

Our Ref: ID 2138
Your Ref: PP-2022-1748

6 November 2023

Amy van den Nieuwenhof
Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 2124

Via Major/ Planning Portal

email: Amy.vandenNieuwenhof@dpie.nsw.gov.au
CC: louise.mcmahon@dpie.nsw.gov.au; kate@theplanningstudio.com.au;
shelly.stingmore@one.ses.nsw.gov.au

Dear Amy,

Planning Proposal for Cooks Cove

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

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

We refer to our previous advice dated 8 May 2023, and in summary we:

- **Note** and appreciate that the that modelling has now been undertaken for events up to and including the Probable Maximum Flood (PMF)¹
- **Note** and appreciate that the proposed road changes for Flora Street South accommodate 1:500 AEP flows²

¹ Cooks Cove Planning Proposal Flood Risk and Impact Assessment, Section 1.4, page 7

² Cooks Cove Planning Proposal Flood Risk and Impact Assessment, Section 1.4, page 8

- **Reiterate** that 'Shelter in place' strategy is not an endorsed flood management strategy by the NSW SES for future development, and note that any SES Warnings for the area will override private arrangements.
- **Recommend** seeking further advice from the Biodiversity Conservation Division of the Department of Planning and Environment regarding climate change, particularly in relation to the 0.9m sea level rise in the NSW Sea Level Rise Policy Statement (DECCW, 2009) instead of 0.8m in the current modelling.
- **Recommend** considering tsunami evacuation as part of any emergency response plan, noting that this site is within the Tsunami Evacuation Area.

The consent authority will need to ensure that the planning proposal is considered against the relevant Ministerial Section 9.1 Directions, including 4.1 – Flooding and is consistent with the NSW Flood Prone Land Policy as set out in the [Flood Risk Management Manual](#) 2023 (the Manual) and supporting guidelines, including the [Support for Emergency Management Planning](#). Key considerations are outlined in Attachment A.

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

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

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

Yours sincerely



Elspeth O'Shannessy
Manager Risk Assessment, Emergency Risk Management
NSW State Emergency Service

ATTACHMENT A: Principles Outlined in the Support for Emergency Management Planning Guideline³

Principle 1 Any proposed Emergency Management strategy should be compatible with any existing community Emergency Management strategy.

Any proposed Emergency Management strategy for an area should be compatible with the evacuation strategies identified in the relevant local or state flood plan or by the NSW SES. As per the Bayside Local Flood Plan⁴, evacuation is the NSW SES's primary response strategy for managing the population at risk of flooding.

Principle 2 Decisions should be informed by understanding the full range of risks to the community.

Decisions relating to future development should be risk-based and ensure Emergency Management risks to the community of the full range of floods are effectively understood and managed.

We would be interested in further quantitative information to support the statement *"The anecdotal evidence is that the site has not flooded from the Cooks River in the last 57 years"*⁵, as our evidence shows that to the north east of the site, encompassing Gertrude Street Wolli Creek, has historically flooded, for example in March 2022. We also note that other types of flooding may occur on the site, not only limited to riverine flooding from the Cooks River.

We also recommend that 0.9m sea level rise is modelled for the 2100 scenario, instead of the 0.8m used in the current modelling⁶, seeking further advice from the Biodiversity Conservation Division of the Department of Planning and Environment. This recommendation is to align with the NSW Sea Level Rise Policy Statement (DECCW, 2009) which states that *"The NSW sea level rise planning benchmarks are an increase above 1990 sea levels of 40cm by 2050 and 90cm by 2100."*⁷

Tidal influence is also likely to contribute to flood risk at the site, with Advice warnings being issued by NSW SES for Tempe Bridge and surrounds earlier this year due to high tide⁸. We would like to make the proponent aware that the site is situated within the Tsunami Evacuation Zone and encourage any emergency management plan developed for the site to

³ NSW Government. 2023. Principles Outlined in the Support for Emergency Management Planning Guideline

⁴ Bayside Flood Emergency Sub Plan, Volume 1, Endorsed May 2023, Section 5.8, page 17

⁵ Cooks Cove Planning Proposal Flood Risk and Impact Assessment, Section 2.2.1, page 12

⁶ Cooks Cove Planning Proposal Flood Risk and Impact Assessment, Section 4.1.3, page 16

⁷ NSW Sea Level Rise Policy Statement, 2009, DECCW, page 4

⁸ ABC Emergency, 9 May 2023, Available online at:

<https://www.abc.net.au/emergency/warning/8c354fd4-ed4c-11ed-9765-02c50c1d6354>

include procedures for evacuating in the event of a land based tsunami warning. The NSW SES Tsunami Evacuation Areas are on the NSW SES website⁹.

Principle 3 Development of the floodplain does not impact on the ability of the existing community to safely and effectively respond to a flood.

The ability of the existing community to effectively respond (including self-evacuating) within the available timeframe on available infrastructure is to be maintained. It is not to be impacted on by the cumulative impact of new development.

Principle 4 Decisions on redevelopment within the floodplain does not increase risk to life from flooding.

The preferred Emergency Management approach is evacuation, where evacuation capacity and capability has been demonstrated as the most effective strategy to manage Emergency Management risks (i.e. a strategy that enables the users of development to self-evacuate to an area outside the floodplain that has adequate services to sustain the community in an orderly planned outcome).

Managing flood risks associated with Low Flood Islands requires careful consideration of development type, likely users, and their ability respond to minimise their risks. This includes consideration of:

- Isolation – There is no known safe period of isolation in a flood, the longer the period of isolation the greater the risk to occupants who are isolated.
- Secondary risks – This includes fire and medical emergencies that can impact on the safety of people isolated by floodwater. The potential risk to occupants needs to be considered and managed in decision-making.
- Consideration of human behaviour – The behaviour of individuals such as choosing not to remain isolated from their family or social network in a building on a floor above the PMF for an extended flood duration or attempting to return to a building during a flood.

Principle 5 Risks faced by the itinerant population need to be managed.

Any Emergency Management strategy needs to consider people visiting the area or using a development.

Principle 6 Recognise the need for effective flood warning and associated limitations.

⁹ NSW SES Tsunami Evacuation Area, available online at:
<https://nswses.maps.arcgis.com/apps/webappviewer/index.html?id=d54531ab176d48c4951b7fd40c27be68>

An effective flood warning strategy with clear and concise messaging understood by the community is key to providing the community an opportunity to respond to a flood threat in an appropriate and timely manner.

Principle 7 Ongoing community awareness of flooding is critical to assist effective emergency response.

In terms of the current proposal, the flood risk at the site and actions that should be undertaken to reduce the potential risk to life should be clearly communicated to all site users, for example through signage and emergency drills, during and after the construction phase.

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Your Ref: PP-2022-1748

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A/Manager, Agile Planning
Department of Planning and Environment
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Parramatta NSW 2150

Subject: Response to Submissions - Cooks Cove Planning Proposal PP-2022-1748

Dear Amy,

Thank you for your email received 28 September 2023 requesting comments from the Environment and Heritage Group (EHG) within the Department of Planning and Environment on the Cooks Cove Planning Proposal Response to Submissions (RtS), which proposes to amend the *Bayside Local Environmental Plan 2021* to introduce new planning provisions to part of the Cooks Cove Precinct for the sites at 13-19A Marsh Street, Arncliffe.

EHG has reviewed the "Response to Submissions (RtS) Cooks Cove Planning Proposal" (prepared by Ethos Urban, dated 20 September 2023) and accompanying reports. The RtS has not adequately addressed the issues raised in EHG's submission to the exhibited EIS dated 6 July 2023 (DOC23/353984) with regards to flood assessment, flood risk and the protection and enhancement of the Arncliffe Green and Golden Bell Frog population. Detailed comments are provided in Attachment 1 and 2.

Should you have any queries regarding this matter, please contact Liz Peterson on elizabeth.peterson@environment.nsw.gov.au or 0482050312.

Yours sincerely,



Louisa Clark
Director
Greater Sydney Branch
Biodiversity and Conservation

Department of Planning and Environment

Attachment 1 – EHG flood advice on Response to Submissions for the Cooks Cove Planning Proposal PP-2022-1748

Flooding

EHG has previously raised concerns with regards to the high flood risk of developing the site and consequently requested a detailed Flood Impact Risk Assessment (FIRA) to understand both the risk to existing communities from the development as well as the risk to future communities and users of the site. EHG has reviewed Appendix E of the Response to Submissions (RtS) “Cooks Cove Planning Proposal” (ARUP, September 2023). EHG is not satisfied with the RtS submission due to the following reasons.

Flood Function

The proponent is required to demonstrate the flood function of the Cooks River in the vicinity of the development site and how it varies in flood between the different scales up to and including the probable maximum flood (PMF). This is critical in the management of flood risk because these areas may alter flood behaviour, with adverse impacts to the community.

Floodways are areas with significant water and often debris movement which can impede flood emergency management of the site. Floodways are an important constraint to consider as filling and development in a floodway and flood storage areas can impact on flood behaviour to the detriment of the existing community. Flood functions can vary significantly between flood events, which is particularly important in areas such as Cooks Cove, where relatively benign conditions can develop into important floodways resulting in hazardous conditions in rarer floods.

The flood function mapping provided by the proponent is unsatisfactory. The RtS comments that “over 80% of the flow is contained in the river” and the maps provided are in context of the “flood behaviour of the site in isolation”. The flood function of the 1%AEP and PMF scenarios in Figure A-22 and Figure A-25 from the RtS, do not show the full numerical behaviour of the flood function in the full range of modelled events in accordance with Flood Risk Management Guideline FB02 Flood Function. The RtS does not describe the criteria used to define the flood functions in the main body of the report and as such needs to be discussed in detail in the FIRA. This is required, as the previous Cooks River mainstream hydrodynamic modelling has not defined hydraulic flood function. The identification of floodways and flood storage areas require a performance-based approach which involves a combination of qualitative assessment based on the characteristics of the areas and a quantitative assessment related to the degree of change in flood behaviour (i.e., Indicator, Encroachment, Conveyance Techniques). Please refer to the [2023 Flood Risk Management Guideline – FB02](#) for further information on techniques used to define flood function.

It is important to understand the flood function of both the mainstream flooding of the Cooks River as well as the flood functions resulting from overland flows. EHG agrees that the predominant flood risk of the Cooks Cove site is from the Cooks River mainstream flooding, however flood functions, and flood affectation of the overland flows from the Spring Drain, Muddy Creek and Scarborough ponds catchment are also critical and should be reported for clarity. These local catchment areas

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were modelled in the Bayside West Flood Risk Management Study (WMA Water 2023), which is currently being undertaken by Council. The use of the results of the WMA 2023 modelling, would provide the latest best information especially with respect to estimated flood behaviour such as the location and extent of floodways and overland flows.

