

22 June 2023

TfNSW Reference: SYD18/00243/35

Planning Panels Secretariat
Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Attention: Kendall Clydsdale

TfNSW SUBMISSION ON THE PUBLIC EXHIBITION OF THE COOKS COVE PLANNING PROPOSAL 2023

Dear Sir/Madam,

Transport for NSW (**TfNSW**) appreciates the opportunity to provide comment on the exhibition of the Cooks Cove Planning Proposal (**Proposal**) and draft Development Control Plan (the **DCP**), which was referred via the NSW Planning Portal on 20 April 2023. It is noted that consultation with TfNSW is a requirement of the Gateway determination (dated 5 August 2022), issued for the Proposal under section 3.34 of the *Environmental Planning and Assessment Act 1979*.

TfNSW has reviewed the exhibition documents and notes that the Proposal seeks to:

- remove the site from *State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021* (the Eastern Harbour City SEPP), and
- amend the *Bayside Local Environmental Plan 2021* (the **LEP**) to include the site.

New site-specific planning provisions are proposed to be included in the LEP, including:

- New SP4 Enterprise zone across most of the Kogarah Golf Course land to permit trade related enterprises, commercial uses, retail uses, hotel or motel accommodation, serviced apartments and logistics and warehouse uses;
- New RE1 Public Recreation zoned land for the foreshore area of the site adjacent to the Cooks River and adjacent to Marsh Street;
- SP2 Infrastructure zone for the existing Marsh Street corridor and Arncliffe Permanent Motorway Facilities;
- Maximum Building Height of RL51m;
- Limitations on gross floor area (GFA) within different areas of the site and floor area requirements to achieve intended logistics and warehousing outcomes for the site; and
- Reclassification of Lot 14 DP213314 and Lot 1 DP108492 from 'community' to 'operational' land to facilitate development access and the provision of infrastructure to support development within the SP4 Enterprise zone.

TfNSW has reviewed the exhibition documentation and provides detailed comments at **TAB A** for the Sydney Eastern City Planning Panel's (**Panel**) consideration.

TfNSW highlights that it would not be able to support the Proposal in its current form, unless the following concerns are addressed, prior to the finalisation of the Proposal:

1. TfNSW raises concerns with the proposed reclassification of Trust lands being Lot 1 DP108492 and Lot 14 DP213314. TfNSW must retain its current rights to acquire portions of

these parcels at no cost, for the purposes of the M6 and the M8 projects. In this regard, TfNSW would require that a legally binding agreement (e.g. State Planning Agreement – SPA) is executed, prior to the finalisation of the Proposal and reclassification of land, to require that TfNSW can acquire required land for the M6 and M8 at no cost. A provision would need to be included in the agreement to require the dedication of land from Lot 1 DP108492 and Lot 14 DP213314 for the purposes of the M6 and the M8 at \$nil cost. That obligation would be enforced by (a) the registration of the agreement on title; and (b) a provision allowing TfNSW to compulsorily acquire the required land for \$1 if the landowner fails to dedicate the required land for the M6 and M8 by the time specified in the agreement.

The landowner, Bayside Council (**Council**), would need to be a party to any such agreement and agree to such a provision.

2. The proposal has the potential to adversely impact road users on the classified road network. In this regard:
 - a. The developer must provide additional traffic assessment to address the comments at **TAB A** (Note: additional traffic assessment material, which did not form part of the public exhibition material, was submitted to TfNSW on 29 May 2023. The comments in this submission letter do not include comments on the additional assessment material, which is currently under review), and
 - b. The developer must deliver the identified Works in Kind infrastructure on the State road network at no cost to TfNSW, to provide satisfactory vehicular access to the site. A legally binding agreement to ensure the delivery of the Works in Kind and provision of monetary contributions identified must be executed prior to the finalisation of the Proposal and gazettal of the amendments to the *Bayside Local Environmental Plan (LEP) 2021*.

TfNSW has reviewed the proponent's Revised Letter of Offer and appreciates their stated intent to enter into a legally binding agreement to deliver and provide monetary contributions towards certain transport infrastructure works to support the planning proposal.

In relation to Gateway condition 1d, "*address consistency with 9.1 Direction 5.2 Reserving Land for a Public Purpose by seeking approval from TfNSW that the land currently zoned Special Uses is no longer needed for public purposes*". TfNSW's position on this matter was advised in the letter dated 19 November 2021 (copy at **TAB B**) and remains unchanged. It should be noted that TfNSW's comments relate to a *transport* purpose, and do not include comment on whether the Special Uses zoned land may be required for a *public purpose*.

TfNSW would welcome an opportunity to meet with the Panel and/or representatives from the Department of Planning and Environment (DPE), Bayside Council and the proponent to discuss the Revised Letter of Offer and the proposed planning agreement in more detail.

Should you have any questions or further enquiries in relation to this matter, please contact Mr. Colin Langford, Director Land Use, Network and Place Planning via phone on 0411 438 671 or via email: development.sydney@transport.nsw.gov.au.

Yours sincerely,



Trudi Mares
Deputy Secretary
Greater Sydney Division

TAB A – Detailed TfNSW comments - Cooks Cove Planning Proposal - Public Exhibition Review

Detailed comments are provided in the table below on:

- ‘Planning Proposal Cooks Cove, Arncliffe’ report dated 4 April 2023 prepared by Ethos Urban;
- ‘Appendix A Draft LEP Map Set’;
- the revised draft *Cooks Cove Planning Proposal Transport Impact Assessment* (the **revised TIA**) dated 2 March 2023, prepared by JMT Consulting;
- revised intersection design plans dated 2 March 2023, prepared by Arup;
- ‘Cooks Cove Urban Design and Landscape Report’, dated April 2023, prepared by Hassell;
- ‘Draft Concept Plan of Subdivision for Discussion Purposes’ dated 20 December 2022, prepared by RPS AAP Consulting;
- Planning Proposal Summary, dated 4 April 2023 prepared by Ethos Urban;
- ‘Cooks Cove Planning Proposal Flooding, Stormwater and WSUD Report’, prepared by Arup dated 16 March 2023;
- ‘Preliminary Draft Bayside Council Development Control Plan 2021 (the draft **DCP 2021**) - Section 7.18 Cooks Cove’, 22 February 2023 v1, and
- The Cooks Cove Planning Proposal (Pre-exhibition Consultation) Revised Letter of Offer (‘Revised Letter of Offer’), dated 16 March 2023, from Cook Cove Inlet Pty Ltd (**CCI**).

Item ref. number	Section/Page reference	Comment/suggestion
1.	General	Comments provided are not to be interpreted as binding upon TfNSW and may change following review of additional information available in the future. The comments do not fetter TfNSW’s discretion to make submissions in response to amended planning proposal/s and/or development application/s in the future.
2.	Sydney Eastern City Planning Panel letter to the Department of Planning & Environment dated 3 April 2023	On 31 March 2023, the Panel determined to request an alteration to the Gateway determination. It is noted that while the Panel’s letter and its Record of Decision are on public exhibition, the altered Gateway Determination does not appear to be included in the public exhibition package.
3.	General, ‘Planning Proposal Cooks Cove, Arncliffe’ report dated 4 April 2023 prepared by Ethos Urban	TfNSW notes that the Proposal seeks to reclassify the Trust lands, being Lot 1 DP108492 and Lot 14 DP213314. These lots are owned by Bayside Council and held in Charitable Trust, subject to two legally enforceable obligations: 1. the Council has to use the land for the purposes of a public reserve unless TfNSW requires the land for a ‘County road’ purpose (such as the M6 and M8); and 2. the Council has to make the land available to TfNSW when required for a ‘County road’ purpose.

		<p>TfNSW raises concerns with the proposed reclassification of the Trust lands as proposed by 5 May 2024. The Charitable Trust conditions currently provide TfNSW with the rights and ability to use the land for a 'County Road' purpose for no cost. Without the Charitable Trust conditions, TfNSW would not have guaranteed ability to access and use the Trust lands at no cost. If TfNSW is required to compulsorily acquire portions of this land and/or lease portions of this land in order to carry out the M6 works as a result of this Proposal, this could result in significant additional costs to the delivery of the M6 Critical State Significant Infrastructure and M8 operational facilities.</p> <p>TfNSW needs to retain its existing ability to access and use the Trust lands for the delivery of the M6 Stage 1 and associated infrastructure, and M8 associated infrastructure, at no cost.</p> <p>Should the proposed reclassification of the Trust lands be pursued as part of this Proposal, legally binding agreements must be made prior to the finalisation of the Proposal to ensure TfNSW retains the ability to access and use the Trust lands for the delivery of the M6 Stage 1 and M8 associated infrastructure at no cost. This must include, but is not limited to, the ability to undertake necessary permanent acquisition/s for the M6 Stage 1 and/or M8 projects at no cost.</p> <p>In this regard, TfNSW would require that a legally binding agreement is executed, prior to the finalisation of the Proposal and reclassification of land, to require that TfNSW can acquire required land for the M6 and M8 at no cost. A provision would need to be included in the agreement to require the dedication of land from Lot 1 DP108492 and Lot 14 DP213314 for the purposes of the M6 and the M8 at \$nil cost. That obligation would be enforced by (a) the registration of the agreement on title; and (b) a provision allowing TfNSW to compulsorily acquire the required land for \$1 if the landowner fails to dedicate the required land for the M6 and M8 by the time specified in the agreement.</p> <p>The landowner, Council, would need to be a party to any such agreement and agree to such a provision.</p>
4.	Revised Letter of Offer (dated 16 March 2023)	<ul style="list-style-type: none"> i. Substantial infrastructure required to support the future development access is proposed to be constructed on land owned by Council (Lot 14 DP213314 and Lot 1 DP108492). Given this, the land owner (Council) should be a party to the proposed State Planning Agreement (SPA). ii. TfNSW intends to acquire portions of the Trust land for the M8 and M6 for permanent motorway facilities. TfNSW also has a lease over this land (as indicated by green hatching in aerial "Z" below).

		<p>iii. As stated above, should the proposed reclassification of the Trust lands be pursued as part of the Proposal, legally binding agreements must be made prior to reclassification of the land being finalised to ensure TfNSW retains the ability to access and use the Trust lands for the delivery of the M6 Stage 1 and associated infrastructure at no cost. This must include, but is not limited to, the ability to undertake necessary permanent acquisition/s for the M6 Stage 1 and/or M8 projects at no cost.</p> <p>This concern remains outstanding. It is noted that the Revised Letter of Offer (dated 16 March 2023) does not include details of a proposal to address this matter.</p> <p>iv. Delivery responsibilities have not been made clear for the Works in Kind. It needs to be clearly specified that the developer will be constructing/delivering all Works in Kind identified.</p> <p>v. It should be clarified whether the developer proposes to construct the works to provide a connection between the existing Gertrude Street and Marsh Street (item A1). The Marsh Street intersection designs and traffic assessment has included this connection in the network and access assumptions. It has been assumed that this section of Gertrude Street extension will be delivered by the developer, prior to the issue of an Occupation Certificate (OC) for floor space proposed under this Proposal. If this is not the case, the traffic assessment and intersection designs should consider the interim access/network upgrade arrangement and assess the impacts of the dispersal of trips to/from the site in the event that the Gertrude Street extension is not delivered prior to the issue of the OC for the future development. Similarly, this may need to consider the impacts of the development traffic if the upgrade to Gertrude Street (item A3) isn't delivered prior to the issue of the OC. The outcomes of this assessment may identify the need for the future development to be appropriately staged to align with infrastructure delivery, with development stages linked to the delivery of these infrastructure items within the planning agreements.</p> <p>vi. Based on uncertainties relating to the proposed signals at Levey Street/Gertrude Street extension intersection (item A2), it is recommended that this is not included in the State planning agreement at this time. An alternate intersection upgrade treatment must be however included in a local planning agreement with Council.</p>
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		<p>vii. Works in Kind upgrades on the local roads (with no interface with State road) should be delineated from the State items and provided in a separate letter of offer to Council.</p> <p>viii. The works in kind in the State Planning Agreement are considered essential for enabling site access and supporting the envisaged development yield, and should be fully funded and delivered by the developer irrespective of their ultimate costs.</p> <p>ix. We raise no objection to provision of a ‘recessed bus bay’ with shelter and signage for the southbound side. Details of the proposed bus stop should be provided in the development of Marsh Street design plans. Bus stops should be located near traffic control signals with pedestrian crossings.</p>
5.	‘Planning Proposal Cooks Cove, Arncliffe’ report dated 4 April 2023 prepared by Ethos Urban, and ‘Appendix A Draft LEP Map Set’	<p>i. Some of the subsurface land beneath the subject site has been compulsorily acquired to enable construction of the M8 tunnels. The planned acquisition of surface land for permanent motorway operational facilities is currently underway.</p> <p>ii. The subject site is within an area of construction for the M6 Stage 1 project (formerly the F6 Extension Stage 1). An area of land required by the project is subject to a lease as shown by green hatching on the below Aerial – “Z”.</p>



The subsurface land beneath the subject site has been compulsorily acquired to enable construction of the tunnels for M6 Stage 1 project.

Further surface land will need to be acquired from Lot 1 DP108492 and Lot 14 DP213314 for the purpose of the M6 permanent motorways facilities, although the final boundaries are yet to be confirmed.

Once TfNSW identifies its final acquisition requirements for permanent motorway facilities on Lot 1 DP108492 and Lot 14 DP213314, in relation to the M6 Stage 1 and M8 projects, the boundaries for the future plan of subdivision and ultimate extent of SP2 infrastructure (Classified Road) zoning can be identified.

6.	Planning Proposal Justification Report	Table 10 (page 73) states that future steps include "Creation of two discrete lots identified by TfNSW that will accommodate the permanent operations facilities for the M6 and M8 motorways, respectively."
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	<p>dated 4 April 2023, prepared by Ethos Urban, Table 10, 'Draft Concept Plan of Subdivision for Discussion Purposes' dated 20 December 2022, prepared by RPS AAP Consulting</p>	<p><i>Presently TfNSW advised indicative footprint of these facilities straddle the cadastral boundaries of the above three identified lots which is not considered an optimal long term outcome;". A similar proposition is made in Table 10 (page 75).</i></p> <p><i>Table 10 also states that "Identification the boundary of new lots from the residue of Lot 14 and Lot 1 (and the residue of Lot 1 in 329283, if supported by TfNSW) to be held in the ownership of Bayside Council and reclassify the residual lots as 'Community' without a Trust affectation. This land is to be used as public open space."</i></p> <p>We also note that the proponent's indicative subdivision plan for permanent acquisition area has been shown in the 'Draft Concept Plan of Subdivision for Discussion Purposes'.</p> <p>The basis of the proposed land zone boundary indicated is unknown but does not appear to reflect the current TfNSW charting over Lot 1 or the location of infrastructure being constructed. Permanent infrastructure to be retained post construction would ultimately be located within a separate parcel and charted accordingly. TfNSW will identify its final acquisition requirements for permanent motorway facilities on Lot 1 DP108492 and Lot 14 DP213314, which will then inform the boundaries for the future plan of subdivision and ultimate extent of SP2 infrastructure (Classified Road) zoning.</p> <p>Given the final zone boundaries cannot currently be established with any degree of certainty and the site is currently occupied by the M6 Stage 1 project, a SP2 Infrastructure (Classified Road) Zone is recommended over the entire Lot 1 in DP 329283. At completion of the M6 Stage 1 project, the land zoning can be reviewed as required.</p>
7.	<p>'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban, and 'Appendix A Draft LEP Map Set'</p>	<p>It is unclear from the LEP zoning map the type of infrastructure for which the SP2 Zone is proposed for Lot 13 DP 570900 (shown in aerial image "X" below). This land should be zoned SP2 Infrastructure (Classified Road) as it contains drainage infrastructure that was delivered as part of the Marsh Street widening.</p>

8.	<p>'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban, Section 3 Indicative Master Plan</p> <p>Figure 4: Cooks Cove Indicative Master Plan</p> <p>Section 6.1 Urban Design</p>	<p>TfNSW requests that CCI recognise infrastructure already being provided by TfNSW through the M6 Stage 1 Project under approval including the location of the carpark and pump track. Any proposed relocation or deletion costs must be at no cost to TfNSW. The flooding analysis, design and performance must recognise the existence of M6 Stage 1 compliant infrastructure levels. The M6 Stage 1 Project has substantially completed design of infrastructure to be located within the Arncliffe Construction Compound area in consultation with Council and TfNSW requests the cooperation of CCI in resolving any potential conflicts in the area with the objective of doing so without incurring additional cost to the M6 Stage 1 Project.</p>
9.	<p>Planning proposal summary, 3.0 , p.5</p>	<p>The indicative CCI masterplan design is in direct conflict with the current M6 Stage 1 Urban design elements. The masterplan proposes design elements such as roads that will be constructed over planned M6 open space infrastructure such as the pump track, car parking area and access to operational facilities. Commitment from CCI is required to jointly resolve these design conflicts. In addition, changes to these facilities, such as widening of roadways and provision of an alternative access road into the motorway operations facility will require substantial rework and potentially require</p>

		relocation of infrastructure including a number of utilities servicing the motorway operations facility. Any of this rework will have to be undertaken at the cost of the developer and in a manner that does not impact access to, or operation of, the M8 and M6 motorways or the motorway operational facilities at any stage, including coordination with TfNSW and its concessionaire.
10.	Planning proposal summary, Section 3.4	Section 3.4 indicates that Pemulwuy Park North and South will be delivered by Council. Clarification on responsibility for delivery of these parks is required, particularly in relation to areas currently occupied by TfNSW or required permanently for operation of TfNSW infrastructure.
11.	‘Planning Proposal Cooks Cove, Arncliffe’ report dated 4 April 2023 prepared by Ethos Urban, Pg. 2, Table C Ref X2, Revised Letter of Offer	<p>The Revised Letter of Offer indicates that a Planning Agreement would detail any M6/TfNSW/ Council/CCI resolution on flood mitigations and costs. It is stated this is to be completed once the Public Exhibition process of the Proposal is complete and CCI are in receipt of all stakeholder submissions.</p> <p>Any ongoing consultation/collaboration/resolution must not impede on the timing and/or ability for the M6 Stage 1 Project to achieve approval of the current UDLP design. Any CCI proposal and consultation should be treated separately to the UDLP.</p>
12.	Section 6.1 Urban Design, Planning Proposal Summary	<p>We note that Figure 4: Cooks Cove Indicative Master Plan and the plan presented in Section 6.1 of the Planning Proposal Summary are substantially different from the M6 Stage 1 UDLP as publicly exhibited in February 2023 which was developed as per the requirements of a condition of Approval E154 of the of the M6 Stage 1 Project Approval. The UDLP was prepared to inform the final design of the M6 Stage 1, in accordance with the project objectives, the commitments made in the Environmental Impact Statement (EIS) and submissions report, and the requirements of the approval.</p> <p>The M6 Stage 1 UDLP includes areas that are also shown within the provided Cooks Cove Development Precinct Masterplan. The CCI Proposal differs in the open space detail shown for these areas. The M6 Stage 1 UDLP is in the final stages of completion and was placed on public exhibition in February 2023 and will be submitted to DPE in June 2023. TfNSW requests the cooperation of CCI in resolving any potential conflicts in these areas with the objective of doing so without incurring additional costs to the M6 Stage 1 Project.</p>
13.	Planning Proposal Summary, 3.4 , p.11	Finished levels of open space area are not clearly identified.
14.	‘Cooks Cove Planning Proposal Flooding, Stormwater and WSUD Report’, prepared by Arup dated 16 March	<p>The preferred mitigation option within the report (Option 4) is contrary to the current M6 Stage 1 UDLP design and the levels of the Marsh Street parkland. The CCI Proposal is seeking significant alteration (including time and cost) to the M6 Stage 1 urban design at this location.</p> <p>Whilst the Proposal alludes to required alterations to the M6 design, the proposal (including Appendix C) contains no detailed figures of the modifications that would be required to the M6 sports fields, frog</p>

