

Response to Submissions

Cooks Cove Planning Proposal

13-19A Marsh Street Arncliffe

Submitted to the Department of Planning and Environment
on behalf of Cooks Cove Inlet Pty Ltd

PP-2022-1748



'Gura Bulga'

Liz Belanjee Cameron

'Gura Bulga' – translates to Warm Green Country. Representing New South Wales.



'Dagura Buumarri'

Liz Belanjee Cameron

'Dagura Buumarri' – translates to Cold Brown Country. Representing Victoria.



'Gadalung Djarri'

Liz Belanjee Cameron

'Gadalung Djarri' – translates to Hot Red Country. Representing Queensland.

Ethos Urban acknowledges the Traditional Custodians of Country throughout Australia and recognises their continuing connection to land, waters and culture.

We pay our respects to their Elders past, present and emerging.

In supporting the Uluru Statement from the Heart, we walk with Aboriginal and Torres Strait Islander people in a movement of the Australian people for a better future.

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M. Revised Local Planning Agreement Letter of Offer <i>(Note to be provided under separate cover)</i>	<i>Cook Cove Inlet</i>
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1.0 Introduction

This report has been prepared by Ethos Urban, on behalf of Cook Cove Inlet Pty Ltd (CCI) (the Proponent) and provides a detailed response to all Commonwealth, State and Local agency/authority feedback, together with all stakeholder and general public commentary received, regarding the Cooks Cove Planning Proposal located at 13-19A Marsh Street Arncliffe.

The Planning Proposal (PP-2022-1748) and supporting documentation was prepared in support of the Cooks Cove project. This was placed on Public Exhibition from 24 April 2023 to 6 June 2023 by the Department of Planning and Environment (DPE). In addition, the public hearing for the land reclassification, associated with the Planning Proposal, occurred on 30 June 2023. All agency submissions were provided to CCI by 6 July 2023, which included some additional late submissions from agencies and additional submissions received from the general public. A formal response to submissions request was provided by DPE on 17 August 2023, which clarified specific key items to be addressed in relation to biodiversity/ecology and flooding.

The contents of this report and its attachments provides a comprehensive response to all items raised in the agency and public submissions, which is a requirement of DPE's *Local Environmental Plan Making Guide*, dated August 2023.

In response to the submissions received, CCI has elected to make minor amendments to the Planning Proposal. The amendments to the Planning Proposal are presented in this report and are supported by supplementary assessment where required. This has been undertaken to ensure an acceptable outcome for all agencies, stakeholders and the general public alike, through the delivery of the project. Accordingly, this report concludes the Planning Proposal maintains sufficient site and strategic merit in order to proceed to finalisation.

1.1 Background

1.1.1 Gateway Determination

The Cooks Cove Planning Proposal was originally lodged with Bayside Council as a mixed-use scheme on 17 May 2017 (ref no RC-607080). On 2 November 2020, Bayside Council indicated their conflict of interest in relation to Lot 14 DP213314 and Lot 1 DP108492 ('The Trust Lands'). In response, on 25 February 2021 DPE formally appointed the Sydney Eastern City Planning Panel (SECPP) as the Planning Proposal Authority (ref no IRF20/4896).

Following agency consultation and initial assessment, the Applicant elected to make further amendments. The revised Planning Proposal for the present logistics and trade focused scheme was submitted to the DPE on 22 October 2021 and a Gateway Determination was issued on 5 August 2022. A Gateway Alteration request to suit the content of the revised Planning Proposal (in response to Gateway conditions) and ability to proceed to public exhibition was endorsed by the SECPP on 28 March 2023.

1.1.2 Exhibited Planning Proposal

The Planning Proposal was placed on Public Exhibition by the DPE from 24 April 2023 to 6 June 2023. The exhibited Planning Proposal sought the following amendments to the Bayside LEP 2021:

- Application of the SP4 Enterprise zone within the former KGC freehold owned land, being Lot 31 in DP 1231486 (Block 1) and Lot 100 in DP 1231954 (Blocks 2 and 3) to form a development zone;
- Application of the RE1 Public Recreation zone to the residual of Lot 31 in DP 1231486 and Lot 100 in DP 1231954 in order to define a foreshore recreation zone with a minimum width of 20m and internal passive open space and overland flow areas within the southern and western edges of Lot 100 in DP 1231954.
- Application of the SP2 Infrastructure zone (Classified Roads) to portions of Lot 14 in DP 213314, Lot 1 DP 329283 and Lot 1 DP 108492, which are presently utilised for the existing Marsh Street roadway and the Trust / TfNSW land which will accommodate the M6/M8 permanent Motorway Operation Facilities, respectively. Application of the RE1 zone to the residual portions of Lot 14 in DP213314, Lot 1 DP329283 and Lot 1 DP108492 that will form Pemulwuy Park North and South.
- An overall maximum building height of RL51m (Blocks 2 and 3) graduating down to RL40m in response to aviation controls in the southern section, and a maximum building height of 24m (Block 1);
- A limit to total GFA within the overall site to 343,250m² applied through:
- Block 1 – A total quantum of development that does not exceed a mapped FSR of 1.25:1 (equivalent to 3,250m²).

- Blocks 2 and 3 – A total floorspace that does not exceed 340,000m² GFA mapped as ‘Area 16’, inclusive of:
 - A maximum 20,000m² GFA for ‘office premises’;
 - A maximum 20,000m² GFA for ‘hotel or motel accommodation’ and ‘serviced apartments’; and
 - A maximum 10,000m² GFA for ‘shops’ and ‘food and drink premises’.
- Application of Schedule 1 Additional Permitted Uses for the development zone including:
 - Block 1 – ‘Advertising structures’; and
 - Blocks 2 and 3 – ‘Trade-related enterprises’.

The proposed amendments to the Bayside LEP 2021 are accompanied by an indicative masterplan that included:

- A net development zone of approximately 15ha with up to 343,250m² GFA comprising 290,000m² of multi-level logistics and warehousing, 20,000m² for hotel or motel accommodation and serviced apartments, 22,350m² for commercial office uses and 10,900m² of retail uses;
- Built form of a scale and composition which is generally consistent with the heights in the surrounding context and up to a maximum of RL 51m;
- A land use mix which caters for the generation of approximately 3,300 new jobs;
- Approximately 3ha of the former Kogarah Golf Club (KGC) owned freehold land will be held in perpetuity as publicly accessible foreshore land and as dedicated land to form part of Pemulwuy Park. An additional 0.75ha internal to the will be publicly accessible internal plaza surrounded by mature fig trees; and
- An integrated vision for the future adjacent Pemulwuy Park (Trust lands) to be delivered by Council, including a regionally beneficial floodwater response through re-contoured waterbodies and swales designed to mitigate any flooding impacts on surrounding areas, including the TfNSW Arncliffe Motorway Operations Centre (MOC) facility.

1.2 Land Reclassification

The Planning Proposal includes the rezoning of the adjacent Council lands that are the subject of Charitable Trusts (Lot 1 in DP 108492 and Lot 14 in DP 213314). Reclassification of these lots is also sought to alter the land from ‘community’ to ‘operational’ under s30 of the Local Government Act 1993 to provide for the construction of roads and infrastructure. The proposal includes the commitment to reclassify the residual open space back to ‘community’ to provide a RE1 public recreation zone, by way of resolution at a Council meeting;

The requirement for a public hearing is subject to Section 3.34(2)(e) of the Environmental Planning and Assessment Act 1979 and that a report on the hearing is to be made available subject to Section 47G (3) of the Local Government Act. This process, as conducted by Shaw Reynolds Lawyers on behalf of DPE, reported on the public’s comments on the reclassification element of the proposal,

It was concluded in a report provided by DPE dated 22 August 2023 that based on all verbal and written submissions, that there was *“no compelling reason to refuse the land reclassification”*. It was noted that the majority of submissions did not identify issues relating to whether the land reclassification should proceed. Accordingly, the report recommends that the proposed land reclassification proceed.

1.3 Response to Submissions

Following the Public Exhibition of the Planning Proposal the DPE requested the Proponent respond to each of the submissions received. An overview of the submissions received is provided in **Section 2.0**.

Following the receipt of all submissions, the DPE (on behalf of the SECPP) issued a formal request for a response to submissions dated 17 August 2023 (**Appendix A**). This request identifies the key planning and environmental concerns of the DPE along with a request that the Proponent prepare a comprehensive response. The key planning and environmental concerns raised by DPE are summarised in the following sections.

Flooding

The DPE have noted that the Flood Assessment provided for exhibition is to be updated to form a separate Flood Impact Risk Assessment (FIRA) and for this to provide an assessment against all 2023 Flood Risk Management Guideline requirements (Flood Impact Risk Assessment Guidelines), as well as the Flood Risk Management Manual 2023. The FIRA must provide flood behaviour maps (extent, depth, velocity, hazard, function and flood emergency response classification) for the 5%, 1%, 0.2% 0.5% and PMF. Planning for PMF is particularly of consequence to SES.

Furthermore, the DPE notes that the concept of 'Shelter in Place' in comparison to safe evacuation methods is not supported as a flood mitigation measure for the subject site due to the opinion that the site is an isolated 'High Flood Island', with high risk to life during flood events.

DPE required consideration within the FIRA regarding the impacts of longer durations events in the hydraulic model. along with sufficient details relating to the flood hazard maps, hydraulic categorisation and duration of inundation / isolation of the proposed lots, as well as the access routes for the full range of flooding events up to the PMF. In addition, SES have required an illustration of the duration of key access routes.

Biodiversity and Ecology

The DPE have requested that additional advice is provided regarding how the Planning Proposal will not impede the ability for the adjoining West Connex – New M5 (now called M8) and SSI 8931 M6 Stage 1 (previously F6 extension) to meet the condition of approval for the protection and ongoing conservation of the existing Green and Golden Bell frog (GGBF) Arncliffe population. Additionally, there must be appropriate measures to mitigate and compensate biodiversity impacts from the subject proposal. It is noted that actions required under conditions of approval for SSI 6788 and SSI 8931 cannot be used to avoid or compensate biodiversity impacts from this proposal.

The DPE have also noted that the Planning Proposal should be revised to demonstrate how it enable the provision of a range of GGBF habitats to mitigate the direct and indirect (including prescribed) impacts associated with this proposal. DPE have suggested that these are to be resolved as part of the draft DCP and final Urban Design and Landscape Plan (UDLP) associated with the future Pemulwuy Park design.

Coastal Management

The DPE have noted that at its closest point, Block 3b will be a minimum of 27m from the mean high-water mark, which is generally narrower than the required 40m under the 'Guidelines for riparian corridors on waterfront land'. Similarly, the bulk and scale of Blocks 3b and 3c should be considered to demonstrate consistency with the Coastal Management Guidelines identified in the relevant Ministerial Direction. Further overshadowing analysis should also be provided to demonstrate consistency with the Coastal Management Guidelines.

Pemulwuy Park Design

The DPE outlined the final Pemulwuy Park Design will need to respond to a number of requirements relevant to the Section 9.1 Directions for flooding, conservation and coastal management. Whilst it is recognised that the final park design cannot be fully resolved at this time, CCI need to demonstrate in their response to submissions, appropriate measures and mechanisms as to how the Ministerial Directions can be met.

This may be through a combination of:

- Additional technical advice and reporting,
- Changes to the planning proposal package,
- Recommended site specific LEP or DCP Clauses, and/or
- Appropriate VPA mechanisms.

These key matters raised by the DPE haven been addressed in **Section 3.0** in addition to **Appendix A**.

1.4 Proposed Amendments Sought

Following exhibition, amendments to the Planning Proposal provisions are proposed in response to submissions received and consultation with agencies. In summary, the following amendments are proposed:

- LEP Mapping amendments to zoning – including the implementation of C2 Environment Conservation and RE2 Private Recreation zones in lieu of the RE1 Public Recreation zone in selected areas;
- Applicability of Clause 6.10 design excellence provisions to the Precinct;
- Minor amendments to the proposed Additional Local Provisions to clarify GFA applicability; and
- Accompanying amendments to the revised draft Site specific DCP.

2.0 Overview of Submissions

This section analyses the submissions received by providing a breakdown of the type of submissions received and identifies the issues raised.

2.1 Overview

In relation to the Public Exhibition of the Planning Proposal, a total of 166 submissions were received, including 17 submissions made by Government agencies, 4 submissions made by organisations and special interest groups, and 145 submissions made by members of the public and community groups.

A detailed response to these submissions has been prepared and provided at **Appendix A** and **B** respectively. The following sections provides an overview of the submissions received, the nature of submission and any key issues raised.

2.2 Agency Submissions

Submissions received by Government agencies and authorities are listed in **Table 1** below. Details of the matters raised in agency submissions, along with the Applicant's responses are set out in **Appendix A**.

Table 1 Agency Submissions

Agency and Authority	Position	Comment
Air Services Australia	No objection	-
Ausgrid	No objection	<ul style="list-style-type: none">Comments will be reviewed and actioned as part of future Development Applications (DAs).
Bayside Council	Comments for consideration	<ul style="list-style-type: none">Bayside Council have provided comments and recommendations regarding the proposed zoning, flood & stormwater, alignment with Ministerial Directions, traffic and transport concerns, built form and urban design and key additional matters.
Civil Aviation Safety Authority	No objection	<ul style="list-style-type: none">CASA does not object to the Planning Proposal, provided Sydney Airport (in conjunction with Airservices Australia) verifies that approach Runway 07 would not normally be operational in 20+ knot cross winds.
Australian Government Department of Climate Change, Energy, the Environment and Water (DCCEEW)	No objection	<ul style="list-style-type: none">The DCCEEW did not have any comment. Notes that this is a separate proposal to that previously approved under the EPBC Act (golf course southern relocation). Future detailed proposals need to consider obligations of the EPBC Act.
Australian Government Department of Infrastructure, Regional Development, Communications and the Arts (DITRDCA)	No objection	<ul style="list-style-type: none">The DITRDCA requested to be consulted during any subsequent DAs to ensure consideration of airspace protection and National Airport Safeguarding Framework guidelines.
DPE EHG	Comments for consideration	<ul style="list-style-type: none">Notes that they do not consider the Planning Proposal satisfies the requirements of the NSW Government's Flood Prone Land Policy and the principles of the Floodplain Development Manual.Considerations are to be made with the relevant SSI 6788 and SSI 8931 consent conditions for the Green and Golden Bell Frog (GGBF) on the subject site and provided assurance that allowance has been made for the fulfillment of these conditions.Provide additional consideration for the objectives and provisions for biodiversity and GGBF conservation under SEPP (Precincts -Eastern Harbour City) 2021 and confirm the site will protect and enhance the protected GGBF habitat in the site as required by Ministerial Direction 1.12 to 'Enhance the environmental attributes of the site, including protected flora and fauna, riparian areas and wetlands and heritage'.

Agency and Authority	Position	Comment
DPE Water	Comments for consideration	<ul style="list-style-type: none"> DPE Water has provided comments regarding the Planning Proposals proposed development footprint, which should give due consideration to the Guidelines for Controlled Activities on waterfront land along the Cooks River.
DPI Fisheries	Comments for consideration	<ul style="list-style-type: none"> Requests that development works are staged to minimise the area of exposed earth in forming these areas and that best practice erosion and sedimentation controls are implemented during each stage of the development of this site, reducing risk to key fish habitats of value.
Greater Cities Commission (GCC)	Supports	<ul style="list-style-type: none"> GCC supports the progression of Planning Proposal.
Heritage NSW	No objection	<ul style="list-style-type: none"> Heritage NSW are satisfied that the key concerns have been addressed.
Jemena	No objection	<ul style="list-style-type: none"> Will review and comment on future DAs.
NBN Co.	No objection	-
NSW EPA	No objection	-
State Emergency Service (SES)	Comments for consideration	<ul style="list-style-type: none"> Site is subject to frequent flooding isolation. Risk assessment should consider PMF and critical storm durations. Self-evacuation should be achievable and a 'shelter in place' strategy is not an endorsed flood management strategy. Risk assessment should have regard to flood warning and evacuation routes. Additional guidance on commercial floor levels and basement access and other design elements.
Sydney Water	Comments for consideration	<ul style="list-style-type: none"> Requests that a detailed option assessment and modelling of the proposed sewerage system is required via the engagement of a Water Servicing Coordinator. Connection to SWSOOS maybe costly but can be supported however it is recommended to defer the Planning Proposal until the wastewater options study is completed and endorsed by Sydney Water. Submission subsequently amended post consultation on 4 August 23. Request to defer Planning Proposal rescinded and requirement that Options Assessment is completed and endorsed by Sydney Water prior to any subsequent Development Application for the site being approved.
Transport for NSW	Comments for consideration	<ul style="list-style-type: none"> TfNSW requests to retain current right to acquire 'Trust land' at no cost despite proposed reclassification. Requests provision of additional detailed traffic assessment modelling scenario in the Traffic and Transport Impact Assessment. Requests infrastructure to be resolved in Planning Agreements including road infrastructure and intersection upgrades at no cost to TfNSW. Commentary that the future development must not compromise TfNSW's ability to satisfy M6/M8 conditions of consent. Commentary that the preferred flooding mitigation option is contrary to the current M6 'Trust lands' park design within the Urban Design and Landscape Plan (exhibited publicly in February 2023).

2.3 Organisation Submissions

A total of four (4) submissions were received by organisations and special interest groups as outlined in **Table 2** below. All four of these submissions are in support / raise no objection to the Planning Proposal, whilst also providing comments and recommendations. Details of the matters raised in agency submissions, along with the Applicant's responses are set out in **Appendix A**.

Table 2 Organisation Submissions

Agency and Authority	Position	Comment
APA-Gorodok	No objection	<ul style="list-style-type: none"> Requests notification of future DAs in accordance with clause 2.77 SEPP (Transport and Infrastructure). A Safety Management Study (SMS) will be required to be undertaken by the Applicant prior to any future sensitive use development approval being completed on site. Improvements or earthworks within easement subject to detailed considerations and prior approval from APA.
NSW Ports	No objection	-
Sydney Desalination Plant	Comments for consideration	<ul style="list-style-type: none"> Requires a contractual agreement to ensure integrity of the asset is not compromised by construction methods and that SDP can continue to enjoy access.
Sydney Airport Corporation	Supports with comments	<ul style="list-style-type: none"> Sydney Airport is in support of the Planning Proposal, with additional comments regarding: <ul style="list-style-type: none"> Further assessment required on specific building generated windshear scenarios. Future development will need to ensure that the risk of wildlife strike is appropriately managed. Separate applications will be required under Protection of Airspace Regulations for any height exceedances or for temporary cranes. Parking rates are appropriate, and a shuttle service should be provided. Covenant, Retention of the Commonwealth's 1972 restrictive covenant in relation to erection of buildings.

