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Princes Highway East duplication project

Compliance Assessment Report No. 4

(July 2016 to July 2017)

EPBC Approval No. 2010/5640

24 August 2017



Australian Government

BUILDING OUR FUTURE



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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 Primary Industries, former Department of Environment, Land, Water and Planning
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 Environment, Land, Water and Planning
DSEWPaC	Department of Sustainability, Environment, Water, Population and Communities, former Department of Energy and Environment
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 EPBC 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 fourth compliance report to be prepared for the Princes Highway East Duplication Project and relates to the period 2 July 2016 to 2 July 2017, or year four 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 led to the adoption of Amendment C65 to the Latrobe Planning Scheme and Amendment C76 to the Wellington Planning Scheme by the then Victorian 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.

2.4.2 Amendment to Project Area

On 17 June 2016, VicRoads was granted approval by the Department of Environment to vary Condition 2 and Definition i) of EPBC Approval 2010/5640 under section 143 (1)(c) of the Environment Protection and Biodiversity Conservation Act 1999 to modify the Princes Highway duplication alignment to incorporate the future Traralgon Bypass Interchange at Kenyons Lane. As a result of this approval, Condition 2 must now be undertaken in accordance with the varied condition specified in the variation notification attached to the approval letter.

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 were completed in November 2016. Works on the Minniedale Road to east of Sheepwash Creek Road and Nambrok Road to Maffra-Rosedale Road sections commenced in late 2016 and early 2017. A snapshot of the progress of works as at July 2017 is provided in the table below.

Table 2.0: Progress of Works by Section

	Construction Start	Percentage Complete	Construction End
Traralgon 2 - Stammers Road to Minniedale Road – Traralgon 2 (1.7 km)	July 2013	100	February 2015
Flynn to Rosedale (8.1 km)	March 2014	100	November 2016
Nambrok 1 - Nambrok Road (2.6 km)	December 2013	100	April 2015
Traralgon 3 - Minniedale Rd to east of Sheepwash Creek Road (3.9km)	December 2016	35	Target February 2019
Nambrok 2 - Nambrok Road to Maffra-Rosedale Road (3.4km)	February 2017	35	Target December 2018
Flynn – East of Sheepwash Creek Road to Flynn (4.0km)*	Target November 2017 (sewer relocations)	0	April 2021*
Kilmany – Settlement Road to Templetons Road (8.1km)*	Target June 2018	0	April 2021*

* Flynn and Kilmany 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 DEWLP.

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 was amended during this reporting period 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.

Pre-construction surveys for Growling Grass Frog at Sheepwash Creek and Nambrok and Matted Flax-lily on the Sheepwash Creek section were completed during this reporting period. No Growling Grass Frogs were found and habitat destruction was carried out prior to construction in accordance with the species management plan. A number of new Matted Flax-lily plants were identified east of Sheepwash Creek in close proximity to the CAB. These plants were marked onsite and the construction drawings updated to record their locations. VicRoads is working with the Contractor to determine whether translocation will be required.

Contract Specification clauses for the Sheepwash Creek section restrict the Contractor from working in the Sheepwash Creek waterway during the period August to September in any calendar year. Erosion and sediment controls and Construction Activity Boundary fencing demarcating no go zones have been established at Sheepwash 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.

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.	<p>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.</p> <p>CAB fencing is maintained during works on each section.</p>
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.	<p>Detailed design drawings for all sections are based on electronic shape files for the preferred alignment developed by GHD during the EES.</p> <p>The preferred alignment at Sheepwash Creek was 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.</p>
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 (Eucalyptus tereticornis subsp. Mediana) 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.	<p>Review of actual vegetation losses completed by GHD based on detailed designs for all sections under construction. Review of CAB impacts of detailed designs for Flynn and Kilmany sections is in progress.</p> <p>Based on detailed design for sites under construction and actual impacts for completed sections, the current extent of removal is 8.8Ha.</p> <p>The overall increase of 0.5Ha compared to the last reporting period is due to an additional area required on the Sheepwash Creek Section for directional boring of underground services and changes to the CAB on the Nambrok 2 section during the detailed design phase.</p> <p>Actions not resulting in non-conformance:</p> <p>The Contractor working on the Sheepwash Creek section removed approximately 200m² of the grassland form of the EPBC listed Gippsland Red Gum community within the CAB while widening an existing access for heavy vehicle access. An investigation determined that the root cause of the incident was poor.</p>