Based on the incomplete information provided to EHG in the RtS, the Cooks Cove development involves filling and redirecting of flows in a floodway and flood storage areas. This is against the Ministerial Local Planning Directions 4.1(a) which stipulates the development should not be permitted in floodway and the Flood Risk Management Manual (DPE 2023) Principal 8: Maintain natural flood functions. EHG does not agree with the proponent's position that it is acceptable to "relocate floodway areas through the land reshaping, to new and expanded open space within the site" and that it is appropriate to alter the Cooks River floodway as it has "been heavily modified over the last 70 years [and]... does not resemble a natural floodplain...".

Climate Change

The proponent has not adequately considered Sea Level Rise (SLR) in the hydrodynamic modelling. The 2023 Flood Risk Management Guidelines includes new guidance on climate change in response to the 2022 NSW Flood Inquiry. Flood risk management guideline FB01 Understanding and Managing Flood Risk provides information on how to consider climate change for land use planning in Table 8 - Examples of use of scenarios to inform different types of decisions. The RtS has only considered 0.8m of SLR as outlined in section 5.1.6 of the report, which is not in compliance with the guidelines. EHG recommends testing the impacts of SLR with the 50th percentile value for SSP 8.5 of 1.3m the 95th percentile value for SSP 8.5 of 2.4m as well as the increases to rainfall from the catchment as the flooding of the Cooks Cove site will be extremely sensitive to increases in SLR.

Duration of inundation

The maximum duration of flooding should be established using the long duration PMF storms per the Generalised Southeast Australia Method. It is recommended that the 12-, 24- and 36-hour storms should be run to establish the maximum duration of both overland and riverine flooding. The report has provided insufficient details regarding the assessment of critical temporal patterns for the long durations to test the sensitivity to the isolation in and the length of between the onset of flooding. Hydrographs of the various temporal patterns should be presented to confirm the longest duration of time to significant flood affectation, as this is highly sensitive to the sub-catchment location and the nature of the catchment topography.

In section 7.4.4 of the FIRA reports that the maximum duration of inundation at the Intersection of Flora Street and Marsh Street is 11 hours in the PMF for present day conditions and up to 19 hours for the 2090 climate with 0.8m of SLR. Note that this duration will only increase with the recommended hydraulic assessment of SLR as discussed in the previous section. The longer the duration of flooding, the higher the potential for people to be isolated from community services including communication, medical services and be exposed to secondary risks such as fire. An extended period of isolation can also lead to decisions to venture into floodwaters or to request flood rescue.

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Regardless of the estimated duration, there is no known safe duration for sheltering in place. EHG does not agree that it is more “meaningful to express durations as the average cumulative inundation or hazard exceedance for a typical century for flood behaviour”. The annual exceedance probability (AEP) is the preferred terminology and is defined in the [NSW Flood Risk Management Manual](#) as the chance of a flood of a given or larger size occurring in any one year, expressed as a percentage.

Flood Emergency Management

The Cooks Cove site is a flash flood catchment with minimal warning time between the start of the flood producing rainfall. Attempting to evacuate may be worse than not evacuating given the inherent dangers when moving through floodwaters (in excess of 170m³/s passing onto the site in the PMF, Figure 23).

As previously highlighted by EHG, a flood warning system for the Cooks River System can be complex, due to the flashy nature of the flooding and the lack of flood warning systems for the catchment. In the absence of real time gauge data linked to previous flood models throughout the catchment it will be impossible to predict the recurrence of the flood event prior to the fact. The community response to the flood warning might also be difficult due to the migratory nature of the occupants (i.e., tourists, logistics personal and hospitality staff) of the proposed Cooks Cove site. Emergency service response will likely be compromised by the rapid onset of hazardous flood conditions that limit access to development in flash flood conditions.

EHG does not agree that the Planning Proposal “has been attuned to not overburden emergency management services and accordingly not increase the need for government spending”.

It is proposed that for events “larger than the 0.2% AEP people would not be able to evacuate from the site and should shelter in place”. This strategy is proposed due to the large velocities of flood water around the site. Section 7.4 of the RtS discusses the flood evacuation of the site and comments that “duration that large vehicles would not be able to evacuate from the site is 7 hours in the PMF”. Noting that not all durations (particularly long duration of rainfall events) as well as SLR have been modelled and therefore the duration of isolated presented in the RtS may not be accurate.

The RtS, Section 7.4.2 discusses the proposed evacuation route for Block 1. The road access to these sites is either via Levey Street west to Marsh Street or under the current access road under Giovanni Brunetti Bridge. Both these access routes would be cut in frequent events (50%AEP – 5%AEP) and unsuitable for evacuating user of the Block 1 buildings. The proponent has proposed the construction of a possible ramp to access Marsh Street on the approach to Giovanni Brunetti Bridge, which will enable “access across the bridge and onto airport drive ... [where]... it will be possible to enter the Sydney Gateway Tunnel”. EHG wishes to point out that this is a significant undertaking and will involve significant feasibility assessment. This will need to be discussed with TfNSW and presented in further detail prior to a decision on this planning proposal.

In Section 7.3 of the RtS, the proponent comments that the “only flood risk to occupants is the need to exit the site during a flood event ... as the current PMF would not inundate the floor levels”.

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Sheltering in place for new development is generally not supported by DPE, EHG nor SES and this is outlined in the Support for Emergency Management Planning (EM01) supporting the NSW Flood Risk Management Manual. EHG would like to emphasise that there is no evidence-based method for determining a safe, tolerable duration of isolation that may result from flooding. EHG strongly recommends the SES, as the lead agency for flood emergency management in NSW, is consulted regarding any commentary regarding government spending, evacuation, shelter in place and the residual risk related to the emergency management of the site.

In summary, EHG agrees with the proponent's statement that:

All flood models, whether numerical, analytical or physical, rely on a set of assumptions and requirements to accurately simulate the flow conditions. As no models will provide the exact representation of the complexity of the actual flow, it is important for engineers to understand these assumptions, as they form the limitations of that method. Ignoring or violating these assumptions and limitations and failing to critically analyse the model will produce inaccurate results.

However, EHG would like to highlight that the Cooks Cove site is in a position which makes it susceptible to flood constraints including emergency management constraints as well as heightened risks from climate change because of sea level rise and reduced future drainage conditions. As with any uncertainty, best practice engineering methods should scrutinise and extensively test sensitivity to any modelling assumptions as it relates to flood risk, loss of life and flood damages for future communities. As previously stated, it is EHG's position that the development is incompatible with the flood risk at the site. EHG cannot support this planning proposal until these issues are suitably addressed with due consultation with the NSW SES.

Attachment 2 – EHG biodiversity advice on Response to Submissions for the Cooks Cove Planning Proposal PP-2022-1748

Biodiversity

EHG notes that Figure 9 of the revised Cooks Cove Northern Precinct Flora and Fauna Assessment (FFA) (prepared by Cumberland Ecology, 20 September 2023) has not been updated. It shows threatened fauna locations within the site and includes two locations for Green and Golden Bell Frog (GGBF) (it is also noted that this document contains two Figure 9s). As mentioned in EHG's previous comments, this grossly misrepresents the occurrence of this species throughout the planning proposal area, for example, see records in BioNet and Figure 3.1 of the *Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022* (AMBS Ecology & Heritage Pty Ltd, 10 January 2023). Also, the revised FFA states the Arncliffe GGBF population is (page 55) "currently increasing in numbers based on recent monitoring surveys". However, this is at odds with the *Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022* (AMBS Ecology & Heritage Pty Ltd, January 2023), which states (page 20) "the results from 2021-2022 indicate that breeding has occurred in least (sic) one of the ponds. However, both the adult population size and the number of juvenile frogs observed was considerably less than in previous seasons. We conclude that, at this stage of the program, the ongoing survival of the GGBF population at Arncliffe remains dependent on the continuation of the captive breeding program." EHG requests that the FFA be amended to address this inconsistency.

Cumberland Ecology's letter dated 20 September 2023 (regarding Response to Comments on the Cooks Cove Planning Proposal (PP-2022-1748)) states (page 4) "The proposed avoidance, mitigation and compensatory measures are likely to sufficiently ameliorate the impacts of the project as they will ensure no EECs or threatened species are likely to be significantly impacted by the project." EHG does not support this statement, as impacts will likely be significant. This is because the long-term viability of the Arncliffe GGBF population is already greatly at risk, and the proposal would place further pressure on it. This is highlighted by the following points:

- The *Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022* (AMBS Ecology & Heritage Pty Ltd, January 2023) states (page 20) "We conclude that, at this stage of the program, the ongoing survival of the GGBF population at Arncliffe remains dependent on the continuation of the captive breeding program" and the *Habitat Creation and Captive Breeding Plan – Green and Golden Bell Frog at Arncliffe* (Eco Logical Australia, September 2017) states on page 19 that "Monitoring the frog population at the RTA ponds has determined that the current population is unlikely to remain without constant management and is considered to have poor long-term viability (White 2015)".
- EHG notes that two areas are proposed to be zoned C2 Environmental Conservation, with the foreshore area currently providing dispersal/movement habitat for GGBF. It provides a link from around Mangrove Pond in the south, north to Eastern Pond/Long Pond/Circular Pond, Skinny Pond and Northern Pond (compare Figure 25 of the *Response to Submissions* report

(Ethos Urban 20 September 2023) and Figure 3.1 of the *Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022* (AMBS Ecology & Heritage Pty Ltd, January 2023). However, this linkage would largely be broken by development allowed in the SP4 Enterprise Zoning and the likely removal and/or alteration of most of these ponds. The proposal has made it clear that Skinny Pond and Circular Pond will be removed with future development (see page 22 of Cumberland Ecology's letter), and it seems that Northern Pond will also be removed (see page 3 of the *Cooks Cove Urban Design Report Addendum A* (Hassell 31 August 2023)). The retention or otherwise of Mangrove Pond, Long Pond and Eastern Pond have not been made clear; this is because impacts to Mangrove Pond have not been discussed (although it appears to be on the edge of the subject site), and the retention/alteration of Long Pond and Eastern Pond are subject to the future design of Pemulwuy Park.

- It is EHG's view that there will be limited opportunities to create GGBF habitat in the foreshore area proposed to be zoned C2 Environmental Conservation. The *Response to Submissions* report states (page 22) "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." As such, this area will likely provide dispersal/movement habitat at best (through the grassy understorey), although, as discussed in the point above, there will be no habitat in the north or east to link to. Furthermore, its southern point will link to areas proposed to be zoned RE1, with potentially many incompatible land uses for GGBF. For example, see Table 6 in Planning Proposal Cooks Cove, Arncliffe Cook Cove Inlet Pty Ltd Prepared for Public Exhibition (Ethos Urban 4 April 2023), for the objectives and permitted uses within this zone.
- The proposed RE1 Public Recreation zone and associated land uses, which currently include things like roads, car parking, children's playground, community pavilion, youth hub, off leash dog areas, BBQ amenities and a community event lawn (see page 82 of the *Cooks Cove Urban Design and Landscape Report (Planning Proposal)* (Hassell April 2023)). All these uses are incompatible with the long-term survival of GGBF.
- The two areas proposed to be zoned C2 Environmental Conservation are separated by RE1 Public Recreation and SP4 Enterprise zones, thereby compromising connectivity between proposed GGBF habitat areas.
- The additional objective and uses proposed for the C2 Environmental Conservation Zone (see Table 8 of the *Response to Submission* report), are incompatible with the long-term survival of GGBF, which is discussed further below.