	2023, Appendix C	pond area or general park area. It also does not include the associated cut volumes required to implement the preferred Option 4.
15.	Planning Proposal Summary, dated 4 April 2023 prepared by Ethos Urban, 'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban	<p>We note that the Flooding Mitigation Options shown in Section 6.2 of the Planning Proposal Summary will need to be consistent with the requirements of Condition of Approval E46 of the M6 Stage 1 Project as detailed below:</p> <p><i>"The CSSI must be designed and implemented to limit flooding characteristics to the following levels, unless otherwise approved by the Planning Secretary:</i></p> <p><i>(a) a maximum increase in inundation time of one hour in a 1 in 100 year ARI rainfall event;</i></p> <p><i>(b) a maximum increase of 10 mm in inundation at properties where floor levels are currently exceeded in a 1 in 100 year ARI rainfall event;</i></p> <p><i>(c) a maximum increase of 50 mm in inundation at properties where floor levels would not be exceeded in a 1 in 100 year ARI rainfall event; and</i></p> <p><i>(d) no inundation of floor levels which are currently not inundated in a 1 in 100 year ARI rainfall event.</i></p> <p><i>In addition, measures must be implemented to minimise scour and dissipate energy at locations where flood velocities are predicted to increase as a result of the CSSI and cause localised soil erosion or scour".</i></p> <p>The future development must not compromise the ability of the M6 Stage 1 project to comply with this Condition of Approval. TfNSW requests the cooperation of CCI in resolving any potential conflicts flooding performance in the area with the objective of doing so without incurring addition cost to the M6 Stage 1 Project.</p>
16.	'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban, Section 2.2	Section 2.2 summarises advice from Council who advised Arup (representing CCI) that the Bonnie Doon local flood model should take precedence over all other models for the Cooks Cove site. The Bonnie Doon local model predicts significantly lower flood levels for the 1% AEP and PMF events than the M6 flood model, confirming that the M6 model is conservative and therefore safer to use to avoid potential challenges by DPE and other stakeholders. The difference between the models is the different assumptions adopted for combinations of extreme event flooding in the local and regional systems (including extreme tide conditions), with the M6 model adopting more conservative combinations that are consistent with TfNSW's typical flood modelling approach. The Cooks Cove model potentially underestimates flood levels which could lead to property impacts in certain flood events.
17.	'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban, Figure A.7	Figure A.7 shows an area of 60mm afflux south of MOC1 which is a flood level difference resulting from comparing Option 4 to the post M6 construction case. The M6 project causes reduced water level in this area and the modifications to the M6 landform proposed by Cooks Cove Option 4 reinstates the flow to this area that occurred prior to the M6 construction and reinstates the baseline water levels here. While this exceeds the 10mm impact limit adopted by Cooks Cove, it is not considered a true impact as it

		reverts the flood levels back to the baseline case. While this shouldn't impact MOC1, the performance of the MOC1 stormwater system would need to be checked for this change in hydraulic conditions in the area south / west of MOC1 if Cooks Cove Option 4 is to be adopted. Implementation of the CCI Option 4 requires significant redesign work for the M6 Stage 1, contrary to TfNSW's requirement of a cost neutral solution.
18.	<p>'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban, Section 5.2.3, pg. 99</p> <p>Pg. 2</p>	<p>Compliance with relevant M6 CoAs (by TfNSW and contractors) must not be conflated with the Cooks Cove Proposal as compliance with the Conditions is achieved separately (and in isolation to) Cooks Cove. The Planning Proposal includes incorrect implied conclusions on the compliance status of M6 (and M8) projects:</p> <p>"The implementation of the recommended Option 4 will permit the M6 and M8 projects to ensure compliance with the Motorway Conditions of Approval."</p> <p>The current M6 Stage 1 UDLP design is compliant with the M6 Stage 1 Condition.</p> <p>The Cooks Cove Planning Proposal must deliver a flood mitigation outcome that is compliant with NSW legislation. The Arup preferred flood mitigation strategy '(Option 4)' is considered to meet these legislative requirements and facilitates TfNSW compliance with relevant M6 and M8 Conditions of Approval, including B23."</p>
19.	Figure 4: Cooks Cove Indicative Master Plan Section 6.3 Traffic and Transport	Traffic arrangements proposed in Section 6.3 for the Gertrude Street and Flora Street intersections conflict with infrastructure already being provided by TfNSW through the M6 Stage 1 Project including the location of the carpark and pumptrack and design of the Flora Street Intersection. The M6 Stage 1 Project has substantially completed design of infrastructure in consultation with Council and requests the cooperation of CCI in resolving any potential conflicts with the objective of doing so without incurring additional cost to the M6 Stage 1 Project.
20.	'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban, Section 3 Indicative Master Plan	The open space design shown to be provided by Council (Pemulwuy Park South and Pemulwuy Park North) in the CCI Precinct Masterplan conflicts with infrastructure already being provided by TfNSW through the M6 Stage 1 Project including cycleway and pedestrian infrastructure. The M6 Stage 1 Project has substantially completed design of this area in consultation with Bayside Council and requests the cooperation of CCI in resolving any potential conflicts with the objective of doing so without incurring additional cost to the M6 Stage 1 Project.
21.	'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban,	Condition of Approval E110 of the M6 Stage 1 Project requires the following: <i>"Prior to operation of the CSSI, the Proponent must ensure that there is suitable provision for a pedestrian pathway and vehicular access road for council maintenance vehicles to connect Lots 25 and 30 (both identified in the plan set out in Appendix D [of the project approval]) to Marsh Street at Arncliffe. The pathway and access road provisions must meet the reasonable requirements of Bayside Council"</i> . The planning proposal and future

	Section 6.3 Traffic and Transport	development must not compromise the ability of the M6 Stage 1 project to comply with this Condition of Approval.
22.	'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban, Section 6.6 Flora and Fauna	<p>Condition of Approval E44 of the M6 Stage 1 Project requires the following: <i>"The Proponent must prepare a Green and Golden Bell Frog Plan of Management. The Plan must be approved by the Planning Secretary prior to commencing construction at the Arncliffe construction compound. The Plan must be developed by a suitably qualified and experienced frog specialist, in consultation with EES.</i></p> <p><i>The Plan must detail:</i> <i>(a) the on-site management and mitigation measures for limiting impacts on Green and Golden Bell Frogs;</i> <i>(b) the monitoring that would be undertaken during construction to ascertain the effectiveness of the on-site management and mitigation measures; and</i> <i>(c) measures to re-instate habitat affected by the Arncliffe construction compound within the returned open space post construction".</i></p> <p>Any proposed Master Plan design must not compromise the ability of the M6 Stage 1 project to comply with this Condition of Approval.</p>
23.	Planning proposal summary, 6.6, p.28	It is noted that the project will result in the removal of known habitat of three threatened fauna species including the Green and Golden Bell frog (GGBF). No reference is made concerning the other species here or any plans to protect these species. The justification report does identify these but there is no apparent strategy for the protection of these species at this location.
24.	Section 5.2.3 Figure 61	<p>The justification report states the key means to achieve the flood mitigation objectives include relocating the proposed circulation road infrastructure through the TfNSW frog ponds. The impacts from this are not entirely clear. Figure 61 shows active transport paths and roadways running through the Marsh Street park and would appear to impact on the function of the frog ponds (both existing and proposed).</p> <p>The interference with GGBF habitat appears contradictory to the M6 Stage 1 project approval. The level of development/conflicting activation around the ponds may have an impact on the success of the frog habitat.</p>
25.	Appendix O, p.25	The design of Pemulwuy Park must ensure that management of waterflows in this area enable the effective operation of the GGBF ponds.
26.	Section 5.3.3	<p>There is uncertainty on the timing and ultimate design of the open space areas, as follows:</p> <ol style="list-style-type: none"> 1. CCI commits to completing the Works in Kind and other elements prior to the issuing of Occupation Certificates for floorspace, the subject of the Proposal. 2. If Pemulwuy park is to be delivered by Council (or part delivered) - no dates or timing is offered within

		<p>the proposal and a clear prerequisite link like in point 1 does not exist.</p> <p>3. The Master Plan is conceptual and is to guide best practice design and features an integrated vision for the future Pemulwuy Park.</p> <p>We note that design amendments or concessions made on a conceptual Master Plan may never be approved or subsequently built. The Proposal does not adequately address what is proposed in the future Marsh Street parkland. For clarity, the Proposal should incorporate the design for the parkland (including the extensive GGBF habitat as required by SSI 8931 noting that the approval for M6 Stage 1 (2019) significantly predates and takes precedence over any CCI approval, if granted.</p>
27.	Section 6.1 Urban Design	<p>Condition of Approval E140 of the M6 Stage 1 Project requires the following:</p> <p><i>“The Proponent must construct and operate the CSSI with the objective of minimising light spillage to surrounding properties. All lighting associated with construction and operation must be consistent with the requirements of Australian Standard 4282-1997 Control of the obtrusive effects of outdoor lighting and relevant Australian Standards in the series AS/NZ 1158 – Lighting for Roads and Public Spaces, as relevant. Additionally, the Proponent must provide mitigation measures to manage any residual night lighting impacts from operational motorway complexes and the shared pedestrian and cycling pathway to protect properties adjoining or adjacent to the CSSI, in consultation with affected landowners”.</i></p> <p>Any proposed Design Master Plan design must not compromise the ability of the M6 Stage 1 project to comply with this Condition of Approval.</p>
28.	Table 32, Principle 3	<p>Condition of Approval E37 of the M6 Stage 1 Project requires the following:</p> <p><i>“The Proponent must prepare guidelines in consultation with the relevant planning authority(s) to facilitate the consideration of air quality and health impacts in the planning of and assessment of new development in areas within proximity to the ventilation outlets which would be within a potential three-dimensional zone of affectation (buffer volume). The guidelines must identify the width and height of buildings that are likely to be either affected by the plume from the ventilation outlet or affect the dispersion of the plume from the ventilation outlet through building wake effects. A part of this process, the Proponent must provide data detailing the results of modelling of pollution concentrations at various heights and distances from the ventilation outlets. The Proponent must meet all reasonable costs for any necessary amendments to planning instrument(s) required to implement the guidelines.</i></p> <p><i>The guidelines must be prepared prior to operation.”</i></p> <p>The M8 Condition of Approval E29 required the following:</p>

		<p>Local and Sub-Regional Air Quality</p> <p>E29 The Proponent must assist the relevant council(s) in developing an air quality assessment process for inclusion in a Development Control Plan or other appropriate planning instrument, in considering planning and building approvals for new development in areas adjacent to the ventilation outlets which would be within a potential three-dimensional zone of affectation (buffer volume). This process must include procedures for identifying the width and height of buildings that are likely to be either affected by the plume from the ventilation outlet or affect the dispersion of the plume from the ventilation outlet through building wake effects. A part of this process, the Proponent must provide data detailing the results of modelling of pollution concentrations at various heights and distances from the ventilation outlets. The Proponent must meet all reasonable costs for the development of this process and any necessary amendments to the planning instrument(s) required to implement the process.</p> <p>The Proposal does not detail the approach to assessing the development in accordance with the intent of this Condition in the absence of the required guidelines. Consideration of the effects of the M8 and M6 Stage 1 ventilation outlets on proposed buildings is necessary.</p> <p>Table 32, Principle 3 states "Design and building controls will be implemented within a future site specific DCP to ensure appropriate levels of amenity for workers and visitors in terms of noise, air quality, wind and privacy, amongst a range of other controls to ensure the realisation of a best-practice, contemporary urban renewal precinct."</p> <p>There is no reference within the draft site-specific DCP (nor the in-force Council DCP) to the Arncliffe ventilation facility or assessment of impacts. It is unclear if the Proposal has considered the air quality impacts from or to the Arncliffe ventilation facility (M6 and M8).</p> <p>The site specific DCP for the subject site will need to make reference to any applicable guidelines relevant at the time for the assessment of air quality impacts of the M6 and M8/WestConnex on new development.</p>
29.	'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban, Table 10, pg. 74-75	Any proposed Planning Agreement must enable sufficient access until M6 Stage 1 completion (including in the event of project delays).
30.	Transport Impact Assessment (TIA) dated 2	<p>TfNSW notes that the TIA has assessed traffic impacts based on the following land use assumptions totalling 343,250sqm GFA:</p> <ul style="list-style-type: none"> • Multi-level logistics and warehousing – 290,000sqm GFA

	March 2023, prepared by JMT Consulting	<ul style="list-style-type: none"> • Commercial office uses – 22,350sqm GFA • Hotel and visitor accommodation uses – 20,000sqm GFA • Retail uses – 10,900sqm GFA <p>TfNSW advises that should the scale or type of land uses change significantly at the Part 4 Development Application (DA) stage, or if the <u>proposed road network modifications and access points change at the DA stage</u>, TfNSW reserves the right to require re-assessment of the traffic and transport impacts of the new proposal. If warranted, this may also involve updating the infrastructure implementation plan (including any legally binding planning agreement/s) to include any additional traffic and transport upgrades. For example, if Gertrude Street extension is not delivered as Works in Kind by the developer prior to the issue of any Occupancy Certificate on the development, the road network assumptions would need to be amended in the TIA for the future DA. This may impact the supportable yield.</p>
31.	Traffic Impact Assessment, prepared by JMT Consulting, 2 March 2023, Section 3	<p>Level of Service reported in Figure 14, Section 3.3 indicated that Marsh St/M5E Interchange currently operates with the spare capacity and LoS C. This may not accurately reflect the existing road network performance in the study area and the existing operation of the interchange.</p> <p>The modelling results show there are observed delays and queuing for some movements at both EB and WB ramps. While noting that the overall intersection Level of Service (which averages out the results) have been presented, it is recommended that the report also details the performance for those worst movement, to ensure the network performance is not misrepresented or misinterpreted.</p>
32.	Traffic Impact Assessment, prepared by JMT Consulting, 2 March 2023, Section 4.3, 'Bayside DCP 2022 – Draft Section 7.18 Cooks Cove', 22 February 2023, 'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban, Section 4.1.3.	<p>TfNSW supports the proposed inclusion of a <i>maximum</i> car parking rate for commercial development on the site as a site specific clause in the LEP and to be reflected in the DCP.</p> <p>The proposed Clause 6.18 (additional local provisions) does not include a subclause which would cap the maximum car parking rate of 1 space per 80sqm GFA for the commercial (office) use. TfNSW highlights that a discounted trip generation rate has been adopted for the commercial (office) use in the TIA (refer sections 4.3 and 5.6.3) based on the understanding that an LEP clause capping the car parking rate to a maximum 1 space per 80sqm GFA would be included in the LEP. TfNSW requests that Clause 6.18 is amended accordingly to reflect the maximum parking rate.</p> <p>It is appreciated that the revised TIA dated 2 March 2023 has indicated that the maximum car parking rate of 1 space per 80sqm GFA proposed for the commercial land use will also apply for <i>ancillary</i> office in the warehouse/logistics land use.</p>

		<p>However it is noted that proposed control 'C4' on page 8 of the draft DCP 2022 has not included a notation to indicate this. Control 'C4' should be amended to reflect the maximum car parking rate of 1 space per 80sqm GFA for <i>ancillary</i> office in the warehouse/logistics land use in addition to the commercial office component.</p> <p>This is an important travel demand management measure to support enhanced use of public and active transport as required by the Gateway conditions 1a (i). This is also <i>required</i> to support the underpinning assumptions of the TIA around trip generation of the commercial component of the development (0.8vtph). This suggests that the commercial floor space would generate <i>less</i> peak hour vehicle trips than the average of sites across Metropolitan Sydney surveyed by TfNSW, which in most cases (e.g. North Sydney, Hurstville, Chatswood, Parramatta etc.) have superior access to public transport, have far more established mixed land uses and higher observed public and active transport mode share compared with the subject locality.</p>
33.	Traffic Impact Assessment, prepared by JMT Consulting, 2 March 2023, Section 5.10.1	<p>The additional information regarding unreleased demand is noted.</p> <p>Figure 31 in Section 5.7 indicated significant background traffic volume forecast on Forest Road in order of ~3,000 additional vehicles in two-hour period in 2036. It appears that this level of additional future demand along Forest Road is resulting in an unrealistic operation of the Future Base Case model and making the operational model unsuitable for the proper traffic impact assessment under the Project Case Scenario.</p> <p>Table 3 in Section 5.10.3 showed that 2036 Project Case has substantially higher unreleased demands when compared to the 2036 Base Case, particularly during PM peak period. This indicates that the impact assessment of the additional traffic coming to/from the proposed development is not adequately captured/assessed in the 2036 Project Case scenario.</p> <p>Higher unreleased demands in the 2036 Project Case resulted in some key intersections in the study area having lower traffic throughput (volumes) in the 2036 Project Case when compared to the 2036 Base Case scenario (see <i>Base Model Development Report, Stantec, 5 October 2022, Appendix B: Detailed Traffic Modelling Outputs</i>).</p> <p>Considering the above, the reported level of service results at key intersections under the 2036 Project Case scenario are not adequately reflecting the likely impacts of the traffic that will be generated from the proposed development, and therefore cannot be relied upon.</p>

		<p>Methods to address the issue of unreleased demand include amending the model (demand and/or network) and/or 'normalising' the model results. 'Normalising' results includes:</p> <ul style="list-style-type: none"> • Identifying the origins and destinations of the completed trips, and use this matrix as the basis for comparison between the base case and option(s) • Include all 'latent delay' (i.e. delay associated with unreleased trips) as an additional user cost. • Assign the network's average trip length, average trip duration and average number of stops to those trips which did not enter the modelled area. <p>The report should include additional 'normalised' model results to identify the unreleased demand for further comparison/discussion.</p> <p>The report does not provide full network performance results for 2036 Base Case and 2036 Project Case scenarios including VKT, VHT, total trip table demands, % vehicles completed journey from origin to destination, % vehicles released in the network, etc. These results need to be 'normalised' to take into account latent (unreleased) demand in order to provide an understanding of the likely impact from the proposed development.</p>
34.	Traffic Impact Assessment, prepared by JMT Consulting, 2 March 2023, Section 5.10.4	<p>Additional information provided in Figure 38, Section 5.10.4 is noted. However, from the provided information it is still not clear how 1,200 veh/h trips that will be generated from the development in AM Peak and 1,260 veh/h trips that will be generated from the development in PM Peak are distributed on the surrounding road network. We suggest that inbound and outbound trip distribution information from the first principles is provided diagrammatically in the report for both peak periods.</p> <p>What is the key inbound route for the traffic coming to the development site? What is the key outbound route for traffic leaving the site?</p>
35.	Traffic Impact Assessment, prepared by JMT Consulting, 2 March 2023, Appendix B	<p>As with the comment above, due to the unreleased demand, the reported level of service results at key intersections for the 2036 Project Case are not adequately reflecting the likely impacts of the traffic that will be generated from the proposed development.</p> <p>It should be noted that due to severe network constraints and increased latent (unreleased) demands, the operational model under 2036 Project Case does not adequately reflect likely impacts from the additional trips that will be generated from the development during AM and PM Peak periods respectively.</p>


		Considering that the results are reported from the severely constrained network where additional traffic demand from the development is not adequately reflected/captured at key intersections in the study area, the comment in Section 5.10.1, Page 45 that states <i>“The traffic modelling indicates that drivers travelling through the Marsh Street / M5 intersection would experience some increased delays as a result of the Cooks Cove proposal - amounting to an additional average wait time of approximately 1 second in the AM peak hour and 14 seconds in the PM peak hour”</i> may not be accurate.
36.	Traffic Impact Assessment, prepared by JMT Consulting, 2 March 2023	In relation to the ‘5.10.4 Sensitivity testing’ (page 50) of the revised TIA, it is requested that further explanation is given in section 5.10.4 of how the external capacity constraint on Forest Road was removed and that the report includes detailed modelling outputs (Appendix B) for the sensitivity test. It is noted that the unreleased demand shown in Figure 40 for this scenario is around 8%.
37.	Traffic Impact Assessment, prepared by JMT Consulting, 2 March 2023	In relation to the proposal to alter route 422 to operate via Marsh Street, TfNSW advises that at this time there are no plans to divert the 422. Any such diversion would be subject to an assessment of increased travel time due to traffic congestion on the new route and would be subject to funding approval.
38.	Various documents, Traffic Impact Assessment, prepared by JMT Consulting, 2 March 2023 and SK104	<p>The traffic signal warrants assessment for traffic flows through the Gertrude Street / Levey Street intersection indicates that forecast traffic movements in the year 2036 fall short of the numerical warrants. The proposed signals are also less than 130m away from the proposed signals at Marsh Street / Gertrude Street which has safety and operational implications, as locating traffic signals within close proximity to one another increases the chances of crashes due to the ‘see-through effect’ (see Austroads 2015 publication ‘<i>Investigation of Key Crash Types: Rear-end Crashes in Urban and Rural Environments</i>’), and reduced storage capacity between intersections.</p> <p>Traffic signals proposed at this intersection will not be supported at this stage. Closely spaced signalised intersection should be avoided altogether to eliminate the ‘see-through effect’. Alternative intersection treatments should be more thoroughly investigated and their impacts assessed. Alternate pedestrian crossing treatments could also be considered.</p> <p>It is recommended that a Stop/Give Way restriction be considered instead with the southbound right turn on Levey Street banned. Motorists on Levey Street wishing to head west on Gertrude Street to access Princes Hwy can use Marsh Street/Gertrude Street intersection instead. This will also ensure that Gertrude Street has priority at Levey Street intersection, minimising the potential for vehicles queuing back into Marsh Street.</p>



		<p>Regardless of the above, parking on Gertrude Street between Marsh Street and Levey Street as a minimum must be prohibited at all times.</p> <p>Notwithstanding the above advice that traffic signals proposed at this intersection are not supported at this stage, the following comments are provided on the swept paths submitted for TfNSW review:</p> <ul style="list-style-type: none"> - In relation to the swept paths provided, 8.8m LT swept paths sighted. LT from Levy St (S) to Gertrude St (W) - For a design vehicle this does not comply. For a design vehicle, use lane 1 on approach to stop line and utilise both departure lanes. - Swept paths for 12.5m RTs conflict for signalised intersection, which would need to be addressed through phasing with implications for operational efficiency and performance.
39.	Intersection Designs dated 2 March 2023, prepared by Arup	<p>Marsh Street & Gertrude Street traffic signal design:</p> <ul style="list-style-type: none"> i. A pedestrian crossing exemption would be required for the missing pedestrian crossing across Marsh Street north-eastern leg. The report should include data to support and justify this. Provisions should be made in signal hardware etc., for future installation of a signalised pedestrian crossing if required. ii. Dispensation would be required at the detailed design stage for stop lines more than 10m from kerb prolongation (RTA Traffic Signal Design Manual, Appendix D). iii. There are HV, water and gas utilities on the west leg of Marsh Street. However, a mast arm would be required in this location for the eastbound vehicles. Is there sufficient space for a mast arm footing? Dispensation would be required at the detailed design stage. iv. Landscaping proposed is not to obstruct driver sightlines to traffic signal lanterns and pedestrians. v. 'No Stopping' restrictions are to be provided as per Traffic Signal Design guidelines and to accommodate the swept paths of the largest vehicle. This is to ensure vehicles entering the roads are not obstructed by parked vehicles.
40.	Intersection Designs dated 2 March 2023, prepared by Arup	<p>Marsh Street & Flora Street traffic signal design:</p> <ul style="list-style-type: none"> i. Split approach phasing at this intersection will not be supported as this will result in operational inefficiency.

- ii. The lane alignments are unclear and seem to be conflicting for eastbound through traffic and right turning traffic on Flora Street East approach (currently, vehicles turning right out of Flora St East will conflict with through vehicles proceeding from the Flora St West approach to Flora Street East).



- iii. The intersection layout is to be re-designed and improved to ensure there are no conflicts with vehicles.
- iv. There are also safety and efficiency concerns with eastbound vehicles merging from Lane 2 into Lane 1 on Flora St East, to make room for the right turning lane into the M6/M8 MOC facility. It is recommended that the design is amended to provide a dedicated right turn bay into the M6/M8 MOC facility.
- v. In addition, to address the above concerns consideration should be given to a shared through and left turn for Lane 1 and a dedicated right turn bay for Lane 2 on the Flora Street (west) approach to the intersection.
- vi. Consideration should be given to provision of a 'Keep Clear' road marking on Flora Street East at the M8/M6 access to ensure the right turn bay does not result in queuing across the intersection on Marsh Street.

