

# Detailed Agency and Organisation Submissions Response Table

Cooks Cove Planning Proposal

# Contents

<b>1.0</b>	<b>Response to Government Agencies Submissions.....</b>	<b>2</b>
1.1	Bayside Council .....	2
1.2	Transport for NSW .....	11
1.3	Department of Primary Industries – Fisheries.....	28
1.4	Department of Infrastructure, Transport, Regional Development, Comms & Arts.....	29
1.5	Department of Planning and Environment—Water .....	30
1.6	NSW Department of Environmental Heritage.....	30
1.7	Department of Climate Change, Energy, the Environment and Water .....	43
1.8	NSW Environmental Protection Authority .....	43
1.9	Heritage NSW .....	44
1.10	Greater Cities Commission .....	44
1.11	Civil Aviation Safety Authority.....	45
1.12	Air Services Australia .....	47
1.13	NSW Ports .....	47
1.14	Sydney Water .....	48
1.15	Jemena.....	49
1.16	Ausgrid .....	49
1.17	NBN Co.....	49
1.18	NSW State Emergency Service.....	50
<b>2.0</b>	<b>Response to Organisation Submissions .....</b>	<b>54</b>
2.1	Sydney Airport Corporation .....	54
2.2	Sydney Desalination Plant .....	56
2.3	APA.....	57

# 1.0 Response to Government Agencies Submissions

This section responds to submissions received from the following local, state and federal government bodies and agencies:

- Bayside Council
- Commonwealth Department of Climate Change, Energy, the Environment and Water;
- Commonwealth Department of Infrastructure, Transport, Regional Development, Communications & the Arts;
- Transport for NSW;
- NSW Department of Primary Industry – Fisheries;
- NSW Department of Planning and Environment – Water;
- NSW Department of Planning (Environment and Heritage Group);
- NSW Environmental Protection Authority;
- Heritage NSW;
- Greater Cities Commission;
- Civil Aviation Safety Authority;
- Air Services Australia;
- NSW Ports;
- Sydney Water;
- Jemena;
- Ausgrid;
- NBN Co.; and
- NSW State Emergency Services.

The Proponent’s response to each of the above government body and agencies are provided in the following sections.

## 1.1 Bayside Council

The Applicant’s response to Bayside Council’s submission is provided in **Table 1** below.

**Table 1**      *Response to Bayside Council Submission*

Matter	Response
<p><b>RE1 Public Recreation</b></p> <p><i>Council's preference is to zone the 20m wide foreshore strip of land RE2 Private Recreation and to have the public access and private maintenance arrangements registered on title captured in a Planning Agreement. There is precedent for this approach at nearby Discovery Point Park in Wolli Creek, which is owned by the Community Association, but available for public use.</i></p>	<p>CCI is generally supportive of Council's alternative position. Further discussions between DPE and CCI since public exhibition have resulted in the preference for the C2 Environmental Conservation zone to be applied to expanded foreshore and significant internal fauna and fauna zones in lieu of RE1 Public Recreation. The remainder of the RE1 zone originally proposed along the foreshore is now proposed to be altered to RE2 Private Recreation in response to Council's submission. Refer to <b>Appendix C</b> for revised mapping.</p> <p>In-principle, the land use permissibility and objectives of the RE2 zone remain acceptable for the proposed future composition and use of the foreshore land. Council's reference to Discovery Point as an example of this arrangement is an appropriate comparison and CCI confirm there is no obligation for Council to acquire the land in the future. The proponent supports the imposition of maintenance and access easements to be captured in a Local</p>

Matter	Response
	Planning Agreement. Refer <b>Section 6.3</b> of the Response to Submissions report for further detail.
<p><b>SP4 Enterprise</b></p> <p><i>Whilst the B7 Business Park zone was considered a generally appropriate fit for the translation of the 'Trade and Technology' zone, on the 26 April 2023 business and industrial land use zones were simplified and reduced through the employment zones reform. The simplification resulted in the translation of the B7 Business Park zone to the E3 Productivity Support zone. Council acknowledges the complications surrounding the translation of the 'Trade and Technology' zone to the E3 Productivity zone, namely the omission and/or inclusion of unintended land uses. The proposed SP4 Enterprise zone as proposed in the amended Planning Proposal is a suitable alternative.</i></p>	Noted, the proposal retains the SP4 Enterprise zone for the development zone.
<p><i>The Planning Proposal fails to meet Ministerial Direction 4.3 – Flood Prone Land and Planning Priority E20 which seeks to avoid locating new urban development in areas exposed to natural and urban hazards</i></p>	In response to DPE EHG, SES and Council submissions the Proponent commissioned Arup to prepare a Flood Impact Risk Assessment ( <b>Appendix E</b> ). A full assessment of flooding has been undertaken in line with the 2023 Flood Risk Management Guideline requirements and the Flood Risk Management Manual 2023 at <b>Section 4.1</b> which includes a revised response in relation to Ministerial Directions (now renumbered under 4.1 - Flooding). Furthermore, this FIRA includes a table demonstrating compliance to the elements of the Flood Prone Land Policy.
<p><i>The proposed flood mitigation strategy burdens adjoining public land by diverting overland flow around the development site that currently passes through it. This will result in a reduction in value to the community by limiting functionality and potential public uses of public land. Although overland flow will occur infrequently, the land will need to be shaped and maintained as an overland flow path in perpetuity - even with dedicated land this is not optimal. Recommendation to direct the overland flow to the foreshore between Block 3B and Block 3C, rather than the overland flow following a much longer route through public open space to the south of Block 3C. This part of the Cooks Cove site between 3B and 3C cannot be developed in any case due to the location of the two pipelines.</i></p>	The proposal will result in a comparable amount of floodwater flowing across the collective Council Trust lands, compared to the present situation. This is because the water overtops the Cooks River at Cahill Park, flows through the site and re-enters the Cooks River south of the site. The Proposal includes the shaping of Pemulwuy Park that will improve the overall flood impact that has been adversely augmented by the Arncliffe MOC. The potential flow path through between Buildings 3B and 3C was considered by Arup, however, it is not technically possible. Refer to the detailed flood modelling provided in the Flood Impact Risk Assessment ( <b>Appendix E</b> ) and <b>Section 4.1</b> of the Response to Submissions Report.
<p><i>Reference to the Rockdale Development Control Plan 2011 in the Flooding, Stormwater and WSUD Report is inaccurate as this plan is now repealed and replaced by the Bayside Development Control Plan 2022 (Bayside DCP 2022). The report should be updated to reflect the correct Development Control Plan that is in force. The flood hazard mapping in the report must also be obtained from the flood model prepared by the developer/ARUP, not from Council's mapping system (refer to Figures 19 and 20 of the flood report).</i></p>	Noted. References to the Bayside DCP 2022 have been incorporated in the revised Flooding Impact Risk Assessment prepared by Arup and provided at <b>Appendix E</b> . The report includes reference to the Arup flood modelling for the assessment of flood hazard on the site.
<p><i>The lack of assessment on the influence of tidal flooding is raised as a concern by Council. Such analysis must be included in the report to ensure tidal impacts on the drainage</i></p>	The revised Flooding Impact Risk Assessment has specifically addressed Sea Level Rise in analysis scenarios (2100, 0.8m sea level rise, 20% rainfall increase) which demonstrate an

Matter	Response
<i>system are accounted for. In addition, Council recommends a Sea Level Rise Vulnerability Assessment be conducted to confirm potential impacts.</i>	acceptable outcome based on further input and guidance from NSW SES and DPE EHG. A detailed Sea Level Rise Vulnerability Assessment is recommended as a site-specific DCP provision which will be completed with a detailed design of the local stormwater network which can only be appropriately undertaken at a more advanced stage of precinct design. Tidal flooding has been assessed in this FIRA. Refer to <b>Appendix E</b> .
<i>Out of the flood mitigation options presented by ARUP in the report, Option 4 is considered a technically adequate response. Note that emergency vehicle access to the site must be available in the 1% AEP flood event. The Flora Street extension must be designed to avoid floodwaters in the 1% AEP flood event to ensure emergency vehicles can access the site. A flood warning system should also be considered.</i>	The comments on the adequacy of Option 4 are noted. A revised Flooding Impact Risk Analysis has confirmed that there would be flood free dry access on Flora St up to 1:500 (0.2% AEP) and for light cars (H1) up to 1:2000 (0.05%) AEP floods. A small length of existing Marsh St with inundation at 1:200 (5m, but light car suitable) up to 1:2000 AEP floods (15m, but SES vehicle suitable). Light car access - duration of inundation 40min in 1:500 to 4.7hrs in 1:2000 AEP floods. Even in 2100, with 0.8m Sea Level Rise and 20% rainfall increases, the site would be cut from large vehicles for less than 6 hours in a 1:2000 AEP flood (SES threshold). Refer to <b>Appendix E</b> for further details.
<i>The peak 1% AEP flood depth in proposed internal roads must be designed to ensure that peak 1% AEP flow does not overflow to the kerb. Ocean guards/pit inserts in any future land to be dedicated to Council (e.g. pits in the road) are not considered acceptable and should be replaced with an alternative mechanism. A Gross Pollutant Trap(s) should be provided at the downstream end of the stormwater system for any roads in an accessible location that can be serviced by large vehicles.</i>	The Stormwater Assessment as included with the Planning Proposal assessment package, demonstrates that water quality targets can be achieved with the implementation of bioswales, on-site infiltration systems and litter baskets as part of initial modelling. Detailed site-specific DCP requirements will ensure that the 1% AEP flows do not overflow the kerbs within the Planning Proposal boundary. Additional detailed provided at <b>Appendix K</b> to provide confidence that this matter is capable of resolution at the detailed design phase.
<i>Sufficient riparian zones must be provided along any proposed waterway, with access for maintenance vehicles.</i>	Agreed. The detailed design of the riparian zones will sufficiently deal with maintenance matters. Further consideration of this item has been made in the revised VPA letter of offer under consideration by Council, which is also supported by revised site-specific controls provided at <b>Appendix K</b> .
<i>Use of infiltration system nodes in the MUSIC model is problematic and should be replaced with raingardens or bioswale, and a water balance model should be provided to determine the rainwater tank volume with 80% reuse across the site to be implemented. The above requirements must be reflected in the draft DCP controls.</i>	The Proponent is targeting a high performing WSUD outcome and acknowledges Council's comments and intent. In response, the draft site-specific DCP has been revised to incorporate more detailed provisions for MUSIC model and water re-use outcomes at the DA stage. Refer to <b>Appendix K</b> .
<i>The proposed office car parking rate does not align with the recently adopted Bayside Development Control Plan 2022 (Bayside DCP 2022) office parking rate (1 space per 40 sqm). The draft DCP control C4, Page 8 must reflect the correct rate. Furthermore, the traffic generation assessment for the office component of the proposal is linked to the number of car parking spaces proposed. This assessment must be revised to reflect the correct rate.</i>	The proponent understands that further discussions have been undertaken between DPE and Council on this matter. Accordingly, given TfNSW have accepted the detailed future year traffic network model based on VISSM analysis, the 1 space per 80sqm will be adopted which has been the basis of agreed modelling with TfNSW. Wording has been revised to clarify that this rate also applies to any office ancillary to other permitted uses. Refer to further discussion of all traffic matters provided at <b>Section 4.4</b> .

