

Ms Meredith Wallace
General Manager
Bayside Council
PO Box 21
ROCKDALE NSW 2216

Our ref: 545032

Dear Ms Wallace

Planning proposal (PP-2022-1748) to amend Bayside Local Environmental Plan

I am writing in response to a planning proposal that the Eastern City Planning Panel forwarded to the Minister under section 3.34(1) of the *Environmental Planning and Assessment Act 1979* (the Act). The planning proposal seeks to facilitate the development of part of the Cooks Cove precinct by removing the subject land from the operation of Chapter 6 of State Environmental Planning Policy (precincts – Eastern Harbour City) 2021 and inserting new planning provisions into Bayside Local Environmental Plan 2021.

As delegate of the Minister for Planning and Homes, I have determined that the planning proposal should proceed subject to the conditions in the enclosed gateway determination.

Whilst the Eastern City Planning Panel is the Planning Proposal Authority (PPA) for this planning proposal, it does affect land owned by Bayside Council. It also affects land that is currently subject to Charitable Trusts that Bayside Council is the Trustee. As such, I request Council actively engages with the Panel as the PPA on this planning proposal. In particular on the following matters:

Reclassification of Land

The planning proposal intends to rely on Lot 1 in DP 108492 and Lot 14 in DP 213314 to provide road access into the intended development site and to also undertake flood mitigation works. The Department is aware that the intended future works to this land is not in accordance with the terms of the Charitable Trusts which currently affect this land (Trust Lands).

As such, the planning proposal states that the Charitable Trusts are proposed to be extinguished through reclassification of the affected land from 'Community' to 'Operational' pursuant to Section 30 of the *Local Government Act 1993*.

TfNSW is currently occupying portions of the Trust Lands for construction of the M6 Stage 1 and has advised that at the end of construction (expected late 2025) the areas occupied temporarily will be remediated and handed back to the respective landowner/s. A portion of the surface land will be required permanently for the expansion of the Motorway Operations Complex (MOC).

These surface land requirements of the M8 and M6 will be confirmed once TfNSW has finalised detailed design and construction methodology for the M6 Stage 1 (estimated mid 2023). TfNSW has advised that currently there is nothing in principle preventing the planning proposal proceeding with the proposed Flora Street extension that will have a detrimental impact on the MOC expansion for M6/M8.

TfNSW notes that any designs and construction staging of a future Flora Street extension or ancillary infrastructure including drainage works, will need to be negotiated to ensure that it does not interfere with TfNSW/Transurban's ability to operate/maintain the MOC facility and associated tunnel infrastructure. Other than the requirements of the M6 Stage 1 and M8, TfNSW has advised that it currently has no other identified need for a County Road purpose on the trust lands.

The Department requests that Council (as the Trustee) actively engages with TfNSW on this matter. Should the planning proposal proceed to reclassify the subject lots (and extinguishment of the Trusts), it is recommended Council work towards determining the land needed for operational purposes.

Land not required for access and/or drainage should be reclassified back to community land so as to give the community an undertaking that the land will be retained for public purposed. If necessary, Council should prepare a planning proposal to this effect. The Department can assist with any clarification in this regard.

Planning Agreement

The Panel has advised that Bayside Council should resolve the terms of a draft planning agreement with the proponent of this planning proposal. The Department requests that Council continues to actively engage with the proponent and the Panel on this matter.

Should you have any enquiries about this matter, I have arranged for Ms Laura Locke to assist you. Ms Locke can be contacted on 8275 1307.

Yours sincerely



Amanda Harvey
Executive Director, Metro East and South
Planning and Land Use Strategy
5 August 2022

Encl: Gateway determination