



AGL Energy Limited

T 02 9921 2999

F 02 9921 2552

agl.com.au

ABN: 74 115 061 375

Level 24, 200 George St

Sydney NSW 2000

Locked Bag 1837

St Leonards NSW 2065

Katrina O'Reilly
Team Leader – Compliance
Department of Planning, Housing and Infrastructure
Locked Bag 5022
Parramatta NSW 2124

BHB-AGL-HS-GEN-24-11-29 (by portal)

29 November 2024

Dear Katrina,

SSD – 11437498: Response to Independent Environmental Audit Findings

AGL Energy Limited (**AGL**) received development consent under section 4.38 of the NSW *Environmental Planning and Assessment Act 1979* to construct the Broken Hill Battery Energy Storage System (**Project**) at Broken Hill, NSW on 8th September 2021. Following a request for modification of that development consent, revised conditions were granted by the Department on 15th July 2022 for SSD 11437498-Mod-1.

In accordance with the Modified Development Consent Schedule 4 Condition 14 (a), AGL is required to review and respond to each Independent Audit Report prepared under of Schedule 4 Condition 11 of SSD-11437498. The Independent Environmental Audit – Operation identified three non-compliances and one opportunity for improvement. AGL's response to audit is included in **Attachment A**.

If you require any further information, please do not hesitate to contact Lachy Taylor, Environment Advisor on ltaylor2@agl.com.au or 0402 988 909

Yours sincerely,

A handwritten signature in black ink, appearing to read 'D Bowly', written over a horizontal line.

David Bowly
Principal's Representative
For and on behalf of AGL Macquarie Pty Limited



Condition number	Compliance requirement	Independent audit finding	Independent Audit Recommendation	Proposed Action	Proposed action due date
Schedule 3 Condition 10	<p>Vegetation clearance</p> <p>The Applicant must not clear any native vegetation or fauna habitat located outside the approved disturbance areas described in the EIS</p>	<p>In early 2023, an environmental incident/non-compliance was reported by AGL regarding the unapproved clearing of native vegetation and removal of topsoil adjacent to the high voltage transmission corridor. The auditor sighted relevant records associated with the event, including the investigation report and notifications. As detailed in correspondence from AGL to DPPI (27-Mar-24), adequate and appropriate actions were undertaken in response to the event, including rehabilitation works, education and awareness initiatives, and the appointment of a full-time site based AGL Environmental Management Representative.</p>	<p>The auditor inspected the area where the incident occurred and noted that rehabilitation was adequately progressed. As such, there are no further recommended actions.</p>	N/A	N/A
Schedule 3 Condition 27	<p>Emergency Plan</p> <p>Prior to commencing construction, the Applicant must develop and implement a comprehensive Emergency Plan and detailed emergency procedures for the development in consultation with FRNSW and the NSW RFS. The Applicant must keep two copies of the plan on-site in a prominent position adjacent to the site entry point at all times. The plan must:</p> <p>(a) be consistent with the Department's Hazardous Industry Planning Advisory Paper No. 1, 'Emergency Planning' and RFS's Planning for Bushfire Protection 2019 (or equivalent);</p> <p>(b) identify the fire risks and hazards and detailed measures for the development to prevent or mitigate fires igniting.</p> <p>(c) include procedures that would be implemented if there is a fire on-site or in the vicinity of the site.</p> <p>(d) list works that should not be carried out during a total fire ban.</p>	<p>The BHBESS O&M Emergency Response Plan (16-Jul-24) (Stage 3) does not adequately address the requirements of Condition 3.27. Specifically:</p> <ul style="list-style-type: none"> The Department's Hazardous Industry Planning Advisory Paper No. 1, 'Emergency Planning' is not referenced in the Plan (Section 3.2) and it is unclear whether the Plan is consistent with the requirements of the Advisory Paper The Plan does not include RFS notification and procedural requirements as detailed in Condition 3.27(g) and 3.27(m) While the Plan includes a figure detailing site infrastructure, the 	<p>It is recommended that the BHBESS O&M Emergency Response Plan is reviewed and revised to address all requirements of Condition 3.27.</p>	<p>Fluence will update the O&M Emergency Response Plan to capture the findings of the review, and to address the auditor recommendations.</p>	31/01/2025



