliance reports publicly available on the website until this approval expires;</li> <li>d. exclude or redact sensitive ecological data from compliance reports published on the website; and</li> <li>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.</li> </ul>	Compliant	<ul style="list-style-type: none"> <li>a. The action commenced on 21 January 2019. This compliance report covers compliance for the reporting period 21 January 2020 to 20 January 2021. This compliance report will be published on the Main Roads website by 20 April 2021. The compliance report prepared for the 21 January 2019 to 20 January 2020 period was published on 16 April 2020.</li> <li>b. The Department was advised on 17 April 2020 that the April 2020 compliance report for period 21 January 2019 to 20 January 2020 was published on the Main Roads website on 16 April 2020. The Department will be notified by email within five business days of the date of publication of this report.</li> <li>c. This and the previous compliance report will remain publicly available on the Main Roads website until the expiration date of the project approval. The April 2020 compliance report continues to be publically available on the Main Roads website.</li> <li>d. No sensitive ecological data has been included in this report, nor in the April 2020 compliance report.</li> <li>e. No sensitive ecological data has been included in this report, nor in the April 2020 compliance report.</li> </ul>

Condition Number	Condition	Status	Evidence/Comments
13	<p>The compliance report prepared under condition 12 must include, but is not limited to:</p> <ul style="list-style-type: none"> <li>a. the avoidance and mitigation measures applied under condition 2, where applicable;</li> <li>b. the location of the suitable nesting hollows and known nesting hollows identified under condition 3;</li> <li>c. the evidence by which it was determined that known nesting hollows were being utilised, including the date each such determination;</li> <li>d. the evidence by which it was determined any chick(s) had fledged including the date of each such determination and location of the particular hollow(s);</li> <li>e. the installation date, location and a photo of each artificial nesting hollow installed under condition 5;</li> <li>f. a description of how the design and placement of each artificial nesting hollow was determined;</li> <li>g. the dates, methodology, maintenance activities and results of artificial nesting hollow monitoring undertaken; and</li> <li>h. the relevant qualifications and experience of the suitably qualified person(s) involved.</li> </ul>	Compliant	<p>The location of the two suitable nesting hollows that were cleared during the reporting period is illustrated in Appendix A and provided in Appendix B. No known nesting hollows were cleared during the reporting period.</p> <p>No artificial nesting hollows were installed during the reporting period.</p> <p>The remaining requirements of this condition are not applicable at this stage.</p>
14	<p>The approval holder must notify the Department in writing of any: incident; non-compliance with the conditions; or non-compliance with the commitments made in plans. The notification must be given as soon as practicable, and no later than five business days after becoming aware of the incident or non-compliance. The notification must specify:</p> <ul style="list-style-type: none"> <li>a. the condition which is or may be in breach; and</li> <li>b. a short description of the incident and/or non-compliance.</li> </ul>	Compliant	<p>One partial non-compliance was reported on within the April 2020 compliance report (partial non-compliance related to the timing of title search results). This partial non-compliance was identified by Main Roads on 3 March 2020 and was reported to the Department on 5 March 2020.</p>

Condition Number	Condition	Status	Evidence/Comments
15	<p>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> <ol style="list-style-type: none"> <li>any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;</li> <li>the potential impacts of the incident or non-compliance; and</li> <li>the method and timing of any remedial action that will be undertaken by the approval holder.</li> </ol>	Compliant	The relevant details required to satisfy this condition in relation to the partial non-compliance reported on 5 March 2020 were provided to the Department on 12 and 16 March 2020.
16	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.
17	<p>For each independent audit, the approval holder must:</p> <ol style="list-style-type: none"> <li>provide the name and qualifications of the independent auditor and the draft audit criteria to the Department;</li> <li>only commence the independent audit once the audit criteria have been approved in writing by the Department; and</li> <li>submit an audit report to the Department within the timeframe specified in the approved audit criteria.</li> </ol>	Not applicable	To date, no direction has been received from the Minister to undertake an independent audit.
18	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

Condition Number	Condition	Status	Evidence/Comments
19	Within 30 days after the completion of the action, the approval holder must notify the Department in writing and provide completion data.	Not applicable	The action has not yet been completed.

### **3 APPENDICES**

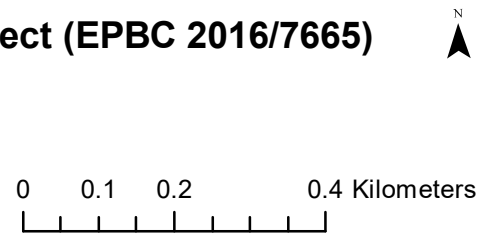
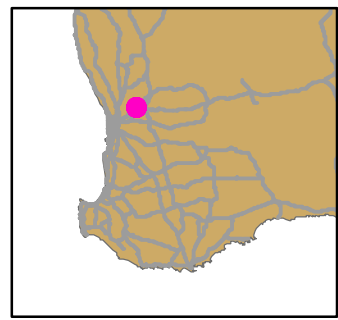
## **Appendix A: Figures showing clearing undertaken during reporting period**



