

2016

Compliance Report - EPBC 2010/5640



Figure 1: Aerial photograph of construction works at Flynn

VicRoads

South Eastern Projects

26/8/2016

PRINCES HIGHWAY EAST DUPLICATION PROJECT

Compliance Assessment Report No. 3
(July 2015 to July 2016)
EPBC Approval No. 2010/5640

26 August 2016

Version: 1.0

Prepared for

Department of the Environment

Approvals Monitoring South Section

CANBERRA ACT

Document information

Criteria	Details
Document title:	Compliance Assessment Report No. 3 July 2015 to July 2016, EPBC Approval No. 2010/5640
Document owner:	VICROADS
Document author:	Kingsley Sexton
Version:	1.0
Issue date:	26 August 2016

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TERMS, ABBREVIATIONS AND DEFINITION

The terms, abbreviations and definitions that have been used in this documents are listed in the below table.

Table 1.0: List of Terms and Abbreviations

Terms / Abbreviation	Definition
CAB	Construction Activity Boundary
DEPI	Department of Environment and Primary Industries, former department of
DELWP	Department of Environment, Land, Water and Planning
DoE	Department of the Environment
DoTPLI	Department of Transport, Planning and Local Infrastructure (formerly DPCD)
DSE	Department of Sustainability and Environment, former department of
DSEWPaC	Department of Sustainability, Environment, Water, Population and Communities, former department of
EES	Environment Effects Statement
EPA	Environment Protection Authority
EPBC Act	Environment Protection and Biodiversity Conservation Act 1999
Ha	Hectare
GHD	GHD Australia, Consultant to VicRoads

1 Executive Summary

The final approval to Referral No. 2010/5640 under the EBPC Act was given to VicRoads on the 23 January 2013 for the construction of the Princes Highway East Duplication between Stammers Road, Traralgon East and Templetons Road, Kilmany Victoria.

Under Condition 14 of the decision notice, an annual compliance report is required to be published on VicRoads website within three months of every twelve month anniversary of the commencement of the action. The report must address compliance with each of the conditions of the approval, including implementation of any management plans as specified in the conditions.

This compliance report addresses the current status of the construction of the Princes Highway East Duplication Project against the EPBC Act Approval No. 2010/5640 conditions. This is the third compliance report to be prepared for the Princes Highway East Duplication Project and relates to the period 2 July 2015 to 2 July 2016, or year three of the action.

VicRoads has complied with all of the conditions referenced in the EPBC Act approval 2010/5640 for the annual reporting period. Five of the nineteen conditions have not been required to be implemented at this stage of the project and two conditions have been completed.

2 INTRODUCTION

2.1 Purpose of This Document

This report details compliance with the conditions of Approval No. 2010/5640 under the EPBC Act 2014 in accordance with Condition No. 14 of the decision notice.

2.2 Background

The Princes Highway East is the primary road link between Melbourne and Gippsland and serves a number of key industries. The highway within the project area follows a generally straight alignment over undulating terrain and has a relatively poor casualty crash record with a high percentage of heavy vehicles.

VicRoads developed a project to duplicate the Princes Highway East between Stammers Road, Traralgon East and Templetons Road, Kilmany to deliver significant improvements in road safety, capacity and efficiency. The length of the project subject to the EPBC conditions is approximately 31 kilometres long and has been broken into a number of sections.

Duplication of the highway between Traralgon East and Kilmany is part of the larger project to duplicate 43 kilometres of the Princes Highway between Traralgon and Sale. The larger project is jointly funded by the Federal and State Governments with \$140M allocated under the former Commonwealth Nation Building Program (2009-2014), now the Infrastructure Investment Program, and \$35M allocated by the State Government. An additional \$85M of Federal and State funds was allocated in the 2015/16 budget, bringing the total project funding to \$260M. This funding is expected to enable approximately three quarters of the undivided highway between Traralgon and Sale to be duplicated, excluding the township of Rosedale, with further funding required to complete the balance of works.

A Project Map is provided in Appendix A.

