



City Planning & Environment Committee

7:00 pm Wednesday 11 October 2023

Venue:
Botany Town Hall,
Corner Edward Street & Botany Road,
Botany

Contract Us:

1300 581 299 or 9562 1666

council@bayside.nsw.gov.au

PO Box 21, Rockdale NSW 2216

ABN: 80 690 785 443



7 REPORTS

City Planning & Environment Committee

11/10/2023

Item No	CPE23.027
Subject	Proposed State Planning Agreement - Cooks Cove Planning Proposal
Report by	Peter Barber, Director City Futures
File	SF23/5619

Summary

The site is currently zoned Trade and Technology, Open Space and Special Uses under Chapter 6 of the State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021 (the SEPP).

On the 5 August 2022, the Department of Planning and Environment (DPE) issued a conditional Gateway determination for a planning proposal at 13-19A Marsh Street, Arncliffe (also known as Cooks Cove), allowing it to proceed to exhibition.

The planning proposal seeks to facilitate the redevelopment of the former Kogarah Golf Club by removing the land from the operation of the SEPP and inserting new planning provisions into Bayside Local Environmental Plan 2021 (Bayside LEP2021). The new provisions would allow the use of the land primarily for logistics and warehousing associated with the airport and shipping port, with smaller components of office, visitor accommodation and retail.

Land owned by Council is also included in the planning proposal to facilitate access to the development site and to rezone it to Public Recreation under the Bayside LEP. Council's land is also proposed to be reclassified from Community to Operational Land to enable an existing Charitable Trust to be extinguished. The Trust requires Council to protect the land for County Road purposes, and pending use for County Road, for public recreation.

On 15 August 2023, Cook Cove Inlet Pty Ltd submitted a Letter of Offer to the Department of Planning and Environment and Transport for NSW to enter into a State Planning Agreement (SPA) to provide for State and regional infrastructure to support the proposed development, primarily in the form of road and intersection upgrades.

In a submission on the planning proposal, Transport for NSW has requested that Bayside Council be a party to a SPA to facilitate the transfer of parts of Lot 14 DP 213314 and Lot 1 DP 108492 to Transport for NSW at no cost. This land is currently held in a Charitable Trust and is required for the purposes of the M6 and M8 Motorway Operations Centre.

The purpose of this report is to seek Council's endorsement for Bayside Council to be a party to the SPA to enable the dedication of part of the Trust lands to Transport for NSW.

Officer Recommendation

- 1 That Council agrees, in principle, to be a party to the State Planning Agreement to enable the dedication of Trust lands to Transport for NSW for the purposes of the M6 and M8 motorway permanent Motorway Operations Centre, subject to this being at no cost to Council.
- 2 That a further report be received by Council once the terms of the State Planning Agreement have been negotiated.

Background

The planning proposal is generally aligned with the strategic intent for the land, noting its current zoning of Trade and Technology, Open Space, and Special Uses under Chapter 6 of the *State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021* (the SEPP). The Bayside Local Strategic Planning Statement (LSPS) also identifies these strategic land uses.

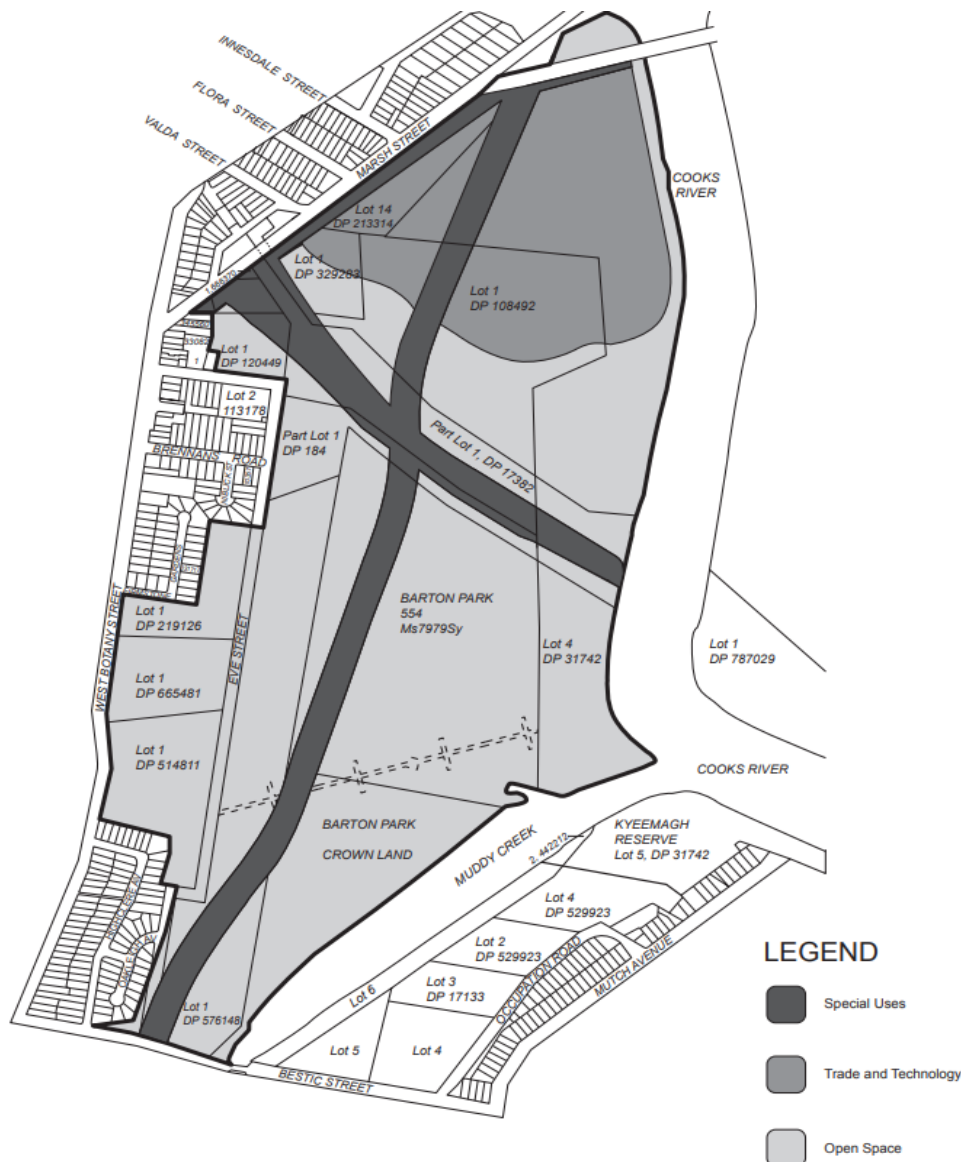


Figure 1: State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021 - Cooks Cove current Zoning Map

On the 5 August 2022, DPE issued a Gateway determination for the planning proposal that included an extensive list of items that needed to be addressed by the Proponent to the satisfaction of DPE before exhibition.

On 31 March 2023, the Sydney Eastern City Planning Panel determined that the revised planning proposal was suitable for public exhibition, subject to the issue of a Gateway alteration to account for any modifications. The Alteration of Gateway determination was issued on 12 April 2023, thereby enabling exhibition to proceed.

The Planning Proposal, as exhibited, proposes the following:

- New SP4 Enterprise zone across the majority of the Kogarah Golf Course land to permit trade related enterprises, commercial uses and logistics and warehouse uses;
- New Public Recreation RE1 zoned land for the foreshore area of the site adjacent to the Cooks River and adjacent to Marsh Street;
- SP2 Infrastructure zone to the existing Marsh Street Roadway and Arncliffe Permanent Motorway Operation Facilities;
- Maximum Building Height of RL51m;
- Limit gross floor area (GFA) within different areas of the site to an aggregate of 342,000sqm and insert floor area requirements to achieve the intended logistics and warehousing outcomes for the site; and
- **Reclassify Council owned Lot 14 DP213314 and Lot 1 DP108492 from 'community' to 'operational' land to facilitate local road access and the provision of infrastructure to support development within the SP4 Enterprise zone. Reclassification will extinguish the Charitable Trust**
(emphasis added)

The Planning Proposal was exhibited from 24 April 2023 – 6 June 2023.

On 15 August 2023, Cook Cove Inlet Pty Ltd submitted a Letter of Offer to the Department of Planning and Environment and Transport for NSW to enter into a State Planning Agreement (SPA) to provide for State and regional infrastructure to support the proposed development. This is in addition to the ongoing discussion the proponent is having with Council on the terms of a local planning agreement, which will be reported to Council once negotiations progress.

In its submission on the reclassification of Council owned Lot 14 DP213314 and Lot 1 DP108492 from 'community' to 'operational' land (which will in turn lead to the extinguishing of the Charitable Trust), Transport for NSW raised concerns regarding impacts on the acquisition of land required for the M6 and M8 motorway projects.

Currently, TfNSW has rights to acquire the land at no cost under the terms of the Trust. However, as the Planning Proposal seeks to reclassify land from community to operational land and extinguish the Trust, TfNSW is concerned that a market rate for the acquisition of the required land could be applied by Council if the reclassification occurs prior to the relevant land being acquired by TfNSW.

To address this concern, TfNSW has requested Bayside Council enter a legally binding agreement (by way of a SPA) that provides for TfNSW to acquire the relevant land at no cost. Further, the SPA will need to be executed prior to the finalisation of the Planning Proposal and reclassification of the land.

Purpose of the State Planning Agreement

An SPA is a planning agreement between the NSW Government and a development proponent. SPAs provide for developers to deliver state or regional infrastructure items, dedicate land for that purpose and/or to provide monetary contributions for the delivery of infrastructure at a later stage.

This SPA relates specifically to the scope of works-in-kind and monetary contributions for upgrades to regional roads and road intersection infrastructure. Council would not ordinarily have any reason to be party to such an SPA, however, has been requested to become a party on this occasion to facilitate the transfer of land to TfNSW at no cost.

Transfer of land permanently required by TfNSW for 'County Road' purposes (i.e. the Motorway Operations Centre) at no cost has been a longstanding requirement of the Trust. Also under the Trust, Council and the community have had the benefit of using the land for public recreation until required by TfNSW, and anticipated having the ongoing benefit of the land for recreation once the residual was no longer required by TfNSW.

It was never envisaged that the Trust would be extinguished and that TfNSW would be liable to compensate Council for the permanent acquisition of land. In the circumstances, it would be opportunistic and in bad faith for Council to decline to be party to the SPA as a means of carrying forward the longstanding obligation for land under the permanent Motorway Operations Centre to be transferred to TfNSW at no cost.

In the circumstances, it is recommended that Council agrees, in principle, to be a party to the State Planning Agreement to enable the dedication of Trust lands to Transport for NSW for the purposes of the M6 and M8 motorway and that a further report be received by Council once the terms of the State Planning Agreement have been negotiated.

Other Public benefits in the SPA

Over and above the road infrastructure work absolutely required for the development to proceed, the proponent has offered to make a contribution to the provision of an improved pedestrian and cycle crossing over the Cooks River in the vicinity of the Giovanni Brunetti Bridge. The monetary contribution in the order of \$4M would not be sufficient to fund the work entirely, and would be held in a restricted reserve by TfNSW for this purpose until the project proceeds. It is not a currently on the TfNSW work program.

There is a risk that the new crossing project will never eventuate, or will not eventuate in a reasonable timeframe. If this occurred, the existing community and the future occupants of the development site will not realise the benefit of the proponent's contribution.

If Council is party to the SPA, the option has been flagged with the other parties of this monetary contribution being subject to a sunset provision such that if it is not used for the intended purpose within a specific time, it will revert to Council to spend on whatever community infrastructure is in most need at the time within the vicinity of the development site. The negotiations will proceed on this basis if Council resolves to be party to the SPA.

Financial Implications

- | | | |
|--------------------------------------|-------------------------------------|---|
| Not applicable | <input checked="" type="checkbox"/> | Participation in the SPA would be on the condition that any legal or other expenses incurred by Council are reimbursed by TfNSW or the Proponent. |
| Included in existing approved budget | <input type="checkbox"/> | |
| Additional funds required | <input type="checkbox"/> | |

Community Strategic Plan

- | | |
|--|-------------------------------------|
| Theme One – In 2032 Bayside will be a vibrant place | <input type="checkbox"/> |
| Theme Two – In 2032 Our people will be connected in a creative City | <input type="checkbox"/> |
| Theme Three – In 2032 Bayside will be green, resilient and sustainable | <input type="checkbox"/> |
| Theme Four – In 2032 Bayside will be a prosperous community | <input checked="" type="checkbox"/> |

Risk Management – Risk Level Rating

- | | |
|----------------|-------------------------------------|
| No risk | <input checked="" type="checkbox"/> |
| Low risk | <input type="checkbox"/> |
| Medium risk | <input type="checkbox"/> |
| High risk | <input type="checkbox"/> |
| Very High risk | <input type="checkbox"/> |
| Extreme risk | <input type="checkbox"/> |

Community Engagement

A State Planning Agreement will be publicly exhibited by the NSW Government.

