

EPBC Act Referral 2013/6878

Clyde Terminal Conversion Project

Annual Compliance Report – 2017

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Abbreviations

Abbreviation	Description
DoE	Commonwealth Department of the Environment
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
GGBF	Green and Golden Bell Frog (<i>Litoria aurea</i>)
Project	Shell Clyde Terminal Conversion Project
Green and Golden Bell Frog 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>
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 (DoE) confirmed the Project as a controlled action on 3 July 2013 as a result of potential impact on the Green and Golden Bell Frog and designated it as referral EPBC 2013/6878.
- DoE approved the action on 17 April 2014 (the Approval) with eleven conditions of approval.
- In accordance with the requirements of Approval Condition 9, Viva Energy requested minor revisions to the “Plan of Management: Restoration of Green and Golden Bell Frog Habitat, Clyde”. DoE approved the revised version of the plan (August 2014) on 29 October 2014.
- Viva Energy provided DoE with a Notification of the Commencement of Works on 11 February 2015.
- Viva Energy advised DoE of a revision to the phasing of the demolition schedule and the use of explosive techniques in the demolition activities. A Consistency Assessment was provided to DoE on 11 February 2015.

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 11 February 2016 to 11 February 2017 and addresses the requirements of Condition 7 under the Approval.

Details of compliance with the Approval conditions are presented in **Table 1-1**.

1. Compliance with Conditions of Approval

The conditions of approval for Shell Clyde Terminal Conversion (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 Feb 2016 - Feb 2017.
EPBC 1	The approval holder must not demolish redundant infrastructure or modify existing assets other than as described in EPBC referral 2013/6878 received by the Department on 23 May 2013.	Compliant (notified in 2016 compliance reported).
EPBC 2	To assist in mitigating the impacts of the proposal on the proposal on the Green and Golden Bell Frog (<i>Litoria aurea</i>) the approval holder must undertake the action in full accordance with the documentation included in the final Preliminary Documentation being the "Plan of Management: Restoration of Green and Golden Bell Frog Habitat, Clyde, October 2013" and "Conservation of Green and Golden Bell Frogs, Shell Site, Clyde 2013". These Plans must be implemented.	Compliant. In accordance with the requirements of EPBC 9 below, Viva Energy requested minor revisions to the "Plan of Management: Restoration of Green and Golden Bell Frog Habitat, Clyde". DoE approved the revised August 2014 version of the "Plan of Management: Restoration of Green and Golden Bell Frog Habitat" on 29 October 2014. The revised plan will be implemented. Refer to Section 2 – Implementation of Plan of Management.
EPBC 3	To mitigate the impacts of the proposal on the Green and Golden Bell Frog (<i>Litoria aurea</i>) the approval holder must install frog-proof fences around temporary frog refuge areas to exclude the Green and Golden Bell Frog from construction and operational areas. The frog proof fences adjacent to the frog dispersal corridor 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.	Condition not yet triggered. Construction works associated with the implementation of the plan for the restoration of habitat have not yet commenced.
EPBC 4	To assist in mitigating the impacts of the proposal on the Green and Golden Bell Frog (<i>Litoria aurea</i>) the approval holder 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. All personnel (including contractors) must complete induction training (which includes frog identification information and reporting/handling requirements). Selected Viva Energy personnel have received more comprehensive GGBF training from Biosphere Environmental Consultants Pty Ltd. Some aspects of this condition are not yet triggered as construction works associated with the habitat restoration plan have not yet commenced.
EPBC 5	Within 30 days after the commencement of the action, the approval holder must advise the Department in writing of the actual date of commencement .	Compliant. DoE notified 11 February 2015.
EPBC 6	The approval holder must maintain accurate records substantiating all activities associated with or relevant to these conditions of approval, including	Compliant.