Condition number	Compliance requirement	Independent audit finding	Independent Audit Recommendation	Proposed Action	Proposed action due date
	<p>(e) include availability of fire suppression equipment, access and water.</p> <p>(f) include procedures for the storage and maintenance of any flammable materials.</p> <p>(g) notification of the local RFS Fire Control Centre for any works that have the potential to ignite surrounding vegetation proposed to be carried out during a bushfire danger period to ensure whether conditions are appropriate.</p> <p>(h) detail access provisions for emergency vehicles and contact details for both a primary and alternative site contact who may be reached 24/7 in the event of an emergency.</p> <p>(i) include a figure showing site infrastructure, Asset Protection Zone and any on-site water supply tank.</p> <p>(j) include location of hazards (physical, chemical and electrical) that may impact on firefighting operations and procedures to manage identified hazards during firefighting operations;</p> <p>(k) include details of the location, management and maintenance of the Asset Protection Zone and who is responsible for the maintenance and management of the Asset Protection Zone.</p> <p>(l) include bushfire emergency management planning; and</p> <p>(m) include details of the how RFS would be notified, and procedures that would be implemented, in the event that:</p> <ul style="list-style-type: none"> • there is a fire on-site or in the vicinity of the site • there are any activities on site that would have the potential to ignite surrounding vegetation; or • there are any proposed activities to be carried out during a bushfire danger period; and <p>(n) include details on how the battery storage facility and sub-systems can be safely isolated in an emergency. The Applicant must implement the Emergency Plan for the duration of the development</p>	<p>Asset Protection Zone and the on-site water supply tank are not included (Condition 3.27(i)).</p> <ul style="list-style-type: none"> • There are no details on the location, management and maintenance of the Asset Protection Zone and who is responsible for the maintenance and management of the Asset Protection Zone (Condition 3.27(k)). 			



Condition number	Compliance requirement	Independent audit finding	Independent Audit Recommendation	Proposed Action	Proposed action due date
	<p>Revision of Strategies, Plans and Programs.</p> <p>The Applicant must:</p> <p>(a) update the strategies, plans or programs required under this consent to the satisfaction of the Planning Secretary prior to carrying out any upgrading or decommissioning activities on site; and</p> <p>(b) review and, if necessary, revise the strategies, plans or programs required under this consent to the satisfaction of the Planning Secretary within 1 month of the:</p> <ul style="list-style-type: none"> • submission of an incident report under condition 7 of Schedule 4; • submission of an audit report under condition 11 of Schedule 4; or • any modification to the conditions of this consent 	<p>Insufficient evidence was provided to demonstrate that strategies, plans and programs were reviewed within one month of submission of the Construction IEA (3-Feb-23).</p>	<p>It is recommended that all strategies, plans and program are reviewed within one month of submission of the Operation IEA to DPHI</p>	<p>AGL and Fluence will review the following plans related to Stage 3 (Operations) of the project as per the requirements of Schedule 4 Condition 2:</p> <ul style="list-style-type: none"> • Environmental Management Strategy • Biodiversity Management Plan • Heritage Management Plan • Traffic Management Plan • Soil and Water Management Plan • Emergency Response Plan <p>AGL requests that the requirement to review management plans related to construction (Stage 1 and 2) is waived.</p> <p>AGL seeks an approval for an extension of time on the requirements of this condition to 31 January 2025 due to challenge encountered during the early stages of operation limiting resource availability.</p>	<p>31/01/2025</p>



Condition number	Compliance requirement	Independent audit finding	Independent Audit Recommendation	Proposed Action	Proposed action due date
Opportunities for Improvement					
Schedule 3 Condition 12	<p>Biodiversity Management Plan</p> <p>Prior to commencing construction, the Applicant must prepare a Biodiversity Management Plan for the development in consultation with BCS, and to the satisfaction of the Planning Secretary. This plan must:</p> <p>(a) include a description of the measures and timeframes that would be implemented for:</p> <ul style="list-style-type: none"> • protecting vegetation and fauna habitat outside the approved disturbance areas; • minimising clearing and avoiding unnecessary disturbance of vegetation that is associated with the construction and operation of the development; • minimising the impacts to fauna on site and implementing fauna management protocols; • rehabilitating and revegetating disturbance areas with species that are endemic to the area; • maximising the salvage of vegetative and soil resources within the approved disturbance area for beneficial reuse in the enhancement or the rehabilitation of the site; and • controlling weeds, feral pests and pathogens. <p>(b) include a program to monitor and report on the effectiveness of mitigation measures; and</p> <p>(c) include details of who would be responsible for monitoring, reviewing and implementing the plan.</p> <p>Following the Planning Secretary's approval, the Applicant must implement the Biodiversity Management Plan.</p> <p>Note: If the biodiversity credits are retired via a Biodiversity Stewardship Agreement, then the Biodiversity Management Plan does not need to include any of the matters that are covered under the Biodiversity Stewardship Agreement</p>	<p>Areas of gravel were observed in the high voltage transmission corridor (adjacent to the western boundary of the Project) which may hinder rehabilitation of the area. It is recommended that the gravel is removed and replaced with suitable topsoil, native seed and plantings from PCT 155.</p> <p>Following the site visit, AGL provided photos of the site confirming that rehabilitation had commenced with the removal of gravel.</p>		Altrad will apply topsoil and suitable native seed to the area.	31/12/2024

