

21 February 2025

Nick Ballard

Team Leader Compliance – Far North Region

Department of Planning, Housing and Infrastructure

Level 1, 135 Murwillumbah Street

Murwillumbah NSW 2484

Email: nick.ballard@dpie.nsw.gov.au

CSSI 7474 Narrabri to North Star, Phase 1 (N2NS SP1), Ministers Condition of Approval A39 – Operational Independent Audit No.1 – Submission and Response to findings.

Dear Nick,

I refer to the Ministers Conditions of Approval (MCoA's) issued for the Critical State Significant Infrastructure (CSSI) Project No 7474 Narrabri to North Star, Phase 1 on 13 August 2020, and specifically the requirement to submit Independent Audit Reports and the Proponents response to the audit findings to the Planning Secretary within 2 months of undertaking the audit in accordance with MCoA A39.

Following the first Operational Independent Environmental Audit site inspection on 12 November 2024, the first Operational Independent Environmental Audit report and ARTC's Response to Audit Findings were submitted by ARTC on the NSW Major Projects Portal on 20 December 2024. On 22 January 2025 Department Planning, Housing and Infrastructure (DPHI) issued ARTC a Request for Information (RFI) SSI-7474-PA-285 / RFI-79433978.

In accordance with RFI 79433978 / SSI-7474, ARTC are pleased to provide an updated Independent Audit Report which addresses this RFI along with an updated Response to Audit Findings within Attachment 1 below.

If you wish to discuss any of the above further, have any comments or concerns, please contact myself on below details.

Yours sincerely,



Stuart Ross

Senior Manager Environment Systems

sross@artc.com.au

ARTC

0438 272 840

Attachment 1 – ARTC response to audit findings

Table 1 – Identified Non-Compliance findings and ARTC proposed action and status

NC Reference	Condition Reference	Requirement	Audit Finding	Recommended Action	ARTC Action / Status
IA01 – NC01	A28(j)	CoA A28 (j) states <i>“For the duration of the works until 12 months after the completion of construction, the approved ER must: (j) prepare and submit to the Planning Secretary and other relevant regulatory agencies, for information, an Environmental Representative Monthly Report providing the information set out in the Environmental Representative Protocol under the heading “Environmental Representative Monthly Reports.” The Environmental Representative Monthly Report must be submitted within seven (7) calendar days following the end of each month for the duration of the ER’s engagement for the CSSI.”</i>	Self-reported Noncompliance The ER monthly report for September 2024 was submitted on 9 October 2024 rather than on the 7 October 2024, with no extension sought from the Planning Secretary. This noncompliance was also reported in the ER Monthly Report for October 2024 (Section 3.5), where the ER indicated that <i>“as the 7 October was a Monday public holiday in NSW this only allowed only 4 working days to prepare the report, which would then have to have been submitted on the previous Friday, the 4 October”</i> .	Recommend that the ER seek an extension under Condition A6 of submission of future ER monthly reports when a minimum of 5 business days are not available following the end of each month to prepare the respective ER monthly report.	ARTC and Inland Rail (IRPL) will request that the current and any future ER seeks an extension to the monthly report timeframe where there are less than 5 business days available to prepare the report or there is any other potential delay. ARTC will inform the existing approved ER of this process by 17 January 2025.
IA01 – NC02	A28 (d) i)	CoA A28 (d) i) states <i>“For the duration of the works until 12 months after the completion of construction, the approved ER must: (d) review documents identified in Conditions A11, A17, A31, C1, 0 and C13, and any other documents that are identified by the Secretary, to ensure they are consistent with requirements in or under this approval and if so:</i>	The Narrabri to North Star Phase 1: Operational Staging Report, October 2023 was submitted to the Planning Secretary for approval in accordance with CoA A11, however, evidence of ER endorsement of the document was not available to the Auditor.	Recommend that Inland Rail / ARTC seek ER endorsement of any future Staging Reports prepared under Condition A11.	Consistent with the requirements of condition A28 (d) j), ARTC or IRPL will ensure the relevant ER endorses any future Staging Report update prior to submission to the Planning Secretary for approval under condition A15.