		<p>vii. 12.5m LT from Flora Street to Marsh Street EB Swept path not sighted.</p> <p>viii. The two stage pedestrian crossing on Flora Street could be improved by bringing the EB stop line closer to the intersection by moving the EB pedestrian crossing farther east and the departure side crossing farther west.</p> <p>ix. Ensure two-stage crossing on Marsh St (E) is offset at the median.</p> <p>x. Dispensation would be required at the detailed design stage for stop lines more than 10m from kerb prolongation (RTA Traffic Signal Design Manual, Appendix D).</p> <p>xi. The proposed zebra crossing on Flora Street East is to be removed as it does not meet the requirements of the Pedestrian Crossing Guideline. Current practice is that pedestrian crossings are not installed on roads with more than one lane of traffic in any direction due to potential for restricted visibility of pedestrians and safety implications.</p> 
41.	General	<p>Internal road system</p> <p>There are concerns that there may be queuing issues at the right turn bay into the proposed recreation area car park depicted further east along Flora Street East. Any queueing at the entry to the car park will obstruct all vehicle movements on Flora Street East due to the single lane arrangement. This road</p>

		may need to be widened to ensure that vehicles can pass around stationary right turning vehicles at this location.
42.	Intersection Designs dated 2 March 2023, prepared by Arup	<p>Innesdale Road & Marsh Street intersection:</p> <p>A condition of the installation of signals at Gertrude Street is that the existing traffic control signals at the Innesdale Road/Marsh Street intersection must be removed by the developer. The existing Innesdale Road signals have created a pedestrian desire line, which is now proposed to be removed with no safe pedestrian crossing replacement proposed. Clarification is required whether it is proposed to revert back to a pedestrian refuge on Innesdale Road at this intersection? (If yes, this is not shown on the plans).</p> <p>The plans should show the future proposed lane configuration along Innesdale Road on approach to Marsh Street. A road safety risk assessment will be required to justify the conversion to a lower order pedestrian facility.</p> <div style="display: flex; justify-content: space-around;">   </div>
43.	Traffic Impact Assessment, prepared by JMT Consulting, 2 March	<p>Princes Highway & Gertrude Street intersection:</p> <p>It is currently unclear what is planned for the Works in Kind item 'A3 – Gertrude Street Upgrade (Levey Street to Princes Highway)' tie-in at Princes Highway intersection. Figure 45 of the Transport Impact Assessment report states that upgrades are proposed on Gertrude Street between Levey Street and</p>

	2023, Revised Letter of Offer	<p>Princes Highway. Any proposed upgrades at the intersection of Princes Highway and Gertrude Street should be detailed, modelled and provided to TfNSW for review and comment.</p> <p>TfNSW requests further detail so that any works proposed at this intersection can be properly considered/managed.</p>
44.	'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban, Section 5.3.2	<p>TfNSW notes that the location, design and tenure of the internal road connection between Flora Street (East) and Gertrude Street (East) will be resolved at the DA stage. It is understood that the internal road connection, at a minimum, would be of sufficient width to accommodate the movement of traffic in both directions and designed in accordance with relevant standards.</p> <p>TfNSW highlights the significance of this internal road connection to be available 24x7 for traffic movements to ensure uninterrupted access to, and between, the three (3) Marsh Street site access points.</p>
45.	'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban, Section 5.3.2	<p>While the final tenancy arrangements are yet to be established, TfNSW appreciates the developer's commitment to facilitate private road access arrangements for Council, TfNSW, Sydney Desalination and APA for maintenance and easement access.</p>
46.	'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban, Section 2.9	<p>Section 2.9 states that <i>"At present, under Eastern Harbour City SEPP, a 270,000m² Trade and Technology complex accommodating advanced technology and trade related enterprises, serviced offices, hotels and serviced apartments and commercial support premises including restaurant, retail and childcare facilities with 4,700 car spaces, is permissible for the site with development consent."</i></p> <p>TfNSW notes that the <i>State Environmental Planning Policy (Precincts-Eastern Harbour City) 2021</i> does not indicate 4,700 car spaces are permissible on the site with development consent.</p>
47.	'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban, Figure 22 Urban Design Landscape	<p>The explanation accompanying the conceptual Block 3 subdivision and access strategy (Figure 22) states that <i>"Single security line /gate house at main entrances to Block 3 with ability to introduce secondary security line at Block 3a, 3b and 3c boundaries"</i>. The single security line/gate at main entrances on Flora Street (East) and Gertrude Street (East) are indicated on page 58 of the Urban Design Landscape Report.</p>

	Report, prepared by Hassell dated April 2023	TfNSW advises that all security lines/gates should be set back sufficiently to prevent any queue spill-over onto the Marsh Street intersections.
48.	'Planning Proposal Cooks Cove, Arncliffe' report dated 4 April 2023 prepared by Ethos Urban	<ul style="list-style-type: none"> • Page 68 - reference to an FSR of 1:25 is presumably a typo? Should be 1.25:1. • Table 6 - subheading is presumably mislabelled? Assuming it is meant to say RE1 Public Recreation and not SP2 Infrastructure. • Figure 68 (page 106) – Figure 68 should be updated to include estimated traffic growth on Marsh Street fronting the site. • Table 19 (page 108) – Car parking rate for ancillary office associated with warehouse/logistics should be <i>maximum</i> 1 space per 80sq.m GFA. It is currently unclear if this is a minimum or maximum requirement. • 5.3.1 Traffic Impact Assessment - What results did the traffic model produce if the Forest Road traffic constraint was not excluded? The figure 68 results on Forest Road seem optimistic for With/Without project. • 5.3.1 Traffic Impact Assessment - Figure 68 seems to show a new connection from Innesdale Road (intersection 1), not the proposed Gertrude Street East. • 5.2.5 Stormwater and WSUD - Where are the stormwater discharge points for this project located? Is there any connection proposed to the M8/M6 groundwater discharge point?
49.	The draft DCP 2021, dated 22 February 2023	<p>TfNSW provides the following comments on the draft DCP:</p> <ul style="list-style-type: none"> • Pg. 8 – Access – Objective 3: <ul style="list-style-type: none"> ○ What is the design vehicle for these roads? ○ Consider safety for vehicle movement in shared pathways with active transport – one-way streets, U-turn bays and similar. • The indicative Gertrude Street East extension cross-section (Figure 206) should be updated to show three (3) westbound traffic lanes to reflect the Section AA line shown in Figure 205. • Figure 208 is unclear: <ul style="list-style-type: none"> ○ Figure is showing vehicles as well, not just active transport. ○ What does the dotted line with truck symbol mean? • Access – Objective 4, C5 - Will this be a freight/truck only bridge? • Figure 212 and Block 1&2 – C4 - Where is the freight access into the loading dock of the hotel? • Block 3 – C1: <ul style="list-style-type: none"> ○ Are there loading docks within logistics buildings? Or drive in/out? ○ Is there any requirement for underground parking/loading?

50.	Urban Design and Landscape Report and The draft DCP 2021, dated 22 February 2023	The Urban Design and Landscape Report and the draft DCP references foreshore works including a rock seawall along the Cooks River frontage. TfNSW requests early consultation in relation to any future DA seeking approval to undertake works relating to the rock seawall along the Cooks River. Advice should be sought from TfNSW for any work that may include (but not necessarily be limited to) dredging (including sinking pylons for jetties for example), reclamation, or if the proposed facility may obstruct navigation.
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From: [Strous, Ali](#)
To: [Douglas Cunningham](#)
Cc: [Biltoft, Lucinda](#); [Hulbert, Luke](#); [Kendall Clydsdale](#); [EPBC Referrals](#); [English, Terri-Ann](#)
Subject: RE: NOTICE OF EXHIBITION – Planning Proposal (PP-2022-1748) 13-19A Marsh St Arncliffe [SEC=UNOFFICIAL]
Date: Monday, 24 April 2023 12:42:41 PM
Attachments: [image003.png](#)

Hi Douglas,

The department does not have any comment in relation to the planning proposal.

We understand this is new proposal and not related to a previous project (EPBC 2016/7767) that was referred and approved under the EPBC Act for a site adjacent to the south.

Please note that as the design progresses beyond the planning stage, any developer proposing an action that may or is likely to have a significant impact on matters of national environmental significance should consider their obligations under the EPBC Act. Guidance on when and how to refer can be found at the department's website at <https://www.dcceew.gov.au/environment/epbc/advice/referral-applications-and-proposals>.

This comment is intended to be for DPE only and is not to be published.

Please reach out if you have any questions.

Kind regards,

Ali Strous

Acting Assistant Director | 02 5156 5042

Canberra and Sydney Assessments Section | Environment Approvals Division

Department of Climate Change, Energy, the Environment and Water

John Gorton Building, King Edward Terrace, Parkes, ACT | ✉ GPO Box 3090

[DCCEEW.gov.au](https://www.dcceew.gov.au)

From: Douglas Cunningham <Douglas.Cunningham@planning.nsw.gov.au>
Sent: Friday, 21 April 2023 9:45 AM
To: EPBC Referrals <EPBC.Referrals@dcceew.gov.au>
Cc: Kendall Clydsdale <kendall.clydsdale@dpie.nsw.gov.au>
Subject: NOTICE OF EXHIBITION – Planning Proposal (PP-2022-1748) 13-19A Marsh St Arncliffe [SEC=UNOFFICIAL]

Good Morning

I am contacting you to inform you that the planning proposal that applies to 13-19A Marsh Street Arncliffe (PP-2022-1748) is on public exhibition from **Monday 24 April to Tuesday 6 June**

2023.

The supporting documents can be found at www.planningportal.nsw.gov.au/ppr/under-exhibition/cooks-cove-planning-proposal

Feel free to reach out should you have any questions

Thanks

Doug

Douglas Cunningham

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The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

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Department of Planning and Environment

Our ref: DOC23/353984

Your Ref: PP-2022-1748

Douglas Cunningham
Planning Group
Department of Planning and Environment
4 Parramatta Square, 12 Darcy Street
Parramatta NSW 2150

6 July 2023

Subject: Cooks Cove Planning Proposal PP-2022-1748

Dear Douglas,

Thank you for your email received 20 April 2023 requesting comments from the Environment and Heritage Group (EHG) within the Department of Planning and Environment on the Cooks Cove Planning Proposal, which proposes to amend the Bayside Local Environmental Plan 2021 to introduce new planning provisions to part of the Cooks Cove Precinct for the sites at 13-19A Marsh Street, Arncliffe.

Please note that since providing earlier advice on the Cooks Cove Planning Proposal, the Environment, Energy and Science (EES) Group in the Department of Planning, Industry and Environment (DPIE) is now the Environment and Heritage Group (EHG).

EHG understands the Cooks Cove Planning Proposal (PP2022-1748) seeks to remove the site the subject of the planning proposal from the operation of Chapter 6 of *State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021* and insert new planning provisions into Bayside Local Environmental Plan 2021. The planning proposal will:

- introduce three land use zones across the site B7 Business Park, RE1 Public Recreation and SP2 Infrastructure
- reclassification of Lot 14 DP213314 and Lot 1 DP108492 (Council owned and the subject of Charitable Trusts), from 'community' to 'operational' land
- introduction of overall maximum building height of RL51m with transitions across the site to respond to aviation controls relating to adjacent Sydney Airport operations
- limit gross floor area 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
- permit additional permitted uses within the B7 Business Park zone and site-specific planning provisions.

EHG has reviewed the Gateway Determination Assessment Report (PP2022-1748), the Urban Design and Landscape Report (UDLR) prepared by Hassell (April 2023), the Planning Proposal Summary prepared by Ethos Urban (4 April 2023), the Flooding, Stormwater and WSUD Report prepared by ARUP (16 March 2023) and the Cooks Cove Planning Proposal Cooks Cove Northern Precinct Flora and Fauna Assessment (Cumberland Ecology, 21 March 2023) (FFA).

Department of Planning and Environment

EHG's view is that the Planning Proposal does not satisfy the requirements of the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual and provides detailed comments at Attachment A.

Also, the Planning Proposal has not adequately considered the relevant SSI 6788 and SSI 8931 consent conditions for the Green and Golden Bell Frog (GGBF) on the subject site and as such has not provided assurance that allowance has been made for the fulfillment of these conditions, has not adequately considered the objectives and provisions for biodiversity and GGBF conservation under *SEPP (Precincts – Eastern Harbour City) 2021*; and as such, the Planning Proposal does not adequately protect and enhance the protected GGBF habitat in the site as required by Ministerial Direction 1.12 to 'Enhance the environmental attributes of the site, including protected flora and fauna, riparian areas and wetlands and heritage'. Detailed biodiversity comments are provided at Attachment A.

Should you have any queries regarding this matter, please contact the Greater Sydney Planning Team on rog.gsrplanning@environment.nsw.gov.au.

Yours sincerely,

A handwritten signature in black ink that reads 'S. Harrison'.

Susan Harrison
Senior Team Leader Planning
Greater Sydney Branch
Biodiversity and Conservation

Department of Planning and Environment

Attachment A: EHG comments on the Cooks Cove Planning Proposal (PP-2022-1748)

Flooding

A Flood Impact Risk Assessment (FIRA) has been provided using a suite of overland and mainstreams flood models but primarily the Bonnie Doon, Eve Street/Cahill Park Pipe & Overland 2D Flood Study (2015/2017) and the Sydney Water Cooks River flood model (MWH-PB,2009). EHG wishes to highlight that the adopted models may not be adequate to assess flood risk for the Cooks Cove precinct, with regards to recent guidance from the NSW Government and Australian Rainfall and Runoff guidelines. The modelling needs to consider the impacts of a co-incident overland flow events from neighbouring catchments as well as coastal inundation events to represent the full risk to the site. The following comments are made with respect to: Appendix C - Flooding, Stormwater and WSUD Report (ARUP, 2023) submitted as part of the package of works.

Existing Conditions

The existing flood hazard of the site is dominated by the out of bank/mainstream flooding from the Cooks River. Based on the mainstream Cooks River flood modelling undertaken by the proponent, under the existing 1% AEP conditions, the site is subject to widespread flooding with significant parts of the site inundated with and flood levels to the north of Marsh Street reaching 3.4m AHD in the PMF event. The existing hazard conditions of the site reach H3 (1% AEP event) and up to H5 (PMF), rendering unsafe for vehicles and people.

Developed Conditions

The proponent is seeking to amend Bayside Local Environmental Plan 2021 (BLEP 2021) to rezone and insert planning controls for “Cooks Cove” within the BLEP 2021. The proposal seeks to develop multi-level logistics, a retail podium with commercial office and a 12-storey hotel. The proposal involves filling the development site and diverting flows (Mitigation Option 4).

The flood afflux maps have been provided for the various mitigation options for the 5%, 1% and PMF conditions; however the proponent has not included the full range of flood events for risk assessment. EHG requires the results from the complete suite of modelling undertaken to assess pre and post development conditions as well as both rainfall and sea level rise impacts, with the 0.5% AEP and 0.2% AEP flood events used as proxies for evaluating sensitivity of the catchment to an increase in rainfall intensity of flood producing rainfall events.

In Section 8 of the report the proponent presents the development’s compliance against the Relevant NSW and Local Government Legislation with the statement that the proposed mitigation measure and the elevated development does “not adversely affect existing flood conditions in nearby properties ... and would not result in adverse flooding impacts.” EHG would like to highlight that a development of this nature is not compatible with the flood risk and the existing high hazard flood behaviour of the site. Flows entering the golf club via Marsh Street is dominated by upstream runoff conditions which can peak at 13.5m³/s in a 1% AEP event and 125 m³/s in the PMF event. During flood events the occupiers of the site will be isolated within a High Flood Island with extremely high risk to life.

Emergency Management Issues

Understanding the flood affectation of Marsh Street is critical as this is a major access route linking the M5 to Sydney Airport. The proponent has not provided EHG with sufficient details relating the flood hazard maps, hydraulic categorisation and duration of inundation/ isolation of the proposed lots as well as the access routes for the full range of flooding events up to the PMF.

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The results from the Sydney Water Cooks River Flood Study illustrate that the site is exposed to mainstream flash flooding in very frequent events and is isolated in events as low as the 5% AEP flood event. The proponent has simulated a “9 hour event” in the hydrology model (WBNM) to confirm that 2 hours was the critical duration for the Cooks River catchment and that the “PMF Events is expected to be under 6 hours”. The proponent also highlights that “Marsh Street starts becoming inundated 40 minutes after the onset of rainfall in a PMF flood event... the current site layout and proposed drainage infrastructure is not at a level of design suitable to accurately estimate the duration of inundation of Marsh Street, it could be expected that Marsh Street be inundated for under six hours, based on extrapolation of flood modelling results”. Longer duration events in the hydraulic model to demonstrate the potential for prolonged isolation of the site because of Marsh Street access in the full range of events have not been provided. Understanding isolation duration is important, particularly with respect the reduced drainage conditions with respect to Sea Level Rise.

The proponent has stated that the “Cooks Cove Planning Proposal would provide safety for the occupants during times of Cooks River flooding using a shelter-in-place approach once evacuation routes onto Marsh Street are closed” and that a “precinct wide Flood Evacuation Strategy including shelter-in-place provisions, flood warning systems and an education and flood awareness program is to be prepared and implemented prior to the issuance of an Occupation Certificate”.

EHG wishes to highlight that a flood warning system for the Cooks River System can be complex, due to the flashy nature of the overland and mainstream Catchment and the low critical duration of the flood producing events (i.e., 1-2 hours). The community response to the flood warning might also be difficult due to the migratory nature of the occupants (i.e., tourists, logistics personal and hospitality staff) of the proposed Cooks Cove site. The proponent has presented (Section 9.1) a Flood Evacuation and a Shelter in Place strategy based on the occurrence of the various AEP events, however in the absence of real time gauge data linked to previous flood models throughout the catchment it will be impossible to predict the recurrence of the flood event prior to the fact. EHG does not support Private Flood warning systems or Shelter in Place arrangements for new developments. EHG emphasises that any merit-based shelter in place strategies are a matter for the NSW SES as the responsible flood combat agency. This strategy should be referred to the NSW SES for comment.

The Water Sensitive Urban Design (WSUD) and re-orientation of the flow path throughout the site, have not been tested against the full range of floods, where the impacts to hydraulic conveyance have been demonstrated and are unlikely to provide flood immunity for rare events. The proponent needs to clearly illustrate the duration of key access routes for assessment by NSW SES. The development is likely to result in increased requirement for government spending on emergency management services and emergency response measures (i.e., intensifying a floodplain and requiring flood evacuation during extreme events).

In summary, the development involves filling of land below the 1% AEP level and proposes to divert the flood water and interfere with flood water storage and the natural functions of the floodplain. EHG wishes to highlight that this is currently against Bayside Council DCP requirements and flood afflux should not be the only consideration when determining compliance. The development is incompatible with the flood risk of the site and based on the information provided in this package of works, it is EHG’s position that the planning proposal does not satisfy the requirements of the with the NSW Government’s Flood Prone Land Policy and the principles of the Floodplain Development Manual.

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Biodiversity

Consideration of conditions of approval for SSI 6788 WestConnex – New M5 (now called M8) and SSI 8931 M6 Stage 1 (previously F6 extension)

As noted in previous correspondence, the approved major projects SSI 6788 WestConnex - New M5 (now called M8) and SSI 8931 M6 Stage 1 (previously F6 extension) are subject to conditions of approval that must be implemented for the protection and ongoing conservation of the GGBF Arncliffe population.

The conditions of approval are for maintenance and enhancement of existing GGBF breeding, foraging and movement habitats; and reinstatement of habitats that have been temporarily altered (see DOC21/293864). A number of these GGBF habitat features occur partly or fully within the area subject to the revised Cooks Cove planning proposal. The Planning Proposal prepared by Ethos Urban (4 April), Planning Proposal Summary prepared by Ethos Urban (4 April 2023) and the Urban Design and Landscape Report (UDLR) prepared by Hassell (April 2023) have not made explicit reference to these conditions of approval, and it is not clear if the planning proposal will enable these conditions to be fulfilled. It is also not clear if appropriate measures have been proposed to mitigate and compensate biodiversity impacts from the current proposal. Importantly, actions required under conditions of approval for SSI 6788 and SSI 8931 cannot be used to avoid or compensate biodiversity impacts from this proposal.

The planning proposal needs to demonstrate how it allows for enough resources, including space, to enable the approval conditions of SSI 6788 and SSI 8931 to be fulfilled, and to enable the provision of a range of GGBF habitats to mitigate the direct and indirect (including prescribed) impacts associated with this proposal.

GGBF habitat creation

Habitat creation is listed as a mitigation measure in the FFA, with page 60 stating, *In order to minimise the impacts to aquatic habitat within the subject site, a range of new wetland habitats will be created within the proposed Pemulwuy Park South in the southern portion of the subject site and along the foreshore, adjacent to the Cooks River. ... The establishment of new wetland habitats also provides opportunities for the creation of new foraging habitat for various species, including the Green and Golden Bell Frog. ... These areas will complement the proposed new frog ponds that will be established by the TfNSW in the south-western area of the subject site.* This suggests that the creation of new GGBF habitat ponds will result from the planning proposal. However, it is not clear from the draft DCP provisions and the UDLR, how much GGBF habitat will be created in addition to that required as part of the approvals for SSI 6788 WestConnex – New M5 (M8) and SSI 8931 M6 Stage 1. This is because:

- In the draft DCP, the 'Desired Future Character Statement' for Pemulwuy Park states (page 2) *The new Pemulwuy Park will enhance community amenity as an inviting and attractive passive public parkland system for all. The highly visible and accessible park will include open lawn areas, pedestrian and cycle pathways and the potential for a youth activity space and community building. The design is to achieve connection to ecology through the potential re-planting of existing vegetation and integration with adjacent Green and Golden Bell Frog habitat rejuvenation works to be delivered by Transport for New South Wales.*
- The draft DCP only refers to the approval conditions for SSI 6788 WestConnex – New M5 (M8) and SSI 8931 M6 Stage 1, that is, page 25 states *Detailed designs within Pemulwuy*

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Park are to incorporate retention and protection of future new GGBF habitat as proposed by TfNSW.

- The flora and fauna strategy in the UDLR states (page 86), *The Green and Golden Bell Frog Habitat is to be constructed as a part of TfNSW scope adjacent to this Planning Proposal. Whilst this document does not include this information the proposal supports and is consistent with the design and protection of habitat in the future.*
- The planting approach shown on page 86 of the UDLR includes only one 'wetland' in addition to that to be delivered by TfNSW. The purpose of this additional wetland is not known (e.g., it could be for stormwater management) and it does not match the size, location or shape of the two 'existing water bodies retained' shown in the plan for Pemulwuy Park South on page 82 of the UDLR.