Matter	Response
<i>Note that supermarket uses require a higher parking rate than other retail uses (1 space per 25 sqm). If the proposed retail area includes a supermarket, the proposed draft DCP must reflect the higher rate.</i>	As above. The parking rates have been accepted by TfNSW as part of the detailed modelling process and will be adopted for the detailed traffic appraisal of the Planning Proposal. The site-specific DCP will remain as drafted in this regard, refer to <b>Appendix K</b> .
<i>The hotel must provide 2 coach pick-up/set-down spaces to accommodate a 12.5m HRV coach vehicle and a porte-cochere designed to accommodate these vehicles, as well as other taxi/uber pick-up/drop-off bays. The porte-cochere must not be located on land to be dedicated or owned by Council. The draft DCP must reflect this requirement.</i>	The revised site-specific DCP is updated to reflect the requirement for HRV coaches to be able to access two dedicated hotel pick-up/set-down bays. The control also clarifies that the hotel porte-cochere is to be located within the development zone. Refer to the revised draft DCP provided at <b>Appendix K</b> .
<i>It is recommended that the Masterplan consider relocating the proposed ramp of Building 3a from Flora Street East to Gertrude Street East. This is beneficial as it would minimise conflict between heavy vehicles and pedestrians using Pemulwuy Park to improve amenities and safety; Flora Street East can become a route for truck movement if incidents occur on other routes; and there will be a reduction in noise and fumes to the new park.</i>	The ramp locations depicted in the masterplan / reference scheme are indicative only and are intended to be flexible to adapt to end user / tenant operator requirements. The site-specific DCP has been updated to address this matter, requiring a Precinct Traffic Management Plan to accompany any future Development Application. Refer to the revised draft DCP provided at <b>Appendix K</b> .
<i>As a sustainability measure and consistent with Planning Priority E19 – Reducing carbon emissions and managing energy water and waste efficiency of the Eastern City Precinct Plan, Electric Vehicle charging should be accommodated in the proposal. A proportion of car parking spaces should be equipped with EV charging facilities including consideration of electric truck charging. This should be reflected in the draft DCP provisions.</i>	The proponent agrees with Council's recommendation. Accordingly, the draft site-specific DCP has revised sustainability provisions requiring "EV ready spaces to be considered in the design process for cars and trucks". Refer to <b>Appendix K</b> .
<i>Figure 213 of the proposed draft DCP provisions also indicates an excessively deep basement under the office/hotel building, which is raised as a concern due to the poor soil characteristics and shallow groundwater table in this area. Alternative means of providing car parking may need to be applied.</i>	The basement concept shown in Block 2 is indicative only and is formulated on incorporating suitable spatial provisions to accommodate the necessary parking rates as agreed to be incorporated in the site-specific DCP. The proponent is aware of the ground conditions in the vicinity with recent geotechnical survey work having been undertaken in support of the indicative concepts. The reference concept appropriately balances the need for parking with environmental considerations in terms of excavation reduction. Further technical considerations will be undertaken at the DA stage, including any ability to incorporate a sharing of car parking spaces, as provided for within the draft DCP in <b>Appendix K</b> .
<b>Gertrude Street:</b> <i>WIK agreement to ensure any loss is replaced with additional public parking to the satisfaction of Council (approx. 70 spaces). The configuration of Gertrude Street in the VISSIM model should be confirmed with Council. Justification should be provided for the number of lanes proposed and maximum vehicle size. Gertrude Street (between Marsh Street and Levey Street) must be provided with street trees to both sides.</i>	The proposal seeks to implement a long-standing Council-led infrastructure enhancement which has been identified in the Wolli Creek and Bonar Street Precincts Urban Renewal Area Contributions Plan 2019. Identified as item WC3.3.4 "Gertrude St (north side between Princes Hwy and Levey St Road widening)". The widening works as proposed in the revised Local VPA Letter of Offer ( <b>Appendix K</b> ) have been revised in consultation with Council officers. The widening will incorporate satisfactory retention of on-street parking or suitable alternative arrangements.
<b>Other Traffic Related Matters:</b> <i>Traffic generation assessment should be revised to analyse traffic generation from the</i>	As noted previously, a detailed traffic model using a refined VISSIM existing and future year model have been analysed in detail by TfNSW over a 24-month period, with confirmation

Matter	Response
<i>high-density residential area surrounding the T4 railway line, Wickham Street, West Botany Street, Marsh Street and Innesdale Road.</i>	that all traffic modelling matters have been accepted by TfNSW on 4/9/23. The modelling has incorporated NSW Government growth targets in terms of increases to network vehicle movements consistent with the high-density growth planned within future precincts such as Bayside West Precincts 2036.
<i>The extent of new roads on the development site that are proposed to be dedicated to Council must be clearly detailed.</i>	All roads within the development zone, i.e. SP4 area, are to be retained and maintained by the proponent. The revised Local VPA Letter of Offer (provided at <b>Appendix K</b> ) clarifies the extent of works-in-kind proposed in relation to Gertrude and Flora Streets to be undertaken. New roads to be dedicated to Council within existing and future open space zones are depicted in <b>Appendix K</b> and will form part of the Local VPA to be resolved with Council.
<i>Controls to include active ground level uses to interface public domain, a fine grain articulation of materials, Offices to be orientated towards the open spaces and corridors. Treatment of facades must be further developed through design principles that drive design led solutions. Building lengths of future facades extend up to 150m long, which will have a significant visual impact on the surroundings and interfaces with the parks. The following aspects should be considered as part of a façade-based principle that will ensure visual interest is supported and bulk is minimised: Bespoke design in areas that have a significant visual impact to the surroundings (i.e. Gateway to Sydney from the airport); Ongoing maintenance; Art / First Nations collaboration; Interfaces with different uses; and Innovation design / lighting strategy.</i>	A number of fixed parameters define the layout and extent of buildings throughout the site. The Proponent commits to resolving Council's built form concerns through further development of site-specific DCP controls ( <b>Appendix K</b> ). Revised provisions include controls for finer-grain facades, activation, public art and First Nation collaboration and the orientation of ancillary offices toward public domain areas, amongst other matters. CCI recognise that greater attention is to be given to this façade in the draft DCP through elevating 'secondary' grade facades along the foreshore to 'primary'. Additional provision seeks to strengthen the requirement for ground level activation and diverse materiality to be achieved. Further provisions will be addressed in consultation with Council.
<i>Limited opportunities to directly access the foreshore both visually and physically - potentially create safety issues for people transiting the foreshore link. Council raises concern with respect to safety of users along this long stretch of public domain without options for alternative routes and a fear of entrapment. The layout and security requirements of the proposed logistics precinct associated with airport operations will further isolate access to the foreshore, creating a barrier that is over 600 metres long with limited opportunities to directly access the foreshore both visually and physically. This will potentially create safety issues for people transiting the foreshore link if there are no opportunities to 'escape' or for strong passive surveillance along its length.</i>	As above. DCP controls are drafted to ensure a foreshore is achieved which is both visually and physically linked appropriately. This includes park design to provide a visual linkage from east to west and to provide a publicly accessed reserve adjacent to Block 2. However, in response to Council's comments, CCI propose additional DCP controls for safety lighting and CPTED as we acknowledge that this will be an important movement corridor.
<i>Clause 6.10 Design Excellence of the Bayside LEP2021, requires that buildings within the Design Excellence area that propose a height of 40 metres or 12 storeys or higher must undertake an architectural design competition. Note that this clause applies to the Arncliffe and Banksia Precincts, which are also part of the Bayside West Precincts 2036 Plan. Council recommends that Clause 6.10 of the Bayside LEP 2021 also applies to this site to be consistent with the rest of the Bayside West Precincts sites and to ensure that the highest standard of architectural, urban and landscape design is achieved.</i>	The proponent agrees and has sought amendment to the mapping associated with Clause 6.10 to apply to the Cooks Cove precinct. Refer to <b>Section 5.4</b> of the Response to Submissions report.
<b>Cooks River Foreshore:</b> <i>As a highly desired link along the Cooks River Foreshore is supported. The design of the</i>	The provision of a dedicated 20m wide publicly accessible foreshore zone is sufficient to accommodate a regional grade active transport link and movement corridor. In the context



Matter	Response
<p><i>foreshore will need to consider how a comfortable and social pedestrian experience can be achieved alongside what will likely become a highly utilised cycle route. Council raises concern with respect to safety of users along this long stretch of public domain without options for alternative routes and a fear of entrapment. Direct connectivity and passive supervision from the adjacent built form is imperative to avoid creating unsafe spaces, especially for pedestrians. A high standard of lighting and aesthetic treatment to ensure a high level of activation is also vital. At the southern point of the route, the foreshore will provide direct access to the council land holdings that are otherwise land locked. This is a positive inclusion. The design as proposed does not allow for direct access from some Council land holdings to the foreshore. Ideally this should occur via the gap between buildings in Block 3B and 3C to create a link to the lookout shelter.</i></p>	<p>of the Cooks River link the zone will be adequate (and in comparison to other locations it is considered generous). The Proponent is committed to implement CPTED principles through DCP provisions (<b>Appendix K</b>). Direct access between 3b and 3c is not possible with the operational objective of a secure logistics facility across the SP4 zone and this is a fundamental project requirement which does not allow the general public to cross through or access the future logistics facility.</p>
<p><b>Block 1 and 2 – Fig Tree Grove and Plaza:</b>  <i>The concept design for this precinct including the protection of existing fig trees, provision of public access to the foreshore, and connectivity for the public in perpetuity to the foreshore north and south is supported. The activation of the foreshore through landside activities and access to the water is also highly regarded.</i></p>	<p>Noted and agreed. The public benefits of the Fig Tree Grove and Plaza to be achieved through the redevelopment is further addressed within the Local VPA revised Letter of Offer (provided at <b>Appendix K</b>).</p>
<p><i>Pemulwuy Park North &amp; Pemulwuy Park South (to be delivered by Council)  To achieve the intent, the masterplan will require land transfer of a triangle of parkland near the motorway operations compound (MOC) (not discussed in the document) and land to the south of Block 3C (included in the document).</i></p>	<p>The revised Local VPA letter of offer (<b>Appendix K</b>) addresses the proposed embellishment and dedication of the two parcels of land which provide for a suitable overland flow path and superior connectivity between Pemulwuy Park North and South and public accessibility to the Cooks River foreshore.</p>
<p><i>Pemulwuy Park North &amp; Pemulwuy Park South (to be delivered by Council) potential for conflicts between heavy vehicles and park users. Ideally this entry point should not be shared with large numbers of heavy vehicle movements.</i></p>	<p>Shared usage of Trust Lands and land intended to be dedicated to Council, is essential in this location. Further design development of the indicative concept demonstrates that a relocated active transport crossing by way of an updated Flora Street East design to be a single lane in each direction, enhances the safety of pedestrians and cyclists crossing between Pemulwuy Park North and South. Achieving appropriate safety has been addressed in a revised DCP control requiring a Precinct Traffic Management Plan. This is in addition to the requirement of Bayside DCP 2022 Section 3.5.2. Refer to <b>Appendix K</b>.</p>
<p><i>The subject site is currently used as a Golf Course and has been used as such for many decades, until parts of the land owned by Bayside Council were compulsorily acquired for the construction of major road networks and associated infrastructure including a compound for the construction of the M6 Stage 1.</i></p> <p><i>The combination of private and public land provides a significant green buffer between the hard landscape of the Sydney Airport and the current open space, which continues to operate as a golf course. This proposal will significantly change the landscape.</i></p> <p><i>In February 2020, Bayside Council entered into a funding agreement with DPE under the Metro Greenspace Program.</i></p>	<p>The concept for Pemulwuy Park, as documented within the Planning Proposal Urban Design and Landscape package, as prepared by Hassell, was the product of extensive engagement with Council staff. Since the submission of the Planning Proposal, ongoing consultation with TfNSW has resulted in the in-principle agreement reached between TfNSW and Council to reduce the volume of retained fill with regards to the proposed treatment of the M6 Stage 1 construction compound at the conclusion of this project. Levels of up to RL3.5 are proposed to be transitioned with up to 1:10 batters surrounding the compound. Refer to the revised Flooding Impact Risk Assessment (<b>Appendix E</b>) for further assessment of the proposed flow path.</p> <p>Comments regarding the Metro Greenspace Program and the TfNSW UDLP are noted.</p>



