



FDC Constructions pty ltd

Independent Audit – Proponent review and response

SSD- 47498458 – The Cutaway Cultural Facility Barangaroo
14th January 2025

Document No: FDC-AU-IR-OA-00-900-R2

Declaration

This Proponent Review and Response has been prepared for Infrastructure New South Wales in response to an Independent Audit, including the recommendations and opportunities for improvement identified in the Audit Report. The response to each of the audit findings is included as outlined in the *Independent Audit Post Approval Requirements*.

Declaration	
Author:	Hilton Palmer
Position:	Project Manager (FDC Constructions Pty Ltd)
Company:	FDC Construction 44 120 295 034
Date:	19 February 2025

Document Management, Tracking and Revision History

Version	Date	Author	Description	Reviewed by	Approved by
Final	14 th February 2025	Hilton Palmer	Independent Audit – Proponent review and response	Peter Colak	Peter Colak
Rev 2 Update	19 th February 2025	Hilton Palmer	Update to Condition A2 SSDA conditions, Updated document number	Peter Colak	Peter Colak

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Introduction

Project Application Number and Project Name

SSD-47498458 – The Cutaway Cultural Facility Barangaroo

Site Address

1 Merriman street Millers point NSW

Project Contact Details

Client	Infrastructure New South Wales
Client Representative	Kate Holmes
Contractor	FDC Constructions Pty Ltd

Independent Auditor

NGH Pty Ltd

Independent Audit Date

14th January 2025

Audit response.

The Independent Audit Report prepared by NGH Pty Ltd dated 13/2/2025 has been reviewed and the response to the audit findings are listed in the below table. In relation to non-compliances, the response sets out the action and the completion timing.

In relation to observations and opportunities identified for improvement, the actions are also set out or the reason for not implementing any measures in response.

Summary of agency notices, orders, penalty notices or prosecutions

There have been no agency notices, orders, penalty notices or prosecutions to date.

Independent Audit Non – Compliances and Actions

FDC Construction have reviewed the below Non compliances in consultation with the require Stakeholders, Authorities, Residents, Subcontractors and Consultants for the Cutaway project.

The list below outlines how FDC will or have close out each of the non-compliance.

Condition part	Compliances	Non-compliances	Not triggered
A (30)	15	4	11
B (77)	67	2	8
C (50)	30	2	18
D (32)	-	-	32
E (66)	-	-	66

Condition of Consent	Requirement (exact wording)	Evidence Collected	Independent Audit Findings and Recommendations	Compliance Status	Unique Identification on Noncompliance	Proponents Response to Audit Findings
A2	The development must only be carried out: (a) in compliance with the conditions of this consent; (b) in accordance with all written directions of the Planning Secretary; (c) in accordance with the EIS, RtS and any RRFI; (a)(d) in accordance with the approved plans in the table below (except where amended by the conditions of consent)	EIS – Cutaway Cultural facility Barangaroo	The audit found compliance with the majority of conditions. However, the audit found eight non-compliances inclusive of this condition, as detailed below.	Non-compliant	NC – 01-Audit 2	See below non-compliance responses
A18	The Department must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The Certifier must also notify the Department in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.	Site interviews Post Approval Form, no date	Audit 1 raised 8 non-compliances. These were notified to the Planning Secretary on 12 December 2024, which is not within 7 days after they have been identified.	Non-compliant	NC – 02-Audit 2	Non-conformance has been addressed with the team, and a procedure is now in place with a responsibility matrix to ensure the condition is resolved within the specified timeframe

