

6 July 2023

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**Bayside Council Endorsed Submission on Cooks Cove Planning Proposal (PP-2022-1748), 13-19A Marsh Street, Arncliffe**

Thank you for the opportunity to comment on the Cooks Cove Planning Proposal (PP-2022-1748) at 13-19A Marsh Street, Arncliffe. Council provided a draft submission to the Department on 6 June 2023 and advised that a Council endorsed submission would follow the 28 June 2023 Council meeting.

Council endorsed the draft submission with amendments at its 28 June 2023 meeting. As a result, I am pleased to provide the Department with this Council endorsed submission for consideration.

**Background**

The Cooks Cove site has been subject of a lengthy planning history which was provided to the Department of Planning and Environment (DPE) and the Sydney Eastern City Planning Panel (SECPP) Secretariat in submissions dated 23 April 2021 and 29 November 2021 (**Attachments 1 & 2**).

Council's fiduciary obligation as a Trustee of the Charitable Trust that affects land in Cooks Cove prevents it from performing the role of the Planning Proposal Authority (PPA).

Since the appointment of the SECPP as alternate PPA on 25 February 2021, the Proponent proposed several amendments leading up to the Planning Proposal's exhibition, resulting in changes to Gateway conditions including zoning references; the extent of land to be zoned RE1; and proposed changes to height, floor space and additional permitted uses.

Council notes that on 31 March 2023, the SECPP determined that the Planning Proposal, as revised, was suitable for public exhibition, subject to the issue of a Gateway alteration to account for modifications. The Alteration of Gateway Determination was issued on 12 April 2023.

Council's position as the trustee of Charitable Trusts for Lot 1 in DP 108492 and Lot 14 in DP 213314 has been articulated in past submissions to DPE and remains relevant. Accordingly, this submission provides a detailed technical review of the documentation

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focusing on the strategic and site-specific planning merits of the amended proposal as exhibited. This submission is written in the interest of achieving the best outcome for the community, despite Council's position as trustee.

In relation to the strategic and site-specific merits of the amended Planning Proposal, it is noted that the current iteration has responded to a number of planning matters raised by Council in its previous submissions. From a high-level strategic merit point of view, the current iteration aligns with the Greater Cities Commission "retain and manage" approach to employment land by growing the international trade gateway in line with the Eastern City District Plan. The following strategic and site-specific issues are raised for further consideration:

## **Zoning**

### RE1 Public Recreation

The RE1 Public Recreation zone proposed along the foreshore may place an obligation on Council to acquire and manage the land, notwithstanding it isn't proposed to be identified on the Land Reservation Acquisition Map in the Bayside LEP.

The Proponent has accepted that this area will be owned and maintained in perpetuity by them with easements that allow 24/7 public access, and it is not intended to be acquired by a public authority. This does not fully align with the way the RE1 zone is typically applied.

An alternate approach would be to zone the 20m (or wider if possible) foreshore strip of land RE2 Private Recreation and to have the public access and private maintenance arrangements captured in a Planning Agreement requiring Easements and Covenants to be registered on the property title. 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.

Regardless of the solution, Council's objective is to ensure the foreshore park is freely available to the public, maintained by the private development, and that Council does not have an obligation to acquire the land in the future.

### SP4 Enterprise

Concern was initially raised regarding the translation of the zones currently listed in *State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021* (Precincts SEPP) to zones as prescribed in the Standard Instrument and set in the *Bayside Local Environmental Plan 2021* (Bayside LEP 2021).

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.

The SP4 Enterprise zone's strategic intent is to support unique areas that require tailored land use planning with the sole mandatory objective in the Standard Instrument being '*to provide for development and land uses that support enterprise and productivity.*' The SP4 Enterprise zone proposed allows for permissible and prohibited land uses to be tailored for a comparative translation between the *Precincts SEPP* and *Bayside LEP 2021*, and a land use combination that is consistent with the *Eastern City District Plan* and the *Bayside Local Strategic Planning Statement 2020 (Bayside LSPS)*.

Cooks Cove's unique characteristics, namely its positioning as an international trade gateway, ensure that such a precinct is unlikely to be duplicated elsewhere in the Bayside LGA, supporting an enterprise outcome which goes beyond the strategic intent of the E3 Productivity Support zone.

Furthermore, the proposed SP4 zone objectives generally align with the objectives stipulated in the 'Trade and Technology' zone of the *Precincts SEPP*, as well as Planning Priority E9 – *Growing international trade gateways* of the *Eastern City District Plan* and *Bayside Planning Priority 14 – Protect and grow the international trade gateways* of the *Bayside LSPS*.

### **Flood Planning, Stormwater Management & WSUD**

The Planning Proposal, including the *Flooding, Stormwater and WSUD Report* prepared by ARUP (dated 16 March 2023), were considered by Council's development engineers and the following feedback is provided:

Council reiterates its concerns that the Planning Proposal fails to meet Ministerial Direction 4.3 – Flood Prone Land and *Planning Priority E20 – Adapting to the impacts of urban and natural hazards and climate change* of the *Eastern City District Plan*, which seeks to avoid locating new urban development in areas exposed to natural and urban hazards.

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.

Whilst it is acknowledged that two substantial parcels of land are being dedicated to Council to facilitate that redirection, this is not an optimal response. A better compromise would be 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.

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).

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 system are accounted for. In addition, Council recommends a Sea Level Rise Vulnerability Assessment be conducted to confirm potential impacts.

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.

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.

Sufficient riparian zones must be provided along any proposed waterway, with access for maintenance vehicles.

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.

## **Traffic and Transport**

The Planning Proposal, including the *Transport Impact Assessment* prepared by JMT Consulting (2 March 2023) was considered by Council's Traffic and Road Safety officers and the following feedback is provided:

### Draft DCP Matters

The car parking rates proposed in Table 1 of the Traffic Report are generally acceptable, apart from the following:

- a) 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.
- b) 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.
- c) 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.

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.

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.

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.

### Gertrude Street

Council raises concern with the significant loss of on-street parking on Gertrude Street (from Princes Highway to Levey Street) and Levey Street. A loss of approximately 70 on-street parking spaces is estimated, intensifying existing parking pressure, and resulting in an unacceptable impact on residents and businesses around Cahill Park. There must be no net loss of on-street parking. The WIK agreement should be amended to ensure that any loss is replaced with additional public parking to the satisfaction of Council.

The submitted traffic report is insufficient in providing detail and analysis of the significant changes proposed to Gertrude Street. Whilst minor details are provided in Table 5 Ref A3 and Table 6, there is a lack of detail and plans to ensure an accurate assessment of the proposal. The configuration of Gertrude Street in the VISSIM model should be confirmed with Council.

Further justification should be provided for the number of lanes proposed for the entire length of Gertrude Street (two lanes of traffic in both directions resulting in a total of 4 lanes).

Gertrude Street is not currently designed to accommodate heavy vehicles larger than 8.8m MRVs. The swept path diagrams indicate an intention for 19m long AVs to traverse the street. The traffic report should confirm the maximum vehicle size proposed to utilise the street and swept paths for the largest vehicle traversing through the Gertrude Street and Princes Highway intersection should be provided. The impact on the safety and amenity of the many residential properties on Gertrude Street and the users of popular Cahill Park also needs to be considered to determine if the street is suitable for AVs.

Gertrude Street (between Marsh Street and Levey Street) must be provided with street trees to both sides. DCP section figure 205 must be updated to reflect this.

### Other Traffic Related Matters

The area surrounding the development site is currently undergoing a significant change from low to high density residential and mixed-use development. To ensure an accurate representation of impacts, the traffic generation assessment should be revised to analyse traffic generation from the high-density residential area surrounding the T4 railway line, Wickham Street, West Botany Street, Marsh Street and Innesdale Road assuming the entire area has been built to the maximum potential permitted by the Bayside LEP 2021.

The traffic report indicates that \$1.5 million is proposed to be contributed towards the upgrade of the Forest Road and Eden Street intersection. Note that the State Significant Land and Housing Corporation development site in Eden Street is already conditioned to construct this upgrade.

The extent of new roads on the development site that are proposed to be dedicated to Council must be clearly detailed. It is Council's understanding that all internal roads will be the responsibility of a Community Association.

### **Built Form & Urban Design**

The site's location is visually prominent and will have a significant impact to and from Sydney Airport. Challenges surrounding providing visual interest, activation of the public domain and consideration of the human scale are typically encountered when assessing a multi-storey warehouse typology.

