

**Table 1: Non-Compliances**

Non-Compliances					
Condition Number	Compliance Requirement	Independent Audit Finding	Independent Audit Recommendation	Proponents Proposed Action / Response	Proposed Action Due Date
A4(f)	The Proponent must comply with all written requirements or directions of the Planning Secretary, in a timely manner, including in relation to: (f) the terms of this approval and compliance with the terms of this approval (including anything required to be done under this approval);	Refer details of non-compliance with Condition E27 of this approval.	As per Condition E27.	As below	As below
E27	Before commencement of any construction, a structural engineer must undertake condition surveys of all buildings, structures, utilities and the like that are identified in the Noise and Vibration CEMP Sub-Plan as being at risk of damage due to construction vibration. The results of the surveys must be documented in a Condition Survey Report for each item surveyed. Copies of Condition Survey Reports must be provided to the owners of the items surveyed, and no later than one month before the commencement of construction, or as otherwise instructed or agreed to by the utility operator.	<p>The surveys commenced on 24 Sept 2021 but only approximately 30% (25 completed survey reports) of the properties that were identified in the Noise and Vibration CEMP Sub-Plan as being at risk of damage due to construction vibration were able to be surveyed to date.</p> <p>An email from ARTC to DPIE dated 5 November 2021 highlighted the difficulties complying with the timing requirements of this condition and explained that the issue is largely due to the inability to access and approach residents in person during COVID-19 lockdown restrictions over previous months, and an understandable hesitancy from residents to allow the Contractor to enter their private homes, all of which is reflected in the low take up rate so far.</p> <p>It was noted that structural engineer's attempts and property owners' rejections of offers were recorded in FHC's Consultation Manager, however, these could not be accepted as evidence of compliance. Condition E27 does not include any provisions or exclusions for the properties that reject the surveys and only completed survey reports can be accepted as evidence of compliance</p>	It is recommended that FHC develop a simple form for the landowners to sign when they reject the offer or use photos with time and location stamp when at the property to document their attempts to carry out the surveys.	<p>ARTC supplied detailed information provided by Fulton Hogan to the Department's Compliance Team on 4 March 2022 in the document titled <i>Cabramatta Loop Project Residential Property Condition Surveys - CoA E27 Compliance DPIE Request for Information</i>.</p> <p>This information detailed the challenges faced by the construction team during efforts to engage with the local community during the COVID-19 pandemic lockdown period in the Fairfield City Council LGA and associated Ministerial Health Orders in relation to Construction and movement of project staff. An Engagement Plan was developed to achieve compliance with this requirement one month prior to formal construction commencement (1 November 2021), however matters related to the Pandemic prevented achievement of the established milestone.</p> <p>Fulton Hogan contest that the Consultation Manager database is the appropriate method of documenting residents responses (positive or negative). Fulton Hagan has adopted the recommendation to ensure photos have date, time and location stamped when taking photographs around properties or during consultation, dependent on a judgement made during consultation regarding any potential privacy matters.</p> <p>Significant effort has been made to encourage residents to allow condition surveys to take place well in advance of any vibratory works commencing and while it is extremely unlikely that the project could achieve compliance for "<u>all</u> buildings, structures etc", the project continues to door knock residents prior to commencing any vibratory works associated with enabling works (Broomfield Street stormwater replacement), providing additional opportunity for condition surveys to be performed and to increase the proportion of structure that have been assessed prior to potential impacts.</p>	<p>The recommendation to use photos with date, time and location stamp has been adopted.</p> <p>With regard to development of a simple form for verifying rejection, Fulton Hogan maintain that the Consultation Manager database is the appropriate method of documenting all forms of interaction with stakeholders, whether verbal, in writing, electronic or otherwise).</p> <p>Fulton Hogan propose no further action beyond implementation of the approved actions and mitigations measures contained in the: Community and Stakeholder Engagement Management Plan, Communication Strategy, Complaints Management System, and Construction Environmental Management Plan and Noise and Vibration Sub-Plan.</p>