Attachments

Nil

6 Public Forum

There were no speakers for Public Forum.

7 Reports

CPE23.027 Proposed State Planning Agreement - Cooks Cove Planning Proposal

Committee Recommendation (Councillors Saravinovski and Muscat)

- 1 That Council agrees, in principle, to be a party to the State Planning Agreement to enable the dedication of Trust lands to Transport for NSW for the purposes of the M6 and M8 motorway permanent Motorway Operations Centre, subject to this being at no cost to Council.
- 2 That a further report be received by Council once the terms of the State Planning Agreement have been negotiated.

CPE23.028 Submission to NSW Department of Planning and Environment - State Significant Development at 297 King Street, Mascot

Committee Recommendation (Councillors Werner and Douglas)

That Council endorses the draft submission in relation to the State Significant Development Application for a Multi-Level Warehouse at 297 King Street, Mascot, subject to the investigation of additional matters (solar panels, green roof, renewables, width of King Street entrance, other 24/7 operations in the vicinity, EV car and truck charging and the result of consultation with neighbouring hotels) raised by the committee to be circulated by email to councillors prior to the October Council meeting.

CPE23.029 Concept Design: Arncliffe to Barton and Riverine Park Pedestrian and Cycle Link

Committee Recommendation (Councillors Douglas and Werner)

- 1 That Council endorses the concept design for public exhibition and community consultation.
- 2 That Council notes that the current design relies on the installation of a signalised crossing on the Princes Highway at Terry Street and Hattersley Street and that if that is delayed, the project could still proceed by utilising the crossing at Subway Road.



Bayside Council
Serving Our Community

City Planning & Environment Committee

6:30pm Wednesday, 14 February 2024

Venue:

Botany Town Hall, Corner Edward
Street & Botany Road, Botany

Contract Us:

1300 581 299 or 9562 1666

counil@bayside.nsw.gov.au

PO Box 21, Rockdale NSW 2216

ABN: 80 690 785 443

City Planning & Environment Committee

14/02/2024

Item No	CPE24.002
Subject	Proposed Local Planning Agreement - Cooks Cove Planning Proposal
Report by	Peter Barber, Director City Futures
File	SF23/5048

Summary

The Cooks Cove site is 36.2ha of land that fronts the Cooks River and is currently zoned Trade and Technology, Open Space and Special Uses under State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021 (the SEPP).

On the 5 August 2022, the Department of Planning and Environment (DPE) issued a conditional Gateway determination for a planning proposal at 13-19A Marsh Street, Arncliffe (also known as Cooks Cove), allowing it to proceed to exhibition.

The planning proposal seeks to facilitate the redevelopment of the former Kogarah Golf Course by removing the land from the operation of the SEPP and inserting new planning provisions into Bayside Local Environmental Plan 2021 (Bayside LEP2021). The new provisions would allow the use of the land primarily for logistics and warehousing associated with the airport and shipping port, with smaller components of office, visitor accommodation and retail, and would accommodate up to 3,284 employees in total.

Land owned by Council is also included in the planning proposal to facilitate access to the development site and to rezone it to Public Recreation under the Bayside LEP. Council's land is also proposed to be reclassified from Community to Operational Land to enable an existing Charitable Trust to be extinguished, so that a portion of the land can be used for access roads.

On 22 March 2023, Cook Cove Inlet Pty Ltd submitted a Letter of Offer to Council to enter into a Local Voluntary Planning Agreement (VPA) to provide for monetary contributions and local infrastructure to support the proposed development, including upgrades to local roads, a publicly accessible Cooks River foreshore, land dedication, local open space and active transport enhancements. The offer has been further negotiated between Council and the proponent to ensure it provides for appropriate and reasonable material public benefits considering the changes to the planning controls sought under the Planning Proposal.

It is recommended that Council endorses the VPA offer from Cooks Cove Inlet Pty Ltd and delegates authority to the General Manager to negotiate the draft Planning Agreement on terms satisfactory to Council.

Officer Recommendation

- 1 That Council endorses the offer to enter into a Planning Agreement with Cooks Cove Inlet Pty Ltd for local infrastructure and development contributions resulting from the Cooks Cove Planning Proposal as detailed in this report.

- 2 That the final Draft Planning Agreement be publicly exhibited in accordance with legislative requirements.
- 3 That the General Manager and delegate(s) are authorised to negotiate and finalise all documentation necessary following the conclusion of the public exhibition period, taking into consideration any submissions.
- 4 That authority be delegated to the General Manager to execute all documentation (including the final Planning Agreement) necessary to give effect to this resolution.

Background

The planning proposal is generally aligned with the strategic intent for the land, noting its current zoning of Trade and Technology, Open Space, and Special Uses under Chapter 6 of the *State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021* (the SEPP). The Bayside Local Strategic Planning Statement (LSPS) also identifies these strategic land uses.

On the 5 August 2022, DPE issued a Gateway determination for the planning proposal that included an extensive list of items that needed to be addressed by the Proponent to the satisfaction of DPE before exhibition.

On 31 March 2023, the Sydney Eastern City Planning Panel determined that the revised planning proposal was suitable for public exhibition, subject to the issue of a Gateway alteration to account for any modifications. The Alteration of Gateway determination was issued on 12 April 2023, thereby enabling exhibition to proceed.

The Planning Proposal, as exhibited, proposes the following:

- New SP4 Enterprise zone across the majority of the Kogarah Golf Course land to permit trade related enterprises, commercial uses and logistics and warehouse uses;
- New Public Recreation RE1 zoned land for the foreshore area of the site adjacent to the Cooks River and adjacent to Marsh Street;
- SP2 Infrastructure zone to the existing Marsh Street Roadway and Arncliffe Permanent Motorway Operation Facilities;
- Maximum Building Height of RL51m;
- Limit gross floor area (GFA) within different areas of the site to an aggregate of 342,000sqm; and
- Reclassify Council owned Lot 14 DP213314 and Lot 1 DP108492 from 'community' to 'operational' land to facilitate local road access and the provision of infrastructure to support development within the SP4 Enterprise zone. Reclassification will extinguish the Charitable Trust

The Planning Proposal was exhibited from 24 April 2023 – 6 June 2023.

The development creates demand for roads, traffic and drainage facilities, as well as recreation facilities such as passive open space. This local infrastructure demand will be met by the land, works and monetary contributions proposed to be included in the planning agreement as well as works required by conditions of future development consents. The proponent has also proposed to enter into a State Voluntary Planning Agreement with the NSW Government for delivery of new roads and intersections on the main road network to

facilitate the development. The draft SVPA also contains a monetary contribution of \$8.7M toward Transport for NSW projects that must be spent in bayside LGA.

The site is subject to two existing contributions plans, however, neither of these plans levy contributions on the proposed type of development, so a Planning Agreement is an appropriate infrastructure funding and provision mechanism.

Planning Agreement Letter of Offer

On 22 March 2023, Cook Cove Inlet Pty Ltd submitted a Letter of Offer to Council to enter into a Local Planning Agreement (VPA) to provide for monetary contributions and local infrastructure to support the proposed development, including upgrades to local roads, a publicly accessible Cooks River foreshore, dedication of local open space, and active transport enhancements.

The offer has been further negotiated between Council and the proponent to ensure it provides for appropriate and reasonable material public benefits considering the changes to the planning controls sought under the Planning Proposal.

As a result of those further negotiations, an updated Letter of Offer was received by Council on 11 October 2023, which was supported by a Community Value Assessment prepared by GLN Planning Pty Ltd. That assessment identified that the wider community value of the proponent's Letter of Offer for a Local VPA equates to approximately \$43 million.

The proponent considers the planning agreement offer represents a superior, value-for-money outcome compared to the Council's alternative, which is to prepare a s.7.11 or s.7.12 contributions plan, for the following reasons:

- The commitment to pay Council \$13.35 million in cash contributions (subject to indexation) alone is comparable to the total monetary contributions that could otherwise be levied on the entire development under s.7.11 or s.7.12 Developer Contributions Plan;
- The commitment to deliver works-in-kind of approximately \$23.89 million in relation to the provision of publicly accessible open space and foreshore areas associated with realising the Cooks Cove project (after accounting for the use from Cook Cove workers/visitors that will use the infrastructure).
- The capital costs avoided by Council in not having to deliver certain road works identified in its Wolli Creek contributions plan. The wider community value of the Gertrude Street works (after accounting for the traffic from Cook Cove that will use the road) is \$3.46 million.
- The operational costs avoided by Council due to the developer accepting ownership and maintenance responsibilities for internal roads and foreshore open space that would, without the planning agreement, ordinarily transfer to the Council upon completion.

The current Letter of Offer for the Local Planning Agreement provides for the items set out below. The dollar values shown as wider community value represent the total cost of providing the item, minus a proportion that reflects the demand for the use of the item by the Cooks Cove development itself once completed.

Gertrude Street east extension and widening

- New public road between Marsh Street and Levey Street (estimated cost \$2,536,585 with a wider community value of \$1,040,000);
- Construction of new roundabout and kerb realignment at the intersection of Gertrude Street and Levey Street (value included above); and
- Gertrude Street north side widening and lane reconfiguration – west of Levey Street, to tie into existing Gertrude Street northern kerb alignment adjoining 'Cahill Gardens' at 4-10 Gertrude Street, Wolli Creek (estimated cost \$2,328,125 and wider community value of \$1,490,000).

Road access to Pemulwuy Park

- Construction and dedication of part access roads over Lot 14, which will provide improved access to Pemulwuy Park (estimated cost \$9,300,000 and wider community value of \$930,000)

Publicly accessible open space

- Site preparation and remediation of foreshore area (estimated cost \$531,523 and wider community value of \$398,642);
- Embellishment of foreshore area (estimated cost \$17,932,578 and wider community value of \$13,449,434);
- Cooks River boardwalk (estimated cost \$9,358,624 and wider community value of \$7,018,968);
- Regional pedestrian / cycleway between Levey Street and southeast corner of the site (estimated cost \$521,994 and wider community value of \$391,496); and
- Fig Tree Plaza Park (estimated cost \$10,528,498 and wider community value of \$2,632,125).

