



REQUIREMENT 1

Compliance Reporting

POST APPROVAL REQUIREMENTS

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1. Introduction

The purpose of Compliance Reporting is to monitor and report on the compliance status of a project. A Compliance Report communicates the status of a project's performance (in relation to compliance with the conditions of consent).

This document has been prepared by the NSW Department of Planning, Industry and Environment (the Department) to set out the minimum requirements to be met when preparing Compliance Reports pursuant to conditions of consent. These requirements apply to State significant projects where compliance monitoring and reporting in accordance with this document is required by the conditions of consent.

Compliance Reporting ensures that:

- i. the project's performance in terms of compliance with conditions of consent is evaluated on the basis of monitoring data and is communicated at various stages during the carrying out of the development;
- ii. the reporting obligations required by the conditions of consent are met; and
- iii. opportunities for improvement are identified and adopted.

These requirements do not replace the obligation to comply with specific requirements in conditions of consent in respect of compliance reporting. If there is any inconsistency between the requirements in conditions of consent and the requirements in this document, the conditions of consent prevail.

2. Compliance Reporting Requirements

2.1 Compliance Reporting

The minimum frequency for submitting Compliance Reports to the Department is set out in Table 1, for the phases that apply to the development.

The reports specified in Table 1 must be provided for a development if the conditions of consent require the proponent to notify the Department of the commencement date of the relevant phase. An Operational Compliance Report is required if the conditions require notification of Operation. A Post-Decommissioning Report is required if the conditions require notification of commencement of decommissioning. If a development does not have a operation phase, the minimum frequency required for compliance reporting is that which applies in respect of the project (i.e. care and maintenance).

In circumstances where different phases of a development are being carried out at the same time (for example, as may occur in respect of the operation of a road and decommissioning of operational compounds), compliance reporting must be undertaken in accordance with the minimum frequency required for those phases that are being carried out as part of the development.

Table 1: Minimum Frequency of Compliance Reporting

Compliance Report	Phase	Timing	Minimum Frequency
Operation Compliance Report	Operation Care & Maintenance	Reporting required for the duration of operation or as otherwise agreed by the Secretary.	At intervals, no greater than 52 weeks from the date of commencement of operation (annually) or if in care & maintenance, from the commencement date of care and maintenance (annually).
Post-Decommissioning Compliance Report	Decommissioning	Report to be submitted to the Planning Secretary within 12 weeks of completion of decommissioning	Single report only

Note: the revised PAR's will work to support construction projects through reducing the overall demand on compliance reporting however in supporting the removal of pre-construction, construction and pre-operational compliance reporting, there has been a minor increase in the frequency of independent auditing.

The revised independent audit frequency will ensure environmental performance and regulatory compliance is maintained for each project.

2.2 Submission

An electronic copy of the relevant Compliance Report must be submitted to the Department via the Major Projects portal no later than the period provided in Table 1.

Any revised reports submitted to the Department must include a track changed version and a clean copy.

2.3 Review

If the relevant Compliance Report does not adequately address the requirements in the conditions of consent, or meet the requirements in this document, the proponent will be required to revise and resubmit the Compliance Report.

3. Compliance Reports

The Compliance Report must document the compliance status of the development, at the intervals identified in Table 1. Proponents must prepare a Compliance Report in accordance with the requirements set out in this document and/or as per the relevant conditions of consent.

A Compliance Report cover page must clearly identify:

1. the application number of the project;
2. the name of the Compliance Report as set out in Table 1 (e.g. “Operational Compliance Report”);
3. the reporting period covered by the Compliance Report (dates); and
4. each version or revision number of the Compliance Report;
5. the date on which it was prepared; and
6. the title and name of the person who provided the declaration for the Compliance Report.

3.1 Contents

An example of a Table of Contents for a Compliance Report is provided in **Appendix A**.

Compliance Reports must include the information detailed below.