2.3 Environment Effects Statement

The project was subject to an Environment Effects Statement (EES) which lead to the adoption of Amendment C65 to the Latrobe Planning Scheme and Amendment C76 to the Wellington Planning Scheme by the then Minister for Planning on 28 March 2013.

2.4 EPBC Act 1999 Requirements

The objective of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) is to manage and protect flora and fauna of national and international significance including ecological communities and heritage places of national environmental significance.

2.4.1 EPBC Approval

Approval of the Commonwealth Minister for Sustainability, Environment, Water, Population and Communities is required under the EPBC Act if an 'action' will have or is likely to have a significant impact on a matter of national environmental significance. Due to potential impacts on protected native vegetation, the project was referred to the Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC) on 3 September 2010.

A decision issued on 8 October 2010 determined that the proposal is a controlled action requiring assessment and approval under the EPBC Act. The relevant controlling provision under the Act is the project's impact on listed threatened species and communities (Sections 18 and 18A). In particular:

- Removal of critically endangered Gippsland Red-gum (*Eucalyptus tereticornis* subsp. *mediana*) Grassy Woodland and Associated Native Grassland ecological community; and
- Removal and modification of habitat for the endangered Matted Flax-lily (*Dianella amoena*).

The proposal was subsequently approved by DSEWPaC as a controlled action on 23 January 2013 following the completion of the EES.

3 Project Status & Compliance

3.1 Construction

The action commenced on 2 July 2013 with fencing and initial clearing works on the Stammers Road to Minniedale Road section of the project.

Construction of the Stammers Road to Minniedale Road and Nambrok Road sections was completed prior to Easter 2015. Works on the Flynn to Rosedale section are in progress and are due to be completed by early 2017. Works on the Minniedale Road to east of Sheepwash Creek Road and Nambrok Road to Maffra-Rosedale Road sections are due to commence in late 2016. A snapshot of the progress of works as at July 2016 is provided in the table below.

Table 2.0: Progress of Works by Section

	Construction Start	Percentage Complete	Construction End
Stammers Road to Minniedale Road (1.7 km)	July 2013	100	February 2015
Flynn to Rosedale (8.1 km)	March 2014	80	Target December 2016
Nambrok 1 - Nambrok Road (2.6 km)	December 2013	100	April 2015
Minniedale Rd to east of Sheepwash Creek Road (3.5km)	Target December 2016	0	Target March 2019
Nambrok 2 - Nambrok Road to Maffra-Rosedale Road (3.0km)	Target December 2016	0	Target December 2018

NOTE: East of Sheepwash Creek Road to Flynn and Maffra-Rosedale Road to Templetons Road sections subject to future funding.

3.2 Current Project Activities

3.2.1 Environmental Management

The EES sets out the Environmental Management Framework which has been adopted for the project. A Project Environmental Protection Strategy (PEPS) has been developed to manage the environmental actions, mitigation measures and commitments for the project.

Contractor Environmental Management Plans and procedures have been developed for each section of the duplication under construction. These plans have been developed in conjunction with the relevant Municipal Council(s), DELWP and VicRoads and endorsed by the Secretary of the Department of Transport, Planning and Local Infrastructure in accordance with the conditions of the planning approvals for the project.

3.2.2 Native Vegetation Clearing

A Construction Activity Boundary (CAB) was developed during the EES to mark the boundary between the allowable area of construction impact and no go zones established to protect matters of environmental significance. Any impacts of design modifications on the extent of clearing are considered during the detailed design stage for each section. Modifications to the CAB that cannot be avoided and result in increased vegetation losses are restricted to areas of low conservation significance wherever possible or offset with gains in other areas.

Any CAB changes affecting the extent of clearing are referred to VicRoads consultant, GHD for recalculation of clearing areas prior to endorsement by the Victorian Department of Environment, Land, Water and Planning (DELWP). GHD is tracking changes to the extent of clearing using a spreadsheet adapted from Table 36 of the Biodiversity and Habitat Assessment Report (December 2011) included in Appendix H of the EES. Adjustments to the project net gain target are made by comparing the CAB from detailed design plans with the original EES CAB using GIS software.

