

# **Response to Independent Audit Findings**

## **NSW Institute of Applied Technology for Construction**

State Significant Development (SSD) 8571481

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[VERSION 2.0]

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## Introduction

### Project Name and Project Application Number

NSW Institute of Applied Technology for Construction (SSD 8571481)

### Site Address

Part of Lot 100 DP 119 4481

### Title and Revision Number

Proponent Response to Independent Audit Findings (Version 2)

### Date

14 April 2022

### Contact Details

|                              |                            |
|------------------------------|----------------------------|
| <b>Proponent</b>             | Tafe NSW                   |
| <b>Client Representative</b> | Ernst and Young            |
| <b>Managing Contractor</b>   | ADCO Constructions Pty Ltd |

### Independent Audit Date

24<sup>th</sup> and 25<sup>th</sup> of February 2022

### Independent Auditor

WolfPeak

### Proponent Response

Table 1 below details the Condition of Consent that was classified as “Non-compliant” during the Independent Environmental Audit commenced on 24<sup>th</sup> and 25<sup>th</sup> of February 2022. As required the proponent has provided a detailed action plan to be undertaken in response to this non-compliance, refer Table 1 on the following page.

PROPONENT RESPONSE TO INDEPENDENT AUDIT FINDINGS FOR THE NSW INSTITUTE OF APPLIED TECHNOLOGY FOR CONSTRUCTION

| Item   | Ref. | Type           | Compliance Requirement  | Independent Audit Finding   | Independent Audit Recommendation  | Proponent's Proposed Action/Action taken/Response (as applicable)  | Proposed Action Due Date                      |
|--|------|----------------|---|---|---|--|---|
| <b>Findings from Independent Audit No. 1 – Non Compliances</b> |      |                |   |   |   |  |   |
| IA1_1  | A8   | Non-compliance | <p>A8 requires that <i>'Where conditions of this consent require consultation with an identified party, the Applicant must:</i></p> <ul style="list-style-type: none"> <li>a) <i>consult with the relevant party prior to submitting the subject document for information or approval; and</i></li> <li>b) <i>provide details of the consultation undertaken including:</i> <ul style="list-style-type: none"> <li>i. <i>the outcome of that consultation, matters resolved and unresolved; and</i></li> <li>ii. <i>details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.'</i></li> </ul> </li> </ul>   | <p><b>Non-compliance: Whilst general consultation with Registered Aboriginal Parties (RAPs) has occurred, no primary evidence was available to confirm that the induction material and unexpected finds protocol were prepared in consultation with the RAPs as is required by B10.</b></p>   | <p>Whilst the risk of encountering aboriginal heritage items is low (refer to the Aboriginal Cultural Heritage Assessment, Urbis, 02/06/21 and the lack of unexpected finds to date) it is recommended that the auditees consult with the Registered Aboriginal Parties (RAPs) on the content of the induction and the unexpected finds protocol.</p> | <p>The proponent will consult with the Registered Aboriginal Parties (RAPs) on the content of the induction and the unexpected finds protocol.</p> | <p>To be undertaken by the 29 April 2022.</p> |
| IA1_6  | B10  | Non-compliance | <p>B10 states that 'Prior to the commencement of construction, the Applicant must submit a Construction Environmental Management Plan (CEMP) to the Certifier and provide a copy to the Planning Secretary for information. The CEMP must include, but not be limited to, the following:</p> <ul style="list-style-type: none"> <li>a) <i>Details of:</i> <ul style="list-style-type: none"> <li>i. <i>hours of work;</i></li> <li>ii. <i>24-hour contact details of site manager;</i></li> <li>iii. <i>management of dust and odour to protect the amenity of the neighbourhood;</i></li> <li>iv. <i>external lighting in compliance with AS 4282-2019 Control of the obtrusive effects of outdoor lighting;</i></li> <li>v. <i>community consultation and complaints handling;</i></li> </ul> </li> <li>b) <i>an unexpected finds protocol for contamination and associated communications procedure to ensure that potentially contaminated material is appropriately managed;</i></li> <li>c) <i>an unexpected finds protocol for non-Aboriginal heritage and associated communications procedure;</i></li> <li>d) <i>an unexpected finds protocol for Aboriginal heritage and associated communications procedure, including details of Aboriginal Cultural Heritage induction materials, which must:</i> <ul style="list-style-type: none"> <li>i. <i>be prepared in consultation with the Registered Aboriginal Parties; and</i></li> <li>ii. <i>incorporate an overview of the types of Aboriginal sites and Aboriginal objects to be aware of during construction (i.e. stone tools, concentrations of shells that could be middens and rock engravings and grinding grooves).</i></li> </ul> </li> <li>e) <i>Construction Traffic and Pedestrian Management Sub-Plan (see condition B11);</i></li> <li>f) <i>Construction Noise and Vibration Management Sub-Plan (see condition B12);</i></li> <li>g) <i>Construction Waste Management Sub-Plan (see condition B12(d));</i></li> </ul> | <p><b>Non-compliance: The CEMP was not submitted to the Planning Secretary until 23/02/22, well after the commencement of construction. The CSWMSP (dated 09/12/21) was not prepared prior to construction (07/12/21). There are also several deficiencies in the CEMPs content:</b></p> <ul style="list-style-type: none"> <li>• <b>B10a): Standard work hours are noted in Section 7 of the CEMP as per B10a)i). However other conditions relating to hours of work have not been included (e.g. Condition C7).</b></li> <li>• <b>B10b): An Unexpected and Heritage Finds Protocol (the Protocol) is contained in Appendix B of the CEMP. Reference to the Protocol is not contained in the main body of the CEMP. Condition B7 is mistakenly referenced in the Protocol. The Protocol generally addresses the requirements for managing unexpected contamination however the recommended actions are unclear due to its attempt to address both contamination and heritage finds.</b></li> <li>• <b>B10c): The Unexpected and Heritage Finds Protocol (the Protocol) in the CEMP does not address the requirements relating to non-Aboriginal heritage in C27. The protocol has been updated to capture the relevant requirements; however, it still is not clear (in part due to it being combined with unexpected</b></li> </ul> | <p>It is recommended that the CEMP and Sub-plans undergo a full and coordinated review to ensure they address the conditions and are consistent. The Auditor notes that the DPIE Guideline provides a useful tool to assist and could be utilised further.</p>  | <p>The proponent will undertake a full coordinated review of the CEMP and Sub-plans to ensure they address the conditions and are consistent.</p>  | <p>To be completed by the 15 July 2022.</p>   |