Matter	Response
<p><i>The Bayside Priority Green Grid Corridors Spatial Framework (the Framework) was adopted by Council in response to this program to 'set the vision and next steps for delivering integrated open space and ecological assets that promote healthy living, active transport, community engagement and environmental benefits'.</i></p> <p><i>Part 3 of the document deals with the Rockdale Wetlands Corridor which identifies a consolidated parcel of land identified as 'Marsh Street Open Space' and is named 'Pemulwuy Park' in this Planning Proposal. Council resolved in 2021 that this park would not include a sporting focus as originally planned but would provide a passive focus similar to Centennial Park - as expressed in the Concept Plan below - seeking to protect existing trees and ponds that provide established habitats in the precinct.</i></p> <p><i>Council collaborated with Cook Cove and their consultants Hassell to develop the landscape masterplan referred to in the controls for Pemulwuy Park. The proposal provided by the Proponents mostly reflects the Council adopted park objectives.</i></p> <p><i>Council's vision for its land is currently at odds with the proposal put forward by TfNSW as part of the Urban Design and Landscape Plan (UDLP) for the M6 Stage 1. The TfNSW proposal is concerned with only a portion of the open space confined to the compound site occupied for the M6 construction (known as the reinstatement site) and is influenced by the cost to remove tunnel spoil. This exaggerated landform comprising of mounded areas (proposed up to 5m above pre-existing levels) will result in poor integration with the surrounding landform of any future park.</i></p>	
<p><i>The Planning Proposal has not adequately considered retention of existing significant vegetation or provision of landscaping to offset loss consistent with Planning Priority E15, E17, E19, B20. Limited efforts demonstrated to retain existing vegetation or increase canopy cover. The proposal includes "relocation" of trees, however, this is not practically possible and unlikely to be successful. The proposed draft DCP should ensure only local native plants are utilised. Recommended that the Planning Proposal aligns with the current Cooks River Catchment Coastal Management Program</i></p>	<p>A larger extent of the Planning Proposal site has been zoned for Trade and Technology purposes for close to two decades. The proposal refines the development zone to a smaller extent, which has allowed for a greater retention of vegetation across the whole of the Planning Proposal site. This includes significant Moreton Bay Figs in the north and Paper Barks in the south. Replacement tree plantings are proposed to be funded by way of a future VPA to embellish (in part) Pemulwuy Park South, as part of broader works to be delivered by Council. Where relocation is not possible, advanced growth plantings will be considered. Species will also be coordinated to address SACL planting guidelines to manage bird control adjacent to the airport. The draft site-specific DCP requires a detailed vegetation management strategy (refer <b>Appendix K</b>). Notwithstanding, the proponent is committed to be consistent with the vegetation requirements of the existing Bayside DCP Section 3.8.2.</p>
<p><i>Large advertising signs are part of the character around the airport precinct, however, that character does not extend over the Cooks River as the predominant land use becomes residential. The additional permitted use to allow this is not supported.</i></p>	<p>In response to the concerns raised by Council, the proposed draft DCP has been further amended (refer <b>Appendix K</b>) to include additional provisions for temporary and permanent advertising signs within Block 1, including tenure and design provisions. Any signage is to minimise any potential impacts on residential receivers nearby and any permanent digital signage is integrated into the podium of a future building and oriented to minimise any potential impacts on residential receivers nearby.</p>

Matter	Response
<i>Trade-Related Enterprise definition insertion and applicable to Blocks 2 and 3. This clause is not considered necessary, as 'trade related enterprise' is completely appropriate within the suite of uses that are already proposed and permitted with consent under the SP4 Enterprise zone.</i>	It is proposed to retain insertion of the 'trade and technology' definition by way of a Schedule 1 Additional Permitted Use amendment. 'Trade-related enterprise' is considered a direct fit to deliver on the vision to create a contemporary and international-focused trade and logistics precinct. Refer to Section 4.1.2 of the Planning Proposal justification report.
<i>Confirmation of no infringement of the protected airspace required during construction or that any such infringement will be supported by the relevant approval body to demonstrate consistency with Local Planning Direction 5.3 – Development Near Regulated Airports and Defence Airfields</i>	A detailed assessment of all aeronautical matters is provided at Section 6.2.5 of the Planning Proposal Justification Report. For buildings where the maximum height is near the OLS height where cranes would infringe the OLS surface, the Proponent will adhere to Airports (Protection of Airspace) Regulations 1996 (APAR) application requirements in relation to aviation safety, as relevant – which is consistent with 5.3(2)(d).
<i>Security constraints and airport safeguarding of the potential bridge connection specified in the proposed draft DCP may pose a problem when navigating the interface between the Cooks Cove public domain and the airside foreshore space. The built form of such a bridge must be complimentary to the public domain and minimise aggressive aesthetic treatment.</i>	This comment is acknowledged. In response, additional site-specific draft DCP provisions are proposed to address the interface of any potential future bridge freight connection to ensure a visually appropriate and a safe outcome for users of the publicly accessible foreshore linkage (refer <b>Appendix K</b> ). Any future design for a potential bridge connection to the airport for the movement of freight will be guided by site-specific DCP controls to ensure it will not interfere with the public domain passive open space and active transport link function. Airside facilities will not impact on the function of the publicly accessible foreshore zone.
<i>Council is separately working with the proponent through a public benefit offer so that the local community can share some benefit from this significant change. Unfortunately, this has not reached a stage where it could form part of the exhibition, and Council will work with the proponent between now and finalisation of the Planning Proposal. To ensure that the proponent's offer and obligations are locked in, it is absolutely essential that the final negotiated position is captured in the Planning Proposal process before it is finalised.</i>	The Response to Submissions includes a revised in-principle VPA Letter of Offer, which has been revised following extensive discussions with Council in August 2023 (refer <b>Appendix M</b> ).
<b>Riparian Zone</b> – A minimum 40 metre riparian zone should be included along the Cooks River frontage to ensure an adequate ecological interface that is consistent with DPE's 'Guidelines for riparian corridors on waterfront land'. This riparian zone will support water quality, biodiversity, protection of flora and fauna, and overall ecosystem health, whilst also reducing the dominance of buildings along the river front and creating a more integrated interface with the public domain. Cycleways and paths that are currently within the 20m zone can then be relocated to the outer 50% of the riparian zone.	The site is large and has a consolidated foreshore this gives an outstanding opportunity for a best practice WSUD to be integrated over the riparian zone. Rehabilitation will restore riparian habitats, increasing biodiversity and improving water quality leaving the site. The width of the zoned riparian interface is proposed to be increased from a 20m width to a 40m width within the southern section of the site, equating to doubling the foreshore zone for approximately 40% of the Cooks Cove interface with the river (refer <b>Section 4.2</b> ). The width is also sufficient for a significant improvement in terms of ecology and riparian planting in comparison to the current artificial golf course edge.
<b>Land Uses</b> – It is acknowledged that economic impact is addressed in the Planning Proposal Justification Report at a high level, however, an Economic Impact Assessment should be provided showing the evidence that has informed the quantum of each use.	Additional economic commentary discussing the key drivers in support of the project and the quantum of land uses sought is provided within the Response to Submissions Report, <b>Section 4.7</b> .
<b>Block 3B and 3C</b> – Block 3B will create an impermeable barrier which lacks sensitivity for surrounding natural landscapes, preventing views towards the river, and blocking	Enhancement in terms of fauna connection is improved. 3B is a fixed location due to existing utilities in terms of ethane and desalination pipeline, this is a not a new matter and these

Matter	Response
<i>accessibility and a visual relationship with Pemulwuy Park. The configuration and location of Block 3B will need to be further reviewed by the SECPP and DPE, so that open space and foreshore connections are better considered. A connection for the community between Pemulwuy Park and the foreshore link should be provided between buildings 3B and 3C, in the interest of safety and permeability. Building 3C could be secured separately to the rest of the development, or not in a secure compound to facilitate this</i>	constraints are present under the current SEPP EHC Trade and Technology zone. A secure development zone is required due to the high need to service the adjacent airport precinct with the flexibility of 'airside' uses which are physically separated from the adjacent publicly accessible open space. Refer to <b>Section 4.2</b> for further comment.
<b>Open Space</b> – <i>An assessment of open space needs should be provided to DPE to ensure the quality of open space provided is consistent with the needs of the community.</i>	Extensive consultation has been undertaken with Bayside Council with regards to open space quantum and in terms of the master planning process for the future Pemulwuy Park. Refer to further justifications for the proposal at <b>Section 4</b> .
<b>Solar Access</b> – <i>The shadow modelling must accurately confirm that the proposed maximum building heights are acceptable and will not unreasonably impact the quality and useability of publicly accessible places by way of overshadowing.</i>	Further refinements to overshadowing diagrams to the future publicly accessible open space has been undertaken by Hassell and is included at <b>Appendix D</b> .
<b>CPTED</b> – <i>The proposal must demonstrate a commitment to the basic principles surrounding Crime Prevention through Environmental Design. This could be captured in the draft DCP</i>	Noted and CPTED requirements incorporated into the revised draft DCP provided at <b>Section 5.6</b> . Detailed consideration to be undertaken at the DA stage.
<b>Water Quality</b> – <i>Concerns were raised that updated targets are being progressed for the Cooks River, by Sydney Water in conjunction with stakeholders such as the various Councils as part of the Cooks River Alliance but this has not been addressed in the PP.DPE shall consult Sydney Water and other relevant State agencies to respond to the comments raised in relation to water quality in the Cooks River</i>	The proponent is targeting exemplar WSUD provisions. This objective is placed in the DCP. Controls have been drafted for Council review, which is ongoing. A revised version of the draft DCP is provided at <b>Appendix K</b> .
<b>Litter Prevention</b> – <i>Litter prevention principles and related development controls should be included in the proposed DCP</i>	Noted and incorporated into the revised draft DCP provided at <b>Section K</b> .
<b>View Loss</b> - <i>A Visual Impact Assessment that assesses the impact on character and views from residences, workplaces and public places should be provided to identify existing viewpoints, and their sensitivity to change, and determine the magnitude of change. Recommendations should be incorporated into DCP controls.</i>	In response to the concerns raised by Council, surrounding owners and by the general public, a review of views has been undertaken to understand the comparison between the existing controls (2006 approved DA) and the proposed controls (2023 reference scheme). Refer to <b>Section 4.3</b> and supporting visual material prepared by Virtual Ideas at <b>Appendix J</b> .
<b>Environmental Concerns</b> – <i>Concerns were raised that the developer's use of the Biodiversity Offset Scheme is not appropriate as the NSW Audit Office has demonstrated it to be ineffective. Council requests that DPE consult with relevant State agencies regarding Biodiversity Offset Scheme requirements.</i>	Additional research by Cumberland Ecology in the revised Flora and Fauna Assessment ( <b>Appendix 4.2</b> ) confirms that there are BAM credits currently available for purchase as part of the offset scheme and there has been a history of such credits being available. The use of the offset scheme under the BC Act remains a valid statutory pathway for future DAs which will be further investigated.

## 1.2 Transport for NSW

The Applicant's response to Transport for NSW's submission is provided in **Table 2** below.

**Table 2**      **Response to Transport for NSW Submission**

Matter	Response
<i>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.</i>	Noted.
<i>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.</i>	Noted. It has been understood that since the submission was made that DPE has provided this information directly to TfNSW.
<p><i>"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:</i></p> <ul style="list-style-type: none"> <li><i>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</i></li> <li><i>the Council has to make the land available to TfNSW when required for a 'County road' purpose.</i></li> </ul> <p><i>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.</i></p> <ul style="list-style-type: none"> <li><i>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.</i></li> </ul> <p><i>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.</i></p>	<p>The Proponent understands TfNSW's concerns associated with being able to acquire the relevant portions at no-cost should they be necessary to complete the M6 Stage 1 and M8 final works associated with the Arncliffe MOC. Council has been formally requested to be party to the Stage VPA to facilitate this process. Bayside Council staff have advised the request will be referred to the Planning Committee and Council in October 2023. Further advice to be provided in due course.</p>

Matter	Response
<p><i>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. The landowner, Council, would need to be a party to any such agreement and agree to such a provision."</i></p>	
<p><i>"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).</i></p> <p><i>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).</i></p> <p><i>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. 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.</i></p> <p><i>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.</i></p> <p><i>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</i></p>	<p>i. Council is considering this request at the October 2023 Planning Committee and Council meeting.</p> <p>ii. Acknowledged.</p> <p>iii. Acknowledged. TfNSW requirements to be detailed in SPA provisions .</p> <p>iv. CCI has submitted an updated SPA Letter of Offer on 15/8/23 specifying CCI will be responsible for constructing/delivering all Works in Kind identified.</p> <p>v. CCI proposes to construct the works to provide a connection between the existing Gertrude Street and Marsh Street (Item A1) prior to the issue of an OC for floor space proposed under the Planning Proposal. CCI will deliver the Gertrude Street widening (Item A3) and roundabout infrastructure at the junction of Levey Street and Gertrude (Item A2) refer below.</p> <p>vi. Concept design and associated modelling data for a 'roundabout' endorsed 28/8/23 which will proceed under the Local VPA with Council.</p> <p>vii. Agreed.</p> <p>viii. Agreed. Works in Kind in the SPA to be fully funded and delivered by CCI.</p> <p>ix. Noted. Details of the proposed bus stop will be documented in Marsh Street design plans. Refer <b>Appendix M</b>.</p>

