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7 June 2022

Attn: Compliance Section (Portal Submission)

Moorebank Precinct West Stage 2 (SSD 7709): Submission of Response to March 2022 Independent Audit Report

I refer to SSD 7709 approved on the 11 November 2019.

In accordance with condition C17 (b) of the Development Consent, the following document is being submitted to the Planning Secretary for information:

- Independent Audit Report, Moorebank Intermodal Precinct West Stage 2 – SSD 7709, Wolf Peak April 2022.05.10 (Attachment B).

As per the requirements of Condition C18 which outlines the requirement:

- To review and respond to each Independent Audit Report (Attachment A).
- Submit the response to each Independent Audit Report (Attachment A).
- Make each Independent Audit Report and response to it publicly available.

I hereby provide the 7day notification of our intention to publicly release the response to the Independent Audit within 60 days of this submission to the Department in accordance with consent condition 18 (c).

Attachment A: Applicant Response to Audit Report Non-Compliances and Observation.



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Item	Ref.	Type	Details of item	Audit Recommendation	Timing	SIMTA Actions	Evidence of Action											
IA1_5	B8 4	Non-compliance	<p>Requirement: <i>The Applicant undertake the following road infrastructure upgrades, in accordance with the specified timing requirements as set out in Table 1.</i></p> <table border="1"> <thead> <tr> <th rowspan="2">Upgrade</th> <th colspan="3">Specified Timing Requirements</th> </tr> <tr> <th>Upgrade requirements</th> <th>Required timing for 100% design approval by RMS</th> <th>Required timing for completion of upgrade</th> </tr> </thead> <tbody> <tr> <td>Moorebank Avenue and Anzac Road intersection upgrades, road widening and road upgrade works, and associated civil works</td> <td>Indicative layout plans (RIUW-ARC-CV-SKC-2003-P1 and RIUW-ARC-CV-SKC-1005-P2) included in Appendix 1, subject to design development and approval by RMS, and incorporating a bicycle/ pedestrian share path</td> <td>To be obtained within 12 months of the date of this consent, or prior to the issue of the first Occupation Certificate for warehousing, whichever is the sooner.</td> <td>Prior to issue of an Occupation Certificate for warehousing in excess of 100,000 m<sup>2</sup> of gross floor area</td> </tr> </tbody> </table> <p><b>Non-compliance: The design has been submitted to TfNSW and they have requested additional information. As such the 100% design has not been approved within 12 months of the date of consent.</b></p>	Upgrade	Specified Timing Requirements			Upgrade requirements	Required timing for 100% design approval by RMS	Required timing for completion of upgrade	Moorebank Avenue and Anzac Road intersection upgrades, road widening and road upgrade works, and associated civil works	Indicative layout plans (RIUW-ARC-CV-SKC-2003-P1 and RIUW-ARC-CV-SKC-1005-P2) included in Appendix 1, subject to design development and approval by RMS, and incorporating a bicycle/ pedestrian share path	To be obtained within 12 months of the date of this consent, or prior to the issue of the first Occupation Certificate for warehousing, whichever is the sooner.	Prior to issue of an Occupation Certificate for warehousing in excess of 100,000 m <sup>2</sup> of gross floor area	Obtain approval from TfNSW on the 100% design.	As soon as practicable	All documents have been submitted to Transport for NSW (TfNSW), approval outstanding.	Final submission of documents was via email on the 14/04/2022. TfNSW approval is pending.
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IA2_1	A3	Non-compliance	<p>Requirement: <i>The development may only be carried out:</i></p> <ul style="list-style-type: none"> <li>a) <i>in compliance with the conditions of this consent;</i></li> <li>b) <i>in accordance with all written directions of the Planning Secretary;</i></li> <li>c) <i>in accordance with the EIS, Response to Submissions (RtS) and Consolidated assessment clarification responses; and</i></li> <li>d) <i>in accordance with the management and mitigation measures in Appendix 2.</i></li> </ul> <p><b>Non-compliance: The Department provided written directions in relation to the submission of the first Independent Audit report (breach of C17b)), and the need to include the response to the findings and breach notices in the second Independent Audit. The Department considered that the first Independent Audit Report was due to be submitted within 20 weeks of</b></p>	<p>The Department elected to not take further regulatory action in relation to the matters in their correspondence to SIMTA dated 06/08/21, 28/01/22 and 01/02/22.</p> <p>Refer to the actions below to address the non-compliances identified in this audit.</p>	<p>Within the timeframes specified for each non-compliance</p>	<p>Non-compliances to be addressed.</p>	<p>See evidence of action against each non-compliance.</p>