A19	<p>The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the noncompliance (if known) and what actions have been, or will be, undertaken to address the non- compliance.</p>	<p>Site interviews</p>	<p>The Audit found that the Planning secretary was notified of the non-compliances from the first audit but that this notification did not include the reasons for the non-compliance or the actions taken or to be taken to address the non-compliance.</p> <p>The Applicant's Response was in draft at the time of the second audit, which contains the non-compliances and details of how they have been addressed.</p> <p>The Auditee should submit a notification to the Planning Secretary detailing the actions against each non-compliance</p>	<p>Non-compliant</p>	<p>NC – 03 audit 2</p>	<p>Upon being notified of the non-conformance, FDC promptly issued the audit report to the department on January 13, 2025. The non-conformance was closed out on January 16, with confirmation of receipt by the department Upon being notified of the non-conformance,</p>
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A22	<p>Within three months of:</p> <ul style="list-style-type: none"> - (a) The submission of a compliance report under this consent; - (b) the submission of an incident report under this consent - (c) the submission of an Independent Audit under this consent - (d) the approval of any modification of the conditions of this consent (excluding modifications made under section 4.55(1) of the EP&A Act); or - (e) the issue of a direction of the Planning Secretary under this consent which requires a review - the strategies, plans and programs required under this consent must be reviewed, and the Department must be notified in writing that a review is being carried out 	Site Interviews	<p>Audit 1 date was 16 July 2024. The audit found that the Planning Secretary was not notified of revisions of plans or strategies, however, the second audit is within three months of submission of the last audit.</p> <p>Mod-1 determined 16 September 2024. The audit found that the Planning Secretary was not notified of revisions of plans or strategies.</p> <p>No directions issued.</p>	Non-compliant	NC – 04 - Audit 2	<p>After being notified of the non-conformance, FDC promptly issued the audit report to the department on January 13, 2025. The non-conformance was resolved on January 16, with the department confirming receipt.</p>
B3	<p>If the construction or operation of the development is to be staged, the Department must be notified in writing at least 48 hours before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.</p>	<p>FDC letter to INSW Re CDVC2, dated 9/12/2024</p> <p>DPHI Submission Receipt for notification of CDVC2, dated 10/12/2024</p> <p>FDC letter to INSW re CDVC3, dated 9/12/2024</p> <p>DPHI Submission Receipt for notification of CDVC3, dated 10/12/2024</p>	<p>There are three stages for the Project. CDVC2 commenced on 12 August 2024 and CDVC3 on 21 November 2024. The Department was not informed of the commencement of CDVC2 or CDVC3 at least 48 hours in advance.</p> <p>The audit found that the Department was notified of the commencement of each stage subsequently, on 10 December 2024.</p>	Non-compliant	NC – 05-Audit 2	<p>FDC confirms that the Notification of works was issued to the department on 10TH of December</p>

B4	<p>At least 48 hours before the commencement of any works and until the completion of all works under this consent, or such other time as agreed by the Planning Secretary, the Applicant must:</p> <ol style="list-style-type: none"> make the following information and documents (as they are obtained or approved) publicly available on its website; the documents referred to in Condition A2 of this consent; all current statutory approvals for the development; regular reporting on the environmental performance of the development in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent; a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs; a summary of the current stage and progress of the development; contact details to enquire about the development or to make a complaint; a complaints register, updated monthly; audit reports prepared as part of any independent environmental audit of the development and the Applicant's response to the recommendations in any audit report; any other matter required by the Planning Secretary; and keep such information up to date, to the satisfaction of the Planning Secretary. address any other matter relating to compliance with the terms of this consent or requested by the Planning Secretary 	<p>https://www.barangaroo.co.m/past-present-future/barangaroo-reserve/the-cutaway-</p> <p>Site interviews</p>	<ol style="list-style-type: none"> Managed by iNSW. Planning approval documents referred to in Condition A2 are linked to the Planning Portal on the Project website at the time of Audit 2. All Crown Certificates are available on the Project website - Crown Certificate for Stage 1, Stage 2 and Stage 3. 11 approved strategies, plans and programs required under the CoA are available on the Project website. There are currently monthly noise and vibration monitoring reports for August, September, October, November and December 2024 on the Project website. There are project updates on the Project Website, which contain information on the current stage and progress of the development. These include updates for 26 April 2024, 28 August 2024 and 21 November 2024. There is information provided, an email address and an INSW reception contact number, to contact with any questions regarding construction. The complaints register is available with complaints listed to November 2024. The Audit 1 report is available on the Project website. The Applicant's Response is not available on the website. There have been no other matters requested by the Planning Secretary Documentation for the audit period was up to date where it was provided and not raised as a non-compliance 	Non-compliant	NC – 06 - Audit 2	Reporting on Environmental performance have been uploaded and monthly reporting has been undertaken to comply with this non conformance