**Table 2: Observations and Opportunities for Improvement**

Observations and Opportunities for Improvement				
Condition Number	Compliance Requirement	Independent audit observation / opportunity for improvement	Proponents proposed action or reason to not implement measures / changes	Proposed action due date
E41	If damage to roads occurs as a result of the construction of the CSSI, the Proponent must either (at the landowner's discretion): (a) compensate the relevant road authority for the damage so caused. The amount of compensation may be agreed with the relevant road authority, but compensation must be paid even if no agreement is reached; or (b) rectify the damage to restore the road to at least the condition it was in pre-works as identified in the Road Dilapidation Report.	<b>Local roads condition monitoring:</b> Although road dilapidation surveys have been completed, FHC currently has no system or process in place for ongoing monitoring and recording of any damage to local roads that can occur as a result of the construction of the project, as required by E41.  It is recommended that the means and methods to monitor compliance with this condition be agreed on and that these be recorded and included in the next review of the Traffic and Transport Management Plan (TMP).	Fulton Hogan has committed to implementing 4 actions: 1) Complete weekly data capture of heavy vehicle movements (over 4.5t) on council roads. 2) Vehicle Management Plans (VMPs) will be issued to heavy vehicle operators to limit the impact to pre-determined streets. 3) Asset inspections will be documented bi-annually, and to include impact to streets previously assessed but unused to determine 'fair wear and tear'. 4) These actions will be included in a revision of the Traffic and Transport Management Plan (TTMP)	The Traffic and Transport Management Plan is proposed to be updated by 30 April 2022 to incorporate proposed actions.  Other actions to continue throughout the life of the project.
N/A	N/A	<b>Environmental Work Method Statements (EWMS):</b> The CEMP states that EWMS will be prepared for the activities assessed as having residual high environmental risk or activities that impact on environmentally sensitive areas. It was noted, however, that the Environmental Aspects and Impacts Register included in Appendix A3 of the CEMP has no activities listed that have high residual environmental risk. The CEMP does not define the 'activities that impact on environmentally sensitive areas' either.  It is recommended that FH review and clearly define high environmental risk activities that require an EWMS.	In accordance with the Fulton Hogan Corporate Risk matrix, works cannot proceed where the residual environmental risk is "high", providing confidence that all reasonable and feasible measures have been considered in the development of methodologies and controls appropriate to the relevant work activities. These controls are inspected weekly as a minimum or before or after rainfall events, to identify where amendments or maintenance are required.  Fulton Hogan propose to revise the CEMP to clarify that works cannot proceed where residual environmental risk is 'high', and that EWMS will be developed to help reduce residual high environmental risk activities to an acceptable level, where possible. The Fulton Hogan project team will also seek advice from the Corporate Office further to evaluate potential improvement to the EMS risk assessment framework and associated definitions, particularly regarding "residual risk" along with EWMS documentation.  The Fulton Hogan project team conduct monthly Workplace Risk Assessments (WRA) for the project, and commit to incorporating discussion of environmental risk with the FH Environment Manager within this forum. The monthly WRA are to identify activities of high environmental risk or activities that may impact on environmental sensitive areas to inform development of EWMS.	The CEMP is proposed to be updated by 30 April 2022 to incorporate proposed actions.  The proposed actions to continue throughout the life of the project.
N/A	N/A	<b>Pollution incident notification:</b> Although incident notification is addressed in Chapter 7 of the CEMP, its format is not considered practical. For example, a list of the relevant authorities to be notified is provided but the phone numbers are included in the Contacts List on page vi. In case of a serious pollution incident threatening material harm, it is critical that all relevant information is readily available and that the roles and responsibilities for the notification and reporting as well as the internal and external notification pathways are clearly defined and communicated to the project team.  Also the following statement "Upon consultation with an ARTC environmental staff member, Eastern Region Environment Manager and the Eastern Region Operations Manager, the Environmental Manager will notify each relevant authority immediately ..." is considered misleading as it implies that ARTC should be consulted first before notifying the authorities. This can	The incident notification process in Chapter 7 of the CEMP conforms to the ARTC Pollution Incident Response procedure, where if possible, consultation with an ARTC Environmental Advisor should be undertaken to determine if a pollution incident requires external notification. Nevertheless, the opportunity for improvement and potential risk of non-compliance is acknowledged.  Fulton Hogan will consult with ARTC to resolve this issue with consideration of the recommendation and the creation of a revised flowchart or promulgation of ARTC procedures and any amendments that may come from the consultation.	30 April 2022

		<p>potentially lead to a non-compliance with Section 148 of the POEO Act which stipulates that notification must be done "immediately after the person becomes aware of the incident".</p> <p>It is recommended that: CEMP be revised to ensure compliance with Section 148 of the POEO Act. A one-page pollution incident notification protocol, preferably in a flowchart form, be developed and included in the CEMP.</p>		
N/A	N/A	<p><b>Project environmental induction:</b> The content of the induction is not consistent with Section 5.1 of the CEMP. It does not include any references to the CEMP and sub-plans, the relevant approvals, licences and permits, potential environmental emergencies on the project and the emergency response procedures, a definition of a pollution incident and incident notification and reporting requirements.</p>	Fulton Hogan will review the site specific project induction in combination with the on-line pre-attendance induction to ensure that all items raised are addressed.	30 April 2022
N/A	N/A	<p>During the site inspection on 20 Jan 2022 a number of project areas were identified that are within the approved project boundaries (and therefore are the responsibility of ARTC/FHC) but are also used by other entities such the local councils or other contractors carrying out works on behalf of ARTC (refer section 3.10 site Inspection and site photos provided in Appendix D) It was noted that the activities of these entities are largely outside of FHC control have the potential to result in environmental non-compliances or pollution incidents.</p> <p>It is recommended that ARTC and FHC clearly identify all areas within the approved project boundary that are used by other entities and develop a uniform strategy of dealing with the potential compliance issues arising from shared use.</p>	<p>There are many instances where project areas are public assets that are accessible to the general public and a number of authorities.</p> <p>Fulton Hogan and ARTC has no ability to influence the statutory right of bodies such as Transport for NSW, Sydney Water, Endeavour Energy, NBN, Liverpool City Council or Fairfield City Council with regard to how they perform their duties for land management or asset maintenance.</p> <p>Fulton Hogan will liaise with ARTC to consider opportunities for further engagement with such authorities. This could include the provision of project information such as the Sensitive Area Plans and a request that they contact the project team in the event they plan to conduct works within the assessed project boundary. Such coordination may minimise any negative or unapproved impacts that could be perceived as project related.</p>	30 June 2022