The draft DCP, LEP, and the Cooks Cove Urban Design and Landscape Report

The draft DCP and UDLR do not appear to support many of the management measures proposed to be undertaken as part of the GGBF Management Plan, as discussed on page 56 of the FFA, specifically to:

- *increase connectivity between sites to encourage breeding*
- *maintain breeding ponds*
- *provide for long-term habitat protection and management and*
- *address other key threatening processes.*

It is noted however, that page 7 of the UDLR states *while the draft spatial master plan has not been formally endorsed by Council, it is considered to capture and reflect Council's expressed vision for the space, and page 82 states, Pemulwuy Park is shown indicatively only in this planning proposal. The park is subject to a future design and delivery by Bayside Council".*

Notwithstanding the indicative nature of the designs for Pemulwuy Park, it seems that the ecological requirements of GGBF, and best practice habitat design for this species, may not have been adequately considered to date. This is because, for Pemulwuy Park South, where most of the existing GGBF habitat occurs: roads for cars and trucks are proposed to run through the park; car parks are located close to the 'frog ponds (by TfNSW)' and 'existing water bodies retained'; and an off-leash dog area and a large community hub are proposed (see page 82 of the UDLR). These land uses are not compatible with the continued occupation of the site by GGBF.

The precinct master plan shown on page 18 of the UDLR does not show retention of the Skinny Pond and Circular Pond (see Figure 1.1 of the *Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022* (AMBS Ecology & Heritage Pty Ltd, January 2023) for the locations of these ponds). These two ponds are key GGBF habitat.

It is also noted that the RTA frog ponds are not shown in the Master Plan on page 18 of the UDLR, even though they occur within the planning proposal boundary.

In the draft DCP, the 'Threatened Species Habitat and Endangered Ecological Communities' map contains breeding and foraging habitat for the GGBF (page 29). However, this mapping is incomplete since there are more foraging habitats throughout the site, for example, see the Mangrove Pond and Northern Pond in Figure 1.1 of the *Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022* (AMBS Ecology & Heritage Pty Ltd, January 2023), and because dispersal/movement habitat is not included. As stated in the FFA (page A.43) *The surrounding grassed areas, fringing vegetation around golf ponds and any ephemeral wet areas including drainages are present within the Cooks Cove site, particularly on the subject site; these provide habitat for foraging and dispersal from the RTA breeding ponds and are critical in maintaining the breeding population.* Also, the RTA ponds/breeding habitat appear under mapped and are

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missing the surrounding habitat that was enhanced as part of the SSI 6788 WestConnex – New M5 (M8) (again, compare with Figure 1.1 of the *Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022* (AMBS Ecology & Heritage Pty Ltd, January 2023)). The ‘Biodiversity’ map in the draft DCP and the ‘Terrestrial Biodiversity’ map in the draft LEP contain the same issues.

It is recommended that:

- the objectives of the DCP specifically address the need to support the continued occupation of Cooks Cove, including the former Kogarah Golf Course, by GGBF
- the design for Pemulwuy Park is underpinned by the habitat requirements for GGBF and best practice guidelines for habitat creation, and is developed with input from an appropriately qualified herpetologist
- the design for Pemulwuy Park includes car parks, roads and the community hub being located as far away from GGBF habitat (including breeding, foraging, dispersal habitats etc) as possible; traffic is kept to a minimum in Pemulwuy Park South, with trucks being excluded at the very least; dispersal/movement habitat is provided throughout the park, linking the parks water bodies to each other (including to the existing RTA ponds), and to water bodies located outside of the planning proposal boundary; and off leash dog areas are excluded from Pemulwuy Park South
- the DCP specifically addresses the need to retain existing GGBF habitat (including existing ponds), as well as to create a range of new GGBF habitats (including breeding, foraging, refuge/sheltering and dispersal/movement), and to ensure their management in perpetuity
- the Skinny Pond and Circular Pond are retained
- the design principles for Pemulwuy Park, as referred to in the controls in the draft DCP on page 6, encapsulate the above points and
- the mapping in the DCP and LEP includes all breeding, foraging and dispersal/movement habitats for GGBF across the planning proposal boundary.

Planning Provisions and Conservation Land Use Zoning to Enhance and Protect the GGBF Arncliffe Population

The Cooks Cove Planning Proposal provides an important opportunity to establish measures to ensure the Arncliffe GGBF population is protected and enhanced as per Ministerial direction 9.1 i).

The objectives and provisions for biodiversity and GGBF conservation under *SEPP (Precincts – Eastern Harbour City) 2021* should remain in force and be included in the planning proposal and replicated in the proposed amendments to Bayside Local Environment Plan (LEP).

This includes:

- Part 6.2 clause 6.9 Planning Principles for Cooks Cove; and
- Part 6.4 Special Provisions clause 6.16 Environmental Management – management plans; and
- Part 6.4 Special Provisions clause 6.17 Environmental Management – special requirements

The *SEPP (Precincts – Eastern Harbour City) 2021* provisions better respond to the unique characteristics and biodiversity values within the Cooks Cove site compared to the existing Bayside LEP Biodiversity clauses 6.4, 6.5 and 6.6.

EHG’s advice provided in relation to Environmental Conservation Zoning (see DOC21/293864 date 25/5/2021) remains relevant. EHG reiterates that the high conservation value of the GGBF habitat be afforded the highest level of conservation zoning protection to ensure its retention and long-term protection. EHG does not support the use of RE1 Public Recreation Zone for the GGBF habitat area. The objectives of the RE1 Public Recreation Zone are to protect and enhance the natural

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environment for 'recreational' purposes and the permissible uses within this zone are not compatible with the protection of the GGBF.

The objectives of the C2 Environmental Conservation Zone are to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values; and 'to prevent development that could destroy, damage or otherwise have an adverse effect on those values' and are much better suited to the conservation values of this part of the site.

It is recommended that:

- the objectives and provisions for biodiversity and GGBF conservation under *SEPP (Precincts – Eastern Harbour City) 2021* should remain in force and be included in the planning proposal and replicated in the proposed amendments to Bayside Local Environment Plan (LEP)
- the land proposed to be zoned RE1 be zoned, in full or part, for conservation purposes to help to ensure the long-term viability of the GGBF Arncliffe population
- permissible land uses within the C2 - Environmental Conservation zone be consistent with the long-term protection and conservation of those values.

SEPP (Precincts – Eastern Harbour City) 2021 Green and the Golden Bell Frog Management Plan Requirements

The *State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021* requires the GGBF management plan to do several things. Under Part 6.16(5) this includes proposing how the *development and management of the golf course and open space areas, management of public access and proposed development within the Trade and Technology Zone relate to protection of the Green and Golden Bell Frog and its habitat*. The planning proposal is not clear about the development and management of the golf course and open space areas and how the GGBF management plan requirements in *SEPP (Precincts – Eastern Harbour City) 2021* have been met.

Page 56 of the FFA states, *To manage and minimise the potential impacts to the Green and Golden Bell Frog as a result of the project, a Green and Golden Bell Frog Management Plan has been prepared in accordance with the Eastern Precincts SEPP for the study area. The overall objectives of this Management Plan are to ensure that the current population of the GGBF at Cooks Cove is maintained, to minimise threatening processes at the site and to improve habitat and connectivity for the species to enable successful breeding and on-going population viability*. However, this document did not form part of the exhibited material <https://www.planningportal.nsw.gov.au/ppr/post-exhibition/cooks-cove-planning-proposal> and it is not currently on the Planning Portal <https://www.planningportal.nsw.gov.au/ppr/post-exhibition/cooks-cove>.

Flora and Fauna Assessment

The following comments are in addition to those made above about GGBF and need to be addressed by the FFA.

Future applicability of the Biodiversity Offsets Scheme

The *Cooks Cove Planning Proposal Cooks Cove Northern Precinct Flora and Fauna Assessment* (Cumberland Ecology, 21 March 2023) (FFA) make several references to how the Biodiversity Offsets Scheme (BOS) will apply to the proposal, including (page xvii) *Some of the more recent records documented in the monitoring by AMBS Ecology and Heritage indicate that a limited number of frogs have been found within the most southern and western edges of the development precinct, adjacent to the retained south-western portion of the subject site. The net decrease in potential foraging habitat for the species will be addressed under the NSW Biodiversity Offset Scheme in accordance with the BAM and Any residual impacts remaining after the implementation of avoidance*

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and mitigation measures will be dealt with under the Biodiversity Offset Scheme and in accordance with the BAM, which includes the purchase and retirement of biodiversity credits.

These types of statements, however, pre-empt the planning approvals process and there is no certainty that impacts to biodiversity will be offset/addressed under the Biodiversity Offset Scheme. It is noted for example that:

- the planning proposal boundary is not on the Biodiversity Values Map
- direct impacts to Plant Community Types are likely to be small, with 0.01ha of the endangered 'Coastal saltmarsh in the NSW North Coast, Sydney Basin and South East Corner bioregions' proposed to be cleared through the Cook Cove Inlet Pty Ltd development
- the most significant impacts to biodiversity values across the planning proposal boundary will be associated with prescribed impacts and
- the development approval pathway to be used by Cook Cove Inlet Pty Ltd is unknown, and their development may occur in stages.

Status of the 'growing' Green and Golden Bell Frog Arncliffe Population

Page 39 of the FFA states *Since this time, as part of the WestConnex project, the Arncliffe population has increased again and continues to be supplemented with tadpoles from the captive breeding program. Based on recent monitoring surveys undertaken by AMBS Ecology and Heritage (AMBS Ecology & Heritage 2020, 2021b, a), the growing Arncliffe population appears to be continue (sic) to be mainly based around the RTA ponds as well as the new Marsh Street wetland habitat, with scattered records also occurring within the southern portion of the subject site and in the area of Barton Park and Riverine Park (formerly known as the Southern Precinct). It is noted that other references to an increased, or growing population, are made throughout the FFA, for example see page 54. However, the Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022 (AMBS Ecology & Heritage Pty Ltd, January 2023) does not support the notion of a 'growing' Arncliffe population and it also refers to a recent problem with the captive breeding program. Page 19 of the Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022 (AMBS Ecology & Heritage Pty Ltd, January 2023) states The current season was substantially different to that of recent previous seasons due to the failure of the captive breeding program to provide sufficient tadpoles for translocation in 2021-2022. ... The majority of the population in 2021-2022 occurred within the M8 Marsh Street habitat area and was likely to be mainly comprised of animals from previous seasons, with only limited recruitment observed in 2021-2022"*

Furthermore, the recent monitoring surveys referred to by the FFA do not necessarily reflect a growing population either. This is because:

- the Green and Golden Bell Frog Monitoring, Arncliffe, September-November 2020 (AMBS Ecology & Heritage Pty Ltd, dated March 2021) states (page 8), *No GGBF breeding was detected, either within or outside of the New M5 Marsh Street habitat area, although calling males were heard in the New M5 Marsh Street habitat area and the western RTA pond*
- the Green and Golden Bell Frog Monitoring, Arncliffe, December 2020 - February 2021 (AMBS Ecology & Heritage Pty Ltd, dated 19 April 2021) states (page 5), *Two (2) GGBF tadpoles were recorded from Pond B in the New M5 Marsh Street habitat area during targeted tadpole monitoring surveys. No other GGBF tadpoles were observed in the New M5 Marsh Street habitat area prior to the release of the captive-bred animals from Symbio Wildlife Park. GGBF tadpoles were observed in all ponds following the releases, but the density of pond vegetation made net sweeps difficult and few animals were captured during the standardised net sweeps. GGBF tadpoles were recorded from the western RTA Pond during targeted tadpole monitoring surveys (2) and during nocturnal GGBF surveys (3). No GGBF tadpoles were recorded in any other ponds outside of the New M5 Marsh Street habitat area during surveys*

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- the Green and Golden Bell Frog Monitoring, Arncliffe, December 2020 - February 2021 (AMBS Ecology & Heritage Pty Ltd, dated 19 April 2021) states (page 9), *The nocturnal frog surveys undertaken in December 2020, January and February 2021 were the second round of surveys for the 2020-2021 season. The results of the current surveys indicate that the population of GGBFs in the New M5 Marsh Street habitat area continue to occupy the site. Adult frogs were captured in December 2020 and January 2021, including a number of recaptured individuals. Large numbers of juvenile GGBFs were also recorded. A small number of GGBFs were also found in the Creek area, the Eastern Frog Corridor, the RTA ponds, Kogarah Golf Course and in the Enhancement Area. Four GGBF were found at the Landing Lights East Pond in the extended search area in Barton Park. All frogs observed or captured appeared in a healthy condition.*

Direct and indirect impacts, and avoidance measures

Page 50 of the FFA discusses direct impacts and states, *Potential direct impacts of the project include the following: Removal of potential foraging, sheltering and dispersal habitat; ...* However, these are not potential impacts since extensive areas of GGBF habitat (including breeding, foraging and dispersal/movement) will be directly impacted by this planning proposal, and by the development proposed by Cook Cove Inlet Pty Ltd. Page 51 lists potential indirect impacts, but only the RTA ponds have been considered. There are several other ponds, and other types of GGBF habitat, that will be indirectly impacted from this planning proposal and associated development, for example, compare Figure 10 of the FFA, Figure 1 of the *Green and Golden Bell Frog Plan of Management – Arncliffe* (Eco Logical Australia, dated April 2018, version no. 22) and Figure 3.1 of *Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022* (AMBS Ecology & Heritage Pty Ltd, January 2023). The list on page 51, which includes *reduction in breeding success and potential mortality of individuals as a result of habitat modification*, reflects how risky the proposal is for the Arncliffe population.

Page 54 of the FFA states, *The current Master Plan involves a development scheme that is set back significantly further away from the RTA ponds compared to the approved plans included in Eastern Precincts SEPP (formerly SREP 33). As a result, the RTA ponds will be retained.* Page 55 states, *Key avoidance measures undertaken during the development of the Master Plan specific to the Green and Golden Bell Frog habitat in the subject site include: ... Retain the RTA ponds and surrounding vegetation, to avoid impacts to the Green and Golden Bell Frogs primary habitat.* However, retention of the RTA ponds is required under the conditions of approval for SSI 6788 WestConnex – New M5 (which is now known as the M8), and so is not considered ‘avoidance’ for this planning proposal. This is because:

- condition B14 of SSI 6788 WestConnex – New M5 states, *The Proponent must prepare and submit to the Secretary for approval an updated Green and Golden Bell Frog Plan of Management for the Arncliffe population of Green and Golden Bell Frog prior to commencing construction at the Arncliffe construction compound. ... The Green and Golden Bell Frog Management Plan must be implemented*
<https://majorprojects.planningportal.nsw.gov.au/prweb/PRRestService/mp/01/getContent?AtachRef=SSI-6788%2120190227T082503.534%20GMT> and
- the approved management plan includes the following mitigation measures for construction and operation, *maintain the existing RTA ponds and maintain adjacent habitat area* (see Table 3 of the *Green and Golden Bell Frog Plan of Management – Arncliffe* (Eco Logical Australia, dated April 2018, version no. 22).

Page 54 of the FFA states, *In order to conserve the primary Green and Golden Bell Frog habitat ... the wider south-western portion of the subject site will be retained as passive recreational space and will therefore be utilised much the same as within the current golf course under an open space plan.*

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However, the planning proposal will dramatically change the current environment of GGBF in the area proposed to be zoned RE1. A comparison of Figures 1 and 3 in the FFA, and the Pemulwuy Park South plan in the UDLR reflects this.

For the land to be zoned RE1, the proposed adjacent development by Cook Cove Inlet Pty Ltd will most likely result in many sustained indirect impacts, including light pollution, shadowing, altered hydrological processes, water pollution and vehicle strikes. Development within the open space areas, particularly within the proposed Pemulwuy Park South, will also likely result in ongoing indirect impacts including vehicle strikes, light pollution, disturbances from pedestrians and dogs, herbicide and pesticide contamination, shadowing of habitat from trees and tall shrubs, interferences to habitat connectivity, and a reduction in habitat quality through mowing and slashing. This is in addition to the direct prescribed impacts of the removal and/or reduction in size of existing ponds, and the removal of existing exotic vegetation, both of which are used by GGBFs throughout the planning proposal area, for example see Figure 3.1 in the *Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022* (AMBS Ecology & Heritage Pty Ltd, January 2023).

Mitigation measures – Green and Golden Bell Frog Management Plan

Page 55 of the FFA states, *A range of mitigation measures will be implemented for the proposed project. These measures will be implemented to minimise impacts to biodiversity values, and to provide ongoing management of native fauna species and retained and replanted vegetation, and to guide the overall management of the open space corridors and other landscape elements. It should be noted commitment to implement the mitigation measures outlined below are mainly limited to the development precinct, which represents the land owned by Cooks Cove Inlet. However, as part of this assessment it is recommended that the proposed mitigation measures are also adopted for all land outside of the development precinct within the subject site.* However, for the Green and Golden Bell Frog Management Plan, which is discussed in section 5.2.1 of the FFA, all except for one of the specific management measures (see page 56), do not seem readily applicable to Cook Cove Inlet Pty Ltd, since they appear mostly relevant to the land proposed to be zoned RE1. Furthermore, for the land proposed to be zoned RE1, it is not known if these measures will be supported, or implemented, by council. As such, it is difficult to gauge the full extent of the potential impacts from this planning proposal.

To be clear, the management plan referred to in section 5.2.1 of the FFA is a proposed mitigation measure for this planning proposal and is distinct from the management plan referred to above for SSI 6788 WestConnex – New M5.

Green and Golden Bell Frog Assessment of Significance

As part of the assessment of significance for GGBF, page A.84 of the FFA states, *The subject site contains a key Green and Golden Bell Frog population known as the “Arncliffe population”, which has been monitored by Dr Arthur White on behalf of RMS for many years (A White pers comm.). Most of the existing records for the species that are in the OEH Wildlife Atlas were produced by the work of Dr Arthur White. However, some work has been done by Cumberland Ecology to survey for the species on the Kogarah Golf Course during 2005, 2009, 2015 and 2017. Surveys by Cumberland Ecology (2006, 2010) recorded the species within the subject site in 2005 and 2009; however, no individuals were recorded in surveys conducted in 2015 or 2017. Low numbers of records around 2015-2017 of the Arncliffe Population are likely to be attributable to two factors. Firstly, due to low rainfall and poor conditions for frogs prevailing in early and mid 2016. Secondly, removal of animals for an approved captive breeding program as explained below and in more detail in Section 3.3.3 i.*

However, this conclusion is not clearly supported by information contained in management plans and monitoring reports for the Arncliffe population, including:

- page vi of the *Habitat Creation and Captive Breeding Plan – Green and Golden Bell Frog at Arncliffe* (Eco Logical Australia, September 2017) states, *The local Arncliffe population has been monitored since 1999/2000. Data on the population estimates between 2002/03 and 2014/15 were presented in the EIS. Since then, further survey has been undertaken and information about the 2015/16 monitoring period is provided here. Together this data indicates that the population was relatively stable between 2003/04 and 2013/14. During the last two survey seasons, there is evidence that the population has declined. This population requires ongoing management to prevent further decline*
- page 17 of the *Habitat Creation and Captive Breeding Plan – Green and Golden Bell Frog at Arncliffe* (Eco Logical Australia, September 2017) states, *A graph showing the results of the monitoring effort between 2002/03 and 2014/15 is shown below (Figure 6). This graph demonstrates presumed recent declines in the size of the population. While no specific study of the reasons for decline has been undertaken, Dr Arthur White believes this could be due to a range of factors including:*
 - *excessive plant growth overshadowing of the existing frog ponds*
 - *more extensive mowing of grassed areas on the Kogarah Golf Course increasing the risk of predation to frogs foraging on the golf course.*

Roads and Maritime (M5 East asset team) undertook works within the RTA ponds over summer 2015/16 which removed the excessive plant growth in the existing frog ponds. Subsequent maintenance works in September 2017 have also been undertaken to address actions raised as part of the six monthly monitoring program for the ponds.

- page 7 of the *Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022* (AMBS Ecology & Heritage Pty Ltd, January 2023) states, *In 2017 the HCCBP was implemented. Eighteen GGBFs found in the RTA Ponds, Kogarah Golf Course or the expanded survey area south of the M5 were transferred to Symbio Wildlife Park in February 2017 (Biosphere 2017a). Construction of the stepping-stone ponds in the Enhancement Area was completed by May-June 2017 (Biosphere 2017b, c) and construction of the M8 Marsh Street Habitat Area was completed over the following year. In 2017-2018, after the transfer of animals to the captive breeding facility, only two GGBFs were detected; one in the south-eastern corner of Kogarah Golf Course and one in “Barton Park”*

The assessment of significance concludes (page A.88), *The Arncliffe Population is under active management according to the RMS Management Plan. The population is currently increasing and supplemented by tadpoles from the captive breeding program. ... Although potential foraging habitat will be removed, the only known breeding locations within the subject site will be retained as well as most of the utilised foraging habitat. ... Therefore the proposed development is unlikely to have a significant negative impact on the species.*

This conclusion is not supported because:

- page 20 of the *Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022* (AMBS Ecology & Heritage Pty Ltd, January 2023) states, *Monitoring in 2021-2022 detected only a small number of GGBFs on Kogarah Golf Course. The lack of GGBFs in the RTA Ponds indicates that the survival of this population is currently heavily dependent on the M8 Marsh Street habitat area and The results indicate that the M8 Marsh Street habitat area has so far been effective in creating an environment suitable for the growth of captive-bred tadpoles, their metamorphosis into frogs, and the continued growth of the metamorphosed animals into adult frogs. Further, the results from 2021-2022 indicate that breeding has occurred in least (sic) one of the ponds. However, both the adult population size and the number of juvenile frogs observed was considerably less than in previous seasons. We conclude that, at this stage of the program,*

Department of Planning and Environment

the ongoing survival of the GGBF population at Arncliffe remains dependent on the continuation of the captive breeding program

- page 1 of the *Green and Golden Bell Frog Plan of Management – Arncliffe* (Eco Logical Australia, dated April 2018, version no. 22) states, *occasional breeding events in the golf course ponds have been recorded (Dr Arthur White pers. comm 2015)*
- the *Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022* (AMBS Ecology & Heritage Pty Ltd, January 2023) shows that, of the 19 individuals observed outside of the M8 Marsh Street habitat area during the 2021-2022 monitoring season, 13 occurred within the planning proposal boundary, including four within the development footprint proposed by Cook Cove Inlet Pty Ltd (see Figure 3.1 of the annual report) and
- page 19 of the *Habitat Creation and Captive Breeding Plan – Green and Golden Bell Frog at Arncliffe* (Eco Logical Australia, September 2017) states, *Monitoring the frog population at the RTA ponds has determined that the current population is unlikely to remain without constant management and is considered to have poor long-term viability (White 2015).*

As such, the likely direct and indirect (including prescribed) impacts resulting from the proposed development, and from the land use changes for the land proposed to be zoned RE1, will likely significantly impact the GGBF Arncliffe population.