Matter	Response
<p>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> <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>	
<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> <p>The subsurface land beneath the subject site has been compulsorily acquired to enable construction of the tunnels for M6 Stage 1 project.</p> <p>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.</p> <p>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."</p>	<p>Noted.</p> <p>The terms of lease pertaining to Lot 31 DP 1231486 and Lot 100 DP1231954, owned by CCI, are known.</p> <p>The terms of lease pertaining to Lot 14 DP 213314 and Lot 1 DP 108492 between TfNSW/Bayside are unknown.</p> <p>Once TfNSW identifies its final acquisition requirements the SP2 Infrastructure zone boundaries will be determined.</p>
<p>"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.</p> <p>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).</p> <p>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.""</p>	<p>The draft Concept Plan of Subdivision is as noted 'for discussion purposes'. TfNSW has agreed in meetings with the Proponent to provide the final footprint (once known) to enable the finalisation of the future subdivision plan and zoning requirement, however, this item is capable of resolution as the Planning Proposal progresses towards finalisation.</p>



Matter	Response
<p><i>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'. 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.</i></p> <p><i>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. "</i></p>	
<p><i>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.</i></p>	<p>Noted and agreed.</p> <p>Lot 13/DP570900 is intended to be zoned SP2 Infrastructure (Classified Road) and was shown as such in the exhibited material. Refer to Updated LEP mapping provided at <b>Appendix C</b></p>
<p><i>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.</i></p>	<p>CCI remains committed to cooperating with TfNSW and Bayside Council to resolve potential conflicts of the future Cook Cove enabling work with the objective of doing so without incurring additional cost to the M6 Stage 1 project. Since this submission was made, TfNSW has confirmed t the exhibited UDLP Lot 14 Pump track has been deleted and the public car park downgraded to a temporary scope (advised 19/7). The revised Cooks Cove flood modelling (<b>Appendix E</b>) includes all proposed M6/M8 permanent works in the base case flood model. Assessment has included a strong focus on maintaining the Probable Maximum Flood infrastructure immunity levels at the MOC site and reducing of re-work landform impacts to the UDLP works to be dedicated to Council.</p>
<p><i>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 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.</i></p>	<p>CCI remains committed to resolving design conflicts. CCI has developed, in collaboration with Bayside Council, an integrated spatial plan for Pemulwuy Park. Approval is not sought for the spatial design and outcome of Pemulwuy Park as part of the Planning Proposal, and is subject to design development to be undertaken by Bayside Council. Final arrangement of open space assets and pedestrian circulation paths are to be designed and developed by Bayside Council. Vehicle movement, facilitated by an improved intersection and addition of Flora St South is proposed to be achieved by the Planning Proposal as subsequent early works DA. To date CCI has held coordination workshops with both TfNSW and the M6 Stage 1 contractor (CGU) in an effort to collectively resolve the design. It is believed that a revised UDLP design is to be documented in the coming months for delivery by the M6 Stage 1 contractor in 2024 - this includes a general lowering of finished levels as communicated by TfNSW (19/7/23). CCI will resolve a future modification of these works where necessary to permit an acceptable outcome for the Cooks Cove project and to facilitate the delivery of a</p>



Matter	Response
	<p>future integrated Pemulwuy Park design by Bayside Council (with contribution by CCI). All traffic circulation proposed by CCI will be designed in consultation with TfNSW and its concessionaire in a manner that does not impact access to, or operation of, the M8 or M6 motorways or the MOC. CCI is committed to delivering widened roadways and provision of an alternate access road to the MOC.</p>
<p><i>"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."</i></p>	<p>CCI has committed to deliver Gertrude Street East and Flora Street East intersection improvements, adjoining roads and drainage infrastructure within Lot 14 (Pemulwuy Park North), currently occupied by TfNSW, on terms agreed with TfNSW and Bayside. Refer to the revised State VPA letter of offer (<b>Appendix L</b>). Areas required permanently for operation of TfNSW infrastructure are assumed to be secured separately from areas of Pemulwuy Park available for public recreation. Bayside Council to deliver Pemulwuy Park South, within Lot 1 DP 108492, external to areas occupied by TfNSW. CCI to make a progressive monetary contribution to Bayside Council towards the cost of passive recreation embellishment. CCI to deliver passive recreation, road and flood mitigation infrastructure on the portions of Lot 100/DP1231954 to be dedicated to Council as part of the Local VPA (<b>Appendix M</b>).</p>
<p><i>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. 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.</i></p>	<p>Noted and agreed. The proposal will not impact upon TfNSW's ability to deliver the M6 Stage 1 UDLP design.</p>
<p><i>"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. 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."</i></p>	<p>CCI has developed, in collaboration with Bayside Council, an integrated spatial plan for Pemulwuy Park. The spatial design and outcome of Pemulwuy Park is not the subject of this approval and is subject to design development to be undertaken by Bayside Council. Final arrangement of open space assets, pedestrian circulation paths and detailed levels are to be designed and developed by Bayside Council. CCI note that the M6 Stage 1 UDLP only addresses an urban design proposal within the M6 Stage 1 project boundary rather than a holistic approach to Pemulwuy Park north/ south.</p> <p>To date CCI has held coordination workshops with both TfNSW and the M6 Stage 1 contractor (CGU) in an effort to collectively resolve the design. It is believed that a revised UDLP design is to be documented in the coming months for delivery by the M6 Stage 1 contractor in 2024 - this includes a general lowering of finished levels as communicated by TfNSW (19/7). CCI will resolve a future modification of these works where necessary to permit an acceptable outcome for the Cooks Cove project and to facilitate the delivery future integrated Pemulwuy Park design by Bayside Council (with contribution by CCI). CCI remains committed to cooperation with all stakeholders to resolving potential conflicts.</p>

Matter	Response
<i>Finished levels of open space area are not clearly identified.</i>	The spatial design and outcome of Pemulwuy Park is not the subject of this approval and the landform is subject to design development to be undertaken by CCI and Bayside Council. Final arrangement of open space assets, pedestrian circulation paths and detailed levels are to be designed and developed by Bayside Council.
<i>"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. 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 pond area or general park area. It also does not include the associated cut volumes required to implement the preferred Option 4."</i>	The final design over the necessary overland flow path is capable of being resolved at the detailed design phase. CCI maintains their agreement to reduce impact to the UDLP works as far as practical. Appropriate offset is documented in the Local VPA letter of offer.
<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>"The CSSI must be designed and implemented to limit flooding characteristics to the following levels, unless otherwise approved by the Planning Secretary:</p> <p>(a) a maximum increase in inundation time of one hour in a 1 in 100 year ARI rainfall event;</p> <p>(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;</p> <p>(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</p> <p>(d) no inundation of floor levels which are currently not inundated in a 1 in 100 year ARI rainfall event.</p> <p>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".</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>	<p>Condition of Approval requirements acknowledged. CCI is committed to cooperation with TfNSW and Bayside Council to resolve potential conflicts and ensure the implemented flood mitigation strategy is consistent with CoA requirements. Revised Cooks Cove FIRA (<b>Appendix E</b>) demonstrates an option which meets the Conditions of Approval.</p>
<i>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</i>	<p>In order to clarify this issue, it is worth noting that the site is subjected to two possible types of flooding event. The first is a local flood event with a relatively short rainfall duration of about two hours. This type of event causes flooding in the local drainage and road network to the north of Marsh Street in the Bonnie Doon catchment area. This type of flooding is best represented in the Bonnie Doon flood model as it includes all the detail of the urban trunk drainage network.</p> <p>The second type of flooding is from longer duration rainfall events of about 6 hours which</p>

Matter	Response
<p><i>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.</i></p>	<p>cause Cooks River flooding. For this type of flooding, the Sydney Water Cooks River flood model has been used (as suggested by Council). The Bonnie Doon flood model (local) does produce much lower flood levels than the Cooks River flood model. This is not because there are different assumptions in the boundary conditions, but because they represent different flood events. As such it is not agreed nor acknowledged that the Cooks Cove flood assessment under-estimates the flood levels in certain flood events. Refer to the revised Flood Impact Risk Assessment prepared by Arup and provided at <b>Appendix E</b>.</p>
<p><i>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.</i></p>	<p>The comments regarding the veracity of the modelled afflux south of the MOC are noted. In regard to the likely impact of this afflux on the performance of the MOC site-based drainage system, it is highly likely that the MOC stormwater drainage system was designed based on an assumed tailwater level at the outlets of the system. It has been assumed that the stormwater outlets from the MOC are directed to the longitudinal drainage system heading north-west along Marsh Street towards the Cooks River at the Giovanni Brunetti bridge.</p> <p>It is possible the stormwater outlets from the MOC are directed towards the area south of the MOC. If this is the case, it is highly likely the MOC stormwater system was designed based on the critical storm duration of the site which would be less than 30 minutes (and more like 10 minutes). This storm is not the same rainfall event that causes Cooks River flooding ( 2 hour duration rainfall with the peak occurring after the end of the 2 hour storm at 3 hours). Hence , the impact of these minor changes to the ultimate flood levels south of the MOC site will not have any impact on the assumed tailwater levels for the MOC stormwater system nor will it affect the performance of the MOC stormwater system. Refer the detail and revised Flood Impact Risk Assessment prepared by Arup and provided at <b>Appendix E</b>.</p>
<p><i>"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:</i></p> <p><i>- "The implementation of the recommended Option 4 will permit the M6 and M8 projects to ensure compliance with the Motorway Conditions of Approval."</i></p> <p><i>The current M6 Stage 1 UDLP design is compliant with the M6 Stage 1 Condition.</i></p> <p><i>-""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.""</i></p>	<p>On this matter, TfNSW is referred to M8 Approval Conditions: B23 (h): <i>"The Flood Mitigation Strategy must include but not be limited to...reconsideration of the proposed flood storage along Marsh Street with the intent of incorporating the flood storage requirements of the SSI into the proposed flood storage for the Cooks Cove development"</i></p> <p>CCI has no intent to impede TfNSW or its contractors compliance with relevant M6 CoAs. The revised flood modelling and mitigation outcome proposed by CCI achieves all requirements of the M6 and M8 CoAs and achieves an acceptable flooding solution for the Cooks Cove Planning Proposal.</p>
<p><i>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 pump track and design of the Flora Street Intersection. The M6 Stage 1 Project has substantially completed design of</i></p>	<p>The Proponent notes TfNSW's commitment to remove the pump track from this location and downgrade the carpark to a temporary standard (advised at a meeting with TfNSW 19/7/23). Bayside Council have identified that their preferred location for the carpark and pump track is within Lot 1/DP108492, external to the M6 compound, being a more central</p>

Matter	Response
<i>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.</i>	Pemulwuy Park South location, accessible from an extension of Flora Street east through CCI held Lot 100/DP1231954. CCI is most willing to cooperate and participate in the resolution of potential conflicts with the objective of doing so without incurring additional cost to the M6 Stage 1 project.
<i>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.</i>	<p>CCI has developed, in collaboration with Bayside Council, an integrated spatial plan for Pemulwuy Park. The spatial design and outcome of Pemulwuy Park is not the subject of this approval and is subject to design development to be undertaken by Bayside Council. Final arrangement of open space assets, pedestrian circulation paths and detailed levels are to be designed and developed by Bayside Council. CCI note that the M6 Stage 1 UDLP only address an urban design proposal within the M6 Stage 1 project boundary rather than a holistic approach to Pemulwuy Park north/ south.</p> <p>To date CCI has held coordination workshops with both TfNSW and the M6 Stage 1 contractor (CGU) in an effort to collectively resolve the design. Through this engagement TfNSW has not provided any direction to the M6 Stage 1 contractor to amend/ integrate designs to the final solution proposed by CCI. CCI request that TfNSW provide direction to the M6 Stage 1 contractor to allow for a meaningful collaboration and integrated final design solution.</p>
<i>Condition of Approval E110 of the M6 Stage 1 Project requires the following: "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". The planning proposal and future development must not compromise the ability of the M6 Stage 1 project to comply with this Condition of Approval.</i>	<p>CCI understands 'Lot 25' is 14/213314 and 'Lot 30' is Lot 1/DP 108492. The Planning Proposal proposes the extension of Flora Street East through Lot 14, onto a portion of Lot 100/DP1231954 to be dedicated to Bayside Council, thereby providing access to a carpark and internal circulation road within Lot 1/DP108492, an outcome supported by Bayside Council, with the capacity to provide pedestrian connectivity and Council maintenance vehicle access, consistent with the objective of CoA E110, as well as providing access to MOC.</p> <p>In such circumstances the need for TfNSW to construct the 4.5m wide pedestrian and council maintenance vehicle pathway from Lot 14 to Lot 1 through the proposed new GGBF habitat, as illustrated in the UDLP, may be unnecessary, however the capacity to do so is not compromised by the CCI proposal.</p>
<i>"Condition of Approval E44 of the M6 Stage 1 Project requires the following: "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. The Plan must detail: (a) the on-site management and mitigation measures for limiting impacts on Green and Golden Bell Frogs; (b) the monitoring that would be undertaken during construction to ascertain the effectiveness of the on- site management and mitigation measures; and</i>	The spatial design and outcome of Pemulwuy Park is not the subject of this approval and is subject to design development to be undertaken by Bayside Council. Final arrangement of open space assets, pedestrian circulation paths and detailed levels are to be designed and developed by Bayside Council. CCI notes the TfNSW CoA and will not compromise TfNSW ability to comply with the CoA. Any future GGBF assessment and further considerations of Cooks Cove will be the subject of an EPBC Act referral, which will occur post rezoning.