C2 Environmental Conservation Zone

EHG supports the introduction of a C2 Environmental Conservation zone for key areas of biodiversity and ecological importance, including core verified GGBF habitat and areas of potential new breeding ponds because of the project. However, EHG does not support the proposed zone objective changes and permissible uses as they are not compatible with the protection and enhancement of GGBF habitat.

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It is noted that Cumberland Ecology's letter states, in relation to the proposed C2 Environmental Conservation zone, that the proponent will apply the standard objectives (see page 23). However, the RtS report indicates several changes are proposed for the objectives, permitted uses without consent, and permitted uses with consent, for this zone (see page 38). EHG does not support these proposed changes as they are incompatible with the long-term survival of GGBF.

With regards to the proposed objectives EHG does not support the inclusion of the additional objective 'To provide for recreational activities that are compatible with the land's environmental sensitivities' as 'recreational' activities are not compatible with the long-term survival of GGBF.

Instead, EHG seeks the introduction of a specific objective like the existing Open Space Zone Clause 6.10(f) 'to protect and enhance the habitat of the Green and Golden Bell Frog' in the *State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021*.

EHG's view remains that the permissible land uses within the C2 Environmental Conservation zone must be consistent with the long-term protection and conservation of those values. EHG does not support the inclusion of 'Flood mitigation works; Recreation areas; Roads; Water reticulation systems' in the proposed list of permissible uses. To better reflect the intent of the C2 Conservation Zone, EHG recommends the inclusion of 'Environmental Protection Works' for the 'works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works.'

RE1 Public Recreation Zone/Pemulway Park

Given the potential retention and enhancement of GGBF habitat within Pemulway Park (area to be zoned RE1 Public Recreation) EHG recommends a similar provision to the existing Open Space Zone Clause 6.10 (f) 'to protect and enhance the habitat of the Green and Golden Bell Frog' in the *State Environmental Planning Policy (Precincts – Eastern Harbour City) 2021* be included.

Objectives and provisions for biodiversity and GGBF conservation under SEPP (Precincts – Eastern Harbour City) 2021

EHG remains of the view that the objectives and provisions for biodiversity and GGBF conservation under *SEPP (Precincts – Eastern Harbour City) 2021* remain in force and be replicated in the proposed amendments to *Bayside Local Environment Plan (LEP)*. They provide clear objectives and delivery framework suited to the unique characteristics and biodiversity values within the Cooks Cove site.

This includes:

- Part 6.2 clause 6.9 Planning Principles for Cooks Cove; and
- Part 6.3 Objectives that relate to the Open Space Zone;
- Part 6.4 Special Provisions clause 6.16 Environmental Management – management plans; and
- Part 6.4 Special Provisions clause 6.17 Environmental Management – special requirements.

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EHG acknowledges that there will be multiple future land tenure arrangements and development assessment pathways on this site. To ensure GGBF habitat is protected and enhanced in perpetuity, a robust planning framework must be provided that is applicable to all future planning processes that will apply to the Cooks Cove site. As such, EHG requests the DPE Planning provide further information on how the intent of the *SEPP (Precincts – Eastern Harbour City) 2021* provisions will be delivered by the planning proposal to ensure the ongoing protection of the Arncliffe GGBF population.

Development Control Plan and LEP

In the draft DCP (Bayside DCP 2022 – Draft Section 7.18 Cooks Cove – 20 September 2023 v1.4), one of the controls (C1) for Ecology and Environmental Management includes the following (page 28) “... Offsets to mapped Biodiversity areas to achieve the envisioned development including any clearing of native vegetation or potential impacts to mapped threatened species or ecological communities (refer Appendix A), will be subject to the biodiversity assessment requirements of the Biodiversity Conservation Act 2016.” However, the purpose and utility of this paragraph is not clear since: the BC Act will apply to certain activities and developments irrespective of this control and Appendix A; and Appendix A does not include all GGBF habitat that could be impacted by future activities/developments. EHG requests the DCP be amended accordingly.

As stated in EHG’s previous comments, the mapping in the DCP and LEP must include all breeding, foraging and dispersal/movement habitats for GGBF across the site. The DCP and LEP should capture the ‘Coastal saltmarsh in the NSW North Coast, Sydney Basin and South East Corner bioregions’ located within the planning proposal boundary (see Figure 7, PDF page 240/246 of the revised flora and fauna assessment; it is noted this document contains two Figure 7s). The maps in Appendix A of the draft DCP have not done this. EHG requests the maps be amended accordingly.

A further control in this section (C2) states “Development within the SP4 Enterprise Zone is to consider its impact on the habitat of the Green and Golden Bell Frog under the Biodiversity Conservation Act 2016. Mitigation measures may include the creation of new habitat located within the C2 Environmental Conservation Zone. The detailed design of Pemulwuy Park is to incorporate retention and protection of existing and new (proposed by TfNSW) Green and Golden Bell Frog habitat and is to be consistent with the relevant Green and Golden Bell Frog Management Plan.” However,

- Like C1 above, the purpose of the first sentence is not clear, especially if local development does not trigger entry into the BOS, see <https://www.environment.nsw.gov.au/topics/animals-and-plants/biodiversity-offsets-scheme/about-the-biodiversity-offsets-scheme/when-does-bos-apply>.
- Also, as discussed above, opportunities to create new habitat within the foreshore area proposed to be zoned C2 Environmental Conservation are likely to be limited. It is EHG’s view that the area proposed to be zoned RE1 Public Recreation should also include the creation of new GGBF habitat. At the very least, this should be foraging and dispersal/movement habitat. The design of the park, in terms of GGBF habitat, will need to consider, among other things, proposed cut and fill levels, and a layout that reduces risks to GGBF e.g., roads should not cut through dispersal

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habitat. The management plan will need to consider, among other things, operational aspects like slashing/mowing procedures, the use of chemicals such as fertilisers and pesticides, and the placement of grasses, shrubs and trees in relation to the requirements/characteristics of different GGBF habitat types.

- It is not clear what the “relevant Green and Golden Bell Frog Management Plan” referred to in this control is.

The first control for ‘Pemulwuy Park’ includes (page 8) “Ongoing protection and management of the existing Green and Golden Bell frog population” (it is noted this table on page 8 contains two controls marked C1). This control should retain this statement and should include the retention of existing ponds and the creation of a range of new GGBF habitat types as well e.g., foraging, breeding and dispersal/movement.

The second control C1 needs to consider the timeframe for preparation and delivery of the GGBF management plan that accounts for the future development pathway for the delivery of Pemulwuy Park. In addition, the DCP requirement should provide qualitative, measurable and enduring requirements for the delivery of the GGBF management plan.

Preparation and Implementation of a GGBF Management Plan

EHG notes on Page 17 of Cumberland Ecology’s letter that the GGBF Management Plan will be prepared for future development at the DA stage, and that “A new DCP provision will be prepared which will require the implementation of the management plan at the DA stage”. However, it is noted this requirement has not been included in the draft DCP. EHG further notes the statement on page 26 of the RtS report that “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.’

EHG requests that a requirement to consult with the NSW Environment Agency Head on the preparation of the GGBF Management Plan be included in the planning provisions of LEP and the DCP. EHG further requests that it be consulted on the wording of these provisions.

Biodiversity Assessment Method

The Response to Submissions report shows the width of the amended riparian zone ranges from 20 – 100m. However, as stated in EHG’s previous comments, the Cooks River is a 4th order stream that requires a 40m riparian buffer (on each side of the waterway) under the BAM.

End of submission

3 November 2023

Our Ref: 23/129180
Our Contact: Ana Trifunovska (02) 9562 1698

Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Lodged on NSW Planning Portal

**Request for Agency Response on Cooks Cove Planning Proposal
PP-2022-1748 - 13-19A Marsh Street, Arncliffe**

Thank you for the opportunity to review and provide comment on the request for information response for the Cooks Cove Planning Proposal (PP-2022-1748) at 13-19A Marsh Street, Arncliffe.

The Cooks Cove draft Planning Proposal (PP) was publicly exhibited from 24 April 2023 to 6 June 2023. Bayside Council was formally notified of the public exhibition for the draft Planning Proposal (PP) on 21 April 2023. A submission prepared by Council staff was considered at the Council Meeting held on 28 June 2023 and following its endorsement, a copy was provided to the Department of Planning and Environment (DPE) on 6 July 2023.

In our submission, we raised several key issues including:

- Zoning of the foreshore – The proposed RE1 Public Recreation zone would create an obligation on Council to acquire and manage the foreshore land, whereas the position negotiated with the proponent is that it will be owned and maintained by a Strata Body within the new development with easements in place for unrestricted public access. An alternative is considered necessary to avoid any acquisition burden for Council.
- Flooding, Stormwater Management & Water Sensitive Urban Design (WSUD) – Flood mitigation and stormwater management must be reviewed to ensure surrounding public land will not be burdened by the impacts generated by the development. This includes overland flow during significant flood events that currently passes through the golf course proposed to be diverted onto Council's land.
- Traffic and Transport – The conflict between heavy vehicles and pedestrians, as well as increases in parking pressure on surrounding areas. The site's location aside the M6 and Sydney Airport means that any interventions to reduce impacts should be carefully addressed.
- Urban Design and Built Form – The proposal results in considerable increases to building height and GFA, which will significantly alter the existing landscape. Given the scale of the proposal, the design must be carefully considered.

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- Environmental Matters – The minimum 40 metre riparian zone as required by DPE’s ‘*Guidelines for riparian corridors on waterfront land*’ is not proposed and must be provided to ensure an adequate ecological interface. Challenges arise in offsetting and mitigating the environmental impact due to the replacement of existing vegetation.
- Additional Permitted Uses (APUs) – ‘Advertising structures’ and ‘trade-related enterprise’ are proposed as APUs. Advertising structures are highly unlikely to foster a high-quality public domain, or a safe environment for road users, in such a significant strategic location adjoining the Sydney’s international trade gateway. Trade-related enterprise does not require a separate clause as this land use is completely appropriate alongside the suite of uses already proposed and supported by objectives under the SP4 Enterprise zone.

We note that in response to submissions and a request for information letter by DPE, the Proponent has provided a comprehensive response and revised documentation to support the draft PP.

