



# **EPBC Act Referral 2013/6878**

## **Clyde Terminal Conversion Project**

### Annual Compliance Report – 2020

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## Abbreviations

<b>Abbreviation</b>	<b>Description</b>
DoEE	Australian Government Department of the Environment and Energy
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
GGBF	Green and Golden Bell Frog ( <i>Litoria aurea</i> )
Project	Viva Energy Clyde Terminal Conversion Project
Plans	The plans specified in the Approval, being the “ <i>Plan of Management: Restoration of Green and Golden Bell Frog Habitat, Clyde, August 2014</i> ” and the “ <i>Conservation of Green and Golden Bell Frogs, Shell Site, Clyde 2013</i> ”
PoM	“ <i>Plan of Management: Restoration of Green and Golden Bell Frog Habitat, Clyde, August 2014</i> ”
Revised PoM	“ <i>Revised Plan of Management: Restoration of Green and Golden Bell Frog habitat, Clyde Terminal, January 2019</i> ” approved by DoEE on 02 April 2019
Viva Energy	Viva Energy Australia Pty Ltd formerly The Shell Company of Australia Limited

## Report Summary

The Shell Company of Australia Limited (now Viva Energy Australia Pty Ltd, referred to herein as Viva Energy) submitted a referral of proposed action under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) (the Referral) in May 2013 for the Shell Clyde Terminal Conversion Project (the Project).

Subsequent to the Referral, The Department of the Environment (now Department of the Environment and Energy, DoEE) confirmed the Project as a controlled action on 3 July 2013 as a result of potential impact on the Green and Golden Bell Frog (GGBF) and designated it as referral EPBC 2013/6878. DoEE approved the action on 17 April 2014 (the Approval) with eleven conditions of approval.

On 2 April 2019, DoEE varied the original conditions of approval in response to Viva Energy's request to include the demolition of six additional structures on the Approval. Conditions 1, 2 and 7 were varied and two new conditions were added. Compliance with the varied conditions specified in the variation notification is addressed in this reporting period.

Approval Condition 7 requires Viva Energy to publish an annual report outlining compliance with each of the conditions of the Approval, including implementation of the Green and Golden Bell Frog (GGBF) Plans specified in the conditions.

This report covers the period 03 April 2019 to 14 April 2020 and addresses the requirements of Condition 7 under the Approval.

Compliance with the Approval conditions is detailed in Table 1-1 with conditions either complied with or not triggered / not requested.

## Compliance with Conditions of Approval

The conditions of approval (EPBC 2013/6878) are provided in full in Table 1.1 with compliance or otherwise also noted.

**Table 1.1 Summary of Compliance with Conditions of Approval**

Condition of Approval	Requirement	Compliance during reporting period 03 Apr 2019 – 14 Apr 2020
EPBC 1	The <b>approval holder</b> must not demolish redundant infrastructure or modify existing assets other than as shown in Figure 1 attached to the conditions.	Compliant. Additional demolition works approved under EPBC Approval 2013/6878 as varied in 2019 and depicted in Figure 1 attached to the conditions, have been executed during the reporting period.
EPBC 2	To assist in mitigating the impacts of the proposal on the Green and Golden Bell Frog ( <i>Litoria aurea</i> ) the <b>approval holder</b> must undertake the action in full accordance with the documentation included in the final Preliminary Documentation being the <i>Plan of Management: Restoration of Green and Golden Bell Frog Habitat, Clyde, October 2013</i> or a subsequent version of these <b>Plans</b> if and when approved by the <b>Minister</b> . These Plans, or a subsequent version if and when approved by the <b>Minister</b> , must be implemented.	Compliant. The Revised PoM was implemented during the reporting period. Please refer to Appendix A for photos of the constructed wetland mosaic and the dispersal corridor.
EPBC 3	To mitigate the impacts of the proposal on the Green and Golden Bell Frog ( <i>Litoria aurea</i> ) the <b>approval holder</b> must install frog-proof fences around <b>temporary frog refuge areas</b> to exclude the Green and Golden Bell Frog from construction and operational areas. The frog proof fences adjacent to the <b>frog dispersal corridor</b> must be removed when demolition works are completed. The frog proof fences adjacent to operational areas must remain in place and be maintained when demolition works are completed.	Compliant. A frog-proof fence was installed along the wetland mosaic and main wetland to help contain the Green and Golden Bell Frog within their improved habitat and exclude them from construction and operational areas. Please refer to Appendix B for the Works as Executed plan showing the frog fence detail.
EPBC 4	To assist in mitigating the impacts of the proposal on the Green and Golden Bell Frog ( <i>Litoria aurea</i> ) the <b>approval holder</b> must implement the NSW Threatened Species Management Information Circular No. 6 Service Hygiene Protocol for the Control of Disease in Frogs (April 2008), or most recent revision of that document, on the site during all works and any other activities undertaken as part of the action.	Compliant.
EPBC 5	Within 30 days after the <b>commencement</b> of the action, the <b>approval holder</b> must advise the <b>Department</b> in writing of the actual date of <b>commencement</b> .	Compliant. DoEE notified 11 February 2015.

