

Independent Audit – Proponent Response Report

Newcastle Inner City Bypass –
Rankin Park to Jesmond
July 2024



OFFICIAL

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Glossary / Abbreviations

Term	Expanded text
CEMP	Construction Environmental Management Plan
CEMPP	Construction Environmental Management Process (Plan)
CoA	Condition of Approval
Construction	Includes all works required to construct the SSI, including commissioning trials of equipment and temporary use of any part of the SSI, but excluding the following low impact work which is completed prior to approval of the CEMP: (a) survey works including carrying out general alignment survey, installing survey controls (including installation of global positioning systems (GPS)), installing repeater stations, carrying out surveys of existing and future utilities and building and road dilapidation surveys; (b) investigations including investigative drilling, contamination investigations and excavation; (c) operation of ancillary facilities if the ER has determined the operational activities will have minimal impact on the environment and community; (d) minor clearing and relocation of native vegetation, as identified in the documents listed in Condition A1; (e) installation of mitigation measures including erosion and sediment controls, exclusion fencing, hoardings and temporary or at property acoustic treatments; (f) property acquisition adjustment works including installation of property fencing, and relocation and adjustments of utilities to property including water supply and electricity; (g) relocation and connection of utilities where the relocation or connection has a minor impact to the environment and sensitive receivers as determined by the ER; (h) archaeological testing under the <i>Code of practice for archaeological investigation of Aboriginal objects in NSW</i> (DECCW, 2010) or archaeological monitoring undertaken in association with (a)-(g) and (i) to ensure that there is no impact on Aboriginal artefacts or objects, and archaeological salvage works in accordance with A1, E17 and E18; (i) other activities determined by the ER to have minimal environmental impact which may include construction of minor access roads, temporary relocation of pedestrian and cycle paths and the provision of property access; and (j) maintenance of existing buildings and structures required to facilitate the carrying out of the SSI. However, where heritage items or threatened species or threatened ecological communities (within the meaning of the <i>NSW Threatened Species Conservation Act 1995</i> or <i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i>) are affected or potentially affected by any low impact work, that work is construction, unless otherwise determined by the Planning Secretary in consultation with the relevant heritage authority, OEH or DPI Fisheries (in the case of impact upon fish, aquatic invertebrates or marine vegetation)
DoEE	Commonwealth Department of the Environment and Energy administering the EPBC Act, and includes the Minister for the DoEE.
DPE	NSW Department of Planning and Environment (former title)

Term	Expanded text
DPHI	NSW Department of Planning, Housing and Infrastructure (current title)
EIS	The Environmental Impact Statement submitted to the Planning Secretary seeking approval to carry out the development described in it, as revised if required by the Planning Secretary under the EP&A Act, and including any additional information provided by the Proponent in support of the application for approval of the project
EMS	Environmental Management System
Environmental Representative (ER)	A suitably qualified and experienced person independent of project design and construction personnel employed for the duration of Construction. The principal point of advice in relation to all questions and complaints concerning environmental performance
EP&A Act	<i>NSW Environmental Planning and Assessment Act 1979</i>
EPBC Act	<i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i>
EPL	NSW Environment Protection Licence under the <i>Protection of the Environment Operations Act 1997</i>
IAP	Independent Audit Program
Operation	The carrying out of the SSI (whether in full or in part) upon the completion of construction, except the operation of Bridge 7 <i>Note: There may be overlap between the carrying out of construction and operation if the phases of the development are staged. Commissioning trials of equipment and temporary use of any part of the SSI are within the definition of construction</i>
Planning Secretary	Planning Secretary of the NSW Department of Planning and Environment (or nominee, whether nominated before or after the date on which the Project Approval was granted)
Project, the	Newcastle Inner City Bypass - Rankin Park to Jesmond
Project Approval	The Infrastructure Approval for Newcastle Inner City Bypass, Rankin Park to Jesmond, issued by the New South Wales Government on 15 February 2019
RP2J	Rankin Park to Jesmond Bypass
SPB	Shared Path Bridge (Bridge 7)
SPIR	Submissions and Preferred Infrastructure Report submitted to the Planning Secretary under the EP&A Act
SSI	State Significant Infrastructure
Transport	Transport for New South Wales
Works	All physical activities to construct or facilitate the construction of the SSI, including environmental management measures and utility works. however, does not include work that informs or enables the detailed design of the SSI and generates noise that is no more than 5 dB(A) above the rating background level at any residence

1 Introduction

1.1 Background

The Rankin Park to Jesmond (RP2J) Bypass Project (the Project) involves the construction of 3.4 kilometres of new four lane divided road between Lookout Road, New Lambton Heights and Newcastle Road, Jesmond. The Project is located in the Newcastle local government area, about 11 kilometres west of the Newcastle central business district and about 160 kilometres north of Sydney.