The Contract Specification for each section requires Contractors to avoid and minimise impacts on native vegetation. VicRoads has worked with each Contractor to identify and protect additional areas of native vegetation within the CAB where possible. This has resulted in a number of additional small areas of vegetation being marked as no go zones. Potential adjustments to the actual extent of clearing will be made following post construction reviews with DEPI.

3.2.3 Management Plans

Five management plans have been developed and implemented for the project:

- Offset Management Plan – Bengworden;
- Offset Management Plan – Princes Highway, Sheepwash Creek to Flynn;
- Species Management Plan – Matted Flax-lily;
- Species Management Plan – Growling Grass Frog; and
- Species Management Plan – Dwarf Galaxias.

These plans have been endorsed by DELWP and either approved by or provided to the Department for information as required for each plan. The Growling Grass Frog Species Management Plan is being reviewed to incorporate changes that have been made to the CAB during the course of the project.

Vegetation offset management actions are in progress at VicRoads Bengworden property and on the Princes Highway roadside offset site between Sheepwash Creek and Flynn in accordance with the Offset Management Plans.

A pre-construction survey for Growling Grass Frog was completed at Sheepwash Creek in February 2016. Further pre-construction checks are scheduled for coming months prior to works starting at Sheepwash Creek and Nambrok. Pre-construction surveys for Matted Flax-lily have not been required for this reporting period.

Contract Specification clauses for the Flynn to Rosedale section restrict the Contractor from working in the Flynn's Creek and Blind Joes Creek waterways during the period 20 July to 31 October in any calendar year. Erosion and sediment controls and Construction Activity Boundary fencing demarcating no go zones have been established at Flynn's Creek and Blind Joes Creek and are being maintained during construction in accordance with the management plan.

3.3 Project Compliance

VicRoads has complied with all of the conditions referenced in the EPBC Act approval 2010/5640 for the annual reporting period. Five of the nineteen conditions have not been required to be implemented at this stage of the project and two conditions have been completed. Details of compliance against each of the nineteen conditions of the approval are provided in Section 4.0 below.

4 PERFORMANCE AND COMPLIANCE OF THE PRINCES HIGHWAY EAST DUPLICATION, VICTORIA (EPBC 2010/5640)

Table 3.0 EPBC Act Approval Notice 2010/5640 compliance results.

Condition	Subject	Conditions of the Approval	Actions	Comments / Evidence
1	Project area and preferred alignment	Project activities must be limited to the 'Project Area' as illustrated in Appendix 1.	Confine project activities to the Project Area.	Work limits, known as the Construction Activity Boundary (CAB), were defined during the EES and are within, or match the Project Area. The CAB is specified in VicRoads Contracts for each section and procedures for avoiding disturbance outside the CAB are included in Contractors' Environmental Management Plans. CAB fencing is maintained during works on each section.
2	Project area and preferred alignment	The proponent must undertake the action in accordance with the proposed preferred alignment as described and illustrated in Section 5 and Appendix A.	Ensure alignments for each section are based on preferred alignment.	Detailed design drawings for all sections are based on electronic shape files for the preferred alignment developed by GHD during the EES. The preferred alignment at Sheepwash Creek has been modified to accommodate the future Traralgon Bypass interchange. This change impacts on a small area outside the Project area. This variation was approved by the Department's Post Approvals Section on 17 June 2016.
3	Project commitments	The proponent must ensure that project activities do not impact on more than 9.03 hectares of the critically endangered ecological community 'Gippsland Red Gum (<i>Eucalyptus tereticornis</i> subsp. <i>Mediana</i>) Grassy Woodland and Associated Native Grassland'.	Management of vegetation losses during construction to ensure project does not impact on more than 9.03 hectares of Gippsland Red Gum Grassy Woodland.	Review of actual vegetation losses completed by GHD based on detailed designs for all sections. The Nambrok Road to Maffra-Sale Road and Minnedale Road to east of Sheepwash Creek Road sections are currently both out to tender and therefore the detailed designs may be subject to change. However, based on those designs, the current extent of removal is 8.73Ha. The overall reduction of 0.13Ha compared to the last reporting period has been achieved by refining the CAB wherever possible to offset areas where the CAB has had to be expanded. As an example, the concept design in the vicinity of Kenyons Lane South was changed by introducing approximately 200m of kerb and channel and underground drainage to eliminate the need for a cutting and table drain. This design change avoided the removal of approximately 0.27Ha of grassland.
4	Project commitments	The proponent must ensure that project activities do not impact on more than four endangered Matted Flax-lily (<i>Dianella amoena</i>).	Avoid impacting Matted Flax-lily plants.	Detailed design for the Minnedale Rd to east of Sheepwash Creek Rd section avoids impact on Matted Flax-lily. The requirements of the Matted Flax-lily Species Management Plan have been