2.4 Public Submissions

The key issues raised within the submissions received from public and community groups are listed in **Table 3** below. Details of the matters raised in public submissions, along with the Applicant's responses are set out in **Appendix B**.

Table 3 Public Submissions

Key Issues	Comment
Traffic and Transport	<ul style="list-style-type: none"> Commentary that the proposed development will increase traffic congestion and reduce parking availability.
Visual Impact	<ul style="list-style-type: none"> Concerns raised by residents regarding existing view impacts onto the Cooks River. Concern regarding the Logistic Hubs lighting impact on the surrounding residential areas.
Privacy	<ul style="list-style-type: none"> Concerns that the proposal will result in a lack of privacy for both existing Southbank residents and the residents of the proposed new apartments.
Built Form, Bulk and Scale	<ul style="list-style-type: none"> Commentary has been provided regarding concern for the provision of retail space and community space. Concerns regarding building height and scale of Block A-B-C Planning Proposals alignment with the existing characteristic of the area. Commentary about suitability of warehouses being placed in close proximity to the waterfront. That the warehouses should be relegated to the back towards Marsh Street and the waterfront kept for recreational activities.
Design	<ul style="list-style-type: none"> Commentary regarding opportunity for enhanced waterfront park, with reduced building scale and stronger connectivity between Pemulwuy Park and the waterfront. Concern regarding the building articulation of Building 3C and the limited passive surveillance available. Concern regarding the non-human scale of the development and the inconsistency with the surrounding neighbourhood as a traditional fine-grained residential area.

Key Issues	Comment
Open Space	<ul style="list-style-type: none"> • Opportunity to reclaim this broad and open foreshore space for public use and to restore coastal mangrove habitat to the river. The current plans are a missed opportunity. Public foreshore access shows only a narrow 20 m strip beside massive multistorey warehouses. • The width of the foreshore public recreation zone should be increased, to enable it to deliver all the stated objectives of public waterfront (passive) recreation use, interaction with the water (e.g., kayak launching), vegetation restoration and active transport links. • Commentary suggest that residents would prefer the warehouses to be set back next to the smokestacks for the M6 and the public park should be next to the foreshore. • This development needs to better balance desirable development activity with retaining the greenspace for residents' use. • Commentary that the site should better enhance the provision of a cycleway along the Cooks River foreshore that also connects into the existing cycleway network.
Flooding	<ul style="list-style-type: none"> • Concern regarding the flooding impact onto Levey Street and Gertrude Street. • Concern regarding the impacts the proposal has on the projected sea level rise for the Wollli Creek area.
Trust	<ul style="list-style-type: none"> • Concerns regarding the attempt to dissolve the Trust in the area that has so far kept it protected for public recreation (note: this is a misinterpretation of the Trust's purpose).
Land Uses	<ul style="list-style-type: none"> • Justification as to why this site is not being used to provide housing. • Justification as to the market need for logistic warehouses. • Desire for land to be used for public infrastructure such as, a national museum, community centre, artist workshops/precinct.
Planning Framework	<ul style="list-style-type: none"> • Desire for the development to be subject to a design excellence panel review. • Further direction as to what the developer is contributing to the community, in addition to the TfNSW Pemulwuy Park land. If the site is to be developed, some of the built area should be provided to the community by the developer for community use. • Cl 6.13(3) of the SEPP permits the preparation of stand-alone masterplans for land within the Trade and Technology zone, cl 6.13(2) requires preparation of a masterplan for the entire Cooks Cove area, including consultation with the Planning Secretary.
Biodiversity	<ul style="list-style-type: none"> • Concern regarding the habitat for the Green and Golden Bell Frog and endangered and migratory birds using the Landing Lights Wetland nearby. • Desire to use the site to rewild the river in order to widen the corridor of public space along the river front and enhance the native riparian vegetation such are the mangrove and saltmarsh.
Coastal Management	<ul style="list-style-type: none"> • Further clarification is required regarding how the coastal management requirements under the Coastal Management Act 2016 and the Resilience and Hazards SEPP 2021 have been met within the Planning Proposal.

3.0 Additional Engagement Undertaken

Following the Public Exhibition of the Planning Proposal, CCI has undertaken further engagement with relevant authorities, as described in **Table 4** below. This process has sought to further clarify key matters raised in submissions and to resolve potential pathways to address all concerns.

Table 4 *Additional Post-Exhibition Engagement Undertaken*

Date	Agencies	Description
6 July 2023	DPE	Presentation on initial responses received from the public exhibition process.
18 July 2023	DPE	Discussion on transport and traffic submission comments.
19 July 2023	DPE	Discussion on flooding, ecology and open space submission comments.
24 July 2023	TfNSW, Bayside Council and DPE	Fortnightly coordination meeting between the Cooks Cove and M6 Stage 1 projects, including open space, flooding, traffic modelling, intersections and State VPA matters.
26 July 2023	Bayside Council	Discussions regarding Planning Proposal exhibition submission and Local VPA scope.
31 July 2023	Sydney Water and DPE	Discussion regarding revised submission and future water servicing requirements.
4 August 2023	DPE	Discussion on submissions received and key issues.
7 August 2023	DPE Agile, DPE EHG and NSW SES	Discussion on key flooding impact and hazard safety matters.
7 August 2023	TfNSW, Bayside Council and DPE	Fortnightly coordination meeting between the Cooks Cove and M6 Stage 1 projects, including open space, flooding, traffic modelling, intersections and State VPA matters.
16 August 2023	NBN Co.	Discussion on servicing plans and infrastructure lead time.
18 August 2023	DPE	Coordination meeting and discussion on assessment matters and process.
21 August 2023	TfNSW, Bayside Council and DPE	Fortnightly coordination meeting between the Cooks Cove and M6 Stage 1 projects, including open space, flooding, traffic modelling, intersections and State VPA matters.
30 August 2023	Bayside Council	Discussion between CCI and Bayside Council regarding revised Local VPA scope.
1 September	DPE	Update on Response to Submissions process.
4 September 2023	TfNSW, Bayside Council and DPE	Fortnightly coordination meeting between the Cooks Cove and M6 Stage 1 projects – residual flooding and open space matters.
14 September	DPE	Update on Response to Submissions process.

4.0 Response to Submissions

This section provides a detailed summary of the Applicant's response to the key issues raised in the submissions. A detailed response to each of the Agency and Organisation, and Public Submissions is provided in **Appendix A** and **Appendix B** respectively.

In response to the submissions received and design refinements and amendments made, further assessment of the impact of the Planning Proposal is detailed within:

- Revised draft LEP Mapping, prepared by Ethos Urban (**Appendix C**);
- Addendum Urban Design & Landscape Response, prepared by Hassell (**Appendix D**);
- Flood Impact Risk Assessment, prepared by ARUP (**Appendix E**);
- Ecology and Biodiversity cover letter response, prepared by Cumberland Ecology (**Appendix F**);
- Revised Flora and Fauna Assessment, prepared by Cumberland Ecology (**Appendix G**);
- Addendum Wind Shear and Turbulence Memo, prepared by ARUP (**Appendix I**); and
- Visual Impact Comparison, prepared by Virtual Ideas (**Appendix J**).

4.1 Flooding

4.1.1 Concerns raised in submissions

The Flooding Assessment, exhibited as a Gateway Determination requirement, raised concerns for DPE EHG and NSW SES in particular. The concerns, based on the information provided, were that the project is incompatible with the flood risk of the locality and will interfere with flood water storage and the natural functions of the floodplain. Further, that the project has not considered the full range of flooding events (including with rainfall and sea level rise impacts) and that flood immunity should be provided through flood warning and safe evacuation routes. In addition, DPE EHG noted the applicability of revised policy guidance (discussed below) implemented on 30 June 2023 (following completion of the public exhibition process for the Planning Proposal).

The general public submissions also raised concerns regarding the flooding impact onto Levey Street and Gertrude Street and more general concerns regarding the impacts the proposal has on the projected sea level rise for the Wolli Creek area.

4.1.2 Background Context

Extensive flood modelling and analysis has been undertaken in support of the project for several years by expert project flood engineers ARUP. Cooks Cove is located on a floodplain and adjacent to the Cooks River which has been substantially modified to accommodate the historic growth at Sydney Airport. This has resulted in a floodplain that does not exhibit natural floodplain behaviour. Notwithstanding, it must be considered that the site has been zoned for development purposes since 2004. For context, the Cooks Cove Planning Proposal is essentially seeking a revision to extend the development zone to a suitable and viable format with the retention of comparable land uses to those already permissible with development consent.

Importantly, during the life of the Planning Proposal, TfNSW has progressed both the M8 and M6 Motorway projects, including surface infrastructure within the boundary of the site. This has required Cooks Cove to employ an iterative approach to flood options analysis, in order to protect critical motorway infrastructure and to minimise impact to TfNSW's proposal to repurpose former spoil stockpiling and construction compounds into publicly accessible open space to be dedicated to Council.

The Gateway Determination (PP-2022-1748, issued 5 August 2022) included Condition 1(c) which required the preparation of a flood options analysis for the Cooks Cove project. ARUP prepared four options for assessment, with Option 4 presenting the most balanced approach as it achieved compliant afflux, did not change flood hazards in the vicinity of the site, adequately conveyed flows, resulted in a beneficial open space outcome that meets the needs of many stakeholders as well as required reduced impacts on the design of the TfNSW M6 Stage 1 UDLP. Option 4 was noted by Council as being considered a technically adequate response.

As a critical outcome, ARUP confirms that the only method to achieve a flood compliant outcome for the project at the PMF, is through the dedication of land within the development zone to offset the flooding consequences of TfNSW's design and location of the Arncliffe Motorway Operations Centre (AMOC)..

4.1.3 Revised Flooding Impact and Risk Assessment

In response to concerns raised, mainly by DPE EHG and NSW SES, a Flooding Impact and Risk Assessment (FIRA) has been prepared by ARUP (**Appendix E**). As requested, the revised FIRA has been prepared in accordance with the most current and relevant DPE guidance documents being:

- *Flood Risk Management Manual: The policy and manual for the management of flood liable land*, prepared by DPE EHG and in force 30 June 2023; and
- *Flood Impact and Risk Assessment: Flood Risk Management Guide (LU01)*, prepared by DPE EHG and in force 30 June 2023.

In responding to the above new policy and guidelines, the revised report is now representative of a comprehensive and contemporary flood impact and risk assessment. The assessment provides flood behaviour maps for a full range of critical events, being the 5%, 1%, 0.2% 0.5% Annual Exceedance Probability (AEP) events and also the Probable Maximum Flood (PMF).

The assessment also considers concurrent fluvial flooding and storm surge in line with DPE guidance for the full range of flood event probabilities up to the PMF. As well, there is a detailed assessment of evacuation routes and the periods of isolation for a range of flood durations. The FIRA also includes detailed assessments of the flood risks under climate change scenarios of sea level rise and rainfall increases for the full range of flooding events up to the PMF. The FIRA provides details of hydraulic hazard assessments, flood function categorisation and flood emergency response classifications.

Revised Modelling and Analysis

Complete flood modelling (extent, depth, velocity, hazard, function and flood emergency response classification) results for the case within the Cooks Cove Planning Proposal, in accordance with the latest policy and guidelines is presented in **Appendix E**.

ARUP confirms there is no increase to the number of flooded properties as a result of the Planning Proposal. The proposal would not result in any increases to flood levels external to the site in all floods up to and including the 0.2% AEP flood. The benefits of the predicted decreases in flood levels in the more common flood events (5% AEP, 1% AEP and 0.2% AEP) would significantly outweigh impacts in rarer flood events (e.g. 0.2% AEP). This is due to the frequency of the floods with benefits noting that there are on average five (5) flood events with a probability of 1% AEP for every single occurrence of a 0.2% AEP flood event.

Furthermore, there is no predicted increase in flood levels in the PMF for the TfNSW MOC site. Hence, the proposal would not change the likelihood of tunnel inundation for the M6/M8 tunnel system.

Amendments to reduce Flood Hazard

The revised assessment raises building areas to above the PMF level. Accordingly, it is proposed that all finished floor levels within the Cooks Cove Planning Proposal would be constructed with floor levels of 3.4mAHD. These floor levels will result in a 0.6m freeboard above the 1% AEP flood levels with predicted increased rainfall intensities and sea level rise (0.8m) attributed to future climate change effects. These floor levels are also above the current PMF levels on the site of 3.2mAHD (southern part of site) to 3.3mAHD (northern part of site). Hence, the PMF would not inundate floor levels on the site.

Should evacuation be required during flood events, access to the majority of the site is available from the south-west across Flora Street South which will be constructed above the 0.2% (1:500) AEP flood levels. In a 1:2,000 AEP flood, there will be shallow (H1 hazard) light vehicle suitable flow across this road within a limited section at the existing intersection with Marsh Street, however SES utility / larger vehicles will continue to access the site (H2 hazard).

Separately, Block 1 is capable of accessing the Marsh Street pedestrian footpath and roadway via a new ramp. During these flood events, Marsh Street will be closed further west and unimpeded access will be possible onto Marsh Street on the high (above PMF) part of the bridge approach.

The SES identified the need to respond to frequent isolation impact (in 5% AEP flood events) due to flash flooding and the risk for future visitors to be at risk of driving into floodwater and of secondary emergencies and associated risks with being isolated. In response, the project design has been amended to raise Flora Street South by 0.37m and a large culvert (30m wide) is now to be constructed under Flora Street South (within freehold land to be dedicated to improve access) to accommodate the 0.2% (1:500) AEP flows. There will not be any inundation of the developed parts of the site in all floods up to the 1:2000 AEP flood.

Access to and from the primary developed parts of the site will be possible in all floods up to the 1:500 AEP flood and there would be only a short period of time in rarer floods when the hazard is higher than H1 (light vehicles). The risk of isolation has been addressed by changing the reference design which accompanies the Planning Proposal with significantly improved access at Flora Street South onto Marsh Street (refer **Figure 1**).

Further, the proposal is well-placed to employ the option of 'Shelter-in-Place' in rare flood events (rarer than 0.2% AEP) events for short periods of time, as the site will include significant areas of retail including food outlets, supermarkets supported by emergency power generation infrastructure..

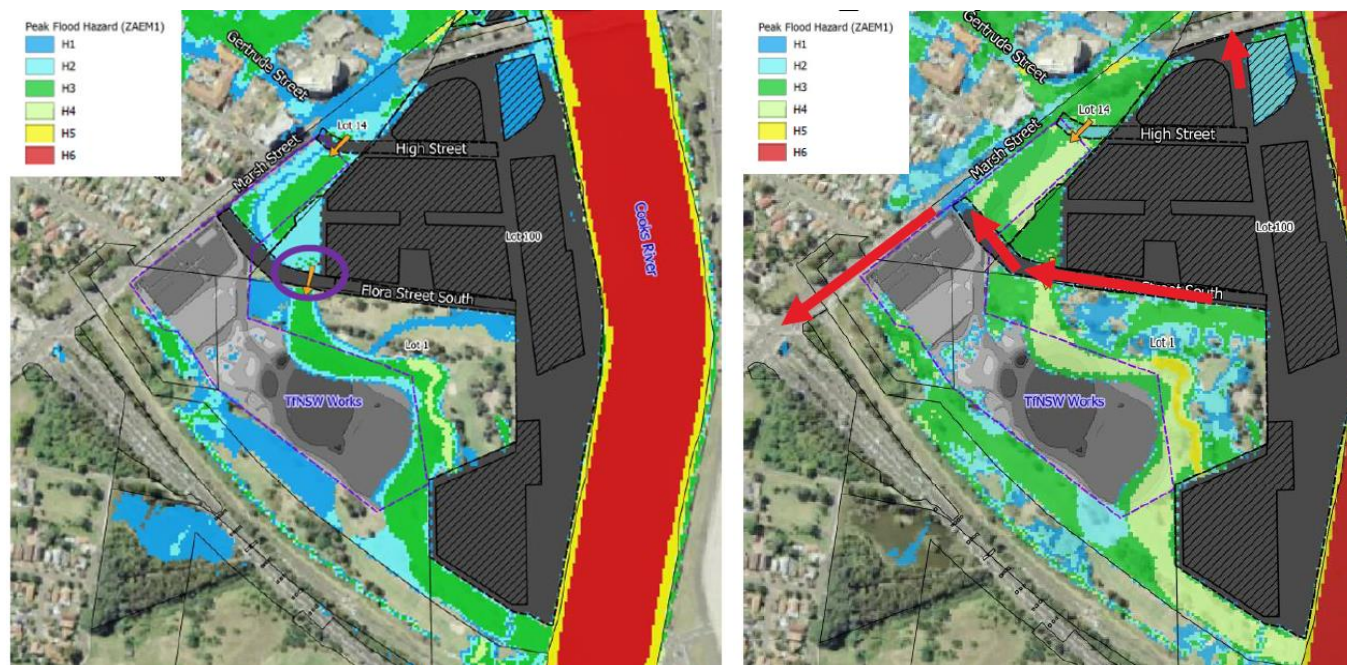


Figure 1 1:100 and 1:500 AEP Flood Hazard (current climate) culvert amendment & evacuation route

Source: Arup

Addressing the effect of Climate Change

In response to the concern regarding the potential for future sea level rises to affect the site, the FIRA modelling simulated the range of flood events (i.e. 5%, 1%, 0.5% and, 0.2%) with 20% increase in inflows and 0.8m sea level rise. However, for the PMF flood, only sea level rise was included, as the rainfall intensities are already at the physical limit of probability. Tidal flooding has been assessed in the FIRA.

It is proposed that all finished floor levels within the Cooks Cove Planning Proposal would be constructed with floor levels of 3.4m AHD. Hence, the current Probable Maximum Flood would not inundate floor levels on the site. As such, the only flood risks of any note to occupants relate to the need to exit the site during a flood event (i.e. evacuation).

With the effect of climate change (and largely due to the 0.8m sea level rise assumption), the most probable estimate of the duration of H2 exceedance at this key location over a typical century of flooding is 5.7 hours. Hence, even under these climate change conditions (for 2090), this isolation time would still be less than the 6 hours understood to be a benchmark for NSW SES through post exhibition further consultation.

