

EPBC Act Referral 2013/6878

Clyde Terminal Conversion Project

Annual Compliance Report – 2018

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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	Viva Energy 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> ”
PoM	“ <i>Plan of Management: Restoration of Green and Golden Bell Frog Habitat, Clyde, August 2014</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 (GGBF) and designated it as referral EPBC 2013/6878. DoE 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 2017 to 11 February 2018 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.

Section 2 of this report describes the progress on the Plans implementation during the reporting period. The main activities undertaken include:

- Engagement of University of New South Wales – Water Research Laboratory (WRL) to develop a water balance of the Wetlands
- Wetland management workshop with representatives of Viva Energy’s wetland management consultant (Urban Bushland Management, UBM) and WRL to critically review the approved Plans
- Engagement of WRL as Principal Consultant for the revision of the conceptual design of the GGBF habitat restoration works in partnership with GGBF specialist from University of Newcastle (UoN) and UBM. The revised design will be adopted only if it would result in an equivalent or improved environmental outcome over time as requested by Condition 9 of the EPBC Approval.

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 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 2017 - Feb 2018.
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. The action as detailed in the referral has been amended in terms of number of tanks demolished, retained and constructed. Appendix A of this report provides details of the amendments, which result in an equivalent environmental outcome. As such, no additional mitigation measures are considered necessary.
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 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.

Condition of Approval	Requirement	Compliance during reporting period Feb 2017 - Feb 2018.
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 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.	Compliant.
EPBC 7	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.	Compliant.
EPBC 8	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.	Not requested.
EPBC 9	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.	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.

Condition of Approval	Requirement	Compliance during reporting period Feb 2017 - Feb 2018.
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 DoE 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

The NSW Government's Parramatta Light Rail infrastructure project had during 2016 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.

During the reporting period, the NSW Government announced its intention to finalise the route for Phase 2 of the light rail (that which would have potentially impacted the Clyde Wetland) to the North of Parramatta River. This announcement has had the effect of removing the additional planning required for implementation of the works to the light rail, allowing a reversion to the approved PoM.

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 Plans. A comprehensive weather monitoring station and several water logging devices have been installed within the wetland area with data being harvested regularly by UNSW WRL. This work is on track to complete the data gathering phase allowing completion of the water balance model during quarter one 2018.

In November 2017, a Wetland Management Workshop was convened by Viva Energy incorporating representatives from its wetland management consultant (Urban Bushland Management, UBM) and WRL. The objective of this workshop was to re-confirm the suitability of the currently approved PoM in light of the NSW government's announcement mid-year of the likely re-alignment of the light rail to the North of Parramatta River.

The workshop confirmed the aims of the PoM remained relevant and critically reviewed the approved concept design for the restoration of the GGBF habitat. As a result, an alternate design is currently under development, including breeding pond or ponds adjacent to the Wetlands, which will 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 current PoM. WRL have subsequently partnered with GGBF specialists from University of Newcastle (UoN) and UBM to revise the conceptual design with a multidisciplinary approach, incorporating hydrology, herpetology and ecology concepts to ensure the successful implementation of the restoration works. This work will include a comparison with the original concept design presented in the approved PoM. The revised design will be adopted only if it would result in an equivalent or improved environmental outcome over time as requested by Condition 9 of the EPBC Approval. This work is expected to complete in April 2018, with physical construction works to follow soon after.

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
- Spot spraying to control herbaceous species and prevent seed-set.

In May 2017, Urban Bushland Management (UBM) were commissioned to provide an overall Wetland Management Report for the area. The report was completed in August and contains a suite of recommendations to sustainably manage existing flora and fauna. These actions were incorporated into the Wetland Management Workshop described earlier and will be implemented throughout 2018.

Appendix A

Element as presented in the Referral	Amendment	Reasoning behind amendments	Consistency	Consultation
Demolition of ULP Tanks 40, 41 and 1704	Tanks 40, 41 and 1704 will be retained	Operational need and current condition of the tanks	Equivalent environmental outcome as the action has changed to regrading only in Tankfarm E1. GGBF clearances undertaken prior starting regrading works resulted in Tankfarm E1 being free of frogs. Tank 1704 is located outside of a potential GGBF habitat. Retention of these ULP tanks is not material to the impacts described in the Referral	No consultation was required as change involved a reduction of scope of works originally approved.
Retention of Tank 32	Demolition of Tank 32	Poor condition of Tank 32	Equivalent environmental outcome as Tank 32 is located outside of a potential GGBF habitat area. Demolition of this Diesel tank is not material to the impacts described in the Referral	Consultation was undertaken with Department of Planning and Environment (DPE). See below
Construction works	Construction of two new Diesel tanks	Demolition of Tank 32 and operational needs	Equivalent environmental outcome as new tanks were constructed in an existing tankfarm bund / area (B2). Tankfarm B2 was not previously identified as a potential GGBF habitat, therefore construction of new tanks in this area is not material to the impacts described in the Referral	Consultation was undertaken with Department of Planning and Environment (DPE) who advised "the proposed new tanks are consistent with the development consent SSD 5147 and do not require a modification" email dated 22/03/2016

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.

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