3.1.1 Introduction

A brief overview of the project including:

1. the physical site address;
2. a summary of the project activities that occurred during the reporting period, including any staging as approved by the Planning Secretary or submitted to the Planning Secretary in the project’s Staging Report;
3. current figures and/or GIS shapefiles that illustrate development footprints and context, such as lease boundaries, offset areas, operational disturbance areas, and adjacent relevant land uses; and
4. the names and contact details of the key personnel who are responsible for the environmental/compliance management of the development.

3.1.2 Previous actions

A table of actions arising from previous Independent Audit and Compliance Reports including:

1. the source of the action;

2. reference (condition number);
3. action proposed;
4. proposed completion date (i.e. if decommissioning);
5. the status (date completed, if relevant); and
6. the action completed.

An example of the format for an Action Status Table is provided in **Appendix B** of this document.

3.1.3 Compliance status summary

The total number of non-compliances identified during the reporting period must be set out.

All non-compliances (based on the details provided in the Compliance Table, see **Appendix C**) that occurred during the reporting period must be set out including:

1. the relevant condition number and it's compliance requirement;
2. details of the non-compliance, the date/s it occurred and the date it was identified;
3. the agency, or agencies to whom the non-compliance was reported;
4. any formal enforcement action that has been taken by regulators; and
5. the proponent's response that has been implemented, or is proposed to be, to address the non-compliance, including details of timing for undertaking such actions.

3.1.4 Incidents

Provide the number of incidents and a summary of any trends identified in relation to these incidents during the reporting period and proposed action for reducing the recurrence of incidents or that 'no further action is required.'

3.1.5 Complaints

A list or table of complaints received during the reporting period, unless this is required to be reported in another document under the conditions of consent. This table must include the following information:

1. total number of complaints received;
2. number of complainants;
3. location of complaints; and
4. nature of complaints.

A statement must also be provided as to any emerging trends identified in complaints received and proposed action for addressing each complaint or reducing the recurrence of complaints or that 'no further action is required'.

3.1.6 Compliance Table

A Compliance Table must be provided in each Compliance Report, as an appendix of the compliance report.

The Compliance Table must include the following information for each compliance requirement:

1. a condition number;
2. the compliance requirement (in full);
3. where a condition has multiple subsets, each separate compliance requirement is to be placed on a separate line;
4. the phase of the development to which the compliance requirement applies;
5. the evidence to assess compliance with each compliance requirement; and
6. compliance status

Each of these components is set out in more detail below and a Compliance Table Template is provided in **Appendix C** of this document.

3.1.6.1 Condition number

The Compliance Table must set out each condition relevant to that phase of the project in sequential order.

3.1.6.2 The compliance requirement

The Compliance Table must set out each compliance requirement in full with the exact wording of the condition (i.e. do not paraphrase conditions). Where a condition of consent contains multiple compliance requirements, each compliance requirement must be set out in a separate line in the Compliance Table.

3.1.6.3 Applicable timing for compliance

The Compliance Table must set out when each compliance requirement is to be met. This may be specified in the relevant condition of consent, for example, "before decommissioning," in which case the Table must replicate the time specified. If the development is to be staged, then the relevant stage is to be detailed. If the relevant condition of consent does not specify a time at which a compliance requirement is to be met, the most appropriate time for compliance must be stated, for example, "at all times" or "during rehabilitation."

3.1.6.4 Evidence

The evidence relied upon to assess compliance with each compliance requirement must be set out in the Compliance Table. The evidence relied on must align with the compliance status applied to the specific compliance requirement.

Examples of verifiable evidence include:

1. Correspondence - should note the date of the correspondence, the author and the recipient of the correspondence;
2. documents including any relevant document reference, the date of the document, revision number and author;
3. photographs - including the date the photograph was taken;
4. site, vehicle and equipment inspection records including dates;
5. quality assurance and other endorsement/approval records including dates;
6. figures and/or associated GIS shapefiles;
7. monitoring data and analysis including the period covered by the monitoring data; and
8. delivery records, invoices and receipts including the record date and reference number.