Condition of Approval	Requirement	Compliance during reporting period Feb 2016 - Feb 2017.
	<p>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>	
EPBC 7	<p>Within three months of every 12 month anniversary of the commencement of the action (for a period of five years after commencement of the action), the approval holder 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 Department at the same time as the compliance report is published. Non-compliance with any of the conditions of this approval must be reported to the Department within 2 business days of becoming aware of the non-compliance.</p>	Compliant.
EPBC 8	<p>Upon the direction of the Minister, the approval holder must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the Minister. The independent auditor must be approved by the Minister prior to the commencement of the audit. Audit criteria must be agreed to by the Minister and the audit report must address the criteria to the satisfaction of the Minister.</p>	Not requested.
EPBC 9	<p>If the approval holder wishes to carry out any activity otherwise than in accordance with the Plans as specified in the conditions, the approval holder must submit to the Department for the Minister's written approval a revised version of that Plan. The varied activity shall not commence until the Minister has approved the varied Plan in writing. The Minister will not approve a varied Plan unless the revised Plan would result in an equivalent or improved environmental outcome over time. If the Minister approves the revised Plan, that Plan must be implemented in place of the Plan originally approved.</p>	<p>Compliant.</p> <p>DoE approved the revised August 2014 version of the "Plan of Management: Restoration of Green and Golden Bell Frog Habitat" on 29 October 2014.</p> <p>The revised plan will be implemented.</p>
EPBC 10	<p>If the Minister believes that it is necessary or convenient for the better protection of listed threatened species and ecological communities to do so, the Minister may request that the approval holder make specified revisions to the Plans specified in the conditions and submit the revised Plans for the Minister's written approval. The approval holder must comply with any such request. The revised approved Plans must be implemented. Unless the Minister has approved the revised Plans then the approval holder must continue to implement the Plans originally approved.</p>	Not requested.

Condition of Approval	Requirement	Compliance during reporting period Feb 2016 - Feb 2017.
EPBC 11	If, at any time after 5 years from the date of this approval, the approval holder has not substantially commenced the action, then the approval holder must not substantially commence the action without the written agreement of the Minister .	Not applicable. Viva Energy provided DoE with a Notification of the Commencement of Works on 11 February 2015.
<p>Definitions</p> <p>a) approval holder, 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>.</p> <p>b) Department, the Australian Government Department administering the <i>Environment Protection and Biodiversity Conservation Act 1999</i>.</p> <p>c) Minister, the Minister administering the <i>Environment Protection and Biodiversity Conservation Act 1999</i> and includes a delegate of the Minister.</p> <p>d) commencement, means the earthworks, vegetation removal or construction of any infrastructure, excluding fences and signage, associated with the proposed action.</p> <p>e) substantially commenced, means the commencement of earthworks and vegetation removal.</p> <p>f) temporary frog refuge areas, as delineated in the <i>Plan of Management: Restoration of Green and Golden Bell Frog Habitat, Clyde, (October 2013)</i>.</p> <p>g) frog dispersal corridor, as depicted in Figure 9 in the <i>Plan of Management: Restoration of Green and Golden Bell Frog Habitat, Clyde, (October 2013)</i>.</p>		

2. Implementation of Plan of Management

The NSW Government's Parramatta Light Rail infrastructure project has resulted in a requirement for further planning for the implementation of the works associated with the Plan of Management to ensure the GGBF is not unnecessarily disturbed by the two projects i.e. the execution of the Clyde Terminal Project and the Parramatta Light Rail Project. More detail is provided below:

Parramatta Light Rail

The NSW Government announced in October 2014 that planning would commence for a Parramatta Light Rail (PLR) Project with four shortlisted corridors, including a "Parramatta to Sydney Olympic Park and Strathfield/Burwood" corridor. The proposed route from Parramatta to Sydney Olympic Park runs through the northern area of the Viva Energy Clyde Terminal site in the vicinity of the wetland.

