

# **EPBC Act Referral 2013/6878**

## **Clyde Terminal Conversion Project**

### Annual Compliance Report – 2016

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## Abbreviations

<b>Abbreviation</b>	<b>Description</b>
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 (GGBF) 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 Ltd formerly The Shell Company of Australia Limited

## Report Summary

The Shell Company of Australia Limited (now Viva Energy Australia 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 (covering the period 11 February 2015 to 11 February 2016) addresses the requirements of Condition 7 and is the first compliance report issued under the Approval.

Details of compliance with the Approval conditions is presented in **Table 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 2015 - Feb 2016.
EPBC 1	The <b>approval holder</b> must not demolish redundant infrastructure or modify existing assets other than as described in EPBC referral 2013/6878 received by the <b>Department</b> on 23 May 2013.	Compliant. Change to demolition schedule and techniques advised to DoE on 11 February 2015.
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 <b>approval holder</b> 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. The University of NSW Water Research Laboratory was engaged during the reporting period to provide advice regarding preparation of detailed design plans for water management in the existing wetland habitat area.
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.	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 <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. 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 <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. DoE notified 11 February 2015.
EPBC 6	The <b>approval holder</b> 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 <b>Department</b> . Such records may be subject to audit by the <b>Department</b> or an independent auditor in	Compliant.

Condition of Approval	Requirement	Compliance during reporting period Feb 2015 - Feb 2016.
	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 <b>Department's</b> website. The results of audits may also be publicised through the general media.	
EPBC 7	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. Non-compliance with any of the conditions of this approval must be reported to the <b>Department</b> within 2 business days of becoming aware of the non-compliance.	Not compliant. This first compliance report will be published on the Viva Energy website in August 2016 which is six months after the 12 month anniversary of commencement of the action.
EPBC 8	Upon the direction of the <b>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 Minister.	Not requested.
EPBC 9	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.	Compliant. 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.
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 <b>substantially</b> commence the action without the written agreement of the <b>Minister</b> .	Not applicable. Viva Energy provided DoE with a Notification of the Commencement of Works on 11 February 2015.
<b>Definitions</b> <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> </ul>		

Condition of Approval	Requirement	Compliance during reporting period Feb 2015 - Feb 2016.
	<ul style="list-style-type: none"> <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>	

## 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.

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