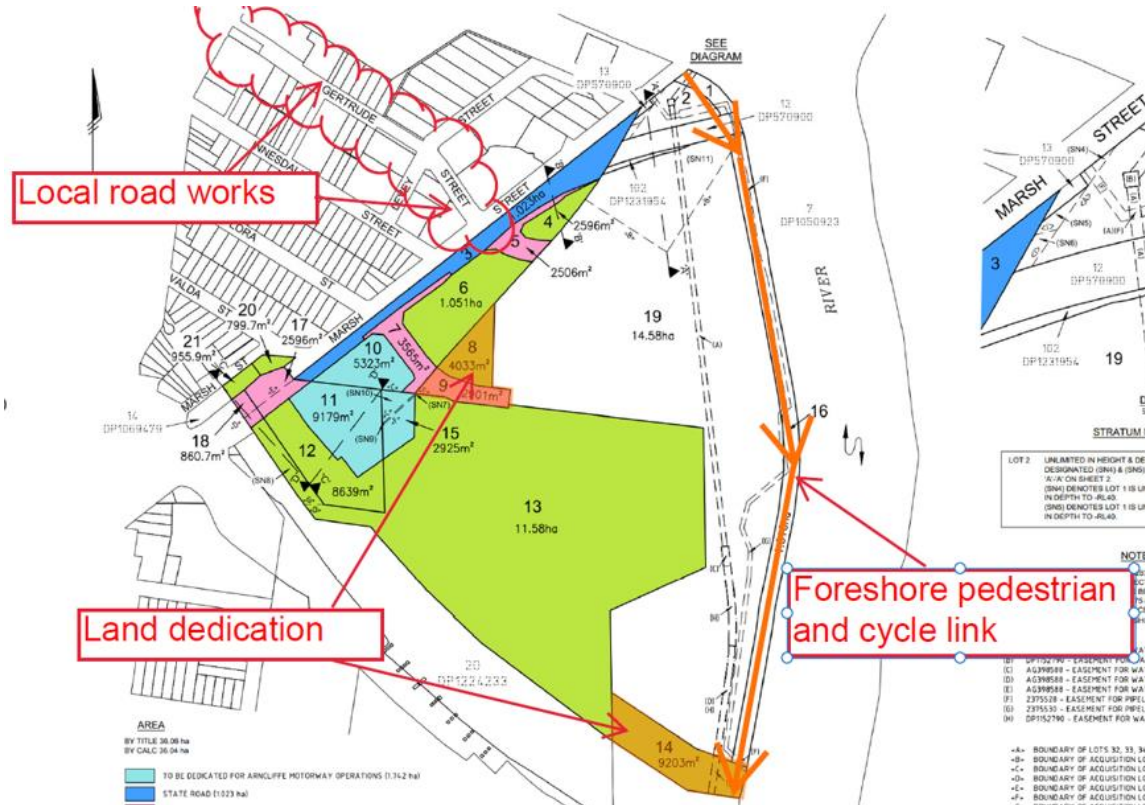
Open space contributions

- Embellish and dedicate 0.69ha of land for passive open space, a single pedestrian / cycle pathway, overland flow path and access road, being the Flora Steet extension (estimated embellishment cost \$1,464,300 and wider community value of \$732,150);
- Embellish and dedicate 0.92ha of land for passive open space, habitat creation, including a single pedestrian / cycle pathway and overland flow path (estimated embellishment costs \$3,177,359 and wider community value of \$1,588,680); and
- Monetary contribution of \$13.35 million for the embellishment of Pemulwuy Park and/or Riverine Park, including active transport links.

The two parcels of land proposed to be dedicated to Council will increase the area of open space available to the public, provide a connection to the Cooks River from Pemulwuy Park

and better visibility and road access from Marsh Street. The two parcels will also form part of an overland flow path over Council's land, which will allow the Cooks Cove site to be filled, and for overland flow in flood events to be diverted around the development site.

As dedication of the land provides mutual benefit to the community as open space and road, but is partly burdened by being an overland flow path and road to the benefit of the proponent, the value of the 1.6 hectares of land proposed to be dedicated has not been attributed a monetary value in the offer.



Proposed land dedication and works shown above. Visualisation of foreshore walk below.



Conclusion

The offer made by Cook Cove Inlet replaces contributions that would be payable if a Developer Contributions Plan was put in place over the land, by offering an equivalent amount in cash.

The provision of a publicly accessible active transport connection along the entire Cooks River frontage, the ownership and maintenance in perpetuity of the foreshore connection and new roads, improvements on local roads in Wolli Creek (in addition to work on State roads) and the dedication and embellishment of 1.6 ha of public open space provide a community benefit that will assist in offsetting the impact of more intense development on the site.

The VPA will include provisions that index the monetary contribution so that its value is maintained over time. It will also capture in detail the level of embellishment work required in public open space areas and the specification of road works proposed.

It is recommended that Council endorses the VPA offer from Cooks Cove Inlet Pty Ltd and delegates authority to the General Manager to negotiate the draft Planning Agreement on terms satisfactory to Council to enable public exhibition in accordance with legislative requirements.

Financial Implications

Not applicable	<input checked="" type="checkbox"/>
Included in existing approved budget	<input type="checkbox"/>
Additional funds required	<input type="checkbox"/>

Community Strategic Plan

Theme One – In 2032 Bayside will be a vibrant place	<input checked="" type="checkbox"/>
Theme Two – In 2032 Our people will be connected in a creative City	<input type="checkbox"/>
Theme Three – In 2032 Bayside will be green, resilient and sustainable	<input type="checkbox"/>
Theme Four – In 2032 Bayside will be a prosperous community	<input type="checkbox"/>

Risk Management – Risk Level Rating

No risk	<input type="checkbox"/>
Low risk	<input checked="" type="checkbox"/>
Medium risk	<input type="checkbox"/>
High risk	<input type="checkbox"/>
Very High risk	<input type="checkbox"/>
Extreme risk	<input type="checkbox"/>

Community Engagement

If endorsed by Council, the draft Planning Agreement is required to be placed on public exhibition for 28 days.

Attachments

- 1 VPA Letter of Offer 11 October 2023 [↓](#)
- 2 VPA Community Value Assessment [↓](#)



Level 3 Legion House
161 Castlereagh St
Sydney NSW 2000
Tel 02 9145 5244

ABN 42 165 239 592

11 October 2023

Reference SF23/5048

Mr Peter Barber
Director City Futures
Bayside Council
PO Box 21
Rockdale NSW 2216

Dear Peter,

Cooks Cove Planning Proposal – Revised Letter of Offer to enter into a Local Planning Agreement

Cook Cove Inlet Pty Ltd (**CCI**) (Proponent) offers to enter into a Planning Agreement with Bayside Council under Section 7.4 of the *Environmental Planning & Assessment Act 1979* (EP&A Act) in connection with the Cooks Cove Planning Proposal (PP-2022-1748).

This revised Letter of Offer is premised on the terms of the Cooks Cove Public Benefit Offer In Principle Agreement of 8 April 2022 (Version 1.3), submitted to the Sydney Eastern City Planning Panel, specifically:

"2. The Proponent and Council acknowledge and agree that:

- a) infrastructure works that are required to be delivered to enable only the Cooks Cove development to occur are not considered community benefits,*
- b) value capture based on uplift in land value shall not be a consideration in determining the nature and extent of contributions to be made by the Proponent,*
- c) the Planning Agreement will exclude the operation of s7.11 or s7.12 of the Act,*
- d) the total value to the local community of the works, land and monetary contributions provided as part of the Cooks Cove development will be greater than the contributions that Council could otherwise receive via s7.11 or s7.12 contributions, and*
- e) the primary purpose of all land, works and cash contributions should be for the benefit of the local community within the vicinity of the site."*

Further, this revised Letter of Offer is premised upon:

- the realisation of the development intensity and scope outlined within the rezoning proposal, as described in Section 1,
- Bayside Council will not unreasonably withhold its landowners consent to works on its land envisaged by this Planning Agreement, and
- The Planning Agreement is executed concurrently with the gazettal of the Planning Proposal.

**Parties**

The parties applicable to this offer are as follows:

- Cook Cove Inlet Pty Limited, or wholly owned related party, (A.C.N 165 239 592) of Level 3, Legion House, 161 Castlereagh Street, Sydney, NSW, 2000; and,
- Bayside Council, PO Box 21, Rockdale NSW 2216.

Land

The land applicable to this offer is as follows:

- Lot 31/DP1231486 and Lot 100/DP1231954, 19A and 19 Marsh Street, Arncliffe, NSW 2205, owned by Cook Cove Inlet Pty Limited.
- Lot 14/DP213314 and Lot 1/DP108492, Part 19 Marsh Street and 13 Marsh Street Arncliffe, NSW 2205, owned by Bayside Council; and,
- Lot 1/DP329283, 15 Marsh Street, Arncliffe, NSW 2205, owned by Roads and Maritime Services (we seek clarification as to whether this land is required to be acknowledged by this offer to enter into a Planning Agreement).

Planning Proposal scope and description

The Planning Proposal intends to insert new planning provisions covering the Cooks Cove development zone and adjoining lands, through the amendment of the *Bayside LEP 2021*, accordingly removing this same area from the jurisdiction of *State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021* (formerly *Sydney Regional Environmental Plan No. 33 – Cooks Cove*).

Specifically, the Planning Proposal:

- Seeks new land use zones within the development zone, including a primary 'SP4 Enterprise' zone across the majority of the former Kogarah Golf Course freehold land, a publicly accessible 'RE2 Private Recreation' and 'C2 Environment Conservation' foreshore, 'RE1 Public Recreation' passive open space zone for Pemulwuy Park and 'C2 Environment Conservation' for Green and Golden Bell Frog habitat and elements of 'SP2 Infrastructure' relating to the Arncliffe Motorway Operations Complex and Marsh Street.
- Imposes a primary overall maximum building height of RL51m with appropriate reduction to respond to aviation controls within the southern section of the site and a maximum height of 24m to the north of Marsh Street, (Lot 31/DP1231486) to respond to neighbouring developments.
- Limits development potential through an appropriate combination of gross floor area (GFA) and floor space ratio (FSR) provisions to achieve the overall intended logistics, commercial, retail, and short-term accommodation land uses. A maximum GFA of 340,000m² will be applicable south of Marsh Street and a further 1.25:1 FSR (3,250m² of GFA) will be applicable north of Marsh Street.
- Allows other additional permitted uses being 'Advertising Structures' and 'Trade Related Enterprises', responding to the gateway location adjacent Sydney Airport, and site-specific planning provisions; and,



- Promotes the reclassification of Lot 14/DP213314 and Lot 1/DP108492 (Council owned and the subject of Charitable Trusts), initially from 'community' to 'operational' to ensure appropriate access, improve permanency and utility of public open space and to create contiguous boundaries. This process will remove Charitable Trust affectations. Following rezoning and subdivision it is subsequently intended that Council reclassify residue RE1 parcels as 'community' by resolution.

The Proposal is a response to DPE's *Bayside West Precincts 2036 – Arncliffe, Banksia, and Cooks Cove* (released August 2018) and the subsequent Ministerial Directions under s9.1 of the EP&A Act, being Local Planning Directions 1.11 Implementation of Bayside West Precincts 2036 Plan and 1.12 Implementation of Planning Principles for the Cooks Cove Precinct.

Registration

The Planning agreement is to be registered on title to the applicable land.

Dispute resolution

The Planning agreement is to include mechanisms for the resolution of potential disputes under the agreement including negotiation, mediation, expert determination, and arbitration.

Security

Security bonds equivalent to the value of any works to occur on Council owned land will be provided prior to the commencement of works.

Costs

The Proponent agrees to pay Council's reasonable legal costs incurred in the negotiation, public notification, finalisation, registration, administration, and enforcement of the Planning Agreement.

We would welcome the opportunity to discuss this updated Letter of Offer with Council at your earliest convenience.

Yours Sincerely,

Peter Bettridge
General Manager
M:0413-747-781



Level 3 Legion House
161 Castlereagh St
Sydney NSW 2000
Tel 02 9145 5244

ABN 42 165 239 592

Works and Monetary Contributions

Schedule 1

Item / contribution	Public purpose	Manner, extent and value	Timing
1. Public Roads - Gertrude Street extension and upgrade	Roads	<p>Item 1(a) – New public road between Marsh Street and Levey Street (in part, with balance of road forming part of Marsh Street intersection upgrade works, included within the State Planning Agreement). [Item WC3.3.1 in Council's Contribution Plan].</p> <p>Item 1(b) – Construction of new roundabout and kerb realignment at the intersection of Gertrude Street and Levey Street; and</p> <p>Item 1(c) – Gertrude Street north side widening and lane reconfiguration – west of Levey Street, to tie into existing Gertrude Street northern kerb alignment adjoining 'Cahill Gardens' at 4-10 Gertrude Street, Wolli Creek [Item WC 3.3.4 in Council's Contribution Plan].</p> <p>Works are to be at no cost to Council and fully funded and implemented by the proponent as depicted at Schedule 2, Figure 1.</p> <p>The indicative scope and cost of these works are included at Schedule 2, subject to further design refinement in consultation with Council's traffic engineers and the Bayside Local Traffic Committee. With the agreement of both parties, an alternative scope of works can be agreed as along as the estimated cost of construction outlined in Schedule 2 is not exceeded, including formalising informal car parking within Cahill Park to offset any loss of on-street car parking between Levey Street and Princes Highway.</p>	Works are to be completed prior to the issuing of the first Occupation Certificate for any building within the development zone, except for the use of the existing clubhouse building for any permissible use.