Condition	Subject	Conditions of the Approval	Actions	Comments / Evidence
				incorporated into the contract specification for this section.
5	Project commitments	The proponent must translocate the impacted Matted Flax-lily identified in Condition 4, in accordance with the Matted Flax-lily translocation plan.	Translocate any Matted Flax-lily plants prior to disturbance.	Translocation not required to date.
6	Project commitments	Proposed activities must not impact on any matter of national environmental significance (MNES) other than those identified in conditions 3 and 4 above. If at any time, the proponent becomes aware of a potential impact to MNES not identified above, activities in the affected area must stop immediately and the department must be notified in writing within 48 hours. The department may direct the proponent to prepare a species specific management plan that, at a minimum, quantifies the impact, specifies mitigation and avoidance measures as well as propose offsets to compensate for the impact. Work in that area cannot recommence until directed in writing by the department.	Prevent impact on MNES.	<p>Contract Specifications require Contractors to stop work immediately and notify VicRoads of any MNES discovered during the course of the works.</p> <p>Contractor EMPs checked to verify they contain procedures to stop work immediately if MNES identified.</p> <p>No additional MNES identified to date. Ongoing monitoring of currently funded works.</p>
7	Project commitments	To protect populations of Dwarf Galaxias (<i>Galaxiella pusilla</i>) the proponent must ensure that pier installation and any earthworks surrounding Flynn's Creek and Blind Joes Creek and the Sheepwash Creek realignment are undertaken in low or no flow conditions, outside of the breeding/dispersal period for the species (August – September inclusive).	Earthworks and piling associated with bridge construction at Flynn's Creek, Blind Joes Creek and Sheepwash Creek not permitted between August and September.	<p>Actions not resulting in non-conformance:</p> <p>The scope of bridge construction on the Flynn to Rosedale section was increased to include the replacement of the existing bridge over Blind Joes Creek instead of upgrading it. The contract specification for this section includes a restriction which excludes works in the Blind Joes Creek flood plain between July and October, over and above the approval condition requirement.</p> <p>VicRoads worked with the contractor to plan the demolition of the existing bridge and construction of the new bridge so that there would be no further impacts outside the CAB or on the creek environment. A detailed works procedure and access plan was approved by DELWP on 1 October 2015. Demolition works were successfully completed during October 2015 without any environmental incidents.</p> <p>It is noted that VicRoads Contractor designed the new bridge to be a single span structure to avoid working in the creek. Beams were lifted into place using a single large crane on the new road surface, further avoiding impacts on the creek.</p>
8	Project commitments	The proponent must revegetate Sheepwash Creek to replace and rehabilitate all Dwarf Galaxias habitat removed as a result of the	Revegetate Sheepwash Creek to replace and rehabilitate all Dwarf Galaxias habitat removed.	As noted for Condition 2 above, the alignment of the eastbound carriageway was modified in the vicinity of Sheepwash Creek to