Matter	Response
<p>(c) measures to re-instate habitat affected by the Arncliffe construction compound within the returned open space post construction".</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>	
<p>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.</p>	<p>The two other threatened fauna species are the Large Bent-Wing bat and the Grey-Headed flying fox. As identified in <b>Appendix G</b> (Revised FFA by Cumberland Ecology) these two species are highly mobile and are considered to be only utilizing the subject site on occasion as part of a broader foraging range. Proposed amendments to the site-specific DCP facilitates enhanced east-west connections from Pemulwuy Park to the Cooks River foreshore.</p>
<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>	<p>CCI has developed, in collaboration with Bayside Council, an integrated spatial plan for Pemulwuy Park which has been integrated with the concept level UDLP arrangements for GGBF ponds and habitat. The spatial design and outcome of Pemulwuy Park is not the subject of this approval and is subject to design development to be undertaken by Bayside Council. Final arrangement of open space assets and pedestrian circulation paths are to be designed and developed by Bayside Council. CCI note that the M6 Stage 1 frog pond design has been considered in the initial spatial design of Pemulwuy Park north/south. Circulation paths are outside the current M6 Stage 1 design of the ponds. If pedestrian, cycle and vehicle paths can be accommodated external to the TfNSW ponds, it provides an opportunity for the present Council maintenance and pedestrian pathway otherwise required by E110 that is proposed to traverse the frog ponds to be potentially removed and contribute to improved habitat quality for the GGBF and hopefully a higher probability of success. The CCI Flora Street extension will be designed to not impact on the M6 Stage 1 frog pond design currently located to the east of the M6/M8 facility.</p>
<p>The design of Pemulwuy Park must ensure that management of waterflows in this area enable the effective operation of the GGBF ponds.</p>	<p>CCI has developed, in collaboration with Bayside Council, an integrated spatial plan for Pemulwuy Park. The spatial design and outcome of Pemulwuy Park is not the subject of this approval and is subject to design development to be undertaken by Bayside Council. Final arrangement of open space assets and pedestrian circulation paths are to be designed and developed by Bayside Council. The design of water flows through Pemulwuy Park can facilitate the effective operation of the GGBF ponds. None of the park area will drain into the GGBF ponds. In large Cooks River floods, there will be flood waters passing over Marsh Street into Pemulwuy Park and the GGBF ponds in a similar manner as that for TfNSW UDLP Marsh Street design of sports fields in the area. The design of Pemulwuy Park will ensure that flood flows in this area enable the effective operation of the GGBF ponds.</p>
<p>"There is uncertainty on the timing and ultimate design of the open space areas, as follows:</p> <p>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.</p>	<p>CCI has developed, in collaboration with Bayside Council, an integrated spatial plan for Pemulwuy Park. The spatial design and outcome of Pemulwuy Park is not the subject of this approval and is subject to design development to be undertaken by Bayside Council. Final arrangement of open space assets and pedestrian circulation paths are to be designed and</p>

Matter	Response
<p>2. If Pemulwuy park is to be delivered by Council (or part delivered) - no dates or timing is offered within 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>	<p>developed by Bayside Council. CCI obligations will be documented in the State Planning Agreement and a Local Planning Agreement with Bayside Council.</p>
<p>"Condition of Approval E140 of the M6 Stage 1 Project requires the following:          "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".          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>	<p>Noted. The Planning Proposal will not compromise TfNSW capacity to comply with this CoA</p>
<p>"Condition of Approval E37 of the M6 Stage 1 Project requires the following:          "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.          The guidelines must be prepared prior to operation."          The M8 Condition of Approval E29 required the following:          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>Noted, the site specific DCP has been altered to require reference to any applicable guidelines relevant at the time for the assessment of air quality impacts of the M6 and M8 on new development.</p>



Matter	Response
<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). 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>	
<p>Any proposed Planning Agreement must enable sufficient access until M6 Stage 1 completion (including in the event of project delays).</p>	<p>Agreed. Addressed in the revised State VPA letter of offer submitted 15/8/23 (refer <b>Appendix L</b>).</p>
<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"> <li>• Multi-level logistics and warehousing – 290,000sqm GFA</li> <li>• Commercial office uses – 22,350sqm GFA</li> <li>• Hotel and visitor accommodation uses – 20,000sqm GFA</li> <li>• Retail uses – 10,900sqm GFA</li> </ul> <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 proposed road network modifications and access points change at the DA stage, 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>	<p>Acknowledged. CCI has agreed to deliver Works-in-Kind prior to the issue of an Occupancy Certificate for floorspace within the development zone.</p>
<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>	<p>The performance of the M5E / Marsh Street intersection was determined on the basis of contemporary traffic counts undertaken in the second half of 2022. These traffic counts were then utilised to develop a 'base year' traffic model which accurately reflects current traffic conditions in the area. The base model was formally endorsed by TfNSW on 31 October 2022. The outputs of the base model were used to determine the Level of Service at all intersections in the study area, including at the M5E / Marsh Street intersection. The updated TIA dated 29 May 2023 includes details of the worst traffic movements through the intersections as requested by TfNSW.</p>



Matter	Response
<p><i>"TfNSW supports the proposed inclusion of a maximum car parking rate for commercial development on the site as a site specific clause in the LEP and to be reflected in the DCP. 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. 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 ancillary office in the warehouse/logistics land use. 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 ancillary office in the warehouse/logistics land use in addition to the commercial office component. 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 required to support the underpinning assumptions of the TIA around trip generation of the commercial component of the development (0.8vtp/h). This suggests that the commercial floor space would generate less 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."</i></p>	<p>No change is considered necessary to the LEP for parking. The site specific DCP has been updated (<b>Appendix K</b>) to require the capping of parking for ancillary office in the warehouse/logistics land use to 1 space per 80sqm.</p>
<p><i>"The additional information regarding unreleased demand is noted. 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. 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. 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 Base Model Development Report, Stantec, 5 October 2022, Appendix B: Detailed Traffic Modelling Outputs). Considering the above, the reported level of service results at key intersections under the</i></p>	<p>TfNSW request for additional sensitivity traffic model to allow for a direct comparison between 2022 Base Case and 2022 Base Case + Project scenario given the high background traffic growth assumptions contained in the TfNSW strategic model was undertaken. TfNSW confirmed 4/9/23 that the results were acceptable and no further modelling at the PP stage was required.</p>

Matter	Response
<p>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>"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. 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>	<p>Traffic distribution diagrams presenting the requested information are provided in Section 5.8 of the updated TIA dated May 2023.</p>
<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. 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. 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 "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" may not be accurate."</p>	<p>TfNSW confirmed 4/9/23 that the results of the modelling sensitivity testing were acceptable and no further modelling at the PP stage was required.</p>
<p>"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%."</p>	<p>The relevant report Section 5.12 (previously section 5.10.4) has been updated to note that the external capacity constraint on Forest Road was removed by providing for uninterrupted access for through traffic travelling through the Forest Road / Firth Street intersection – noting this intersection has been identified for upgrade in the Bayside West 2036 plan. Appendix C of the updated TIA provides detailed modelling outputs of the sensitivity tests.</p>
<p>"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."</p>	<p>Noted, it was never the intention to recommend a diversion of the 422 bus route which the project is not reliant upon. Provision of a bus bay and shelter to serve southbound route 420 can be facilitated as part of the Cooks Cove project. The 422 route would continue to operate along the Princes Highway and West Botany Street in close proximity to and within easy walking distance of the Cooks Cove site.</p>

Matter	Response
<p><i>"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. 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.</i></p>	<p>Further consultation with TfNSW and Bayside Council led to agreement in principle of a roundabout based improvement to this intersection. These works will be delivered pursuant to Local VPA.</p>
<p><i>"Marsh Street &amp; Gertrude Street traffic signal design:</i></p> <ul style="list-style-type: none"> <li><i>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.</i></li> <li><i>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).</i></li> <li><i>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.</i></li> <li><i>iv. Landscaping proposed is not to obstruct driver sightlines to traffic signal lanterns and pedestrians.</i></li> <li><i>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."</i></li> </ul>	<p>Since the submission, TfNSW has agreed on the conceptual design for all State infrastructure works. This has been included within the revised State VPA Letter of Offer made to DPE &amp; TfNSW on 15/8/23. Refer to <b>Appendix L</b>.</p>
<p><i>"Marsh Street &amp; Flora Street traffic signal design:</i></p> <ul style="list-style-type: none"> <li><i>i. Split approach phasing at this intersection will not be supported as this will result in operational inefficiency.</i></li> <li><i>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).</i></li> <li><i>iii. The intersection layout is to be re-designed and improved to ensure there are no conflicts with vehicles.</i></li> <li><i>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.</i></li> <li><i>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.</i></li> </ul>	<p>As above.</p>

Matter	Response
<p>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> <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>	
<p>"Internal road system 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 may need to be widened to ensure that vehicles can pass around stationary right turning vehicles at this location."</p>	<p>The right turn bay into the future public car park is approximately 26m in length which can store up to four vehicles at any one time. SIDRA modelling indicates that, in a worst-case scenario where up to 100 vehicles turn right into the car park from Flora Street East, the 95% queue length would be less than one car length. Therefore, no widening in this area is considered necessary and the design suitable to accommodate expected flows. TfNSW have agreed this item is closed (10/7/23).</p>
<p>"Innesdale Road &amp; Marsh Street intersection: 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). 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>	<p>Refer SK0003 for Innesdale Road pedestrian refuge concept (<b>Appendix K</b>). This arrangement for pedestrians is consistent with that in place prior to the installation of traffic lights. TfNSW have agreed this item is closed (10/7/23).</p>
<p>"Princes Highway &amp; Gertrude Street intersection: 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 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>Bayside Council's Wolli Creek &amp; Bonar Street Precincts Contribution Plan – Item 3.3.4 – identifies a proposal to widen Gertrude Street adjacent Cahill Park. The Cahill Gardens project at 6 Gertrude Street, undertaken by others, implemented the tie in with Princes Highway. CCI do not propose upgrades at the intersection or to modify the signals. TfNSW have agreed this item is closed (10/7/23).</p>