A detailed Sea Level Rise Vulnerability Assessment is recommended as a site-specific DCP provision which will be completed with a detailed design of the local stormwater network. Refer **Appendix K**.

4.1.4 Revised Modelling Conclusions

It is reaffirmed that the Cooks Cove Planning Proposal would not result in adverse flood impacts external to the site. The TfNSW M6/M8 MOC site would not be impacted in a PMF and, hence, the design immunity of the tunnels would remain unchanged. This is confirmed as acceptable in the FIRA, through filling of the developable area to above the 0.05% (1:2000) AEP flood levels and setting all floor levels above the Probable Maximum Flood. These floor levels would also be 0.6m above the 1% AEP flood levels accounting for a 20% increase in flows and 0.8m sea level rise due to climate change.

The Planning Proposal has been amended since public exhibition in response to concerns relating to flood evacuation. These changes include raising the design of Flora Street South to above the 0.2% (1:500) AEP flood levels and including culverts to accommodate the 0.2% (1:500) AEP flows so that there would not be any inundation of Flora Street South up to the 0.2% (1:500) AEP and there would only be H1 hazard in 0.05% (1:2000) AEP flood. In all floods up to and including the 0.2% (1:500) AEP flood event, the Flood Emergency Classification would be Rising Road Access.

The key location limiting evacuation in floods rarer than the 0.2% (1:500) AEP is the existing low point at the intersection of Marsh Street and Flora Street South. Here, there would be a short length of road (in the order of 5m) in a 0.05% (1:2000) AEP flood during which H2 hazard would be exceeded for 4.5 hours.

Based on the probabilities of floods occurring in a typical century, the average cumulative time that flood hazards would not permit access to the site would be in the order of 35 minutes. Accounting for climate change (i.e. 20% increase in flows and 0.8m sea level rise), this duration would increase to 5.7 hours. Hence, it is concluded that the Planning Proposal creates no additional burden to emergency management services (recognising that the existing clubhouse building with a High Flood Island classification, in floods as frequent as a 5% AEP flood, would be removed as a consequence of implementing the Planning Proposal).

Mitigation measures and recommendations

The key flood risks and the proposed management of those risks as part of the Cooks Cove Planning Proposal are listed at **Table 5** below:

Table 5 *Risks and mitigation measures proposed*

Flood Risk to be Managed	Management Measures
Flood risks to occupants	These are minimised due to all floor levels built above the Probable Maximum Flood.
Flood risks to external property	The Planning Proposal would not result in adverse flood impacts external to the site.
Flood risks to occupants requiring evacuation during flood events	The raising of Flora Street South to create a road that is flood-free in a 0.2% (1:500) AEP flood that provides access to the local SES to the south, minimises the risks to occupants that may require evacuation in the short duration of flooding.
Flood risks to occupants during flood events	Access into and from the site would be possible in all floods up to a 0.2% (1:500) AEP flood event. For rarer floods, a Shelter-in-Place strategy is proposed. The site will include significant areas of retail including food outlets, supermarkets supported by emergency power generation infrastructure. Hence, it will be a safe place for isolation for short periods of time.
Changing flood risks due to climate change	Floor levels would be 0.6m above the 1% AEP flood levels accounting for a 20% increase in flows and 0.8m sea level rise due to climate change (2090 case). The duration of isolation in 2090 conditions would also be less than six hours.

Source: ARUP, FIRA, September 2023

This flood impact and risk assessment has identified that the flood risks associated with the Cooks Cove Planning Proposal are able to be managed. The following key recommendations are made to manage these flood risks:

- Floor levels are to be set at the above the PMF levels at 3.4mAHD.
- The internal road network is to be above 2.5mAHD (above the 1:2000 AEP flood level).
- Flora Street South is to be set at 2.17mAHD to allow the 0.2% (1:500) AEP flood to pass under the road.
- A shelter-in-place strategy is to be used to manage the residual flood risks to occupants in floods larger than the 0.2% AEP flood.
- The further stages of developing the design of the Cooks Cove Planning Proposal needs to recognise and work with the above features.

4.1.5 Design Development to Optimise Open Space

The FIRA has concluded that flood risk and hazard are suitably minimised to ensure the proposal is capable of proceeding. This is centered on the ability to re-direct flows past the development zone and in their historical flow path back to the Cooks River in the southern extremity of the site.

One matter raised by Council is the project's ability to move flows between the indicative Blocks 3B and 3C. The FIRA confirms this option is unable to be pursued, as the river levels between Blocks 3B and 3C are higher than those on the site in rare floods and would lead to more inflow into the site rather than providing a suitable outflow path. The flood level fall in the river over this length is in the order of 0.1m which is significant in the context of the flat floodplain gradients. The added complexity is the existing subsurface sensitive utility infrastructure in this location (desalination and ethane pipelines).

A key premise of the flood analysis has been to optimise open space usability – particularly the flowpath through Pemulwuy Park. The Cooks Cove project will require continued refinement at the detailed design stage, once the full extent and final design of the TfNSW UDLP is confirmed. It is noted that the concept for the open space has not yet been finalised nor has the detailed design process been undertaken as yet by TfNSW and their contractors, despite the UDLP originally exhibited in February 2023.

The areas in Lot 1 and Lot 14 (as well as the floodway dedicated parts of Lot 100) will have levels generally in the range of 0.8m to 1.5m AHD in order to acceptably convey regional flood flows. The flowpath will batter up higher parts of the site including the UDLP area. The detailed design process has considerable flexibility to investigate the open space area of the site for an optimal solution. The objective post gazettal will be to finalise the flow path to ensure that the impacts to the TfNSW UDLP are reduced in terms of necessary reshaping, and also to design a flowpath which will be imperceptible to the average user of Pemulwuy Park as passive open space. An extract of current options analysis as a sketch concept (jointly prepared by Arup and Hassell) is provided below at **Figure 2**.

CCI remain committed to the appropriate design of the flood conveyance pathway in Pemulwuy Park. This includes the continued offer to Council to facilitate all land shaping works necessary to permit an acceptable flow path, and to provide funding contributions for design and future embellishment works, refer the Local VPA letter of offer (**Appendix M**). Suitable draft site specific DCP provisions have been crafted to address the final resolution of the flowpath at the detailed DA stage (**Appendix K**).

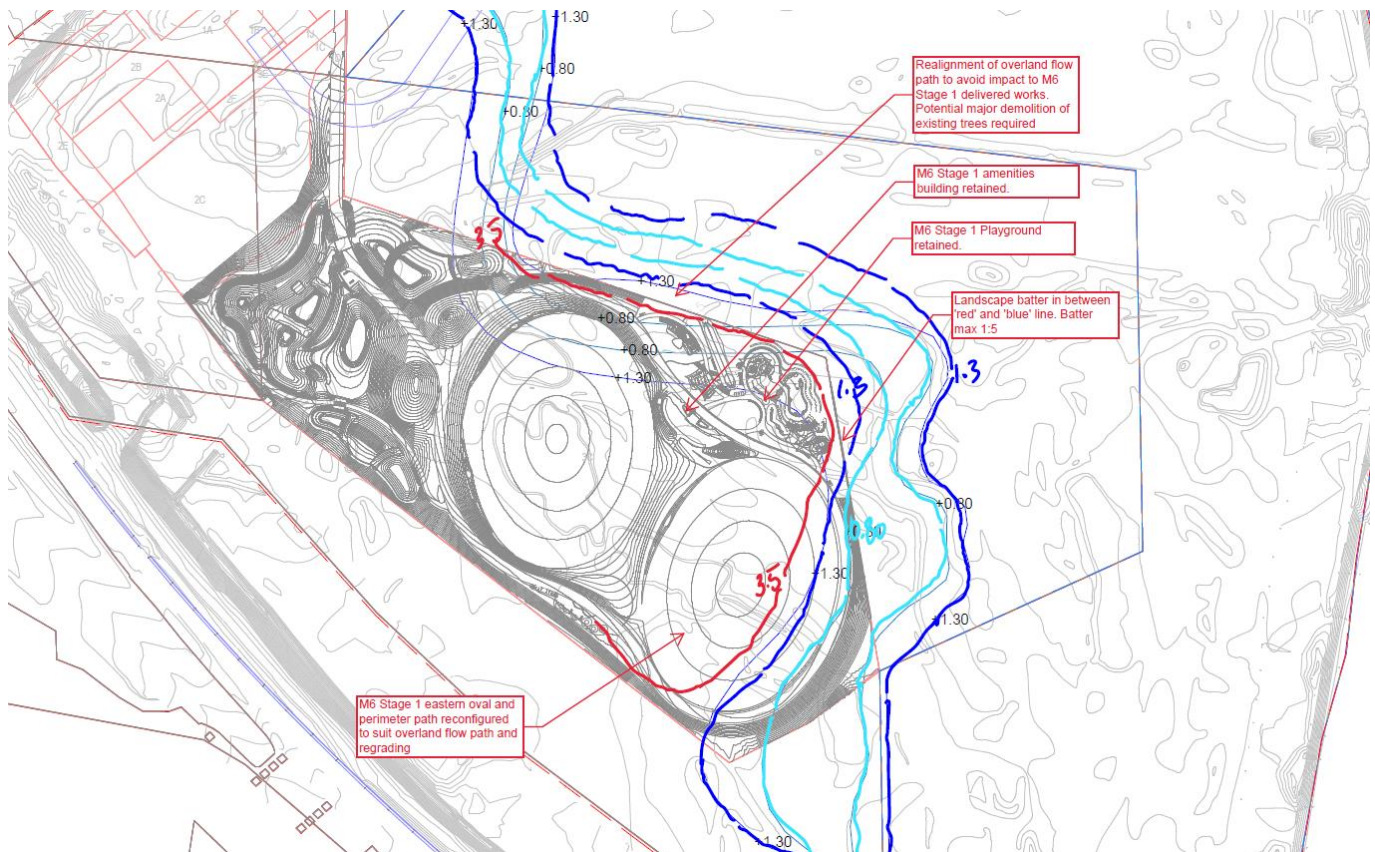


Figure 2 Concept of a potential amendment to the flow path – capable of resolution post gazettal

Source: Arup and Hassell

4.2 Biodiversity and Ecology

In response to matters raised by DPI Fisheries, DPE EHG and Bayside Council, the proponent has undertaken further detailed analysis, supported by Cumberland Ecology to address all biodiversity and ecology matter raised. Full responses are provided in the Cumberland Ecology Cover Letter Response (**Appendix F**) and supported by the Addendum Flora and Fauna Assessment (**Appendix G**).

The proponent has undertaken additional assessment of the ecological values of the subject site and have assessed the impact of the proposed rezoning and development on flora and fauna, particularly threatened species, populations and communities listed under the New South Wales (NSW) *Biodiversity Conservation Act 2016* (BC Act) and the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

4.2.1 Ecologically focussed riparian interface

A number of matters raised were in relation to the width of the riparian zone with respect to the *Controlled activities – Guidelines for riparian corridors on waterfront land*, prepared by DPE and dated May 2022. In response, the Proponent has undertaken additional detailed analysis of the foreshore interface to further strengthen planning controls in support of the proposal. The provision of the revised proposal's riparian interface aligns with the following planning principles for Cooks Cove contained within the *Bayside West Precincts 2036 Plan* and referenced in the Section 9.1 of the Ministerial Directions, the sections of relevance are:

Direction 1.12, Implementation of Planning Principles for the Cooks Cove Precinct

(1) A planning proposal authority must ensure that a planning proposal is consistent with the following principles....

- (e) Deliver an enhanced, attractive, connected and publicly accessible foreshore and public open space network and protect and enhance the existing market garden;*
- (i) Enhance the environmental attributes of the site, including protected flora and fauna, riparian areas and wetlands and heritage*

The Planning Proposal as exhibited, included a riparian zone fronting the Cooks River with a minimum 20m width, and expanding to a width of in excess of 100m in the southernmost 60m section. This riparian interface was exhibited with a RE1 public recreation zone, which have the following objectives under the Bayside LEP:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

The supporting indicative reference scheme that has been prepared by Hassell (**Appendix D**), largely matches the riparian dimensions above, with the addition of the detailed concept for the Fig Tree Plaza passive open space to the immediate south of Marsh Street / Giovanni Brunetti Bridge. This concept further embellishes the riparian zone within this 110m length to provide an urban landscaped form of a minimum width of 100m to the MHW. Additionally, a range of accompanying draft site-specific DCP controls (**Section K**) were formulated which supported the realisation of development in a form comparable to the reference scheme. These controls included:

- *“incorporate opportunities for environmental and ecological improvements which may include mangrove, saltmarsh and semi-aquatic planting habitats”;*
- *“implement exemplar WSUD and water re-use principles”;* and
- *“Detailed designs of the Cooks River riparian zones are to demonstrate enhancement to mangrove and saltmarsh habitat in conjunction with rejuvenation of the foreshore. Resilient species selection are to be prioritised with integrated irrigation systems”.*

In response to submissions made regarding the proposal's riparian interface the Proponent has elected to make the amendments as detailed in the following sections.

Expansion of riparian foreshore area

In response, the width of the zoned riparian interface is proposed to be increased from a 20m width to a 40m width within the southern section of the site (refer to **Figure 3**), this equates to doubling the foreshore zone for approximately 40% of the Cooks Cove interface. This newly proposed riparian area secures an additional 0.65ha approx., dedicated to ecological purposes, which is on top of the exhibited 1.72ha foreshore zone (20m width) and 1.27ha overland flow lands within the southern and western sections of the site to be integrated into the future

Pemulwuy Park. When considered in context of the revised indicative reference scheme, the result is more than half of the site has a minimum riparian width of 40m and 10% is circa 100m in width.

Notwithstanding the doubling of the riparian zone width in the southern 'marshland' section of the site, in response to submissions made, it must be acknowledged that the Proponent does not have the scope for any changes to the alignment of the built form within the northern 'urban' and central 'natural' sections. The width of these riparian sections remains fixed and as per the arrangement exhibited. This is also comparable to the arrangement under the present SEPP EHC 'Trade and Technology' zoning and as such the Planning Proposal has little effective change on the riparian spatials within the northern section of the site.

The proposal's 20m riparian width for the northern section of the site is due to a number of factors. This includes the constraints of the existing subsurface ethane and desalination pipeline easement alignments and the need to locate logistics warehousing of a sufficient floorplate size within these pipelines which run in a parallel north-south alignment. Therefore, the sizing and positioning of the logistics buildings in the reference scheme, particularly Building 3B and 3C is fixed in order to create a viable development. It is this very matter of viability which is made possible under the Planning Proposal which will fund the rejuvenation and publicly accessibility of the river interface to exemplar WSUD principles and its ongoing maintenance in perpetuity.

The proposed enhancement to the foreshore zone must also be considered in the context of this section of the Cooks River being an unnatural diversion canal created in 1947, which has a generally comparable setback to hardstand and structures on the eastern banks and contains general degraded banks / seawalls within the surrounding area. As such, the Planning Proposal will result in an improved foreshore zone with an enhanced ecological focus and one which is considered to a be strong merit of the proposal.

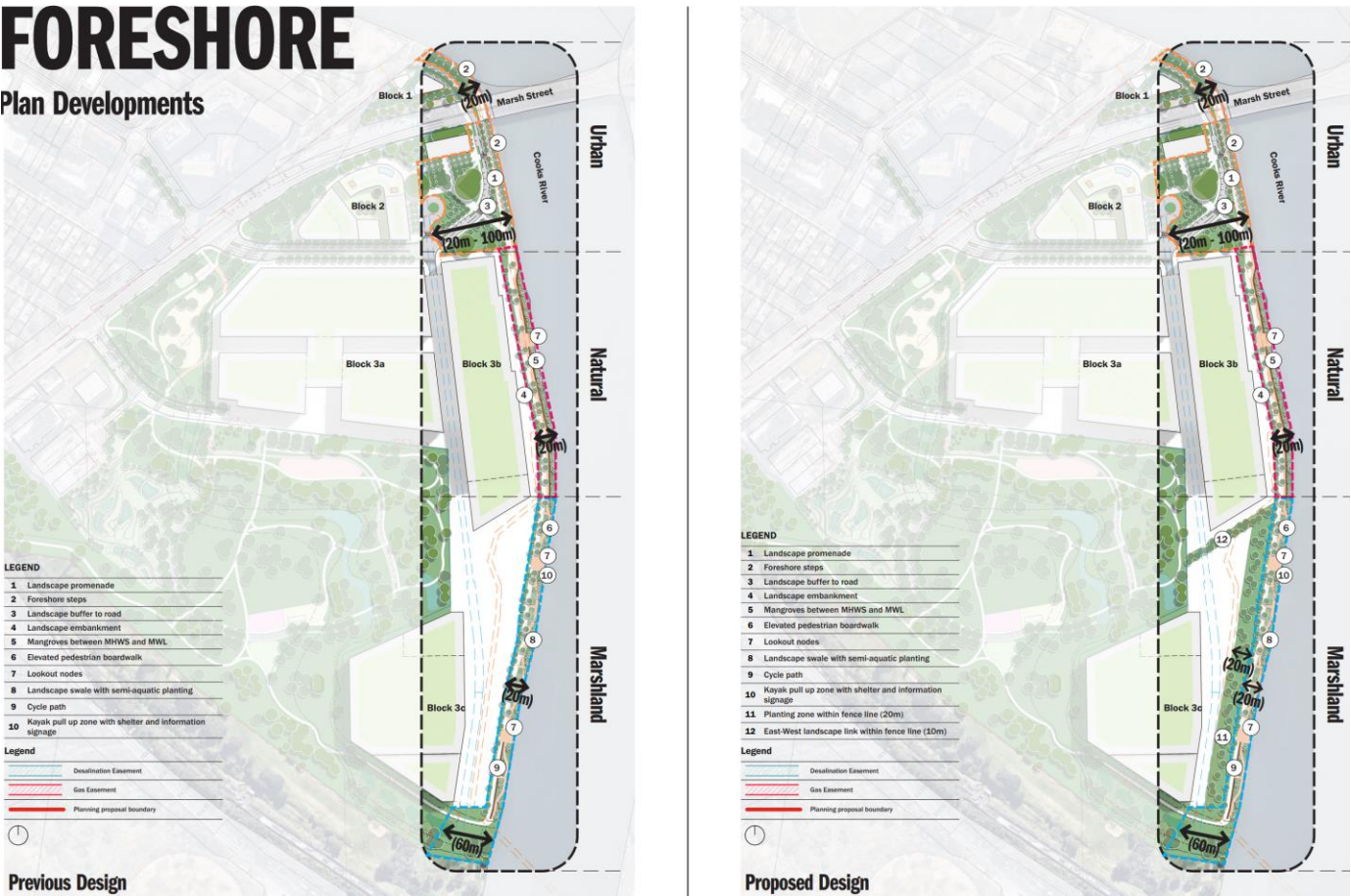


Figure 3 Exhibited and Proposed Amended Foreshore Riparian Interface

Source: Hassell

Strengthening of riparian conservation in the LEP

The RE1 zone is proposed to be altered to a mix of RE2 Private Recreation (at the request of Council to remove any potential acquisition liability) within the northern 60% of the site and to apply a C2 Environmental Conservation zone within the southern 40% of the site, which is depicted as 'marshland' in the corresponding reference scheme. Refer to a comparison between the exhibited and proposed amended Land Zoning Maps prepared by Ethos Urban and provided in **Figure 4** and **Figure 5** respectively, which demonstrates the significant areas dedicated to an ecological focus.