Condition	Subject	Conditions of the Approval	Actions	Comments / Evidence
		<p>proposed action. Rehabilitation must be to a condition that is equal to or greater than the condition of vegetation prior to the commencement of activities (as determined by a suitably qualified ecologist). Revegetation must be undertaken immediately following the completion of all activities in Sheepwash Creek.</p>		<p>accommodate the future Traralgon Bypass interchange. Consequently, the new creek crossing is now located approximately 140m north (downstream) of the location proposed by the preferred alignment in the EES.</p> <p>The modified eastbound alignment and location of the new bridge has been designed to avoid the need to realign Sheepwash Creek. However, hydraulic modelling for the duplication and the future Traralgon Bypass indicate that realignment of Sheepwash Creek will be required when the Traralgon Bypass is constructed.</p> <p>A new bridge to replace the existing bridge over Sheepwash Creek is also proposed. The new bridge has been designed as a single span to eliminate the need for piers in the creek. The new bridge is also slightly longer than the existing bridge. This has provided the opportunity to relocate the western abutment in order to improve the movement of flood flows beneath the bridge.</p> <p>It is envisaged that construction of both crossings over Sheepwash Creek will be carried out with minimal impact on the existing vegetation within Sheepwash Creek. The CAB has been modified to exclude access to the majority of riparian vegetation during construction. A landscaping plan is currently being developed for establishment of native plants from the Swamp Scrub EVC along Sheepwash Creek.</p>
9	Project commitments	<p>To prevent unacceptable impacts to the Growling Grass Frog, (<i>Litoria raniformis</i>) the proponent must implement a Growling Grass Frog Management Plan developed in consultation with a suitably qualified ecologist. At a minimum, this plan must quantify impacts and include mitigation and management measures (ie. translocation and handling protocols). This plan must be implemented prior to the commencement of construction.</p>	<p>Growling Grass Frog Species Management Plan implemented for each section.</p>	<p>Pre-construction checks for Growling Grass Frog were completed at Sheepwash Creek in February 2016.</p> <p>The Growling Grass Frog Management Plan is currently being updated to incorporate changes to the CAB, particularly at Sheepwash Creek.</p>
10	Offsets	<p>The proponent must prepare an offset management plan for the 'Bengworden' property that includes commitments to offset the impacts to the critically endangered ecological community Gippsland Red Gum (<i>Eucalyptus tereticornis</i> subsp. <i>mediana</i>) Grassy Woodland and Associated Native Grassland with 47.8 hectares of land. The offset management plan must also quantify the anticipated increase in the extent of the ecological community</p>	<p>Offset Management Plan for Bengworden property prepared, approved by the Department and implemented.</p>	<p>Offset Management Plan for Bengworden property finalised in April 2011 and approved by DSEWPaC on 25 March 2013.</p> <p>Implementation of the OMP actions is in progress. Currently in 'Year 4' of the action table.</p>

Condition	Subject	Conditions of the Approval	Actions	Comments / Evidence
		as a result of management actions. The offset management plan must be approved by the department prior to commencement of the action. The approved plan must be implemented.		
11	Offsets	<p>The proponent must prepare a roadside vegetation offset management plan for the Princes Highway between Sheepwash Creek and Flynn. This plan must be approved by the department prior to commencement of the action. The approved plan must be implemented. At a minimum, the roadside vegetation offset management plan must:</p> <ol style="list-style-type: none"> Include commitments for offsetting the impact to the critically endangered ecological community Gippsland Red Gum (<i>Eucalyptus tereticornis</i> subsp. <i>Mediana</i>) Grassy Woodland and Associated Native Grassland; Include specific details, including maps and diagrams that show boundaries of the proposed offset site; Include information and commitments about management arrangements that will be employed, now and into the future to ensure the ongoing rehabilitation and improvement of the offset site; Demonstrate how the offset site will be protected in perpetuity; Include information and commitments to monitoring and reporting on the progress of the offset site; Be based on the 'Roadside Vegetation Offset Management Plan Princes Highway – Sheepwash Creek to Flynn, October 2012'. 	Offset Management Plan for Princes Highway between Sheepwash Creek and Flynn prepared, approved by the Department and implemented.	<p>Final version of the Offset Management Plan for Princes Highway, Sheepwash Creek to Flynn approved by DSEWPaC on 28 October 2013.</p> <p>Implementation of the Offset Management Plan actions in progress. Currently in 'Year 3' of the action table. Annual report to DELWP submitted in January 2016.</p>
12	Offsets	Within 30 calendar days after the commencement of the action, the proponent must advise the department in writing of the actual date of commencement.	Notification was sent to the Department on 10 October 2013 advising that the activity commenced on 2 July 2013.	Completed.
13	Offsets	The proponent must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement management plans 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	Records of the implementation of management plans/programs are being maintained, and are available for auditing purposes.	Records substantiating activities associated with the conditions of the approval are currently being filed electronically in VicRoads electronic filing system and on hard copy files.