Item / contribution	Public purpose	Manner, extent and value	Timing
		<p>The proportional split attributable to non-project vehicular traffic upon completion of the project is as follows:</p> <p>Items 1(a) & 1(b) – 41%</p> <p>Item 1(c) – 64%</p> <p>The community value of these works is therefore:</p> <p>Items 1(a) & 1(b) – \$1.04m</p> <p>Item 1(c) – \$1.49m</p> <p>Total works valued at \$2.53m</p>	
2. Public roads - Marsh Street intersection works	Roads	It is acknowledged that this Item 2 (Schedule 2, Figure 1) (including the upgrade of the Marsh Street intersection identified as WC 3.3.2 in Council's contribution plan) will form part of the State Planning Agreement.	Works are to be completed prior to the issuing of the first Occupation Certificate for any building within the development zone, with exception of the use of the existing clubhouse building for any permitted use.
3. Public roads – Lot 14 extension roads	Roads	<p>Construction and dedication of part access roads noted as Items (3(a) & 3(b)) over Lot 14 as shown at Schedule 2, Figure 1. Works are to be at no cost to Council and fully funded and implemented by the proponent.</p> <p>The Flora Street intersection and extension road Item (3(b)) will provide access to both the development and to Pemulwuy Park for the public.</p> <p>The proportional split attributable to non-project vehicular traffic upon completion of the project is 10%. The community value of this item is therefore \$0.93m.</p>	Roads to be dedicated prior to the issuing of the first Occupation Certificate for any building within the development zone, with exception of the use of the existing clubhouse building for any permitted use.



Item / contribution	Public purpose	Manner, extent and value	Timing
4. Private internal roads	Roads	<p>All internal roads on freehold land Lot 31/DP1231486 and Lot 100/DP1231954 are to remain privately owned and maintained by the proponent. All roads within Lot 14 (exclusive of the area of State Government controlled road) and dedication of Item (3)(a) are to be owned by Bayside Council.</p> <p>Any new road that forms the extension of Flora Street extension is to be located wholly on the development zone (Lot 100/DP1231954), except for that portion proposed to be constructed and dedicated by the proponent to Council as part of Parcel 1 to provide ongoing access to Pemulwuy Park and the Motorway Operations Centre Item (3)(b).</p>	Internal roads are to be constructed concurrently with, and as required by, the development they support.
5. Pedestrian access - Giovanni Brunetti Bridge	Active transport	This item will form part of the State Planning Agreement and will comprise an offset to any applicable Housing & Productivity Contribution obligation under Section 7.24 of the EP&A Act 1979, subject to agreement by DPE and TfNSW.	
6. Publicly accessible open space - Cooks River Foreshore	Open space and recreation	<p>The extent of the publicly accessible Cooks River foreshore is shown at Schedule 3, Figure 1 (Item 6).</p> <p>The width of the publicly accessible area is to be a minimum of 20m, except for the portion adjacent Block 2 where it interfaces with the Gertrude Street East extension linking to Levey Street.</p> <p>Registration of an easement in gross in favour of Council on terms satisfactory to the Council generally in accordance with the terms set out in Schedule 4 which allows the public access onto, over and across the land.</p>	<p>The delivery of the foreshore zone will be staged generally as follows:</p> <ul style="list-style-type: none"> i. Portion 1 to be delivered prior to the occupation of development on Block 1, ii. Portion 2 to be delivered prior to the occupation of development on Block 2, iii. Portion 3 to be delivered prior to the occupation of development on Block 3b, and iv. Portion 4 to be delivered prior to the occupation of development on Block 3C.



Item / contribution	Public purpose	Manner, extent and value	Timing
		<p>The indicative scope of embellishment works for the foreshore is included at Schedule 3 and includes landscape embellishment works, a regional standard shared pathway and seawall works. This is subject to the approval requirements of the relevant government agencies.</p> <p>The embellishment works will be undertaken by the proponent.</p> <p>Maintenance and renewal of the assets on the land is the responsibility of the proponent. The standard of maintenance is outlined in Schedule 5.</p> <p>The community benefit value for this works and associated maintenance and asset renewal is to be determined once Scope, maintenance and assets renewal obligations are agreed with Council and other statutory stakeholders.</p>	<p>The proponent and Council will collaborate together to facilitate a temporary publicly accessible pedestrian link along the foreshore with potential links to Pemulwuy Park ahead of the above staging.</p>
7. Publicly accessible open space – Fig Tree Plaza	Open space and recreation	<p>The Fig Tree Plaza area (Item 7), is to be generally in accordance with Schedule 3, Figure 1.</p> <p>The item is to be suitably embellished for use as a publicly accessible space in accordance with Schedule 3.</p> <p>The details of embellishment and associated maintenance, its specific uses and public access arrangements are to be documented and approved as part of any Development Application for Block 2.</p> <p>The community benefit value for this works and associated maintenance and asset renewal is to be determined.</p>	<p>The item is to be embellished and made publicly accessible no later than the issue of the final Occupation Certificate for buildings on Block 2.</p>



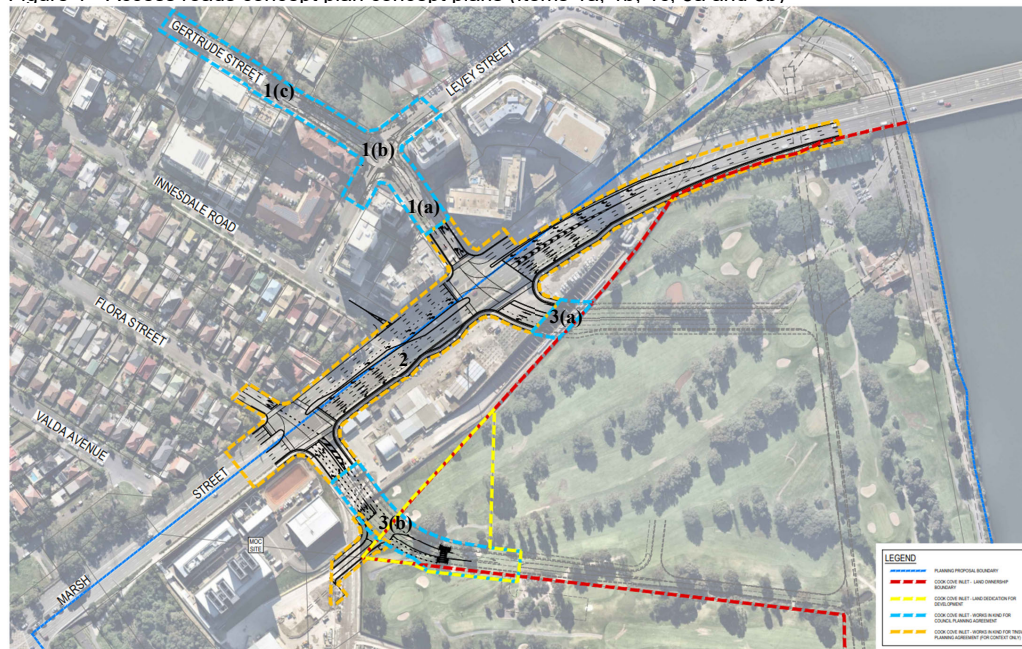
Item / contribution	Public purpose	Manner, extent and value	Timing
8.Land dedication – open space	Open space and recreation	<p>Embellishment and dedication of two parcels of land to Council at no cost to Council as shown at Schedule 6, Figure 1 and described below:</p> <p>8(a) is to:</p> <ol style="list-style-type: none"> 1. Comprise approximately 0.69ha of land, subject to final survey and subdivision, 2. Be remediated (if necessary) to a standard suitable for public open space, 3. Be embellished for passive open space, a single pedestrian / cycle pathway, overland flow path and access road (being the Flora Steet extension), 4. Include safe and convenient pedestrian and cycle access between Lot 1 and Lot 14, <p>8(b) is to:</p> <ol style="list-style-type: none"> 1. Comprise approximately 0.92ha of land, subject to final survey and subdivision, 2. Be remediated (if necessary) to a standard suitable for public open space, 3. Be embellished for passive open space, habitat creation, a single pedestrian / cycle pathway and overland flow path, <p>This open space will benefit the local community and the proponent by way of accommodating in part the overland flow path. As such the benefit is to be shared. The community benefit value for this item is nominated as being the estimated embellishment costs being \$4.23m.</p>	<p>Parcel 1 is to be embellished and dedicated to Council prior to the issue of any Occupation Certificate for the Flora Street extension road referred to in Item 3 above.</p> <p>Parcel 2 is to be dedicated to Council at a date no later than the completion and operation of the full foreshore zone referred to at Item 6 above.</p> <p>The proponent and Council will collaborate together to provide a temporary publicly accessible pedestrian link from Pemulwuy Park to the Cooks River Foreshore concurrently with the opening of Pemulwuy Park (Lot 14) to the public.</p>



Item / contribution	Public purpose	Manner, extent and value	Timing
9. Monetary Contribution - Pemulwuy Park, Riverine Park including active transport links	Open space and recreation	<p>A total monetary contribution of \$13.35m.</p> <p>The monetary contribution is to be used for the purposes of the design and embellishment of the future Pemulwuy Park (Lot 1 and Lot 14) external to the temporary M6 and M8 construction compound, upgrades to Riverine Park and active transport links within these parks and Muddy Creek.</p> <p>With the agreement of Council, the contribution may be offset by works in kind by the proponent with respect to the embellishment of Pemulwuy Park.</p>	<p>Initial payment of \$1m within 12 months of the date of gazettal of the Planning Proposal.</p> <p>The balance of subsequent payments will be proportional per sqm of GFA with the delivery of new floor space within the development zone and payable prior to the issue of the relevant Occupation Certificate.</p>
10. Embellishment works – Pemulwuy Park	Flood mitigation	<p>All civil and landscape works required by the project with respect to:</p> <ol style="list-style-type: none"> 1. Access roads between Marsh Street and the development, 2. Any overland flow path within Lot 1 and Lot 14 (refer to (Item 10) at Schedule 3, Figure 1), or 3. Any modification to works delivered by TfNSW within Lot 1 and Lot 14, will be the responsibility of the proponent and excluded from any monetary contribution or associated works in kind referred to in Item 9. This specifically excludes any works associated with new Green and Golden Bell Frog habitat or other Transport for NSW works obligations arising from relevant conditions of consent of the adjacent M8 (SSI6788) and M6 Stage 1 (SSI8931) motorway projects. 	

**Schedule 2**

Figure 1 - Access roads concept plan concept plans (Items 1a, 1b, 1c, 3a and 3b)



**Gertrude Street extension and upgrade indicative scope and cost of works (Items 1a, 1b and 1c)**

General scope of works to include:

- Site establishment, demolition, clearing and sediment control.
- Utility identification, protection, and adjustments
- Geotechnical and earthworks
- Stormwater and subsoil drainage works.
- New pavement and kerb construction
- Signage, line marking and barriers.
- Landscaping and tree replacement

Specific scope of works to include:

- New footpath and landscaping areas along Gertrude Street and Levey Street.
- New kerb, medians, signage, line marking and pavement along Gertrude Street and Levey Street to facilitate road extension, widening and intersection upgrade works.
- Gertrude Street and Levey Street roundabout intersection upgrade works to facilitate road widening works and Gertrude Street road extension between Levey Street and Marsh Street
- Road extension of Gertrude Street and provision of footpath between Levey Street and Marsh Street
- Protection and adjustments as required to existing utilities and stormwater infrastructure.

Estimated cost of works is **\$5m** inclusive of fees and contingency.



Schedule 3

Figure 1 – Public domain concept plans (Items 6, 7 and 10)



**Foreshore zone (Item 6) indicative scope and cost of works**

Scope of works to include:

- Site establishment and environmental protection
- Capping and protection of ethane gas pipeline
- Seawall demolition and construction
- Earthworks and remediation
- Stormwater drainage
- Utilities infrastructure
- Hard landscape works including pathways, boardwalks and looks outs etc.
- Soft landscaping including trees and irrigation.
- Furniture and lighting
-

Estimated cost of works is **\$30.15m** inclusive of fees and contingency.

Figtree plaza (Item 7) indicative scope and cost of works

Scope of works to include:

- Site establishment and environmental protection
- Earthworks and remediation
- Stormwater drainage
- Utilities infrastructure
- Hard landscape works including paved areas and pathways.
- Soft landscaping including trees and irrigation.
- Furniture and lighting
-

Estimated cost of works is **\$7m** inclusive of fees and contingency.



Schedule 4

Terms of Easement in Gross

To be agreed with Council and inserted prior to exhibition.