The proposed C2 Environmental Conservation zoning provides new and strengthened land objectives including:

- “To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values” (Standard);
- “To prevent development that could destroy, damage or otherwise have an adverse effect on those values” (Standard); and
- “To provide for recreational activities that are compatible with the land’s environmental sensitivities” (Suggested additional objective – DPE and Council to further advise). This objective has been crafted to reflect the site’s sensitive ecological attributes and also acknowledges the requirement for the site to enhance recreational attributes along the foreshore, such as the long intended active transport linkage. These objectives provide a stronger set of guiding principles when compared to the RE1 Public Recreation land use originally sought in the exhibition of the Planning Proposal. Refer to further appraisal of these objectives at **Section Land Zoning5.3**.

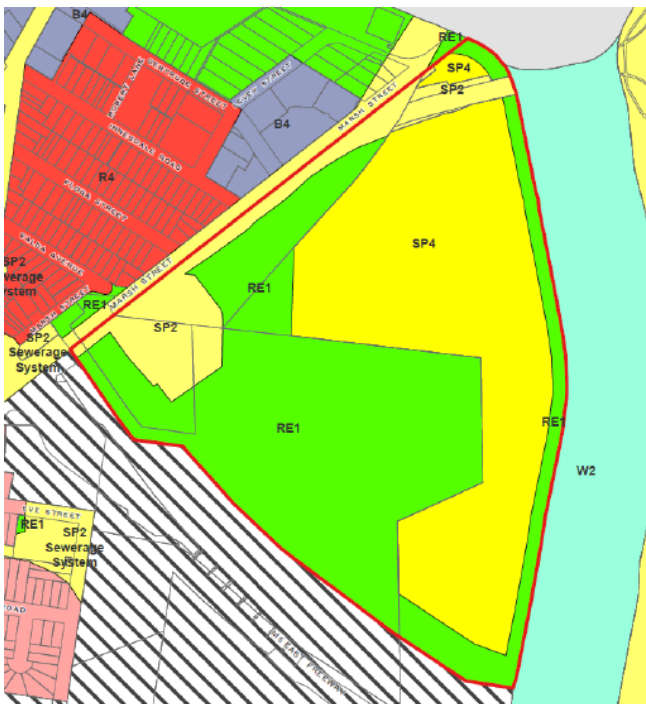


Figure 4 Exhibited Land Zoning

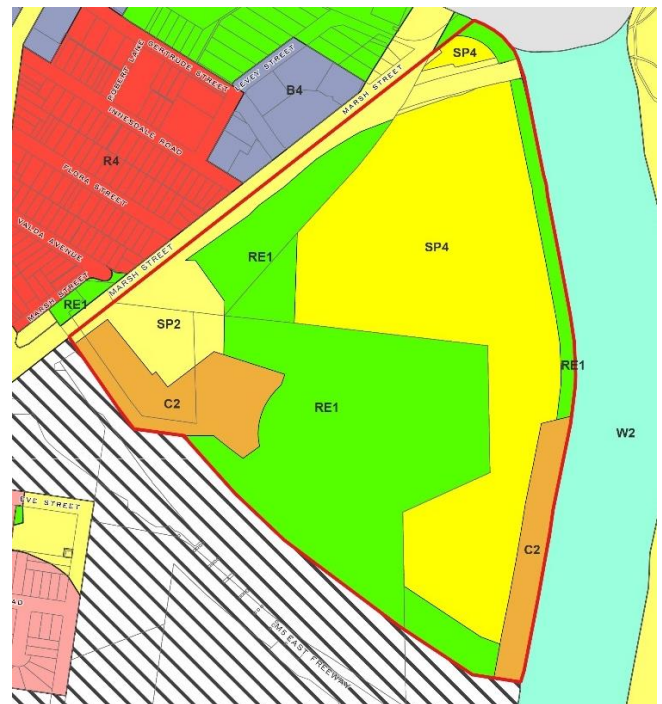


Figure 5 Amended Land Zoning Sought

Source: Ethos Urban

Enhancing provisions related to riparian and WSUD matters in the site-specific DCP

- The retention of the recreation zone within the northern half of the site is consistent with the long-standing intent for a more ‘urban’ river edge, secured through the draft site-specific DCP. The scheme has been embellished over and above the original intent (established in 2004) with a far more generous and connected northern section through the publicly accessible Fig Tree reserve. The Cooks Cove development site will also implement exemplar WSUD provisions, due to the site’s large and consolidated function. High WSUD targets are a commitment of the Proponent and is assured through draft site-specific DCP provisions. These controls have been augmented based on the submissions received and intend to improve the quality of the riparian interface in terms of habitat creation, publicly accessibility and water quality. The addition of new east-west fauna linkages as a DCP provision is just one example of the enhancements made in this regard.
- Further, the Proponent is committed to preparing a detailed Biodiversity Management Plan which will be at the approval of Council prior to works commencing.

Ongoing maintenance provisions

The Proponent has proposed that the riparian zones will remain under consolidated ownership, via a VPA that is currently being negotiated with Council for the ongoing lifecycle maintenance of the zone in perpetuity. The Proponent is willing to retain ownership of the riparian zone due to the upkeep requirement that are over and above what Council would be able to fund alone. An updated VPA letter of offer to Council in regard to riparian ownership and maintenance has been provided as part of the response to submission package, refer to **Section 0**.

Suitability of the reference scheme

Revised intent for the foreshore reflects the desired future character of the Cooks River edge, which is to achieve a mixed outcome of delivering “an enhanced, attractive, connected and publicly accessible foreshore” whilst also “enhancing environmental attributes of the site, including... riparian areas”. The proposal offers a revised suite of planning controls to meet the Ministerial Directions as summarised above, responding to concerns raised by DPE, DPI, Council and the community.

The indicative reference scheme as prepared by Hassell, represents a design intent by the Proponent as a reasonable potential eventuality and a proof of concept for a future redevelopment under the controls sought. In order to demonstrate the suitability of the controls for the site, Hassell and Cumberland Ecology have undertaken a review of the reference scheme’s performance against the *Controlled activities – Guidelines for riparian corridors on waterfront land* (DPE, May 2022) is provided at **Table 6**.

The assessment against the DPE function requirements is included in the following sections.

Table 6 **Controlled activities – Guidelines for riparian corridors on waterfront land**

Consistency of the indicative reference scheme under the proposed planning controls.
1. Providing bed and bank stability and reducing bank and channel erosion
All foreshore edges will improve bank stability through a range of landscape and built treatments. To the south, zones of aquatic and semi aquatic planting mitigate erosion with landscape swales acting as a device that not only improves water quality but importantly stabilises the foreshore edge. In urban zones to the north a series of sandstone and concrete foreshore steps acting as a retaining element, removing the risk of foreshore edge erosion. The proposed design of the foreshore edges, which will improve the bank stability using a mix of landscaping and built treatments, will result in a riparian area that is controlled and managed to reduce the risk of erosion. It will also substantially boost the biodiversity of the foreshore by increasing native wetland vegetation cover and providing additional wildlife habitats for both riparian and aquatic fauna.
2. Protecting water quality by trapping sediment, nutrients, and other contaminants
A variety of edge conditions are provided along the length of the foreshore including semi aquatic planting, landscape swales and mangroves that protect and enhance water quality. The proposed revegetation of the foreshore will provide water plants including mangroves and reeds that are known to stabilise sediments, store nutrients and filter contaminants. Some such plants also harvest carbon from the atmosphere and provide a carbon sink.
3. Providing a diversity of habitats for terrestrial, riparian and aquatic plants (flora) and animals (fauna)
The foreshore dimension has been divided into a series of landscape typologies that provide a diversity of habitat opportunities. Key zones include buffer planting, high quality feature planting, embankment planting, semi aquatic and aquatic planting zones. A connected tree canopy along the length of the foreshore provides habitat and fauna connections which are enhanced by the addition of east-west canopy linkages. Habitat creation will consider the safety requirements arising from adjacent aeronautical uses. The landscaping proposed for the foreshore will offer a range of habitats that can be utilised by terrestrial, riparian and aquatic flora and fauna. It will also provide opportunities for movement along the foreshore, as well as a linkage between the riparian corridor along the foreshore and the proposed Pemulwuy Park, through a 10m wider planted corridor.
The landscaping of the riparian corridor comprises a layered approach to the plantings, with mangroves and semi-aquatic plantings to occur closest to the waterway, which will then be transitioned to terrestrial habitat in the form of trees and shrubs with grassy understorey.
5. Providing connectivity between wildlife habitats
Landscape networks of soil water, planting and tree canopy will enhance north-south fauna connectivity along the foreshore. Habitat creation will consider the adjacent aeronautical uses. At the foreshore edge flora and fauna are prioritised with pedestrian circulation via an elevated board walk that does not impede ecological and hydrological connections below. The creation of habitats within the proposed riparian corridor will provide fauna movements both along the foreshore as well as in an east-west direction between the foreshore and the proposed Pemulwuy Park. The range of landscaped typologies to be

Consistency of the indicative reference scheme under the proposed planning controls.

planted include both aquatic, semi-aquatic and terrestrial ecosystems that can support and facilitate a range of native flora and fauna

6. Conveying flood flows and controlling the direction of flood flows

Overland flow is managed through the provision of extensive zones of planting and permeable surfaces that will prioritise percolation and infiltration to soils. At the foreshore edge a landscape swale that includes planting and sandstone boulders will slow water down as it moves into the Cooks River. In surge events the landscape swale also ensures the slow capture and release of saline water back into the Cooks River system. The flood conveyance described in the Design Response will provide ecological benefits to plants and animals within the foreshore zone. Flood conveyance will also provide a range of wetland conditions for flora and fauna as flooding advances and recedes.

7. Providing an interface or buffer between developments and waterways

A landscape buffer zone with a diverse understorey and tree canopy is provided directly along the development boundary. This zone will be designed to be ecologically resilient and provide areas of habitat whilst providing a visual buffer to the adjacent development site. The proposed riparian corridor provides a carefully designed, varied interface between the proposed development and the Cooks River, which will be managed and controlled to ensure that it is ecologically functional. As previously described, it will comprise layers of plantings, with mangroves and semi-aquatic plantings to occur closest to the waterway, which will then be transitioned to terrestrial habitat in the form of trees and shrubs with grassy understorey.

8. Providing passive recreational uses

Passive recreation is facilitated through the form of a shared cycle/pedestrian path, rest stops that provide moments to dwell and zones with areas to connect to water activities such as kayaking. The foreshore is currently part of a golf course and so it gets recreational usage. However, the existing foreshore is limited and lacks riparian flora and fauna. The proposal will transform the foreshore to include a range of riparian habitats, while retaining and enhancing opportunities for passive recreational usage. As described in the design response, the riparian corridor incorporates passive recreational uses for pedestrians, cyclists and kayakers whilst still accommodating functional habitats for a range of riparian and aquatic flora and fauna species. This can be achieved without unduly impacting ecological values of the foreshore.

4.2.2 Green and Golden Bell Frogs Habitat

Overview of Issues

The DPE have requested that additional advice is provided regarding how the Planning Proposal won't impede on the ability for the adjoining WestConnex – new M5 (now called M8) and SSI-8931 M6 Stage 1 (previously F6 extension) to meet their conditions of approval for the protection and ongoing conservation of the existing Green and Golden Bell frog (GGBF) Arncliffe population.

Additionally, it has been requested that appropriate measures are identified to mitigate and compensate biodiversity impacts from the subject proposal. It is noted that actions required under conditions of approval for SSI-6788 and SSI-8931 cannot be used to avoid or compensate biodiversity impacts from this proposal.

The DPE have also noted that the Planning Proposal should be revised to demonstrate how it allows for enough resources, including space, to enable the approval conditions of SSI 6788 and SSI 8931 to be fulfilled, and to enable the provision of a range of GGBF habitats to mitigate the direct and indirect (including prescribed) impacts associated with this proposal. The DPE have suggested that these are to be resolved as part of the draft Site-specific DCP and the final Urban Design and Landscape Plan (UDLP) associated with the future Pemulwuy Park design.

Consideration of GGBF Habitat in the Masterplan and Land Zoning

The current Planning Proposal has reconsidered the location of the development zone under the SEPP EHC and in doing so, has pushed the development footprint further away from the key sensitive GGBF habitat areas of the site. The following comparison displayed in **Figure 6** and **Figure 7** shows the 2006 Stage 1 DA illustrative plan, as approved (left) and the 2023 indicative reference scheme (right) highlighting this point.



Figure 6 2006 Stage 1 DA illustrative Plan



Figure 7 2023 Indicative Reference Scheme

Source: Hassell

This is further highlighted compared with the primary verified GGBF ponds versus the secondary GGBF foraging habitat, together with the overlay of the 2006 approval of the Stage 1 consent for the development against the extent of the 2023 development zone propose , **Figures 8** and **9**. For a like-for-like comparison of zoning, this shows that the Planning Proposal seeks to relocate the development zone away from the verified or core GGBF habitat areas within the site, therefore enhancing their protection.



Figure 8 Primary and Secondary GGBF Habitat compared to Previous Development Zone 2006

Source: Nearmap, Ethos Urban



Figure 9 Primary and Secondary GGBF Habitat compared to Current Development Zone 2023

Source: Nearmap, Ethos Urban

Strengthening of the GGBF Ponds and Habitat in the LEP

In response to submissions made, the Planning Proposal seeks to include the addition of two new C2 Environmental Conservation zones within the Revised LEP Mapping (**Appendix C**). To highlight the areas sought to be provided with enhanced provisions, the C2 zone has been overlaid on the revised indicative Masterplan with extracts provided in **Figure 10** below.



Figure 10 C2 Zoning overlaid on the Revised Masterplan

Through the revised Planning Proposal, the Proponent's objective has been to strengthen the planning provisions to further enhance the protection of flora and fauna. This will be achieved through the introduction of the C2 Environmental Conservation zone for key areas of biodiversity and ecological importance – including core verified GGBF habitat and areas of potential new breeding ponds as a result of the project, to be determined at the DA stage. The inclusion of the C2 zone will enhance the conservation values of the existing RTA GGBF ponds, new M6 GGBF and the key foreshore / riparian segment within the southern section of the site.

Site-specific DCP mitigation measures

Furthermore, a new site-specific DCP provision has been proposed which will require the implementation of a GGBF Management Plan which would apply to Pemulwuy Park. This would be prior to any works and content would be at the endorsement of Council. A draft working version will be further resolved with Council in due course. Such management requirement would feed into the Local Government Act necessity for the preparation of a management plan for public land – under 'community' classification.

The management plan would not impact on the achievement of the TfNSW's UDLP proposal for GGBF habitat recreation (requirement of the M6 Stage 1 consent), which is likely to be resolved prior to the management plan coming into force. In any case the master plan will only seek to further enhance conservation of GGBF habitat as a collective outcome within the site.

It is acknowledged that despite the improvement to the protection of the GGBF habitat through the proposal when compared to the current zoning, the proposal still has a potential future impact i.e. at the DA stage – on habitat which may be considered GGBF foraging habitat, i.e. the Long, Skinny and Eastern ponds.

Compensatory Measures

Any residual ecological impacts of the project will be compensated to offset what would otherwise be a net loss of habitat resulting from construction of the project. The residual impacts of the proposed project are predicted to mainly be focussed on the loss of Green and Golden Bell Frog foraging habitat, comprised of mainly foraging and dispersal habitat in the form of water bodies and associated fringing vegetation and lawns, that has partly arisen due to occupancy of the site for motorway construction .

Cumberland Ecology has advised that based on the extent of removal of planted native vegetation as well as GGBF habitat, it is expected that entry into the Biodiversity Offset Scheme (BOS) would be triggered through either the 'area clearing' threshold or a Test of Significance based on a precautionary approach. In accordance with the offsetting rules of the BOS, any residual impact on the GGBF will be offset through the purchase and retirement of biodiversity credits in accordance with the offsetting rules under the BC Act. The offsetting liability will be determined in the Development Application stage, through the preparation of a Biodiversity Development Assessment Report under the BAM (based on the current legislation in NSW).

The calculation of offsetting in a future BDAR will include consideration of the prescribed impacts. Although prescribed impacts do not automatically generate an offsetting liability in the form of biodiversity credits under the BAM, Section 8.6 of the BAM outlines the use of biodiversity credits to mitigate or offset indirect or prescribed impacts. As stated in this section of the BAM *"where part of or all of the indirect or prescribed impacts cannot be avoided, minimised or mitigated, the assessor can propose offsets or other measures that benefit threatened entities and their habitat. The approach to calculating any proposed offsets must be documented in the BDAR or BCAR"*. Under the BC Act and BC Regulation, the consent authority can also require the retirement of additional biodiversity credits for prescribed impacts.

The requirement to use biodiversity credits to offset prescribed impacts will be included in a VPA that will stipulate that adequate offsetting will be included to address prescribed impacts in a future ecological assessment, which needs to be signed off by the relevant consent authority.

To give further certainty to DPE that the GGBF species habitat is enhanced and protected under the future development scenario. The Proponent maintains that the appropriate mechanisms to deal with impacts is under the BC Act. The following strategies for compensatory measures will be implemented for the proposed project for a future development:

- Compensation in accordance with the BC Act:
 - Payment into the Biodiversity Conservation Fund; and/or
 - Purchase of GGBF species credits.
- If the above options are not available or suitable at the DA stage, as determined by the consent authority, the following strategies will be implemented:

- On-site habitat creation within the C2 Conservation Areas, which fall within the Cook Cove Inlet development zone, within the newly proposed C2 zoned area adjacent to the Cooks River; or
- Off-site habitat creation within Pemulwuy Park or a combination of locations, which is set out in a Local Voluntary Planning Agreement letter of offer, including monetary provision for ongoing maintenance.

