



Australian Government

Department of Climate Change, Energy,
the Environment and Water

Compliance Audit Report

Canberra Brickworks Precinct access road and Dudley Street upgrade, Yarralumla, ACT (EPBC 2017/8072)

Major Projects Canberra

Report prepared by: Victoria Bartlett
Environmental Audit Section

27 August 2024



OFFICIAL

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We acknowledge the Traditional Owners of Country throughout Australia and recognise their continuing connection to land, waters and culture. We pay our respects to their Elders past and present.

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Document Control

Version	Description	Approval	Date
0.1	Draft Audit Report	Victoria Bartlett – Lead Auditor	08 August 2024
0.2	Draft released to Auditee	Kim Morgan – Assistant Director	09 August 2024
1	Final Audit Report	Kim Morgan – Assistant Director	27 August 2024

Audit Details

Report Title	Compliance Audit of Canberra Brickworks Precinct access road and Dudley Street upgrade, Yarralumla, ACT (EPBC 2017/8072)
Auditee Name	Major Projects Canberra (previously CMTEDD ACT PROCUREMENT)
Main Auditee Contact Details	Mr Bren Burkevics Executive Group Manager, Environment, Heritage and Water Environment, Planning and Sustainable Development Directorate, ACT Government Level 2, 480 Northbourne Avenue DICKSON ACT 2602 02 6207 8628 / 0434 564 090 Bren.Burkevics@act.gov.au
Other Auditee Personnel	Mr George Cilliers - Executive Group Manager, Statutory Planning, ACT Government Eliza Larson – A/g Senior Director, Environment, Planning and Sustainable Development Directorate, ACT Government Julie Pearson - Senior Project Manager, Transport Canberra and City Services Directorate, ACT Government
Audit Lead	Victoria Bartlett – Senior Auditor audit@dceew.gov.au
Audit Team	Kim Morgan – Assistant Director
Audit Date	March to August 2024
On-site Audit Details	An on-site audit was not undertaken during the audit period.

Background

On 27 February 2019, a delegate of the Minister administering the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) approved the Canberra Brickworks Precinct access road and Dudley Street upgrade, Yarralumla, ACT (EPBC 2017/8072). The approval contains 28 conditions and includes requirements to protect and compensate for impacts on the Natural Temperate Grassland of the South Eastern Highlands ecological community (NTG) and Golden Sun Moth (GSM).

The action commenced on 28 September 2020, and while the physical works on Dudley Street and round-about/access road are complete, the action is not complete due to outstanding approval compliance obligations. These relate to the implementation of the approved Offset Management Plan (OMP). The approval has effect until 30 June 2034.

On 27 March 2024, the Department of Climate Change, Energy, the Environment and Water (department) commenced a compliance audit of ACT Government Major Projects Canberra (auditee), to assess compliance with the requirements and conditions of the EPBC 2017/8072 approval. The compliance audit was facilitated under **condition 14** of the EPBC Act approval and was undertaken by an experienced auditor from the department.

Audit Methodology

This section of the report contains the audit methodology that was implemented to audit the Canberra Brickworks Precinct access road and Dudley Street upgrade against the conditions of the EPBC 2017/8072 approval and its associated plans.

Audit Objective

The objective of the audit was to effectively assess the compliance requirements of the auditee against the conditions of the EPBC 2017/8072 approval and associated management plans.

Audit Criteria

The audit criteria were developed to address obligations required under the relevant approval instrument and measures required by associated management plans.

Audit Scope

The scope of the audit was to assess the compliance status of all 28 conditions of approval.

Audit Process

The compliance audit process commenced in March 2024, with the analysis and draft audit findings completed in August 2024.

The compliance audit was primarily undertaken by 'desktop review' of documentation and evidence provided by the auditee. Prior to the commencement of the audit, a letter of intent to audit was sent to the auditee on 27 March 2024 to ensure that the auditor and auditee were both suitably informed to conduct the audit.

In determining compliance with the conditions of approval, the auditor undertook a desktop audit of information available to the department. Where additional information or clarification was required, the auditor approached the auditee with a request for information (RFI). The RFI was sent to the auditee on 7 May 2024, and a response to the department was provided in June and July 2024.

Audit Terminology

The following terms are used to record findings during audits.

Compliant	Sufficient and appropriate information presented to demonstrate the compliance of a particular requirement.
Non-compliant	Clear evidence has been collected to demonstrate that a particular condition or requirement has not been met.
Not applicable	An element of the criteria was not activated or was not required within the scope of the audit.
Observation	An observation may be made about issues relevant to the protection of a matter of national environmental significance when the issue is not strictly related to compliance or non-compliance with a condition.