The scale of surrounding developments, including the Southbank development north of Marsh Street, are quoted by the Proponent as built form precedents and benchmarks. This is problematic as the scale, footprint, and configuration of these developments is considerably smaller in comparison to the multi-storey warehouse building typologies expected to be proposed at this site.

Active ground level uses and/or interventions must alleviate the height and mass of the buildings, especially when interfacing parks and foreshore public domain. Controls that encourage a fine grain articulation of materials and forms must be imposed, as landscaping and trees will not be sufficient in screening such large-scale structures. Office spaces should be orientated towards the open spaces and transport corridors to encourage passive surveillance.

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.

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.

Attention is brought to *Clause 6.10 Design Excellence* of the *Bayside LEP2021*, which 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 LEP2021*

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.

### Cooks River Foreshore

As a highly desired link along the Cooks River Foreshore is supported. The design of the 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.

### Block 1 and 2 – Fig Tree Grove and Plaza

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.

### Pemulwuy Park North & 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). A major concern is the potential for conflicts between heavy vehicles and park users. Ideally this entry point should not be shared with large numbers of heavy vehicle movements.

## **Metro Greenspace Program**

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.

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.

In February 2020, Bayside Council entered into a funding agreement with DPE under the Metro Greenspace Program. 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'*.



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.



**Figure 1: Arnccliffe Reinstatement Site Concept Plan**

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.

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.

## Environmental Matters

The Planning Proposal was considered by Council's Landscape Architect and Environment officers and the following feedback is provided:

The proposed changes will result in a social and environmental impact that is challenging to offset or mitigate. The Planning Proposal has not adequately considered retention of existing significant vegetation or provision of landscaping to offset loss to be consistent with *Planning*



*Priority E15 – Protecting and enhancing bushland and biodiversity; Planning Priority E17 – Increasing urban tree canopy cover and delivering Green Grid connections of the Eastern City District Plan; Planning Priority B19 – Protect and improve the health of Bayside’s waterways and biodiversity; and Planning Priority B20 – Increase urban tree canopy cover and enhance green grid connections of the Bayside LSPS.*

Bayside Council owns significant parcels of land, with the expectation that upon the completion of the M6 works, these parcels will be returned to the broader community with a focus on the environment, specifically the protection of the Green and Golden Bell Frog.

Only 4 of the existing Fig trees to the north of the site are proposed to be retained with limited efforts demonstrated to retain existing vegetation or increase canopy cover. There is an extensive number of large trees and groups of trees and vegetation that will be removed.

The proposal includes “relocation” of trees, however, this is not practically possible and unlikely to be successful if attempted. Most trees will be removed to accommodate filling and ground works, with new plantings introduced that will take several decades to grow into the large trees shown in the documentation under substantially changed conditions.

The proposed draft DCP should ensure only local native plants are utilised. To ensure consistency with the *Eastern City District Plan* and the *Bayside LSPS*, vegetation and landscape planting must be designed to contribute to growth in Bayside’s urban forest, provide shade and reduce urban heat, provide amenity, and encourage habitat and food for native fauna.

It is also recommended that the Planning Proposal aligns with the current Cooks River Catchment Coastal Management Program, which brings together stakeholders from across the catchment to develop a long-term strategy with actions to improve the health of the Cooks River.

## **Additional Permitted Uses**

### Advertising Structures

The site’s prominent location will result in a high demand for signage, particularly on warehouse facades facing the airport and freeways. Advertising structures are a proposed Additional Permitted Use at Block 1 of the site (north side of Marsh Street). However, Council opposes this use as it does not align with *Planning Priority E6* of the *Eastern City District Plan* and *Planning Priority 9* of the *Bayside LSPS*, which encourage places that enhance the public realm.

Advertising structures will not positively contribute to the public domain and will detract from the desired high quality pedestrian experience sought for the area. The area surrounding Sydney Airport has many billboards and advertising structures that dominate the streetscape and skyline, however, the character changes on the south side of the Cooks River. Permitting this use would exacerbate visual clutter and potentially reduce the safety of road users along a State significant corridor.

Rather than screening and cluttering through advertising structures, the allowable built form should respond to the position and intended land use of Block 1, which centres it as a significant bookend to the area.

### Trade-Related Enterprise

The former *Sydney Regional Environmental Plan No. 33 – Cooks Cove* (SREP 33) that controlled development within Cooks Cove prior to the *Precinct SEPP* was originally created to ensure that the land in close proximity to Sydney Airport and Port Botany, could facilitate specialised trade and technology uses (as opposed to generic B7 Business Park land uses).

An Additional Permitted Use clause is proposed by the Proponent to permit 'trade related enterprise' at Block 2 and 3 (south of Marsh Street) to translate this intent. The definition is translated from the *Precincts SEPP*, as it does not exist as a defined term within the Standard Instrument.

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. These uses are supported by the zone objectives to ensure they are directly related to the carrying out of air, land or sea commerce, in support of the international trade gateway.

### **Airport & Aeronautical Matters**

The *Aeronautical Impact Assessment & Airport Safeguarding* report, prepared by Strategic Airspace (dated 30 March 2023) confirms that the proposed height of buildings will not infringe the PANS-OPS surfaces. It notes that construction-related infringement (i.e. cranes) could occur. Confirmation must be provided that there will be 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*.

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.

### **Public Benefit Offer**

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.

### **Additional Matters**

Council endorsed the draft submission previously provided to the Department, with the below additional matters at its meeting held on 28 June 2023.

- **Riparian Zone** - 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.

- **Land Uses** - 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 proposed land use.
- **Block 3B and 3C** - Block 3B will create an impermeable barrier which lacks sensitivity for surrounding natural landscapes, preventing views towards the river, and blocking 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.
- **Open Space** - 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.
- **Solar Access** - 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.
- **CPTED** - The proposal must demonstrate a commitment to the basic principles surrounding Crime Prevention through Environmental Design. This could be captured in the draft DCP.
- **Water Quality** – 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.
- **Litter Prevention** - Litter prevention principles and related development controls should be included in the proposed DCP.
- **View Loss** - 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 from the assessment should be incorporated into DCP controls.
- **Environmental Concerns** – 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.

## CONCLUSION

Council acknowledges that the suite of uses now proposed are in the better interests of the NSW and national economy, as they will support the operation of Sydney's air and sea trade gateways. The challenge for Council is to see these land uses, and the vehicle movements and built forms they dictate, accommodated in a way that minimises the impact on the Bayside community and returns fair public benefit. Council's feedback on the Planning Proposal can be summarised as follows:

- The Cooks River foreshore active transport link is supported. The land use zone applied must not create an acquisition liability for Council, as the land is to be owned and maintained by the development, with rights over it for public access;
- There is a risk that the foreshore link could be perceived as unsafe given its length and the nature of the buildings that will address it. This needs to be addressed at the DCP design stage;
- While the dedication of 16,000sqm of open space is welcomed, Council is concerned about the impact on community open space as a result of overland flow being diverted around the development site. The proposed flow path diversion of over 700m could be reduced by half if overland flow was diverted between Blocks 3B and 3C. Other aspects of flood assessment require refinement, as outlined above;
- Some of the parking rates proposed are not consistent with Council's DCP rates, and traffic modelling based on parking is therefore not likely to be accurate. Truck routes, bus parking and basement design require refinement;
- The upgrading of Gertrude Street to 4 traffic lanes for articulated vehicles raises concerns in terms of on street parking loss, and the impact on the safety and amenity of residents and users of the adjoining Cahill Park;
- Traffic modelling and assessment should take into account the significant development potential for residential development already zoned into the precinct to the east and south of the site, and model likely long term development scenario;
- Council does not wish to own and maintain infrastructure, particularly new roads, that are essentially internal to a gated development;
- By nature the proposed building forms are large, bulky and challenging to make visually pleasing while providing a degree of passive surveillance and activity at street level. DCP controls need to be strong to ensure a good outcome, including mandating creative and innovative façade treatments;
- There is a risk that the TfNSW UDLP scheme to reinstate and hand back the M6 construction compound on Council's land adjoining Cooks Cove will conflict with new roads, overland flow paths and levels foreshadowed in the Planning Proposal. There needs to be a coordinated resolution to this before the Planning Proposal is finalised;
- A significant number of trees will be removed to accommodate the filling of the site and its redevelopment. The 'relocation' of trees proposed is unlikely to be a successful strategy. There needs to be a clear and certain plan as part of this process to replace tree canopy and provide an acceptable landscape setting for very large buildings;
- 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;
- The proponent has agreed in principle to a significant local public benefit offer, which needs to be further negotiated and captured during the assessment of the Planning Proposal. Council will continue to work with the proponent on this and seeks the support of DPE to ensure it is embedded into the statutory outcome.