Through the above measures to strengthen controls at the Planning Proposal stage the Ministerial Direction specific to Cooks Cove to “enhance and protect” the GGBF colony has been met. The above methodology has also confirmed that in a conceptual future detailed DA, suitable offset or habitat creation options within the site extent and framework exist to enhance the GGBF habitat. Accordingly, it is demonstrated that the response has adequately addressed DPE EHG’s concerns in relation to Green and Golden Bell Frogs.

4.3 Urban Design

4.3.1 Visual Bulk and Scale

Several comments and concerns have been raised regarding view impacts. The owner of the hotel complex and select occupants of the adjoining Southbank development (south and west facing) and other residential flat buildings have raised objections to the Planning Proposal on the basis that it will impair their present view over the existing golf course terrain and Cooks River, along with views across Botany Bay, Kyeemagh, and the Sydney CBD skyline.

It is noted the Gateway Determination (PP-2022-1748, issued 5 August 2022) included Condition 1(E) which required an updated to the Urban Design Report to demonstrate the suitability of the planning proposal with regards to the visual impact of the site and its relationship to the context of the area. This material was put on public exhibition from 24 April 2023 to 6 June 2023 by DPE. It is noted that the development zone is now limited to the Proponent’s freehold land, where under existing zoning the development zone occupies a larger footprint. Comparable commercial, logistics, retail and tourist/visitor accommodation exist across both existing and proposed zoning and both scenarios are limited in height by the aviation OLS at 51m RL.

A visual analysis through photomontages was undertaken to understand the potential impact of the proposal. Refer **Appendix J**. The location of two (2) key outlooks were selected with consideration of all impacted parties, with the most common view being that of a mid-level residential flat building balcony. An outlook from the residential flat building known as Southbank (20-26 Levey Street, Wolli Creek) was selected as this provides key outlooks onto public domain, view corridors and vantage points following a review of the potential significant views surrounding the site. The views are taken from the closest possible outlooks from the Southbank building to the indicative reference scheme, one being generally north and northeast and the second generally southeast and south, representative of typical floorplates and outlooks from Southbank. The selection of the Southbank building represents a closer view compared to that which would be experienced from the hotel and other buildings in the locality.

The photomontages for each of the identified views have been taken at a standard building height (Level 8) with consideration for the primary orientation of the balcony, to indicate what a typical apartment view impacts will be when considering the proposed development. The location of the selected camera angles used to complete the view comparison are illustrated in **Figure 11** below and described as follows:

1. **Viewpoint 1** – Southbank Building Level 8 facing North-East (RL 28.5 m); and
2. **Viewpoint 2** – Southbank Building Level 8 facing South-West (RL 28.5 m).



Figure 11 Visual Analysis Viewpoint Locations

Source: Virtual Ideas

Viewpoint 1 – Southbank Building Level 8 facing North-East (RL 28.5 m)

The photomontages provided in **Figure 12** and **Figure 13** convey the southern view corridor, that will be improved from the proposed 2006 approved Stage 1 DA, as the previously proposed building massing has been removed directly adjacent to Marsh Street, providing enhanced outlook onto the proposed parkland. This area will be reclassified and will ultimately be capable of being managed as community focused Pemulwuy Park in future.

Furthermore, the Planning Proposal will remove the long standing elevated F6 motorway reservation as originally identified in the Sydney Regional Environmental Plan No. 33 – Cooks Cove (SREP 33), now superseded by the State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021. This instrument contained a special use zone which was intended to have a raised motorway pass over Marsh Street and be located in the gap between the built form envisioned in immediate proximity to these neighbouring developments.

It should also be noted that particular reference has been made with concerns to the existing Southbank residential flat building and airport hotel (Novotel), and notwithstanding this concern, the scheme achieves at least 75m of building separation between the eastern extent of Southbank and the north-western closest point of the conceptual hotel building within the reference scheme. Whilst the proposal's built form outcome is expected to be dense internally within the site, the site's perimeter and interface will afford a more generous parkland interface to Marsh Street and the surrounding residential community than the current controls allow.

Additionally, it is acknowledged that the proposed maximum building height of 51m RL, will provide a disruption to the distant views of Kyeemagh foreshore. Although it should be noted that the distance between the viewpoint and the Kyeemagh area is approximately 2 kilometres away, in the most direct route. However, as can be seen in the image, the views are not considered to be primary – the most significant benefit of the proposal from a visual perspective is significant new parkland which is achieved in the foreground.



Figure 12 2006 Masterplan Massing and 2004 Height Controls

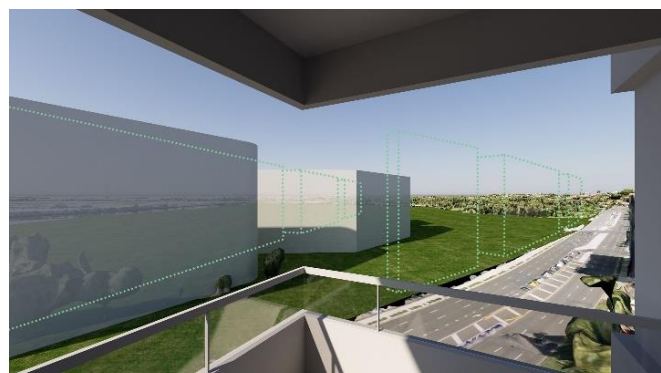


Figure 13 Current Masterplan Massing and 2004 Height Controls

Source: Virtual Ideas

Viewpoint 2 – Southbank Building Level 8 facing South-West (RL 28.5 m)

The photomontages are provided in **Figure 14** and **Figure 15** respectively, convey a generally northern view corridor that will be retained through to the skyline due to separation between building massing and will have a negligible difference on the current views of the skyline and Cooks River. Due to the similar built form positioning in this location, coupled with the primary orientation of the balcony and apartment outlook to the north and to the Sydney CBD skyline is unaffected.

The built form expected under the Planning Proposal towards the east and to Sydney Airport is comparable in nature to that already inherent in the underlying zoning provisions of the SEPP EHC, which have been in place since 2004.



Figure 14 2006 Masterplan Massing and 2004 Height Controls



Figure 15 Current Masterplan Massing and 2004 Height Controls

Source: Virtual Ideas

It is acknowledged that the proposal will result in considerable changes to the existing visual setting when seen from existing residential and hotel development. Notwithstanding this, the Proponent has taken all reasonable steps to ensure the proposal effectively integrates with the landscape of the Bayside West Precincts 2036 character in terms of overall height.

The result is an outcome with a comparable built form within the northern section of the site, and improved outcome with visual relief for adjacent residential and hotel occupants within the central and southern sections of the site.

It should also be noted that given the location of the expected built form in Cooks Cove, there are not expected to be any shadowing impacts of the proposal on neighbouring buildings, as demonstrated in the Hassell Masterplan.

4.3.2 Logistics Façades and Interface

Bayside Council and the general public have raised concerns regarding the level of activation of the warehouse/logistics uses and their presentation to public domain areas of the site given their scale. These concerns, based on the information provided, were that the project must further consider the treatment of façades through design principles that drive design led solutions. Building lengths of future façades extending up to 150m long, which will have a significant visual impact on the surroundings and interfaces with the parks must be addressed. In addition, the following aspects were requested to be considered as part of a façade-based principle that will ensure visual interest is enhanced and visual bulk is minimised:

- Bespoke design in areas that have a significant visual impact to their surroundings
- Ongoing maintenance;
- Art / First Nations collaboration;
- Interfaces with different uses; and
- Innovation design / lighting strategy.

The proposed logistics hub is intended to have a range of façade treatments that respond to their aspect, key sight lines and interfaces with surrounding open space and adjacent developments. An initial strategy of primary, secondary and internal facade typologies was developed as part of the original submission (as illustrated in **Figure 16** below).

This has been further analysed by Hassell as part of the proposed amendments to the Planning Proposal, to further activate and enhance the primary façade along the riverfront, refer to **Figure 17**. The below expansion to primary façades has been incorporated into the revised draft site-specific DCP and will present a vastly superior presentation to regional vistas and to key vantage points. Refer **Appendix K**.

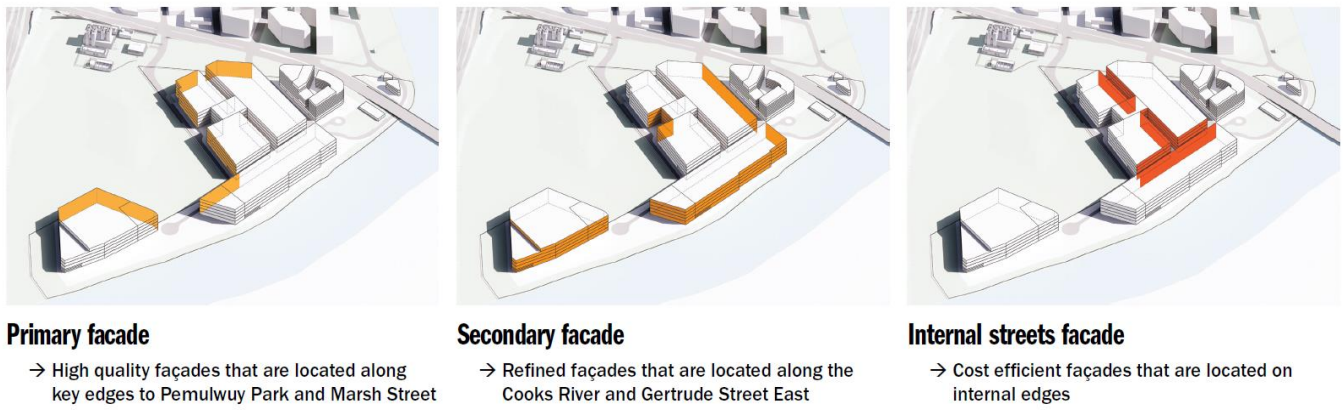


Figure 16 Block 3 Indicative Facade Typologies – Previous Design Scheme

Source: Hassell

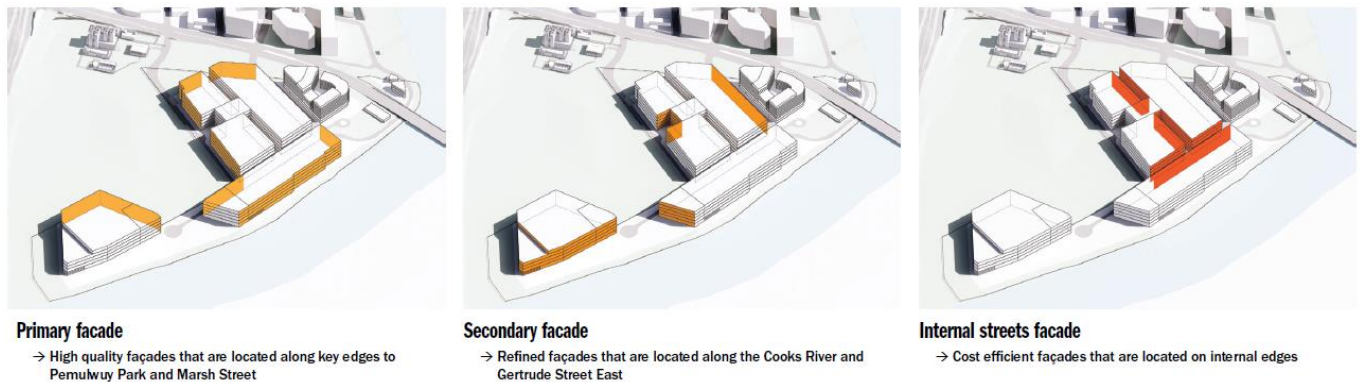


Figure 17 Block 3 Indicative Facade Typologies – Amended Design Scheme

Source: Hassell

The treatment of façades has been further supported within the revised site-specific DCP provisions (**Appendix K**). This includes expanded controls which will require future detailed designs to consider the following:

- Finer-grain façade materiality
- Ground level interaction where appropriate
- Orientation of ancillary offices toward public domain areas
- Incorporation of public art and First Nation collaboration.

The Proponent is in agreement with many of the submissions regarding façade activation and design, particularly Council's comments as replicated above.

Site specific DCP control have been revised in response and are drafted to ensure that the active foreshore zone will sit comfortably in the context of the site's land uses and density. The detailed design process for the development will have regard to CPTED principles (as a further site-specific DCP measure) and will ensure exemplar levels of quality and amenity are achieved along the waterfront.

The DCP will also require a visual linkage from east to west (between Blocks 3B and 3C) to be achieved in the detailed design and to ensure that publicly accessible linkages are achieved to the south of Block 3C and through the Fig Tree urban park / reserve adjacent to Block 2. These elements, together with a quality treatment of building facades, particularly the 'primary' facades, will achieve an outcome of high amenity for users of the active transport link and the future Pemulwuy Park.

The Proponent has also undertaken, a study of comparable design precedents at **Figure 18 to Error! Reference source not found..** This selection of images highlights potential elements of activation and design which are considered suitable benchmarks for Cooks Cove, such as ground floor food and beverage opportunities, orientation of supporting/ancillary office tenancies to sleeve warehouses, innovative design solutions which prioritise visual interest and which provide a canvas for artwork and for Connecting with Country principles. The Proponent's commitment to exemplary design is welcomed by Council and is to be implemented through further consideration of the site-specific DCP provisions.



Figure 18 Precedent image, 270 Horsley Road, Milperra (ESR)



Figure 19 Precedent image, 1-3 Burrows Road, St Peters (Goodman)



Figure 20 Precedent image, 1-3 Burrows Road, St Peters (Goodman)



Figure 21 Precedent image, 1-3 Burrows Road, St Peters (Goodman)

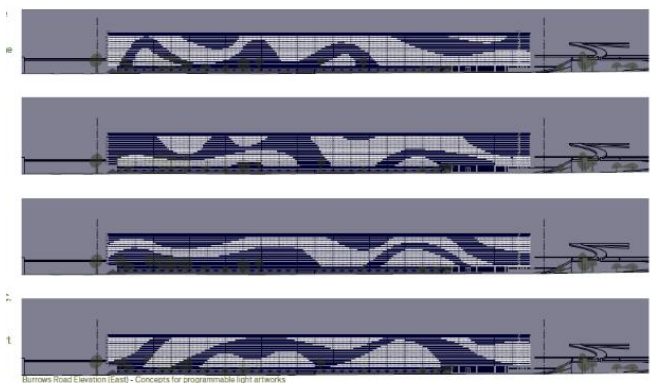


Figure 22 Precedent image, 1-3 Burrows Road, St Peters (Goodman)

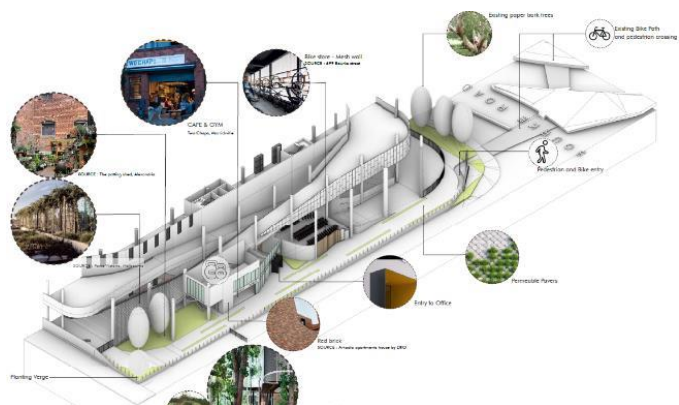


Figure 23 Precedent image, 520 Gardeners Road, Alexandria (Charter Hall)

4.4 Traffic and Transport

As confirmed by TfNSW on 4 September 2023, a further review of additional traffic modelling technical scenarios (as provided to TfNSW on 31 July 2023) was confirmed as satisfying the requirements of TfNSW in terms of traffic modelling of the planning proposal impacts. Refer to TfNSW correspondence provided at **Appendix H**.

CCI remains committed to TfNSW's requirement to undertake the following at the future DA stage:

- Ensure that the model extent for the M5 East westbound offramp road section is extended to capture the end of the anticipated maximum queue on this movement to more accurately reflect the current operation and the future impacts of the development.
- Level of Service classifications should reflect NSW measures to match the most recent Detailed Traffic Modelling Outputs table
- Modelling to reflect the agreed treatments and geometry at all intersections, including the agreed treatment/layout of the proposed Gertrude Street extension/Levey Street intersection.

CCI has agreed on the delivery of all necessary enabling works in terms of road related infrastructure, by way of revised State and Local VPA letters of offer (**Appendix L** and **M**). These elements are to be delivered as Works-in-Kind by the Proponent prior to the issue of an Occupancy Certificate for floorspace within the development zone. The preliminary scopes of these works have been agreed between CCI and TfNSW. These items have also been coordinated and agreed with Council in-principle for all local road components feeding into the proposed State Road networks upgrades.

With respect to TfNSW's M6 and M8 Motorways, CCI remains committed to cooperating with TfNSW and Council to resolve potential conflicts of the future Cooks Cove enabling work with the objective of doing so without incurring additional cost to these critical motorway projects. The detailed response table at **Appendix A**, confirms that the Cooks Cove Planning Proposal will not impact or impede the completion of this critical infrastructure and the relevant conditions of approval. It is acknowledged that re-work to TfNSW's UDLP will be required and CCI agrees to minimise and mitigate this disruption as far as practical (refer to **Section 4.1** for further discussion).

With respect to the Trust lands, the Proponent notes TfNSW's concerns with being able to acquire the relevant portions at no-cost (should it be necessary) in order to complete surface works associated with the Arncliffe MOC. Council has been formally requested to be party of the State VPA to facilitate this process and it is understood, at the time of writing, that this matter is to be resolved at the October Ordinary Council meeting.

4.5 Wind Shear and Turbulence

With regards to submissions provided by CASA, the proponent has consulted further with Arup on the matter of wind shear and turbulence. Arup have confirmed that there is little concern with regards to rezoning approvals perspective.

Arup have confirmed that it is 95 percent turbulence that cause the greatest impacts for Sydney Airport Corporation Limited (SACL). Furthermore, wind shear is generally only caused by large structures on airside, at 400m from the runway centreline, the impact of Building 3C would more likely be turbulence rather than wind shear.