Audit Findings

Of the 28 conditions assessed under the EPBC Act approval, the audit found the following:

- Compliance with 12 of the 28 conditions of approval examined.
- Non-compliance with conditions 2, 9, 14, 15, and 16.
- Conditions 12, 19, 20, 21, 22, 23, 24, 25, 26, 27, and 28 were not applicable at the time of the compliance audit.

Summary of audit findings

A summary of the audit findings for each condition examined are contained in the table below. For a full list of conditions, please refer to the EPBC Act approval provided at **Attachment A**.

Condition	Audit Finding	Summary
1	Compliant	The auditee did not exceed the specified vegetation clearance limits.
2	Non-Compliant	The OMP was not submitted in accordance with required timeframe.
3	Compliant	The auditee is implementing the OMP.
4	Compliant	The department approved the OMP on the basis that it met the requirements of condition 4.
5	Compliant	The auditee provided GIS shapefiles for the offset site prior to the action commencing.

Condition	Audit Finding	Summary
6	Compliant	The auditee submitted a Construction Environmental Management Plan (CEMP) for the Minister's approval.
7	Compliant	The auditee did not commence the action prior to the CEMP being approved by the Minister. The auditee implemented the CEMP.
8	Compliant	The department approved the CEMP on the basis that it met the requirements of condition 8.
9	Non-Compliant	The Construction Compound Rehabilitation Plan (CCRP) was not submitted in accordance with required timeframe.
10	Compliant	The draft CCRP included measures which meet the requirements of condition 10.
11	Compliant	The auditee notified the department of the date of the commencement of the action within 10 business days of the commencement of the action.
12	Not Applicable	The action commenced within 5 years of the date of approval.
13	Compliant	On the basis of the information provided, the auditee has maintained accurate and complete compliance records.
14	Non-Compliant	The auditee did not provide information in response to the RFI within the required timeframe.
15	Non-Compliant	The OMP was not published within timeframe specified in condition 15.
16	Non-Compliant	Timeframes specified in conditions 16a and 16b were not met.
17	Compliant	Non-compliances reported by the auditee have met the requirements of condition 17.
18	Compliant	The auditee has provided details of non-compliances in accordance with the requirements of condition 18.
19	Not Applicable	The Minister has not requested an independent audit be conducted.
20	Not Applicable	The Minister has not requested an independent audit be conducted.
21	Not Applicable	The Minister has not requested an independent audit be conducted.
22	Not Applicable	The auditee has made no application for a variation to any plans or strategies.
23	Not Applicable	The auditee has not exercised their right under condition 23.
24	Not Applicable	The auditee has not exercised their right under condition 23.
25	Not Applicable	The auditee has not exercised their right under condition 23.
26	Not Applicable	The Minister has not given notice under condition 26.
27	Not Applicable	The Minister has not given notice under condition 26.
28	Not Applicable	Until all requirements of the approval have been met (such as the implementation of the offset management plan), the action is not complete.

Audit findings of non-compliance are detailed below.

Non-compliant findings

The auditee was found to be **non-compliant** with five of the 28 conditions examined. The table below provides details of the findings for each non-compliant condition.

Condition 2

To compensate for impacts on NTG and Golden Sun Moth, the approval holder must, within 6 months of the commencement of the action, submit an Offset Management Plan for the Minister's approval that is consistent with the Offset Strategy.

Finding

Condition 2 requires the submission of an OMP to the Minister for approval within 6 months of the commencement of the action. The department was advised that the action commenced on 28 September 2020, making the due date for the submission of the OMP 28 March 2021. In April 2021, the auditee informed the department that because of an administrative oversight, the OMP would be submitted in late May 2021. The department granted an extension for the submission of the OMP to 1 June 2021. As the OMP was submitted after the due date specified by the approval, the auditee has been found to be non-compliant with condition 2.

Condition 9

The approval holder must submit within six months of commencement of the action a Construction Compound Rehabilitation Plan for the Minister's approval. The approval holder must have fully implemented the approved Construction Compound Rehabilitation Plan within two years of completion of construction works for the action.

Finding

The action commenced 28 September 2020, therefore the due date for the submission of the CCRP was 28 March 2021. The CCRP was submitted 12 September 2022. As the CCRP was submitted after the due date specified by the approval, the auditee has been found to be non-compliant with condition 9. Please see the observation made below in relation to this condition.

Condition 14

If the Department makes a request in writing, the approval holder must provide electronic copies of compliance records to the Department within the timeframe specified in the request.