Other comments

- Figure 9 of the FFA shows threatened fauna locations within the subject site and includes two locations for GGBF. This grossly misrepresents the occurrence of this species throughout the planning proposal area, for example, see records in BioNet and Figure 3.1 of the *Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022* (AMBS Ecology & Heritage Pty Ltd, 10 January 2023).
- Page 40 of the FFA states “The Powerful Owl requires large tree hollows for nesting that are at least 50 cm deep in large old eucalypts that have a diameter at breast height of 80-240 cm, and roosts in dense vegetation (OEH 2016d).” However, the habitat constraint (species credit) for this species in BioNet is “Living or dead trees with hollow greater than 20cm diameter”.
- One of the vegetation communities identified in the planning proposal area was ‘planted native vegetation’ (which included *Eucalyptus nicholii*, a threatened species). Future assessment of this vegetation should consider Appendix D of the BAM (Streamlined assessment module – Planted native vegetation).
- The *Planning Proposal Summary Cooks Cove, Arncliffe* (Ethos Urban, 4 April 2023) states (page 13) “The Proposal will provide a minimum 20m wide landscaped corridor along the Cooks River foreshore approx. 1km in length”. However, the Cooks River is a 4th order stream, which requires a 40m riparian buffer (on each side of the waterway) under the BAM.
- The DCP and LEP should capture the ‘Coastal saltmarsh in the NSW North Coast, Sydney Basin and South East Corner bioregions’ located within the planning proposal boundary (see Figure 7 of the FFA).

End of submission

Louise McMahon
Director, Agile Planning
NSW Department of Planning and Environment
4 Parramatta Square, 12 Darcy Street
Parramatta NSW 2150

via email: agileplanning@dpie.nsw.gov.au

29 May 2023

**Sydney Desalination Plant Response to Planning Proposal (PP-2022-1748) 13-19A
Marsh St Arncliffe**

Dear Louise,

We appreciate the invitation to review and provide feedback on the Planning Proposal PP-2022-1748 (Cooks Cove Project).

As you know, the Sydney Desalination Plant at Kurnell (the Plant) plays a pivotal role in helping ensure Sydney has a reliable and safe water supply, being the only climate independent solution to supply drinking water to Sydney's residents and industry. The Plant and the 1800mm transfer pipeline (Pipeline) that connect the Plant to the Sydney Water network, are privately owned and operated by Sydney Desalination Plant Pty Limited (SDP). SDP also has a long term agreement to supply water to Sydney Water Corporation.

From 1 July 2023, the Plant will also be operating under a new operating licence which includes an annual water order from Sydney Water. Effectively the plant will always be operational, aligning with the objectives of the Greater Sydney Water Strategy which recognises the important role we play both during and independent of drought conditions. This truly recognises that the Plant is an essential part of Sydney's water resilience.

This Cooks Cove Project is of high relevance to SDP, and will require careful consideration to ensure that SDP remains able to operate and maintain its assets into the future, for the benefit of Sydney Water and its customers.

SDP's Pipeline passes directly through the proposed Cooks Cove Project, and if the Pipeline is adversely impacted it could adversely affect drinking water supply. The documentation provided with the exhibition includes considerations towards SDP infrastructure, which is extremely positive, and we can confirm that we have had several meetings with the Developer to discuss the proposed plans, potential interactions with SDP, and SDP's requirements.

Whilst these discussions have translated into commentary within the submission, SDP has a strong opinion that a development of this scale, and interaction with SDP's assets, should be subject to more formal requirements to allow SDP to manage its future risks.

Although the Pipeline has some protection through gazetted easements, being a private company, SDP does not have the formal power and protections of large utilities like Sydney Water to manage risks associated with developments close to its infrastructure. SDP will work pragmatically with developers, but it is important that the integrity of the asset is not compromised by construction methods or introduction of loads, and that SDP can continue to access elements of its critical assets to ensure it can continue to benefit customers into the future.

We have had success in the past with the execution of a Contract between SDP and the Developer, that binds both parties to conditions that will allow the project to move forwards, whilst also addressing SDP risks and ensuring that SDP's rights are protected through the entire project duration.

With that said, we would request assistance to manage risks associated with SDP's pipeline by having a requirement inserted within the planning approval, to ensure that a contractual agreement is in place with SDP and the future developer, addressing the following key points;

- SDP to enter into a Deed of Agreement with Developer / Bayside Council as appropriate
- Deed to include;
 - bond/security with the deed – released at completion and handover of as-built data and with any damage to SDP rectified
 - all required insurances, liabilities etc
 - SDP require all costs incurred in the development of the works fully reimbursed including but not limited to; consultation with SDP and its advisors with developer and other parties as identified; design reviews; site surveillance by SDP; cost of undertaking actions required by SDP to protect its assets including monitoring, testing, investigations, design checks; any asset protection works by SDP or others; cost to protect or change SDP assets by SDP or others; dilapidation assessments (pre and post), SDP's legal and survey costs, other non-operating costs.
 - SDP to review developers management plans including design, safety, risk, construction, quality,
 - SDP to be provided all IFC design and as-built information for works impacting SDP assets in formats PDF and native
 - SDP to have full access to site at all times to maintain and operate the pipeline
 - SDP be informed immediately of any incidents in relation to its assets
 - SDP to have regular (monthly or as otherwise agreed) consultation with developer, Council, other stakeholders on project progress and activities
 - Developer to include risk to SDP assets in design and construction reviews and to invite SDP to attend / participate
 - SDP will utilise its preferred suppliers for all works in relation to SDP's assets to be reimbursed by the developer
 - The Developer shall obtain SDP's approval to enter into the easement for each occurrence. At no time is any work to be undertaken within the easement without SDP written consent. At no time is consent to work in the easement given on the basis SDP has not provided a response to a consent request. Developer is to make all efforts to gain consent. Approval is required for activities including the following;
 - No crossing of the pipeline by plant or equipment
 - Stockpiling
 - Building or foundations
 - Roads or pavements
 - Piling
 - Works within a zone of influence noting the zone of influence may be greater than 1H to 1V.
 - Document and information transfer to be provided in agreed format
 - Deed as executed to be transferrable

Some of the risks that SDP consider, based on its experience to date with similar, large infrastructure projects, as well as the proposed project scope include;

- SDP not being reimbursed its costs to support the proposed project
- Transfer of development ownership without continuity of requirements and binding those who actually perform the work
- Losing maintenance access during and after construction
- SDP having a lesser outcome than it does currently once the project is complete, mostly around maintenance access
- Public interface risk – once unoccupied land now being fully developed and in use – access, safety, noise, lighting, vehicles
- Damage to pipeline assets during construction
- Unapproved works within the easement or zone of influence
- Easement encroachment
- Easement interpretation such as the easement in stratum
- Changes in flood levels / drainage paths inundating pipeline assets or preventing access
- Incomplete engineering or error by the developer
- Construction not following design

We anticipate that by ensuring the future development must enter a contractual agreement with SDP, that most of the above points, and risks will be sufficiently mitigated.

If you have any questions in relation to this submission, please contact our Operations Manager, Reece Karamihas on 0419 427 319 or via reece.karamihas@sydneydesal.com.au.

Yours sincerely,

Philip Narezzi
Chief Executive Officer
Sydney Desalination Plant
phil.narezzi@sydneydesal.com

From: [Laura Clarke](#)
To: [Amy van den Nieuwenhof](#)
Cc: [Louise McMahon](#); [Kelly McKellar](#); [Angus McKenzie-Wills](#)
Subject: RE: Request for agency response - Planning proposal PP-2022-1748 (13-19A Marsh St, Arncliffe)
[Commercial - Anyone]
Date: Tuesday, 27 June 2023 1:59:29 PM
Attachments: [image001.png](#)

Hi Amy

Thank you for the follow up email.

NBN Co can't comment on the merit of the planned proposal. However, should the development of Cooks Cove occur, **nbn** stands ready to support the development with broadband digital connectivity requirements.

The Telecommunications in New Developments (TIND) Policy and Statutory Infrastructure Provider (SIP) Framework ensures all Australian's can access fast broadband services at affordable prices regardless of where they reside. At **nbn** we are committed to providing world class digital connectivity across the country and are committed to providing value to property developers, prospective residents and business owners. When it comes to newly developed properties, it is critically important that broadband network infrastructure and services are arranged by the property developer as part of the property development process. When these arrangements are not made, people and businesses may move into newly developed properties and find themselves without access to applicable broadband services, in effect they may end up being "digitally stranded" for months while network deployment is arranged.

Subject to the support of government, developers and industry, **nbn** could support the growing connectivity needs of homes and businesses by:

- extending **nbn**'s existing fibre footprint around the proposed area and building [Fibre to the Premises](#) (FTTP) for new developments at Cooks Cove;
- providing **nbn**'s flagship [Business product, nbn™ Enterprise Ethernet](#), which offers symmetrical speed and priority data options ranging from 10Mbps to 10Gbps and dedicated 24x7 service support to service to meet our business customer's current and future requirements; and
- supporting smart place capability via [nbn Smart Places](#) which proposes to bring the power of the **nbn** network to outdoor locations, the places where people are spending more of their time and wanting to enjoy the benefits of smart devices, applications and solutions.

NBN Co has a strong track record when it comes to supporting connectivity needs of new developments in Australia. Our dedicated and experienced nbn New Developments team has delivered network access to more than 1.2 million new development premises nationwide.

We would welcome the opportunity to discuss our products and new development process with the Department or with the chosen developer when appropriate.

Thank you
Laura

Laura Clarke
General Manager, State Government Relations

M +61 409 219 534 | E lauraclarke@nbnco.com.au

Level 13, 100 Mount Street, North Sydney NSW 2060

Cammeraygal Country



nbn acknowledges and pays respects to the traditional custodians of all the lands upon which we work.

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From: Amy van den Nieuwenhof <Amy.vandenNieuwenhof@dpie.nsw.gov.au>

Sent: Wednesday, June 21, 2023 12:53 PM

To: Laura Clarke <lauraclarke@nbnco.com.au>

Cc: Louise McMahon <louise.mcmahon@dpie.nsw.gov.au>; Kelly McKellar <kelly.mckellar@dpie.nsw.gov.au>

Subject: [External] Request for agency response - Planning proposal PP-2022-1748 (13-19A Marsh St, Arncliffe)

EXTERNAL SENDER – Be cautious opening Links and Attachments

Dear Laura,

I am emailing to follow up on the attached notice of exhibition for 13-19A Marsh St, Arncliffe.

The exhibition period has closed, however we are following up on a response from NBN Co. I note that your response may previously have been sent to an unattended mailbox.

Can you please review the attached documentation and provide a response by **COB 28 June 2023**?

Please be in touch if you have any questions.

Kind regards

Amy van den Nieuwenhof

A/ Specialist Planning Officer

Agile Planning and Programs | Department of Planning and Environment

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12 Darcy St, Parramatta NSW 2150

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The Department of Planning and Environment acknowledges that it stands on Aboriginal land.

We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Louise McMahon

From: Frankie Liang <frankie.liang@gcc.nsw.gov.au>
Sent: Friday, 9 June 2023 11:55 AM
To: DPE Agile Planning Mailbox
Cc: Therese Hoy; GCC Info; Damien Coluccio; Amy van den Nieuwenhof
Subject: GCC comment: Request for Status on Agency ID Ref-2112 in Planning Portal PP-2022-1748 Cooks Cove

OFFICIAL

Dear DPE colleague,

I refer to the above PP referral dated 23 May and apologise for the delay due to the current city plan drafting priorities.

GCC **supports** the progression of this PP due to the following reasons:

- It is broadly consistent with the Eastern City District Plan and draft Eastern Harbour City Plan directions (in development).
- It removes the residential components from the earlier versions which may create potential land use conflicts with the efficient operation of the Sydney Airport precinct.
- It reinforces the importance of industrial and urban services lands in this strategic location close to the Airport precinct.
- It proposes innovative solution to address the lack of industrial land supply in the Eastern Harbour City context through the multi-storey warehousing built form.

Should you have further questions about this email, please do not hesitate to contact me directly.

Kind regards,

Frankie Liang

Team Leader, City Plan – Eastern Harbour City
Strategic Planning

T (02) 8289 6232 E frankie.liang@gcc.nsw.gov.au

www.greatercities.au

OFFICIAL

From: Maria Venturini <maria.venturini@dpie.nsw.gov.au>
Sent: Tuesday, 23 May 2023 12:17 PM
To: GCC Info <info@gsc.nsw.gov.au>
Cc: Elise Crameri <Elise.Crameri@dpie.nsw.gov.au>; James Shelton <James.Shelton@planning.nsw.gov.au>
Subject: Request for Status on Agency ID Ref-2112 in Planning Portal PP-2022-1748 Cooks Cove

You don't often get email from maria.venturini@dpie.nsw.gov.au. [Learn why this is important](#)

[CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.]

Hello Greater Cities Commission team,

The Planning Delivery Unit (PDU) within the Department of Planning and Environment is providing assistance on the Cooks Cove planning proposal (PP-2022-1748). The planning proposal has been identified as being a priority matter

for the Department, and as a result we are closely monitoring progress/timeframes and providing assistance where necessary.

Please advise how your agencies response is tracking, noting a response by 6 June 2023 is being targeted. We would also appreciate if you could provide the assignee details:

Planning Portal PP-2022-1748 Cooks Cove Referral Agencies	Agency ID	Agency Status as of 23/5/23
Referral for Greater Cities Commission	Ref-2112	In progress

Please advise if you require any assistance from the PDU.

Kind Regards,

Maria Venturini

Assistant Project Officer, Planning Delivery Unit

Delivery, Coordination, Digital and Insights | Department of Planning and Environment

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The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.

Level 11, 6PSQ, 10 Darcy Street
Parramatta NSW 2150

**Greater Cities
Commission**



The Greater Cities Commission proudly acknowledges Australia's First Peoples as the Traditional Owners and custodians of the lands and waters of what we call the six cities.

We pay respect to Elders past and present. We recognise and value the extraordinary and ongoing contribution of First Nations peoples and communities to Australian life, and how this enriches all Australians.

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5 June 2023

Ms Kiersten Fishburn
Acting Secretary
Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Ms Fishburn

Re: Planning Proposal: 13-19A Marsh Street, Arncliffe (PP-2022-1748)

Thank you for the opportunity to comment on the planning proposal for the 36.2 hectare site at 13-19A Marsh Street, Arncliffe (the **planning proposal**). The site is referred to in this submission as the **Cooks Cove Precinct**.

The proposal:

- will remove the Cooks Cove Precinct from *State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021*; and
- will amend the *Bayside Local Environmental Plan 2021* (the **Bayside LEP**) to include the Cooks Cove Precinct.

New site-specific planning provisions will be included in the Bayside LEP, including:

- New SP4 Enterprise zone across the majority of the existing Kogarah Golf Course land to permit trade related enterprises, commercial uses, retail uses, hotel or motel accommodation, serviced apartments and logistics and warehouse uses;
- New RE1 Public Recreation 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 Facilities;
- Maximum Building Height of RL51m;
- Limit gross floor area (GFA) within different areas of the site and insert floor area requirements to achieve intended logistics and warehousing outcomes for the site; and
- Reclassify 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.

Sydney Airport is pleased to support the planning proposal. In particular, we support the proposed permissible land uses in the SP4 Enterprise zone because they are compatible with operations at Sydney Airport and, in particular, they will support future growth in aviation activity, and especially airfreight-related activity.

In previous communications concerning this and earlier planning proposals and with the proponent on 7 and 15 November 2022, we raised the following issues:

1. The need to ensure all relevant matters in the National Airports Safeguarding Framework (**NASF**) are appropriately addressed, including:
 - a) Managing Building Generated Windshear and Turbulence
 - b) Managing Wildlife Strike Risk
 - c) Managing Pilot Lighting Distraction
 - d) Managing Protected Airspace Intrusion
 - e) Public Safety Areas.
2. Traffic modelling will need to be undertaken given its importance to the Cooks Cove Precinct.
3. Adequate on-site carparking will need to be provided to ensure future development is not dependent on outside infrastructure.
4. Public transport links.
5. Active transport links will need to be provided to ensure future development provides for integration and encouragement of the use of active transport, including links to the Sydney Airport precinct.

Each of these issues are addressed in more detail below.

I note that the Commonwealth Department of Infrastructure, Transport, Regional Development, Communications and the Arts (**DITRDCA**), Civil Aviation Safety Authority (**CASA**) and Airservices Australia (**Airservices**) are also being consulted concerning the planning proposal so they may also raise issues regarding the NASF.

A. Proposed land uses in the SP4 Enterprise zone

Since 2004, a large part of the Cooks Cove Precinct has been within a specially designated Trade and Technology Zone (**TTZ**).

In part, the TTZ aims to:

- rezone land at Cooks Cove to encourage trade and technology uses, and to attract global-reach businesses which strengthen Sydney's international competitiveness, and
- capitalise on the physical proximity of the Cooks Cove site to Sydney International Airport and Port Botany to create trade-focussed development.

The TTZ was therefore specifically created to provide trade-related employment lands to support the port and airport. Sydney Airport notes that the proposed permissible land uses within the proposed SP4 Enterprise zone will be consistent with those that are currently permissible within the TTZ.

Sydney Airport has long argued the importance of protecting such employment lands in the vicinity of the airport. NSW Ports, the operator of the nearby Port Botany Container Terminal and Cooks River Intermodal Facility, has also joined with Sydney Airport in advocating to government the need to protect such lands.

Sydney Airport's *Master Plan 2039* shows that, over the next 20-years and beyond, the number of airline passengers, aircraft movements and the volume of airfreight passing through Sydney Airport is forecast to grow considerably.

Such growth in aviation activity will in turn drive increased demand for a range of airport and aviation support-related land uses, including (but not limited to): airfreight and logistics centres and warehousing; maintenance facilities; flight training facilities; flight catering facilities; and car rental facilities.

While many of these facilities and land uses can and will in future be accommodated on the Sydney Airport site, it is inevitable that some will need to be located in areas outside of and in close proximity to the airport. This is especially relevant given Sydney Airport itself is only 907 hectares in area.

In terms of the future demand for land outside the airport boundary on which airfreight and logistics centres and warehousing will need to be located, one of the key demand drivers for such land is eCommerce-related airfreight. The volume of this high value airfreight passing through Sydney Airport – and it does so 24-hours a day – has grown considerably in just the last several years and is expected to continue to grow strongly.

Indeed, as Colliers International recently found:

The growth of eCommerce in Australia is unstoppable, with online retail sales surging a massive 37 percent over the year to August 2018...Unsurprisingly, eCommerce retailers have been amongst the largest takers of industrial space over the past few years...Anecdotal evidence globally suggest that eCommerce operators require significantly more space (approximately three times) than traditional warehouses.¹

Importantly, the land available to accommodate these eCommerce operators needs to be located close to the airfreight's arrival or departure point and in an area conveniently accessible to its consumer base, in this case Sydney Airport and the densely populated areas of eastern and southern Sydney respectively.

As Colliers International also found:

Consumers are more demanding than ever before with the emphasis now placed on faster delivery time at minimised or no delivery costs. This has driven increased pressure for last mile logistics networks of smaller fulfilment centres strategically located within infill markets supported by larger regional distribution centres on peripheral locations.²

These findings predate the COVID-19 global pandemic, which has led to significant growth in the volume of airfreight being moved throughout 2020.

As Australia Post has said:

2020 has been a year like no other for eCommerce. The latest statistics show that growth was up over 80 percent year on year (YOY) in the 8 weeks since the COVID-19 pandemic was declared by the WHO, making it clear that the industry has not only kicked up a gear, it has gone into overdrive.³

Growth in cross-border (including international) eCommerce – which is particularly relevant to airfreight – has been a significant driver, with Australia Post estimating that the global online goods market will grow from 1.97T USD in 2019 to 3.64T USD by 2024, representing YOY growth of 21.5 percent.

Given this forecast substantial growth in airfreight, it is vital there be sufficient areas of appropriately zoned employment lands close to Sydney Airport to allow trade-related airfreight and other aviation support facilities to be located and function into the future. This is precisely why the TTZ was created in the first place and why creating the proposed SP4 Enterprise zone is so important. It's also why we have strongly opposed residential development within the Precinct in the past.

¹ See Colliers International, *Industrial Research and Forecast Report (Second Half 2018)*, p. 7.

² Ibid.

³ See Australia Post's *Inside Australian Online Shopping 2020 eCommerce Industry Report*, p5. The report can be accessed at: https://auspost.com.au/content/dam/auspost_corp/media/documents/2020-e-commerce-industry-report.pdf

Research prepared for the Greater Sydney Commission (**GSC**) has shown that the supply of employment land near the port and airport has dwindled to a point where it is now well below the accepted benchmark.⁴

The GSC has said that:

In the past, substantial tracts of industrial land in the Eastern Harbour City District were converted to mixed-use residential zones, in response to unprecedented demand for residential supply. There is now considered to be a shortage of industrial and urban services land in the Eastern Harbour City.⁵

Unsurprisingly, the increasing scarcity of employment land has also pushed up the value of what remains, making it more expensive now than ever before. This is supported by Colliers International, which has said:

A dwindling supply of industrial land – coupled with demand from industrial users close to Sydney’s transport gateways (i.e. Sydney Airport and Port Botany) – has pushed industrial land values up to record rates.⁶

For these reasons, the proposed SP4 Enterprise zone and, in particular, the proposed 290,000m² of new multilevel logistics and warehousing floorspace, is supported.

B. Managing Building Generated Windshear and Turbulence

This matter is addressed in NASF Guideline B.

Sydney Airport notes the Wind Shear and Turbulence Assessment prepared by Arup Australia Pty. Ltd. (the **Arup Report**) that was submitted with the planning proposal.

As the Arup Report notes:

“A development of this size and proximity to the runways has the potential to cause adverse wind conditions during aircraft landing by increasing wind shear and building induced turbulence.”⁷

The Arup Report goes on to quantify the impact of the proposed development on aircraft operations based on standard airport operating procedures.

As the Arup Report correctly notes, the aircraft operations that are likely to be affected are:

- i. landings on Runway 07 (the **east-west runway**) from the west when the wind coming from the north-east, and
- ii. landings on Runway 16R (the **main north-south runway**) from the north when the wind is coming from the south-west.