Condition	Subject	Conditions of the Approval	Actions	Comments / Evidence
		media.		
14	Offsets	Within three months of every 12 month anniversary of the commencement of the action, the proponent must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management plans as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to the department at the same time as the compliance report is published.	The annual compliance report shall be published on the VicRoads web site by 30 September each year.	Letter stating date of publication and details of non-compliance sent to the Department September 2016.
15	Offsets	Upon the direction of the Minister, the proponent 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.	Upon the direction of the Minister, VicRoads shall submit the supportive evidence and a report for an independent audit of compliance for this condition.	Requirements not triggered.
16	Offsets	If the proponent wishes to carry out any activity otherwise than in accordance with management plans as specified in the conditions, the proponent must submit to the department for the Minister's written approval, a revised version of that management plan. The varied activity shall not commence until the Minister has approved the varied management plan in writing. The Minister will not approve a varied management plan unless the revised management plan would result in an equivalent or improved environmental outcome over time. If the Minister approves the revised management plan, that management plan must be implemented in place of the management plan originally approved.	No action to date.	Requirements not triggered.
17	Offsets	If the Minister believes that it is necessary or convenient for the better protection of listed threatened species and ecological communities, the Minister may request that the proponent make specified revisions to a management plan specified in the conditions and submit the revised management plan for the Minister's written approval. The proponent must comply with any such request. The revised approved management plan must be implemented. Unless the Minister has approved the revised management plan then the proponent must continue to implement the management plan originally approved, as specified in the	VicRoads to comply with any request made by the Minister.	Requirements not triggered.

Condition	Subject	Conditions of the Approval	Actions	Comments / Evidence
		conditions.		
18	Offsets	Unless otherwise agreed to in writing by the Minister, the proponent must provide a copy of each approved management plan referred to in these conditions of approval to members of the public upon request. Copies must be provided within a reasonable time to the request.	No action to date.	Requirements not triggered.
19	Offsets	If, at any time after 10 years from the date of this approval, the proponent has not substantially commenced the action, then the person taking the action must not substantially commence the action without the written agreement of the Minister.	VicRoads to ensure construction commences within 5 years of the approval.	Completed.

5 References

1. VicRoads and GHD (January 2012), Princes Highway Duplication Traralgon East to Kilmany – Environment Effects Statement and Draft Planning Scheme Amendment, VicRoads 60 Denmark Street Kew VIC 3101
2. GHD (May 2013), Traralgon East to Kilmany Duplication Project – Growling Grass Frog Management Plan, GHD House 239 Adelaide Terrace Perth WA 6004
3. Ecology and Heritage Partners (January 2013), Management (and Translocation) Plan for Matted Flax-lily *Dianella amoena*, Princes Highway Duplication Project, Traralgon East to Kilmany Victoria, Ecology and Heritage Partners 292 Mt Alexander Road Ascot Vale VIC 3032
4. McGuckin J. (April 2013), Conservation Management Plan for the Dwarf Galaxias (*Galaxiella pusilla*) Princes Highway Duplication, Traralgon East to Kilmany, Streamline Research Eltham North VIC 3095
5. Ecology Partners (April 2011), Flora and Fauna Assessment, Net Gain Analysis and Offset Management Plan – 475 Boundary Road, Bengworden Victoria, Ecology and Heritage Partners 292 Mt Alexander Road Ascot Vale VIC 3032
6. Ecology and Heritage Partners (April 2013), Roadside Vegetation Offset Management Plan Princes Highway – Sheepwash Creek to Flynn, Ecology and Heritage Partners 292 Mt Alexander Road Ascot Vale VIC 3032

APPENDIX A – Project Map

Princes Highway East Duplication – Traralgon to Sale