Finding

On 7 May 2024, the department wrote to the auditee requesting further information for the purpose of assessing compliance, with a due date of 31 May 2024. A partial submission of information was received on 4 June 2024. The department granted an extension to the original request, with a new due date of 24 June 2024. On 20 June 2024, the department was advised there would be further delays to the submission of documentation. The auditee submitted the final documents on 26 July 2024. As the information requested by the department was submitted after the requested date, the auditee has been found to be non-compliant with condition 14.

Condition 15

The approval holder must:

- a. Submit plans electronically to the Department for approval by the Minister;*
- b. Publish each plan (on a publicly available website maintained by the approval holder) within 20 business days of the date the plan is approved by the Minister or of the date a revised plan is submitted to the Department, unless otherwise agreed to in writing by the Minister;*
- c. Exclude or redact sensitive ecological data from plans published under condition 16(b) or provided to a member of the public; and*
- d. Keep plans published on the website until the end date of this approval, or as otherwise agreed to in writing by the Department.*

Finding

With reference to condition 15b, the OMP was approved on 24 December 2021, therefore, the publication of the first approved plan should have occurred by 27 January 2022. According to the 2021-22 and 2022-23 ACR, the redacted version of the OMP was published on 14 February 2022. As the publication of the OMP was after the due date specified by the approval, the auditee has been found to be non-compliant with condition 15. Please see the observation made below in relation to this condition.

Condition 16

The approval holder must prepare a compliance report for each 12 month period ending 30 August each year following the date of commencement of the action, or as otherwise agreed to in writing by the Minister. A compliance report must also be prepared for the period from the time this approval is issued until 30 August in that same year, and will be subject to the same requirements as annual compliance reports.

The approval holder must:

- a. publish each compliance report (on a publicly available website maintained by the approval holder) by 30 August each year;*
- b. notify the Department by email that a compliance report has been published under condition 16(a) within five business days of the date of publication;*
- c. keep all compliance reports publicly available on the website until this approval expires, or as otherwise agreed to in writing by the Department;*
- d. exclude or redact sensitive ecological data from published compliance reports; and*
- e. where any sensitive ecological data has been excluded from the version published, submit the full compliance report to the Department within 5 business days of publication.*

Note: the Department may publish the compliance reports on the Department's website

Finding

With reference to condition 16a, in 2020, 2021, and 2022 the annual compliance reports were published on dates after the 30 August. With reference to condition 16b, in 2022, the auditee's notification to the department exceeded the timeframe specified in the condition (i.e., within five business days of the date of publication). As these reports were published after the due dates specified by the approval, the auditee has been found non-compliant with condition 16.

Observations

The auditor made the following observations during the audit:

1. The non-compliances found during the audit have not resulted in direct impacts to EPBC protected species.
2. Overall, the auditee has been proactive in its engagement with the department concerning its approval obligations.
3. **Condition 9:** Assessment of the implementation of the CCRP could not be assessed because at the time of the audit, the department had not approved the CCRP. The fact that the CCRP remains unapproved is due to delays within DCCEEW, and this matter will be brought to the attention of the area responsible.
4. **Condition 15:** Table 15 of OMP requires the development of a spoil site monitoring program in 2022/2023 to monitor progress. The auditee stated that the spoil site has not been monitored for OHS reasons, and that this will occur after the spoil site is remediated. If the auditee proposes to make changes to how an approved management plan is implemented, the department should be consulted with, and feedback sought.

Auditee comments

On 15 and 16 August 2024, the auditee provided comments on the findings presented in the draft audit report and the audit process more generally.

The auditee felt that the timeframe given for the submission of documentation was inadequate and guidance in relation to the information requested was not clear. The department notes and appreciates this feedback.

The auditee sought feedback in relation to format of the information that it had provided. The department found that the information provided generally satisfied the requirements of the audit. Evidence provided to demonstrate compliance with approval conditions should be contemporaneous and verifiable - as noted in attachment A to the letter dated 7 May 2024, and the auditor's follow-up email correspondence dated 3 June 2024.

In relation to condition 9, concern was expressed that observation 3 of the draft audit report implied that the auditee had not completed the CCRP. Observation 3 has been amended.

The department acknowledges and appreciates the cooperation and assistance of the auditee during the compliance audit process.

ATTACHMENTS

Attachment A	Approval decision notification / correction notice (EPBC 2017/8072)
Attachment B	Letter of intent to Audit – dated 27 March 2024
Attachment C	Request for information – dated 7 May 2024

FINAL REPORT DISTRIBUTION

- Major Projects Canberra
- Department of Climate Change, Energy, the Environment and Water