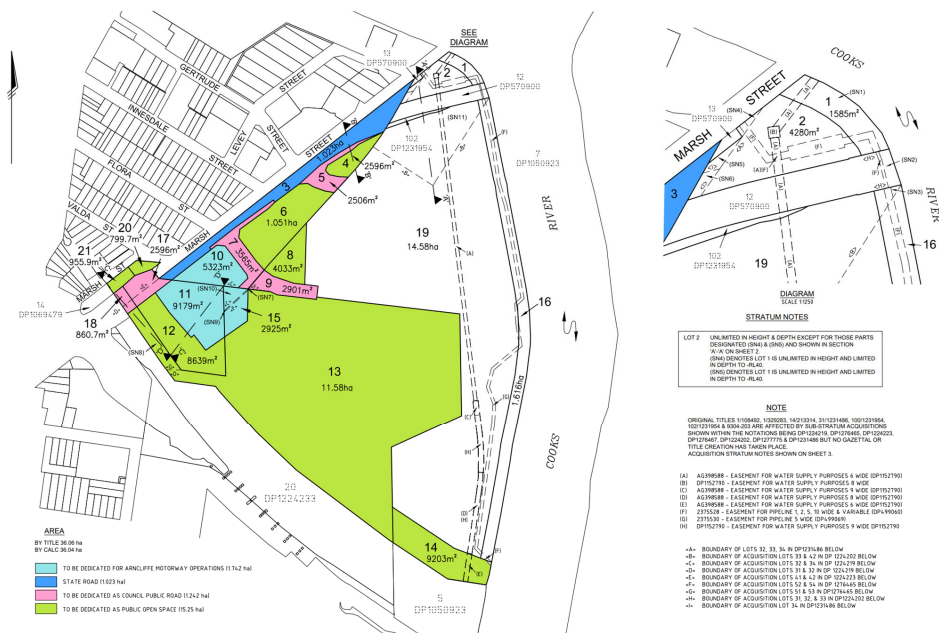
Schedule 5

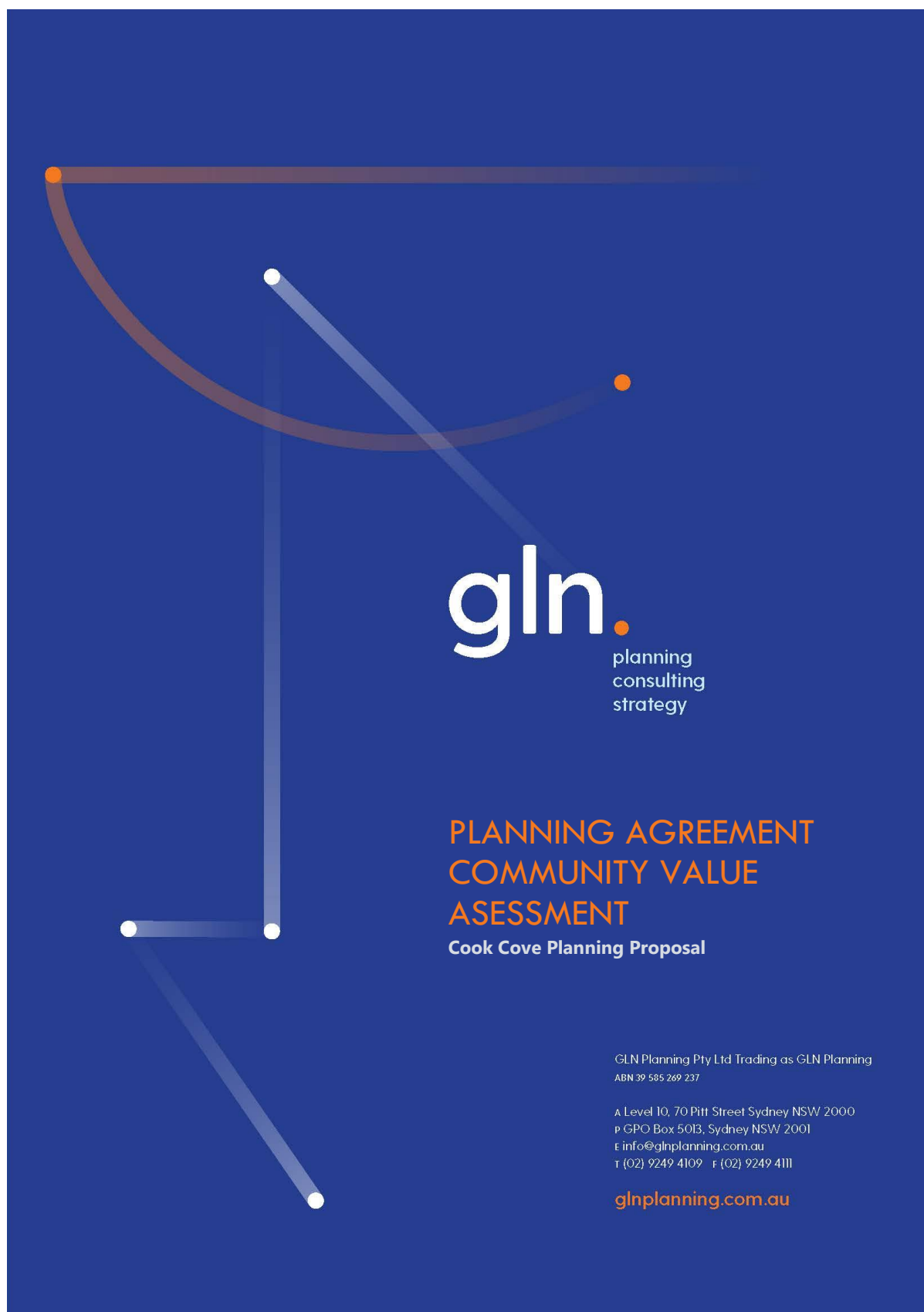
Maintenance and renewal schedule

To be agreed with Council and inserted prior to exhibition.



Figure 1 – Indicative land dedication





Planning agreement community value assessment

Cook Cove Planning Proposal

Prepared for

Cook Cove Inlet Pty Ltd

By



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Project Manager: Peter McKenna

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Project Number: 10746

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CCI Planning Agreement Community Value Assessment
November 2023



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Executive summary

The Cook Cove site comprises 36.2ha of land that fronts the Cooks River in the Bayside LGA, which is subject to a Planning Proposal (PP-2022-1748) submitted by Cook Cove Inlet Pty Ltd (CCI).

The proposal was publicly exhibited from 24 April 2023 to 6 June 2023 and a Response to Submissions report was provided to the Department of Planning and Environment (DPE) on 20 September 2023. If the Proposal is endorsed to proceed to finalisation by the Sydney Eastern City Planning Panel (SECPP), it would enable up to 343,250 square metres of gross floor area on the site, accommodating up to 3,284 employees.

In order to finalise the planning proposal, the developer's obligations in relation to the provision of, and/or contributions toward, State and local infrastructure are proposed to be formalised through planning agreements with Bayside Council and the State government.

This document has been prepared to assist the proposed parties to the planning agreements understand the value of the infrastructure offer.

The main findings of the report are set out below:

- (a) The development would create a demand for roads, traffic and drainage facilities, as well as recreation facilities such as passive open space, fitness stations, and cycleways. This local infrastructure demand will be met by the land, works and monetary contributions included in the planning agreements, or works required by conditions of consent.
- (b) CCI will be responsible to fund and deliver a range of works-in-kind infrastructure together with cash contributions to the State government of \$8.7 million. This money is to be applied to providing active transport and traffic improvements to the State road network in the areas surrounding Cook Cove. Elements of the works-in-kind offer which CCI seeks acknowledgement as providing an additional wider public benefit are presently being appraised by TfNSW.
- (c) If there was no planning agreement, CCI would only be required to pay Housing and Productivity Contributions of \$5.95 million. CCI's cash offer provides a net community benefit of \$2.75 million.
- (d) For the local infrastructure, GLN Planning has reviewed the value of the local infrastructure offer in terms of its 'wider community value'. Wider community value means the value of the infrastructure to people living and working beyond the development site.
- (e) The wider community value represented in the CCI planning agreement letter of offer equates to approximately \$43 million. If there was no planning agreement and an appropriate local contributions plan applied to the development, the value Council would otherwise charge is estimated between approximately \$14 million and \$16.9 million.

- (f) CCI proposes to undertake works, dedicate land, provide publicly accessible amenities and services, and make cash contributions to Bayside Council for the provision of local infrastructure, including a cash contribution component of \$13.35 million. The foreshore amenities alone have an estimated community value of approximately \$24 million (excluding apportionment for use of Cooks Cove workers and visitors) and, but for the agreement, the public would not be able to enjoy these amenities.

Based on the above, we conclude that the contributions and infrastructure provision proposed by the applicant represents a superior, value-for-money outcome when compared to the infrastructure contributions that could otherwise be imposed on the development.

Figure 1 - Cook Cove Planning Agreement Facilities Maps

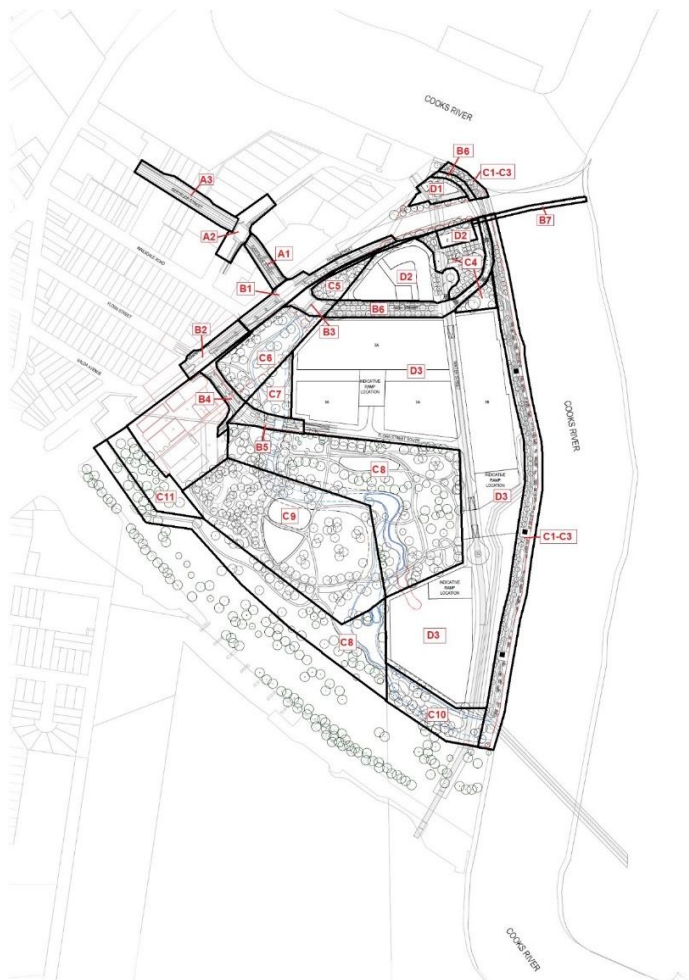




Figure 2 - Cook Cove Public Benefit Offer Summary

Item No. in Bayside Offer	Enspire Map Ref	Infrastructure item or contribution	Total cost	Wider community value %	Wider community value	Explanatory notes
LOCAL INFRASTRUCTURE						
Provide traffic items in Urban Renewal Area Contribution Plan 2019						
1A	T1	New public road between Marsh Street and Levey Street (in part, with balance of road forming part of Marsh Street intersection upgrade works, included within the State Planning Agreement). [Item WC3.3.1 in Council's Contribution Plan and Item RT2]	\$2,536,585	41%	\$1,040,000	Wider community value = \$ Cost of work X Wider community value %. Wider community value % = approximate portion of all traffic using the road / intersection that does not have Cook Cove as an origin or destination
1B	T2	Construction of new roundabout and kerb realignment at the intersection of Gertrude Street and Levey Street [Item RT2A]	na	41%	incl above	as above
1C	T3	Gertrude Street north side widening and lane reconfiguration – west of Levey Street, to tie into existing Gertrude Street northern kerb alignment adjoining 'Cahill Gardens' at 4-10 Gertrude Street, Woll Creek [Item WC 3.3.4 in Council's Contribution Plan and Item RT1C]	\$2,328,125	64%	\$1,490,000	Wider community value = \$ Cost of work X Wider community value %. Wider community value % = approximate portion of all traffic using the road / intersection that does not have Cook Cove as an origin or destination
Provide enhanced road access to Pemulwuy Park						
3B	B5	Public roads – Lot 14 extension roads. The Flora Street intersection and extension road Item (3(b)) will provide access to both the development and to Pemulwuy Park for the public.	\$9,300,000	10%	\$930,000	Wider community value = \$ Cost of work X Wider community value %. Wider community value % = approximate portion of all traffic using the road / intersection that does not have Cook Cove as an origin or destination
Provide publicly accessible open space						
6	C1-C3	Site preparation and remediation of foreshore area	\$531,523	75%	\$398,642	Wider community value % = estimate of total users of the foreshore open space and recreation amenities originating from outside the development site.
6	C1-C3	Embellishment of foreshore area	\$17,932,578	75%	\$13,449,434	as above
6	C1-C3	Cooks River boardwalk	\$9,358,624	75%	\$7,018,968	as above
6	C1-C3	Regional pedestrian / cycleway between Levey Street and SE corner of site	\$521,994	75%	\$391,496	as above
7	C4	Fig Tree Plaza park	\$10,528,498	25%	\$2,632,125	as above
Open space contributions						
8	C7	(a) Embellish and dedicate 0.69ha of land for passive open space, a single pedestrian / cycle pathway, overland flow path and access road (being the Flora Street extension)	\$1,464,300	50%	\$732,150	Wider community value % based on the land serving a dual (50/50) purpose of providing an overland flow path (for private development), and a link between Pemulwuy Park and the publicly accessible foreshore open space.
8	C10	(b) Embellish and dedicate 0.92ha of land, for passive open space, habitat creation, a single pedestrian / cycle pathway and overland flow path	\$3,177,359	50%	\$1,588,680	as above
9	na	Provide monetary contribution to Council for the embellishment of Pemulwuy Park and Riverine Park, including active transport links	\$13,350,000	100%	\$13,350,000	
TOTAL					\$43,021,493	