We trust that the independent Planning Consultant, the SECPP, and DPE will carefully consider the issues as outlined above as well as Bayside Council's previous submissions.

If you require further clarification, please do not hesitate to contact Ana Trifunovska, Senior Urban Planner on 9562 1698, or via email: [ana.trifunovska@bayside.nsw.gov.au](mailto:ana.trifunovska@bayside.nsw.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Barber', with a stylized flourish at the end.

Peter Barber  
**Director City Futures**

Enclosed:

*Attachment 1 – Bayside Council Response to DPE Request for Comments – 29 November 2021*

*Attachment 2 – Bayside Council Submission to Planning Panel's Secretariat – 23 April 2023*

29 November 2021

Our Ref: 21/107462 & F14/308  
Our Contact: Josh Ford (02) 9562 1634

Attn: Laura Locke  
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Dear Laura

**Re: Pre-Gateway Comments on Amended Draft Planning Proposal - Cooks Cove**

Thank you for your request of 25 October 2021 seeking Bayside Council's input on the amended draft Planning Proposal for the Cooks Cove Precinct.

The amended draft Planning Proposal proposes:

- *New land use zones within the development zone including a primary B7 Business Park zone across the majority of the Kogarah Golf Course freehold land. RE1 Public Recreation along the foreshore zone, together with the Marsh Street Parklands and Council open space. SP2 Infrastructure over the existing Marsh Street roadway and Arncliffe Permanent Motorway Facilities;*
- *Impose an overall maximum building height of RL51m with appropriate transitions to respond to aviation controls within limited sections of the site;*
- *Limit gross floor area within different areas of the site to an aggregate of 342,000m<sup>2</sup> and insert floor area requirements to achieve the intended logistics, commercial, retail and short term accommodation land uses; and*
- *Various other additional permitted uses and site-specific planning provisions.*

The proponent states that the proposal is supported by a new Master Plan, the key features being:

- *A development zone of approximately 15.8ha with up to 342,000m<sup>2</sup> GFA comprising 290,000m<sup>2</sup> of multi-level logistics and warehousing, 20,000m<sup>2</sup> for hotel and visitor accommodation uses, 21,250m<sup>2</sup> for commercial office uses and 10,750m<sup>2</sup> of retail;*
- *Multi-level logistics building heights generally up to 5 storeys (approx. 46m) and 12 storeys (48m) for the hotel building above retail podium;*
- *Road access to the development zone from Marsh Street with new intersections at Gertrude and Flora Streets and road access from Levey Street;*

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- *A public foreshore riparian area (20m) along the Cooks River embellished to include regional pedestrian and cycle path, landscaping environmental restorative works;*
- *Overland flow paths and flood management works; and*
- *Retention and or relocation of the existing Fig trees on site.*

I also note that a number of proposals for amendments to planning controls have been made by the Proponent since 2004, and that many of the issues raised previously remain unresolved in the current iteration – including the matters pertaining to the charitable trust lands (the subject of a separate submission from the Trustee).

This submission focuses on the planning merits of the amended proposal submitted to DPIE in October 2021, by consideration of strategic and site specific merit at this preliminary (Pre-Gateway) stage of the process.

## **Background**

The Proponent first requested changes to planning controls circa 2004. Rockdale Council subsequently approved a Development Application in 2006, which was not acted upon.

More recently a draft Planning Proposal was submitted to Bayside Council in May 2017. City Plan were engaged by Council as an independent Planning Consultant, to undertake an independent assessment, and technical contractors were engaged to undertake peer reviews of technical studies submitted with the proponent's draft Planning Proposal.

The proposal was amended in May 2018. The Bayside Local Planning Panel considered City Plan's completed independent assessment report on the matter at its meeting of 14 August 2018. The Panel recommended that Council not support the draft Planning Proposal, as it lacked both strategic and site specific merit. The Panel's recommendation, including the Panel's reasons for the recommendation, is included as **Attachment 1**.

An amended Draft Planning Proposal was submitted to Council on 27 March 2020, which was limited in its extent to the Kogarah Golf Club site. The proposal no longer sought to include land owned by other parties, however, the proposal relied on access across the land subject to the Charitable Trust.

Council engaged City Plan and sub-consultants to undertake an independent assessment of the draft Planning Proposal. City Plan recommended that the draft Planning Proposal not be supported, due to a lack of both strategic and site specific merit. The draft assessment report (**Attachment 3**) contains detailed reasons as to why the proposal lacked merit.

In July 2020, Council liaised with various government agencies as part of Pre-Gateway consultation, as encouraged by *A Guide to Preparing Planning Proposals*. Council's Property team was also consulted, as the Trustee of the Charitable Trust. All government agency responses that were received are included under **Attachment 5**.

The majority of government agency submissions raised concerns about the proposal, including concerns that were raised by City Plan and the Bayside Local Planning Panel.

The Bayside Local Strategic Planning Statement (LSPS) was endorsed by the GSC in March 2020. The LSPS maps the subject land as "SREP 33 – Trade and Technology" and "SREP 33 – Open Space" in Figure 3 of the LSPS (p. 10-11), and also includes actions aligned to those in the Eastern City District Plan.



Bayside Council wrote to the Greater Sydney Commission (GSC) to obtain clarification of the status of the Trade and Technology zone under SREP 33 – Cooks Cove, in the context of the GSC’s “retain and manage” directions in the Eastern City District Plan. In their response in August 2020, the GSC was clear that employment and productivity was still the priority use for the land.

On 4 March 2020, DPIE’s Planning and Assessment Directorate notified Bayside Council of the State Environmental Planning Policy (SEPP) Review Program. The email stated that:

*Provisions in SREP No 33 – Cooks Cove, including the aims and objectives for the site, are proposed to be transferred to the new proposed Precincts SEPP, maintaining the current policy intent for Cooks Cove Precinct. Once this has occurred SREP No 33 – Cooks Cove will be repealed.*

The Draft Explanation of Intended Effect documentation (**Attachment 7**) and Figure 1 below clearly identifies the intention to align the existing Trade and Technology zone (an employment land zone), with the most suitable equivalent zone under the Standard Instrument Local Environmental Plan, being the B7 Business Park Zone.

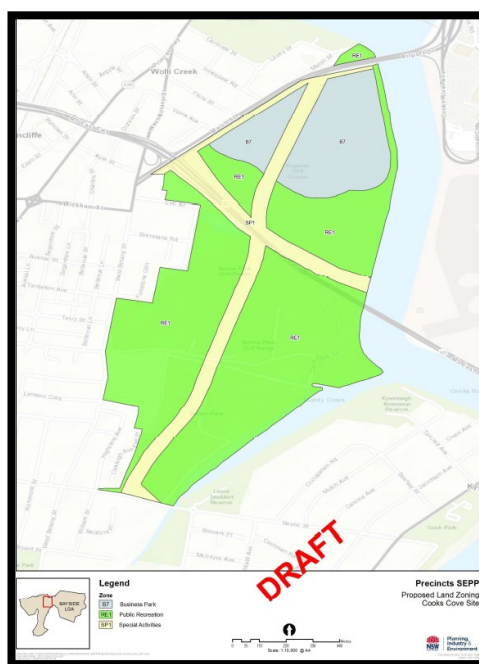


Figure 1: Extract from Draft Explanation of Intended Effect – Precincts SEPP

In November 2020, Bayside Council advised the Department of Planning, Industry and Environment (DPIE) that due to Council’s fiduciary obligation as a Trustee of the Charitable Trust which affects land in Cooks Cove, that an alternate Planning Proposal Authority (PPA) should be appointed under section 3.32(2) of the *Environmental Planning and Assessment Act 1979*. Bayside Council provided DPIE with:

- A copy of the draft Planning Proposal submitted to Bayside Council (dated 27 March 2020) by the Proponent (refer **Attachment 2**)
- An independent assessment of the draft Planning Proposal (dated 27 March 2020) (refer **Attachment 3**)
- Independent peer reviews of technical studies (**Attachment 4**)

- The responses from Government agencies from Pre-Gateway Determination consultation (**Attachment 5**)

Council's submission from April 2021 is provided under **Attachment 6**.