We reiterate that comments provided in this letter are written in the interest of achieving the best possible outcome for the community, despite Council’s position as the trustee of Charitable Trusts for Lot 1 in DP 108492 and Lot 14 in DP 213314.

Please refer to **Attachment A** for our response to the Proponent’s amended documentation package corresponding to each item that was raised in the endorsed submission (**Attachment B**).

In summary, the following key aspects of the proposal require further refinement:

- Flood Planning & Stormwater Management – We retain our objection to the proposed overland flow path over Council land. The diversion of overland flow around the development site over Council land is not acceptable unless the consequential impact on the enjoyment of Council’s land by the community is minimal. The documentation shows that the embellishment works to be undertaken by TfNSW under the M6 Stage 1 UDLP would still require extensive modification to accommodate the proposed overland flow arrangement, which is not acceptable. Several other concerns raised in the endorsed submission have not been resolved surrounding stormwater management, WSUD principles, tidal inundation, and evacuation routes.
- Zoning and Land Uses – We request that the C2 zoning be applied to the entire foreshore length and that the maps be revised to reflect the proposed zoning accurately. The inclusion of APU’s for ‘advertising signage’ and ‘trade-related enterprise’ land uses are not supported.
- Riparian Zone – We maintain that the riparian buffer zone should be consistent with DPE’s ‘Guideline for riparian corridors on waterfront land’ along the entire length of the foreshore. A setback of 40m must be provided unless otherwise justified with evidence that a reduction will not pose a negative impact upon the watercourse.
- Urban Design – The Proponent’s commitment to resolving our built form concerns is acknowledged, however, there are several issues that will need to be resolved as part of the assessment of the draft site-specific DCP. Comments on these items have been provided in Attachment A. Furthermore, we consider that urban design outcomes would be significantly enhanced by the 40m riparian buffer zone as required by DPE’s ‘Guideline for riparian corridors on waterfront land’ and therefore urges its provision.

- Biodiversity – The proposal should consider site-specific LEP provisions that aim to protect the Green and Golden Bell Frogs (GGBF) and their habitats. The Eastern Harbour SEPP currently has a suite of controls that mandate the preparation of a Wetlands Environmental Management Plans and a GGBF Management Plans. These requirements should be maintained in any translation of controls. We also emphasise the importance of providing the 40m riparian buffer zone in conserving and protecting biodiversity in the area.

We trust that the independent Planning Consultant, the Sydney Eastern City Planning Panel, and DPE will carefully consider the issues that are raised as well as Bayside Council's original submission.

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

Yours sincerely,

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

Peter Barber
Director City Futures

Enclosed:

Attachment A – Bayside Council's Review of Revised draft Planning Proposal
Attachment B – Bayside Council's Endorsed Submission – 6 July 2023

Appendix A – Bayside Council’s Review of Revised draft Planning Proposal

<u>Matters Raised in Council Endorsed Submission (6 July 2023)</u>	<u>Proponent’s Response (20 September 2023)</u>	<u>Council’s Response to Revised PP Package (26 October 2023)</u>
<u>Zoning</u>		
<p><u>RE1 Public Recreation Zoning</u></p> <p>The RE1 Public Recreation zone proposed along the foreshore may place an obligation on Council to acquire and manage the land.</p> <p>An alternate approach would be to zone the 20m foreshore strip of land RE2 Private Recreation and to have the public access and private maintenance arrangements captured in a Planning Agreement requiring Easements and Covenants to be registered on the property title.</p>	<p><i>CCI is generally supportive of Council's alternative position. Further discussions between DPE and CCI since public exhibition have resulted in the preference for the C2 Environmental Conservation zone to be applied to expanded foreshore and significant internal fauna and fauna zones in lieu of RE1 Public Recreation. The remainder of the RE1 zone originally proposed along the foreshore is now proposed to be altered to RE2 Private Recreation in response to Council's submission. Refer to Appendix C for revised mapping.</i></p> <p><i>In-principle, the land use permissibility and objectives of the RE2 zone remain acceptable for the proposed future composition and use of the foreshore land. Council's reference to Discovery Point as an example of this arrangement is an appropriate comparison and CCI confirm there is no obligation for Council to acquire the land in the future. The proponent supports the imposition of maintenance and access easements to be captured in a Local Planning Agreement. Refer Section 6.3 of the Response to Submissions report for further detail.</i></p>	<p>The Proponent’s response is inconsistent with the amended maps lodged with the revised package as RE1 zoning is still illustrated along the foreshore zone. The maps must be updated to illustrate the correct zoning proposed.</p> <p>Whilst Council indicated that a RE2 Private Recreation zone could potentially be an appropriate zone for the foreshore land, following further analysis with DPE Agile, it was confirmed that the C2 Environmental Conservation zone would be a more suitable alternative.</p> <p>Council proposes that the entire length of the foreshore should be subject to the C2 zone, which is currently proposed to only apply to the southern portion of the strip. The C2 zone provides the most appropriate zone objectives and uses that will suit the desired future intent for the area.</p> <p>This should not compromise the easement arrangements that would need to be put into place to ensure public access is provided in perpetuity.</p>
<p><u>SP4 Enterprise</u></p> <p>The proposed SP4 Enterprise zone as proposed in the amended Planning Proposal is a suitable alternative.</p>	<p><i>Noted, the proposal retains the SP4 Enterprise zone for the development zone.</i></p>	<p>Resolved - Refer to section on advertising structures and trade-related uses for evaluation of the proposed APU’s.</p>

**Matters Raised in Council Endorsed Submission
(6 July 2023)**

**Proponent's Response
(20 September 2023)**

**Council's Response to Revised PP Package
(26 October 2023)**

Flood Planning, Stormwater Management & WSUD

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

In response to DPE EHG, SES and Council submissions the Proponent commissioned Arup to prepare a Flood Impact Risk Assessment (Appendix E). A full assessment of flooding has been undertaken in line with the 2023 Flood Risk Management Guideline requirements and the Flood Risk Management Manual 2023 at Section 4.1 which includes a revised response in relation to Ministerial Directions (now renumbered under 4.1 - Flooding). Furthermore, this FIRA includes a table demonstrating compliance to the elements of the Flood Prone Land Policy.

Council's is not yet satisfied that the proposal meets the requirements of Ministerial Direction 4.1 – Flooding.

Council supports the submissions made by EHG and SES dated 6 July 2023 and 8 May 2023 respectively. EHG and DPE have advised that restrictions surrounding flood risk management have been tightened with assessment now relying upon more stringent controls. It would be beneficial to obtain the feedback of EHG on the revised proposal to understand their view on compliance with the Ministerial Direction and liaise between the agencies to ensure all issues are adequately addressed.

DCP related matters:

The controls proposed by the proponent in the Flooding, Stormwater and Water Sensitive Urban Design section of the Cooks Cove draft DCP must be prepared in consultation with Council's engineers as the current wording is not technically accurate.

These controls relate to unresolved Planning Proposal issues that should not be deferred to the detailed design stage. It is noted that the updated ARUP report purely focuses on flood planning and does not address issues raised surrounding Council's stormwater management & WSUD.

<u>Matters Raised in Council Endorsed Submission (6 July 2023)</u>	<u>Proponent's Response (20 September 2023)</u>	<u>Council's Response to Revised PP Package (26 October 2023)</u>
<p>The proposed flood mitigation strategy burdens adjoining public land by diverting overland flow around the development site that currently passes through it. This will result in a reduction in value to the community by limiting functionality and potential public uses of public land. Although overland flow will occur infrequently, the land will need to be shaped and maintained as an overland flow path in perpetuity.</p> <p>Whilst it is acknowledged that two substantial parcels of land are being dedicated to Council to facilitate that redirection, this is not an optimal response. A better compromise would be to direct the overland flow to the foreshore between Block 3B and Block 3C, rather than the overland flow following a much longer route through public open space to the south of Block 3C. This part of the Cooks Cove site between 3B and 3C cannot be developed in any case due to the location of the two pipelines.</p>	<p><i>The proposal will result in a comparable amount of floodwater flowing across the collective Council Trust lands, compared to the present situation. This is because the water overtops the Cooks River at Cahill Park, flows through the site and re-enters the Cooks River south of the site. The Proposal includes the shaping of Pemulwuy Park that will improve the overall flood impact that has been adversely augmented by the Arncliffe MOC. The potential flow path through between Buildings 3B and 3C was considered by Arup, however, it is not technically possible. Refer to the detailed flood modelling provided in the Flood Impact Risk Assessment (Appendix E) and Section 4.1 of the Response to Submissions Report.</i></p>	<p>Council's position on the overland flow path remains. The proposal must ensure that the overland flow path is entirely clear of the embellishment works to Pemulwuy Park to be undertaken by TfNSW as part of the UDLP and appropriately contoured.</p> <p>Council recommends that evidence-based justification should be provided confirming that it is not technically possible for the overland path to flow between Blocks 3B and 3C.</p>
<p>Reference to the Rockdale Development Control Plan 2011 in the Flooding, Stormwater and WSUD Report is inaccurate as this plan is now repealed and replaced by the Bayside Development Control Plan 2022 (Bayside DCP 2022). The report should be updated to reflect the correct Development Control Plan that is in force. The flood hazard mapping in the report must also be obtained from the flood model prepared by the developer/ARUP, not from Council's mapping system (refer to Figures 19 and 20 of the flood report).</p>	<p><i>Noted. References to the Bayside DCP 2022 have been incorporated in the revised Flooding Impact Risk Assessment prepared by Arup and provided at Appendix E. The report includes reference to the Arup flood modelling for the assessment of flood hazard on the site.</i></p>	<p>Resolved - All references to Rockdale DCP have been replaced with Bayside DCP 2022. Flood hazard mapping has also been updated using ARUP's updated Cooks River Flood Model.</p>

<u>Matters Raised in Council Endorsed Submission (6 July 2023)</u>	<u>Proponent's Response (20 September 2023)</u>	<u>Council's Response to Revised PP Package (26 October 2023)</u>
<p>The lack of assessment on the influence of tidal flooding is raised as a concern. Council recommends a Sea Level Rise Vulnerability Assessment be conducted to confirm potential impacts.</p>	<p><i>The revised Flooding Impact Risk Assessment has specifically addressed Sea Level Rise in analysis scenarios (2100, 0.8m sea level rise, 20% rainfall increase) which demonstrate an acceptable outcome based on further input and guidance from NSW SES and DPE EHG. A detailed Sea Level Rise Vulnerability Assessment is recommended as a site-specific DCP provision which will be completed with a detailed design of the local stormwater network which can only be appropriately undertaken at a more advanced stage of precinct design. Tidal flooding has been assessed in this FIRA. Refer to Appendix E.</i></p>	<p>Council's engineers have confirmed they are not satisfied that coincidental flooding including tidal inundation has been adequately addressed.</p>