The Proponent will continue to engage with SACL during the detail design phase, once a planning approval has been achieved in order to fully appreciate their concerns regarding the development, with particular regards to Building 3C. Consideration will be made to mitigate any wind shear and turbulence issues. Modelling of the final design would be undertaken to quantify the impact of the proposed development massing and geometry on wind shear and turbulence characteristics along the glideslopes to Runways 07 and 16R.

Furthermore, Arup have noted the importance and need for future detailed consideration regarding the impact on Runway 16R and Runway 25 during strong wind events from the west. Additionally, consideration on the wind impacts on Runway 07 that is typically used during winds from south of east when the development would be in the lee of the glideslope. As such, there are no required changes to the proposed massing as part of the current Planning Proposal. Refer to the detailed response provided by Arup at **Appendix I**.

4.6 Utilities

A number of submissions were received from utility owners and providers. It is noted that no objections were received, rather detailed investigation, design or contractual matters for future resolution as part of the detailed Development Applications process were identified by the following agencies:

- Jemena
- Ausgrid
- NBN Co.
- Sydney Desalination Plant

With respect to the ethane pipeline running through the site, owner APA-Gorodok requests notification of future DAs in accordance with clause 2.77 SEPP (Transport and Infrastructure). It is noted and agreed a detailed Safety Management Study will be required to be undertaken by CCI in conjunction with future DAs. Improvements or earthworks within easements will be subject to detailed considerations and prior approval from APA.

Sydney Water's original submission (dated 6 June 2023) required a detailed option assessment and modelling of the proposed sewerage system via the engagement of a Water Servicing Coordinator. It noted that connection to SWSOOS may be supported, however, it was recommended to defer the Planning Proposal until the wastewater options study is completed and endorsed by Sydney Water. Following further consultation (refer **Section 3.0**) a replacement submission was provided by Sydney Water (dated 4 August 2023). The revised submission noted no objection with the Planning Proposal but recommended an options assessment is required to be completed and endorsed by Sydney Water prior to any subsequent DAs. The proponent via the appointed Water Service Coordinator (Rose Atkins Rimmer) is progressing this matter separately with Sydney Water.

4.7 Economics

Several public submissions and the Bayside Council submission raised concern with the underlying economic demands for the project. From an economics standpoint, the strategic merit for the Cooks Cove project continues to be strongly justified across numerous sources and strategies. Section 5.5 of the exhibited Planning Proposal Justification Report remains relevant.

More specifically, key drivers and justification for the Cooks Cove project include the following:

- There is significant demand for industrial floorspace across Greater Sydney to support the proposed 290,000m² of industrial floorspace proposed at Cooks Cove. This is especially the case given the site is located immediately adjacent to a major growing trade gateway and has the ability to incorporate a future bridge connection for freight purposes.
- Strong economic demand has been attributed to the need for more contemporary industrial facilities that can support modern supply chain requirements and logistics (including technology and automation), particularly resulting from the rise in e-commerce in recent years. Key highlights of the Sydney Industrial market include:
 - Sydney has the lowest vacancy rate of any city globally (0.2%), and is projected to remain below 2% in the next two years (CBRE, 2023)
 - The top three industries driving demand for industrial space in Sydney include transport and logistics, e-commerce and manufacturing occupiers (CBRE, 2023)
 - A review of industrial demand and supply suggests that demand will continue to exceed supply in the near term. CBRE has identified that there will be a need for 146ha of new industrial land supply each year in Sydney.
- The site is located close to major trade gateways and business hubs, including Sydney CBD, Sydney Airport and Port Botany and major arterial roads. Accordingly, the site is well placed to unlock industrial supply and support other uses in this part of Sydney, including supporting the continued growth of Sydney Airport as identified through its Master Plan.

With consideration to the above, the proposal is wholly aligned with the objectives and vision for the site and surrounding area, including local, state and federal government objectives around unlocking strategic sites close to transport nodes. The proposal will in fact complement surrounding infrastructure and will deliver significant economic benefits to the local and regional area, including through stimulating employment uplift on an underutilised and large strategic site.

4.8 Additional Matters from Public Submissions

Further to the issues covered in the previous sections, additional matters were raised in submissions made by members of the public and community groups. A summary of these additional matters and the Applicants response has been provided in **Table 7** below with detailed summary and responses of the matters raised in the public submissions provided in **Appendix B**.

Table 7 *Response to Additional Matters from Public Submissions*

Key Issues	Comment	Response
Visual Impact	<ul style="list-style-type: none"> Concerns raised by residents regarding existing view impacts onto the Cook River and overshadowing impacts arising the Cooks Cove development. Concern regarding the Logistic Hubs lighting impact on the surrounding residential areas. 	<ul style="list-style-type: none"> Given the location of the expected built form in Cooks Cove, there are not expected to be any shadowing impacts of the proposal on neighbouring buildings, as demonstrated in the Hassell masterplan. A detailed lighting assessment is a matter for a future Development Application. The standard provisions of the Bayside DCP will apply in this regard.
Privacy	<ul style="list-style-type: none"> Concerns that the proposal will result in a lack of privacy for both existing Southbank residents and the residents of the proposed new apartments. 	<ul style="list-style-type: none"> At least 75m of building separation is achieved in the reference scheme between the eastern extent of Southbank and the north-western closest point of the conceptual hotel building
Design	<ul style="list-style-type: none"> Commentary regarding opportunity for enhanced waterfront park land, with reduced building scale and stronger connectivity between Pemulwuy Park and the waterfront. Concern regarding the building articulation of 3C and the limited passive surveillance available. Concern regarding the non-human scale of the development and the inconsistency with the surrounding neighbourhood as a traditional fine-grained residential area. 	<ul style="list-style-type: none"> DCP controls are drafted to ensure a foreshore is achieved which is both visually and physically linked appropriately. This includes park design to provide a visual linkage from east to west and to provide a publicly accessed reserve adjacent to Block 2. In response to the communities' comments CCI have proposed additional DCP controls for safety lighting and CPTED The surrounding area is dominated by large scale uses and infrastructure such as Sydney Airport, the M5 Motorway and also the Cooks River.
Land Uses	<ul style="list-style-type: none"> Justification as to why this site is not being used to provided housing. Justification as to the market need for logistic warehouses. Desire for land to be used for public infrastructure such as, a national museum, community centre, artist workshops/precinct. 	<ul style="list-style-type: none"> The site was previously investigated for housing, but this was ultimately not supported. There is significant demand for industrial floorspace across Greater Sydney to support the proposed 290,000m² of industrial floorspace proposed at Cooks Cove and adjacent to a major trade gateway. The inclusion of a gallery or museum is out of scope for the development site but is something Council can considered on public land in future.
Planning Framework	<ul style="list-style-type: none"> Desire for the development to be subject to a design excellence panel review. Further direction as to what the developer is contributing to the community, in addition to the Transport for NSW Pemulwuy Park land. If the site is to be developed, some of the built area should be provided to the community by the developer for community use. Cl 6.13(3) of the SEPP permits the preparation of stand-alone masterplans for land within the Trade and Technology' zone, cl 6.13(2) requires preparation of a masterplan for the entire Cooks Cove area, including consultation with the Planning Secretary. 	<ul style="list-style-type: none"> Agreed. Clause 6.10 Design Excellence is proposed to be applied and mapped as applicable to the Cooks Cove site. The Cooks Cove project is clear in its provision of an entirely publicly accessible foreshore from north to south, filling the missing link in the active transport network, publicly accessible passive open space including dedication and embellishment, new local road infrastructure, flooding mitigation works and monetary contributions to open space works to be completed by Council. The Planning Proposal seeks to remove the site from the SEPP EHC and relocate planning controls to the Bayside LEP 2021 with a supporting site-specific DCP. Accordingly, the clauses referenced are no longer applicable.

5.0 Amendments to the Planning Proposal

5.1 Overview

Following exhibition, amendments to the Planning Proposal provisions are proposed in response to submissions received and consultation with agencies. In summary, the following amendments are proposed:

- LEP Mapping amendments:
 - Zoning – Implementation of C2 Conservation Zone for key verified GGBF breeding habitat and the southern section / 'marshland' interface to the Cooks River. Implementation of RE2 Private Recreation for balance of Cooks River riparian interface within the northern section / development zone interface.
 - Design Excellence – amendment of Clause 6.10 provisions to apply to the Cooks Cove Precinct as mapped and with a supplementary requirement that the design excellence provisions apply only to the lands use definitions of 'office premises', 'hotel or motel accommodation' and 'serviced apartments', and
 - Additional Local Provisions – amendment to clarify that 'office premises' being ancillary to the warehouse/logistics and/or the trade and technology land uses are also capped to 1 car parking space per 80sqm of GFA.
- Site specific DCP amendments:
 - Pemulwuy Park – provisions for final design arrangements for flowpath in conjunction with the revised Local VPA letter of offer.
 - Ecological/biodiversity – additional supporting controls for conservation zones, Green and Golden Bell Frogs habitat, riparian zones, site-wide biodiversity considerations and management plans.
 - Water – requirements for a detailed water management, flood evacuation strategy and WSUD principles.
 - Other – enhancements to further address façade provisions, activation, CPTED, signage/advertising provisions, open space areas, access & traffic management and ancillary car parking provisions etc.

5.2 Revised Description

The publicly exhibited description of the amendments to the Bayside LEP 2021 is provided below. This has been amended to illustrate the proposed changes with words to be deleted shown in **~~bold strikethrough~~** and words to be inserted shown in ***bold italics***:

- Application of the SP4 Enterprise zone within the former KGC freehold owned land, being Lot 31 in DP 1231486 (Block 1) and Lot 100 in DP 1231954 (Blocks 2 and 3) to form a development zone;
- ***Application of the C2 Conservation Zone to components of Lot 1 DP 329283, Lot 1 DP 108492 and Lot 100 DP 1231954 to areas of key verified GGBF breeding habitat and to areas of key riparian interface of 40m width within the south-eastern section of the site.***
- Application of the ~~RE1 Public Recreation~~ ***RE2 Private Recreation*** zone to the residual of Lot 31 in DP 1231486 and Lot 100 in DP 1231954 in order to define a foreshore recreation zone with a minimum width of 20m ~~and internal passive open space and overland flow areas within the southern and western edges of Lot 100 in DP 1231954.~~
- ***Application of the RE1 Public Recreation for the purposes of internal passive open space and overland flow areas within the southern and western edges of Lot 100 in DP 1231954 and to the residual portions of Lot 14 in DP 213314, Lot 1 DP 329283 and Lot 1 DP 108492 that will form Pemulwuy Park North and South.***
- Application of the SP2 Infrastructure zone (Classified Roads) to portions of Lot 14 in DP 213314, Lot 1 DP 329283, ***Lot 13 DP 570900*** and Lot 1 DP 108492, which are presently utilised for the existing Marsh Street roadway, ***stormwater infrastructure*** and the Trust / TfNSW land which will accommodate the M6/M8 permanent Motorway Operation Facilities, respectively. ~~Application of the RE1 zone to the residual portions of Lot 14 in DP 213314, Lot 1 DP 329283 and Lot 1 DP 108492 that will form Pemulwuy Park North and South.~~
- An overall maximum building height of RL51m (Blocks 2 and 3) graduating down to RL40m in response to aviation controls in the southern section, and a maximum building height of 24m (Block 1);
- A limit to total GFA within the overall site to 343,250m² applied through:
 - Block 1 – A total quantum of development that does not exceed a mapped FSR of 1.25:1 (equivalent to 3,250m²).
 - Blocks 2 and 3 – A total floorspace that does not exceed 340,000m² GFA mapped as 'Area 16', inclusive of:

- A maximum 20,000m² GFA for 'office premises';
 - A maximum 20,000m² GFA for 'hotel or motel accommodation' and 'serviced apartments'; and
 - A maximum 10,000m² GFA for 'shops' and 'food and drink premises'.
- Application of Schedule 1 Additional Permitted Uses for the development zone including:
 - Block 1 – 'Advertising structures'; and
 - Blocks 2 and 3 – 'Trade-related enterprises'
- Application of Clause 6.10 Design Excellence Provisions to Cooks Cove in relation to development for the purposes of 'office premises', 'hotel or motel accommodation' and 'serviced apartments'.

5.3 Land Zoning

5.3.1 Amended Land Use Mapping

In response to EHG's advice and further discussions between the DPE and CCI, it has been elected to introduce the C2 Environmental Conservation zone to the Bayside LEP 2021 and for it to be applied to select parts of the Cooks Cove site. The C2 zone is proposed to be adopted to replace portions of the RE1 Public Recreation zone of the site which has existing and proposed verified GGBF breeding habitat (RTA ponds and proposed TfNSW UDLP ponds) and for an expanded riparian zone fronting the Cooks River, replacing a section of SP4 Enterprise zoned land within the south-eastern section of the site.

Further, the balance of the RE1 zone originally sought along the foreshore is now proposed to be altered to the RE2 Private Recreation zone in response to Council's submission.

The exhibited and amended draft Land Use Maps provided in **Figure 24** and **Figure 25** respectively.

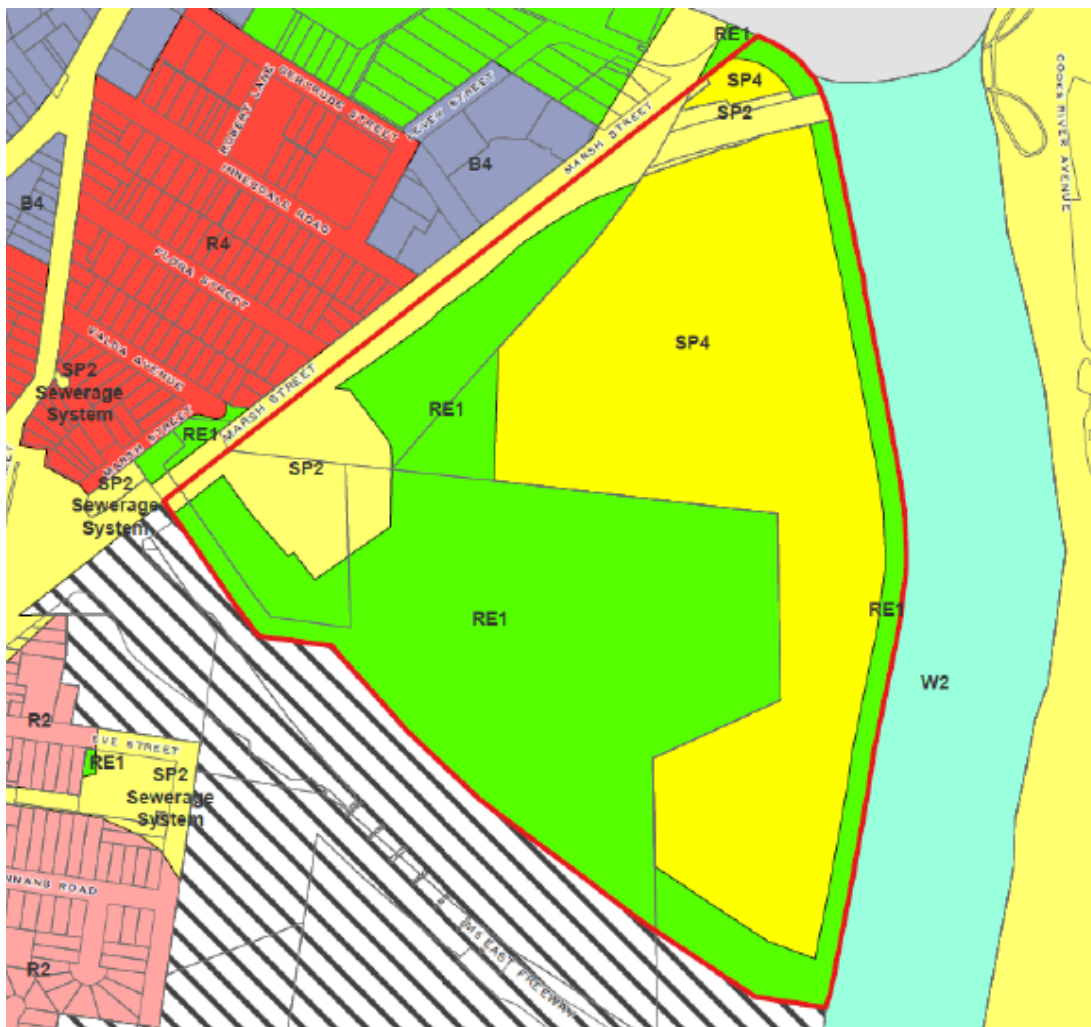


Figure 24 Exhibited Draft Land Use Zoning Map Extract

Source: Ethos Urban

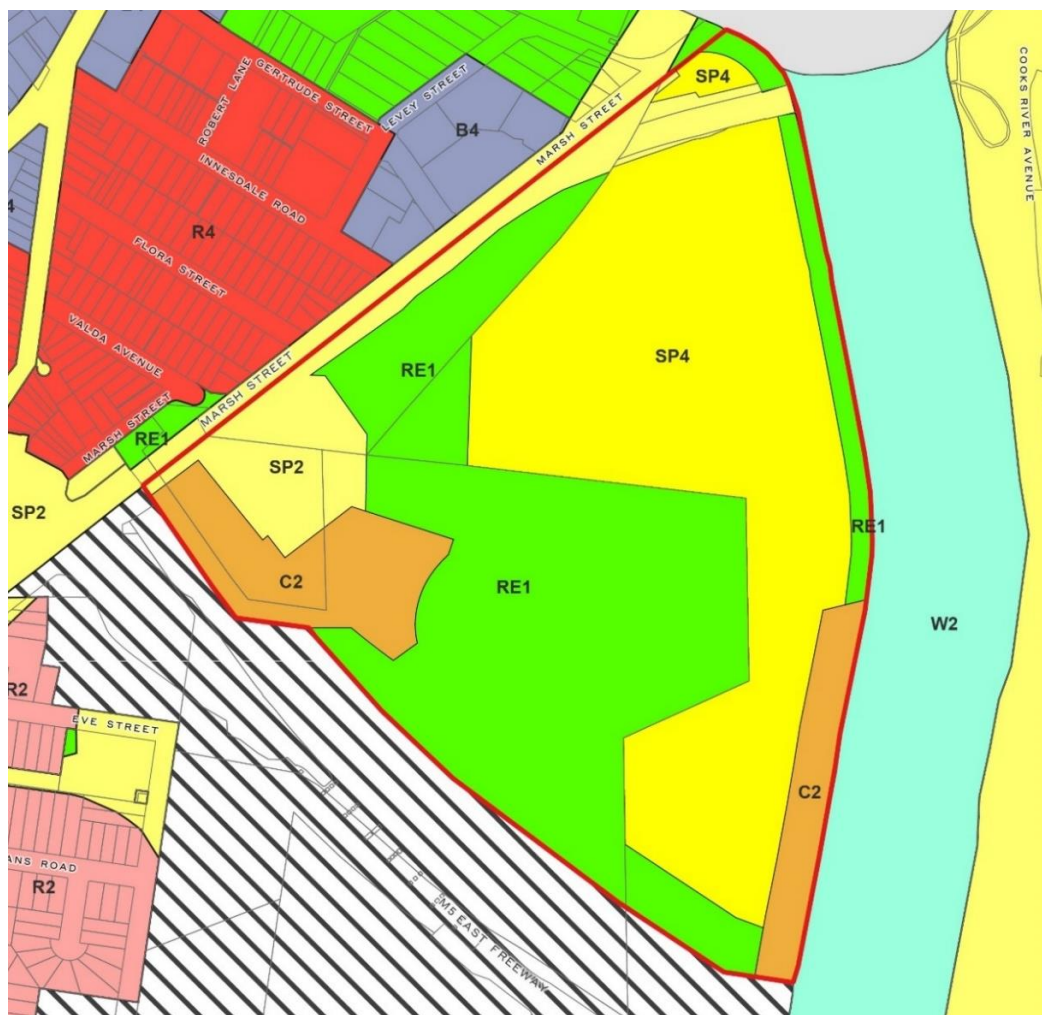


Figure 25 Amended Draft Land Use Zoning Map Extract

Source: Ethos Urban

5.3.2 Proposed C2 Environmental Conservation Zone

The Bayside LEP 2022 does not presently include the C2 Environmental Conservation zone. Due to the significance of the submissions made in relation to ecology matters, CCI has discussed the possibility of incorporating the C2 zone into the Bayside LEP 2021 with DPE and Council. It was agreed at the meeting of CCI and DPE on 14 September 2023 that the Proposal would be altered to apply the C2 zone to the elements mapped above, but would also apply LGA-wide in future should the zone be elected to be expanded elsewhere throughout the LGA.