Condition	Subject	Conditions of the Approval	Actions	Comments / Evidence
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.	The requirements of the Matted Flax-lily Species Management Plan have been incorporated into the contract specification for the Sheepwash Creek section. A pre-construction survey for Matted Flax-lily on the Sheepwash Creek section was carried out in January 2017. Eighteen new plants were identified with eight of these within 5.0m of the CAB or within the construction footprint. VicRoads has revised its construction drawings to record the location of these plants and is working with the Contractor to determine whether translocation will be required.
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.	Contract Specifications require Contractors to stop work immediately and notify VicRoads of any MNES discovered during the course of the works. Contractor EMPs checked to verify they contain procedures to stop work immediately if MNES identified. No additional MNES identified to date. Ongoing monitoring of currently funded works.
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.	The two structures proposed over Sheepwash Creek have been designed as single span bridges to minimise the need to carry out works within the waterway. The contract specification for the Sheepwash Creek section restricts the Contractor from working in the Sheepwash Creek waterway during the period August to September in any calendar year.

Condition	Subject	Conditions of the Approval	Actions	Comments / Evidence
8	Project commitments	The proponent must revegetate Sheepwash Creek to replace and rehabilitate all Dwarf Galaxias habitat removed as a result of the 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.	Revegetate Sheepwash Creek to replace and rehabilitate all Dwarf Galaxias habitat removed.	<p>As noted for Condition 2 above, the alignment of the eastbound carriageway was modified in the vicinity of Sheepwash Creek to 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 draft landscaping plan has been developed for establishment of native plants from the Swamp Scrub EVC along Sheepwash Creek following completion of the road construction works.</p>
9	Project commitments	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.	Growling Grass Frog Species Management Plan implemented for each section.	<p>Pre-construction checks for Growling Grass Frog were completed for sites on the Sheepwash Creek and Nambrok 2 sections in January and February 2017 coinciding with commencement of roadworks.</p> <p>The Growling Grass Frog Management Plan has been updated to incorporate changes to the CAB, particularly at Sheepwash Creek.</p>
10	Offsets	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 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.	Offset Management Plan for Bengworden property prepared, approved by the Department and implemented.	<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 5' of the action table.</p>

Condition	Subject	Conditions of the Approval	Actions	Comments / Evidence
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'. 	<p>Offset Management Plan for Princes Highway between Sheepwash Creek and Flynn prepared, approved by the Department and implemented.</p>	<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 4' of the action table. Annual report to DELWP submitted in January 2017.</p>
12	Offsets	<p>Within 30 calendar days after the commencement of the action, the proponent must advise the department in writing of the actual date of commencement.</p>	<p>Notification was sent to the Department on 10 October 2013 advising that the activity commenced on 2 July 2013.</p>	<p>Completed.</p>
13	Offsets	<p>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 media.</p>	<p>Records of the implementation of management plans/programs are being maintained, and are available for auditing purposes.</p>	<p>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.</p>

Condition	Subject	Conditions of the Approval	Actions	Comments / Evidence
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 2017.
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 conditions.	VicRoads to comply with any request made by the Minister.	Requirements not triggered.

Condition	Subject	Conditions of the Approval	Actions	Comments / Evidence
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 (August 2016), 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 Funding stages – November 2016



Appendix A – Project Map: Princes Highway East Duplication – Traralgon to Sale