Refer to **Appendix C** of this document.

3.1.6.5 Compliance status

The Compliance Table must include a compliance status for each condition of consent. This status can only be compliant, non-compliant or not triggered. No other terms can be used to describe the compliance status.

The status of each compliance requirement applicable during the reporting period must be recorded by using the relevant descriptors in Table 2 below.

Table 2: Compliance status descriptors

Status	Description
Compliant	The proponent has collected sufficient verifiable evidence to demonstrate that all elements of the requirement have been complied with.
Non-compliant	The proponent has identified a non-compliance with one or more elements of the requirement.
Not triggered	A requirement has an activation or timing trigger that has not been met at the phase of the development when the compliance assessment is undertaken, therefore an assessment of compliance is not relevant.

The terms partial compliance, partial non-compliance, not verified or administrative non-compliance or any other similar terms must not be used.

3.2 Declaration

Each Compliance Report submitted to the Department and any revised versions, must be accompanied by a declaration by an Authorised Reporting Officer. The Authorised Reporting Officer must complete a Compliance Report Declaration Form and append the Form to the Compliance Report.

The declaration to be given is that:

1. the Compliance Report has been prepared/reviewed to be in accordance with the requirements set out in this document;
2. compliance with all relevant conditions of consent was assessed when preparing the Compliance Report;
3. the information contained in the Compliance Report is correct; and
4. the Compliance Report provides an accurate summary of the compliance status of the development during the period.

A Compliance Report Declaration Form Template is provided in **Appendix D** of this document.

3.3 Submission

Compliance Reports must be submitted in accordance with the timeframes set out in Table 1 unless the conditions of consent state otherwise.

An electronic copy of the Compliance Report must be submitted to the Department by the proponent via the Major Projects portal.

3.4 Review

Compliance Reports will be reviewed by the Department.

The role of the Department in reviewing Compliance Reports is to confirm that:

1. the Compliance Report has been prepared in accordance with the requirements of this document;
2. the proponent has set out the actions to be taken for all identified non-compliances, and that those actions appear to be appropriate; and
3. the Compliance Report is accompanied by a declaration by an Authorised Reporting Officer.

The proponent remains responsible for ensuring that the development is carried out in compliance with all conditions of consent. The Department's review of a Compliance Report does not and is not to be construed as absolving the proponent of such responsibility.

If a Compliance Report does not adequately address the requirements of the conditions of consent or provide sufficient information in relation to the requirements of this document, the proponent will be required to revise and resubmit the Compliance Report.

The revised and resubmitted Compliance Report must be submitted with any changes to the original submitted Compliance Report in a version with track changes, in addition to a clean copy version. Where the conditions of consent require that a Compliance Report is made publicly available, the latest submitted clean copy of the Compliance Report is the version that must be made publicly available.

Non-compliances will be reviewed and the Department will respond to identified non-compliances in accordance with the processes outlined in the Department's Compliance Policy and powers under the EP&A Act.

4. Glossary

Term	Definition
Approval	A regulatory approval instrument.
Authorised Reporting Officer	A person who is authorised by the proponent to submit formal reporting on the proponent's behalf.
Commencement of construction	The date of the commencement of construction as notified under the conditions of consent.
Conditions of consent	Means conditions imposed on either of the following: <ul style="list-style-type: none"> • development consents for a State significant development • infrastructure approvals for State significant infrastructure • transitional Part 3A project approvals • other approvals or consents granted by the Minister in accordance with the <i>Environmental Planning and Assessment Act 1979</i> .
Construction	Has the same meaning as in the conditions of consent.
Decommissioning	The deconstruction or demolition and removal of works and buildings installed as part of the development.
Department	NSW Department of Planning and Environment.
Development	Has the same meaning as in the conditions of consent.
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
Incident	As defined within the relevant consent/approval.
Minister	NSW Minister for Planning or delegate.
Operation	Has the same meaning as in the conditions of consent.
Proponent	The person or entity that is referred to as the proponent in an approval or the applicant in a consent or any other person carrying out any part of the development to which the approval or consent applies.
Planning Secretary	The Planning Secretary under the <i>Environmental Planning and Assessment Act 1979</i> or nominee.