C48	<p>In accordance with the specific requirements in the Independent Audit Post Approval Requirements, the Applicant must:</p> <ol style="list-style-type: none"> review and respond to each Independent Audit Report prepared under this consent; submit the response to the Planning Secretary; and make each Independent Audit Report, and response to it, publicly available 60 days after submission to the Planning Secretary. 	<p>A - Independent Audit 001 – Review and Response, FDC, 7 January 2025</p> <p>C - Independent Environmental Audit 1 Report, NGH Pty Ltd, dated 2/12/2024 Independent Audit 001 – Review and Response, FDC, 7 January 2025</p>	<p>A - The audit found that the Applicant's Response has been prepared.</p> <p>B - At the time of the second audit, the Applicant's Response had not been submitted to the Planning Secretary.</p> <p>C - The Independent Audit Report and Applicant's Response is available on the Project website under Strategies, plans and programs heading. The Applicant's Response is not available on the website.</p> <p>The IEA 1 Report was available on the Project website on 9/01/2025, which is within 60 days of the final audit report date, 2/12/2024.</p>	Non-compliant	NC – 07 – Audit 2	After being notified of the non-conformance, FDC promptly issued the audit report to the department on January 13, 2025. The non-conformance was resolved on January 16, with the department confirming receipt.
C49	<p>Independent Audit Reports and the Applicant's response to audit findings must be submitted to the Planning Secretary within 2 months of undertaking the independent audit site inspection as outlined in the Independent Audit Post Approvals Requirements</p> <p>(2020) unless otherwise agreed by the Planning Secretary.</p>	Site interviews	<p>The auditor notes that the first Independent Audit, nor the Applicant's Response, were not submitted to the Planning Secretary within 2 months of the date of the site audit, 16 July 2024.</p>	Non-compliant	NC-08-Audit 2	After being notified of the non-conformance, FDC promptly issued the audit report to the department on January 13, 2025. The non-conformance was resolved on January 16, with the department confirming receipt.

Audit findings Opportunities for Improvements

Condition of Consent	Requirement (exact wording)	Opportunities for Improvements	Unique Identification on Noncompliance	OFI status	Response to Opportunities for Improvements.
B 34 Part a	Prior to the commencement of construction, the Applicant must update the Green Travel Plan (GTP) in consultation TfNSW. The GTP must consider: - Bicycle Parking and end of trip facilities for use by staff	An opportunity for improvement - consider including whether bike parking is available or not and if so, how many bike parking spots are provided and their location.	OFI -001- Audit 1	Under review	At this stage the GPT and TAG plan will be developed for OC deliverables FDC has issued this comment to TTW traffic engineers to be reviewed and comments issued during this process over the next 3 months Update Audit 2 – GPT meetings are underway and consultation is being undertaken with stakeholder over the next 2 months
B 34 Part b	Parking - Reduce car parking usage by encouraging use of sustainable modes such as public transport; consult with the relevant owner and provider of services that are likely to be affected by the development to make suitable arrangements for access to, diversion, protection and support of the affected infrastructure.	An opportunity for improvement - consider identifying the list of strategies and providing a link to relevant sections.	OFI -002- Audit 1	Under review	At this stage the GPT and TAG plan will be developed for oc deliverables FDC has issued this comment to TTW traffic engineers to be reviewed and comments issued during this process over the next 3 months Update Audit 2 – GPT meetings are underway and consultation is being undertaken with stakeholder over the next 2 months
C4	Construction Environmental Management Plan and all appendices required by Condition B55	Opportunity for improvement - ensure flammable liquids are stored in the flammable liquid cabinet.	OFI -001- Audit 2	Completed	Flammable liquids container are located within the designated location and site wide tool box was completed to ensure the site is aware of the process to manage the flammable liquids.
		Opportunity for improvement - should a threatened species be identified in the site, the Unexpected Species Find Protocol (Appendix C of the FFMP) is followed and the Project ecologist engaged following stop work and notification to HSEQ.	OFI -002- Audit 2	Under review	FDC are waiting feed back on this OFI
		Opportunity for improvement - consider updating the AQMP Table 6 to identify when (occurrence with stage of works) air	OFI -003- Audit 2	Completed	Updated within Management plans 14/2/2025 Plans to be uploaded to Website within 2 weeks of the 14/2/2025