### **October 2021 amended Planning Proposal**

In October 2021 the Proponent lodged a further amended Planning Proposal and DPIE has sought Council feedback on the proposal. Council's Property team, in their role as Trustee and under the signature of the relevant Director, have responded separately.

As DPIE has informally referred the new iteration of the draft Planning Proposal to council as part of a Pre-Gateway referral process, a detailed technical review has not been completed.

### **Zoning and Strategic merit**

In relation to strategic and site-specific merits of the amended draft Planning Proposal, it is noted that the current iteration has responded to a number of planning matters raised in City Plan's assessments, the Bayside Local Planning Panel recommendation from August 2018, and the GSC's comments around the "retain and manage" approach to employment land.

The amended proposal also aligns with the intentions that the DPIE had in March 2020, when it proposed to include the SREP 33 lands in the draft Precincts SEPP and to apply the B7 Business Park zone to the existing extent of the Trade and Technology zone. The B7 zone aspect is also consistent with the Eastern City District Plan, the Bayside Local Strategic Planning Statement, and would reflect the objectives of the B7 Business Park zone under the Bayside LEP 2021.

The current iteration of the draft Planning Proposal does not propose any residential uses, however, Sydney Airport and the Commonwealth Department of Infrastructure, Transport, Regional Development and Communications should be consulted to obtain their views on whether/how the current iteration of the proposal better responds to the NASF and relevant Australian Standards.

The planning proposal fails to give effect to Planning Priority E18 and Action 67 in the Eastern City District Plan, which requires public open space to be protected, enhanced and expanded. In particular the planning proposal results in the loss of approximately 3.1 hectares of land currently zoned Open Space and makes inadequate provision for open space to serve future needs. The area proposed to be available to the public along the river frontage is too narrow and insufficient to provide quality access and amenity, especially in the context of very large industrial buildings.

The planning proposal fails to give effect to Planning Priority E20 and Action 75 in the Eastern City District Plan, which seeks to avoid locating and intensifying urban development in areas exposed to natural and urban hazards and Ministerial Direction 4.3 - Flood Prone Land. In particular the planning proposal would result in 3.1 hectares of flood liable land currently zoned for open space being rezoned for urban purposes with consequent impacts on upstream and adjacent land. The proposed flood mitigation strategy unreasonably burdens surrounding public land, reducing its value to the community.

The planning proposal is inconsistent with Planning Priority E10 and Action 34 in the Eastern City District Plan, which seeks to protect future transport and infrastructure corridors as well as Ministerial Direction 6.2 Reserving land for public purposes, which require that a planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Secretary of the Department of Planning. In particular the site contains a reservation for the M6 that the planning proposal seeks to rezone. Transport for NSW have indicated that the reservation may be required for constructing the M6 Motorway and associated facilities.

### **Metro Greenspace Program**

Bayside Council entered into a funding agreement with DPIE in February 2020 under the Metro Greenspace Program. DPIE summarises the Metro Greenspace Program as:

*The Metropolitan Greenspace Program (MGP) commits grant funding to local councils in Greater Sydney and the Central Coast for projects that improve and increase access to regionally significant open space.*

*The program aligns with the NSW Government's Greater Sydney Region Plan - A Metropolis of Three Cities, and the Green Grid strategy, helping to create a network of high-quality green space that connects town centres, public transport hubs, and major residential areas.*

Council's position from its submission of 23 April 2021 in relation to this item remains. That is, the Draft Planning Proposal has the intent of reducing the extent of regional open space area within the site, and impacting the accessibility of the regional open space, via what is essentially a privatisation of an extensive area of existing regionally significant public open space. Supporting a Draft Planning Proposal that has the intent of reducing regional open space and access to it would be contradictory to DPIE's objectives outlined above under the Metro Greenspace Program, to which Bayside Council has a current funding agreement.

### **Proposed Precincts SEPP**

The Draft Explanation of Intended Effect documentation (**Attachment 7**) stated that:

*Certain land uses in the B7 – Business Park Zone of the Standard Instrument LEP do not align with the current Trade and Technology Zone, such as Garden Centres, Hardware and building supplies, Neighbourhood shops, Office premises, Respite day care centres and Tank based aquaculture. To ensure the policy intent of the SREP is maintained, these uses will be omitted from the B7 zone of the Cooks Cove site.*

The draft Planning Proposal now includes rezoning the land currently zoned Trade and Technology zone under SREP 33 Cooks Cove to B7 Business Park zone under the Bayside LEP 2021, which reflects the intent of the Draft EIE for SREP 33 Cooks Cove that DPIE had circulated in March 2020.

Council notes the commentary in the Draft EIE surrounding the types of land uses that are not aligned with the Trade and Technology zone in the SREP, and it is expected that the significance of the location of the land is taken into consideration when assessing the appropriateness of land uses that may currently be permissible in the B7 Business Park zone under the Bayside LEP 2021, but are likely to sterilise the subject land for its intended purposes under the existing SREP.

The draft Planning Proposal will need to include provisions that do not see, for example, a proliferation of Specialised Retail Premises resulting within the site. This centres around the significance of the land in so far as its location and proximity to Sydney Airport.

### **Consistency of Land Uses/Definitions - SREP 33 & B7 Business Park Zone**

Below is a summary of how the land uses sought under the current iteration of the draft PP (from BLEP 2021 (SI LEP) definitions) are positioned when considering the current permissible and prohibited land uses in the SREP. This is a key matter for DPIE's consideration, as the SREP was originally created to ensure that the land, being in such close proximity to Sydney Airport and Port Botany (now a defined International Trade Gateway in the NSW strategic planning policy framework), could facilitate specialised trade and technology uses (as opposed to generic B7 Business Park zone land uses) consistent with an international trade gateway.

It is not considered appropriate to simply apply the B7 Business Park zone carte blanche without giving consideration to the types of land uses that are inconsistent with the provisions and land uses enabled by the current SREP. In this way, the site is not representative of broader B7 Business Park zoned land within the Bayside LGA, that can accommodate uses beyond those that should be the focus in this key strategic location. The current iteration of the draft Planning Proposal states that the proposal now includes:

*"A development zone of approximately 15.8ha with up to 342,000m<sup>2</sup> GFA comprising 290,000m<sup>2</sup> of multi-level logistics and warehousing, 20,000m<sup>2</sup> for hotel and visitor accommodation uses, 21,250m<sup>2</sup> for commercial office uses and 10,750m<sup>2</sup> of retail uses"*

Based on this information, the following land use definitions have been identified in the Bayside LEP 2021 as being the most appropriate for the proposal:

***commercial premises*** means any of the following—

- (a) business premises,
- (b) office premises,
- (c) retail premises.

***office premises*** means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

**Note—** Office premises are a type of ***commercial premises***—see the definition of that term in this Dictionary.

***retail premises*** means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—

- (a) (Repealed)
- (b) cellar door premises,
- (c) food and drink premises,
- (d) garden centres,
- (e) hardware and building supplies,
- (f) kiosks,

- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (la) specialised retail premises,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

**Note—** Retail premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

**tourist and visitor accommodation** means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following—

- (a) backpackers' accommodation,
- (b) bed and breakfast accommodation,
- (c) farm stay accommodation,
- (d) hotel or motel accommodation,
- (e) serviced apartments,

but does not include—

- (f) camping grounds, or
- (g) caravan parks, or
- (h) eco-tourist facilities.

**warehouse or distribution centre** means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made, and includes local distribution premises.