| Item   | Ref. | Type           | Compliance Requirement  | Independent Audit Finding   | Independent Audit Recommendation  | Proponent's Proposed Action/Action taken/Response (as applicable)  | Proposed Action Due Date             |
|--------|------|----------------|---|---|---|--|--------------------------------------|
|        |      |                | h) <i>Construction Soil and Water Management Sub-Plan (see condition B14);'</i>   | <p>find protocols for contamination). For example, the protocol includes instruction to not dispose of material off site until the information has been submitted to the Planning Secretary. This is in conflict with and C27c).</p> <p>B10d): The Unexpected and Heritage Finds Protocol (the Protocol) in the CEMP does not address the requirements relating to Aboriginal heritage in C25 and C26, nor has it been prepared in consultation with the RAPs as per B10d). The Protocol has been updated to capture the relevant requirements; however it still is not clear (in part due to it being combined with unexpected find protocols for contamination). For example, the Protocol includes instruction to not dispose of material off site until the information has been submitted to the Planning Secretary. This is in conflict with C25e). Further, the Protocol does not appear to have factored in the content from the ACHAR as per C26. Notwithstanding the above the ACHAR found that <i>'Due to the low potential for Aboriginal archaeological resources to occur and therefore the low potential of direct or indirect harm, no management or mitigation measures are deemed necessary'</i>.</p> |   |  |                                      |
| IA1_11 | C25  | Non-compliance | C25 states <i>'Construction works must be carried out in accordance with the recommendations of the document titled 'Aboriginal Cultural Heritage Assessment (Revision F01)' prepared by Urbis and dated 2 June 2021'</i> | <p>This non-compliance relates to largely the same issue as that identified in B10.</p> <p>Non-compliance: The Aboriginal Cultural Heritage Assessment Report (ACHAR) includes instructions on consultation in the development of the induction, unexpected find protocols (consistent with C25 and C27) and ongoing consultation. The induction material and unexpected finds protocol were not prepared in consultation with the RAPs per se (as required by the ACHAR). Instead TAFE incorporated information consistent with the TAFE NSW reconciliation Action Plan. Refer to the finding against A8 with respect to this matter. Refer also to the non-compliance under B10 with regards to the content of the unexpected finds protocol.</p>   | It is recommended that the CEMP and Sub-plans undergo a full and coordinated review to ensure they address the conditions and are consistent. | The proponent will undertake a full coordinated review of the CEMP and Sub-plans to ensure they address the conditions and are consistent. | To be completed by the 15 July 2022. |