

connectionsproject

Approval Conditions compliance report

Third Reedy Lake bypass project,
EPBC 2016/7760

March 2020



Document control

Document information

Document name	Approval Conditions compliance report - Third Reedy Lake bypass project, EPBC 2016/7760
DM reference	A3751440
Document owner	Damien Sullivan

Document history

Rev	Rev date	Description	Prepared by
1	12/03/2020	Draft Report V1	Pat Feehan
2	17/03/2020	Draft Report V2	Damien Sullivan
3	17/3/2020	Updates	Pat Feehan
4	09/04/2020	Final – After review by DELWP	Damien Sullivan

Document approved for issue

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Contents

- 1. **Background**.....1
- 2. **Project Update**1
- 3. **Assessment of Compliance**2
- 4. **Conclusion**2

1. Background

Approval to proceed with the Third Reedy Lake Bypass Project was provided by the Commonwealth Government, subject to conditions, after assessment in accordance with the Environment Effects Act 1978 and Bilateral Agreement 2014 (Ref 2016R03 and EPBC 2016/7760).

Implementation of the action commenced on 24 January 2019.

Condition 8 of the EPBC approval requires:

8. *Within three months of every 12 month anniversary of the commencement of the action, the approval holder must publish a report on their website addressing compliance with the conditions of this approval over the previous 12 months, including implementation of any management plans. Non-compliance with any of the conditions of this approval must be reported to the **Department** at the same time as the compliance report is published. Unless otherwise agreed to in writing by the **Minister**, this condition applies for the life of the approval.*

This Approval Conditions compliance report covers the period 24 January 2019 to 23 January 2020.

2. Project Update

In March 2019 the GMW Connections Project successfully completed construction of works to achieve water savings associated with the Third Reedy Lake Bypass Project. This work saw the construction of a bypass channel and associated infrastructure around Third Reedy Lake to remove the Lake from the irrigation distribution network and reinstate a more natural watering regime to enhance environmental values.

As part of the approvals, a requirement of the EPBC Act 1999 conditions is the preparation of an Operational Environmental Management Plan (OEMP). The OEMP was prepared, and approved, in early 2019.

The OEMP provides the operational arrangements required to minimise impacts to the Kerang Wetlands Ramsar Site and to the three fish species listed in the conditions of approval. Furthermore, the OEMP also provides the operational arrangements required to maximise the likelihood of achieving the overall project goal of restoring Third Reedy Lake.

Action to implement the desired water regime have been put on hold following the discovery of two Southern Purple-spotted Gudgeon (SPSG) in the lake. SPSG were last collected in Victoria between 1995 and 1996 in Cardross Lakes near Mildura, after being believed to be extinct for 50 years. There are no records since and remnant populations were considered to be non-existent. They are listed under the Victorian Flora and Fauna Guarantee Act 1988.

All activity at Third Reedy Lake ceased upon the discovery of these fish. No water has been released from the lake as part of the drawdown or since the discovery.

The Southern Purple-spotted Gudgeon Advisory Group (SPSGAG) has been convened by the Department of Environment, Land, Water and Planning (DELWP) to advise on the steps needed to protect the SPSG. The Committee includes representatives from a number of groups/ divisions within DELWP, the North Central Catchment Management Authority (NC CMA) and the Victorian Environmental Water Holder (VEWH).

Immediate actions were required to protect SPSG at Third Reedy Lake, particularly in the face of the 2019/20 hot summer. To maintain the existing lake levels, the Advisory Group recommended the delivery of water for the environment to keep aquatic vegetation (critical habitat for SPSG) submerged. The VEWH has made environmental water available until 30 June 2020 and the North Central CMA is managing the delivery of water to the lake. The current focus is to protect the known SPSG population at Third Reedy Lake while a longer-term plan is developed to conserve the species.

A Seasonal Watering Proposal (SWP) for Third Reedy Lake is currently being drafted to request environmental water to maintain water levels for a further 12 months (from July 2020).

An Emergency Response Plan is being drafted that includes options to protect and manage the habitat of the SPSG. This includes Third Reedy Lake and other potential habitat for the species. At a more strategic level for the species, DELWP is drafting an Action Statement under the FFG Act in consultation with the SPSGAG.