Below is a 'best fit' comparison of SREP 33 land use definitions and B7 Business Park:

SREP 33 Trade & Technology Zone	B7 Business Park Zone
<p><b>commercial premises</b> means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this Dictionary or a building or place used for a land use elsewhere specifically defined in this Dictionary.</p> <p><b>commercial support premises</b> means a building or place used as an office or for other business or commercial purposes such as a bank, building society or other building or a place in which business-orientated support services, such as photocopying, office services and supplies are provided.</p>	<p><b>commercial premises</b> means any of the following—</p> <ul style="list-style-type: none"> <li>(a) business premises,</li> <li>(b) office premises,</li> <li>(c) retail premises.</li> </ul> <p><b>office premises</b> means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.</p>
<p><b>shop</b> means a building or place used for selling, exposing or offering for sale by retail, goods, merchandise or</p>	<p><b>retail premises</b> means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out,</p>

<p>materials, but does not include a building or place elsewhere specifically defined in this Dictionary.</p>	<p>whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following—</p> <ul style="list-style-type: none"> <li>(a) (Repealed)</li> <li>(b) cellar door premises,</li> <li>(c) food and drink premises,</li> <li>(d) garden centres,</li> <li>(e) hardware and building supplies,</li> <li>(f) kiosks,</li> <li>(g) landscaping material supplies,</li> <li>(h) markets,</li> <li>(i) plant nurseries,</li> <li>(j) roadside stalls,</li> <li>(k) rural supplies,</li> <li>(l) shops,</li> <li>(la) specialised retail premises,</li> <li>(m) timber yards,</li> <li>(n) vehicle sales or hire premises,</li> </ul> <p>but does not include highway service centres, service stations, industrial retail outlets or restricted premises.</p> <p><b>Note—</b></p> <p>Retail premises are a type of <b>commercial premises</b>—see the definition of that term in this Dictionary.</p>
<p><b>trade-related enterprise</b> means a business or government activity directly related to the carrying out of air, land or sea commerce, air passenger services or other trade, including the import or export of advanced technology goods or services, trade-related warehousing, customs agencies, freight forwarding, trade logistics and distribution, and time-sensitive goods processing.</p>	<p><b>warehouse or distribution centre</b> means a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made, and includes local distribution premises.</p>
<p><b>hotel</b> means premises, licensed under the <a href="#">Liquor Act 1982</a> to sell liquor, that provide accommodation for guests which is rented or hired on a short-term basis without a residential tenancy agreement within the meaning of the <a href="#">Residential Tenancies Act 1987</a>.</p>	<p><b>tourist and visitor accommodation</b> means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes any of the following—</p> <ul style="list-style-type: none"> <li>(a) backpackers' accommodation,</li> <li>(b) bed and breakfast accommodation,</li> <li>(c) farm stay accommodation,</li> <li>(d) hotel or motel accommodation,</li> <li>(e) serviced apartments,</li> </ul> <p>but does not include—</p> <ul style="list-style-type: none"> <li>(f) camping grounds, or</li> <li>(g) caravan parks, or</li> <li>(h) eco-tourist facilities.</li> </ul>
<p><b>motel</b> means a building (other than a boarding house or serviced apartments) primarily used for the overnight accommodation of travellers and the vehicles used by them, whether or not the building is also used for the provision of meals to those travellers or the general public.</p>	
<p><b>serviced apartment</b> means a self-contained dwelling (in a building containing three or more self-contained dwellings) which is cleaned or serviced by the owner or manager of the building (or the agent of the owner or manager), and which provides short-term accommodation for persons who have their principal place of residence elsewhere, but does not include a</p>	

backpackers' hostel, boarding house, bed and breakfast establishment or private hotel.	
<p><b>tourist facility</b> means an establishment providing holiday accommodation, convention or exhibition facilities, or both, and may include—</p> <p>(a) hotels, motels or serviced apartments, and</p> <p>(b) conference, convention or trade exhibition facilities, and</p> <p>(c) restaurants and function rooms.</p>	

A comparison is provided in the table below, for convenience, to demonstrate how some of the uses sought via the draft Planning Proposal in the proposed B7 Business Park zone are inconsistent with the 'best-fit' equivalent land uses currently permitted under the SREP.

Attention is drawn to the many land uses that exist under the group terms **retail premises** and **tourist and visitor accommodation** in the B7 Business Park zone. Currently, the SREP lists far more limited, specific, individual land use terms in the Trade and Technology zone than these group terms, tailored for this key strategic location. Detailed thought must be given to LEP mechanisms that will limit the potential for the proliferation of generic land uses permissible in the B7 Business Park zone for such a key site situated in an international trade gateway, and subject to provisions in the SREP that relate to catering for employment related land uses for trade and technology.






*Comparison Table – SREP 33 & B7 Business Park Land Use Tables & Definitions – colour key below*

<p><b>Trade and Technology Zone</b></p> <p><b>1 Objectives</b> The objectives of this zone are—</p> <p>(a) to encourage economic activity and trade-focussed businesses that benefit directly from, or benefit from a synergy due to, the physical proximity of land within the zone to Sydney Airport and Port Botany, and the excellent transport network links to Sydney's CBD and the Advanced Technology Park at Eveleigh, and</p> <p>(b) to promote the establishment of enterprises that create advanced technology or that manufacture products that utilise advanced technology, and</p> <p>(c) to promote export and other trade-related enterprises that are associated with trade logistics and distribution, just-in-time supply, the movement of perishables, time-sensitive goods processing, and the management of air and sea commerce, and</p> <p>(d) to provide facilities for the workforce by allowing a limited range of ancillary, retail and recreational uses that are ancillary and provide support to the dominant functions within the zone.</p> <p><b>2 Development that is allowed</b> Exempt development and development for the purpose of the following may be carried out <b>without development consent</b>— landscape maintenance works (including tree planting, repaving and replacement of street furniture); public utility undertakings. Development for the purpose of the following and subdivision of land may be carried out <b>only with development consent</b>—</p>	<p><b>Zone B7 Business Park</b></p> <p><b>1 Objectives of zone</b></p> <ul style="list-style-type: none"> <li>• To provide a range of office and light industrial uses.</li> <li>• To encourage employment opportunities.</li> <li>• To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.</li> <li>• To encourage uses in the arts, technology, production and design sectors.</li> </ul> <p><b>2 Permitted without consent</b> Home occupations</p> <p><b>3 Permitted with consent</b> Centre-based child care facilities; Food and drink premises; Garden centres; Hardware and building supplies; Light industries; Neighbourhood shops; <b>Office premises</b>; Oyster aquaculture; Passenger transport facilities; Respite day care centres; Roads; Tank-based aquaculture; Vehicle sales or hire premises; <b>Warehouse or distribution centres</b>; Any other development not specified in item 2 or 4</p> <p><b>4 Prohibited</b> Advertising structures; Agriculture; Air transport facilities; Airstrips; Amusement centres; Animal boarding or training establishments; Biosolids treatment facilities; Boat launching ramps; Boat sheds; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Entertainment facilities; Environmental facilities; Environmental protection works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Forestry; Freight transport facilities; Heavy industrial</p>
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<p>advanced technology businesses; aids to navigation; car parks and car parking stations (if their only use is ordinarily incidental to other uses allowed within the zone); centre-based child care facilities; clubs; <b>commercial support premises</b>; community facilities; drainage; educational establishments; <b>hotels</b>; light industries; medical centres; <b>motels</b>; <b>offices ancillary to trade-related enterprises</b>; open space; passenger transport terminals; public transport infrastructure (not including car parks or car parking stations); recreation areas; recreation facilities; remediation of land; restaurants; roads; service stations; <b>serviced apartments</b>; <b>shops</b>; <b>tourist facilities</b>; <b>trade-related enterprises</b>; vehicle rental centres; <b>warehouses</b>.</p> <p><b>3 Prohibited development</b> Any development not listed in item 2.</p>	<p>storage establishments; Helipads; Highway service centres; Home-based child care; Home occupations (sex services); Industrial training facilities; Industries; Jetties; Marinas; Mooring pens; Moorings; Mortuaries; Open cut mining; Pond-based aquaculture; Port facilities; Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Research stations; Residential accommodation; Resource recovery facilities; Restricted premises; <b>Retail premises</b>; Rural industries; Sewage treatment plants; Sex services premises; <b>Tourist and visitor accommodation</b>; Transport depots; Truck depots; Vehicle body repair workshops; Vehicle repair stations; Waste disposal facilities; Water recreation structures; Water recycling facilities; Water supply systems; Wharf or boating facilities</p>
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**Key:**

-  Indicates equivalent definition permitted with consent under *Office premises* definition in B7 Business Park zone of Bayside LEP 2021
-  Indicates equivalent definition permitted with consent under *Warehouse or distribution centres* definition in B7 Business Park zone of Bayside LEP 2021
-  Indicates currently prohibited under the *Retail Premises* group term in B7 Business Park zone under Bayside LEP 2021
-  Indicates currently permitted with consent under *Tourist and visitor accommodation* group term in B7 Business Park zone under the Bayside LEP 2021
-  Indicates currently prohibited under *Tourist and visitor accommodation* group term in B7 Business Park zone under the Bayside LEP 2021

Based on the detailed comparison above, it is clear that DPIE will need to give thorough consideration as to how the inconsistencies between the defined, specific land uses currently contained in the Trade and Technology zone of the SREP are to be permitted in the B7 Business Park zone in the Bayside LEP 2021. If these land uses that are currently prohibited in the B7 Business Park zone in the Bayside LEP 2021 are deemed by DPIE to be appropriate for the site, they *could* (administratively) be implemented by Additional Permitted Uses under Schedule 1 of the Bayside LEP 2021, rather than amend the Land Use Table for the B7 Business Park zone more broadly – which would otherwise introduce the same issues for all existing B7 Business Park land.