Matter	Response
<i>"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. 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."</i>	Agreed and to be resolved in future DAs. TfNSW have agreed this item is closed (10/7/23).
<i>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.</i>	Noted. TfNSW have agreed this item is closed (10/7/23).
<i>"Section 2.9 states that ""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."" TfNSW notes that the State Environmental Planning Policy (Precincts-Eastern Harbour City) 2021 does not indicate 4,700 car spaces are permissible on the site with development consent."</i>	<p>SEPP Precincts EHC - 6.13 Master plan - consent must not be granted for development of land within the Cooks Cove site unless (a) there is a Master Plan for the Land adopted by the Minister. Minister adopted the Cooks Cove Master Plan 29 June 2004. Master Plan Volume 3 Transport Management and Access Plan. 5.4 Car Parking Provision. In summary the car parking space requirement for Cooks Cove is:</p> <ul style="list-style-type: none"> <li>• 4,610 off street car parking spaces or 1 space per 60sqm of floor area</li> <li>• 255 short term paid on street car parking spaces</li> <li>• 42 service vehicle bays</li> <li>• 3 taxi spaces at hotel; and</li> <li>• 2 coach parking bays at the hotel</li> </ul> <p>TfNSW have agreed this item is closed (10/7/23).</p>
<i>The explanation accompanying the conceptual Block 3 subdivision and access strategy (Figure 22) states that "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". 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. TfNSW advises that all security lines/gates should be set back sufficiently to prevent any queue spill- over onto the Marsh Street intersections.</i>	Noted. Agreed and to be resolved at the future DA stage. TfNSW have agreed this item is closed (10/7/23).
<p>a. Page 68 - reference to an FSR of 1:25 is presumably a typo? Should be 1.25:1.</p> <p>b. Table 6 - subheading is presumably mislabelled? Assuming it is meant to say RE1 Public Recreation and not SP2 Infrastructure.</p> <p>c. Figure 68 (page 106) – Figure 68 should be updated to include estimated traffic growth on Marsh Street fronting the site.</p> <p>d. Table 19 (page 108) – Car parking rate for ancillary office associated with warehouse/logistics should be maximum 1 space per 80sq.m GFA. It is currently unclear if</p>	<p>a. Acknowledged typo. 1.25:1 intended</p> <p>b. Acknowledge subheading mislabelled</p> <p>c. Updated in subsequent TIA issued by JMT.</p> <p>d. Maximum 1 space per 80 sqm</p> <p>e. Clarified in revised TIA issued by JMT.</p> <p>f. Updated in subsequent TIA issued by JMT.</p> <p>g. All stormwater discharge points are located to the east of the proposed development on</p>

Matter	Response
<p><i>this is a minimum or maximum requirement.</i></p> <p>e- 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.</p> <p>f- 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.</p> <p>g- 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?"</p>	<p>the western bank of the Cooks River. There is no proposed connection to the M8/M6 groundwater discharge point. TfNSW have agreed this item is closed (10/7/23).</p>
<p>"TfNSW provides the following comments on the draft DCP:</p> <ul style="list-style-type: none"> <li>· Pg. 8 – Access – Objective 3: <ul style="list-style-type: none"> <li>o What is the design vehicle for these roads?</li> <li>o Consider safety for vehicle movement in shared pathways with active transport – one-way streets, U-turn bays and similar.</li> </ul> </li> <li>· 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.</li> <li>· Figure 208 is unclear: <ul style="list-style-type: none"> <li>o Figure is showing vehicles as well, not just active transport.</li> <li>o What does the dotted line with truck symbol mean?</li> </ul> </li> <li>· Access – Objective 4, C5 - Will this be a freight/truck only bridge?</li> <li>· Figure 212 and Block 1&amp;2 – C4 - Where is the freight access into the loading dock of the hotel?</li> <li>· Block 3 – C7: <ul style="list-style-type: none"> <li>o Are there loading docks within logistics buildings? Or drive in/out?</li> <li>o Is there any requirement for underground parking/loading?"</li> </ul> </li> </ul>	<p>Noted. Design vehicle is up to a 19m articulated vehicle. Detailed safety measures to be accommodated in the detailed design. Indicative cross-sections to be updated in the final site-specific DCP version to be resolved with Council. TfNSW have agreed this item is closed (10/7/23).</p>
<p><i>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.</i></p>	<p>Noted. CCI will undertake early consultation with TfNSW in relation to navigation related matters. TfNSW have identified the bed of the Cooks River in this location is a diversion canal requiring future consultation with Crown Lands to inform future detailed DA proposals.</p>

### 1.3 Department of Primary Industries – Fisheries

The Applicant's response to the NSW Department of Primary Industries' submission is provided in **Table 3** below.

**Table 3**      **Response to Department of Primary Industries – Fisheries Submission**

Matter	Response
<i>Riparian buffer zone widths should be implemented as outlined in DPI Fisheries P&amp;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.</i>	Noted. Refer to Cumberland Ecology response to submissions.
<i>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.</i>	Noted and agreed. The riparian buffer can be landscaped to provide layered approach with mangroves along the water's edge, grading to saltmarsh and terrestrial habitats comprising trees and shrubs with grassy understorey. To maximise the use of the riparian area, low growing riparian vegetation such as saltmarsh, can be grown in place of lawns to restore more riparian habitats. Areas of lateral connectivity can also be maintained between these plant community types. Please see <b>Appendix F</b> .
<i>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.</i>	Noted and agreed.  A detailed Biodiversity Management Plan will be developed to guide rehabilitation of riparian vegetation including local native species, particularly mangroves, coastal saltmarsh and swamp oak.
<i>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.</i>	Cumberland Ecology has investigated the potential impacts of shading from future developments on a range of wetland sites across Sydney and maintain that the potential increase in shading from the proposed future development will be limited in nature and will vary seasonally and throughout each day. Cumberland Ecology advise the modelled shading impact is unlikely to prevent the reestablishment of native riparian vegetation along the foreshore of Cooks River as they have documented vegetation growing in more shaded situations in other parts of Sydney including in the nearby Landing Light wetlands where saltmarsh is growing in the shadows of mangroves and the former substation building,. High quality riparian vegetation can be re-established along the Cooks River despite the anticipated degree of shading. Please refer to <b>Appendix F</b> , for additional information provided by Cumberland Ecology.



Matter	Response
<i>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.</i>	Noted. A future DA will address the requirements under the Fisheries Management Act 1994 (FM Act) and CCI will consult with DPI Fisheries in relation to any potential impacts on matters listed under the FM Act, such as saltmarsh and mangrove habitats.
<i>Water sensitive urban design stormwater treatment measures must be maintained according to manufacturers and best practice maintenance requirements over time.</i>	Agreed. This recommendation will be addressed at the DA stage of the project, through the preparation and implementation of a Stormwater Management Plan.  The subject site is large and has a consolidated foreshore, which gives an outstanding opportunity for a best practice WSUD to be integrated over the future enhanced riparian zone. Rehabilitation will restore riparian habitats, increasing biodiversity values and improving water quality leaving the site. The proposed riparian buffer width is also sufficient to provide for a significant improvement in terms of the ecological function of the proposed riparian buffer zone, in comparison to the current artificial golf course interface that mostly lacks a vegetation riparian buffer and is comprised of lawns and scattered trees and shrubs.
<i>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.</i>	Agreed. This recommendation will be addressed at the DA stage of the project, through the preparation and implementation of a Construction Environmental Management Plan.

## 1.4 Commonwealth Department of Infrastructure, Transport, Regional Development, Communications & the Arts

The Applicant's response to the 1.4 Commonwealth Department of Infrastructure, Transport, Regional Development, Communications & the Arts is provided in **Table 4** below.

**Table 4** Response to Department of Infrastructure, Regional Submission

Matter	Response
<i>I request the Airports Branch of the Department of Infrastructure, Transport, Regional Development, Communications &amp; 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.</i>	Noted. The Proponent is committed to continuing consultation with DITRDCA and SACL at all stages of the detailed design process.

## 1.5 Department of Planning and Environment—Water

The Applicant's response to the Department of Planning and Environment – Water is provided in **Table 5** below.

**Table 5** Response to Department of Planning and Environment – Water Submission

Matter	Response
<i>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.</i>	Noted. The Guidelines for Controlled Activities have been considered in further detail in <b>Section 4.2</b> .

## 1.6 NSW Department of Environmental Heritage

The Applicant's response to the NSW Department of Environmental Heritage submission is provided in **Table 6** below.

**Table 6** Response to NSW Department of Environmental Heritage Submission

Matter	Response
<i>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. 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'.</i>	<p>The FIRA provides a detailed response on the compatibility of the Planning Proposal to the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual (refer <b>Appendix E</b>).</p> <p>The updated FFA considers in full detail, all matters relevant to the GGBF habitat and proposed mitigation and habitat augmentation matters (refer <b>Appendix F</b> and <b>G</b>). Refer to the Response to Submissions report for a detailed consideration of consistency with Ministerial Direction 1.12.</p>
<i>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 &amp; Overland 20 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</i>	Refer to the comprehensive FIRA prepared by ARUP which responds to this matter ( <b>Appendix E</b> ).

Matter	Response
<p>comments are made with respect to: Appendix C - Flooding, Stormwater and WSUD Report (ARUP, 2023) submitted as part of the package of works.</p>	
<p>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 AHO in the PMF event. The existing hazard conditions of the site reach H3 (1% AEP event) and up to H5 (PM F), rendering unsafe for vehicles and people.</p>	<p>Refer to the comprehensive FIRA prepared by ARUP which responds to this matter (<b>Appendix E</b>) including a full appraisal of flood hazard conditions.</p>
<p>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).</p> <p>The flood afflux maps have been provided for the various mitigation options for the 5%, 1% and PM F 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.</p> <p>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 13.5m<sup>3</sup>/s in a 1% AEP event and 125 m<sup>3</sup>/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.</p>	<p>Refer to the comprehensive FIRA prepared by ARUP which responds to this matter (<b>Appendix E</b>) including the assessment of a full range of AEP events and the effects of climate change.</p>
<p>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.</p> <p>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</p>	<p>Refer to the comprehensive FIRA prepared by ARUP which responds to this matter (<b>Appendix E</b>) including flood hazard maps, hydraulic categorisation and duration of inundation/ isolation for the full suite of AEPs. See Shelter-in-Place items for SES below.</p>

Matter	Response
<i>(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.</i>	
<i>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).</i>	Refer to the comprehensive FIRA prepared by ARUP which responds to this matter ( <b>Appendix E</b> ).
<i>Consideration of conditions of approval for SSI 6788 WestConnex – New M5 (now called M8) and SSI 8931 M6 Stage 1 (previously F6 extension). 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</i>	The updated FFA considers in full detail, all matters relevant to the GGBF habitat and proposed mitigation and habitat augmentation matters (refer <b>Appendix F</b> and <b>G</b> ).
<i>Habitat creation is listed as a mitigation measure in the FFA. (page 60) 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:</i>	The exact specifications of the habitat creation will be developed in the DA stage of a future development. However, as noted in the response above, the habitat creation will either be located on-site within the Cook Cove Inlet development zone within the newly proposed C2 zoned area adjacent to the Cooks River, or off-site within Pemulwuy Park or a combination of locations, which would be set out in a revised Local VPA letter of offer. This would include a

Matter	Response
<ul style="list-style-type: none"> <li>· 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.</li> <li>· 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 Park are to incorporate retention and protection of future new GGBF habitat as proposed by TfNSW.</li> <li>· 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.</li> <li>· 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</li> </ul>	<p>monetary provision by Cook Cove Inlet to Council for ongoing maintenance of the habitat. Nonetheless, as shown in the current Masterplan, in addition to the creation of any wetland areas, the proposal includes creation of terrestrial habitats that can be used as dispersal/movement habitat for the GGBF.</p>

---

*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.*

*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.*

Noted. The draft DCP and UDLR will be updated to specify further guidance to support and improve GGBF habitats within the site as follows.

- the objectives of the DCP will be updated to reinforce the need to support the continued occupation of Cooks Cove, including the former Kogarah Golf Course, by GGBF;
- the design for Pemulwuy Park will be informed 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 will be revised to address the need to retain existing GGBF habitat (including existing ponds) where possible, as well as to create a range of new, improved GGBF habitats (including breeding, foraging, refuge/sheltering and dispersal/movement), and to ensure their management in perpetuity;
- some additional pond areas are created for GGBF at the detailed design stage, should these be necessitated by further assessments;
- 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 appropriate breeding, foraging and dispersal/movement habitats for GGBF across 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 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 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 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.*

The Planning Proposal enhances the protection of biodiversity in the subject site compared to current conditions, and supports the continued future occupation of the site by the GGBF, the key measures are included in **Appendix F**.