The decision about implementation and timing of water drawdown at Third Reedy Lake in line with the OEMP has been postponed until further information about the spatial occurrence and habitat requirements of SPSG are better understood. The long-term management goal for Third Reedy Lake is still to restore the lake to a deep freshwater marsh wetland, but this will not be possible until the SPSGAG has completed its work, and this may take some time, perhaps 12 – 24 months. Drawdown and drying of the lake, in accordance with the OEMP, will therefore remain on hold.

3. Assessment of Compliance

Table 1 (over) lists all conditions associated with EPBC Approval 2016/7760 and assesses compliance against these conditions.

4. Conclusion

It is concluded that all relevant conditions have been complied with.

Condition	Compliance evidence	Assessment of compliance
<p>1. To minimise adverse impacts to the Kerang Lakes Ramsar Site, the approval holder must ensure that the construction environmental management plan for the proposed action:</p>	<p>The construction environmental management plan (EMP) was prepared.</p> <p>The Connections Project prepared an Addendum to its existing approved EMP which addressed Condition 1 of the approval. The EMP is approved by the Secretary of the Victorian Department of Environment, Water, Land and Planning. The Addendum covers items specific to the Third Reedy Lakes Bypass Project including Matters of National Environmental Significance.</p> <p>The EMP and the Third Reedy Addendum are on the Connections Project web site: https://www.connectionsproject.com.au/pages/additional-environmental-and-planning-documents</p>	<p>Compliant</p>
<p>i. Includes a commitment to implementation of measures to identify any matters of national environmental significance within the project area during construction. Any matters of national environmental significance that were not identified in the Environment Report must be reported to the Department within 14 days of their identification.</p>	<p>Commitment to implement measures to identify any matters of national environmental significance within the project area during construction are included in existing EMP and Addendum.</p> <p>A number of flora studies were conducted in the works area, by accredited ecologists, prior to the commencement of works. This included a survey for the presence of the FFG Act listed Small Podolepis (<i>Podolepis muelleri</i>) after DELWP threatened species modelling indicated its potential presence. The survey found that it was not present.</p> <p>Native vegetation offsets were determined prior to the commencement of construction.</p> <p>An audit of the works by a DELWP appointed independent auditor on 27 March 2019 found no non-conformances.</p> <p>No additional matters of national environmental significance were identified during construction.</p>	<p>Compliant</p>

Condition	Compliance evidence	Assessment of compliance
<p>ii. Includes contingency measures to minimise impacts to matters of national environmental significance identified within the project area during construction and, when the contingency measures are implemented, evaluate and report their effectiveness to the Department within three months of implementation.</p>	<p>Contingency measures to minimise impacts to matters of national environmental significance identified within the project area during construction are included in the existing GMW Connections Environmental Management Plan (EMP) and the Addendum prepared for the Third Reedy Lake bypass project.</p> <p>The Addendum documents specify contingency measures to minimise impacts to (previously known) MNES within the works area including:</p> <ul style="list-style-type: none"> ▸ Terrestrial Fauna ▸ Arboreal Fauna & Birds ▸ Bird Nests/Breeding ▸ Flora ▸ Aquatic fauna <p>No additional matters of national environmental significance were identified during construction.</p> <p>No contingency measures were implemented.</p>	<p>Compliant</p>
<p>iii. Includes a commitment to implementation of weed management measures in accordance with best practice techniques.</p>	<p>A commitment to implement weed management measures is included in the existing EMP and the Addendum.</p> <p>The Addendum documents specify measures required to address weed identification, noxious weeds, weed disturbance, traffic movement, vehicle clean-down and soil sourcing and movement.</p> <p>An audit of the works by a DELWP appointed independent auditor on 27 March 2019 found no non-conformances.</p>	<p>Compliant</p>
<p>iv. The approval holder must provide the Department an electronic copy of the draft construction environmental management plan for comment prior to seeking approval of the plan from the relevant state authority.</p>	<p>The draft construction environmental management plan was submitted to the Department for comment on 27 July 2018.</p> <p>Comments were received from the Department on 27 September 2018.</p>	<p>Compliant</p>