## DPIE Employment Lands Reform

Currently, the DPIE are pursuing changes to the employment land zones via the Standard Instrument LEP across the State. Any considerations about appropriate land uses, and how (if) the current iteration of the draft Planning Proposal conflicts with the proposed changes that will affect the current B7 Business Park zone would be paramount for DPIE's assessment.

If this reform was to in any way undermine the “retain and manage” approach to employment lands, as directed by the GSC, or if residential development *of any kind* was to be enabled within the proposed zone that the B7 Business Park zone will be “rolled into”, Council would not be supportive of the application of the B7 Business Park zone to the extent of the site currently zoned Trade and Technology under the SREP.

As the reform has not yet been completed and the proposed changes have not yet been reported to Council, it is impossible to fully assess how the current iteration of the draft Planning Proposal will align, or detract from, the settled Land Use Table for the equivalent zone to which the B7 Business Park zone will be captured. This should be a key focus of DPIE when assessing the draft Planning Proposal.

### **Additional information**

The following additional information was previously identified as required has not been provided:

- Further review of the Strategic Transport Plan including the VISSIM and SIDRA modelling is required addressing the matters raised by Transport for NSW in their detailed feedback dated August 2020 and provided to the proponent on 25 September 2020.
- Further information is required, addressing the matters identified in the peer review of the Flood Impact Assessment by WMA water, to enable a proper assessment of flood impacts.
- Confirmation is required that the road and drainage works that are proposed on Lot 1 DP 108492 and Lot 14 DP 213314 can be lawfully undertaken given this land is owned by Bayside Council and subject to a charitable trust with legally enforceable conditions.
- A precinct land use safety study considering the site-specific information regarding the gas pipeline is required as well as confirmation from APA Group and the applicant about the feasibility and practicality of relocating the gas pipeline as currently proposed. (refer correspondence from Industry Assessments Team, DPIE).
- An Infrastructure Plan is required that is agreed by stakeholders including (but not limited to) Transport for NSW and Bayside Council NSW, which sets out: infrastructure items, strategic costings, strategic concept plans, identification of land required, means of acquiring land not owned by the proponent, timing, delivery responsibility and funding.
- An updated flora and fauna assessment is required which has regard to the Green and Golden Bell Frog Plans of Management, among other matters.
- Confirmation that there will be no penetration of the protected airspace required during construction, or that any such penetration will be supported by the relevant approval body.

It is not possible to consider and provide comment on these issues in detail until adequate information is provided.

### **Concluding Comment**

It is a positive step that the focus of the PP has shifted from residential development to incorporate uses that could support the Nationally significant Sydney Airport and Port Botany. As outlined above, there are still a range of significant issues that need to be resolved. We trust that the independent Planning Consultant, the Panel, and DPIE will carefully consider:

- City Plan's independent assessment, and government agency responses to Pre-Gateway consultation;
- Bayside Council's previous submission;
- the previous recommendation of the Bayside Local Planning Panel in the context of the current amended proposal;

- DPIE's draft Explanation of Intended Effect for the Precincts SEPP;
- the Bayside Local Strategic Planning Statement;
- the significant work undertaken in the assessment process during the time that Bayside Council was the Planning Proposal Authority; and
- this latest submission from Bayside Council, which provides a synopsis of the current iteration of the draft Planning Proposal in regards to strategic and site-specific merit, comparison of EPI land uses/permissibility, and notes forthcoming employment land reforms for consideration.

If you require further clarification, please do not hesitate to contact Josh Ford, Coordinator Statutory Planning on 9562 1634, or via email: [josh.ford@bayside.nsw.gov.au](mailto:josh.ford@bayside.nsw.gov.au).

Yours sincerely



**Peter Barber**

**Director, City Futures**

Enclosed:

**Attachment 1** – Bayside Local Planning Panel Recommendation 14 August 2018  
(includes Draft Planning Proposal May 2018 iteration, supporting reports/attachments and technical peer reviews)

**Attachment 2** – Draft Planning Proposal 27 March 2020

**Attachment 3** – City Plan Draft Assessment Report November 2020

**Attachment 4** – Technical Report Peer Reviews September 2020  
(For technical peer reviews not listed in Attachment 4, revert to Attachment 1 technical reports, which were also considered in the 27 March 2020 iteration)

**Attachment 5** – Pre-Gateway Consultation July 2020

**Attachment 6** – Bayside Council Submission 23 April 2021

**Attachment 7** – Draft Explanation of Intended Effect: Precincts SEPP

23 April 2021

Our Ref: 21/107462 & F14/308  
Our Contact: Josh Ford (02) 9562 1634

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Dear Secretariat,

**Re: Submission on Draft Planning Proposal - Cooks Cove**

Thank you for your letter dated 26 March 2021 seeking Bayside Council's input regarding an amended draft Planning Proposal for the Cook Cove Precinct.

I note that the Department of Planning, Industry and Environment (DPIE) advised Council that an amended draft Planning Proposal has been submitted to DPIE in relation to Kogarah Golf course.

The amended Planning Proposal now also proposes to:

- Include Lot 14 DP 213314 and Lot 1 DP 108492 to:
  - Reclassify these lots from "community" to "operational" under s30 of the Local Government Act 1993; and
  - Rezone both lots in part to RE1 Public Recreation and in part SP2 Infrastructure
- Include a site-specific clause into Rockdale LEP 2011

I also note that a number of proposals for changes to planning controls have been made by the Proponent since 2004, and that many of the issues raised previously remain unresolved in the current iteration.

As you are aware, Council's role as the Planning Proposal Authority is impacted by the existence of a Charitable Trust over a portion of the land to which the draft Planning Proposal applies. Council's submission reflects that responsibility as well making comment about strategic and site specific merit.

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## Background

As already noted, the Proponent first requested changes to planning controls circa 2004. Rockdale Council approved a Development Application in 2006, however, implementation was not progressed.

More recently, a draft Planning Proposal was submitted to Bayside Council in May 2017. City Plan were engaged by Council as an independent Planning Consultant, to undertake an independent assessment, and technical contractors were engaged to undertake peer reviews of technical studies submitted with the proponent's draft Planning Proposal.

The proposal was amended in May 2018, with Ethos Urban stating the following:

*In summary, the Planning Proposal has been revised to address:*

- *Comments within the Technical Assessment for Adequacy (28 March 2018) prepared by Cardno, the Planning Proposal Assessment letter (28 March 2018) prepared by CityPlan and the Request for Additional Information (24 January 2018) prepared by Cardno;*
- *Amendments to the Cook Cove Northern Precinct Master Plan following revisions to built form massing and development yield as a result of a reduced PANS-OPS height contour and recommendations of detailed specialist studies including the Air Quality Assessment prepared by Todoroski Air Sciences;*
- *Updated cost planning and Voluntary Planning Agreement (VPA) discussions with Bayside Council;*
- *Ongoing consultation with State agencies including the Department of Planning and Environment and Transport for New South Wales; and*
- *Changes to strategic planning policies and statutory legislation including adoption of the Greater Sydney Region Plan, Eastern City District Plan and State Environmental Planning Policy (Coastal Management) 2018.*

The Bayside Local Planning Panel considered City Plan's completed independent assessment report on the matter at its meeting of 14 August 2018. The Panel recommended that Council not support the draft Planning Proposal, as it lacked both strategic and site specific merit. The Panel's recommendation was extensive, citing a myriad of fundamental planning issues, both strategic and site specific, which demonstrated why the proposal should not be supported by Council. The Panel's recommendation, including the Panel's reasons for the recommendation, is included as **Attachment 1**.