Condition of Approval	Requirement	Compliance during reporting period 03 Apr 2019 – 14 Apr 2020
EPBC 6	<p>The approval holder must maintain accurate records substantiating all activities associated with or relevant to these conditions of approval, including measures taken to implement the Plans specified in Condition 2, 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 the 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.</p>	Compliant.
EPBC 7	<p>Within three months of every 12 month anniversary of the <b>commencement</b> of the action (for a period of five years after commencement of the action), the <b>approval holder</b> must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of the Plans as specified in the conditions. Documentary evidence providing proof of the date of publication must be provided to the <b>Department</b> at the same time as the compliance report is published.</p>	Compliant.
EPBC 8	<p>Upon the direction of <b>the Minister</b>, the <b>approval holder</b> must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the <b>Minister</b>. The independent auditor must be approved by the <b>Minister</b> prior to the <b>commencement</b> of the audit. Audit criteria must be agreed to by the <b>Minister</b> and the audit report must address the criteria to the satisfaction of the <b>Minister</b>.</p>	Not requested.
EPBC 9	<p>If the <b>approval holder</b> wishes to carry out any activity otherwise than in accordance with the Plans as specified in the conditions, the <b>approval holder</b> must submit to the <b>Department</b> for the <b>Minister's</b> written approval a revised version of that Plan. The varied activity shall not commence until the <b>Minister</b> has approved the varied Plan in writing. The <b>Minister</b> will not approve a varied Plan unless the revised Plan would result in an equivalent or improved environmental outcome over time. If the <b>Minister</b> approves the revised Plan, that Plan must be implemented in place of the Plan originally approved.</p>	<p>Compliant.</p> <p>DoEE approved the "Revised Plan of Management: Restoration of Green and Golden Bell Frog habitat, Clyde Terminal, January 2019" on 02 April 2019. The Revised PoM was implemented during the reporting period, see compliance notes on EPBC 2.</p>

Condition of Approval	Requirement	Compliance during reporting period 03 Apr 2019 – 14 Apr 2020
EPBC 10	If the <b>Minister</b> believes that it is necessary or convenient for the better protection of listed threatened species and ecological communities to do so, the <b>Minister</b> may request that the <b>approval holder</b> make specified revisions to the Plans specified in the conditions and submit the revised Plans for the <b>Minister's</b> written approval. The <b>approval holder</b> must comply with any such request. The revised approved Plans must be implemented. Unless the <b>Minister</b> has approved the revised Plans then the <b>approval holder</b> must continue to implement the Plans originally approved.	Not requested.
EPBC 11	If, at any time after 5 years from the date of this approval, the <b>approval holder</b> has not <b>substantially commenced</b> the action, then the <b>approval holder</b> must not substantially commence the action without the written agreement of the <b>Minister</b> .	Not applicable. Viva Energy provided DoEE with a Notification of the Commencement of Works on 11 February 2015.
EPBC 12	The approval holder must notify the <b>Department</b> in writing of any: <b>incident</b> ; non-compliance with the conditions; or non-compliance with the commitments made in <b>plans</b> . The notification must be given as soon as practicable, and no later than two <b>business days</b> after becoming aware of the <b>incident</b> or non-compliance. The notification must specify: <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 <b>incident</b> and/or non-compliance</li> </ul>	Not triggered
EPBC 13	The approval holder must provide to the <b>Department</b> the details of any <b>incident</b> or non-compliance with the conditions or commitments made in <b>plans</b> as soon as practicable and no later than 10 <b>business days</b> after becoming aware of the <b>incident</b> or non-compliance, specifying: <ul style="list-style-type: none"> <li>a. Any corrective action or investigation which the approval holder has already taken or intends to take in the immediate future;</li> <li>b. The potential impacts of the <b>incident</b> or non-compliance; and</li> <li>c. The method and timing of any remedial action that will be undertaken by the approval holder.</li> </ul>	Not triggered

Condition of Approval	Requirement	Compliance during reporting period 03 Apr 2019 – 14 Apr 2020
<p><b>Definitions</b></p> <ul style="list-style-type: none"> <li>a) <b>approval holder</b>, means the person to whom the approval is granted, or to whom the approval is transferred under s145B of the <i>Environment Protection and Biodiversity Conservation Act 1999</i>.</li> <li>b) <b>Department</b>, the Australian Government Department administering the <i>Environment Protection and Biodiversity Conservation Act 1999</i>.</li> <li>c) <b>Minister</b>, the Minister administering the <i>Environment Protection and Biodiversity Conservation Act 1999</i> and includes a delegate of the Minister.</li> <li>d) <b>commencement</b>, means the earthworks, vegetation removal or construction of any infrastructure, excluding fences and signage, associated with the proposed action.</li> <li>e) <b>substantially commenced</b>, means the commencement of earthworks and vegetation removal.</li> <li>f) <b>temporary frog refuge areas</b>, as delineated in the <i>Plan of Management: Restoration of Green and Golden Bell Frog Habitat, Clyde, (October 2013)</i>.</li> <li>g) <b>frog dispersal corridor</b>, as depicted in Figure 9 in the <i>Plan of Management: Restoration of Green and Golden Bell Frog Habitat, Clyde, (October 2013)</i>.</li> </ul>		

# Appendix A



Figure 1 - Permanent pond on wetland mosaic looking South



*Figure 2 - Ephemeral swale and aquaculture tub ponds for artificial habitat looking West*



*Figure 3 - Wetland mosaic looking North*



*Figure 4 - Planting of terrestrial area with the frog-proof fence in the background*



*Figure 5 - Dispersal corridor looking East*



DOCUMENT CONTROL TABLE		
Issue date	Document changes made and approved by owner	MoC # if change to procedure/process
31 July 2016	New document created - Annual Compliance Report Template	n/a
<b>Owner:</b>	Parramatta and Clyde Coordinator, Operations	
<b>Distribution - the document will be distributed as follows</b>		
*	Intranet (advise controller of intranet location)	
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