Condition	Compliance evidence	Assessment of compliance
v. Is provided to the Department within 14 days following approval by the relevant state authority.	The Secretary of the Department of Environment, Land, Water and Planning approved the addendum on the 20th December 2018. The EMP Addendum was provided to the Department on 3 January 2019. (note that the existing EMP was already approved by the Secretary of the Department of Environment, Land, Water and Planning)	Compliant
2. To minimise adverse impacts to the Kerang Lakes Ramsar Site, the approval holder must ensure that the operational environmental management plan for the proposed action:	The operational environmental management plan (OEMP) was prepared. Section 6.1 specifically addressed Conditions 2i, 2ii, 2iii. The OEMP is available on the Connections website https://www.connectionsproject.com.au/	Compliant
i. Includes a commitment to monitoring of water quality, with trigger levels for the implementation of contingency measures in the event of increased salinity, reduced dissolved oxygen and increased acidity.	OEMP Section 3.9 and Section 5 provided details of the adaptive management approach to managing a range threats and associated risks, including salinity, and outlined the monitoring and contingency measures (i.e. management response risk). The trigger levels, monitoring and contingency measures to specific items identified in the Approvals Conditions 2i are summarised in Table 6 1.	Compliant
ii. Where contingency measures are implemented, the approval holder must evaluate and report their effectiveness to the Department, including commitments to adaptive management measures if the contingency measures are determined not to be effective, within three months of implementing the contingency measures.	The OEMP commits GMW to evaluating and reporting on the effectiveness of contingency measures if triggers levels are exceeded within three months of implementing the contingency measures. The report will include commitments to adaptive management measures (e.g. through investigations and review of contingency measures) if the currently identified contingency measures were determined not to be effective. No relevant contingency measures have been required to be implemented.	Compliant
iii. Includes a commitment to monitoring and adaptive management of invasive flora and fauna species to prevent any increase in their presence within the Project area.	The OEMP (Section 5) provided details of the adaptive management approach to managing invasive species; monitoring and contingency measures (management response) are summarised in Table 6 2. For all potential invasive flora and fauna species, the approval holder will review effectiveness of contingency measures if implemented and through adaptive management refine contingency measures if they are determined not to be effective. No relevant adaptive management measures have been required to be implemented.	Compliant

Condition	Compliance evidence	Assessment of compliance
iv. The approval holder must provide the Department an electronic copy of the draft operational environmental management plan for comment prior to seeking approval of the plan from the relevant state authority.	A copy of the draft OEMP was submitted to the Director of Post Approvals at the Department of Environment and Energy (DoEE) on 2 January 2019. The DoEE has reviewed the draft and their comments have been addressed and the plan finalised.	Compliant
v. Is provided to the Department within 14 days following approval by the relevant state authority.	The Operational Environmental Management Plan (OEMP) was approved by the State Secretary of the Department of Environment Land Water & Planning on the 6th March 2019. This approval occurred before the 'operation of the modernised works' being the bypass channel of Third Reedy Lake and associated works, and The Department was notified of the DELWP Secretary's approval on 27 March 2019. This was within 14 days of the receipt of the Secretary's letter by the Connections Project.	Compliant
3. To minimise adverse impacts to the Flathead galaxias, Murray hardyhead and Silver perch the approval holder must:		
i. Monitor fish exit from Third Reedy Lake during exit flows before the regulator is closed or until the water level drops to a level such that the lake is not connected to the bypass.	A fish exit strategy was prepared. This specifically addressed fish monitoring requirements during exit flows. Implementation of the fish exit strategy (and associated monitoring) was partially completed prior to the lake being completely disconnected from the irrigation system when two specimens of Southern Purple Spotted Gudgeon were collected. This is a Victorian Flora and Guarantee Act listed species. All activity at Third Reedy Lake ceased upon the discovery of these fish. No water has been released from the lake as part of the drawdown or since the discovery.	Compliant
ii. Within three months of the completion of monitoring, the approval holder must provide a written report to the Department of the fish exit monitoring results.	Two fish monitoring reports have been prepared. These were included in the Condition 3 report forwarded to the Department on 19/03/2020 (A3749531)	Compliant