Note: Estimated monetary contributions exclude land value of dedications and CCI's commitment to recurrent funding of foreshore maintenance subject to public right of way easements

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CCI Planning Agreement Community Value Assessment
November 2023

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1 Background

1.1 Planning proposal

Cook Cove Inlet has submitted to Bayside Council an offer to enter into a planning agreement under s7.4 of the Environmental Planning and Assessment Act 1979 in relation to the Cook Cove development. This offer was revised and the current offer at the time of writing is dated 11 October 2023.

The offer accompanies a planning proposal (PP-2022-1748). Key features of this planning proposal relevant to the planning agreement offer include changes to the land use zoning to facilitate the following uses of the site:

- Enterprise zone employment purposes, including logistics, commercial, retail, and short-term accommodation land uses,
- conservation and publicly accessible open space along the Cooks River foreshore,
- public recreation purposes in a proposed area of public open space known as 'Pemulwuy Park'
- conservation of green and golden bell frog habitat,
- land near Marsh Street used for motorway operations.

The planning proposal will facilitate construction of new buildings with a maximum GFA of 340,000m² on land south of Marsh Street and a further 1.25:1 FSR (3,250m² of GFA) on land north of Marsh Street. The anticipated development breakdown of land uses is shown in Table 1.

The total number of workers forecast within the proposed development is 3,284 as show in **Table 1** below.

Table 1 - Number of workers

Land Use	GFA (sqm)	Worker per sqm of GFA	No. of workers
Logistics/warehouse	290,000	190	1,526
Hotel/visitor accommodation	20,000	40	500
Commercial office	22,350	25	894
Retail	10,900	30	363
TOTAL	343,250		3,284

Source – Ethos Urban

1.2 Matters agreed in-principle

DPE’s Planning Delivery Unit in 2022 brokered several meetings between Council and CCI representatives in an effort to resolve outstanding matters preventing progress of the planning proposal, including the proposed local planning agreement.

An outcome of this process was the *Cooks Cove Public Benefit Offer In Principle Agreement* of 8 April 2022, (Version 1.3), submitted to the Sydney Eastern City Planning Panel.

The in-principle agreement included the following:

2. *The Proponent and Council acknowledge and agree that:*

- (a) infrastructure works that are required to be delivered to enable only the Cooks Cove development to occur are not considered community benefits,*
- (b) value capture based on uplift in land value shall not be a consideration in determining the nature and extent of contributions to be made by the Proponent,*
- (c) the Planning Agreement will exclude the operation of s7.11 or s7.12 of the Act,*
- (d) the total value to the local community of the works, land and monetary contributions provided as part of the Cooks Cove development will be greater than the contributions that Council could otherwise receive via s7.11 or s7.12 contributions, and*
- (e) the primary purpose of all land, works and cash contributions should be for the benefit of the local community within the vicinity of the site.*

CCI remains committed to negotiating a planning agreement adhering to these principles.

1.3 Local planning agreement outstanding matters

This report has been prepared to assist the Council and the Sydney Eastern City Planning Panel in understanding the value of the planning agreement offer made by CCI.

Specifically, this report responds to the comments on infrastructure contributions, public benefit values and requests for information contained in Council’s letter dated 25 September 2023 and supplementary email 6 November 2023.

The left column of **Table 2** below contains a summary of the Council’s matters.

The right column includes our response to each matter, including where CCI agrees with the Council. Where there remains disagreement, the table indicates the section of this report that explains the reasons for disagreement.

Table 2 - Summary of Council matters relating to the planning agreement offer and responses

Matters raised by Council	Matters agreed OR where response is addressed in this report
Sharing of land value uplift resulting from the approval of the planning proposal. Council typically considers 'as a starting point for negotiations' that a contribution of money and/or works with a value that is at least 50% of the \$ increase in land value should be included in the agreement.	Disagree. Not consistent with the <i>Cooks Cove Public Benefit Offer In Principle Agreement</i> , with Council a party to this agreement. This request is also inconsistent with DPE <i>Planning Agreements Practice Note</i> , February 2021. Refer Section 2.
Infrastructure works that are required to be delivered to enable only the Cooks Cove development to occur are not considered community benefits.	Agreed. Only works which can be derived as contributing to wider public benefit as an apportionment, are included for consideration.
Any State and/or regional road and access improvements and public transport upgrades should form part of a separate planning agreement with the NSW Government.	Agreed. A separate State Planning Agreement is presently being negotiated with TfNSW.
Gertrude Street works east extension from Levey Street to Marsh Street including the intersection upgrade at Marsh Street are to be 100% funded by the proponent.	Agreed. These works are to be 100% funded and implemented by CCI. The wider public benefit apportionment of these works are presented in the updated Local VPA letter of offer dated 11 October 2023.
Council supports the offer to widen the north side of Gertrude Street between the Princes Highway and Levey Street, with design aspects to be further discussed with councils Traffic Engineers and the Bayside Local Traffic Committee.	Agreed. Included in the revised Local VPA letter of offer dated 11 October 2023.
Removal of Marsh Street improvements from the planning agreement offer as they will be the responsibility of the proponent and/or form part of a separate agreement with the NSW Government.	Agreed, included in the separate State Planning Agreement.
All internal roads on the development site are to remain privately owned and maintained by the proponent.	Agreed
Gertrude Street extension to include arrangements for right of public access through to the Cooks River foreshore.	Agreed
Additional item for planning agreement - Flora Street extension – to be designed to Council standards and must provide ongoing access to the Motorway Operations Complex and Pemulwuy Park.	Agreed
Remove contribution to improving pedestrian and cycle facilities on Giovanni Brunetti bridge over Cooks River from the Local Planning agreement on the basis that Marsh Street is a State road and include in a separate agreement with the NSW Government.	Agreed
If Cooks River pedestrian and cycle bridge is not included in a state planning agreement, then Council wants the equivalent monetary contribution of c\$4.12m (plus the additional \$412,000 proposed in lieu of the bridge over the	Not agreed. Not supported by Transport for NSW in their correspondence dated 30 October 2023.

Matters raised by Council	Matters agreed OR where response is addressed in this report
Princes Highway) to be allocated to other public benefits included in the council planning agreement.	
Monetary contribution for a future pedestrian bridge over the Princes Highway should be reallocated to other public benefits in council planning agreement given the uncertainty of the bridge being built.	Agreed
Supports a publicly accessible foreshore along the Cooks River (min 20m wide), including the Fig Tree Grove precinct, landscape embellishment works and a regional standard shared pathway.	Agreed
Seawall works are required regardless of the shared path, and not to be recognised as a public benefit in the planning agreement	Not agreed. The works-in-kind are variable along the length of the foreshore and include higher grade 'urban' waterfront treatments.
Foreshore area to remain in private ownership with appropriate legal mechanisms to permit public access and for ongoing maintenance and renewal of the assets to be the responsibility of the proponent.	Agreed and included in revised letter of offer dated 11 October 2023.
Dedication and embellishment of land connecting into Pemulwuy Park to Council supported. Dedication of these parcels are not solely for community benefit but also to facilitate the diversion of overland flow around the development site.	Agreed
Supports a \$5m monetary contribution to be made towards the embellishment of Riverine Park, Studdert Reserve, or other recreational assets in the vicinity, rather than only Pemulwuy Park, which will receive significant investment by TfNSW as part of their UDLP works.	Not Agreed. Funds to be directed to improving the amenity of Pemulwuy Park embellishment in priority.
The monetary contribution offered is in addition to any embellishment or rectification works required to Lots 1 and 14 (connections to Pemulwuy Park).	Agreed. CCI to fund all works associated with implementing agreed flood mitigation strategy.
Supports the \$8.35m monetary contribution for local active transport and open space improvements in the general vicinity of the development site, but should be increased noting the revised offer removes a monetary contribution towards the pedestrian / cycle bridge over the Cooks River (\$4.12m) and the pedestrian bridge over the Princes Highway at Wolli Creek.	Not Agreed. Funds allocated to State Planning Agreement. The total value for the community through the works-in-kind proposed vastly exceeds the requirement for an additional monetary contribution.
Proponent to provide an estimate of funds the council could receive if, instead of the planning agreement contributions, a 1% s.7.12 levy was in place.	Agreed. Addressed below.

The following planning agreement offer commitments are not addressed in this report:

Item no. in planning agreement offer	Reason for no or negligible wider community value
2. Public roads - Marsh Street intersection works	State infrastructure item
3. Public roads - Lot 14 extension roads	<p>Whilst the overwhelming need for this item is generated by the development, these improvements do significantly improve accessibility to the Cooks River foreshore and Figtree Park and circulation and connectivity with Pemulwuy Park. Notwithstanding, consistent with the agreed Planning Agreement principles, these works have been categorised as enabling works, with no attribution as generating a wider community value.</p> <p>The Flora Street intersection and extension road Item (3(b)) will provide access to both the development and to Pemulwuy Park for the public. The proportional split attributable to non-project vehicular traffic upon completion of the project is 10%. The community value of this item is therefore \$0.93m.</p>
4. Private internal roads	Publicly accessible Enabling works that are not attributed a wider community value
5. Pedestrian access - Giovanni Brunetti Bridge	State infrastructure item

2 Land value uplift considerations

Council requested CCI in its letter of 25 September 2023 to provide valuation of the site pre- and post-rezoning and that sharing of the uplift in land value would be a 'starting point' for planning agreement negotiations. This was again requested in an email dated 6 November 2023.

This is unreasonable and inappropriate for land value uplift, or 'value capture', to be a consideration in the planning agreement for Cook Cove as it is inconsistent with and contrary to State Government planning policy as explained further in **Section 2.1**.

The concept of value capture is that the community shares in the additional value that accrues to land as a result of the rezoning of the land being able to be used more intensively.

Historically, the process involves the council negotiating terms with a rezoning proponent to have a share (usually 50%) of any uplift in residual land value being paid in cash to the council, or provided as in-kind infrastructure of an equivalent value. This is apparently Bayside Council's position, yet it is not articulated in any Council-adopted policy we are aware of, including Council's Planning Agreement Policy 2022 which we have discussed further in **Section 2.2**.

The Proponent maintains an objection to land value uplift as per the Cook Cove Public Benefit Offer In Principle Agreement of 8 April 2022 (version 1.3) which involved Bayside Council and was reported to the SECPP specifically noting *'value capture based on uplift in land value shall not be a consideration in determining the nature and extent of contributions to be made by the Proponent'*.

2.1 State government policy

The State government has for many years discouraged negotiation of any planning agreements that led to the perception of planning decisions being bought or sold. Value capture contributions carry this perception because, if a developer does not 'offer' this type of contribution then progress of the planning proposal would usually be delayed. However, until 2021 there had been no specific advice or guidance to councils on the issue of value capture.