Importantly to note, following the Panel's recommendation, the draft Planning Proposal did not proceed to Council for reporting. However, an amended version of the Draft Planning Proposal was submitted to Council on 27 March 2020, which was limited in its extent to the entire Kogarah Golf Club site. The proposal no longer sought to include land owned by other parties, however, Council's role as Trustee of the charitable trust remained.

## Findings of an Independent Assessment and Government Agency (Pre-Gateway) Consultation Process

In March 2020 the Proponent (Cook Cove Inlet Pty Ltd) submitted a draft Planning Proposal for the area known as Cooks Cove. The draft Planning Proposal did not include land to which the Charitable Trust applies. Council engaged City Plan and sub-consultants to undertake an independent assessment of the draft Planning Proposal. However, Council subsequently received advice that Council's role as Trustee prevents it from being the Planning Proposal Authority.

In November 2020, Bayside Council advised the Department of Planning, Industry and Environment (DPIE) that due to Council's fiduciary obligation as a Trustee of the Charitable Trust which affects land in Cooks Cove, that an alternate Planning Proposal Authority (PPA)

should be appointed under section 3.32(2) of the *Environmental Planning and Assessment Act 1979*. Bayside Council provided DPIE with:

- A copy of the draft Planning Proposal submitted to Bayside Council (dated 27 March 2020) by the Proponent (refer **Attachment 2**)
- An independent assessment of the draft Planning Proposal (dated 27 March 2020) (refer **Attachment 3**)
- Independent peer reviews of technical studies (**Attachment 4**)
- The responses from Government agencies from Pre-Gateway Determination consultation (**Attachment 5**)

#### *Amended Draft Planning Proposal – 27 March 2020*

City Plan were again engaged to undertake an independent assessment of the amended proposal. In their draft independent planning assessment report (**Attachment 3**) completed on behalf of Council, City Plan recommended that the draft Planning Proposal not be supported, due to a lack of both strategic and site specific merit. The draft assessment report contains a detailed set of reasons as to why the proposal lacked merit.

	Original Planning Proposal (2017)	Amended Planning Proposal (2020)
Land to which applies	100 ha	18.2 ha
Net developable area	13.6 ha	11.9 ha
Proposed GFA (max)	571,000 sqm	457,418 sqm
Residential GFA	515,500 sqm	237,415 sqm
Dwellings	5,346	2,833
Proposed Employment GFA (min)	55,300 sqm	220,000 sqm comprising: 128,388sqm - commercial, retail and short stay accommodation 91,616 sqm - warehousing and logistics hub
Proposed building heights (max)	Up to RL 86m 3 - 25 storey residential buildings	Up to RL 51m 2-14 storey residential buildings
Community and Education	2,500 sqm of community and education GFA	Nil
Land Ownership	KGC and Local, State and Commonwealth Governments	KGC

It should be highlighted that the current draft Planning Proposal submitted to DPIE by the proponent in March 2021 is a further iteration of the proposal, which has not been assessed by Council.

#### *Draft Planning Proposal Pre-Gateway Consultation*

In July 2020, Council liaised with various government agencies as part of Pre-Gateway consultation, as encouraged by *A Guide to Preparing Planning Proposals*. Council's Property team was also consulted, as the Trustee of the Charitable Trust.

A complete list of the agencies consulted during that process is included below:

- APA
- Schools Infrastructure NSW
- DIRDC
- DPIE Hazards and Industry
- EES
- GSC

- Heritage NSW
- Heritage NSW (Aboriginal)
- NSW Ports
- Sydney Airport
- Sydney Desalination Plant
- Transport for NSW

All government agency responses that were received are included under **Attachment 5**.

The majority of government agency submissions raised concerns about the proposal, including concerns that were raised in (i) City Plan's 2018 (completed) assessment report to the Bayside Local Planning Panel; (ii) City Plan's 2020 (draft) independent assessment report, and (iii) the Bayside Local Planning Panel's recommendation from 14 August 2018, which considered City Plan's completed assessment report at that time (for the Draft Planning Proposal dated May 2018).

*City Plan's Recommendation – Draft Assessment Report Dated 12 November 2020*

City Plan's independent assessment report for the amended Draft Planning Proposal made the following recommendations:

*That the planning proposal is not supported for the following reasons:*

1. *The planning proposal fails to give effect to Planning Priority E12 and Action 51 in the Eastern City District Plan which requires that industrial and urban services land be retained and managed by safeguarding all industrial zoned land from conversion to residential development.*

*In particular:*

- *It is evident from the objectives and permitted land uses that the Trade and Technology Zone is an industrial zone for the purpose of Planning Priority E12 in the Eastern City District Plan.*
- *The planning proposal would result in the conversion of most of the land in the Trade and Technology Zone for residential purposes.*
- *The planning proposal would fragment the remaining land in the Trade and Technology Zone rendering it incapable of orderly and economic development for industrial purposes.*

2. *The planning proposal fails to give effect to Planning Priority E19 and Action 31 in the Eastern City District Plan which requires that strategically important employment and urban services land in and near the Sydney Airport precinct be retained; Sydney Airport's function as an international gateway for passengers and freight be protected; and airport-related land uses in the area around the Airport be supported. The planning proposal is also inconsistent with Ministerial Direction 7.9 - Implementation of Bayside West Precincts 2036 Plan and Ministerial Direction 7.10 - Implementation of Planning Principles for the Cooks Cove Precinct which require, among other things, that the operations of Sydney Airport be safeguarded.*

*In particular:*

- *It is evident from the objectives and permitted land uses that the land in the Trade and Technology Zone is strategically important employment and urban services land in the context of Sydney Airport that should be retained.*
- *The planning proposal would result in the conversion of most of the land in the Trade and Technology Zone for mixed use purposes.*
- *The proposal would result in more than 2,800 dwellings being constructed closer to Sydney Airport than any existing dwellings. This would create unacceptable land use*



*conflict which would threaten the operations of Sydney Airport due to the inability to satisfactorily mitigate aircraft noise impacts. The proposal cannot satisfy the National Airports Safeguarding Framework (Guideline A). To satisfy Australian Standard AS 2021-2000 Acoustics - Aircraft noise intrusion - Building siting and construction, future residents would be unreasonably burdened by the airport, having to keep windows and doors closed to mitigate noise impacts.*

3. *The planning proposal fails to give effect to Planning Priority E18 and Action 67 in the Eastern City District Plan which requires public open space to be protected, enhanced and expanded.*

*In particular:*

- *The planning proposal results in the loss of approximately 3.1 hectares of land currently zoned Open Space.*
  - *The planning proposal makes inadequate provision for open space to serve the needs of future residents. Usable public open spaces shown in the master plan are under-supplied and generally under-dimensioned.*
4. *The planning proposal fails to give effect to Planning Priority E20 and Action 75 in the Eastern City District Plan which seeks to avoid locating and intensifying urban development in areas exposed to natural and urban hazards and Ministerial Direction 4.3 - Flood Prone Land.*

*In particular:*

- *The planning proposal would result in 3.1 hectares of flood liable land currently zoned for open space being rezoned for urban purposes with consequent impacts on upstream and adjacent land.*
  - *The proposed flood mitigation strategy unreasonably burdens surrounding public land.*
5. *The planning proposal fails to give effect to Planning Priority E6 and Action 18 in the Eastern City District Plan which seeks to create great places with high amenity.*

*In particular:*

- *The achievable residential GFA is overstated due to oversized building envelopes and the amenity of public and communal spaces is compromised by the scale of proposed building typologies as detailed in the urban design review by AJ+C.*
  - *It is unlikely that the proposed building envelopes will achieve compliance with the Apartment Design Guide, particularly cross-ventilation due to aircraft noise impacts.*
  - *Poor vehicular access has been given to the proposed logistics building, as trucks will need to pass through the proposed residential zones.*
  - *The residential buildings north of Marsh Street appear to be based on an incorrect site boundary that incorporates an RMS lot outside of the planning proposal boundary.*
  - *The masterplan currently maximises development potential by utilising curved streets outside the site to create a purposefully misaligned grid.*
  - *Improved pedestrian and cycling connections are required with surrounding schools, to encourage alternative modes of transportation, whilst mitigating any further impacts on the already congested road network.*
  - *There is inadequate provision of useable open space and public domain within the site.*
6. *The planning proposal is inconsistent with Planning Priority E10 and Action 34 in the Eastern City District Plan which seeks to protect future transport and infrastructure corridors as well as Ministerial Direction 6.2 Reserving land for public purposes which requires that a planning proposal must not create, alter or reduce existing zonings or reservations of land for public purposes without the approval of the relevant public authority and the Secretary of the Department of Planning.*