Matter	Response
<p><i>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).</i></p> <p><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).</i></p> <p><i>This includes:</i></p> <ul style="list-style-type: none"> <li><i>· Part 6.2 clause 6.9 Planning Principles for Cooks Cove; and</i></li> <li><i>· Part 6.4 Special Provisions clause 6.16 Environmental Management – management plans; and</i></li> <li><i>· Part 6.4 Special Provisions clause 6.17 Environmental Management – special requirements</i></li> </ul> <p><i>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.</i></p> <p><i>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 environment for 'recreational' purposes and the permissible uses within this zone are not compatible with the protection of the GGBF.</i></p> <p><i>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.</i></p> <p><i>It is recommended that:</i></p> <ul style="list-style-type: none"> <li><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)</i></li> <li><i>· 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</i></li> <li><i>· permissible land uses within the C2 - Environmental Conservation zone be consistent with the long-term protection and conservation of those values.</i></li> </ul>	<p>The amendments of the Planning Proposal for the response to submissions made have adopted the recommendation from EHG to amend parts of the RE1 zoning. As a result, the C2 Environmental Conservation zone has been introduced for key areas of biodiversity value such as the existing RTA GGBF ponds and surrounding areas, land subject to the future TfNSW habitat creation, and the key foreshore / riparian segment within the southern section of the subject site.</p> <p>The proponent will apply standard zone objectives for the C2 zone:</p> <ul style="list-style-type: none"> <li>• “To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.”</li> <li>• “To prevent development that could destroy, damage or otherwise have an adverse effect on those values.”</li> </ul> <p>The introduction of the C2 zone will strengthen the planning provisions that apply to the site, compared to the current zoning, and provide additional assurance and protection for the future use of the site by the Arncliffe GGBF population.</p>
<p><i>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.</i></p>	<p>Noted. A draft Green and Golden Bell Frog Management Plan has been provided with the response to submission package. The overall objectives of this 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. The final GGBF Management Plan will</p>

Matter	Response
<p><i>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.</i></p> <p><i>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.</i></p>	<p>be prepared at the DA stage for a future development and will be subject to approval by Council.</p>
<p><i>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 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.</i></p> <p><i>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:</i></p> <ul style="list-style-type: none"> <li><i>· the planning proposal boundary is not on the Biodiversity Values Map</i></li> <li><i>· 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</i></li> <li><i>· the most significant impacts to biodiversity values across the planning proposal boundary will be associated with prescribed impacts and</i></li> <li><i>· the development approval pathway to be used by Cook Cove Inlet Pty Ltd is unknown, and their development may occur in stages.</i></li> </ul>	<p>Noted. Please refer to the updated Flora and Fauna Assessment (<b>Appendix G</b>) for a more detailed consideration of BOS and BAM matters.</p>
<p><i>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 &amp; 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</i></p>	<p>The updated FFA considers in full detail, all matters relevant to the GGBF habitat and proposed mitigation and habitat augmentation matters (refer <b>Appendix F</b> and <b>G</b>).</p>

Matter	Response
	<p>(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 &amp; 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 &amp; 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"</p> <p>Furthermore, the recent monitoring surveys referred to by the FFA do not necessarily reflect a growing population either. This is because:</p> <ul style="list-style-type: none"> <li>· the Green and Golden Bell Frog Monitoring, Arncliffe, September-November 2020 (AMBS Ecology &amp; 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</li> <li>· the Green and Golden Bell Frog Monitoring, Arncliffe, December 2020 - February 2021 (AMBS Ecology &amp; 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 the Green and Golden Bell Frog Monitoring, Arncliffe, December 2020 - February 2021 (AMBS Ecology &amp; 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."</li> </ul>

Matter	Response
<p>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 &amp; 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.</p> <p>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:</p> <ul style="list-style-type: none"> <li>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</li> </ul> <p><a href="https://majorprojects.planningportal.nsw.gov.au/projects/6788-westconnex-new-m5">https://majorprojects.planningportal.nsw.gov.au/projects/6788-westconnex-new-m5</a></p> <p>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). 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.</p> <p>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.</p> <p>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</p>	<p>The updated FFA considers in full detail, all matters relevant to the GGBF habitat and proposed mitigation and habitat augmentation matters (refer <b>Appendix F</b> and <b>G</b>).</p>

Matter	Response
<p>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 &amp; Heritage Pty Ltd, January 2023).</p>	
<p>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.</p> <p>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.</p>	<p>The updated FFA considers in full detail, all matters relevant to the GGBF habitat and proposed mitigation and habitat augmentation matters (refer <b>Appendix F</b> and <b>G</b>).</p>
<p>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.</p> <p>However, this conclusion is not clearly supported by information contained in management plans and monitoring reports for the Arncliffe population, including: page vi</p>	<p>The updated FFA considers in full detail, all matters relevant to the GGBF habitat and proposed mitigation and habitat augmentation matters (refer <b>Appendix F</b> and <b>G</b>).</p>

Matter	Response
<p>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</p> <ul style="list-style-type: none"> <li>· 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: <ul style="list-style-type: none"> <li>o excessive plant growth overshadowing of the existing frog ponds</li> <li>o more extensive mowing of grassed areas on the Kogarah Golf Course increasing the risk of predation to frogs foraging on the golf course.</li> </ul> </li> </ul> <p>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.</p> <ul style="list-style-type: none"> <li>· page 7 of the Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022 (AMBS Ecology &amp; 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”</li> </ul>	
<p>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.</p> <p>This conclusion is not supported because:</p> <ul style="list-style-type: none"> <li>· page 20 of the Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022 (AMBS Ecology &amp; 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</li> </ul>	<p>The updated FFA considers in full detail, all matters relevant to the GGBF habitat and proposed mitigation and habitat augmentation matters (refer <b>Appendix F</b> and <b>G</b>). This includes an updated draft GGBF Management Plan.</p>



Matter	Response
<p>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, the ongoing survival of the GGBF population at Arncliffe remains dependent on the continuation of the captive breeding program</p> <ul style="list-style-type: none"> <li>· 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)</li> <li>· the Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022 (AMBS Ecology &amp; 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</li> <li>· 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).</li> </ul>	
<p>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 &amp; Heritage Pty Ltd, 10 January 2023).</p>	<p>The updated FFA considers in full detail, all matters relevant to the GGBF habitat and proposed mitigation and habitat augmentation matters (refer <b>Appendix F</b> and <b>G</b>).</p>
<p>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”.</p>	<p>Cumberland Ecology addresses the Powerful Owl in further detail at <b>Appendix 4.2</b>.</p>
<p>One of the vegetation communities identified in the planning proposal area was ‘planted native vegetation’ (which included <i>Eucalyptus nicholii</i>, a threatened species). Future assessment of this vegetation should consider Appendix D of the BAM (Streamlined assessment module – Planted native vegetation).</p>	<p>Noted and agreed. The proponent will consider and respond to this matter in detail at the DA stage.</p>

Matter	Response
<i>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.</i>	In response to these concerns, it is proposed to revise 40% of the riparian interface to achieve a minimum 40m width. It is noted that there is no riparian buffer on the other side of the river (Sydney Airport). Refer to more detailed response provided at <b>Appendix 4.2</b> .
<i>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).</i>	This is included in the draft LEP Mapping under Terrestrial Biodiversity, which was included in the public exhibition package.

## 1.7 Commonwealth Department of Climate Change, Energy, the Environment and Water

The Applicant's response to the Commonwealth Department of Climate Change, Energy, the Environment and Water (DCCEEW) submission is provided in **Table 7** below

**Table 7** Response to DCCEEW Submission

Matter	Response
<i>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 (EPBC2016/7767) 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.</i>	Noted and agreed. The EPBC Act will be further considered prior to the detailed DA stage and a referral will be made to the Commonwealth if and when required. Further consideration of ecological matters are addressed within the revised Flora and Fauna Assessment provided at <b>Appendix G</b> .

## 1.8 NSW Environmental Protection Authority

The Applicant's response to the NSW Environmental Protection Authority (EPA) submission, is provided in **Table 8** below.

**Table 8** Response to NSW EPA Submission

Matter	Response
<i>Based on the information provided, the EPA has no comment on this proposal and no further consultation is required. This is because:</i> <ul style="list-style-type: none"> <li>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;</li> </ul>	Noted and agreed. No further response required.

Matter	Response
<ul style="list-style-type: none"> <li>· 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</li> <li>· the site is not being regulated by the EPA under the Contaminated Land Management Act1997.</li> </ul>	

## 1.9 Heritage NSW

The Applicant's response to the Heritage NSW submission, is provided in **Table 9** below

**Table 9**      *Response to Heritage NSW Submission*

Matter	Response
<i>Satisfied that the key concerns have been addressed. It is noted that potential impact to the Western Outfall Main Sewer (SWOOSHR 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.</i>	Noted and agreed. Future historical and maritime archaeology and Aboriginal cultural heritage will be addressed as required in the future detailed design process.

## 1.10 Greater Cities Commission

The Applicant's response to the Greater Cities Commission (GCC) submission, is provided in **Table 10** below.

**Table 10**      *Response to GCC Submission*

Matter	Response
<i>9/6/23 GCC supports progression of Planning Proposal. Consistent with ECDP. Removes land use conflict with Sydney Airport. Reinforces importance of industrial &amp; Urban service land next in this strategic location close to the Airport precinct. Proposes innovative solution to address lack of industrial land supply in Eastern Harbour City context through multi-storey warehousing form.</i>	Noted and agreed. Refer to further economic justification of the proposal provided within <b>Section 4.7</b> of the Response to Submissions Report.

## 1.11 Civil Aviation Safety Authority

The Applicant's response to the Civil Aviation Safety Authority (CASA) submission, dated 06 June 2023, is provided in **Table 11** below.

**Table 11**     **Response to CASA Submission**

Matter	Response
<i>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</i>	Noted and agreed.
<i>Guideline A: Measures for Managing Impacts of Aircraft Noise CASA does not assess, or provide detailed comment on, potential noise issues.</i>	Noted. Detailed design to address future acoustic matters.
<i>Guideline B: Managing the Risk of Building Generated Windshear and Turbulence at Airports</i> <i>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".</i> <i>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. 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. 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</i>	An Addendum Windshear Memo (prepared by Arup at <b>Appendix G</b> ) has considered the additional scenario as put forward by CASA and SACL and concludes that there are no changes required to the indicative reference scheme massing modelling. Accordingly, no amendments are required to the Planning Proposal and that all detailed windshear matters are capable of being addressed at the DA stage. Reference is made to Controls C10 - C12 of Section 3.13 of the Bayside Development Control Plan 2022, which will apply to each future building DA on the site and that these will require, in summary, a windshear assessment to be undertaken, consideration of NASF Guideline B, and engagement with SACL to occur.
<i>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</i>	Noted. The draft DCP provides specific controls to ensure future vegetation plantings are aligned with appropriate species to control bird flight in proximity to Runway 25. Detailed plans will consider specific items raised at the DA stage.

Matter	Response
<p>runway 25 take-off surface. For example, birds flying from the Cooks Cove parklands onwards 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:</p> <ul style="list-style-type: none"> <li>• waste should be stored in closed containers,</li> <li>• landscaping should avoid the use of trees and shrubs attractive to birds and bats;</li> <li>• bird perching opportunities should be avoided where practicable; and</li> <li>• outside dining areas should be kept clean.</li> </ul>	
<p>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.</p>	<p>Noted and agreed. The detailed design phase will consider a lighting assessment aligned with the proposed built form. Consultation with CASA will be undertaken at the appropriate time.</p>
<p>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’ (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</p>	<p>Noted and agreed. Approval under APAR for the buildings is not required. The detailed design phase prior to a DA for built form will consider the requirement for any approval for construction cranes above the OLS.</p>

Matter	Response
<i>CASA generally does not review proposals for impacts on Guideline G 'Protecting Communications, Navigation &amp; Surveillance (CNS) Facilities' ... that would normally be a matter for Airservices Australia.</i>	Noted. Further consultation to occur with Air Services Australia at the detailed design and DA stage.
<i>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.</i>	Noted and agreed.
<i>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</i>	Noted. The Cooks Cove development zone is external to comparable Public Safety Areas located at the end of a runway centrelines. .