<u>Matters Raised in Council Endorsed Submission (6 July 2023)</u>	<u>Proponent's Response (20 September 2023)</u>	<u>Council's Response to Revised PP Package (26 October 2023)</u>
<p>Out of the flood mitigation options presented by ARUP in the report, Option 4 is considered a technically adequate response. Note that emergency vehicle access to the site must be available in the 1% AEP flood event. The Flora Street extension must be designed to avoid floodwaters in the 1% AEP flood event to ensure emergency vehicles can access the site. A flood warning system should also be considered.</p>	<p><i>The comments on the adequacy of Option 4 are noted. A revised Flooding Impact Risk Analysis has confirmed that there would be flood free dry access on Flora St up to 1:500 (0.2% AEP) and for light cars (H1) up to 1:2000 (0.05%) AEP floods. A small length of existing Marsh St with inundation at 1:200 (5m, but light car suitable) up to 1:2000 AEP floods (15m, but SES vehicle suitable). Light car access - duration of inundation 40min in 1:500 to 4.7hrs in 1:2000 AEP floods. Even in 2100, with 0.8m Sea Level Rise and 20% rainfall increases, the site would be cut from large vehicles for less than 6 hours in a 1:2000 AEP flood (SES threshold). Refer to Appendix E for further details.</i></p>	<p>Council's engineers have confirmed that the evacuation/emergency management strategy (flood risk management) is not considered to be adequate, with the following issues outstanding:</p> <ul style="list-style-type: none"> • The revised report has not met the EHG and SES comments regarding disagreement with a shelter in place strategy for the development. • The assessment looking at different hazard levels and comments regarding "large vehicles" being able to traverse H2 flood waters is not appropriate, as this dismisses SES advice of not entering flood waters. • The evacuation route assessment (external to the site) uses only the peak duration, as this is all based on peak flood depths from other flood studies. Noted this is what is reported in the flood study report however the peak event is not necessarily producing the longest duration of road access being cut. • The feasibility of a ramp to Marsh Street should be considered based on its proposal as an evacuation route. The practicality of this ramp is questionable, and as it is a key consideration of this planning proposal, it should not be deferred to the detailed design stage. • The "6 hour" SIP is exceeded in numerous instances for inundation of the Marsh Street evacuation route considering climate change.

<u>Matters Raised in Council Endorsed Submission (6 July 2023)</u>	<u>Proponent's Response (20 September 2023)</u>	<u>Council's Response to Revised PP Package (26 October 2023)</u>
The peak 1% AEP flood depth in proposed internal roads must be designed to ensure that peak 1% AEP flow does not overflow to the kerb. Ocean guards/pit inserts in any future land to be dedicated to Council (e.g. pits in the road) are not considered acceptable and should be replaced with an alternative mechanism. A Gross Pollutant Trap(s) should be provided at the downstream end of the stormwater system for any roads in an accessible location that can be serviced by large vehicles.	<i>The Stormwater Assessment as included with the Planning Proposal assessment package, demonstrates that water quality targets can be achieved with the implementation of bioswales, on-site infiltration systems and litter baskets as part of initial modelling. Detailed site-specific DCP requirements will ensure that the 1% AEP flows do not overflow the kerbs within the Planning Proposal boundary. Additional detailed provided at Appendix K to provide confidence that this matter is capable of resolution at the detailed design phase.</i>	Council's engineers have confirmed they are not satisfied with the Proponent's response to issues raised regarding Stormwater and WSUD as the updated ARUP report purely focuses on flooding.
Sufficient riparian zones must be provided along any proposed waterway, with access for maintenance vehicles.	<i>Agreed. The detailed design of the riparian zones will sufficiently deal with maintenance matters. Further consideration of this item has been made in the revised VPA letter of offer under consideration by Council, which is also supported by revised site-specific controls provided at Appendix K.</i>	Additional controls have been added to the draft site-specific DCP. Refer to section on Riparian zone below for further discussion on the provision of a 40m wide riparian zone.
Use of infiltration system nodes in the MUSIC model is problematic and should be replaced with raingardens or bioswale, and a water balance model should be provided to determine the rainwater tank volume with 80% reuse across the site to be implemented.	<i>The Proponent is targeting a high performing WSUD outcome and acknowledges Council's comments and intent. In response, the draft site-specific DCP has been revised to incorporate more detailed provisions for MUSIC model and water re-use outcomes at the DA stage. Refer to Appendix K.</i>	Provisions have been added in the draft site-specific DCP.

**Matters Raised in Council Endorsed Submission
(6 July 2023)**

**Proponent's Response
(20 September 2023)**

**Council's Response to Revised PP Package
(26 October 2023)**

Traffic and Transport

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

- a) The proposed office car parking rate does not align with the recently adopted Bayside Development Control Plan 2022 (Bayside DCP 2022) office parking rate (1 space per 40 sqm). The draft DCP control C4, Page 8 must reflect the correct rate. Furthermore, the traffic generation assessment for the office component of the proposal is linked to the number of car parking spaces proposed. This assessment must be revised to reflect the correct rate.
- b) Note that supermarket uses require a higher parking rate than other retail uses (1 space per 25 sqm). If the proposed retail area includes a supermarket, the proposed draft DCP must reflect the higher rate.
- c) The hotel must provide 2 coach pick-up/set-down spaces to accommodate a 12.5m HRV coach vehicle and a porte-cochere designed to accommodate these vehicles, as well as other taxi/uber pick-up/drop-off bays. The porte-cochere must not be located on land to be dedicated or owned by Council. The draft DCP must reflect this requirement.

The proponent understands that further discussions have been undertaken between DPE and Council on this matter. Accordingly, given TfNSW have accepted the detailed future year traffic network model based on VISSM analysis, the 1 space per 80sqm will be adopted which has been the basis of agreed modelling with TfNSW. Wording has been revised to clarify that this rate also applies to any office ancillary to other permitted uses. Refer to further discussion of all traffic matters provided at Section 4.4.

Resolved - All proposed parking rates raised in the submission have been confirmed and accepted. Wording of the draft site-specific DCP has been amended.

<u>Matters Raised in Council Endorsed Submission (6 July 2023)</u>	<u>Proponent's Response (20 September 2023)</u>	<u>Council's Response to Revised PP Package (26 October 2023)</u>
<p>It is recommended that the Masterplan consider relocating the proposed ramp of Building 3a from Flora Street East to Gertrude Street East. This is beneficial as it would minimise conflict between heavy vehicles and pedestrians using Pemulwuy Park to improve amenities and safety; Flora Street East can become a route for truck movement if incidents occur on other routes; and there will be a reduction in noise and fumes to the new park.</p>	<p><i>Ramp locations in the masterplan/reference scheme are indicative only and intended to be flexible to adapt to tenant requirements. The Site specific DCP has been updated to address the matter, requiring a Precinct Traffic Management Plan to accompany any future Development Application.</i></p>	<p>Generally resolved.</p> <p>The draft site-specific DCP indicates the PTMP must consider:</p> <ul style="list-style-type: none"> • <i>the requirements of Section 3.5.2 (C1-C7) of this DCP;</i> • <i>traffic safety measures, in particular, how pedestrian and cycle safety is achieved along the Flora Street East extension,</i> • <i>internal vehicle circulation and distribution on to Marsh Street,</i> • <i>large vehicle queuing management, and</i> • <i>internal vehicle ramp and dock locations</i> <p>The draft DCP should also include 'amenity for users of Pemulwuy Park' as a consideration of the PTMP.</p>
<p>As a sustainability measure and consistent with Planning Priority E19 – Reducing carbon emissions and managing energy water and waste efficiency of the Eastern City Precinct Plan, Electric Vehicle charging should be accommodated in the proposal. A proportion of car parking spaces should be equipped with EV charging facilities including consideration of electric truck charging. This should be reflected in the draft DCP provisions.</p>	<p><i>The proponent agrees with Council's recommendation. Accordingly, the draft site-specific DCP has revised sustainability provisions requiring "EV ready spaces to be considered in the design process for cars and trucks".</i></p>	<p>Generally resolved.</p> <p>Control C2 of the Sustainability section of the Cooks Cove draft site-specific DCP should be revised to use the following wording:</p> <p><i>"In addition to the requirements of section 3.5.9 of this DCP which requires EV charging facilities to be provided on-site, electric truck charging facilities shall be provided as part of all buildings in the Cooks Cove site at a rate that is satisfactory to Bayside Council".</i></p>

<u>Matters Raised in Council Endorsed Submission (6 July 2023)</u>	<u>Proponent's Response (20 September 2023)</u>	<u>Council's Response to Revised PP Package (26 October 2023)</u>
<p>Figure 213 of the proposed draft DCP provisions also indicates an excessively deep basement under the office/hotel building, which is raised as a concern due to the poor soil characteristics and shallow groundwater table in this area. Alternative means of providing car parking may need to be applied.</p>	<p><i>The basement concept shown in Block 2 is indicative only and is formulated on incorporating suitable spatial provisions to accommodate the necessary parking rates as agreed to be incorporated in the site-specific DCP. The proponent is aware of the ground conditions in the vicinity with recent geotechnical survey work having been undertaken in support of the indicative concepts. The reference concept appropriately balances the need for parking with environmental considerations in terms of excavation reduction. Further technical considerations will be undertaken at the DA stage, including any ability to incorporate a sharing of car parking spaces, as provided for within the draft DCP.</i></p>	<p>Resolved – This matter can be addressed at a later development assessment stage.</p>

Gertrude Street

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

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

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

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

The proposal seeks to implement a long-standing Council-led infrastructure enhancement which has been identified in the Woll Creek and Bonar Street Precincts Urban Renewal Area Contributions Plan 2019. Identified as item WC3.3.4 "Gertrude St (north side between Princes Hwy and Levey St Road widening". The widening works as proposed in the revised Local VPA Letter of Offer (Appendix K) have been revised in consultation with Council officers. The widening will incorporate satisfactory retention of on-street parking or suitable alternative arrangements.

Likely to generally be resolved as part of VPA negotiations.

The following additional comments were provided by Council's Traffic Engineers:

The drawing for figure 205 of the Cooks Cove draft DCP needs to be updated to include street trees on both sides of the street for the Gertrude Street Extension (without negatively impacting the road geometry) shown highlighted below.



Figure 205 – Indicative Marsh Street and Gertrude Street intersection upgrade and extension

An updated traffic report needs to be provided demonstrating that the planning proposal has addressed all traffic comments made in Council's & TfNSW submission (including incorporating the outcome of the Proponent's discussions with TfNSW and Council on Gertrude Street).