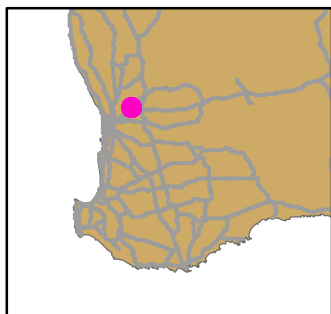
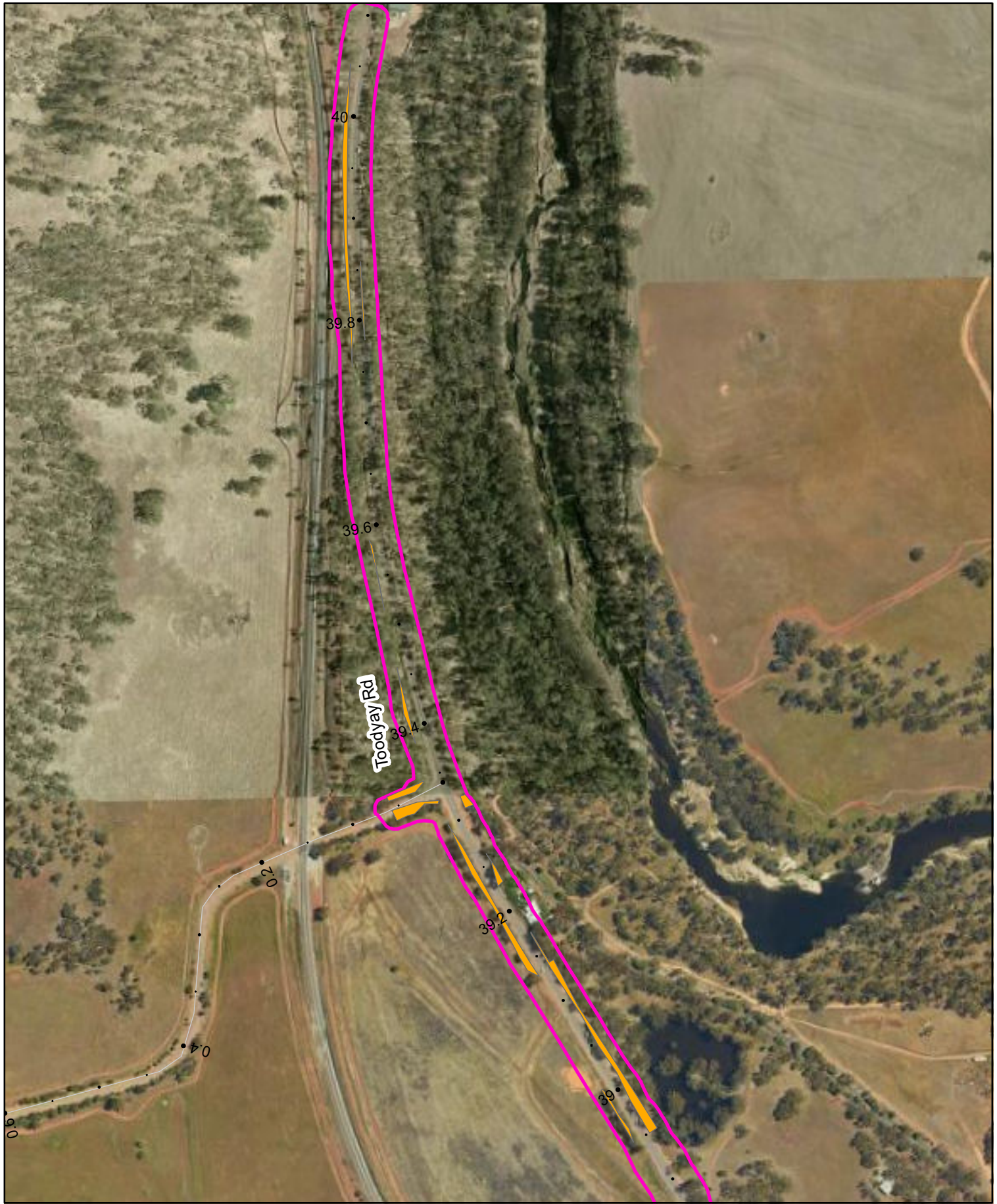
**Figure 1a: Clearing undertaken for Toodyay Rd Upgrade and Widening Project (EPBC 2016/7665) during Reporting Period (Jan 2020 to Jan 2021).**

**Legend**

- Trees with suitable black cockatoo nesting hollows removed during reporting period
- Native vegetation clearing undertaken during reporting period
- Toodyay Rd Approval Envelope (i.e. project area referred to in EPBC Approval 2016/ 7665)







**Figure 1b: Clearing undertaken for Toodyay Rd Upgrade and Widening Project (EPBC 2016/7665) during Reporting Period (Jan 2020 to Jan 2021).**

**Legend**

- Toodyay Rd Approval Envelope (i.e. project area referred to in EPBC Approval 2016/ 7665)
- Native vegetation clearing undertaken during reporting period



**Appendix B: Location of suitable nesting hollows cleared during the reporting period**

Tree species	Location (Decimal Degrees)	Number of suitable hollows
<i>Eucalyptus marginata</i>	116.391611, 31.638664	1
<i>Eucalyptus marginata</i>	116.392387, -31.638242	1