Under the Standard Template Instrument, the C2 zone is provided with the following standard objectives which would apply to the zone generally and the mapped area sought:

- *To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.*
- *To prevent development that could destroy, damage or otherwise have an adverse effect on those values.*

CCI and the project team have reviewed a range of comparable LEPs within Greater Sydney which include the C2 zone. This review highlighted the Blacktown LEP 2015, which has an additional objective crafted, which is of the opinion of the Proponent best applies to the approach for the C2 land within Cooks Cove:

- *Provide for passive recreational activities that are compatible with the land's environmental constraints.*

The additional objective captures the desired future character for the areas within the C2 zones to be a carefully aligned balance between sensitive ecological areas and the need to enhanced public accessibility to recreational lands. These elements are enshrined in the site specific Ministerial Directions for Cooks Cove (1.12) under the s9.1 of the EP&A Act. Accordingly, the insertion of the C2 zone for the areas mapped in **Figure 25** will provide an appropriate response to submissions made to better protect areas of high ecological significance. It is understood that DPE and Council will confer in relation to CCI's preference, as this addition may have implications for the wider LGA

The proposed objectives of the C2 zone, together with the intended permissible and prohibited land uses is provided in **Table 8** below. Suggestions by CCI over and above the Standard Template allowances are in *italic*.

Table 8 Proposed C2 Environmental Conservation Land Use Zoning and Permissibility

C2 Environmental Conservation
<p>1. Objectives of the zone:</p> <ul style="list-style-type: none"> To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values. To prevent development that could destroy, damage or otherwise have an adverse effect on those values. <i>To provide for passive recreational activities that are compatible with the land's environmental constraints.</i>
<p>2. Permitted without consent:</p> <p><i>Environmental protection works</i></p>
<p>3. Permitted with consent:</p> <p><i>Oyster aquaculture; Flood mitigation works; Recreation areas; Roads; Water reticulation systems</i></p>
<p>4. Prohibited:</p> <p>Business premises; Hotel or motel accommodation; Industries; Local distribution premises; Multi dwelling housing; Pond-based aquaculture; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Tank-based aquaculture; Warehouse or distribution centres; Any other development not specified in item 2 or 3</p>

5.3.3 Proposed RE2 Private Recreation Zone

In response to a submission made by Council, CCI has elected to amend the proposed zoning of the balance of the publicly accessible foreshore from RE1 Public Recreation to RE2 Private Recreation. This section relates to the northern Section, adjacent to Blocks 1, 2 and 3b.

The intended land use objectives remain consistent with the intent of the Planning Proposal and accompanying reference scheme. Primarily, the proposal remains permissible with development consent as 'recreation areas'. Additional permissible land uses of 'environmental facilities', 'flood mitigation works', 'jetties', 'kiosks' and roads also remain permissible with consent,

The revision from RE1 to RE2 will not alter any of the public accessibility access right intended. This approach is consistent with the precedent of Discovery Point Reserve at Wolli Creek, which is owned and maintained by the owner's cooperative but made available through public access easements. CCI also confirm there is proposed to be no obligation for Council to acquire the land in the future and the requirement to maintain and provide public access to the full extent of the Cooks River foreshore within the Planning Proposal boundary, is captured in the Local VPA revised letter of offer (refer **Appendix M**).

The objectives of the zone, permissible and prohibited land uses is provided in **Table 9** below.

Table 9 Proposed RE2 Private Recreation Land Use Zoning and Permissibility

C2 Environmental Conservation
<p>1. Objectives of the zone:</p> <ul style="list-style-type: none"> To enable land to be used for private open space or recreational purposes. To provide a range of recreational settings and activities and compatible land uses. To protect and enhance the natural environment for recreational purposes.
<p>2. Permitted without consent:</p> <p>Nil</p>
<p>3. Permitted with consent:</p> <p>Aquaculture; Boat launching ramps; Building identification signs; Business identification signs; Centre-based child care facilities; Community facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Information and education facilities; Jetties; Kiosks; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Roads; Water supply systems</p>
<p>4. Prohibited:</p> <p>Any development not specified in item 2 or 3.</p>

5.4 Design Excellence

In response to comments made by both Council and the general public regarding the design quality of future buildings, CCI is proposing to apply the design excellence provisions of the Bayside LEP 2021 to Cooks Cove. It is intended to amend Cluse 6.10 Design Excellence to as follows:

6.10 Design excellence

- (1) The objective of this clause is to deliver the highest standard of architectural, urban and landscape design.
- (2) This clause applies to the following development—
 - (a) development involving the erection of a new building or external alterations to an existing building within the Arncliffe Precinct or the Banksia Precinct,
 - (b) development involving the erection of a new building or external alterations to an existing building on land shown edged heavy black on the Design Excellence Map,
 - (c) development that is the subject of a development application that relies on clause 4.3(2A) (a), (f), (g), (h), (i) or (k).
 - (d) development within the Cooks Cove Precinct, as shown edged heavy black on the Design Excellence Map for the purposes of ‘office premises’, ‘hotel or motel accommodation’ and ‘serviced apartments’.**

The above land uses are intended to be located within the northern section of the site, more visible from key vantage points such as Marsh Street roadway, adjacent high density residential precinct, and further afield from Wolli Creek and Sydney Airport International Precinct. Given the public interface of these buildings and the type of land uses sought, the proponent is committed to undertaking the Council led design excellence provisions.

However, it is expected that due to the intended scale and value of the future logistics, warehousing or trade and technology built form, as shown in the indicative reference scheme, that these buildings will be subject to a State Significant Development Application, which will be subject to the State Design Review Panel. The Cooks Cove Precinct has been mapped in the design excellence map as per **Figure 26** below.

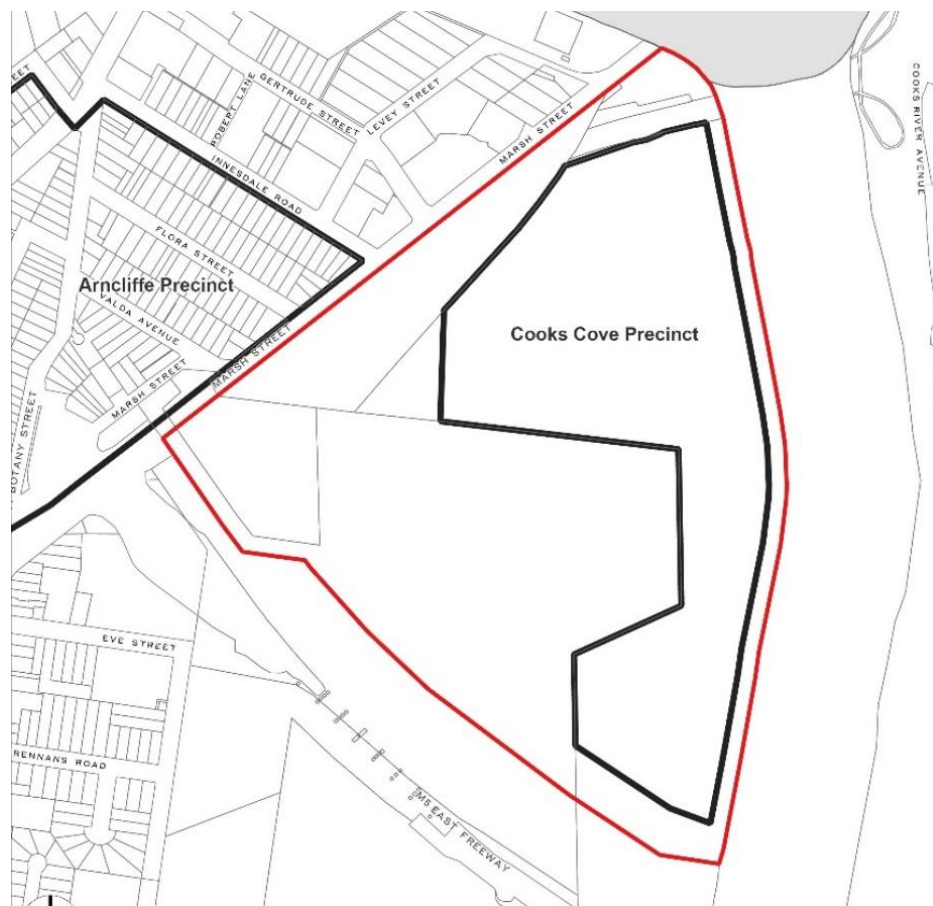


Figure 26 Amended Design Excellence Map Extract

5.5 Additional Local Provisions

A minor clarification is sought to the proposed wording of

Clause 6.18 – Development of land at 13-15 Marsh Street, 19 Marsh Street and 19A Marsh Street, Arncliffe.

(6) The consent authority must not grant consent to development on Lot 100 in DP 1231954 (indicated as 'Area 16' on the relevant Floor Space Ratio Map, unless it is satisfied the development does not exceed:

(a) a total of 340,000sqm GFA,

*(b) 20,000sqm GFA of office premises **(exclusive of any office premises which are ordinarily incidental or ancillary to development for any other permissible purpose)***

(c) 20,000sqm GFA of hotel or motel accommodation and serviced apartments, and

(d) 10,000sqm combined GFA of shops and food and drink premises.

This will ensure that the intended outcome of a significant quantum of consolidated office floorspace is capable of being achieved within the precinct. The amendments sought will remove any potential ambiguity as to the ability to achieve additional office floorspace in conjunction with the logistics and warehousing built form envisioned within a large part of the development zone.

The overarching GFA provision for 340,000sqm within Area 16 will continue to set the upper cap for total GFA within the site. All other wording as presented in the Planning Proposal Justification report dated 4 April 2023 is proposed to remain as drafted.

5.6 Site Specific DCP

Further amendments proposed to the site specific DCP in response to submission include:

- Pemulwuy Park – provisions for final design arrangements for flowpath in conjunction with the revised Local VPA letter of offer.
- Ecological/biodiversity – additional supporting controls for conservation zones, Green and Golden Bell Frogs habitat, riparian zones, site-wide biodiversity considerations and management plans.
- Water – requirements for a detailed water management, flood evacuation strategy and WSUD principles.
- Other – enhancements to further address façade provisions, activation, CPTED, signage/advertising provisions, open space areas, access & traffic management and ancillary car parking provisions etc.

These proposed amendments are to be further addressed in consultation with Council Refer to a revised draft version of the site-specific DCP at **Appendix K**.

6.0 Additional Assessment Matters

In response to the submissions received and design refinements and amendments made, further additional assessment of the impacts of the Planning Proposal has been undertaken and is outlined in the following sections.

6.1 Section 9.1 Ministerial Directions

6.1.1 Local Planning Directions: 1.12 Implementation of Planning Principles for the Cooks Cove Precinct

In response to submissions received in relation to ‘enhancing the environmental attributes of Cooks Cove including protected flora and fauna, riparian area, wetlands and heritage’, an assessment of the revised Planning Proposal compliance with this Planning Principle is provided in **Table 11** below.

Table 10 Consistency with s9.1 Ministerial – Direction 1.12 – Cooks Cove Planning Principle – Environmental Enhancement

Provision	Assessment	Consistency
Enhance the environmental attributes of the site, including protected flora and fauna, riparian areas and wetlands and heritage		
<i>Principle 9 requires a Planning Proposal to “enhance the environmental attributes of the site, including protected flora and fauna, riparian areas and wetlands and heritage”. The Planning Proposal is consistent with this principle for the reasons to the right.</i>	The Cooks Cove Planning Proposal seeks amendments to further enhance the environmental attributes present through the implementation of areas of a new C2 Environmental Conservation zone. This will strengthen provisions through clear objectives over and above the land zoning outcome under the current SEPP EHC provisions. In addition, comparable supplementary environmental controls are sought to those present within the existing Bayside LEP framework, to ensure consistency, including Acid Sulfate soils (Clause 6.1), Terrestrial biodiversity (Clause 6.4) and Riparian land, wetlands and waterways (Clause 6.5).	✓
	The Planning Proposal will also facilitate expanded ecological areas as it sets the framework for site specific planning controls which will significantly rejuvenate and revegetate a portion of the Cooks River foreshore at the southern end of the site and in the western section for new and expanded GGBF habitat capabilities.	✓
	The Planning Proposal acknowledges the need to plan for and mitigate against natural hazards and climate change. Provision for rising sea levels has been accommodated within the flood modelling and resulting flood planning levels for the site. The site of the Planning Proposal does not contain any heritage item nor wetlands. All waterbodies within the Planning Proposal site are manmade and relate to existing use of the site as a golf course and irrigation purposes. Whereby GGBF foraging habitat may be present, the Planning Proposal provides the ability to offset and compensate for the reduction of habitat through expanded conservation zones and through the general realignment of the development zone to reduce impacts as far as practical and to offer enhancement to fauna and flora over the current land use planning provisions under SEPP EHC.	✓

6.1.2 Local Planning Directions: 4.1 Flooding

In response to submission received in relation to flooding impacts, an assessment of the revised Planning Proposal, including revised FIRA is provided in **Table 11** below.

Table 11 Consistency with s9.1 Ministerial – Direction 4.1 – Flooding

Provision	Assessment	Consistency
(1) A planning proposal must include provisions that give effect to and are consistent with: (a) the NSW Flood Prone Land Policy,	A Flood Impact Risk Assessment for the Planning Proposal has been prepared by Arup in response to DPE's latest flood prone land policy and flood impact assessment guidelines. Refer to Appendix E .	✓
(b) the principles of the Floodplain Development Manual 2005,	Appendix E , Table 4 provides a full list of the principles for flood risk management in New South Wales taken from the most recent Flood Risk Management Manual (DPE, 2023).	✓
(c) the Considering flooding in land use planning guideline 2021, and	The Bayside LEP appropriately categorises the land immediately surrounding the Planning Proposal site as a Flood Planning Area (FPA). Accordingly, the Planning Proposal seeks to designate the site as within a FPA. All developable land within the site will be filled to more than 0.5m above the DFE as a baseline condition, which is consistent with current planning provisions. No Special Flood Considerations apply	✓
(d) any adopted flood study and/or floodplain risk management plan prepared in accordance with the principles of the Floodplain Development Manual 2005 and adopted by the relevant council.	This FIRA has relied upon the Cooks River Flood Study (MWH-PB, 2005) carried out for Sydney Water. There is no adopted Flood Risk Management Plan that covers this part of the Cooks River floodplain.	✓
(2) A planning proposal must not rezone land within the flood planning area from Recreation, Rural, Special Purpose or Conservation Zones to a Residential, Employment, Mixed Use, W4 Working Waterfront or Special Purpose Zones.	It is acknowledged the Planning Proposal seeks to rezone elements of the site (within the FPA) from recreation to special purpose. However, in doing so this will ultimately result in a reduced quantum of developable area when compared to the current zoning. This approach, together with contemporary flood planning and risk provisions, balances the rezoning of land in the flood planning area in a format which achieves a superior outcome in terms of flood safety.	✓
(3) A planning proposal must not contain provisions that apply to the flood planning area which: (a) permit development in floodway areas,	The floodway areas on the site will be relocated through land reshaping, to new and expanded open space zoned areas within the site. There will not be any development in these relocated floodway areas. The floodway areas of the 'existing situation' (i.e. the case once TfNSW has constructed passive open space facilities on the spoil mound and the frog ponds) is on a floodplain that has been heavily modified over the last 70 years and does not resemble a natural floodplain adjacent to a natural river.	✓
(b) permit development that will result in significant flood impacts to other properties,	There will not be any impacts to properties external to the site. Refer to Appendix E .	✓
(c) permit development for the purposes of residential accommodation in high hazard areas,	Not applicable as residential land uses are not sought.	✓
(d) permit a significant increase in the development and/or dwelling density of that land,	The area is low hazard for the 1% AEP flood and in the case with the development implemented in line with the Planning Proposal, all of the developed land with increased density would be not be inundated in	✓