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			<p><b>January 2020 (not from December 2020 as stated by the auditees).</b></p> <p><b>The auditees self-reported a breach of B138 (failure to submit a noise assessment report to the Department) in accordance with C11 on 29/07/21. The Department elected to not take further regulatory action in relation to the matter.</b></p> <p><b>The auditees self-reported a breach of C4b) due to Georgiou having stored precast stormwater drainage structures and pipework outside of the construction boundary identified in Figure 1-3 of the Construction Environmental Management Plan (CEMP). Further, the non-compliance was not reported within the timeframe specified by C11. The Department elected to not take further regulatory action in relation to the matter.</b></p> <p><b>On 28/01/22 the Department issued a warning notice for breaches of B169 and B171 (failure to submit SASs as per the timing in the</b></p>				



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			<p>relevant conditions), as well as reference to commencing construction without necessary approvals having been in place). The Department elected to not take further regulatory action in relation to the matter.</p> <p>Non-compliances were also identified during the second Independent Audit. Refer below.</p>				



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IA2_2	A2 6	Non-compliance	<p>Requirement: <i>The Applicant must provide a copy of the documentation given to the Certifying Authority under Condition A25 [documented evidence that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the requirements of the BCA] to the Planning Secretary within seven days after the Certifying Authority accepts it.</i></p> <p><b>Non-compliance: The Auditor requested evidence to demonstrate that the information was submitted to the Department as is required by this condition. The auditees stated that evidence of submission to the Department is pending.</b></p> <p><b>The Auditor notes that in response to this finding in the draft Audit Report, the auditee stated that all submissions to the Certifier was provided via the Department's e-planning portal. The Auditor is of the view that the use of this e-planning portal for submissions to the Certifier does not constitute</b></p>	Submit the documentation required under A25 to the Department (or retrieve evidence that this has been done).	30/05/22	Submit the documentation required under A25 to the Department.	Pending



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			<b>submission to the Planning Secretary in accordance with this condition.</b>				
IA2_6	B8 5	Non-compliance	<p>Requirement: <i>The swept path of the longest vehicle entering and exiting the subject site, as well as manoeuvrability through the site, must be in accordance with Austroads requirements. Prior to commencement of construction of permanent built surface works, a plan must be submitted to the Planning Secretary and RMS for approval, which shows that the proposed development complies with this requirement</i></p> <p><b>Non-compliance: Permanent built surface works at warehouse 6 have commenced. A swept path analysis has been prepared and was submitted to the Department as part of the MOD-1 and MOD-2 applications (both of which were</b></p>	Obtain approval from TfNSW of the swept path analysis report.	Prior to next audit	Swept path analysis report to be provided to TfNSW, to obtain approval.	Pending



Item	Ref.	Type	Details of item	Audit Recommendation	Timing	SIMTA Actions	Evidence of Action
			<p><b>approved by the Department. However, RMS (TfNSW) provided advice on the MOD-2 application but has not provided approval as is required by this condition.</b></p>				
IA2_1 1	C4	Non-compliance	<p>Requirement: <i>The Applicant must:</i></p> <ul style="list-style-type: none"> <li>a) <i>not commence construction of the development until the CEMP is approved by the Planning Secretary; and</i></li> <li>b) <i>carry out the construction of the development in accordance with the CEMP approved by the Planning Secretary and as revised and approved by the Planning Secretary from time to time.</i></li> </ul> <p><b>Non-compliance: The auditees self-reported a breach of C4b) due to Georgiou having stored precast stormwater drainage structures and pipework outside of the construction boundary identified in</b></p>	<p>The Department elected to not take further regulatory action in relation to the matter placement of materials outside the construction boundary</p> <p>The non-conformities with the CEMP should be responded to in line with section 4.4 of the CEMP.</p>	<p>Within the timeframes specified in Section 4.4 of the CEMP.</p>	<p>Contractors to be reminded that non-conformances with the CEMP, and or CEMP subplans including corrective and preventative actions are to be managed in accordance with Section 4.4 of the CEMP. Additionally non-compliances are to be managed in accordance with Section 4.4 of the CEMP and reported in accordance with Condition of Consent C11.</p>	<p>Project Managers were emailed a reminder notice via Aconex on the 17 May 2022. The notice covered the requirement that, non-conformances with the CEMP, and or CEMP subplans including corrective and preventative actions are to be managed in accordance with Section 4.4 of the CEMP. Additionally non-compliances are to be managed in accordance with Section 4.4 of the CEMP and reported in accordance with Condition of Consent C11. Aconex references –</p>