With respect to landings on Runway 07, the Arup Report concludes that:

“the greatest impact of the Cooks Cove development is during a pure crosswind to Runway 07, where the required 3 s gust wind speed at an anemometer in similar roughness characteristics to exceed the turbulence criterion level is 23 knot occurring approximately 100 to 200 m before the threshold at a height of 40 to 60 m above ground level.”⁸

⁴ See the Greater Sydney Commission’s Eastern City District Plan, p91.

⁵ See GSC: <https://www.greater.sydney/eastern-city-district-plan/productivity/jobs-and-skills-%C2%A0-city/retaining-and-managing-industrial-and>

⁶ See Colliers International, *The Last ‘Half Hour’ Delivery: Spotlight on South Sydney* (September 2017)

⁷ Arup Report, p. 5.

⁸ Arup Report, p 16.

It is then said that, as this wind speed is above the 20 knot operational criteria, the east-west runway would not be operational and aircraft would be landing on the main north-south runway. However, it cannot be assumed that the crosswind criteria for the east-west runway will remain at 20 knots.

It also appears that the Arup report doesn't consider the 5 knot buffer that is applied on top of the 20 knot trigger wind speed applied by Airservices as the nominated crosswind criteria for change of runway. The buffer is necessary because it would be inappropriate to change runways based on a few isolated gusts in excess of 20 knots. Rather, runways should be changed if the higher mean wind speed persists and has *actually* increased.

The Arup report concludes that the number of hours per annum that the proposed development would have an adverse impact on use of the east-west runway (when the wind is from the north-east) would be 13 and for use of the main north-south runway (when the wind is from the south-west) would be <3.⁹

While this number of hours may seem trivial, Sydney Airport would appreciate consideration being given to altering the size and configuration of the proposed buildings to reduce or preferably eliminate these impacts. For example, moving Block 3C to the north of its current location would likely reduce the impact on the use of the east-west runway.

C. Managing Wildlife Strike Risk

This matter is addressed in NASF Guideline C.

As the guideline indicates, wildlife strikes (particularly involving birds or flying foxes) can cause major damage to aircraft and therefore compromise aviation safety. The consequences of wildlife strike are influenced by the number and size of wildlife involved, phase of flight and the aircraft part hit by the wildlife.

Land use planning decisions and the way in which existing land use is managed in the vicinity of airports can significantly influence the risk of wildlife hazards. Many existing airports – including Sydney Airport – are surrounded by areas which are attractive to wildlife, especially birds.

The number of wildlife strikes and the attendant risk of fatalities, injuries, aircraft damage and operational delays can be reduced by managing land use around airports to minimise the potential for wildlife to be in conflict with aircraft operations.

There is a need to effectively manage wildlife strike risk across the entire Cooks Cove Precinct, especially in the new Pemulwuy Park (which will be delivered by Bayside Council). Future development within the Precinct should therefore comply with NASF Guideline C.

D. Managing Pilot Lighting Distraction

This matter is addressed in NASF Guideline E and in the *Civil Aviation Safety Part 139 (Aerodromes) Manual of Standards 2019 (MOS139)*

It is important that both the guideline and MOS 139 are complied with and CASA advice sought when new sources of significant lighting are being considered in future development within the Cooks Cove Precinct.

E. Managing Protected Airspace Intrusion

This matter is addressed in NASF Guideline F, the *Airports Act 1996* (the **Act**) and the *Airports (Protection of Airspace) Regulations 1996* (the **Protection of Airspace Regulations**).

Sydney Airport notes the Aeronautical Impact Assessment and Airport Safeguarding Report prepared by Strategic Airspace Pty. Ltd. (the **Strategic Airspace Report**).

⁹ Arup Report, pp. 16-17.

i. Proposed building heights

The height of Sydney Airport's Obstacle Limitation Surface (**OLS**) over the Cooks Cove Precinct ranges from approx. 26m AHD to 51m AHD.

Section 3.2 of the Strategic Airspace report states that:

*"Whilst the planning proposal seeks an overall maximum building height of 51m AHD, ...the top heights of various buildings will vary."*¹⁰

However, it goes on to say that:

"It is also noted that these heights are the currently planned top-of-roof heights and do not include any rooftop structures ..."

This means that the building may intrude into Sydney Airport's OLS and, as such, would be a *controlled activity* for the purposes of the Act and therefore subject to an assessment and determination under the Protection of Airspace Regulations. It should also be noted that the Cooks Cove Precinct lies within an area defined in the *Civil Aviation (Buildings Control) Regulations 1988* where the height of structures is limited to 7.62m and 15.24m above existing ground height. As such, the prior approval of CASA to construct those buildings will be required.

ii. Construction equipment

It is likely that during construction, equipment (such as tower cranes) will be required and that such equipment may operate at a height significantly higher than that of the proposed development. These are known as *short-term controlled activities* for the purposes of the Act and are also subject to assessment and determination under the Protection of Airspace Regulations.

As it can't be assumed such applications will automatically be approved, the proponent may wish to consider reducing the likely impact on Sydney Airport's OLS, particularly of Block 3C.

F. Public Safety Areas

The Strategic Airspace Report indicates that there are no published Public Safety Areas (**PSAs**) for Sydney Airport.¹¹ I can advise that the PSA for Runway 07 does not cover any part of the Cooks Cove Precinct.

G. Traffic modelling

Sydney Airport notes the Transport Impact Assessment prepared by J Milston Transport Consulting Pty. Ltd. (the **JMT Report**).

The JMT Report indicates that vehicular access into the Cooks Cove Precinct is proposed at the following three locations:

- **Levey Street:** The existing Levey Street under the Giovanni Brunetti Bridge will be retained for access into the precinct. Although a clearance height limit of 3.1m currently exists under the Giovanni Brunetti Bridge, Levey Street can still accommodate passenger vehicles and small to medium size service vehicles.
- **Gertrude Street:** A new signalised (four way) intersection is proposed at Marsh Street / Gertrude Street which will form the primary access point into the precinct. The Gertrude Street extension is identified as a forward planning work in Bayside Council's Urban Renewal Area Contribution Plan 2019.

¹⁰ Strategic Airspace Report, p. 10.

¹¹ Strategic Airspace Report, p. 28.

- **Flora Street:** The existing signalised intersection at Marsh Street / Flora Street will be utilised to provide access into the Precinct.¹²

Sydney Airport supports these proposed road access locations.

With respect to access to Sydney Airport, the JMT Report indicates that:

“Detailed analysis has been undertaken along Marsh Street in the eastbound (citybound) direction to understand the impacts of the project on access to Sydney Airport. The modelling indicates that in both peak hours, travel speeds along Marsh Street travelling towards the Airport remain largely consistent between a ‘no project’ and a ‘with project’ scenario as illustrated in figures 34 and 35.”¹³

It also concludes that access to Sydney Airport via Marsh Street remains unimpacted by the planning proposal.

It is noted, however, that there would be an increase in travel time along Marsh Street (eastbound) between Sydney Airport/Link Road and the M5 East tunnel entrance of around 45 seconds and westbound of around 15 seconds. Given that some increase in travel time associated with the future development of the Cooks Cove Precinct is inevitable, these changes are considered marginal.

H. On-site carparking

The proposed car parking rates for the warehouse/logistics, hotel, commercial and retail land uses are shown in section 4.3 of the JMT Report.¹⁴ As these are consistent with the car parking rates shown in the recently adopted *Bayside Development Control Plan 2023* (the Bayside DCP), Sydney Airport considers these rates to be appropriate.

However, the Bayside DCP also includes a requirement that an efficient shuttle bus service be provided between the hotel, Sydney Airport and the Sydney CBD. It should operate at hourly intervals.¹⁵

The JMT Report indicates that:

“The design of the internal street network will offer the opportunity for shuttle bus services to operate within the Cooks Cove site, with a minimum 13m wide carriageway to be provided. On-street bus zones could be provided to accommodate shuttle services to/from Wolli Creek station or other suitable public transport nodes.”¹⁶

Sydney Airport believes that a shuttle bus service should be provided not only guests staying at the new hotel, but for all people who will be working within the Precinct.

I. Public Transport Links

Given there will eventually be more than 3,000 people working within the Cooks Cove Precinct, Sydney Airport believes it is essential for quality public transport links – for both rail and bus – are provided or facilitated.

With respect to rail services, the JMT Report indicates that:

¹² JMT Report, section 4.1, p. 21.

¹³ JMT Report, section 5.10.2, p. 46.

¹⁴ JMT Report, section 4.3 (Table 1), p. 25.

¹⁵ Bayside DCP, Table 3, pp 59-64.

¹⁶ JMT Report, section 4.5, p. 27.

“Cooks Cove is located within approximately 700m to 1.1km of three railway stations, being Arncliffe, Wolli Creek and Sydney International Airport. These train stations are serviced by the T8 Airport and South Line and the T4 Eastern Suburbs and Illawarra Line.”¹⁷

While this is true, access to the Cooks Cove Precinct from the International Airport Station will be extremely difficult if travelling on foot, especially with luggage. This reinforces the need for the abovementioned shuttle bus service to be provided linking the new hotel to Sydney Airport as well as Wolli Creek and Sydenham railway stations. The proposed new enhanced pedestrian/cyclist connection on the southern side of the Giovanni Brunetti Bridge (see section 9 below) will also improve pedestrian access between Sydney Airport and the Cooks Cove Precinct.

With respect to bus services, the JMT Report indicates that:

“In relation to bus services for Cooks Cove, provision of a bus bay and shelter on the eastern side of Marsh Street can be provided to serve southbound route 420 (serving Bondi Junction, Rockdale, Burwood) and route 422 (Sydney CBD, Newtown, Kogarah). The Cooks Cove project can facilitate the delivery of a bus bay and shelter on the eastern side of Marsh Street. Contributions will be provided for the delivery of a bus stop on the western side of Marsh Street. A bus bay on the western side of Marsh Street cannot be delivered as part of the Cooks Cove project given delivery of this infrastructure would require third party land acquisition which is outside of the control of Cook Cove Inlet Pty Ltd. It is anticipated this bus bay would be delivered as part of any relevant future development in the Bayside West precinct.”¹⁸

Sydney Airport believes that provision should be made for bus services to be able to access the Cooks Cove precinct itself, rather than just use Marsh Street on its western boundary. While we acknowledge this is ultimately a matter for the NSW Government, we believe provision should be made now as part of this planning proposal.

J. Active Transport Links

Sydney Airport supports the proposed active transport measures as outlined in the JMT Report, especially the proposed \$4 million contribution to an enhanced pedestrian/cyclist connection on the southern side of the Giovanni Brunetti Bridge. This will connect to the recently completed pedestrian bridge at Sydney Airport to facilitate a direct connection into the International Airport railway station.¹⁹ Bicycle parking should be provided at the rate outlined in the Bayside DCP.²⁰

K. Retention of the Commonwealth’s restrictive covenant

Two restrictive covenants exist in favour of the Commonwealth over a portion of the Cooks Cove Precinct and, in particular, the land affected by the planning proposal.

The first covenant prohibits the erection or placement of a building or structure on the land subject to the covenant, unless approved by DITRDCA, acting on behalf of the Commonwealth. The second covenant prohibits the erection of fences on the land subject to the covenant, unless consent is given by the department.

We note the covenants were created when the Kogarah Golf Club purchased the land from the Commonwealth in 1972, only shortly after the western side of the airport was developed and the new International terminal opened. It is reasonable to assume that even though the Commonwealth agreed to sell the land, it nevertheless wanted to maintain some control over its future use. In particular, the Commonwealth would have wanted to ensure it could prevent the land being developed for uses that were incompatible with aviation or the ongoing efficient operation of the adjacent Sydney Airport.

¹⁷ JMT Report, section 4.5, p. 26.

¹⁸ Ibid.

¹⁹ JMT Report, section 4.6, pp. 27-29.

²⁰ Bayside DCP, section 3.5.4, p. 65.

While we understand DITRDCA has been consulted about the planning proposal, we would be concerned if the covenants were to be extinguished by virtue of cl. 1.9A of the Bayside LEP should the planning proposal be approved and the Cooks Cove Precinct be subject to the Bayside LEP.

Given the vital role Sydney Airport plays in the national aviation network, we believe DITRDCA should retain its existing role in the decision-making process for the Cooks Cove Precinct.

There would appear to be two options to achieve this outcome and ensure the restrictive covenants are retained.

First, assuming the revised planning proposal is eventually approved and given effect to in the Bayside LEP, a savings clause be included in that LEP to prevent the restrictive covenants from being extinguished by clause 1.9A.

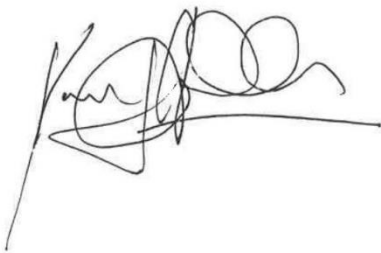
Second, the NSW Government could, pursuant to par. (g) in cl. 1 of the definition of “public authority” in s. 1.4(1) of the *Environmental Planning and Assessment Act 1979*, make a regulation that defines the Commonwealth department as a “public authority” for the purposes of that Act. A precedent for this has been set for the Australian Rail Track Corporation, NSW Ports, and universities for other lands. The provision we envisage would limit in its operation to the Cooks Cove Precinct.

L. Next steps

The Eastern City Planning Panel (the **ECPP**) will consider public submissions received concerning the planning proposal prior to making a decision about whether the proposal should proceed to finalisation. Sydney Airport would be keen to address the ECPP when it next considers the planning proposal.

If you would like further information or have any queries concerning this submission, please feel free to contact Sydney Airport’s Senior Adviser Government and Community relations, Mr Ted Plummer, on 0409 072 436 or at ted.plummer@syd.com.au.

Yours sincerely,



Karen Halbert
Chief Corporate Affairs Officer

6 June 2023

Our Ref: 203282

Josh Ford

Bayside Council

josh.ford@bayside.nsw.gov.au

**RE: Planning Proposal PP-2022-1748 at 19A Marsh Street Arncliffe
(Cooks Cove Master Plan)**

Thank you for notifying Sydney Water of PP-2022-1748 at 19A Marsh Street Arncliffe, which proposes the Cooks Cove Master Plan with a net development zone of 290,000sqm warehousing GFA and 53,000 sqm commercial GFA to facilitate 3300 new jobs. Sydney Water has reviewed the supplied documents and provides the following comments to assist in planning the servicing needs of the proposal.

Water Servicing

- The development site is within the Rockdale Gravity Remainder Pressure Zone.
- Our preliminary assessment shows that the system may have the capacity to service the development at this stage.
- Connection to a DN250/300 water main will be required. This will be further assessed at the S73 application phase.

Wastewater Servicing

- The proposal presents potentially large servicing demands and as such, further investigation will be required to determine the servicing requirements for this site. A **detailed option assessment and modelling of the existing and proposed sewerage system is to be carried out.** The options assessment could include but is not limited to a dedicated pump station, pressure system and other viable options.
- Connection to the Southern and Western Suburbs Ocean Outfall Sewer (SWSOOS) is not preferred by Sydney Water. And for the proponent, this option will be complex and very costly. However, if the proponent wishes to explore that option, it can be considered with adequate controls and additional requirements. For example, the proponent may need to strengthen the tunnel, build a bridge/aqueduct structure within soft soil, and improve ground conditions among other requirements. Due to the complex nature of the work, the design review and risk assessments may take a significant amount of time to process. **It is recommended that a Water Servicing Coordinator is engaged as soon as possible** to prevent development delays where significant amplifications or adjustments are required.
- **It is recommended that an inception meeting is held with Sydney Water** after the proponent has prepared a detailed options servicing proposal for wastewater service.
- Council is advised to defer the determination of the subject Planning Proposal till the options study is completed and endorsed by Sydney Water.

Heritage requirement

- The Western Outfall Main Sewer, the section of the SWSOOS within the site boundary is listed as a State Significant item.

- As the SWSOOS is an operational asset, any work to the asset must be done in a manner that does not damage the structure unduly.
- If the proponent seeks connections into the SWSOOS, additional heritage impact assessment and approval would be required.

This advice is not formal approval of our servicing requirements. Further detail around our servicing requirements, including any potential asset alterations or amplifications which may be necessary, will be provided under the feasibility application and subsequent Section 73 application. More information about this process is available on our web page in the [Land Development Manual](#).

Should Council require any further information, please contact Lulu Huang of the Growth Planning Team via urbangrowth@sydneywater.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Faith Tid-ang".

Faith Tid-ang

Acting Commercial Growth Manager
City Growth and Development, Business Development Group
Sydney Water, 1 Smith Street, Parramatta NSW 2150

4 August 2023

Our Ref: 203282

Josh Ford

Bayside Council

josh.ford@bayside.nsw.gov.au

**RE: Planning Proposal PP-2022-1748 at 19A Marsh Street Arncliffe
(Cooks Cove Master Plan)**

Following our previous correspondence for PP-2022-1748 at 19A Marsh Street Arncliffe, which proposes the Cooks Cove Master Plan with a net development zone of 290,000sqm warehousing GFA and 53,000 sqm commercial GFA to facilitate 3300 new jobs, we have been requested to revisit the case and review our advice given on 6th June 2023. As a result of that, we have revised our advice in this letter to assist in planning the servicing needs of the proposal. This letter supersedes the previous response letter dated 6 June 2023.

Sydney Water has no objection for Council to proceed with the subject Planning Proposal. However, there are significant risks and difficulties that have been identified including but not limited to connections to our above-ground aqueduct, desalination pipe traversing the site, RMS asset M5, and future Sydney Water Capital Works upgrades. The proponent is required to carry out an options assessment for water and wastewater serviceability and connection capabilities. This will also be required to take into consideration Sydney Water's future capital works upgrades. The outcomes of the assessment will inform whether and how the proposed development can be connected to Sydney Water's networks and subsequently be serviced. **The options assessment is required to be completed and endorsed by Sydney Water prior to any subsequent Development Applications for the site being approved, including early works DAs.** It is also required to be completed and endorsed before lodging any Section 73 applications for the site with Sydney Water.

Growth Forecast

- To support growth and development and to properly assess the proposed development, we require the anticipated ultimate and annual growth data for this development. An example of our data requirements is enclosed.
- Sydney Water acknowledges that timescales and final growth numbers may alter however, in order to provide robust servicing advice and to investigate the potential for staged servicing to meet timescales, we require a realistic indication of demand and timescales. Failure to provide this may result in Sydney Water being unable to formulate proper planning requirements and lead to significant delays at the following referral stages.
- The proponent is required to complete the attached Growth Data Form and return it to Sydney Water via urbangrowth@sydneywater.com.au or their account manager.

Water Servicing

- The development site is within the Rockdale Gravity Remainder Pressure Zone.
- Our preliminary assessment shows that the system may have the capacity to service the development at this stage.

- However, the proposed site has poor connectivity to water mains due to the age of the existing main in Marsh St and some mains in the vicinity connecting to low-pressure and low-head loss systems. Connection to the 300mm water main (privately owned) in General Holmes Drive may be considered. However, this needs to be confirmed under an Options Assessment.
- The options assessment including modelling will be required to ensure there is adequate domestic and fire fighting capacity. **The options assessment is required to be completed and endorsed by Sydney Water prior to any subsequent Development Applications for the site being approved, including early works DAs.** It is also required to be completed and endorsed before lodging any Section 73 applications for the site with Sydney Water.
- The desalination 1800mm main traversing the site is not owned by Sydney Water. The proponent should contact Sydney Desalination Plant regarding their proposal and activities that may impact the 1800mm trunk and associated easement if they have not already done so.

Wastewater Servicing

- The proposal presents potentially large servicing demands and as such, further investigation will be required to determine the servicing requirements for this site. A **detailed option assessment and modelling of the existing and proposed sewerage system is to be carried out.** The options assessment could include but is not limited to a dedicated pump station, pressure system and other viable options.
- Connection to the Southern and Western Suburbs Ocean Outfall Sewer (SWSOOS) is not preferred by Sydney Water. For the proponent, this option would also be complex and very costly. However, if the proponent wishes to explore this, it can be considered with adequate controls and additional requirements. For example, the proponent may need to strengthen the tunnel, build a bridge/aqueduct structure within soft soil, and improve ground conditions among other requirements. Due to the complex nature of the work, the design review and risk assessments may take a significant amount of time (8 - 12 months) to process. **The options assessment is required to be completed and endorsed by Sydney Water prior to any subsequent Development Applications for the site being approved, including early works DAs.** It is also required to be completed and endorsed before lodging any Section 73 applications for the site with Sydney Water.
- Sydney Water has prepared a detailed scope of works for the Options Assessment that will be issued with the Feasibility response under case 203282. This scope also includes the requirement to consider future Sydney Water capital works upgrades detailed in the next section.
- It is recommended that the proponent engage with Sydney Water as soon as possible to discuss the scope of works and engagement of consultants for the Options Assessment. Any consultant engaged by the proponent to perform this work must have relevant experience in a similarly complex assessment.

Proposed Sydney Water capital works upgrade

- Sydney Water is currently investigating options to upgrade the SWSOOS, including the construction of a new pumping station and a rising main. Although no locations or alignments have been confirmed, it is likely that these future assets will be located within and/or adjacent to this site. Sydney Water will work with the proponent and relevant stakeholders to minimise impacts on the future development of this site.

Heritage requirement

- The Western Outfall Main Sewer, the section of the SWSOOS within the site boundary is listed as a State Significant item.
- As the SWSOOS is an operational asset, any work to the asset must be done in a manner that does not damage the structure unduly.
- If the proponent seeks connections into the SWSOOS, additional heritage impact assessment and approval would be required.

Next steps

- The proponent is recommended to arrange a meeting with their Sydney Water account manager (either directly or via their WSC) to discuss the detailed servicing options for both water and wastewater services as soon as possible. This includes the engagement of any consultants to prepare this options assessment.
- Complete and return the growth data form in the format provided within 4 weeks of the date of this letter to the feasibility case or to urbangrowth@sydneywater.com.au.
- Sydney Water will work with the proponent and relevant stakeholders to ensure future capital works upgrades are best aligned with development plans for this site. This will also need to be a consideration in the required Options Assessment.
- **Sydney Water requests that Council refer any subsequent Development Applications for this site to Sydney Water for comment prior to approval. This also includes any early works Development Applications.**

This advice is not formal approval of our servicing requirements. Further detail around our servicing requirements, including any potential asset alterations or amplifications which may be necessary, will be provided under the feasibility application and subsequent Section 73 application. More information about this process is available on our web page in the [Land Development Manual](#).