*In particular:*

- *The site contains a reservation for the 1951 F6 Southern Freeway transport corridor which the planning proposal seeks to rezone. Transport for NSW have indicated that the reservation may be required for constructing the proposed M6 Motorway and associated facilities and that for the time being (at least until 2022) the reservation should be retained.*

*Should the planning proposal (sic) the following additional information is required.*

- 7. Further review of the Strategic Transport Plan including the VISSIM and SIDRA modelling is required addressing the matters raised by Transport for NSW in their detailed feedback dated August 2020 and provided to the proponent on 25 September 2020.*
- 8. Further information is required, addressing the matters identified in the peer review of the Flood Impact Assessment by WMA water, to enable a proper assessment of flood impacts.*
- 9. Confirmation is required that the road and drainage works that are proposed on Lot 1 DP 108492 and Lot 14 DP 213314 can be lawfully undertaken given this land is owned by Bayside Council and subject to a charitable trust with legally enforceable conditions.*
- 10. A precinct land use safety study considering the site-specific information regarding the gas pipeline is required as well as confirmation from APA Group and the applicant about the feasibility and practicality of relocating the gas pipeline as currently proposed. (refer correspondence from Industry Assessments Team, DPIE). This information has been requested prior to the matter proceeding to Gateway, however, given the more fundamental strategic issues that may prevent a Gateway determination from being issued, we would recommend that should this planning proposal proceed, this information should be requested by the Gateway once those the strategic issues have been settled.*
- 11. An Infrastructure Plan is required that is agreed by stakeholders including (but not limited to) Transport for NSW, Bayside Council and Schools Infrastructure NSW which sets out: infrastructure items, strategic costings, strategic concept plans, identification of land required, means of acquiring land not owned by the proponent, timing, delivery responsibility and funding.*
- 12. An updated flora and fauna assessment is required which has regard to the Green and Golden Bell Frog Plans of Management, among other matters.*
- 13. Confirmation that there will be no penetration of the protected airspace required during construction, or that any such penetration will be supported by the relevant approval body.*

#### ***Greater Sydney Commission – Advice on Employment Land***

Bayside Council wrote to the Greater Sydney Commission (GSC) to obtain clarification of the status of the Trade and Technology zone under SREP 33 – Cooks Cove, in the context of the GSC's "retain and manage" directions in the Eastern City District Plan. In their response, the GSC (dated 3 August 2020) were clear about the direction applying to the land subject to the Draft Planning Proposal:

*The Eastern City District Plan (ECDP) gives effect to the Greater Sydney Region Plan – A Metropolis of Three Cities (GSRP), accordingly both plans reinforce the importance of industrial and urban services land across the metropolis and emphasise the significance of Sydney Airport and Port Botany as key trade gateways. It is noted that the ECDP,*

*consistent with the aims of the SREP and the objectives of the Trade and Technology Zone, includes Action 31 which states:*

*'Protect and grow the trade gateways by... Sydney Airport (i) identifying and retaining strategically important employment and urban services land in and near Sydney Airport precinct'.*

*Figure 58 in GSRP and Figure 26 in ECDP identify the relationship between SEPPs (which include all SREPs as deemed SEPPs) and the Region and District Plan. Both plans also note (see GSRP page 138 and ECDP page 124) the applicability of Ministerial Directions under Section 9.1 of the Environmental Planning and Assessment Act 1979. Accordingly, SEPPs and Ministerial Directions need to be read alongside the GSRP and ECDP.*

*In this context I can clarify that:*

- *References to industrial and urban services land in both plans, and as mapped in Figure 19 of ECDP, refers to land identified in the NSW Department of Planning, Industry and Environment's (DPIE's) Employment Lands Development Monitor (see GSRP page 128); and*
- *Neither the GSRP nor the ECDP map lands in productivity/employment related SEPPs (including SREP 33), as they are mapped in the relevant SEPP.*

The Draft Planning Proposal does not have regard for the Eastern City District Plan, and the "retain and manage" direction from the GSC.

#### *Bayside Local Strategic Planning Statement (March 2020)*

The Bayside Local Strategic Planning Statement (LSPS) was endorsed by the GSC in March 2020. The LSPS maps the subject land as "SREP 33 – Trade and Technology" and "SREP 33 – Open Space" in Figure 3 of the LSPS (p. 10-11), and also includes actions aligned to those in the Eastern City District Plan.

The Draft Planning Proposal does not have regard for the LSPS, which has been endorsed by both Council and the GSC, and provides land use planning directions to 2036.

#### *Metro Greenspace Program*

Bayside Council entered into a funding agreement with DPIE in February 2020 under the Metro Greenspace Program. DPIE summarises the Metro Greenspace Program as:

*The Metropolitan Greenspace Program (MGP) commits grant funding to local councils in Greater Sydney and the Central Coast for projects that improve and increase access to regionally significant open space.*

*The program aligns with the NSW Government's Greater Sydney Region Plan - A Metropolis of Three Cities, and the Green Grid strategy, helping to create a network of high-quality green space that connects town centres, public transport hubs, and major residential areas.*

The Draft Planning Proposal has the intent of reducing the extent of regional open space area within the site, and impacting the accessibility of the regional open space, via what is essentially a privatisation of an extensive area of existing regionally significant public open space. Supporting a Draft Planning Proposal that has the intent of reducing regional open space and access to it would be contradictory to DPIE's objectives outlined above under the Metro Greenspace Program, to which Bayside Council has a current funding agreement.

*Proposed Precincts SEPP – Draft Explanation of Intended Effect*

On 4 March 2020, DPIE's Planning and Assessment Directorate notified Bayside Council of the State Environmental Planning Policy (SEPP) Review Program. The email stated that:

*Provisions in SREP No 33 – Cooks Cove, including the aims and objectives for the site, are proposed to be transferred to the new proposed Precincts SEPP, maintaining the current policy intent for Cooks Cove Precinct. Once this has occurred SREP No 33 – Cooks Cove will be repealed.*

The Draft Explanation of Intended Effect documentation (**Attachment 6**) stated that:

*The proposal to update the provisions of the Cooks Cove SREP and transfer them to the new Precincts SEPP will not change the planning outcomes for the Precinct. The transfer of objectives and existing permitted uses in the Trade and Technology Zone, the Special Uses zone and the Open Space zone will ensure the policy intent of the Cooks Cove SREP is maintained whilst aligning current the zones with those of the Standard Instrument LEP.*

*Certain land uses in the B7 – Business Park Zone of the Standard Instrument LEP do not align with the current Trade and Technology Zone, such as Garden Centres, Hardware and building supplies, Neighbourhood shops, Office premises, Respite day care centres and Tank based aquaculture. To ensure the policy intent of the SREP is maintained, these uses will be omitted from the B7 zone of the Cooks Cove site.*

Figure 1 below clearly identifies the intention to align the existing Trade and Technology zone (clearly, an employment land zone), with the most suitable equivalent zone under the Standard Instrument Local Environmental Plan, being the B7 Business Park Zone.



Figure 1: Extract from Draft Explanation of Intended Effect – Precincts SEPP

### Concluding Comment

We trust that the independent Planning Consultant, the Panel, and DPIE will carefully consider:

- (i) City Plan's independent assessment, and government agency responses to Pre-Gateway consultation;
- (ii) Bayside Council's submission;
- (iii) the previous recommendation of the Bayside Local Planning Panel in the context of the current amended proposal;
- (iv) DPIE's draft Explanation of Intended Effect for the Precincts SEPP;
- (v) the Bayside Local Strategic Planning Statement; and
- (vi) the significant work undertaken in the assessment process during the time that Bayside Council was the Planning Proposal Authority.

If you require further clarification, please do not hesitate to contact Josh Ford, Coordinator Statutory Planning on 9562 1634, or via email: [josh.ford@bayside.nsw.gov.au](mailto:josh.ford@bayside.nsw.gov.au).

Yours sincerely



**Clare Harley**

**Manager Strategic Planning**

Enclosed:

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