		<i>(i) make a written statement to this effect before submission of such documents to the Planning Secretary (if those documents are required to be approved by the Planning Secretary)."</i>			
IA01 – NC03	A36	CoA A36 states <i>"Independent Audits of the development must be conducted and carried out in accordance with the Independent Audit Post Approval Requirements (2020)"</i>	Self-reported Non compliance. The initial Operational Independent Audit (this Audit) was not conducted within 26 weeks of commencement of operation as required by the Independent Audit Post Approval Requirements (2020). The DPHI Warning Letter dated 5 September 2024 confirms a breach occurred.	Auditors note this Condition has been addressed with the conduct of this first operational independent audit. Recommend that next operational audit is carried out as per this Condition and IAPARs.	ARTC has implemented measures to ensure that the next Independent Audit will comply with the requirements of the IAPARs as per condition A36 and related conditions of SSI 7474 including incorporating within our obligations tracking system and regular reviews of upcoming conditions. These actions were undertaken following the prior self-report of the non-compliance and before this audit.
IA01 – NC04	CoA E32(c) ii)	CoA E32(c) ii) states <i>"For the first 15 years of operation, the Proponent must prepare Flood Review Report(s) within three months after the first defined flood event for any of the following flood magnitude ranges that occur – the 1-5% AEP, 5-10% AEP and 10-20% AEP events. The Flood Review Report(s) must be prepared by a suitably qualified and experienced hydrologist(s) and include:</i> • <i>(c) where the observed extent and level of flooding or other flooding or erosion impacts exceed those predicted due to the CSSI with</i>	Identification of specific rectification measures that would be implemented to reduce future adverse impacts of flooding from similar events related to the CSSI works, including the timing and responsibilities for implementation were not provided in the Flood Review Report for the April 2024 flood event. The Flood Review Report simply states that rectification measures would be determined in consultation with the landowner in accordance with the procedures within the Communications	Given the inherent complexities associated with the investigative aspects of the Flood Review Report and formulation of feasible and reasonable rectification measures in consultation with the affected third parties, it is recommended that for future Flood Review Reports the Project seek an extension under Condition A6 for submission in a staged manner, with identification of specific	ARTC and IRPL do not agree that this should be considered a non-compliance with condition E32. The letter from DPHI to ARTC dated 19/09/2024 states that the report generally satisfies the requirements of the relevant condition (SSI-7474-PA-263). Noting this letter also requests ARTC to provide more detailed information as outlined in the audit finding for future reports. ARTC does agree with the recommended action and will prepare

	<p><i>the consequent effect of adversely impacting on property(ies), structures, infrastructure or the environment, and/or exceed the requirements specified in Conditions E27 and E28:</i></p> <ul style="list-style-type: none"> • <i>i) determine if the exceedance is attributable to the CSSI, and</i> • <i>ii) where the cause is attributable to the CSSI, identification of the rectification measures that would be implemented to reduce future adverse impacts of flooding from similar events related to the CSSI works, including the timing and responsibilities for implementation.</i> • <i>A copy of the Flood Review Report(s) must be submitted for information to the Secretary and EES and relevant council(s) within three (3) months of finalising the report.</i> • <i>Any rectification measures identified within the Flood Review Report(s) must be developed in consultation with the affected third parties (e.g. land and property owners, infrastructure owners, EES, the relevant council(s), state and local government agencies, etc) and implemented within the timeframes specified in the Flood Review Report(s) or as agreed with the affected parties.</i> 	<p>and Engagement Plan for Narrabri to North Star Phase 1 Interim Operations (Inland Rail, December 2023), which consists of a general framework only.</p>	<p>rectification measures and responsibilities for implementation addressed in an addendum to the report submitted within a timeframe agreed with the Secretary for the particular event.</p>	<p>and submit to the Department a proposed staged submission process for subsequent Flood Review Reports required under condition E32. This process will account for known and demonstrated difficulties in complying with the default timeframes where flooding impacts multiple properties and will result in beneficial outcomes for the community by allowing appropriate time for planning, design and consultation prior to report finalisation and submission. This process will be supplied to the Department for consideration under condition A6 by 31 March 2025 or before the due date of the next Flood Review Report, whichever comes first.</p>
--	---	--	---	--

Table 2 – Opportunities for Improvement / Observations and ARTC proposed action and status

OFI Reference	Condition Reference	Requirement	Audit Finding	Recommended Action	ARTC Action / Status
IA01 – OFI01	CoA D2	<p>CoA D2 states “An OEMP is not required for the CSSI if the Proponent has an Environmental Management System (EMS) or equivalent as agreed with the Secretary, and can demonstrate, to the written satisfaction of the Secretary, that through the EMS:</p> <p>(a) the performance outcomes, commitments and mitigation measures, made and identified in the documents listed in Condition A1, and terms of this approval can be achieved;</p> <p>(b) issues identified through ongoing risk analysis can be managed; and</p> <p>(c) procedures are in place for rectifying any non-compliance with this approval identified during compliance auditing, incident management or any other time during operation.”</p>	<p>While the correspondence provided appear to provide evidence of ongoing acknowledgment by the Secretary of the OEMF without requirement for alteration and, therefore, appears to provide evidence of tacit written satisfaction of the Secretary, it does not ultimately provide evidence “of the written satisfaction of the Secretary, that through the” OEMF (a) (b) and (c) of CoA D2 are met.</p>	<p>Recommended that ARTC seek the written satisfaction of the Secretary that (a) (b) and (c) of CoA D2 are met through the OEMF as required by the Condition.</p>	<p>On 18 December 2024 ARTC submitted a formal request (SSI-7474-PA-283) via the Major Projects portal to the secretary to confirm in writing that ARTC’s Operational Environmental Management Framework is accepted, and the Secretary is satisfied that it meets the requirements of condition D2.</p>
IA01 – OFI02	CoA E35 (g)	<p>CoA E35 (g) states “The CSSI must be designed, constructed and operated so as to:</p> <p>(g) ensure all discharges from new or modified surface drainage (including cess drains) adjacent to the new and upgraded track are released at a controlled rate to prevent scour;”</p>	<p>While various measures have been implemented in an attempt to ensure all discharges from new or modified surface drainage adjacent to the new and upgraded track are released at a controlled rate, significant scour was observed at chainage 745.879 km where surface water drains towards a culvert. The scour appears to be due to the poor design of local erosion and sediment control measures and has resulted in significant damage to a track access road rendering it unusable/inaccessible.</p>	<p>Recommended that an appropriate design be developed for the area by a suitably qualified designer and implemented.</p>	<p>This is scheduled to be completed as part of the additional construction activity required to complete N2NS SP1.</p>