<u>Matters Raised in Council Endorsed Submission (6 July 2023)</u>	<u>Proponent's Response (20 September 2023)</u>	<u>Council's Response to Revised PP Package (26 October 2023)</u>
Gertrude Street (between Marsh Street and Levey Street) must be provided with street trees to both sides. DCP section figure 205 must be updated to reflect this.		
The area surrounding the development site is currently undergoing a significant change from low to high density residential and mixed-use development. To ensure an accurate representation of impacts, the traffic generation assessment should be revised to analyse traffic generation from the high-density residential area surrounding the T4 railway line, Wickham Street, West Botany Street, Marsh Street and Innesdale Road assuming the entire area has been built to the maximum potential permitted by the Bayside LEP 2021.	<i>As noted previously, a detailed traffic model using a refined VISSIM existing and future year model have been analysed in detail by TfNSW over a 24-month period, with confirmation that all traffic modelling matters have been accepted by TfNSW on 4/9/23. The modelling has incorporated NSW Government growth targets in terms of increases to network vehicle movements consistent with the high-density growth planned within future precincts such as Bayside West Precincts 2036.</i>	Resolved – Council is satisfied with the traffic modelling provided.
The traffic report indicates that \$1.5 million is proposed to be contributed towards the upgrade of the Forest Road and Eden Street intersection. Note that the State Significant Land and Housing Corporation development site in Eden Street is already conditioned to construct this upgrade.	Not addressed in response to submissions.	Resolved - The direct reference to the intersection has been replaced in Appendix L - Revised VPA letter of offer (page 6) with a more general reference to Forest Road west of the Princes Highway. The VPA also notes that TfNSW may nominate alternative locations identified for works on the State Road network.
The extent of new roads on the development site that are proposed to be dedicated to Council must be clearly detailed. It is Council's understanding that all internal roads will be the responsibility of a Community Association.	<i>All roads within the development zone, i.e. SP4 area, are to be retained and maintained by the proponent. The revised Local VPA Letter of Offer (provided at Appendix K) clarifies the extent of works-in-kind proposed in relation to Gertrude and Flora Streets to be undertaken. New roads to be dedicated to Council within existing and future open space zones are depicted in Appendix K and will form part of the Local VPA to be resolved with Council.</i>	Resolved - Remaining matters of detail will likely be resolved as part of VPA discussions.
<u>Built Form & Urban Design</u>		

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

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

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

A number of fixed parameters define the layout and extent of buildings throughout the site. The Proponent commits to resolving Council's built form concerns through further development of site-specific DCP controls (Appendix K). Revised provisions include controls for finer-grain facades, activation, public art and First Nation collaboration and the orientation of ancillary offices toward public domain areas, amongst other matters. CCI recognise that greater attention is to be given to this façade in the draft DCP through elevating 'secondary' grade facades along the foreshore to 'primary'. Additional provision seeks to strengthen the requirement for ground level activation and diverse materiality to be achieved. Further provisions will be addressed in consultation with Council.

The Proponent's commitment to resolving Council's built form concerns through the draft site-specific DCP is acknowledged.

The following matters are raised by Council's urban designers to be considered as part of the draft site-specific DCP:

- The delivery of the foreshore zone may be staged over time as the site develops. Opportunities for early delivery of a temporary, publicly accessible foreshore zone are to be explored. Recommended that the public foreshore zone must be in place before any OC is granted.
- Blanket GFA's are proposed to apply across the entire subject precinct. Whilst it is acknowledged that such controls currently exist under the Eastern Harbour SEPP, as the site does not have specific FSR controls a significant concern is the lack of defined development guidance for proposed buildings which may result in inconsistent or poor architectural design that does not meet the vision and objectives for the precinct.
- It is recommended that the DCP provide more prescriptive built form controls to ensure appropriate building envelopes that consider building height, depth, setbacks, and minimum areas for communal area and deep soil are achieved.
- As the site has not been proposed to be subdivided into different sub-lots, a significant concern is the control of setbacks. Setback currently only apply to Marsh Street and Gertrude Street. Additional controls should be imposed for Levey / Foreshore Street and Fig Tree Grove.
- There are inconsistencies between the controls in text and the illustrative drawings – Blocks 1 and 2

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		<p>have a maximum of 4 storey buildings (pg 14) whilst the diagram for Block 2 (figure 212) illustrates 11 storeys in the sections drawing.</p> <ul style="list-style-type: none"> A principle / objective shall be provided to ensure office space is orientated to face the open space and active transport corridors to provide passive surveillance.
<p>Treatment of facades must be further developed through design principles that drive design led solutions. Building lengths of future facades extend up to 150m long, which will have a significant visual impact on the surroundings and interfaces with the parks. The following aspects should be considered as part of a façade-based principle that will ensure visual interest is supported and bulk is minimised:</p> <ul style="list-style-type: none"> Bespoke design in areas that have a significant visual impact to the surroundings (i.e. Gateway to Sydney from the airport); Ongoing maintenance; Art / First Nations collaboration; Interfaces with different uses; and Innovation design / lighting strategy. <p>The layout and security requirements of the proposed logistics precinct associated with airport operations will further isolate access to the foreshore, creating a barrier that is over 600 metres long with limited opportunities to directly access the foreshore both visually and physically. This will potentially create safety issues for people transiting the foreshore link if there are no opportunities to 'escape' or for strong passive surveillance along its length.</p>	<p><i>A number of fixed parameters define the layout and extent of buildings throughout the site. The Proponent commits to resolving Council's built form concerns through further development of site-specific DCP controls (Appendix K). Revised provisions include controls for finer-grain facades, activation, public art and First Nation collaboration and the orientation of ancillary offices toward public domain areas, amongst other matters. CCI recognise that greater attention is to be given to this façade in the draft DCP through elevating 'secondary' grade facades along the foreshore to 'primary'. Additional provision seeks to strengthen the requirement for ground level activation and diverse materiality to be achieved. Further provisions will be addressed in consultation with Council.</i></p> <p><i>DCP controls 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. Additional DCP controls proposed for safety lighting and CPTED.</i></p>	<p>The initial strategy of primary, secondary and internal facade typologies has been amended to expand the primary façade facing the Cooks River and have a primary façade towards Pemulwuy Park.</p> <p>As above, the following additional matters are raised by Council's Urban Designers to be considered as part of the draft site-specific DCP:</p> <ul style="list-style-type: none"> Interface controls should be provided for awnings and the interface between the public and private domain to Gertrude Street, East Levey Street and Fig Tree Grove. It is recommended that outdoor dining opportunities are identified and relative controls are provided that address boundary, shade, and furniture placement. Design guidance for the corner treatment of the proposed commercial / hotel building shall be provided to guide the architectural expression, treatment, and materials of the area.

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<p>Attention is brought to Clause 6.10 Design Excellence of the Bayside LEP2021, which requires that buildings within the Design Excellence area that propose a height of 40 metres or 12 storeys or higher must undertake an architectural design competition. Note that this clause applies to the Arncliffe and Banksia Precincts, which are also part of the Bayside West Precincts 2036 Plan. Council recommends that Clause 6.10 of the Bayside LEP2021 also applies to this site to be consistent with the rest of the Bayside West Precincts sites and to ensure that the highest standard of architectural, urban and landscape design is achieved.</p>	<p><i>The proponent agrees and has sought amendment to the mapping associated with Clause 6.10 to apply to the Cooks Cove precinct. Refer to Section 5.4 of the Response to Submissions report.</i></p>	<p>Resolved.</p> <p>Council commends the proposed application of Clause 6.1 Design Excellence to the site.</p> <p>Council recommends that an active transport link be subject to Design Excellence should it be proposed / provided in a future State VPA.</p>

Cooks River Foreshore

As a highly desired link along the Cooks River Foreshore is supported. The design of the foreshore will need to consider how a comfortable and social pedestrian experience can be achieved alongside what will likely become a highly utilised cycle route.

Council raises concern with respect to safety of users along this long stretch of public domain without options for alternative routes and a fear of entrapment. Direct connectivity and passive supervision from the adjacent built form is imperative to avoid creating unsafe spaces, especially for pedestrians. A high standard of lighting and aesthetic treatment to ensure a high level of activation is also vital.

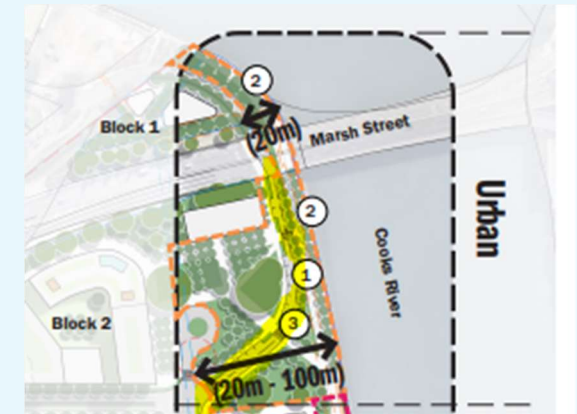
At the southern point of the route, the foreshore will provide direct access to the council land holdings that are otherwise land locked. This is a positive inclusion. The design as proposed does not allow for direct access from some Council land holdings to the foreshore. Ideally this should occur via the gap between buildings in Block 3B and 3C to create a link to the lookout shelter.

The provision of a dedicated 20m wide publicly accessible foreshore zone is sufficient to accommodate a regional grade active transport link and movement corridor. In the context of the Cooks River link the zone will be adequate (and in comparison to other locations it is considered generous). The Proponent is committed to implement CPTED principles through DCP provisions (Appendix K). Direct access between 3b and 3c is not possible with the operational objective of a secure logistics facility across the SP4 zone and this is a fundamental project requirement which does not allow the general public to cross through or access the future logistics facility.

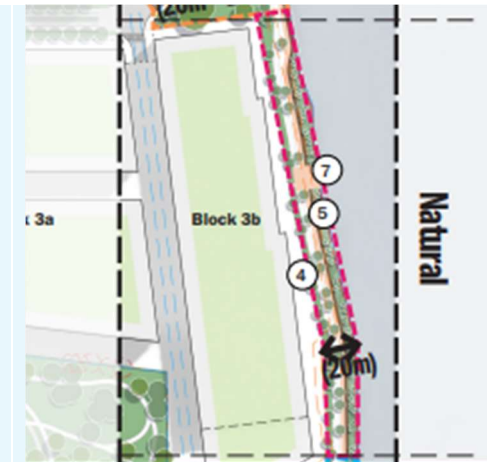
Council has emphasised the need to adhere to the DPE's 'Guidelines for riparian corridors on waterfront land' and provide a 40m riparian zone. Sound justification based on evidence is required to demonstrate why the buffer zone along a large section of the foreshore can be reduced from 40m to 20m.