Provision	Assessment	Consistency
	floods up to the 1:2000 AEP and all floor levels would be above the PMF levels.	
(e) permit development for the purpose of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,	Not applicable as these land uses are not sought.	✓
(f) permit development to be carried out without development consent except for the purposes of exempt development or agriculture. Dams, drainage canals, levees, still require development consent,	Not applicable.	✓
(g) are likely to result in a significantly increased requirement for government spending on emergency management services, flood mitigation and emergency response measures, which can include but are not limited to the provision of road infrastructure, flood mitigation infrastructure and utilities, or	Appendix E , Section 7 of this report demonstrates that in all floods up to a 1:2000 AEP flood, there is only a short period of time that evacuations would require the assistance of emergency management services.	✓
(h) permit hazardous industries or hazardous storage establishments where hazardous materials cannot be effectively contained during the occurrence of a flood event.	Not applicable, these land uses are not sought.	✓
(4) A planning proposal must not contain provisions that apply to areas between the flood planning area and probable maximum flood to which Special Flood Considerations apply which:	No Special Flood Considerations apply to the Bayside LEP. The proposal does not impose flood related development controls above the residential flood planning level as outlined in the NSW guidelines.	✓
(a) permit development in floodway areas,		
(b) permit development that will result in significant flood impacts to other properties,		
(c) permit a significant increase in the dwelling density of that land,		
(d) permit the development of centre-based childcare facilities, hostels, boarding houses, group homes, hospitals, residential care facilities, respite day care centres and seniors housing in areas where the occupants of the development cannot effectively evacuate,		
(e) are likely to affect the safe occupation of and efficient evacuation of the lot, or		
(f) are likely to result in a significantly increased requirement for government spending on emergency management services, and flood mitigation and emergency response measures, which can include but not limited to road infrastructure, flood mitigation infrastructure and utilities.		
(5) For the purposes of preparing a planning proposal, the flood planning area must be consistent with the principles of the Floodplain Development Manual 2005 or as otherwise determined by a Floodplain Risk Management Study or Plan adopted by the relevant council.	Refer Appendix E Section 4.1 for consistency with FRM 2005 and see Tables 4 and 5 for compliances with the Floodplain Management Manual (DPE, 2023) There is no adopted Flood Risk Management Plan that covers this part of the Cooks River floodplain.	✓

Provision	Assessment	Consistency
<i>Consistency</i>		
<i>A planning proposal may be inconsistent with this direction only if the planning proposal authority can satisfy the Planning Secretary (or their nominee) that:</i>		
(a) the planning proposal is in accordance with a floodplain risk management study or plan adopted by the relevant council in accordance with the principles and guidelines of the Floodplain Development Manual 2005, or	The Planning Proposal is generally consistent with the provisions of this Direction. When considered holistically on a merit basis and in accordance with the NSW Flood Prone Land Policy and other appropriate guidance and policies referenced in this section, the proposal satisfies the flood related requirements of this Direction and the Council's DCP. The Planning Proposal is designed in accordance with a floodplain risk management plan prepared by Arup in accordance with the principles and guidelines of the Floodplain Development Manual 2005.	✓
(b) where there is no council adopted floodplain risk management study or plan, the planning proposal is consistent with the flood study adopted by the council prepared in accordance with the principles of the Floodplain Development Manual 2005 or	The Planning Proposal responds to and appropriately addresses flood impacts arising from the widening of Marsh Street and the construction of M6 and M8 permanent operation facilities at Probable Maximum Floods levels and the corresponding loss of historic flood catchments.	
(c) the planning proposal is supported by a flood and risk impact assessment accepted by the relevant planning authority and is prepared in accordance with the principles of the Floodplain Development Manual 2005 and consistent with the relevant planning authorities' requirements, or	The Planning Proposal relies upon delivering the local infrastructure upgrades that are contemplated by the Bayside West Precincts Plan 2036, including 'Dedicated Overland Flowpaths', 'New flood storage and basins to mitigate future flooding' and a 'New levee to provide additional drainage capacity and reduce inundation from the Cooks River' including freehold land dedication to facilitate such outcomes. Dedicated overland flowpaths can be achieved that do not reduce the recreational utility of land other than in rare 1% AEP flood events and rarer, when such land is less likely to be used for such purposes and can reduce the extent of public lands that are inundated without off site impacts. As such, in conjunction with the reasons identified above, the proposal is considered acceptable.	
(d) the provisions of the planning proposal that are inconsistent are of minor significance as determined by the relevant planning authority.		

6.1.1 Local Planning Directions: 4.2 Coastal Management

In response to submission received in relation to riparian zones and the foreshore impacts, an assessment of the revised Planning Proposal is provided in **Table 12** below.

Table 12 Consistency with s9.1 Ministerial – Direction 4.2 – Coastal Management

Provision	Assessment	Consistency
(1) A planning proposal must include provisions that give effect to and are consistent with:	-	
a) the objects of the Coastal Management Act 2016 and the objectives of the relevant coastal management areas;	The subject site includes areas mapped as 'Coastal Use Area' and Coastal Environment Area'. The Planning Proposal is consistent with the objects in the Coastal Management Act 2016 and the objectives for each of the relevant management areas in that it will protect and enhance the foreshore area through the implementation of the vegetated riparian buffer zone. The implementation of this buffer zone will enhance the coastal environment values associated	✓

Provision	Assessment	Consistency
	<p>with the Cooks River foreshore, whilst still providing adequate public space for recreational activities.</p> <p>Future risks, including potential risks of any degradation from overshadowing, will be mitigated by the protection through relevant controls in the DCP and active management under a site-specific BMP. Furthermore, the introduction of a C2 zone will cover a large portion of the southern foreshore area.</p>	
<i>b) the NSW Coastal Management Manual and associated Toolkit;</i>	<p>The NSW Coastal Management Manual aims to “encourage councils to think about how they might:</p> <ul style="list-style-type: none"> • avoid inappropriate development in areas exposed to high levels of risk from coastal hazards or directed towards areas of lower probability of hazards and risk • achieve land uses where the impacts and risks can be mitigated and the development is necessary • plan and design development to be safe without increasing the risks or threats elsewhere, and ensuring any residual risks are addressed.” <p>As detailed within this response letter, the Planning Proposal demonstrates that the impacts associated with a future development can be mitigated and any residual impacts can be adequately offset and addressed through a number of mechanisms. The shadowing associated with blocks 3b and 3c are limited to a few hours in mainly winter, and are unlikely to impact the riparian vegetation of the coastal area. Refer Appendix G.</p>	✓
<i>(c) NSW Coastal Design Guidelines 2003; and</i>	<p>The proposal is consistent with the NSW Coastal Design Guidelines as it supports the key objectives to protect and enhance the ecological characteristics of the Cooks River foreshore, and integrates new development with surrounding land uses. It will involve substantial planting along the Cooks River foreshore, which will be protected under relevant new DCP controls and managed under a BMP.</p>	✓
<i>(d) any relevant Coastal Management Program that has been certified by the Minister, or any Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016, that applies to the land.</i>	Not applicable.	✓
<i>(2) A planning proposal must not rezone land which would enable increased development or more intensive land-use on land:</i>		✓
<i>(a) within a coastal vulnerability area identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021; or</i>	Not applicable.	✓
<i>(b) that has been identified as land affected by a current or future coastal hazard in a local environmental plan or development control plan, or a study or assessment undertaken:</i>	Not applicable.	✓
<i>i. by or on behalf of the relevant planning authority and the planning proposal authority, or</i>		
<i>ii. by or on behalf of a public authority and provided to the relevant planning authority and the planning proposal authority.</i>		

Provision	Assessment	Consistency
3) A planning proposal must not rezone land which would enable increased development or more intensive land-use on land within a coastal wetlands and littoral rainforests area identified by chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021.	Not applicable.	✓
(4) A planning proposal for a local environmental plan may propose to amend the following maps, including increasing or decreasing the land within these maps, under chapter 2 of the State Environmental Planning Policy (Resilience and Hazards) 2021: (a) Coastal wetlands and littoral rainforests area map; (b) Coastal vulnerability area map; (c) Coastal environment area map; and (d) Coastal use area map. Such a planning proposal must be supported by evidence in a relevant Coastal Management Program that has been certified by the Minister, or by a Coastal Zone Management Plan under the Coastal Protection Act 1979 that continues to have effect under clause 4 of Schedule 3 to the Coastal Management Act 2016.	Not applicable.	✓

6.2 State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021

The Planning Proposal proposed to address the existing provisions of SEPP (Precincts – Eastern Harbour City) where relevant, through a suite of new site-specific DC provisions. Refer to **Table 13** for a detailed explanation.

Table 13 Environmental provisions of SEPP (Precincts—Eastern Harbour City) 2021

Clause No.	Existing Clause	How is proposed to be addressed in 2023 Planning Proposal
6.9 Planning Principles	Before granting consent to a development application relating to land within the Cooks Cove site, the consent authority must take into consideration the aims of this Chapter and also be satisfied that the proposed development will be consistent with such of the following planning principles as are relevant to the proposed development—	-
	The height, form and orientation of buildings are to take into account visual impact from both land and water, as well as solar access, ventilation, wind impact, the amenity and privacy of hotel occupants and the need to conserve the habitat of threatened fauna.	The DCP (both the draft site-specific section and the current Bayside DCP 2022) contain provisions requiring the consideration of the built form impacts such as visual, solar, wind, amenity and privacy. The conservation of habitat of threatened fauna is achieved primarily through the arrangement of proposed zoning – both the RE1 Public Recreation and C2 Environmental Conservation zones), and ongoing habitat management arrangements.
	Foreshore, significant wetland areas and Green and Golden Bell Frog habitat areas are to be set aside for	It is noted that no significant wetlands exist within the Planning Proposal area.

Clause No.	Existing Clause	How is proposed to be addressed in 2023 Planning Proposal
	<i>the maintenance and protection of wetland vegetation, mangrove communities and threatened fauna, with limited public access.</i>	Green and Golden Bell Frog habitat areas are being set aside within the future Pemulwuy Park and zoned a combination of RE1 Public Recreation and C2 Environmental Conservation. Any impact of future developments within the SP4 Enterprise Zone on Green and Golden Bell Frog habitat will be addressed and mitigated at the DA stage as required by the Biodiversity Conservation Act 2016 and as outlined within the draft DCP. A range of mitigation options can be considered and implemented including the creation of new Green and Golden Bell Frog habitat within the C2 Environmental Conservation.
	<i>The significant wetlands within the Cooks Cove site and along the foreshores of Cooks Cove are to be conserved, and the strategy for conservation is to include—</i> <i>(i) ...</i> <i>(ii) ...</i> <i>(iii) promoting the on-site recovery of the Green and Golden Bell Frog.</i>	It is noted that no significant wetlands exist within the Planning Proposal area. The foreshore zone is to be set aside from development and zoned in part, C2 Environmental Conservation. This can assist in the on-site recovery of the Green and Golden Bell Frog.
6.10 Open Space Zone	<i>The objectives of this zone are—</i> <i>(f) to protect and enhance the habitat of the Green and Golden Bell Frog established within Cooks Cove.</i>	An equivalent objective is included within the draft DCP (Appendix K). No objection is raised to including an equivalent objective in the zone objectives for either the RE1 Public Recreation or C2 Environmental Conservation Zones. This is to be determined by DPE in conjunction with Council.
6.10 Open Space Zone	<i>The objectives of this zone are—</i> <i>(f) to protect and enhance the habitat of the Green and Golden Bell Frog established within Cooks Cove.</i>	An equivalent objective is included within the draft DCP (Appendix K). No objection is raised to including an equivalent objective in the zone objectives for either the RE1 Public Recreation or C2 Environmental Conservation Zones. This is to be determined by DPE in conjunction with Council.
	<i>Consent must not be granted for any development on land within the Cooks Cove site until after the consent authority has taken into consideration -</i> <i>(c) Green and Golden Bell Frog management plan that has been served on the Planning Secretary, which identifies areas of its habitat and outlines proposals for mechanisms to be introduced to create, enhance and manage habitat areas for the species, and any written comments made to the consent authority about that plan by the Planning Secretary within 40 days after the date of service.</i>	The preparation and adoption of the Management Plan under the original SREP 33 was predicated on the basis of a single developer controlling the entire Cooks Cove site. The developer would fund and prepare the management plan and identify the location of GGBF habitat within the proposed golf course to be located both north and south of the M5 Motorway. The obligation for ongoing management of the GGBF was to be the responsibility of the golf club. Circumstances have now changed since the creation of this clause. In the first instance, the relevant environmental protection legislation is more sophisticated than it was when SREP 33 was created. Secondly, there are now multiple parties involved onsite – TfNSW, Bayside Council and a future developer(s) and owner(s) within the SP4 Enterprise Zone, making a single

Clause No.	Existing Clause	How is proposed to be addressed in 2023 Planning Proposal
		<p>management plan difficult to implement, especially when such an owner / developer does not control the land that contains the primary Green and Golden Bell Frog habitat.</p> <p>Moving forward, the site arrangement and ownership structure suggests that any future iteration of the management plan primarily relates that to Pemulwuy Park which is under the care, control and management of Bayside Council. The management plan can also extend to any new habitat within the proposed C2 Environmental Conservation that is created as a result of future development on the SP4 Enterprise Zone.</p>
	<p><i>(5) The Green and Golden Bell Frog management plan must identify the location of existing and proposed Green and Golden Bell Frog habitats, including areas considered to be significant, and include proposals covering the following—</i></p> <ul style="list-style-type: none"> <i>(a) protection of the Green and Golden Bell Frog,</i> <i>(b) protection of the Green and Golden Bell Frog habitat,</i> <i>(c) how existing and proposed wetlands relate to protection of the Green and Golden Bell Frog and its habitat,</i> <i>(d) how stormwater management processes relate to protection of the Green and Golden Bell Frog and its habitat,</i> <i>(e) how development and management of the golf course and open space areas, management of public access and proposed development within the Trade and Technology Zone relate to protection of the Green and Golden Bell Frog and its habitat,</i> <i>(f) management of the direct and indirect impacts of the proposed development on the protection of the Green and Golden Bell Frog and its habitat,</i> <i>(g) measures to mitigate adverse environmental impacts of the proposed development, including habitat enhancement and the provision of compensatory habitat for the Green and Golden Bell Frog,</i> <i>(h) measures to appropriately manage habitat areas in both the short and long term.</i> 	<p>The requirement for a similar Green and Golden Bell Frog Management Plan is included within the draft DCP (Appendix K).</p>

6.3 Voluntary Planning Agreements

Following the receipt of stakeholder input through the public exhibition process, CCI have prepared revised letters of offer for both the State VPA and the Local VPA).

In relation to the State VPA an updated letter of offer was provided to DPE and TfNSW on 15 August. This letter specifically addressed the scope of works-in-kind upgrades proposed by CCI to regional grade infrastructure and additional monetary contributions identified as beneficial to the delivery of a safe road network.

Refer **Appendix L**.

A revised Local VPA letter of offer is currently being prepared by CCI and will be provided under separate cover. This revision follows detailed discussion on the previous offer at a meeting with Council staff on 30 August 2023. Once finalised, this letter of offer will be resolved formally into a VPA for adoption by elected Council.

7.0 Conclusion

All submissions received from the Government agencies, organisations and the general public resulting from the public exhibition period of the Cooks Cove Planning Proposal have been appropriately considered and have been adequately addressed.

As summarised by DPE in their formal request for information to the Proponent, the key planning, environmental and technical concerns raised in the exhibition process included:

- **Flooding** – the need to prepare a separate Flood Impact Risk Assessment (FIRA) which responds to the latest DPE Flood Risk Management Guideline and Manual introduced in June 2023. Further, additional requirements to address safe evacuation methods and the impacts of climate change amongst other technical flooding matters.
- **Biodiversity and Ecology** – confirmation that the project will not impede or rely upon the M6/M8 projects for GGBF habitat and to detail the inclusion of site-specific measures which are capable of mitigating and compensating for future biodiversity impacts by the proposal.
- **Coastal Management** – requirement to address the bulk and scale of the proposal in relation to the foreshore and riparian zones and also to respond to DPE Guidelines for riparian corridors on waterfront land.
- **Pemulwuy Park** – requirement to respond to the Section 9.1 Ministerial Directions for flooding, conservation and coastal management, including consideration of open space matters in provisions addressing the future design of this park.

In response to submissions received and through further consultation with agencies, the following amendments are proposed by the Proponent to the Planning Proposal:

- **Zoning** – Implementation of C2 Environmental Conservation zone for key verified GGBF breeding habitat and the southern section / 'marshland' interface to the Cooks River. Implementation of RE2 Private Recreation for balance of Cooks River interface within the northern section / development zone interface.
- **Design Excellence** – amendment of Clause 6.10 provisions to apply to the Cooks Cove Precinct as mapped and with a supplementary requirement that the design excellence provisions apply only to the lands use definitions of 'office premises', 'hotel or motel accommodation' and 'serviced apartments'.
- **Additional Local Provisions** – amendment to clarify that the 20,000sqm GFA cap of office premises excludes any office which is ancillary to other land uses, such as logistics/warehousing.
- **Site specific DCP amendments** – accompanying provisions in relation to open spaces areas, flooding flowpaths, ecological/biodiversity, façade design and activation, signage/advertising provisions, WSUD measures, open space areas, access and car parking provisions.

The changes made to the Planning Proposal, along with supplementary information and clarifications, represents an optimisation of the scheme. The revised proposal enhances environmental performance, further protects ecology and biodiversity habitat values, strengthens the use and enjoyment of open space, improves visual outlooks and confirms an appropriate outcome in terms of flood hazards and risk.

Despite minor amendment in response to submissions received, the overarching objective of the Cooks Cove Planning Proposal remains consistent. Through a refreshed suite of planning controls within the Bayside LEP 2021, Cooks Cove will prioritise land uses which contribute to and support the adjacent Sydney Airport and the wider Bayside LGA. The project will serve the wider region as an appropriate location of a logistics and warehousing precinct and will include a careful selection and density of other supporting uses such as hotel and motel accommodation, serviced apartments, commercial office and retail – which contribute to employment generation on the site, to the economic benefit of the tourism and freight sectors across the economy. The project will be backed by a suite of new and enhanced infrastructure which is both safe and efficient and which will also serve the growing Bayside West Precincts 2036 area.

The project will unlock the ability to achieve a considerable network of enhanced publicly accessible open space, that will benefit not only the future workers and visitors of Cooks Cove but also the wider community and Bayside municipality. This is made possible through the unique contributions of the project.

The Cooks Cove Planning Proposal maintains a high degree of site and strategic merit. Given the appropriate amendments made to address the public exhibition period, it is requested that the Planning Proposal proceed to gazettal.