If the proponent has further questions or meeting requests, please contact their account manager, Riccardo Facci via riccardo.facci@sydneywater.com.au. Should Council require any further information, please contact Lulu Huang of the Growth Planning Team via urbangrowth@sydneywater.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read "L Salli".

Lyndall Salli

Acting Commercial Growth Manager
City Growth and Development, Business Development Group
Sydney Water, 1 Smith Street, Parramatta NSW 2150

Enclosed. Sydney Water Growth Data Form

12 June 2023

APA Reference: 439882, 501851

Department Reference: PP – 2022 - 1748

Amy van den Nieuwenhof
Department of Planning and Environment

EMAIL OUT:
amy.vandennieuwenhof@dpie.nsw.gov.au

Dear Amy

**RE: Cooks Cove Planning Proposal – Request for Comments
19A Marsh Street, Arncliffe, 2205 - Lot 100 in DP1231954**

Thank you for your email received on 20 April 2023 seeking APA comments in relation to this Planning Proposal. APA previously provided comments to Bayside Council on this proposal in April 2021 and July 2020. It is understood the current revised Planning Proposal seeks to insert new planning provisions covering the Cook Cove development zone and necessary supporting lands, through the amendment of the Bayside Local Environmental Plan 2021, accordingly removing this same area from Sydney Regional Environmental Plan No. 33 – Cooks Cove. Accordingly, APA provides an updated response to the proposal for consideration.

APA Group (APA) is Australia's largest natural gas infrastructure business and has direct management and operational control over its assets and investments. APA's gas transmission pipelines span across Australia, delivering approximately half of the nation's gas usage. APA owns and operates over 15,000 km's of high pressure gas transmission pipelines across Australia.

Gorodok Pty Ltd (**APA**) has one pipeline located within property dealings (**2375528 and 2375530**) for the Moomba to Sydney Ethane Pipeline (Wilton to Botany Section) that burdens the site. Refer to Table 1 for details of APA's pipeline.

Table 1: Transmission pipelines in the area of consideration

Pipeline	Pipeline Licence	Easement Width (m)	Diameter (mm)	Measurement Length (m)
Moomba to Sydney Ethane	15	Var. 1-10	200	600
Note: measurement length is applied to either side of the pipeline.				

APA's Role

As a Licensee under the *Pipelines Act 1967*, APA is required to operate pipelines in a manner that minimises adverse environmental impacts and protects the public from health and safety risks resulting from operation of our high pressure gas transmission pipelines (**HPGTP**). Once a HPGTP is in place, APA is required to constantly monitor both the pipeline corridor and also a broader area within which we are required to consider land use changes and development and to assess what such changes means to the risk profile of the HPGTP.

Pipeline Risk Profile and the Measurement Length

In managing HPGTP's and considering land use changes, APA must focus on that area geographically defined by AS2885 as the Measurement Length (**ML**). The ML area is the heat radiation zone associated with a full-bore pipeline rupture. APA is mandated to consider community safety in the ML due to the high consequences of pipeline rupture to life, property and the economy.

The ML is determined by diameter and the Maximum Allowable Operating Pressure (**MAOP**) of the pipe. APA must consider any changes of land use within the ML area to determine the effect of a new use on the risk profile of the pipeline. For reference, the ML of the Moomba – Sydney Ethane Pipeline is 600m. Note that the ML is a radial dimension, and therefore applies to both sides of the pipe.

Sensitive Uses

APA seeks to limit sensitive uses from establishing within the ML to retain a high level of compliance with applicable safety standards. AS2885 defines a sensitive use as one which may increase the consequences of failure due to its use by members of the community who may be unable to protect themselves from the consequences of a pipeline failure.

To this end, APA's preferred position is that all land uses listed below be located outside of the ML:

- Child care centres
- Detention facility
- Educational facility
- Function facility
- Health care services
- Hospital
- Hotel
- Place of worship
- Residential care facility
- Retirement facility
- Service station
- Shop
- Shopping centre
- Theatre

Safety Management Study

AS2885 requires a Safety Management Study (**SMS**) to be undertaken whenever the land use classification of land within the ML changes. The purpose of an SMS is to assess the risk associated with a change in land use, including both construction risks and ongoing land use risks. The SMS will also develop appropriate controls to reduce risks to 'as low as reasonably practicable' (**ALARP**).

An SMS was undertaken by the proponent and attended by APA on 6 February 2023

Please refer to 'comments' section of this planning response, further commentary on this SMS requirement and other relevant requirements.

Easement Management

APA, is the beneficiary of the ethane pipeline easement that runs through the subject site. To ensure compliance with the safety requirements of AS2885, APA needs to ensure our easement is managed to an appropriate standard. This includes:

- Ensuring the easement is maintained free of inappropriate vegetation and structures.
- Place warning signs at various mandated points along the pipeline route, including any change in property description/boundaries.
- Maintain a constant line of sight between warning signs.
- Undertake physical patrols and inspections of the easement.

APA will not accept outcomes that do not enable us to achieve our safety responsibilities to the surrounding community.

Any works within the easement or 3 metres of the pipeline must be approved by APA through our Third Party Works Authorisation process. This process will ensure all works are undertaken in a safe manner that does not physically impact on the pipeline. If you are seeking to undertake works on property containing a pipeline, or are seeking details on the physical location of the pipeline, please contact Dial Before You Dig on 1100 or APA directly at APAprotection@apa.com.au.

Proposed development

APA's comments has been provided following review of revised Planning Proposal material received. Key documents included the following:

- Cooks Cove Planning Proposal Report, prepared by Ethos Urban, Revision No. 6.1, Job No. 218196, dated 10 March 2023.
- Cooks Cove urban Design and Landscape Report, prepared by Hassell, dated April 2023
- Cooks Cove Concept Infrastructure design – Ethane Pipeline Risk Assessment Report, Prepared by Arup, dated 21 February 2023

APA has had correspondence with the Applicant regarding the proposed development and APA's requirements and participated in a Safety Management Study with the development proponent on 6th February 2023.

Site

Cook Cove is located adjacent the western foreshore of the Cooks River, in the suburb of Arncliffe within Bayside Council Local Government Area (LGA). This Planning Proposal applies to 36.2ha of land located to the north of the M5 Motorway being Lot 31 in DP 1231486 and Lot 100 in DP 1231954 (the freehold elements of the current Kogarah Golf Club) known as the Cook Cove development zone, Lot 14 DP213314 and Lot 1 DP108492 (Council owned and the subject of Charitable Trusts) and Lot 1 in DP 329283 (TfNSW owned), both comprising road and stormwater infrastructure and open space purposes.

The land the subject of the Planning Proposal has been zoned predominantly for an employment precinct since 2004 under Sydney Regional Environmental Plan No. 33 – Cooks Cove (SREP 33). This Planning Proposal aims reconfigure the developable land for development whilst facilitating a substantial area of new public open space. The development zone will provide a range of employment based uses, primarily - warehousing and logistics, commercial office. Tourist and visitor accommodation and retail uses will support these uses.

APA's Moomba to Sydney Ethane Pipeline

APA owns and operates the Moomba-Sydney Ethane Pipeline which runs through the site. The pipeline and associated valve station are located on Lot 31 on DP1231486 north of Marsh Street. The pipeline then crosses Airport Drive into Lot 100 on DP1231954 and then follows the eastern side of the Cooks Cove Northern Precinct along the river foreshore, before crossing Cooks River near the southern end of the Kogarah Golf Course. The site is wholly located within the associated Pipeline Measurement Length.

Revised Planning Proposal October 2021

During the consideration of the Planning Proposal throughout 2021, the Proponent has been receptive of concerns identified by stakeholders including APA. Accordingly, in October 2021 the Proponent elected to revise the current Planning Proposal to pursue a non-residential land use mix.

The intended objective of the revised Cook Cove Planning Proposal is to prioritise land uses which contribute to the support of the adjacent Sydney Airport, but which do not rely upon or impact upon its function. The revised proposal is also attuned to serve the wider region as an appropriate location

for a logistics and warehousing precinct, with a careful selection and density of other supporting uses such as tourist and visitor accommodation, office and retail – which contribute to employment generation on the site, to the economic benefit of the tourism and freight sectors and the NSW and Bayside economy.

Ethane Pipeline Notation on Plan

While the plans reference APA's pipeline, it is not clearly marked as being for a high pressure ethane transmission pipeline. Therefore, the level of risk associated with any intrusion into the easement is not adequately communicated to those undertaking site works. The easement should be clearly identified as an easement for a high pressure ethane transmission pipeline on all relevant plans. In addition the easement should be hatched and notated as 'no works to occur without the prior authorisation of the pipeline operator'.

Future Development Consents

APA will have a continued interest in the overall site development including future development applications.

In review of the Urban Design and Landscape Report, it would appear future buildings, roadways and play areas are to be located adjacent or within APA's pipeline easement.

No structures or works will be permitted on the easement, without prior APA authorisation.

Preferred Easement Treatment

The proposed utilisation of the easement as a linear open space reserve with limited embellishment held in single title is supported. It is understood the development proposes to include the pipeline easement within the 20 metre riparian setback along the river foreshore of the site. This outcome provides the greatest protection to the pipeline while providing the opportunity for significant open space, attractive landscaping (within easement guidelines), and active travel. However, APA will require further detail to complete assessment as part of the detailed design stage.

Comments

APA requests notification of future Development Applications lodged with Council for the development, in accordance with clause 2.77 SEPP (Transport and Infrastructure) 202.

Conditions of Approval

1. Safety Management Study (SMS)

An SMS will be required to be undertaken by the proponent prior any future sensitive use development approval being completed on site.

2. No improvements within Easement

Buildings, structures, roadway, pavement, pipeline, cable, fence, change in ground level, or any other improvement on or under the land within the ethane transmission pipeline easement must not be constructed without prior consent in writing from APA. No structure or vegetation will be permitted on the easement that prohibits maintenance of line of sight along the pipeline easement.

3. No Earthworks within easement

No earthworks or changes in ground level are permitted within the easement without prior consent in writing from APA. Earthworks near the easement must not alter or concentrate water flows which may cause erosion of the easement and loss of cover over the pipeline.

4. Third Party Works Authorisation

Prior to the commencement of any works, including earthworks, vegetation clearing or plantings within the ethane pipeline easement, the proponent must obtain a third party works authorisation from APA. Authorised works must comply with any conditions attached to the third party works approval.

5. Access

The ethane transmission pipeline easement will not be permitted to be used for movements of construction traffic or for ongoing vehicular access. The ethane transmission pipeline easement must not be used for storage of material or parking of vehicles.

6. Landscape Plans

Prior to development commencing for any stage which includes the ethane transmission pipeline easement, landscape plans depicting any planned landscaping, including the planting of vegetation, species details, surface treatments, furniture, structures or improvements on or immediately abutting the ethane transmission pipeline easement be submitted to and approved by the assessment manager. A three metre minimum clearance between the pipeline and any vegetation with a mature height greater than 0.5 metres must be maintained. The assessment manager will seek the view of APA in this matter.

7. Easement Delineation On Site

During construction, the boundary of the easement must be clearly delineated on site by temporary fencing (or other means as agreed by APA), and clearly marked as a hazardous work zone/ restricted area.

8. Notation of Ethane Pipeline on Plans

All plans which include the ethane pipeline must have it clearly notated as 'high pressure ethane transmission pipeline - no works to occur without the prior authorisation of the pipeline operator'.

9. Services

The design of any infrastructure mains and reticulation shall be designed to minimise encroachment on the ethane transmission pipeline (either crossing or within three metres). Any such encroachments will require the approval of APA. The assessment manager will seek the view of APA in considering any operational works applications required for services.

Conclusion

APA does not seek to unnecessarily inhibit future development proximate to our assets and is willing to work with Council and development proponents to achieve mutually acceptable and compliant outcomes that maintain the safety of development within the pipeline ML. Any interested parties are strongly encouraged to contact APA early to discuss the process of integrating APA assets into future urban developments.

For any further enquiries relating to this correspondence, please feel free to contact myself on (07) 3223 3385 or the Infrastructure Planning & Approvals team at planningnsw@apa.com.au.

Yours faithfully,



John Lawson
Senior Urban Planner
Infrastructure Planning and Approvals

Our Ref: ID 1937
Your Ref: PP-2022-1748

08 May 2023

Kendall Clydsdale
Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 2124

email: kendall.clydsdale@dpie.nsw.gov.au
CC: shelly.stingmore@one.ses.nsw.gov.au

Dear Kendall,

Planning Proposal for Cooks Cove Redevelopment

Thank you for the opportunity to provide comment on the Planning Proposal for Cooks Cove Redevelopment. It is understood that the planning proposal (dated 10 March 2023) seeks to facilitate the development of a logistics and warehousing precinct with supporting shops, food and drink, hotel/motel and serviced apartments on land currently used as Kogarah Golf Club removing the subject land from Chapter 6 of the State Environmental Planning Policy (precincts- Eastern Harbour City) 2021 and inserting new provisions within Bayside Local Environmental Plan 2021.

The NSW State Emergency Service (NSW SES) is the agency responsible for dealing with floods, storms and tsunami in NSW. This role includes, planning for, responding to and coordinating the initial recovery from floods. As such, the NSW SES has an interest in the public safety aspects of the development of flood prone land, particularly the potential for changes to land use to either exacerbate existing flood risk or create new flood risk for communities in NSW.

We refer to our previous correspondence dated 10 November 2021 (ID1356). The consent authority will need to ensure that the planning proposal is considered against the relevant Ministerial Section 9.1 Directions, including 4.1 – Flooding and is consistent with the NSW Flood Prone Land Policy as set out in the NSW Floodplain Development Manual, 2005 (the Manual). Attention is drawn to the following principles outlined in the Manual which are of importance to the NSW SES role as described above:

- **Zoning should not enable development that will result in an increase in risk to life, health or property of people living on the floodplain.**

The site is subject to frequent isolation (in 5% AEP flood events) due to flash flooding and is located on a shrinking high flood island. Therefore any future visitors to the site are at risk of driving into floodwater and of secondary emergencies and associated risks with being isolated.

The change in the proposal from residential to commercial may reduce the potential number of people at risk, however the risk must be clearly communicated to all who may visit the site.

To manage the existing flood risk at the site, the planning proposal includes a fill strategy. This is only likely to manage the risk to property adequately, and visitors at the site are still susceptible to the above risks of isolation. In addition, the fill strategy should be discussed in detail with the Department of Planning and Environment, Biodiversity and Conservation Division and should ensure no negative impacts are to occur on adjacent areas. This is particularly important, as the area to the north east of the site, encompassing Gertrude Street Wolli Creek, has historically flooding, for example in March 2022.

- **Risk assessment should consider the full range of flooding, including events up to the Probable Maximum Flood (PMF) and not focus only on the 1% AEP flood.**

The duration of flooding, up to the PMF should also be assessed as the current reference to 2 hour flood durations refer only to the 1% AEP event. This should consider various critical storm durations. Although there is no “safe” period of isolation although obviously the shorter the better and the longer the period of isolation, the more chance there is for mishap requiring external intervention. Even relatively brief periods of isolation, in the order of a few hours, can lead to personal medical emergencies that have to be responded to. During flooding it is likely that there will be a reduced capacity for the relevant emergency service agency to respond in these times.

- **Risk assessment should have regard to flood warning and evacuation demand on existing and future access/egress routes. Consideration should also be given to the impacts of localised flooding on evacuation routes. Evacuation must not require people to drive or walk through flood water.**

The site is subject to frequent isolation (in 5% AEP flood events) and located on a shrinking high flood island. As the site is subject to flash flooding, this means evacuation routes would be cut at short notice, limiting the ability for safe evacuation.

Ideally the access/egress routes should provide rising road access and/or be passable up to at least a 1 in 500 year local flooding. This standard has been adopted across the Hawkesbury Nepean Valley.

- **In the context of future development, self-evacuation of the community should be achievable in a manner which is consistent with the NSW SES’s principles for evacuation. Future development must not conflict with the NSW SES’s flood response and evacuation strategy for the existing community. Development strategies relying on deliberate isolation or sheltering in buildings surrounded by flood water are not equivalent, in risk management terms, to evacuation.**

'Shelter in place' strategy is not an endorsed flood management strategy by the NSW SES for future development, as proposed in the Planning Proposal (s5.2.5). Such an approach is only considered suitable to allow existing dwellings that are currently at risk to reduce their risk, without increasing the number of people subject to such risk. The flood evacuation constraints in an area should not be used as a reason to justify new development by requiring the new development to have a suitable refuge above the PMF. Allowing such development will increase the number of people exposed to the effects of flooding. Other secondary emergencies such as fires and medical emergencies may occur in buildings isolated by floodwater. During flooding it is likely that there will be a reduced capacity for the relevant emergency service agency to respond in these times. Even relatively brief periods of isolation, in the order of a few hours, can lead to personal medical emergencies that have to be responded to.

A basic principle of emergency management is to separate people from hazards. Given that it is rare to be able to move the hazard, the most widely accepted method of doing so is to implement evacuation. When the option for evacuation is denied and the hazard cannot be moved then a dangerous situation remains that requires the highest level of monitoring and intervention. This will be at a time when resources are in abnormally high demand.

The Australian Fire and Emergency Services Authorities Council Limited (AFAC) 'Guideline on Emergency Planning and Response to Protect Life in Flash Flood Events' ('AFAC guideline') is a national best practice guideline notes the indication in the guideline of the inherent risks of seeking 'refuge' or 'sheltering-in-place', at section 3.15: '...remaining in buildings likely to be affected by flash flooding is not low risk and should never be a default strategy...even if the buildings are considered likely to withstand the impact of flash flooding. Where the available warning time and resources permit, evacuation should be the primary response strategy'.

- **Development strategies relying on an assumption that mass rescue may be possible where evacuation either fails or is not implemented are not acceptable to the NSW SES.**

Emergency services are also exposed to greater risks than if flood-free access was available. This unnecessarily exposes emergency service personnel to flood situations which may lead to the injury or death. In recognition of this possibility, emergency services are under an increasing demand to consider the safety of personnel. Each circumstance must be subject to an individual risk assessment at the time. If, after conducting a risk assessment of an incident, a Commander or team leader is unsatisfied with the level of risk involved, the response will be delayed until the risk can be reduced or is no longer present. As access and egress routes are lost quite frequently, there is the potential that mass rescue may be required at the site.

- **The NSW SES is opposed to the imposition of development consent conditions requiring private flood evacuation plans rather than the application of sound land use planning and flood risk management, although this does not appear to be**

currently proposed. Nevertheless, NSW SES encourages homes and businesses to be prepared and has developed a home FloodSafe toolkit and a Business FloodSafe toolkit.

- **NSW SES is opposed to development strategies that transfer residual risk, in terms of emergency response activities, to NSW SES and/or increase capability requirements of the NSW SES.**
- **Consent authorities should consider the cumulative impacts any development will have on risk to life and the existing and future community and emergency service resources in the future.**

As the site is subject to flash flooding, we provide the additional guidance:

- **Commercial development (including retail):** All ground floor businesses and retail floors must be above the 1% AEP flood levels and access to the basement must be above PMF. There must also be the provision of sufficient readily accessible habitable areas above the PMF to cater for the safety of potential occupants, clients and visitors in commercial development.
- **Sensitive development:** Any childcare facilities, schools, medical centres, day hospital within the building must be located with floor levels above the PMF level.
- **Making buildings as safe as possible to occupy during flood events:** Ensuring buildings are designed for the potential flood and debris loadings of the PMF so that structural failure is avoided during a flood.
- **Limiting exposure of people to floodwaters:** This can be aided by providing sufficient readily accessible areas above the PMF to cater for potential occupants, clients and visitors. Building security and access should ensure accessibility to habitable areas within the building above the PMF.
- **Car parking:** Any additional parking should be above ground level to facilitate safe and effective vehicular evacuation and have pedestrian access to a podium level above the PMF to increase human safety. Pedestrian evacuation and shelter in place are not appropriate primary flood risk management strategies.
- **Provision of publicly accessible space for the itinerant population in areas surrounding intensive development:** Provision of publicly accessible space or access to space above the PMF (with adequate infrastructure to enable the physically impaired to access such space) that is easily accessible 24 hours a day for seven days a week which is clearly identified for this purpose with associated directional signage.
- **Reducing human behaviour risks:** Undertaking regular exercising of a building flood emergency response plan similar to a building fire evacuation drill with the provision

to allow people from lower floors and off the street to access refuge areas above PMF. This may also include emergency warning notification (or PA) system to reduce the risks to the itinerant population as well as any occupants moving in and out of the building.

- **Providing adequate services so people are less likely to enter floodwaters:** This includes access to ablutions, water, power and basic first aid equipment. Consideration must be given to the availability of on-site systems to provide for power, water and sewage services for the likely flood duration of surrounding areas (which may exceed several hours) plus a further period to provide allowance for restoration of external services.
- **Addressing secondary risks of fire and medical emergencies during floods:** To minimise the increased risk of fire and to reduce both the potential for adverse outcomes in the case of a medical emergency and the risks to those who may aid the patient, Council, DPE, NSW SES, Ambulance NSW and the relevant Health Functional area and fire agency servicing the area, should be consulted to determine appropriate risk management strategies during flooding.

You may also find the following Guidelines, originally developed for the Hawkesbury Nepean Valley and available on the NSW SES website useful:

- [Reducing Vulnerability of Buildings to Flood Damage](#)
- [Designing Safer Subdivisions](#)
- [Managing Flood Risk Through Planning Opportunities](#)

Please feel free to contact Elspeth O'Shannessy via email at rra@ses.nsw.gov.au should you wish to discuss any of the matters raised in this correspondence. The NSW SES would also be interested in receiving future correspondence regarding the outcome of this referral via this email address.

Yours sincerely



Elspeth O'Shannessy

A/Advisor Hawkesbury Nepean – Future Risk Team Leader Emergency Risk Management
NSW State Emergency Service



DOC23/328126-4

10 May 2023

Josh Ford
Coordinator Strategic Planning
Bayside Council

Via Planning Portal

Dear Mr Ford

No comment on planning proposal for Cooks Cove 19A Marsh St, Arncliffe (PP-2022-1748)

I am writing to you in reply to your invitation to the NSW Environment Protection Authority (EPA) to comment on the Cooks Cove planning proposal at Arncliffe.