The following additional matters have been raised by Council's Urban Designers for resolution in the draft site-specific DCP:

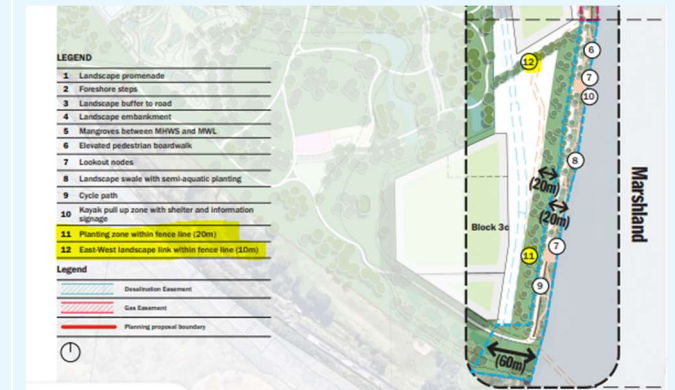
- Urban Zone: It is maintained that 20m-100m will be provided, however this includes a 7m wide road that separates the public use and private landscaping associated with the hotel.



- Natural Zone: In the northern section of the foreshore area there is approximately 300m of foreshore that remains only 20m wide. This includes areas with establishing mangroves that will ultimately reduce visual openness. This is also a risk to CPTED principles.



- Marshland: An additional 20m is illustrated within the fence line at item 11. Item 12 also shows the east-west link within the fence line. Hence no additional open space has been provided that is accessible to the public.



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		<ul style="list-style-type: none"> Sectional typologies are provided. Noting that a fence is proposed for the length of the corridor in a north/south alignment. This will likely impede connectivity within the corridor for fauna, and constrain the movement for people to the 20m zone. Whilst the submission claims that small fauna will be able to get through, the type of fauna has not been prescribed. It should be ensured that terrestrial mammals will not be inhibited from safe movement.
<u>Block 1 & 2 – Fig Tree Grove Plaza</u> The concept design for this precinct including the protection of existing fig trees, provision of public access to the foreshore, and connectivity for the public in perpetuity to the foreshore north and south is supported. The activation of the foreshore through landside activities and access to the water is also highly regarded.	<i>Noted and agreed. The public benefits of the Fig Tree Grove and Plaza to be achieved through the redevelopment is further addressed within the Local VPA revised Letter of Offer (provided at Appendix K).</i>	To be confirmed as part of VPA discussions.

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<p><u>Pemulwuy Park North & Pemulwuy Park South (to be delivered by Council)</u></p> <p>To achieve the intent, the masterplan will require land transfer of a triangle of parkland near the motorway operations compound (MOC) (not discussed in the document) and land to the south of Block 3C (included in the document). A major concern is the potential for conflicts between heavy vehicles and park users. Ideally this entry point should not be shared with large numbers of heavy vehicle movements.</p>	<p><i>The revised Local VPA letter of offer (Appendix K) addresses the proposed embellishment and dedication of the two parcels of land which provide for a suitable overland flow path and superior connectivity between Pemulwuy Park North and South and public accessibility to the Cooks River foreshore.</i></p> <p><i>Shared usage of Trust Lands and land intended to be dedicated to Council, is essential in this location. Further design development of the indicative concept demonstrates that a relocated active transport crossing by way of an updated Flora Street East design to be a single lane in each direction, enhances the safety of pedestrians and cyclists crossing between Pemulwuy Park North and South. Achieving appropriate safety has been addressed in a revised DCP control requiring a Precinct Traffic Management Plan. This is in addition to the requirement of Bayside DCP 2022 Section 3.5.2. Refer to Appendix K.</i></p>	<p>To be confirmed as part of VPA discussions.</p> <p>Truck access between the blocks in view of Pemulwuy Park's accessibility constraints, must ensure that safety conflicts are resolved particularly where park users are expected to navigate the risk of large vehicle movements.</p>
<p><u>Metro Greenspace Program</u></p> <p>Council's vision for its land is currently at odds with the proposal put forward by TfNSW as part of the Urban Design and Landscape Plan (UDLP) for the M6 Stage 1. The TfNSW proposal is concerned with only a portion of the open space confined to the compound site occupied for the M6 construction (known as the reinstatement site) and is influenced by the cost to remove tunnel spoil. This exaggerated landform comprising of mounded areas (proposed up to 5m above pre-existing levels) will result in poor integration with the surrounding landform of any future park.</p>	<p><i>Ongoing consultation with TfNSW has resulted in the in-principle agreement reached between TfNSW and Council to reduce the volume of retained fill with regards to the proposed treatment of the M6 Stage 1 construction compound at the conclusion of this project. Levels of up to RL3.5 are proposed to be transitioned with up to 1:10 batters surrounding the compound. Refer to the revised Flooding Impact Risk Assessment (Appendix E) for further assessment of the proposed flow path.</i></p> <p><i>Comments regarding the Metro Greenspace Program and the TfNSW UDLP are noted.</i></p>	<p>Noted.</p> <p>The proposal seeks to be consistent with the TfNSW UDLP. Council seeks to ensure the adequate access and functionality of Pemulwuy Park.</p> <p>Council and TfNSW will continue to resolve the concerns raised regarding delivery of Pemulwuy Park and the M6 Stage 1 project.</p>

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Environmental Matters

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

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

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

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

A larger extent of the Planning Proposal site has been zoned for Trade and Technology purposes for close to two decades. The proposal refines the development zone to a smaller extent, which has allowed for a greater retention of vegetation across the whole of the Planning Proposal site. This includes significant Moreton Bay Figs in the north and Paper Barks in the south. Replacement tree plantings are proposed to be funded by way of a future VPA to embellish (in part) Pemulwuy Park South, as part of broader works to be delivered by Council. Where relocation is not possible, advanced growth plantings will be considered. Species will also be coordinated to address SACL planting guidelines to manage bird control adjacent to the airport. The draft site-specific DCP requires a detailed vegetation management strategy (refer Appendix K). Notwithstanding, the proponent is committed to be consistent with the vegetation requirements of the existing Bayside DCP Section 3.8.2.

Noted. Retention of trees can be addressed as part of the draft site-specific DCP and during the development assessment process.

Note that areas around airports are often devoid of trees due to security constraints. Council strives to enhance tree canopy coverage within its LGA and supports the provision of as many trees as feasible.

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<u>Additional Permitted Uses</u>		
<p><u>Advertising Structures</u></p> <p>Advertising structures will not positively contribute to the public domain and will detract from the desired high quality pedestrian experience sought for the area. The area surrounding Sydney Airport has many billboards and advertising structures that dominate the streetscape and skyline, however, the character changes on the south side of the Cooks River. Permitting this use would exacerbate visual clutter and potentially reduce the safety of road users along a State significant corridor.</p>	<p><i>In response to the concerns raised by Council, the proposed draft DCP has been further amended (refer Appendix K) to include additional provisions for temporary and permanent advertising signs within Block 1, including tenure and design provisions. Any signage is to minimise any potential impacts on residential receivers nearby and any permanent digital signage is integrated into the podium of a future building and oriented to minimise any potential impacts on residential receivers nearby.</i></p>	<p>Council's position on not permitting advertising signage within the SP4 zone remains as it is contrary to the future desired character for the area.</p>
<p><u>Trade-Related Enterprise</u></p> <p>An Additional Permitted Use clause is proposed by the Proponent to permit 'trade related enterprise' at Block 2 and 3 (south of Marsh Street) to translate this intent. The definition is translated from the Precincts SEPP, as it does not exist as a defined term within the Standard Instrument.</p> <p>This clause is not considered necessary, as 'trade related enterprise' is completely appropriate within the suite of uses that are already proposed and permitted with consent under the SP4 Enterprise zone. These uses are supported by the zone objectives to ensure they are directly related to the carrying out of air, land or sea commerce, in support of the international trade gateway.</p>	<p><i>It is proposed to retain insertion of the 'trade and technology' definition by way of a Schedule 1 Additional Permitted Use amendment. 'Trade-related enterprise' is considered a direct fit to deliver on the vision to create a contemporary and international-focused trade and logistics precinct. Refer to Section 4.1.2 of the Planning Proposal justification report.</i></p>	<p>Council's position on adding an APU for the 'trade related enterprise' use, which is not defined under the Standard Instrument, remains. Council prefers to avoid unnecessary APU's, which add complexity to the planning system.</p>

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<u>Airport & Aeronautical Matters</u>		
Confirmation must be provided that there will be no infringement of the protected airspace required during construction, or that any such infringement will be supported by the relevant approval body to demonstrate consistency with Local Planning Direction 5.3 – Development Near Regulated Airports and Defence Airfields.	<i>A detailed assessment of all aeronautical matters is provided at Section 6.2.5 of the Planning Proposal Justification Report. For buildings where the maximum height is near the OLS height where cranes would infringe the OLS surface, the Proponent will adhere to Airports (Protection of Airspace) Regulations 1996 (APAR) application requirements in relation to aviation safety, as relevant – which is consistent with 5.3(2)(d).</i>	Guideline F: Managing the Risk of Intrusions into the Protected Airspace of Airports will apply and can be addressed at a later development stage. Future construction equipment and cranes that infringe the OLS will need to be assessed under the Airspace Regulations by CASA for obstacle lighting and marking.
Security constraints and airport safeguarding of the potential bridge connection specified in the proposed draft DCP may pose a problem when navigating the interface between the Cooks Cove public domain and the airside foreshore space. The built form of such a bridge must be complimentary to the public domain and minimise aggressive aesthetic treatment.	<i>This comment is acknowledged. In response, additional site-specific draft DCP provisions are proposed to address the interface of any potential future bridge freight connection to ensure a visually appropriate and a safe outcome for users of the publicly accessible foreshore linkage (refer Appendix K). Any future design for a potential bridge connection to the airport for the movement of freight will be guided by site-specific DCP controls to ensure it will not interfere with the public domain passive open space and active transport link function. Airside facilities will not impact on the function of the publicly accessible foreshore zone.</i>	Resolved - The draft site-specific DCP has been amended to address this matter.

