



EPBC Act Referral 2013/6878

Clyde Terminal Conversion Project

Annual Compliance Report – 2019

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Abbreviations

Abbreviation	Description
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.

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 12 February 2018 to 02 April 2019 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.

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 will be addressed in the next reporting period.

Section 2 of this report describes the progress on the GGBF Plans implementation during the reporting period.

The main activities undertaken include:

- Review of the GGBF habitat restoration conceptual design and update of the PoM; and,
- Baseline monitoring of Clyde Terminal wetlands

Wetland maintenance activities have continued throughout the reporting period and are also detailed in Section 2 of this report.

1. 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 12 Feb 2018 – 02 Apr 2019
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.
EPBC 2	To assist in mitigating the impacts of 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 approval of the Revised Plan of Management: Restoration of Green and Golden Bell Frog habitat, Clyde Terminal, January 2019. DoEE granted approval of the Revised PoM on 02 April 2019. 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. DoEE notified 11 February 2015.

Condition of Approval	Requirement	Compliance during reporting period 12 Feb 2018 – 02 Apr 2019
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 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>DoEE approved the "Revised Plan of Management: Restoration of Green and Golden Bell Frog habitat, Clyde Terminal, January 2019" on 02 April 2019.</p>

Condition of Approval	Requirement	Compliance during reporting period 12 Feb 2018 – 02 Apr 2019
EPBC 10	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.	Not requested.
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 DoEE with a Notification of the Commencement of Works on 11 February 2015.
<p>Definitions</p> <ul style="list-style-type: none"> 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>. b) Department, the Australian Government Department administering the <i>Environment Protection and Biodiversity Conservation Act 1999</i>. c) Minister, the Minister administering the <i>Environment Protection and Biodiversity Conservation Act 1999</i> and includes a delegate of the Minister. d) commencement, means the earthworks, vegetation removal or construction of any infrastructure, excluding fences and signage, associated with the proposed action. e) substantially commenced, means the commencement of earthworks and vegetation removal. 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>. 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>. 		

2. Implementation of Plan of Management

In 2018, the originally approved Plan of Management: *Restoration of Green and Golden Bell Frog Habitat, Clyde, August 2014* was critically reviewed by a group of specialists including University of Newcastle (UoN) and Urban Bush Management (UBM) lead by UNSW Water Research Laboratory (WRL). As a result of this work, the Plan of Management was updated and subsequently submitted to DoEE for review and approval.

On 02 April 2019, DoEE granted approval to the *Revised Plan of Management: Restoration of Green and Golden Bell Frog Habitat, Clyde Terminal, January 2019*. The alternate design includes a wetland mosaic adjacent to the main wetlands to provide in particular for the breeding habitat that was qualified as lost in the approved *Conservation of Green and Golden Bell Frogs, Shell Site, Clyde, 2013*. The approved alternate design will also help to preserve more of the existing wetland for the benefit of the balance of flora and fauna species in the area whilst meeting the breeding and sustainable habitat aims of the original PoM.

During the conceptual design stage, a number of field inspections were undertaken to characterise the current GGBF habitat conditions around the wetlands, including main wetlands, peripheral wetlands, terrestrial habitats, sludge cells at the proposed artificial breeding habitat site and along the mangrove forest between Clyde Terminal and Duck Creek, as well as areas of standing water in the vicinity of these site (refer to Figure 2-1). The scope of the GGBF surveys was:

- Daytime field inspections between 11am and 5pm at the end of summer 2018 (27 February 2018);
- Visual encounter surveys, i.e. evening surveys after dark on 27 February and 12 March 2018 between 8pm and midnight. These surveys were preceded by auditory surveys and included tadpole and *Gambusia*¹ surveys;
- Visual encounter survey at a reference site with known occurrence of a population of GGBFs, the Sydney Olympic Parklands;
- Audio recording using automated songmeters over a period of one month at the beginning of autumn 2018 (from 07 March to 06 April) at locations where individuals were previously reported; and,
- Audio recording at a reference site, the Sydney Olympic Parklands, during the same period of time as the songmeter at Clyde Terminal.

¹ Predatory plague minnow fish (*Gambusia Holbrooki*)
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Figure 2-1: Areas in the vicinity of Clyde wetlands subject to GGBF surveys during update of conceptual design of the GGBF habitat restoration project, summer/autumn 2018

The above described surveys failed to detect any GGBFs at the Clyde wetland or the reference site, most likely as a result of lack of rainfall. *Gambusia* was observed in the main wetlands, peripheral wetland 1 and the reference site. The survey methodology and results are detailed in the Supplementary Information Report, Green and Golden Bell Frog Management – Clyde Terminal Conversion (Mahony, M.M. and Callen, A., 2018).

A more recent survey was undertaken on 21 March 2019 in the vicinity of Clyde wetlands and 26 bell frogs were captured and released, primarily from peripheral wetland 2 and the terrestrial zone between the wetlands (refer to Figure 2-1). A good amount of water was observed in all of the wetlands (>300mm). *Gambusia* was also detected in the permanent ephemeral wetland (peripheral wetland 1) and the main wetland.

The implementation of the revised PoM will be undertaken during 2019 with construction works scheduled to commence in the last quarter of the year.

Wetland Maintenance Activities

Wetland maintenance activities continued throughout the reporting period and included;

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

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.

Mahony, M.J., & Callen, A. (2018). Supplementary Information Report, Green and Golden Bell Frog Management – Clyde Terminal Conversion. Conservation Biology Research Group, University of Newcastle.

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:	Parramatta and Clyde Coordinator, Operations	
Distribution - the document will be distributed as follows		
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