Transport for NSW (Transport) is planning and delivering the Project. The Project will be constructed in two separate stages under separate construction contracts.

The Project has been assessed under both State and Federal planning approval pathways. The Project was declared by the NSW Minister for Planning to be State significant infrastructure (SSI) development under Schedule 5.1 of the *State Environmental Planning Policy (State and Regional Development) 2011* on 3 March 2015. The Project was assessed under Part 5.1 of the *Environmental Planning and Assessment Act 1979* (NSW) (EP&A Act).

Matters of National Environmental Significance relevant to the Project comprise listed threatened species and communities (section 18 and 18A of the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act)) and wetlands of international importance (sections 16 and 17B of the EPBC Act). The Project was declared by the Federal Minister for the Environment and Energy to be a 'controlled action' under the EPBC Act on 15 October 2015.

An Environmental Impact Statement (EIS) was prepared for the Project to satisfy the environmental assessment requirements of Part 5.1 of the EP&A Act and Part 8 of the EPBC Act. A Submissions and Preferred Infrastructure Report (SPIR) was prepared to provide responses to issues raised during exhibition of the EIS, to propose Project design refinements and to provide revised environmental management measures for the Project and submitted to the NSW Minister for Planning.

Approval for the Project was granted by the NSW Minister for Planning on 15 February 2019 and by the Commonwealth Department of the Environment and Energy (DoEE) on 5 April 2019 and modified on 7 January 2022.

Stage 4 construction, as per the Staging Report, commenced on the 6 March 2023.

1.2 Purpose of this report

This report has been prepared to address the requirements of Condition of Approval (CoA) A36 (a-b) prescribed by the Project's NSW Infrastructure Approval.

The requirements of the CoA which apply to Independent Audit Report and associated reports are listed in Table 1-1 below, together with the cross-reference to where the requirements are addressed in this report.

Further details of how the conditions are addressed are provided in the sections below.

Table 1-1 - Conditions of approval applicable to the Independent Audit Program (IAP)

NSW-CoA	Requirement	Reference
A34	No later than four (4) weeks before the date notified for the commencement of construction (in the pre-construction compliance report), an Independent Audit Program prepared in accordance with the <i>Independent Audit – Post Approval Requirements</i> (DPE 2018) must be submitted to the Planning Secretary.	Independent Audit Program. Revision 5 provided to the Planning Secretary for information on 13 July 2022
A35	Independent Audits of the development must be carried out in accordance with: (a) the Independent Audit Program submitted to the Department under Condition A34 of this approval; and (b) the requirements for an Independent Audit Methodology and Independent Audit Report in the <i>Independent Audit – Post Approval Requirements</i> (DPE 2018)	Revision 5 provided to the Planning Secretary for information on 13 July 2022 Section 2.1
A36	In accordance with the specific requirements in the <i>Independent Audit – Post Approval Requirements</i> (DPE 2018), the Proponent must: (a) review and respond to each Independent Audit Report prepared under Condition A35 of this approval; (b) submit the response to the Department; and (c) make each Independent Audit Report and response to it publicly available and notify the Department in writing when this has been done.	Section 3.1 This report Section 2.1
B13	A website providing information in relation to the SSI must be established before commencement of work and maintained for the duration of works and for a minimum of 24 months following the completion of construction of the SSI. Up-to-date information (excluding confidential, private, commercial information, or other documents as agreed to by the Planning Secretary) must be published before the relevant works commencing and maintained on the website or dedicated pages including: (f) a copy of the compliance reports required under Condition A30 and independent audit reports under Condition A36 of this approval.	Section 2.1

2 Independent Audit Program

The Independent Audit Program (IAP) was prepared in accordance with the *Independent Audit –Post Approval Requirements (2018)* and with regard to *AS/NZS ISO 19011:2014 - Guidelines for Auditing Management Systems*.

2.1 IAP implementation

The IAP was implemented to deliver the Independent Audit Report.

DPHI approval for a suitably qualified, experienced and independent auditor was granted in April 2024 prior to the commencement of the audit.

The Independent Audit Report was completed in accordance with the *Independent Audit –Post Approval Requirements (2018)* and provided to Transport in July 2024.

In accordance with CoA B13, the final Independent Audit Report and this Proponent Response Report will be made publicly available on the Project website and Transport will notify DPHI in writing once this has been done.