Condition	Compliance evidence	Assessment of compliance
<p>iii. The written report must list any presence of and death or harm to the Flathead galaxias, Murray hardyhead and Silver perch. The report must list adaptive management measures that will be implemented to minimise further death or harm throughout future drying cycles.</p>	<p>The report provided to the Department notes that no Flathead galaxias, Murray hardyhead and Silver perch were found or harmed.</p>	<p>Compliant</p>
<p>iv. Following a report of death or harm to the Flathead galaxias, Murray hardyhead or Silver perch, subsequent reports must evaluate the success of adaptive management measures and, where measures were unsuccessful, propose further measures to minimise death or harm throughout future drying cycles.</p>	<p>No Flathead galaxias, Murray hardyhead and Silver perch were found or harmed.</p>	<p>Compliant</p>
<p>v. Continue the monitoring and reporting for the life of the approval unless permission to cease monitoring and reporting is provided in writing by the Minister.</p>	<p>All required monitoring and reporting have been completed.</p>	<p>Compliant</p>
<p>4. Within 14 days following commencement of the action, the approval holder must advise the Department in writing of the actual date of commencement.</p>	<p>The action commenced on 24 January 2019 and the Department was notified by email on 30 January 2019 of the date of commencement.</p>	<p>Compliant</p>
<p>5. The approval holder must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval 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 may be posted on the Department's website or publicised through general media.</p>	<p>Records of activities undertaken in association with the approval are maintained in the Goulburn-Murray Water document management system – Objective ECM. The Department has not requested that these records be made available.</p>	<p>Compliant</p>

Condition	Compliance evidence	Assessment of compliance
<p>6. If the approval holder revises a management plan approved by the relevant state authority, as referred in Conditions 1 and 2, the revised management plan must be provided to the Department within 14 days following approval. Information confirming compliance of the new management plan with the requirements of Conditions 1 and 2 relevant to minimising impacts to the Kerang Lakes Ramsar Site must be provided with the revised management plan.</p>	<p>No approved management plan has been revised.</p>	<p>Compliant</p>
<p>7. Unless otherwise agreed to in writing by the Minister, the approval holder must publish all plans referred to in these conditions of approval on their website within one month of being approved by the relevant state authority.</p>	<p>The OEMP, EMP and Addendum are available on the Connections website https://www.connectionsproject.com.au/pages/additional-environmental-and-planning-documents</p>	<p>Compliant</p>

Condition	Compliance evidence	Assessment of compliance
<p>8. Within three months of every 12 month anniversary of the commencement of the action, the approval holder must publish a report on their website addressing compliance with the conditions of this approval over the previous 12 months, including implementation of any management plans. Non-compliance with any of the conditions of this approval must be reported to the Department at the same time as the compliance report is published. Unless otherwise agreed to in writing by the Minister, this condition applies for the life of the approval.</p>	<p>This report has been prepared and posted on the Connections Project website by 23 April 2020 (ie 3 months from 23/1/2020).</p> <p>The report assesses compliance with conditions of approval over the past 12 months.</p> <p>There are no non compliances with any of the conditions of the approval to report to the Department.</p> <p>Compliance against implementation of the EMP was assessed as part of the normal CEMF audit process. The audit report (Ref A3693976) noted one opportunity for improvement relating to the bunding of jerry cans.</p> <p>Implementation of the OEMP has been assessed. It was noted:</p> <ol style="list-style-type: none"> 1. Implementation of the OEMP following construction of works at Third Reedy Lake commenced in late 2019. This involved preparation and partial implementation of a fish exit strategy, including associated fish monitoring. 2. Implementation of the OEMP was suspended after the discovery of Southern Purple-spotted Gudgeon (SPSG). No water was released from the lake as part of the drawdown and none has been released since the discovery. Lake water levels are being maintained. 3. The decision about implementation and timing of water drawdown at Third Reedy Lake has been postponed until further information about the spatial occurrence and habitat requirements of the SPSG are better understood. 4. Drawdown and drying of the lake, in accordance with the OEMP, will therefore remain on hold. 5. All activity associated with OEMP implementation has been suspended 	<p><i>Compliant</i></p>

Condition	Compliance evidence	Assessment of compliance
<p>9. Upon 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>	<p>The Minister has made no direction.</p>	<p><i>Not relevant</i></p>
<p>10. If, at any time after three years from the date of this approval, the approval holder has not commenced the action, then the approval holder must not commence the action without the written agreement of the Minister.</p>	<p>The action has commenced.</p>	<p><i>Not relevant</i></p>