

Our Ref: SO32-T00009

19 May 2025

Ben Harrison

Director Compliance

Department of Planning, Housing and Infrastructure

Locked Bag 5022

Parramatta NSW 2124

Dear Mr Harrison,

### **Eurobodalla Southern Storage SSD 7089 – Independent Environment Audit**

Council is notifying the Department of a non-compliance. This is in reference to C10 of development consent where upon the Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after the Applicant becomes aware of any non-compliances. These non-compliances can be observed within the final Independent Environment Audit (IEA) undertaken by NGH which is attached to this email.

Please be advised that Council accepts the audit report provided by NGH Environmental and the identified non-compliances and recommended actions included within this report, as summarised below.

CoA	Requirement	Details of non-compliance	Proposed action
A2	The development may only be carried out:  a) In compliance with the conditions of this consent;	(a) The Audit found 3 non-compliances (4 including against A2) meaning that the development was not being carried out in compliance with the conditions of consent.	Recommended actions are listed against each specific non-compliant finding below.
A24	However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.	ESC was issued a direction by the Planning Secretary in February 2023 to comply with the management obligations under the revised/ updated version of the Independent Audit Post Approval Requirements (2020) document (i.e. undertake an Independent Audit in accordance with this 2020 Requirement). The Final Audit Report for Audit 4 was not submitted within 2 months of the site inspection.	Ensure subsequent audits and reports are undertaken within the required timeframe or apply for extension from the Planning Secretary

<b>B15</b>	<p>The development must comply with section 120 of the POEO Act, which prohibits the pollution of waters, except as expressly provided for in an EPL.</p>	<p>During the site inspection, erosion and sediment controls appeared in good working order and site staff had a robust understanding of water management within the Project, including obligations under the SWMP, EPL and the Project consent.</p> <p>The environmental incident listed in Section 3.10, although potentially over-design events, did not comply with this Condition.</p> <p>EPL 21767 Condition L1.1 (Pollution of Waters) specifies that the licensee must comply with s120 of the POEO Act. No other condition of the EPL specifies allowable water discharge pollution limits that would negate the overarching requirement to comply with s120. Consultation has been undertaken with EPA to work out a solution, with the EPA providing advice on updating the SWMP to include water discharge criteria within the TARPs.</p> <p>It is noted that Haslin has submitted a notice to surrender the licence (24/02/2025).</p>	<p>The incident resulted from an extreme rainfall event and was appropriately reported. It is recommended that the Proponent consider amending the EPL in consultation with the EPA to include rainfall event limits that would define an 'over-design' event.</p> <p>Contractor is in ongoing discussions with the EPA in relation to their EPL and current discharge requirements.</p>
<b>C10</b>	<p>The Department must be notified in writing to <a href="mailto:compliance@planning.nsw.gov.au">compliance@planning.nsw.gov.au</a> within seven days after the Applicant becomes aware of any non-compliance.</p>	<p>Ten non compliances were raised from the previous audit (Audit #3) on 18/11/2024 (report issue). DPHI was notified on 11/12/2024, which is not compliant with the seven-day timeframe requirement of this condition.</p>	<p>Proponent to ensure non-compliances are submitted in writing to the Department within seven days.</p>

Following up, the final IEA, along with this correspondence will be uploaded to the Planning Portal.

If you have any questions or queries, please don't hesitate to contact me on 0476 963 400.

Yours sincerely,



Josh Aschmann

**Water & Sewer Environmental Engineer**

cc. Lloyd Eley-Smith – Team Leader – Transport & Water Assessment

Katrina O'Reilly – Team Leader Compliance – Planning & Assessment

Michael Wood – Senior Compliance Officer – Planning & Assessment