3 Transport Response to Independent Audit Findings

3.1 Audit findings and response

Transport has prepared a response to the Independent Audit Report findings. The findings are summarised as follows:

- The previous audit (Audit Report No. 3) prepared by WolfPeak dated 6 July 2023 made the following findings:
 - Two (2) observations were identified, one under condition E57, related to a breach in a mulch and earth bund, and one under condition E81, concerning housekeeping at one of the site compounds. These observations were closed out with the submission of the Proponent Response Report on 19 July 2023.
 - A positive observation was noted relating to erosion and sediment controls which were found overall to be of a very high standard across the project.
- In regard to the findings from this IA4:
 - A total of 163 conditions were assessed.
 - 118 conditions were considered to be compliant.
 - Two (2) non-compliances were identified, one of which was identified and self-reported by the auditee during the audit period. These relate to heavy vehicles using a local road that was not approved for use, and preparation of a dilapidation report for the use of a local road by heavy vehicles.
 - 43 conditions were considered not triggered.
 - In addition to the above, one (1) observation was identified in relation to erosion and sediment controls.

The Proponents (Transport) response is provided in Table 3-1 of this report and aligns with Table 6 of Independent Audit Report July 2024.

Table 3-1 Proponent Response to Independent Audit Report July 2024 findings

Item ID	Ref.	Category	Condition / Requirement	Finding / Recommendation	Auditee Response	Status
IA4_1	C8	Non-compliance (self-reported by auditee during the audit period upon becoming aware)	<i>Construction must not commence until the CEMP and all CEMP Sub-plans have been approved by the Planning Secretary, or as otherwise agreed by the Planning Secretary. The CEMP and CEMP Sub-plans, as approved by the Planning Secretary, including any minor amendments approved by the ER must be implemented for the duration of construction. Where construction of the SSI is staged, construction of a stage must not commence until the CEMP and subplans for that stage have been approved by the Planning Secretary.</i>	On 15/01/24 five empty truck and dogs have entered Victory Parade and parked on the shoulder of the local road prior to being inducted on the project. Victory Parade is not an approved local road under E63, nor has it been assessed for use in the documents listed in A1. A non-compliance was identified on the same day and was notified to the Department on 19/01/24. The notification included details of the project, condition, nature of the breach, date, cause and actions.	Fulton Hogan completed the following actions upon becoming aware of the non-compliance: 1. The Vehicle Management Plan was resent to the subcontractor, reminding them to follow the approved routes and parking locations. 2. The drivers involved in the non-compliance were toolboxed and fully inducted as scheduled on 15/01/24. The induction includes the relevant heavy vehicle requirements for the Project. 3. Fulton Hogan amended the Project's pre-induction material to better highlight the approved heavy vehicle requirements, including haulage routes and parking locations. The Department issued a warning letter regarding the 15/01/24 non-compliance. There was no direction within the warning letter.	Closed
IA4_2	Not used.					

Item ID	Ref.	Category	Condition / Requirement	Finding / Recommendation	Auditee Response	Status
IA4_3	E57	Observation	<i>All reasonably practicable erosion and sediment controls must be installed and appropriately maintained to prevent water pollution. When implementing such controls, any relevant guidance in the Managing Urban Stormwater series must be considered.</i>	The EPA raised a prevention notice on Fulton Hogan on the basis that in March and early April 2024 it considered erosion and sediment control measures to be inadequate at Cut 5 and that construction water was leaving the site at the Cut 5 location into the local catchment. Refer to sections 3.4 and 3.5 of the audit Report regarding the details of the prevention notice and the action taken by Fulton Hogan in response to the notice.	Actions from the prevention notice have been fully implemented and evidence of this as submitted to the EPA as required by the notice on 8/5/24. No further actions are proposed.	Closed
IA4_4	E68	Non-compliance	<i>Before any local road is used by a heavy vehicle for the purposes of construction of the SSI (including the establishment of ancillary facilities), a Road Dilapidation Report must be prepared for the road, unless otherwise agreed by the Planning Secretary. The Road Dilapidation Report must be prepared by a suitably qualified person before the commencement of works that have the potential to damage local roads (and associated infrastructure). A copy of the Road Dilapidation Report must be provided to the landowner and relevant roads authority within three (3) weeks of completion of the surveys and no later than one (1) month before the use of local roads by heavy vehicles for the construction of the SSI.</i>	Dent Street was the only local road used during the audit period. According to the auditees, a Road Dilapidation Report was prepared and issued to Council prior to use. The Auditor requested a copy of the dilapidation report and evidence that the report was issued to the landowner / road authority prior to use. This information was not provided. Instead, a copy of the updated TTMP and the ER's endorsement of the updated TTMP was provided (as evidence to show that the use of Dent Street did not commence until the road dilapidation report process was satisfied). The updated TTMP does not appear to specifically state that E68 was fulfilled for Dent Street.	A Road Dilapidation Report has been prepared for Dent Street and provided to City of Newcastle (relevant road authority) on 16/07/2024 as per Condition of Approval E68. Roles and responsibilities will be clarified within Fulton Hogan to confirm ownership of the Conditions of Approval, including E68. This ownership will be documented within a project responsibility matrix and distributed internally. Fulton Hogan will complete this process by 30/08/2024.	Closed
IA4_5	Not used.					
IA4_6	Not used.					