		quality monitoring will occur. As Table 6 currently reads, PM2.5 and PM10 air quality monitoring should be continuous and a monthly report produced. The Auditee has noted this OFI from Audit 1 with all management plans to be revised in February 2025. This OFI remains open.			
		Opportunity for improvement - Geofabric, to prevent sediment / dust entering the drainage system, should extend along the full length of the drain	OFI -004 - Audit 2	Completed	Full site Audit has been completed and additional sit management has been completed
B55	<p>CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN</p> <p>Prior to the commencement of any works, the Preliminary Construction Environmental Management Plan (CEMP) prepared by EY and dated 22 December 2022 must be updated, submitted to and approved by the Certifier. The CEMP must address, but not be limited to, the following matters where relevant:</p> <p>(a) Details of:</p> <p>(i) hours of work</p> <p>(ii) 24 hour contact details of the site manager</p> <p>(iii) community consultation and complaint handling procedure</p> <p>(iv) traffic management</p> <p>(v) noise and vibration management, prepared by a suitably qualified person</p> <p>(vi) management of dust and odour to protect the amenity of the neighbourhood</p> <p>(vii) stormwater control and discharge, including measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site</p>	Opportunity for improvement - the auditee should consider including the 24-hour Project phone number in the CEMP and the CCS. The Auditee has noted this OFI from Audit 1 with all management plans to be revised in February 2025. This OFI remains open.	OFI -005 - Audit 2	Completed	Updated within Management plans 14/2/2025 Plans to be uploaded to Website within 2 weeks of the 14/2/2025
		Opportunity for improvement - the auditee should consider using consistent terminology to describe the plans. For example, in the CEMP the CPTMP is referred to as the CTMP. The Auditee has noted this OFI from Audit 1 with all management plans to be revised in February 2025. This OFI remains open.	OFI -006 - Audit 2	Completed	Updated within Management plans 14/2/2025 Plans to be uploaded to Website within 2 weeks of the 14/2/2025
		Opportunity for improvement - the Hazardous Materials Management Plan and the CEMP should be updated to	OFI -007 - Audit 2	Completed	Updated within Management plans 14/2/2025 Plans to be uploaded to Website within 2 weeks of the 14/2/2025

<p>(viii) contamination management, including any unexpected contamination finds protocol</p> <p>(ix) waste management</p> <p>(x) external lighting in compliance with applicable Australian Standards</p> <p>(xi) flora and fauna management.</p> <p>(b) Construction Traffic and Pedestrian Management Sub-Plan</p> <p>(c) Construction Noise and Vibration Management Sub-Plan</p> <p>(d) Air Quality Management Sub-Plan</p> <p>(e) Construction Waste Management Sub-Plan</p> <p>(f) Construction Soil and Water Management Sub-Plan</p> <p>(g) an unexpected finds protocol for contamination and associated communications procedure</p> <p>(h) an unexpected finds protocol for Aboriginal and non-Aboriginal heritage and associated communications procedure</p> <p>(i) waste classification (for materials to be removed) and validation (for materials to remain) to be undertaken to confirm the contamination status in these areas of the site.</p>	reflect the requirements of Conditions C42 and C44 - Planning Secretary must be notified of any Unexpected Finds of contamination. The Auditee has noted this OFI from Audit 1 with all management plans to be revised in February 2025. This OFI remains open.			
	Opportunity for improvement - consider including notification to the Planning Secretary for unexpected contamination finds. The Auditee has noted this OFI from Audit 1 with all management plans to be revised in February 2025. This OFI remains open.	OFI -008 - Audit 2	Completed	Updated within Management plans 14/2/2025 Plans to be uploaded to Website within 2 weeks of the 14/2/2025
	Opportunity for improvement - the auditee should consider moving the heritage unexpected finds into the CEMP and providing a communications procedure as it does not belong in the Hazardous Materials Management Plan. The Auditee has noted this OFI from Audit 1 with all management plans to be revised in February 2025. This OFI remains open.	OFI -009 - Audit 2	Completed	Updated within Management plans 14/2/2025 Plans to be uploaded to Website within 2 weeks of the 14/2/2025
	Opportunity for improvement - the audit notes that Validation has been added to the CWMP. However, it should explicitly detail that the validation is of the remaining material (to ensure no contamination remains in situ) and that waste classification is relevant to excavated material.	OFI -010 - Audit 2	Completed	Updated within Management plans 14/2/2025 Plans to be uploaded to Website within 2 weeks of the 14/2/2025