The EPA understands that the proposal seeks to amend the *Bayside Local Environmental Plan (LEP) 2021* by introducing revised planning controls for Cooks Cove at 19A Marsh St, Arncliffe.

Based on the information provided, the EPA has no comment on this proposal and no further consultation is required. This is because:

- the proposal is unlikely to lead to activities that will constitute a scheduled activity under Sch 1 of the *Protection of the Environment Operations Act* (1997) and so, will not require an Environment Protection Licence under this Act;
- the proposal is unlikely to lead to activities that will be undertaken by or on behalf of a NSW public authority, nor are there likely to be other activities for which the EPA is the appropriate regulatory authority; and
- the site is not being regulated by the EPA under the *Contaminated Land Management Act* 1997.

The EPA notes that the [State Environmental Planning Policy \(Resilience and Hazards\) 2021](#) requires the assessment of potential land contamination resulting from past land-use to determine whether the land is suitable for its proposed use or will require remediation. Under section 60 of the CLM Act, the EPA must be notified of any contamination that meets certain triggers. These are outlined in the [Guidelines on the duty to report contamination under the Contaminated Land Management Act 1997](#).

Should you require clarification of any of the above please contact Lauren Musgrave on (02) 9585 6840 or email environmentprotection.planning@epa.nsw.gov.au

Yours sincerely

Lauren Musgrave
A/Unit Head – Strategic Planning



Heritage NSW

Our ref: DOC23/328070-7

Mr Douglas Cunningham
Senior Planning Officer
DPE Planning

LODGED VIA CNR PORTAL

Dear Mr Cunningham

RE: Cooks River Cove - PP-2022-1748 - 19A MARSH STREET ARNCLIFFE 2205

Thank you for the opportunity to comment on the Cooks River Cove Planning Proposal PP-2022-1748.

Heritage NSW provided comments on 31 July 2020 and 2 February 2023. Considering Section 5.9.2 *Further consultation with Heritage NSW* of the *Planning Proposal Cooks Cove, Arncliffe - Cook Cove Inlet Pty Ltd* - Prepared for Public Exhibition by Ethos Urban (10 March 2023), I am satisfied that the key concerns have been addressed.

It is noted that potential impact to the Western Outfall Main Sewer (SWOOS SHR 01647 – located outside the boundary of the subject site), historical and maritime archaeology and Aboriginal cultural heritage will be addressed in the documentation supporting any future development application for the site. On this basis, it is recommended that Bayside Council be provided with our previous comments, to support their assessment of any future development applications for the site.

If you have any questions regarding the above advice, please contact Sophie Butler, Senior Assessments Officer at Heritage NSW on 02 9228 6141 or via email at sophie.butler@environment.nsw.gov.au.

Yours sincerely

Rochelle Johnston

Rochelle Johnston
Senior Manager – Major Projects
Heritage NSW
Department of Planning & Environment
As Delegate of the Heritage Council of NSW

12 May 2023



PP Online (PP-2022-1748)

Referral for Air Services Australia

Reference number: Ref-2120

Decision provided

Actions

Close

Assessment

Decision

Proposal case details

Referral case details

Documents

Action summary

Following a preliminary review, is the detail provided complete and is the case ready for a decision?

Yes, the application is ready for decision

What is the outcome of your review?

Decision not required

Comments

Airservices have no comments on rezoning - all subsequent developments/ crane operations will need to be referred to Sydney Airport.

Documents

09/06/2023



24-28 Campbell St
Sydney NSW 2000
All mail to
GPO Box 4009
Sydney NSW 2001
T +61 2 13 13 65
ausgrid.com.au

To Whom it May Concern,

RE: PP-2022 1748

Ausgrid would like to thank you for seeking input and feedback regarding this planning proposal.

Ausgrid requires that due consideration be given to the compatibility of proposed development with existing Ausgrid infrastructure, particularly in relation to risks of electrocution, fire risks, Electric & Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development.

Ausgrid has no comment to make regarding this planning proposal (Re zoning) at this point in time.

Ausgrid however does look forward to reviewing future Development Application submissions for any development attached to this proposal and will then provide further feedback accordingly.

Please do not hesitate to contact me for further information.

Regards,

A handwritten signature in black ink, appearing to read "Paul Nakhle", with a long horizontal stroke extending to the right.

Paul Nakhle - Portfolio Manager - Asset Protection | Transmission Services
02 9269 7587 | 0419 631 174

Connecting communities,
empowering lives

[PP Online \(PP-2022-1748\)](#)

Referral for Jemena

Reference number: Ref-2123

Decision provided

Actions ▾

Close

✓ Assessment

✓ Decision

Proposal case details

Referral case details

Documents

Action summary

Following a preliminary review, is the detail provided complete and is the case ready for a decision?

Yes, the application is ready for decision

What is the outcome of your review?

Decision not required

Comments

Jemena has no objection to this planning proposal, it is noted that the Secondary Gas Main is within Road Reserve however the nature of the works will not impact Jemena asset.

Documents

[PP Online \(PP-2022-1748\)](#)

Referral for Department of Infrastructure, Regional Development

Reference number: Ref-2124

Decision provided

Actions ▾

Close

✓ Assessment

✓ Decision

Proposal case details**Referral case details****Documents****Action summary**

Following a preliminary review, is the detail provided complete and is the case ready for a decision?

Yes, the application is ready for decision

What is the outcome of your review?

Decision not required

Comments

I request the Airports Branch of the Department of Infrastructure, Transport, Regional Development, Communications & the Arts (DITRDCA) and Sydney Airport Corporation Limited be consulted during any subsequent design/development application stages of the planning process, to enable consideration of airspace protection and National Airport Safeguarding Framework (NASF) related issues in more detail prior to any development approvals being issued.

Documents

Our Ref: C23/210
Your Ref: PP-2022-1748

29 May 2023

Bayside Council
Attn: Josh Ford
c/o: Planning Portal

Dear Josh,

Consultation for Planning Proposal PP-2022-1748 Amendment of the Bayside LEP 2021 to incorporate the Cooks Cove development zone (removing this same area from SEPP (Precincts—Eastern Harbour City) 2021

Thank you for your referral of 21/04/2023 seeking comment on the proposal from DPI Fisheries, a division of NSW Department of Primary Industries on the proposed works stated above.

DPI Fisheries is responsible for ensuring that fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, DPI Fisheries ensures that developments comply with the requirements of the *Fisheries Management Act 1994* (FM Act) (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated *Policy and Guidelines for Fish Habitat Conservation and Management (2013)* (hereafter referred to as *P&Gs*). DPI Fisheries is also responsible for ensuring the sustainable management of commercial, recreational and Aboriginal cultural fishing, aquaculture, marine parks and aquatic reserves within NSW.

Cook River is a Class 1 waterway adjacent to the site and is considered important key fish habitat, best practice development of this site should ensure the maintenance and improvement of key fish habitat by:

- protection and improvement of riparian habitat values;
- protection of aquatic habitat; and
- protection or improvement of water quality through water sensitive urban design, adequate stormwater treatment and best practice erosion and sediment control measures during construction.

DPI Fisheries has reviewed the Planning Proposal for the Cooks Cove development zone and has the following recommendations to protect key fish habitat values at this site:

1. Riparian buffer zone widths should be implemented as outlined in DPI Fisheries P&Gs s.3.2.4.2. Riparian buffer zones should be measured from the top of the bank in Class 1 waterways. As a guide, a buffer zone of 100m is recommended for Class 1 waterways.
2. NSW DPI will require the design of riparian buffer zones to incorporate the maintenance of lateral connectivity between aquatic and riparian habitat. Installation of infrastructure, terraces, retaining walls, cycle ways, pathways and grass verges within the riparian buffer zone should be avoided or minimised.
3. A Rehabilitation Strategy should be developed to guide the establishment and rehabilitation of the riparian zone. The rehabilitation strategy should include native in-stream vegetation (coastal saltmarsh species and mangroves) and snags where appropriate. Local native riparian vegetation species should be used across the riparian buffer zone to improve riparian habitat values.
4. The present and any future marine vegetation in the "Natural" and "Marshland" zones may experience negative impacts due to shading caused by Block 3c. The Department considered the shadow diagrams provided in the Urban Design and Landscape Report by Hassell, these diagrams clearly show that there will be a slight shadowing of the zones

during the summer months and in winter the shadow will move across this area throughout the afternoon. The Department notes that no specific diagrams were provided on the degree of shading during autumn and spring. The construction of tall buildings adjacent to mangrove and saltmarsh vegetation is a relatively new situation in NSW and potential impacts from this do not appear to be well understood. Given that 'preventing light from reaching' falls under the definition of 'harm' in relation to marine vegetation under s.204 the *Fisheries Management Act*, the Department is concerned about the potential for impact to marine vegetation from tall buildings, noting that this shading can have seasonal and daily variations. DPI Fisheries recommends a precautionary approach in the absence of certainty regarding the potential long-term impacts to mangrove and saltmarsh communities from the proposed buildings, specifically Block 3c, within the Cooks Cove development zone.

5. It is noted that future detailed development applications pertaining to the site may require approval under the *Fisheries Management Act* due to the works along the Cooks River and in relation to the removal and re-establishment of saltmarsh and mangroves, and the installation of foreshore and bank management structures.
6. Water sensitive urban design stormwater treatment measures must be maintained according to manufacturers and best practice maintenance requirements over time.
7. Erosion and sedimentation impacts during the land forming and development of the area presents a significant risk to key fish habitat values. It is important that these works are staged to minimise the area of exposed earth in forming these areas and that best practice erosion and sedimentation controls are implemented during each stage of the development of this site.

If you require any further information, please contact me on jess.hyland@dpi.nsw.gov.au.

Yours sincerely,



Jess Hyland

Fisheries Manager, Coastal Systems

[PP Online \(PP-2022-1748\)](#)

Referral for NSW Ports

Reference number: Ref-2126

Decision provided

Actions ▾

Close

✓ Assessment

✓ Decision

Proposal case details

Referral case details

Documents

Action summary

Following a preliminary review, is the detail provided complete and is the case ready for a decision?

Yes, the application is ready for decision

What is the outcome of your review?

Decision not required

Comments

No further comments

Documents



Australian Government

Civil Aviation Safety Authority

Air Navigation, Airspace and Aerodromes

File Ref: F22/19956-58
Your Ref No.: PP-2022-1748

2/06/2023

NSW Planning DPIE
Through Portal

PP-2022-1748 PLANNING PROPOSAL: COOKS COVE, 13-19A MARSH STREET, ARNCLIFFE

CASA has reviewed the Aeronautical Impact Assessment (AIA) and Airport Safeguarding V1.1 by Strategic Airspace and the Wind Shear and Turbulence Assessment of 12/01/2023 by Arup for the Cooks Cove Planning Proposal at 13-19A Marsh Street, Arncliffe.

The Aeronautical Impact Assessment has considered the National Airports Safeguarding Framework (NASF) Guidelines, which is an appropriate course of action for developments in the vicinity of aerodromes. Some of the NASF Guidelines including A, B and C have been addressed by specialist consultants. CASA has no major issues with the Aeronautical Impact Assessment or the Wind Shear and Turbulence Assessment.

Guideline A: Measures for Managing Impacts of Aircraft Noise

CASA does not assess, or provide detailed comment on, potential noise issues.

Guideline B: Managing the Risk of Building Generated Windshear and Turbulence at Airports

The Arup report is credible and advises that there is no case that exceeds the current 20kt operational wind speed. (23kt is the lowest for cross flight wind shear close to the glide slope). The important conclusions in the Arup report, in approximate order of criticality, are as follows:

Executive Summary:

“For the cross-flight criterion, the required 3 s gust wind speed measured at the anemometer to exceed the criterion was always in excess of the 20 kt operational cross-wind speed control.”

page 16:

“In summary, the greatest impact of the Cooks Cove development is during a pure cross-wind to Runway 07, where the required 3 s gust wind speed at an anemometer in similar roughness characteristics to exceed the turbulence criterion level is 23 kt occurring approximately 100 to 200 m before the threshold at a height of 40 to 60 m above ground level. This wind speed is

above the operation criteria, hence the runway would not be operational. During such a strong cross-wind, operational procedures would preference aircraft landing on Runways 34L and 34R.”

Executive Summary:

“The assessment has shown that the 3 s gust wind speed required to exceed the NASF (2018) along-flight criterion is greater than the wind speed that airport operational criterion for both runways. The minimum measured value was 35 kt in Case 3 between Ch 600-700 and height of 40-45 m. This location is on the 3° glideslope for aircraft landing at the Runway threshold.”

Results Wind Shear:

“In Case 3, the southern building closest to the runway is more exposed and is only partially shielded by the upstream buildings. This results in a measurable building induced wind shear impacting about 700 m before the threshold.”

Results Wind Shear:

“The wind shear from the proposed Cooks Cove development in Case 4 where winds are 22.5° from the pure cross-wind direction to Runway 16R, is largely dissipated as a result of the significant distance from the runway and the presence of Sydney Airport terminal buildings downstream. Therefore, the building-induced wind shear impact of the proposed development is relatively small at Runway 16R.”

Executive Summary:

“For the turbulence criterion, in none of the simulated cases, the 3 s gust wind speed at the anemometer required to exceed turbulence criterion at the runway exceed the operational threshold of 20 kt. Cooks Cove development caused a slight increase in the turbulence levels along the flight paths.”

Results Turbulence:

“In Case 3, as discussed in the previous section, the proposed southern building closest to the runway is partially exposed thereby generating turbulence that would impact the runway centreline approximately 600 to 700 m before the threshold.”

Discussion:

“The maximum total number of hours of difference in a year that the wind speeds could cause exceedance of the turbulence criterion was 13 hours for Case 3”

While not specifically stated in the Arup Report, the proposed buildings would be within the 1:35 assessment criteria for approach runway 07 and for approach runway 16R.

Cross wind shear is the most critical and turbulence the least critical because cross wind shear is more quantifiable and relatable. The NASF turbulence is effectively wind speed fluctuations.

The operational factors described in the Arup report, for example “It is understood that the general operating requirements at Sydney Airport limit a 3 second gust cross-flight

component to 10.3 m/s (20 kt) ... ” should be verified by Sydney Airport. Sydney Airport is the ‘operational authority’.

Comment should also be sought from Sydney Airport and Airservices Australia on the usage of approach runway 07 with respect to Noise Sharing Arrangements and circumstances limiting the use of the North/South runways (eg emergencies). Assurance that approach runway 07 will not be used in crosswinds in excess of 20kt should be sought. Sydney Airport and Airservices Australia could also be able to confirm that aircraft taking off on runway 25 would be above the wind effects and comment on the mechanical turbulence from the hangars at the east end of runway 07/25.

Incidentally, the following background aspects of the Arup report could warrant further explanation or expansion:

- The Arup wind effects study considered 3 wind direction cases for runway 07 (crosswind, crosswind + 22.5° and crosswind + 45°). It is not clear from the report why crosswind minus 22.5° was not considered. NASF Guideline B indicates crosswind +/- 22.5° should be evaluated. It is assumed that the direction with a tail wind component has not been considered as aircraft would land on runway 25 (or 16L/34R or 16R/34L) in a NW wind. Arup advises that runways 16R/34L and 16L/34R would be preferred operationally in a NW wind. Another reason could be that the wind rose indicates that winds from the NNW are not prevalent.
- It appears from the diagrams at Figure 11 that the southern terminal buildings (gates) at the international terminal have not been included in the modelling. A possible explanation is that they are low profile and would have little effect.
- The Arup report executive summary states that ‘The lowest wind speed with the proposed development was 28 kt in Case 3’. It could be slightly misleading. For Case 1, 23kt is prevalent.
- From Table A3 Case 1, the 3 second gust cross wind required to cause the NASF 6 kt cross flight wind shear limit on the glide slope (200_100 distance and 40-35 height) before the development is 100+ kt whereas after the development is 24 kt. As cross wind shear is relatively critical approaching landing, the significant difference between before and after cases could be worthy of explanation.

Sundry comment:

The Arup report also lists the maximum number of hours difference between ‘without Cooks Cove’ and with ‘Cooks Cove’ was 13 hours over a year. This is for turbulence exceedance and for Case 3, which is upstream/further away from the airport from the other cases.

As described in the Arup Report, there are large buildings and a significant distance between the site and approach runway 16R. CASA agrees with the Arup conclusion that the impact of Cooks Cove development on Runway 16R would be small.

At this early stage in the planning process, potential mitigations (eg broadcasts by Air Traffic Control) for wind effects (eg if runway 07 was to be made available to pilots for landing when wind speed exceed 20 kt from the North) are not discussed.

It is assumed that it is not an option to move the southern trapezoidal building 3C to the north, to possibly reduce the wind effects.

Guideline C: Managing the Risk of Wildlife Strikes in the Vicinity of Airports

CASA concurs with the Cumberland Ecology assessment (page xv) and the Hassall Urban Design and Landscape Report (page 87) that NASF Guideline C should be considered. Apart from the reference to Guideline C, there is not a lot of information on wildlife control in these documents. Cooks Cove is in a critical location just north of the runway 25 take-off surface. For example, birds flying from the Cooks Cove parklands towards the sea while aircraft depart on runway 25 could be a risk to aviation safety.

The Strategic Airspace assessment advises that there would be a reduction of the ecological features that would be attractive to birds. The assessment makes sense. However, general good practice would include, as examples only:

- waste should be stored in closed containers,
- landscaping should avoid the use of trees and shrubs attractive to birds and bats;
- bird perching opportunities should be avoided where practicable; and
- outside dining areas should be kept clean.

In addition to NASF Guideline C, the CASA Advisory Circular AC 139-26(0): 'Wildlife hazard management at aerodromes' and the Sydney Airport Wildlife Hazard Management Plan include more information on wildlife hazards, more possible mitigations, training, management and monitoring strategies and reporting requirements.

Guideline E: Managing the Risk of Distractions to Pilots from Lighting in the Vicinity of Airports

CASA has no major issues with and no objections to the Strategic Airspace advice at Chapter 5 of the Aeronautical Impact Assessment. Essentially, the main aim is to avoid bright lights (eg security lights or feature lights) spilling upwards, lighting (especially green, red and white) that could be confusing to pilots and large bright advertising signs facing pilots

CASA Airspace.Protection@casa.gov.au is prepared to review and provide a subjective evaluation (there are no standards) of a lighting plan, specific lighting or a solar glare assessment if requested.

Guideline F: Managing the Risk of Intrusions into the Protected Airspace of Airports

CASA concurs with the Aeronautical Impact Assessment Chapter 6 advice:

“The maximum height of buildings is set at 51m AHD across the site, and lower in the most southern portion of the precinct, specifically to ensure that they remain below the limiting OLS heights. Consequently, the prescribed airspace of Sydney Airport will not be infringed and therefore prior approval under the APAR for the proposed buildings will not be required.”

As there will not be any OLS infringements, CASA does not need to perform any obstacle assessments. As advised in the AIA, it is expected that there would be no obstacle lighting and marking required for the proposed buildings.

A note for the longer-term future ... cranes/construction equipment that infringe an Obstacle Limitation Surface will need to be assessed under the Airspace Regulations. CASA (and Airservices Australia, Sydney Airport and the Department of Infrastructure) will and assess the construction cranes/equipment as required. CASA will make recommendations on requirements for obstacle lighting and marking.

Cranes that infringe the Transitional Surface could present an unacceptable risk to the safety of aircraft operations at Sydney Airport; depending on configuration, location, duration etc. Also, any infringement of PANS-OPS surfaces for more than 3 months (or less than 3 months without suitable mitigation) by a crane would present an unacceptable risk to the safety of air transport operations to and from Sydney Airport. At the appropriate stage, a Construction Management Plan to evaluate whether cranes are a potential issue may be requested.

CASA agrees with the AIA that the proposed buildings should be approved under the Civil Aviation (Buildings Control) Regulations. It is expected that these regulations will be ‘legacy’ in the future.

Guideline G: Protecting Aviation Facilities — Communications, Navigation and Surveillance (CNS)

CASA generally does not review proposals for impacts on Guideline G ‘Protecting Communications, Navigation & Surveillance (CNS) Facilities’ ... that would normally be a matter for Airservices Australia.

Guideline H: Protecting Strategically Important Helicopter Landing Sites

CASA agrees with the Strategic Airspace advice at Chapter 7.2 of the Aeronautical Impact Assessment that there will be no impact on Strategically Important Helicopter Landing Sites.

Guideline I: Managing the Risk in Public Safety Areas at the Ends of Runways

CASA does not assess compliance with PSA guidelines. However, as a guide, the proposed development would not impact the sample representative Queensland PSA described in NASF Guideline I.

In summary, CASA does not object to the planning proposal and proposed amendments to Local Environmental Plans, provided Sydney Airport (in conjunction with Airservices Australia) verifies that approach Runway 07 would not normally be operational in 20+ knot cross winds.

As indicated at Appendix 3 of the AIA, it is noted that the Department of Infrastructure, Transport, Regional Development, Communications and the Arts is effectively the owner of Sydney Airport and the NASF Guidelines.

Yours sincerely,

David Alder

David Alder
Aerodrome Engineer

Contact: Department of Planning and Environment—Water
Phone: 1800 633 362
Email: waterlicensing.servicedesk@dpie.nsw.gov.au

Our ref: V15/2812-8#44
Your ref: PP-2022-1748

19 June 2023

The General Manager
Bayside Council
PO Box 21
ROCKDALE NSW 2216

Attention: Josh Ford

Dear Sir/Madam

Re: V15/2812-8#44 - Planning Proposal
Dev Ref: PP-2022-1748
Description: Planning proposal for re-zoning and proposed masterplan
Location: 13-19A Marsh St, Arncliffe

Thank you for your referral of the abovementioned Planning Proposal to the Department of Planning and Environment—Water (Licencing and Approvals). The proposal has been reviewed and the following comments are provided for your attention and consideration.

- The Planning Proposal and proposed development footprint should give due consideration to the Guidelines for Controlled Activities on waterfront land along the Cooks River. The identification and provision of guideline setbacks, encroachments and offsets, riparian corridor enhancements, the design and construction of foreshore works including outlets, in accordance with guidelines is appropriate.

The department requests notification if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

If you have any questions regarding this correspondence, please use Water Assist to obtain further information or make an enquiry: <https://water.dpie.nsw.gov.au/water-assist>

Yours Sincerely



For
Sandra White
Manager
Licensing and Approvals
Department of Planning and Environment—Water