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			<p><b>Figure 1-3 of the Construction Environmental Management Plan (CEMP). Further, the non-compliance was not reported within the timeframe specified by C11.</b></p> <p><b>In addition to the above:</b></p> <ul style="list-style-type: none"> <li><b>Section 4.2.2 of the CEMP requires weekly environmental inspections to be completed. Richard Crookes Construction did not undertake inspections on a weekly basis between 24/11/21 and 12/01/22.</b></li> <li><b>Section 8.2 of the CSWMP requires all water quality data, including dates of rainfall, dates of testing, testing results and dates of water release, must be kept in an on-site register. The Richard Crookes Construction water discharge file / register does not present the results for each discharge.</b></li> <li><b>Section 7.10 of the CASSMP requires daily inspections of stockpiles for visual signs of seepage impacted by ASS</b></li> </ul>				<p>ASPENV-GCOR-000099</p> <p>ASPENV-GCOR-000049</p> <p>ASPENV-GCOR-000117</p> <p>ASPENV-GCOR-000246</p>



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			<p><b>including milky waters, iron staining and sulfur odour. Inspections are not documented as occurring daily, however the stockpiles of PASS/ASS are placed in an area fully contained so seepage risk is controlled. A small amount of localized odour was observed on site (not off site) and there does not appear to be documented odour inspections occurring. The Auditor is not aware of any odour complaints having been raised.</b></p>				
IA2_1 5	C1 4	Non-compliance	<p>Requirement: <i>Compliance Reports of the project must be carried out in accordance with the Compliance Reporting Post Approval Requirements (Department 2018).</i></p> <p><b>Non-compliance: The Compliance Monitoring and Reporting Program, and the Department’s Compliance Reporting Post Approval Requirements, identifies construction compliance reports to be prepared at intervals of 6 months from the date of commencement of construction.</b></p>	Finalise Construction Compliance Report 2.	As soon as possible.	Submit Construction Compliance Report 2 to the Department of Planning and Environment Portal.	Report submitted to the DPE Portal on the 9 May 2022. Post approval document receipt reference – SSD-7709-PA-139.



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			<p><b>Construction Compliance Report 1 was finalised on 21/07/21. Construction Compliance Report 2 was therefore due to be finalised by 21/01/22. Construction Compliance Report 2 is still being prepared.</b></p> <p><b>In response to this finding in the draft Audit Report, the auditees stated that they do not consider this to be a non-compliance on the basis that ‘CCR’ is being prepared and there is no timeframe on submission in the Consent, the Departments Compliance Reporting Post Approval Requirements (2018) or the MPW Stage 2 Compliance Monitoring and Reporting Program. The 6-month timeframe relates to the period of reporting. CCR1 Covered December 2020 to May 2021 and CCR2 will cover June 2021 to November 2021. Submission of report has been held up due to a DPE request to include additional information not previously required to be included in the CCR.’</b></p> <p><b>The Auditor disagrees with the auditees position. The second</b></p>				



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			<p>paragraph of Section 2.1 of the Compliance Reporting Post Approval Requirements (2018) states that the timeframes and frequencies relate to submission of the Compliance Reports. Further there was no evidence provided to show that the Department had requested further information to be included in report (or provided an extension to allow this to occur).</p>				