Term	Definition
State significant projects	<p>Means any of the following:</p> <ul style="list-style-type: none">• State significant development• State significant infrastructure (including critical State significant infrastructure)• transitional Part 3A projects• Part 4 development for which the Minister is the consent authority <p>in accordance with the <i>Environmental Planning and Assessment Act 1979</i>.</p>

5. Appendices

Appendix A – Table of Contents for a Compliance Report Example

Note that this is an indicative example only and can be modified or altered by the proponent

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	Executive summary	1
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Appendix B – Action Status Table

Source	Condition of consent number	Action Proposed	Proposed Completion Date	Status	Action completed
IEA 2017	S3 c.23	Oral history record to be completed	21 December 2018	Completed 15 November 2018	Oral history report, Oct 2018 submitted to DPIE Nov2018

Appendix C – Compliance Table Template

Note that this is an indicative example only.

All conditions of consent to be included in full, in sequential order.

Condition of consent number	Compliance Requirement	Development phase	Evidence and comments	Compliance status
A32	The Applicant must immediately notify the Department and any other relevant agencies after it becomes aware of an incident. The notification must be in writing to compliance@planning.nsw.gov.au identify the development and set out the location and nature of the incident	At all times	No incidents in reporting period	Not triggered
E43	Trees identified for retention must be protected on site during decommissioning.	Decommissioning	Weekly inspections undertaken between XX/XX/XXX and XX/XX/XXXX including a visual inspection of the tree protection measures in place on site. Weekly inspection report prepared and distributed to project team.	Compliant

Condition of consent number	Compliance Requirement	Development phase	Evidence and comments	Compliance status
F16	Where local roads are used for operational vehicle traffic, these must be identified in the Traffic Management Sub-plan (if applicable).	Construction	<p>On XX/XX/XXXX Traffic Management Sub-plan prepared by Jo Blogs of Jo Blogs Traffic Consulting detailing all local roads that operational vehicles for the project use.</p> <p>On XX/XX/XXX Traffic Management Sub-plan submitted to DPIE</p>	Compliant

Appendix D – Compliance Report Declaration Form Template

Compliance Report Declaration Form

Project Name

Project Application
Number

Description of Project

Project Address

Proponent

Title of Compliance Report

Date

I declare that I have reviewed the contents of the attached Compliance Report and to the best of my knowledge:

- i. the Compliance Report has been prepared in accordance with all relevant conditions of consent;
- ii. the Compliance Report has been prepared in accordance with the Compliance Reporting Requirements;
- iii. the findings of the Compliance Report are reported truthfully, accurately and completely;
- iv. due diligence and professional judgement have been exercised in preparing the Compliance Report; and
- v. the Compliance Report is an accurate summary of the compliance status of the development.

Notes:

- Under section 10.6 of the Environmental Planning and Assessment Act 1979 a person must not include false or misleading information (or provide information for inclusion in) a report of monitoring data or an audit report produced to the Minister in connection with an audit if the person knows that the information is false or misleading in a material respect. The proponent of an approved project must not fail to include information in (or provide information for inclusion in) a report of monitoring data or an audit report produced to the Minister in connection with an audit if the person knows that the information is materially relevant to the monitoring or audit. The maximum penalty is, in the case of a corporation, \$1 million and for an individual, \$250,000; and
- The Crimes Act 1900 contains other offences relating to false and misleading information: section 307B (giving false or misleading information – maximum penalty 2 years' imprisonment or 200 penalty units, or both).

Name of Authorised

Reporting Officer

Title

Signature

Qualification

Company

Company Address

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