IA01 – OFI03	CoA E60 (b)	<ul style="list-style-type: none"> • CoA E60 (b) states <i>“Permanent spoil mounds are to be located: (b) at least 50 metres from any watercourse or culvert or where the rail formation is predicted to be overtopped during a flood event;”</i> 	<p>Small (less than 1 m high) mound located adjacent culvert at chainage 745.430 as outlined in the 4 to 6 April flood event Flood Report and observed during the Audit inspection. This small mound is partially blocking the predominant north to south flow path along the western side of the rail corridor and diverting more flow locally through culvert, causing soil erosion across the adjacent cropping paddock during the April 2024 event.</p>	<p>It is recommended that ARTC remove the small mound as a matter of priority to prevent further soil erosion within the adjacent cropping paddock.</p>	<p>ARTC and IRPL do not agree that the mound identified should be considered a permanent spoil mound as per this condition. However, the drainage at this location is scheduled to be regraded as part of the additional construction activity required to complete N2NS SP1.</p>
IA01 – OFI04	CoA E80 (g)	<p>CoA E80 states <i>“All reasonably practicable erosion and sediment controls must be installed and appropriately maintained to minimise any water pollution. When implementing such controls, any relevant guidance in the Managing Urban Stormwater series must be considered.”</i></p>	<p>While various erosion and sediment controls were attempted to minimise any water pollution at the particular location, significant scour was observed at chainage 745.879 km. where surface water drains towards a culvert. The scour appears to be due to the poor design of local erosion and sediment control measures and has resulted in significant damage to a track access road, rendering it unusable/inaccessible.</p>	<p>It is recommended that erosion and sediment controls in accordance with guidance in the Managing Urban Stormwater series be designed for the area by a suitably qualified designer and implemented.</p>	<p>ARTC and IRPL recognise that this location requires additional erosion and sediment control in accordance with condition E80 of SSI 7474 and the <i>Managing Urban Stormwater</i> series. This is scheduled to be completed as part of the additional construction activity required to complete N2NS SP1.</p>

Table 3 - Key Issues and areas of focus raised by DPHI

Key Issues and Areas of Focus	Assessment and Commentary	ARTC Response
<p>a) <i>The status of flood mitigation measures following the April 2024 weather event in the Croppa Creek region of the Project.</i></p>	<p>Based on audit interviews and the evidence provided by Inland Rail it is understood that the status of rectification works and improvements to measures following the April 2024 weather event in the Croppa Creek region of the Project is as follows:</p> <ul style="list-style-type: none"> • Morton Property – Redesign of drainage / flood mitigation measures is now complete. Agreement reached with property owner for associated works to be completed by the property owner under a compensation release arrangement. Formal agreement yet to be drawn-up and executed. No timing provided for formal agreement execution. According to consultation manager, last contact was on 22/11/24, confirming a meeting on 29 November 2024 “to go through the design and discuss the process of the deed and release in further detail.” • Public School and Principal’s Residence – Meeting held with Homes NSW - Teacher Housing (Homes NSW) on 25/10/24. Based on minutes of meeting, Inland Rail discussed the issues around the incorrect predictions in initial modelling, due to deficient anecdotal data, resulting in compliant impacts from raising Buckie Road not being predicted – including impacts to the garage that require attention. Homes NSW and inland rail reached in principle agreement to start process of exploring options to raise garage floor above the 1 – 100 year flood event. A program for the resolution process to completion of rectification was not available at the time of this audit. • Pearlman Property – It is unclear whether there has been a design prepared for rectification works, however, Consultation Manager records indicate that Inland Rail have requested and received a cost estimate from the property owner to conduct rectification works the property owner deems required, under a compensation release arrangement. A recent Consultation Manager record (14/10/24) indicates the property owner is waiting on a decision from Inland Rail on the next steps. A program for the decision making / resolution process was not available at the time of this audit. 	<p>Regarding the Morton Property - It should be noted that after investigation it was determined that the design performed as intended and was not non-compliant. The agreement being negotiated with the landowner is for a compensation and release payment for the landowner to extend the height of the bund that is on the landowners property.</p> <p>Regarding the Public School and Principal’s Residence - A program could not be developed and provided at the time of the audit as IRPL are awaiting a response from Homes NSW. As per the meeting minutes provided, IRPL have committed to complete rectification once determined by Homes NSW.</p> <p>Regarding the Pearlman Property - IRPL's design team have been engaged to complete the required re-designs. As a portion of this work needs to be completed on the landowners property, outside the rail corridor there is further negotiation and agreement required. This process is ongoing and IRPL have committed to complete the required rectification work.</p>