B34	<p>Prior to the commencement of construction, the Applicant must update the Green Travel Plan (GTP) in consultation TfNSW. The GTP must consider:</p> <p>(a) Bicycle Parking and end of trip facilities for use by staff</p> <p>(b) Parking - Reduce car parking usage by encouraging use of sustainable modes such as public transport;</p> <p>(c) Initiatives to encourage more staff and visitors to participate in sustainable transport options;</p> <p>(d) A Travel Access Guide (TAG) - TAG as an appendix for staff, performers and visitors who will be using the proposed development.</p>	<p>An opportunity for improvement - consider including whether bike parking is available or not and if so, how many bike parking spots are provided and their location. At this stage the Green Travel Plan and Transport Access Guide plan will be further developed for Occupation Certificate deliverables. FDC has issued this comment to TTW Traffic Engineers to be reviewed. This OFI remains open.</p>		Under Review	GPT meetings are underway and consultation is being undertaken with stakeholder over the next 2 months
		<p>An opportunity for improvement - consider identifying the list of strategies and providing a link to relevant sections. At this stage the Green Travel Plan and Transport Access Guide plan will be further developed for Occupation Certificate deliverables. FDC has issued this comment to TTW Traffic Engineers to be reviewed. This OFI remains open.</p>		Under review	GPT meetings are underway and consultation is being undertaken with stakeholder over the next 2 months
B4	<p>ACCESS TO INFORMATION</p> <p>At least 48 hours before the commencement of any works and until the completion of all works under this consent, or such other time as agreed by the Planning Secretary, the Applicant must:</p> <p>(a) make the following information and documents (as they are obtained or approved) publicly available on its website:</p> <p>(i) the documents referred to in Condition A2 of this consent;</p> <p>(ii) all current statutory approvals for the development;</p> <p>(iii) all approved strategies, plans and programs required under the conditions of this consent;</p> <p>(iv) regular reporting on the environmental</p>	<p>Opportunity for improvement - consider adding a new heading and the links to planning documentation in the same location as all the other document links to make it easier to find.</p>		Not Proceeding	David Simpfordor from Ineco has reviewed the current website https://www.barangaroo.com/past-present-future/barangaroo-reserve/the-cutaway-project and find that the navigation of the site and information available meets industry expectations
		<p>Opportunity for improvement - update the complaints register to show complete close out of complaints.</p>		Completed	<p>(a) David Simpender from Ineco has responded - the "Response to complaint or enquiry" column has been updated to "Response to complaint or enquiry and close out details"</p> <p>(b) For clarity, an additional column has been added headed "Open/Closed". All complaints and enquiries have been closed and "Closed" has been added in this new column for each entry. However, the auditor has requested a "belt and braces" approach as close out details are</p>

<p>performance of the development in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent;</p> <p>(v) a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;</p> <p>(vi) a summary of the current stage and progress of the development;</p> <p>(vii) contact details to enquire about the development or to make a complaint;</p> <p>(viii) a complaints register, updated monthly;</p> <p>(ix) audit reports prepared as part of any independent environmental audit of the development and the Applicant's response to the recommendations in any audit report;</p>				<p>always included in the "Response to complaint or enquiry" column and a time & date of closure is in the "Date & time closed" column.</p> <p>(c) Updated complaints register attached</p> <p>(d) Please also note that the complaints register is a tiered matter</p> <p>a. The public facing document on the web site is a subset of the attached report which is shared internally between FDC and INSW (only the unshaded columns are made public)</p> <p>b. The attached complaints register is in itself a summary report of information contained within INSW's instance of Consultation Manager</p>
<p>(x) any other matter required by the Planning Secretary; and</p> <p>(b) keep such information up to date, to the satisfaction of the Planning Secretary.</p> <p>(c) address any other matter relating to compliance with the terms of this consent or requested by the Planning Secretary.</p>	<p>Opportunity for improvement - consider adding a new heading and the links to audit reports and Applicant's response documentation in the same location as all the other document links to make it easier to find.</p>		<p>Not Proceeding</p>	<p>David Simpfendorer from Ineco has reviewed the current website https://www.barangaroo.com/past-present-future/barangaroo-reserve/the-cutaway-project and find that the navigation of the site and information available meets industry expectations</p>