## 1.12 Air Services Australia

The Applicant's response to the Air Services Australia (ASA) submission, is provided in **Table 12** below.

**Table 12**     *Response to ASA Submission*

Matter	Response
<i>Raised no objection to Planning Proposal</i>	Noted.

## 1.13 NSW Ports

The Applicant's response to the NSW Ports submission, is provided in **Table 13** below.

**Table 13**     *Response to NSW Ports Submission*

Matter	Response
<i>No further comments.</i>	Noted. No further response required.

## 1.14 Sydney Water

The Applicant's response to the Sydney Water submission, is provided in **Table 14** below.

**Table 14**     **Response to Sydney Water Submission**

Matter	Response
<i>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.</i>	The Servicing and Utilities Strategy provided with the public exhibition package, as prepared by Arup in consultation with Sydney Water, confirms that new connections would be required – these would need to extend to the existing 500 mm diameter and 750 mm diameter mains in the Princes Highway at the intersection of West Botany Street. A new 300 mm diameter main would then extend to the site via West Botany Street and Flora Street. It is agreed that further assessment will be undertaken at the DA stage and subsequent applications. Further servicing requirements provided by Sydney Water 14/9/23.
<i>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 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.</i>	<p>Meetings in relation to the Cooks Cove project have involved Sydney Water in relation to this Planning Proposal from 8 February 2017 - full details of consultation are provided in Arup's Servicing and Utilities Strategy provided with the public exhibition package. This has identified that a WSC has been appointed (Rose Atkins Rimmer) and has made a feasibility application to Sydney Water.</p> <p>Further technical requirements have been provided by Sydney Water (14/9/23) detailing the planning scope of works required to inform a detailed water and sewer options assessment and accordingly, there is no need for further assessment at the Planning Proposal stage in relation to this item.</p> <p>CCI has engaged Enspire Solutions/Arup and Rose Atkins Rimmer to commence preparation of the detailed options assessment</p>
<i>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.</i>	Noted and agreed. To be addressed in consultation with Sydney Water at the DA and detailed design stage.



## 1.15 Jemena

The Applicant's response to the Jemena submission, is provided in **Table 15** below.

**Table 15**     *Response to Jemena Submission*

Matter	Response
<i>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.</i>	Noted. The Proponent is committed to continuing consultation with Jemena at all stages of the detailed design process.

## 1.16 Ausgrid

The Applicant's response to the Ausgrid submission, is provided in **Table 16** below.

**Table 16**     *Response to Ausgrid Submission*

Matter	Response
<i>Ausgrid has no comment to make regarding this planning proposal (Rezoning) 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.</i>	Noted. The Proponent is committed to continuing consultation with Ausgrid at all stages of the detailed design process. Ausgrid have provided CCI multiple supply options for power supply to consider.

## 1.17 NBN Co.

The Applicant's response to the NBN Co submission, is provided in **Table 17** below.

**Table 17**     *Response to NBN Co Submission*

Matter	Response
<i>NBN stands ready to support the development with digital broadband connectivity requirements.</i>	Noted. The Proponent has undertaken further consultation with NBN Co since the submission was made to understand servicing lead times.

## 1.18 NSW State Emergency Service

The Applicant's response to the NSW State Emergency Service submission, is provided in **Table 18** below.

**Table 18**     **Response to NSW SES Submission**

Matter	Response
<i>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.</i>	<p>The project design has been changed to address this point. Flora Street South has been raised by 0.37m and a large culvert (30m wide) to be constructed under Flora Street South within CCI land to be dedicated to accommodate the 1:500 AEP flows. There will not be any inundation of the developed parts of the site in all floods up to the 1:2000 AEP flood.</p> <p>Access to and from the developed parts of the site will be possible in all floods up to the 1:500 AEP flood and there would be only a short period of time in rarer floods when the hazard is higher than H1. The risk of isolation has been addressed by changing the design of the Planning Proposal with significantly improved access at Flora Street South onto Marsh Street.</p> <p>Refer <b>Appendix E</b>.</p>
<i>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.</i>	<p>Full range of flooding events now considered, 1:100, 1:200, 1:500, 1:2000 and PMF. Concurrent critical storm durations are also considered in terms of relative impacts. Refer to <b>Appendix E</b>, which also considers periods of isolation, including during events factoring in sea level rise and rainfall increases.</p>
<i>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.</i>	<p>Refer to the comprehensive FIRA prepared by ARUP which responds to this matter (<b>Appendix E</b>).</p>

Matter	Response
<p><i>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'.</i></p>	<p>The Planning Proposal meets all of the requirements of the draft Shelter-in-place Guideline (2023). Refer to the comprehensive FIRA prepared by ARUP which responds to this matter (<b>Appendix E</b>).</p>
<p><i>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 Flood Safe toolkit and a Business Flood Safe toolkit.</i></p>	<p>This is not proposed. Refer to the comprehensive FIRA prepared by ARUP which responds to this matter (<b>Appendix E</b>).</p>
<p><i>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.</i></p>	<p>This does not occur. Refer to the comprehensive FIRA prepared by ARUP which responds to this matter (<b>Appendix E</b>).</p>

Matter	Response
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.	Noted.
<p>"As the site is subject to flash flooding, we provide the additional guidance:</p> <ul style="list-style-type: none"> <li>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.</li> <li>Sensitive development: Any childcare facilities, schools, medical centres, day hospital within the building must be located with floor levels above the PMF level.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> </ul>	Refer to the comprehensive FIRA prepared by ARUP which responds to this matter ( <b>Appendix E</b> ) including the assessment of a full range of AEP events and the effects of climate change, hazards and evacuation matters.

Matter	Response
	<ul style="list-style-type: none"> <li>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."</li> </ul>

## 2.0 Response to Organisation Submissions

This section responds to submissions received from the following organisations:

- Sydney Airport Corporation Limited (SACL/SYD)
- Sydney Desalination Plant
- Australian Pipeline Authority (APA)

The Applicants response to each of the submissions made by these organisations are addressed in the following sections.

### 2.1 Sydney Airport Corporation

The Applicant's response to Sydney Airport Corporation submission, is provided in **Table 19** below.

**Table 19** Response to Sydney Airport Corporation Submission

Matter	Response
<i>Sydney Airport is pleased to <b>support</b> 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</i>	The proponent acknowledges SACL support for the Planning Proposal.
<i>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... The proposed SP4 Enterprise zone and, in particular, the proposed 290,000m<sup>2</sup> of new multilevel logistics and warehousing floorspace, is supported.</i>	Agreed. It is proposed to retain the SP4 Enterprise zone across the site with the specific application of the 'trade and technology zone' land use as permissible to Blocks 2 and 3 specifically.
<i>The Wind Shear and Turbulence Assessment prepared by Arup, concludes that when the 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</i>	An Addendum Windshear Assessment (prepared by Arup at <b>Appendix I</b> ) has considered the additional scenario as put forward by CASA and SACL and concludes that there are no changes required to the indicative reference scheme massing modelling. Accordingly, no amendments are required to the Planning Proposal and that all detailed windshear matters are capable of being addressed at the DA stage. Reference is made to Controls C10 - C12 of Section 3.13 of the Bayside Development Control Plan 2022, which will apply to each future building DA on the site and that these will require, in summary, a windshear assessment to be undertaken, consideration of NASF Guideline B, and engagement with SACL to occur.

Matter	Response
<p>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 &lt;3.9</p> <p>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.</p>	
<p>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</p>	<p>The Hassell Urban Design and Landscape Report provided with the Planning Proposal has been carefully designed to consider the requirements of NASF Guideline C. This has been a considered balanced approach between delivering on the principles of the 'Green Grid' within this location and ensuring planting does not compromise the operational safety of Sydney Airport through the attraction of birds. Subsequent DAs will provide a full assessment against the provision of NASF Guideline C.</p>
<p>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</p>	<p>Noted and agreed. The development is capable of compliance. Further assessment to be undertaken at the DA stage, with consultation to be undertaken with SACL.</p>
<p>The Strategic Airspace report notes that conceptual buildings assessed extend to RL51 and that these heights do not include any rooftop structures. Accordingly these buildings 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. Short-term controlled activities for purposes of the Act for construction cranes etc are also subject to assessment and determination under the Protection of Airspace Regulations.</p>	<p>Noted and agreed. An application under Protection of Airspace Regulations will be submitted at the detailed design phase as required. Prior arrangements will be made with CASA in relation to the Civil Aviation (Buildings Control) Regulations 1988 prior to construction, however the Commonwealth has foreshadowed these legislative requirements will be potentially 'sunsetting' in the near term. .</p>
<p>The Transport Impact Assessment prepared by JMT presents proposed vehicular access points, which are supported by Sydney Airport. 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.</p>	<p>Noted and agreed. Further to the SACL comments on the acceptability of the traffic impact associated with the proposal, TfNSW provided advice on 4/9/23 that all modelling matters have been closed out in support of the Planning Proposal assessment. Refer to <b>Section 4.4</b> of the Response to Submissions Report.</p>



Matter	Response
<i>Sydney Airport considers car parking rates to be appropriate. 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>	A shuttle bus requirement will be subject to a commercial agreement for guests of the hotel and will be resolved in further detail at the DA stage.
<i>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.</i>	Proposed Works-In-Kind contribution to bus stop infrastructure on Marsh Street is considered appropriate given the expected level of development density and existing routing of cross-regional bus services. The indicative publicly accessible road network does not allow for circuitous through movements of heavy vehicles - this is expected to occur within secure areas only subject to detailed design.
<i>Sydney Airport supports the proposed active transport measures, especially the \$4m contribution to an enhanced pedestrian/cyclist connection on the southern side of the Giovanni Brunetti Bridge.</i>	Noted.
<i>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. 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. 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.</i>	<p>Disagree with SACL's suggestions and maintain that Clause 1.9A of the Bayside LEP is an appropriate pathway to extinguish the Commonwealth covenants in due course.</p> <p>CCI commits to continuing consultation with the Commonwealth and SACL and compliance with Aviation provisions of the Bayside LEP 2021 and Bayside DCP 2022, the specific requirements of the National Airports Safety Framework Guidelines and the Commonwealth Aviation (Protection of Airspace) Regulations 1996 (APAR), which collectively supersede the Covenant to ensure aviation safety outcomes are achieved, whilst the sites SP4 zoning ensures that only appropriate land uses are developed at Cooks Cove, as acknowledged and supported by SYD.</p>

## 2.2 Sydney Desalination Plant

The Applicant's response to Sydney Desalination Plant submission, is provided in **Table 20** below.

**Table 20**    *Response to Sydney Desalination Plant Submission*

Matter	Response
<i>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. SDP would request assistance to manage risks associated with SDP's pipeline by having a requirement inserted within the planning approval, to ensure</i>	<p>Noted and agree.</p> <p>CCI has undertaken extensive constructive consultation with SDP in relation to their interface requirements pertaining to the Desalination pipeline easement. On 3/8/23 SDP provided a CCI Cooks Cove Interface Deed contract template based on similar large</p>

Matter	Response
<i>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.</i>	contracts that involve a high amount of interaction with SDP assets (e.g Gateway Project (TfNSW)). The terms of the Deed are appropriate and will be addressed in the detailed design phase.

## 2.3 APA

The Applicant's response to APA's submission, is provided in **Table 21** below.

**Table 21**    *Response to APA's Submission*

Matter	Response
<i>APA requests notification of future Development Applications lodged with Council for the development, in accordance with clause 2.77 SEPP (Transport and Infrastructure)</i>	Noted and agreed.
<i>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.</i>	Noted and agreed.
<i>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</i>	Noted and agreed.
<i>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</i>	Noted and agreed.
<i>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.</i>	Noted and agreed.
<i>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.</i>	Noted. Detailed design will consider this matter in further detail.

Matter	Response
<i>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.</i>	Noted. Detailed design will consider this matter in further detail.
<i>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.</i>	Noted. Detailed design will consider this matter in further detail.
<i>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'.</i>	Noted. Detailed design will consider this matter in further detail.
<i>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.</i>	Noted. Detailed design will consider this matter in further detail.