In response to many complaints from the development industry, the NSW government in 2021 updated its policy on value capture. The then Minister for Planning and Public Spaces and the then Department of Planning, Industry and Environment (DPIE):

- issued an updated practice note on planning agreements.
- amended the EP&A Regulation to require that councils must consider the practice note before entering into any planning agreement.

The updated Practice Note now includes additional fundamental principles for planning agreements, including:

- Planning agreements should not be used as a means of general revenue raising or to overcome revenue shortfalls;
- Value capture should not be the primary purpose of a planning agreement;
- Planning agreements must not include public benefits wholly unrelated to the particular development,

as well as the following specific advice on value capture in Section 2.3 of the practice note:

The term value capture is widely used and covers several different practices. This practice note does not attempt to define or discuss them all. In general, the use of planning agreements for the primary purpose of value capture is not supported as it leads to the perception that planning decisions can be bought and sold and that planning authorities may leverage their bargaining position based on their statutory powers.

*Planning agreements **should not be used explicitly for value capture in connection with the making of planning decisions**. For example, **they should not be used to capture land value uplift resulting from rezoning** or variations to planning controls. Such agreements often express value capture as a monetary contribution per square metre of increased floor area or as a percentage of the increased value of the land. Usually the planning agreement would only commence operation as a result of the rezoning proposal or increased development potential being applied.¹ [emphasis added]*

2.2 Bayside Council Planning Agreement Policy 2022

Council adopted the Bayside Council Planning Agreement Policy 2022 on 22 March 2023, after the introduction of the NSW government's practice note on planning agreements as discussed above.

Clause 1.10(h) of council's policy paraphrases part of the practice note as follows:

Value capture should not be the primary purpose of a planning agreement.

However, the policy does not elaborate on this point and provides no reference to the following paragraphs of the practice note which requires that planning agreements "**should not be used explicitly for value capture in connection with the making of planning decisions**. For example, **they should not be used to capture land value uplift resulting from rezoning**".²

It is considered that the wording of Council's policy should not be misconstrued so as to allow Council to negotiate value capture through a planning agreement on the basis that it is not the primary purpose, but is instead a secondary or tertiary purpose, as all of these scenarios are contrary to the practice note.

In addition, this section of the report addresses matters under Section 3.4 – Acceptability Test (Table 3), Section 3.5 – Acceptability of land to be dedicated (Table 4) and 3.6 – Acceptability of a material public benefit (Table 5). A response to relevant matters are provided as follows.

Table 3 – Response to Section 3.4 – Acceptability Test

	Item	Response	
1	Provide development contributions that can be used for or applied towards a public purpose that would not form part of development consent obligations as part	The Proponent's letter of offer includes a package of works-in-kind, land dedication and monetary contributions which enhance connectivity, improve overland flow and provide superior open space enhancements	✓

¹ Planning Agreements Practice Note - February 2021, p5

² Planning Agreements Practice Note – February 2021, p5

	Item	Response	
	of the development in the absence of a planning agreement.	which would be unable to be achieved in the absence of a planning agreement.	
2	Be directed towards legitimate planning purposes, which can be identified in the statutory planning controls and other adopted planning strategies and policies applying to development.	The letter of offer includes a series of works-in-kind which Council have previously identified as desirable through strategic planning documentation and contributions plans.	✓
3	Provide for the delivery of infrastructure or public benefits not wholly unrelated to the development.	The proposed offer delivers new and embellished infrastructure which is connected to development which is made possible by the amendments sought in the corresponding Planning Proposal.	✓
4	Produce outcomes that meet the general values and expectations of the public and protect the overall public interest	The letter of offer provides a superior public benefit value equation, as evidenced through this report and accompanying material.	✓
5	Provide for a reasonable means of achieving the desired outcomes and securing the benefits.	The proposed works and monetary contributions will be secured through a necessary bank guarantee as to be resolved in the detailed VPA.	✓
6	Protect the community against adverse planning decisions.	The letter of offer to enter into a proposed VPA with Council is considered in line with the directions of the SECPP in the issuance of a Gateway determination for the Cooks Cove Planning Proposal.	✓
7	Satisfy the statutory requirements for planning agreements contained in the Act and the Regulation.	The Proponent is committed to satisfying all statutory matters required in the detailed VPA to be negotiated with Council.	✓
8	Satisfy the principles for using a planning agreement contained in this policy.	As evidenced by this report and supplementary material, the offer satisfies all necessary principles.	✓
9	Not be in conflict with another planning agreement applying to the relevant land.	The subject proposal requires a separate State VPA (SPA) for the classified road network and active transport enhancements. The scope of works have been delineated and agreed so as to not be in conflict. Council have passed an in-principle motion to be a party to the SPA.	✓

Table 4 – Response to Section 3.5 – Acceptability of land to be dedicated

	Item	Response	
a.	The monetary value of the land	The monetary value of the land to be dedicated is not required to be appraised in the circumstances of the offer.	na.

	Item	Response	
b.	The dimensions, location and topography of the land	The offer comprises two parcels of 0.69ha and 0.92ha with dimensions and topography as per indicative subdivision and survey plan details provided under separate cover. The location and topography of the Land to be dedicated improves connectivity between otherwise isolated Council owned land parcels and improved accessibility to the Cooks River foreshore	✓
c.	The current use and improvements on the land	The land is currently used as a golf course as formed open space lands.	✓
d.	Factors affecting the usability of the land, including soil condition, accessibility, solar access and relationship with existing public facilities	The land is unencumbered and will be dedicated to Council in an acceptable condition as embellished public open space. The land is not contaminated, enjoys and improves accessibility and good solar access and is adjacent proposed private and public recreation facilities.	✓
e.	Ongoing costs and renewal costs to Council	Maintenance to be provided by Council as a modest extension to their ongoing maintenance liability of Pemulwuy Park.	✓
f.	Works proposed to be undertaken by the applicant	Embellishments including re-shaping and installation of civil works, habitat creation and pathways / landscaping in line with the Hassell indicative reference scheme as provided under separate cover.	✓

Table 5 – Response to Section 3.6 – Acceptability of a material public benefit

	Item	Response	
a.	The monetary value of the benefit	Monetary value of the offer exceeds a total of \$43 million as outlined in the revised letter of offer.	✓
b.	What needs of the community could be satisfied	The offer results primarily in a vastly improved outcome for the public access and enjoyment of Pemulwuy Park, the Cooks River foreshore and/or additional local Council owned and managed open space.	✓
c.	The financial implications for the Council	The offer provides cash contributions to Council which are capable of being put towards planned open space works within and in the vicinity of the Planning Proposal site.	✓
d.	The timing of completion of works or the delivery of the benefit	The staging of works will be negotiated with Council to ensure an acceptable outcome for the community. For example \$1m will be provided upfront upon gazettal to provide funds to enable detailed design work to occur	✓

	Item	Response	
		for those portions of Pemulwuy Park external to the temporary TfNSW works compound.	
e.	Future recurrent costs associated with the benefit	Embellishments will be maintained by Council as a modest extension on the ongoing liability to maintain Pemulwuy Park as publicly accessible open space.	✓

2.3 Land value information unnecessary and inappropriate

The Council has now sought information from CCI to understand the value uplift, if any, that may result from approval of the planning proposal.

Council's desire to revisit the land value uplift is unnecessary and inappropriate on the following grounds:

- As stated in section 1.2, CCI and Council agreed in principle to, among other things, 'value capture based on uplift in land value shall not be a consideration in determining the nature and extent of contributions to be made by the Proponent'.
- The consideration by a council of land value uplift in deciding whether to accept an applicant's offer of a planning agreement would be contrary to section 2.3 of the Planning Agreement Practice Note and clause 25B(3) of the Environmental Planning and Assessment Regulation 2021.
- The inclusion of value uplift in a planning agreement on the basis that it is not the 'primary purpose' of the planning agreement (Clause 1.10(h) of the Bayside Council Planning Agreement Policy 2022) is also contrary to the practice note.
- The planning proposal does not introduce residential zones that could give rise to new or expanded infrastructure demands on the site. Rather the planning proposal principally re-allocates existing employment and recreation zones that would result in development infrastructure demands similar to demands generated by development expected to occur under the current zoning.

The merit of this report includes an assessment of and response to the infrastructure impacts of the development and the demands of its worker population and includes provision of on- and off-site amenities that provide a broad community benefit.

This assessment, and the matters agreed in-principle through the involvement of DPE's Planning Delivery Unit, provide the appropriate path forward in resolving local infrastructure contributions for the Cook Cove site.

Value capture should not be a consideration in the negotiations.

2.4 Infrastructure demands

Site population

The planning proposal includes a mix of non-residential land uses including logistics and warehousing, hotel and visitor accommodation, commercial offices and retail. The total number of workers forecast within the proposed development is **3,284** as show in **Table 6** below.

Table 6 - Number of workers

Land Use	GFA (sqm)	Worker per sqm of GFA	No. of workers
Logistics/warehouse	290,000	190	1,526
Hotel/visitor accommodation	20,000	40	500
Commercial office	22,350	25	894
Retail	10,9000	30	363
TOTAL	343,250		3,284

Source – Ethos Urban

Open space

We have undertaken an assessment of Bayside Council's existing development contributions plans to determine the rate of provision for infrastructure which could be reasonably applied to the proposed development.

Bayside Council's *Wolli Creek and Bonar Street Precincts Urban Renewal Areas Contributions Plan 2019* assumes that the demand generated by workers for open space is one-third of the demand generated by the resident population. This is based on the recommendations of IPART's review of the *Rockdale Urban Renewal Areas Contributions Plan* which advised that "this is based on our estimate of the maximum potential usage of the average worker compared to the average resident. For the average worker this is limited to meal breaks on five days each week, compared with twice each workday and a number of times on weekends or days off work for residents."³

Bayside Council's *Arncliffe and Banksia Local Infrastructure Contributions Plan 2020 Revision 1* notes that the requirements for open space and recreation facilities which informed that plan were documented in the Bayside West Precincts 2036 Plan (BWP plan).⁴ The BWP plan identified an existing rate of open space provision of 1.98ha per 1,000 people or 19.8m² per person and the *Arncliffe and Banksia Local Infrastructure Contributions Plan 2020 Revision 1* seeks to maintain this the same rate of provision as far as possible, with a focus on enhancing existing open space areas and providing new open space areas in locations which have poor accessibility to existing open space areas when applying a 400m accessibility criteria. This contributions plan also discounts the demand

³ Paragraph 1.5.4 in the IPART assessment of the Rockdale Urban Renewal Areas Contributions Plan dated December 2016

⁴ Bayside West Precincts 2036 Plan (BWP prepared by the Department of Planning, Industry and Environment dated August 2018)

generated for open space by workers compared to residents by two-thirds as per the *Wolli Creek and Bonar Street Precincts Urban Renewal Areas Contributions Plan 2019* which results in a requirement of 0.66ha per 1,000 workers or 6.6m² per worker.

The application of a benchmark rate of provision of **0.66ha per 1,000 workers** (which equates to **6.6m² per worker**) to the Cook Cove development is considered appropriate.

Traffic and drainage facilities

The planning proposal identifies the scope of traffic and drainage facility upgrades that are required to support the proposed development. These upgrades have either been included in the State or local infrastructure planning agreement offers or will be provided by the developer through conditions of consent.

3 Contributions that could otherwise be levied if there was no agreement

3.1 State and regional infrastructure

The proposed development is subject to the state government's Housing and Productivity Contribution (HPC).

The total HPC would be \$5.95 million based on the recently exhibited draft rates for retail, commercial and industrial gross floor area.

Table 7 - Potential HPC contributions

Use	HPC category	GFA	HPC rate	HPC
Logistics /warehouse	Industrial	290,000	\$15	\$4,350,000
Commercial office	Commercial	22,350	\$30	\$670,500
Hotel / serviced apartment	Commercial	20,000	\$30	\$600,000
Retail	Commercial	10,900	\$30	\$327,000
		343,250		\$5,947,500

Source – GLN Planning, Ethos Urban and DPIE

3.2 Local infrastructure

The site is subject to two existing contributions plans, however neither of these plans levy contributions on the proposed development as outlined below:

- The Rockdale S94 Development Contributions Plan 2004 applies to the Arncliffe area as shown in Figure 2.1 on page 15 of the plan, including the Cook Cove site. However, the Plan does not levy S94 (s7.11) contributions on non-residential development in this area.
- The Rockdale S94A Development Contributions Plan Amendment 1 came into force on 28 September 2022, and amongst other changes, 'Section 3.9.2 Other development exempted from the levy' was amended to direct "All developments within the Cooks Cove site that are the subject of a planning agreement between the developer of this area and Council'. As a result, this plan does not levy s94A (s7.12) contributions on future development on the site.