Between August and October 2016, the Parramatta Light Rail team engaged with key stakeholders including Viva Energy regarding the project and the potential routes for the corridor. Viva Energy was advised during this engagement period that further environmental studies were being undertaken by the Parramatta Light Rail to determine an appropriate route taking into account the environmental importance of the Clyde wetland. For this reason Viva Energy took the decision to place a temporary hold on construction planning for the habitat restoration works pending a decision on the PLR route through the Camellia Peninsula. In early F

In February 2017, the NSW Government announced the routes for stage one of the project, with planning work for stage two of the project, from Camellia to Strathfield via Sydney Olympic Park, is being developed in collaboration with Sydney Metro West. The NSW Government also indicated that stage two planning work is expected to be finalised by the end of 2017. The determination of the proposed routes for PLR stage 2 will allow Viva Energy to progress the finalisation of construction plans for the habitat restoration works within the wetland.

Habitat Restoration - Planning

The Green and Golden Bell Frog Plans aim to provide a reasonably self-sustaining "natural lifecycle frog habitat" within the existing wetland area that will maintain a stable population and encourage population growth within the wetland area and to provide a natural migratory route to Duck Creek.

Viva Energy engaged The University of NSW Water Research Laboratory (WRL) to provide analysis of the existing hydrology of the wetland to ensure that risks associated with construction of the macrophyte basin, frog ponds and shelter habitats were identified and mitigated to the extent possible. The WRL study describes the onsite hydrology and existing environmental conditions in relation to conceptual designs and lessons learnt from other constructed GGBF habitats. The report was completed and issued to Viva Energy in July 2016.

In August 2016 a Construction Risk Workshop was held between WRL, Biosphere (Viva Energy's consultant ecologist), Transport for NSW (Parramatta Light Rail) and WSP | Parsons Brinckerhoff (PLR's consultant ecologist). The workshop purpose was to inform all participants regarding Viva Energy's Green and Golden Bell Frog Plans and to understand the potential impacts of the proposed light rail corridor on the existing wetland and the future plans for habitat restoration. The workshop participants shared information regarding potential impacts including vegetation loss, habitat removal, impacts of shadowing from rail infrastructure and barriers to frog movement through dispersal corridors. Throughout Q4 2016 and early 2017 Viva Energy provided the PLR project access to the Clyde site and the wetland to undertake further biodiversity studies to inform the analysis of the various options being considered.

In February 2017, Viva Energy engaged WRL to commence work on a conceptual water balance model of the wetland to understand the interactions of rainfall, runoff, evaporation, groundwater and wetland geometry

to ensure the proposed frog breeding ponds will cycle through wet and dry periods in accordance with the objectives of the Green and Golden Bell Frog Plans.

The announcement of the PLR route for stage 2 (expected late 2017) will enable Viva Energy to finalise construction plans for execution of the works.

Wetland Maintenance Activities

Wetland maintenance activities continued throughout the year and included;

- Removal of Acacia Saligna and Lantana Camara species.
- Hand weeding of various exotic species to assist establishment of native groundcovers
- Spot spraying to control herbaceous species and prevent seed-set.

A Pest Control Order was obtained in accordance with the Local Land Services Act 2013 to enable a pest eradication program for the European Red Fox. The program ran from 5th to 20th December 2016. Of the 12 x 1080 baits issued 9 were successfully taken from the bait stations including stations within the wetland area. Viva Energy continues to work the Local Land Services team to eradicate the fox from the Clyde Terminal site.

References

Australian Government Department of Environment, *Approval Shell Clyde Terminal Expansion NSW EPBC 2013/6878*, 17 April 2014.

Australian Government Department of Sustainability, Environment, Water, Population and Communities, *Referral Decision Brief Shell Clyde Terminal Expansion NSW EPBC 2013/6878*, 3 July 2013.

The Shell Company of Australia, *Referral of Proposed Action Shell Clyde Terminal Conversion*, May 2013.

University of NSW Water Research Laboratory: *Clyde Terminal Conversion: Restoration of Green and Golden Bell Frog Habitat - WRL Technical Report 2016/06*, July 2016.

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
Owner:	Clyde Terminal Conversion Project Manager	
Distribution - the document will be distributed as follows		
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