Given that the proposed development is not subject to Bayside Council's existing development contributions plans, we have calculated the potential contributions that could be levied on the proposed development if appropriate contributions plans were prepared and adopted using two benchmarking approaches:

- a. Comparing the local contributions levied per additional worker in other Bayside employment precincts and applied the average of these contribution rates to the number of expected workers on the Cook Cove site. This method is a coarse approach in determining an approximate s7.11 contribution for the development.

- b. Preparing an estimate of the total proposed cost of development on the Cook Cove site and applied the standard s7.12 levy rate of 1% to that development cost. This approach has been previously requested by Council to assist it in its evaluation of the planning agreement.

Per worker contribution benchmarking

GLN Planning investigated the contributions levied on non-residential development under other contributions plans in the Bayside LGA (**Table 8**) and in key employment areas/centres elsewhere in Sydney (**Table 9**). Both s7.11 and s7.12 contributions plans are included in the assessment.

Table 8 - Contribution per worker under Bayside contributions plans

Plan	Charge per worker	Facilities levied
Arncliffe Banksia Precinct	\$3,912	Traffic and transport Drainage Open space Community facilities Plan admin
Wolli Creek / Bonar Street	\$4,556	Roads, traffic, parking & street scape Flood mitigation and drainage Social - open space, community Plan admin
Ramsgate Commercial Centre	\$7,339	Streetscape improvements (public domain) Pedestrian walkways Public square, art and toilets Undergrounding electricity Traffic management and service lanes Drainage Plan admin
Mascot Station	\$5,108	Community Open space and rec Traffic and transport Plan admin
Average	\$5,229	

Source – Bayside Council 2021 rates and GLN Planning

Table 9 - Contributions rates for Sydney employment areas/centres

Employment area / centre	Type of contribution	Contribution per additional worker* (2019)
Parramatta City Centre	s7.12 (5%)	\$10,417
Macquarie Park	s7.11	\$1,776
Castle Hill	s7.11	\$3,705
Norwest	s7.12 (2.8%)	\$5,833
Chatswood	s7.12 (3%)	\$6,250
North Sydney	s7.11	\$4,461
City of Sydney (Central Sydney Core)	s7.12 (3%)	\$6,250
Green Square Redevelopment Area	s7.11	\$5,571
Green Square Town Centre	s7.11	\$5,571
City of Sydney (Western Fringe)	s7.11	\$2,228
Penrith City Centre	s7.11	\$4,293
Hurstville Centre	s7.11	\$2,451
Liverpool City Centre	s7.12 (3%)	\$6,250
Bondi Junction	s7.12 (1%)	\$2,083
Burwood	s7.12 (4%)	\$8,333
Average		\$5,032
Range		\$1,776 to \$10,417

* Note: s7.12 rates converted to per additional worker rates based on:

- 40% of new GFA is replacement GFA
- estimated costs of floor space \$5,000 per sqm of GFA
- equivalised workspace ratio of 1 worker for every 25 m² GFA

Source – GLN and Sydney metro councils (2019)

The analysis resulted in the following average contributions per additional worker:

- \$5,229 per additional worker in Bayside LGA
- \$5,032 per additional worker in other Sydney region employment centres in non-greenfield locations

Applying a conservative mid-point rate of \$5,150 per additional worker to the expected site worker population of 3,284 workers results in a hypothetical contribution of **\$16.91 million**.

Estimated Section 7.12 contributions based upon cost of development

GLN has estimated the likely total s7.12 contributions that could be levied on the future development of the site if a s7.12 contribution plan applied to the site and a contribution was levied at 1% of the cost of development.

To inform this exercise, CCI engaged MBM to calculate the estimated cost of the future development of the site using the definition of "Proposed Cost of Development" as per Section 208 of the Environmental Planning and Assessment Regulation 2021.

MBM estimated the cost of development at **\$1,399,243,168** as shown in **Figure 3** and included as **Appendix B** to this report, which would enable the levying of a s7.12 contribution at 1% of the cost of development of approximately **\$13,992,431**.

Figure 3 - Estimated cost of development

ESTIMATED COST OF DEVELOPMENT				
Code	Item	Item	Total (excl. GST)	Notes
EST	Infrastructure	Establishment	\$ 562,331	
DEM	Infrastructure	Demolition and Utilities Management	\$ 1,599,465	
ETH	Infrastructure	Ethan Pipeline Protection	\$ 4,529,105	
BEW	Infrastructure	Topsoil and Bulk Earthworks	\$ 9,693,072	
CON	Infrastructure	Contamination Management	\$ 726,597	
ROA	Infrastructure	Roads and Verge Utilities	\$ 22,144,871	Internal roads including services in the footpath Levey Street / Gertrude Street Intersection
MAR	Infrastructure	Gertrude Street	\$ 4,163,140	
BRI	Infrastructure	Bridges and Culverts	\$ 3,448,957	
DRA	Infrastructure	Trunk Drainage	\$ 1,811,406	
LAN	Infrastructure	Open Space	\$ -	Refer Other Sources below.
CYC	Infrastructure	Cycleways	\$ 485,694	
RIP	Infrastructure	Riparian Setback Landscaping	\$ 16,817,658	
JET	Infrastructure	Jetty	\$ -	Not required
SEA	Infrastructure	Seawall Construction	\$ 10,129,951	
ELE	Infrastructure	Lead-in Electrical	\$ 9,124,827	
SEW	Infrastructure	Lead-in Sewer	\$ 7,781,209	
WAT	Infrastructure	Lead-in Water	\$ 2,286,768	
NBN	Infrastructure	NBN	\$ 30,105	
GAS	Infrastructure	Natural Gas	\$ -	
WQU	Infrastructure	Water Quality	\$ 3,641,550	
OTH	Infrastructure	Other	\$ -	Excluded from CIV
Total			\$ 98,976,705	
Infrastructure	Infrastructure	C4: FIG TREE PLAZA URBAN PARK	\$ 10,528,498	Source: MBM, 17th March 2023
Infrastructure	Infrastructure	C7: MARSH STREET PARKLANDS (TRUST LANDS) PART 2)	\$ 1,464,300	Source: MBM, 17th March 2023
Infrastructure	Infrastructure	C10: SOUTHERN OVERLAND FLOW	\$ 3,177,359	Source: MBM, 17th March 2023
Development	Development	Buildings on Development Site D1	\$ 15,722,490	Source: MBM, 8th November 2023
Development	Development	Buildings on Development Site D2	\$ 308,575,715	Source: MBM, 8th November 2023
Development	Development	Building D3 - Warehouses 3A; 3B; 3C	\$ 960,798,101	Source: MBM, 10th November 2023
Total			\$ 1,300,266,463	
			Total Infrastructure	\$ 114,146,862
			Total Development	\$ 1,285,096,306
				\$ 1,399,243,168 (Excluding GST)

Source – MBM

4 Value of infrastructure offer

The applicant proposes to undertake works, dedicate land and pay cash contributions to Bayside Council to meet all of the local infrastructure needs of the Cook Cove development.

This includes:

- Infrastructure considered to be 'enabling works' required to be provided by the developer through conditions of consent. Enabling works that have no wider community benefit – for example internal roads and drainage works serving only the proposed development – are not included in the proposed planning agreement offer to Bayside Council and are deemed to have no wider community benefit or value
- Infrastructure to be provided by the developer that has some wider community benefit. These works may be enabling works or other works which also have a wider community benefit. When assessing the community benefit value of these works we have attempted to quantify the share of the value attributable to the wider community benefit.
- Cash contributions to Council to provide local infrastructure in the vicinity of the Cook Cove site. These contributions are considered to have a wider community benefit equivalent to 100% of the contribution offered.

5 Conclusion

The proponent's planning agreement offer represents a superior, value-for-money outcome compared to the Council's alternative which is to prepare a s7.11 or s7.12 contributions plan for the following reasons:

- The **commitment to pay Council \$13.35 million in cash contributions** alone is comparable to the total monetary contributions that could otherwise be levied on the entire development under s7.11 or s7.12 of the EP&A Act, notwithstanding the other benefits of the offer.
- The **commitment to deliver works-in-kind of some \$23.89 million** in relation to the provision of publicly accessible open space and foreshore areas associated with realising the Cooks Cove project (after accounting for the use from Cook Cove workers/visitors that will use the infrastructure).
- The **capital costs avoided by Council** in not having to deliver certain road works identified in its Wolli Creek contributions plan. The wider community value of the Gertrude Street works (after accounting for the traffic from Cook Cove that will use the road) is **\$3.46 million**.
- The **operational costs avoided by Council** due to the developer accepting ownership and maintenance responsibilities for internal roads and foreshore open space that would, without the planning agreement, ordinarily transfer to the Council upon completion.

CCI Planning Agreement Community Value Assessment
November 2023



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February 2024 be received and the recommendations therein be adopted with the exception of Items 11.3 CPE24.002, 11.3 CPE24.004, 11.3 CPE24.005, 11.3 CPE24.006 and 11.3 CPE24.008 which were separately dealt with.

11.3 CPE24.001 Draft Submission on NSW Government's Transport Oriented Development Program

RESOLUTION

Item Resolved by Exception Minute No. 2024/010

Resolved on the motion of Councillors Morrissey and Curry

- 1 That Council endorses the draft submission to the NSW Department of Planning, Housing and Infrastructure in response to the targeted consultation on the Transport Orientated Development Program.
- 2 That feedback be provided to the Director City Futures by 5:00 pm on Tuesday, 20 February 2024 and that this feedback be included in the submission. A marked up version to also be provided to Councillors prior to the February meeting of Council.

11.3 CPE24.002 Proposed Local Planning Agreement - Cooks Cove Planning Proposal

Councillor Saravinovski had previously declared a Less than Significant Non-Pecuniary Interest.

Councillor Awada had previously declared a conflict of duties, and left the meeting for consideration of, and voting on, this item.

Councillor Nagi had previously declared a conflict of duties, and left the meeting for consideration of, and voting on, this item.

RESOLUTION

Minute No. 2024/023

Resolved on the motion of Councillors Tsounis and Barlow

- 1 That Council endorses the offer to enter into a Planning Agreement with Cooks Cove Inlet Pty Ltd for local infrastructure and development contributions resulting from the Cooks Cove Planning Proposal as detailed in this report.
- 2 That the final Draft Planning Agreement be publicly exhibited in accordance with legislative requirements.
- 3 That the General Manager and delegate(s) are authorised to negotiate and finalise all documentation necessary following the conclusion of the public exhibition period, taking into consideration any submissions.

- 4 That the final Planning Agreement be reported back to Council before execution.

Division (Planning Matter)

For: Councillors Saravinovski, Curry, Morrissey, Muscat, Fardell, Jansyn, Tsounis, Barlow, Hanna, Douglas and Sedrak

Against: Councillor Werner

The Motion was declared carried.

11.3 CPE24.003 Western Sydney International Airport Flightpaths EIS - Draft Submission

RESOLUTION

Item Resolved by Exception Minute No. 2024/010

Resolved on the motion of Councillors Morrissey and Curry

That Council endorses the attached draft submission in relation to the exhibited *Environmental Impact Statement for Western Sydney International (Nancy-Bird Walton) Airport - Airspace and flight path design*.

11.3 CPE24.004 Draft Submission on Planning Proposal - 776 & 792-794 Botany Road and 33-37 Henry Kendall Crescent, Mascot (Land & Housing Corporation Site)

Councillor Awada had previously declared a conflict of duties, and left the meeting for consideration of, and voting on, this item.

Councillor Nagi had previously declared a conflict of duties, and left the meeting for consideration of, and voting on, this item.

RESOLUTION

Minute No. 2024/024

Resolved on the motion of Councillors Fardell and Saravinovski

That the draft submission (Attachment 1 to the report) in response to the Planning Proposal for 776 & 792-794 Botany Road and 33-37 Henry Kendall Crescent, Mascot be endorsed and formally submitted to the NSW Department of Planning, Housing and Infrastructure.

Division (Planning Matter)

For: Councillors Saravinovski, Curry, Morrissey, Muscat, Fardell, Jansyn, Tsounis,