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<u>Additional Matters</u>		
<p><u>Riparian Zone</u></p> <p>A minimum 40 metre riparian zone should be included along the Cooks River frontage to ensure an adequate ecological interface that is consistent with DPE's 'Guidelines for riparian corridors on waterfront land'. This riparian zone will support water quality, biodiversity, protection of flora and fauna, and overall ecosystem health, whilst also reducing the dominance of buildings along the river front and creating a more integrated interface with the public domain. Cycleways and paths that are currently within the 20m zone can then be relocated to the outer 50% of the riparian zone.</p>	<p><i>The site is large and has a consolidated foreshore this gives an outstanding opportunity for a best practice WSUD to be integrated over the riparian zone. Rehabilitation will restore riparian habitats, increasing biodiversity and improving water quality leaving the site. The width of the zoned riparian interface is proposed to be increased from a 20m width to a 40m width within the southern section of the site, equating to doubling the foreshore zone for approximately 40% of the Cooks Cove interface with the river (refer Section 4.2). The width is also sufficient for a significant improvement in terms of ecology and riparian planting in comparison to the current artificial golf course edge.</i></p>	<p>Council appreciates the Proponent's effort to increase the riparian zone to 40m for a portion of the foreshore, but still maintains that the buffer zone should be consistent with DPE's 'Guideline for riparian corridors on waterfront land' along the entire length.</p> <p>As previously stated, a reduction should only be reconsidered if evidence can justify that a reduced buffer zone is suitable.</p>
<p><u>Land Uses</u></p> <p>It is acknowledged that economic impact is addressed in the Planning Proposal Justification Report at a high level, however, an Economic Impact Assessment should be provided showing the evidence that has informed the quantum of each proposed land use.</p>	<p><i>Additional economic commentary discussing the key drivers in support of the project and the quantum of land uses sought is provided within the Response to Submissions Report, Section 4.7.</i></p>	<p>Resolved – The Response to Submissions report provides the following evidence:</p> <ul style="list-style-type: none"> • there is large and growing unmet demand for industrial floorspace in greater Sydney, • this growth is being driven in part by freight and logistics, and • Cooks Cove is a suitable site given its location adjacent to the airport and Port Botany. <p>Whilst, an Economic Impact Assessment may provide further evidence, the provided commentary is adequate as the demand for industrial floorspace is likely high enough to avoid negative impacts on other areas.</p>

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<p><u>Block 3B and 3C</u></p> <p>Block 3B will create an impermeable barrier which lacks sensitivity for surrounding natural landscapes, preventing views towards the river, and blocking accessibility and a visual relationship with Pemulwuy Park. The configuration and location of Block 3B will need to be further reviewed by the SECPP and DPE, so that open space and foreshore connections are better considered. A connection for the community between Pemulwuy Park and the foreshore link should be provided between buildings 3B and 3C, in the interest of safety and permeability. Building 3C could be secured separately to the rest of the development, or not in a secure compound to facilitate this.</p>	<p><i>Enhancement in terms of fauna connection is improved. 3B is a fixed location due to existing utilities in terms of ethane and desalination pipeline, this is a not a new matter and these constraints are present under the current SEPP EHC Trade and Technology zone. A secure development zone is required due to the high need to service the adjacent airport precinct with the flexibility of 'airside' uses which are physically separated from the adjacent publicly accessible open space. Refer to Section 4.2 for further comment.</i></p>	<p>As stated above, under the 'Built Form & Urban Design' section of this analysis, these matters can be addressed as part of the assessment of the draft site-specific DCP.</p>
<p><u>Open Space</u></p> <p>An assessment of open space needs should be provided to DPE to ensure the quality of open space provided is consistent with the needs of the community.</p>	<p><i>Extensive consultation has been undertaken with Bayside Council with regards to open space quantum and in terms of the master planning process for the future Pemulwuy Park. Refer to further justifications for the proposal at Section 4.</i></p>	<p>An Open Space Needs Assessment was not provided.</p>
<p><u>Solar Access</u></p> <p>The shadow modelling must accurately confirm that the proposed maximum building heights are acceptable and will not unreasonably impact the quality and useability of publicly accessible places by way of overshadowing.</p>	<p><i>Further refinements to overshadowing diagrams to the future publicly accessible open space has been undertaken by Hassell and is included at Appendix D.</i></p>	<p>Overshadowing diagrams have been included in Addendum A, the Urban Design Report. The foreshore will be overshadowed by Block 3B from approximately 2pm in summer and winter. Building 3C will overshadow the foreshore from approximately 2pm in winter.</p> <p>Council reiterates the need for a 40m riparian buffer zone, which would also greatly reduce the overshadowing effects on the public accessway and the foreshore.</p>

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<p><u>CPTED</u></p> <p>The proposal must demonstrate a commitment to the basic principles surrounding Crime Prevention through Environmental Design. This could be captured in the draft DCP.</p>	<p><i>Noted and CPTED requirements incorporated into the revised draft DCP provided at Section 5.6. Detailed consideration to be undertaken at the DA stage.</i></p>	<p>Resolved – These matters are to be addressed in the draft site-specific DCP and during development assessment stage.</p>
<p><u>Water Quality</u></p> <p>Concerns were raised that updated targets are being progressed for the Cooks River, by Sydney Water in conjunction with stakeholders such as the various Councils as part of the Cooks River Alliance but this has not been addressed in the PP. DPE shall consult Sydney Water and other relevant State agencies to respond to the comments raised in relation to water quality in the Cooks River.</p>	<p><i>The proponent is targeting exemplar WSUD provisions. This objective is placed in the DCP. Controls have been drafted for Council review, which is ongoing. A revised version of the draft DCP is provided at Appendix K.</i></p>	<p>Resolved – DPE to consult with Sydney Water on the updated targets for Cooks River.</p>
<p><u>Litter Prevention</u></p> <p>Litter prevention principles and related development controls should be included in the proposed DCP.</p>	<p><i>Noted and incorporated into the revised draft DCP provided at Section K.</i></p>	<p>Resolved – This matter is to be addressed in the draft site-specific DCP.</p>

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<p><u>View Loss</u></p> <p>A Visual Impact Assessment that assesses the impact on character and views from residences, workplaces and public places should be provided to identify existing viewpoints, and their sensitivity to change, and determine the magnitude of change. Recommendations from the assessment should be incorporated into DCP controls.</p>	<p><i>In response to the concerns raised by Council, surrounding owners and by the general public, a review of views has been undertaken to understand the comparison between the existing controls (2006 approved DA) and the proposed controls (2023 reference scheme). Refer to Section 4.3 and supporting visual material prepared by Virtual Ideas at Appendix J.</i></p>	<p>Resolved – A Visual Impact Assessment was provided by the Proponent which confirms that the proposed heights of buildings will be consistent with the provisions in the Eastern Harbour SEPP. It is acknowledged that disruption to distant views of Kyeemagh will occur however this is to be expected even under existing controls.</p> <p>The viewpoints provided confirm there will be negligible difference on the current views particularly considering the provision of Pemulwuy Park which provides a considerable buffer of open space.</p> <p>Moreover, any impacts of view loss will be evaluated as part of development assessment at a subsequent stage.</p>

Environmental Concerns

Concerns were raised that the developer's use of the Biodiversity Offset Scheme is not appropriate as the NSW Audit Office has demonstrated it to be ineffective. Council requests that DPE consult with relevant State agencies regarding Biodiversity Offset Scheme requirements.

Additional research by Cumberland Ecology in the revised Flora and Fauna Assessment (Appendix 4.2) confirms that there are BAM credits currently available for purchase as part of the offset scheme and there has been a history of such credits being available. The use of the offset scheme under the BC Act remains a valid statutory pathway for future DAs which will be further investigated.

This is a matter for DPE to pursue and consult with the relevant authorities, however the following additional comments were raised by Council's Environment Officers:

Offsetting of impacts on Green and Golden Bell Frogs (GGBF) habitat under NSW Biodiversity Conservation Act 2016 and NSW Biodiversity Offset Scheme is likely to result in poor outcomes for Endangered Green and Golden Bell Frogs. It is recommended that:

- The preservation and protection of the existing frog habitats should be maximised as much as possible.
- A GGBF Management Plan be prepared.
- The 40m riparian zone buffer is instated.

CCI, DPE Agile and Bayside Council have also been engaging in discussions to explore the provision of measures within both the LEP and DCP to provide the required GGBF protections. Additional mechanisms include:

- Zoning of land along the foreshore as a C2 zone.
- Increased riparian zone setback of 40m
- Potential additional local provisions to be inserted in the Bayside LEP 2021 from the existing environmental management provisions in the Eastern Harbour SEPP.
- Site-specific DCP controls to require further documentation, including a GGBF Management Plan prior to lodgement of any DA for the site.

Council's Environment Officers provided DPE Agile with a summary of controls from the Eastern Harbour SEPP that are recommended to be divided into LEP and DCP controls.

The following items are preferred to be addressed within the Bayside LEP site-specific provisions:

<u>Matters Raised in Council Endorsed Submission (6 July 2023)</u>	<u>Proponent's Response (20 September 2023)</u>	<u>Council's Response to Revised PP Package (26 October 2023)</u>
		<ul style="list-style-type: none"> • Objectives that the foreshore and significant wetland areas, and GGBF habitat areas be maintained and protected. • The provision of a Wetlands Environmental Management Plan that is referred to the Planning Secretary and Secretary of the Department of Agriculture, Fisheries and Forestry. • A list of the items that must be included in the Environmental Management Plan as stipulated in the Eastern Harbour SEPP. • The provision of a GGBF Management Plan that is referred to the Planning Secretary. • A list of the items that must be included in the GGBF Management Plan as stipulated in the Eastern Harbour SEPP. <p>All other relevant items in the Eastern Harbour SEPP should be incorporated in the draft site-specific DCP.</p>

Attachment B – Bayside Council’s Endorsed Submission – 6 July 2023

6 July 2023

Our Ref: 23/129180
Our Contact: Ana Trifunovska (02) 9562 1698

Ms Louise McMahon - Director, Agile Planning
Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Via Email: louise.mcmahon@dpie.nsw.gov.au

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

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

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

Background

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

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

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

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

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

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

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

Zoning

RE1 Public Recreation

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

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

An alternate approach would be to zone the 20m (or wider if possible) foreshore strip of land RE2 Private Recreation and to have the public access and private maintenance arrangements captured in a Planning Agreement requiring Easements and Covenants to be registered on the property title. There is precedent for this approach at nearby Discovery Point Park in Wolli Creek, which is owned by the Community Association, but available for public use.

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

SP4 Enterprise

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

Whilst the B7 Business Park zone was considered a generally appropriate fit for the translation of the 'Trade and Technology' zone, on the 26 April 2023 business and industrial land use zones were simplified and reduced through the employment zones reform. The simplification resulted in the translation of the B7 Business Park zone to the E3 Productivity Support zone.

Council acknowledges the complications surrounding the translation of the 'Trade and Technology' zone to the E3 Productivity zone, namely the omission and/or inclusion of

unintended land uses. The proposed SP4 Enterprise zone as proposed in the amended Planning Proposal is a suitable alternative.

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

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

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

Flood Planning, Stormwater Management & WSUD

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

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

The proposed flood mitigation strategy burdens adjoining public land by diverting overland flow around the development site that currently passes through it. This will result in a reduction in value to the community by limiting functionality and potential public uses of public land. Although overland flow will occur infrequently, the land will need to be shaped and maintained as an overland flow path in perpetuity.

Whilst it is acknowledged that two substantial parcels of land are being dedicated to Council to facilitate that redirection, this is not an optimal response. A better compromise would be to direct the overland flow to the foreshore between Block 3B and Block 3C, rather than the overland flow following a much longer route through public open space to the south of Block 3C. This part of the Cooks Cove site between 3B and 3C cannot be developed in any case due to the location of the two pipelines.

Reference to the *Rockdale Development Control Plan 2011* in the *Flooding, Stormwater and WSUD Report* is inaccurate as this plan is now repealed and replaced by the *Bayside Development Control Plan 2022 (Bayside DCP 2022)*. The report should be updated to reflect the correct Development Control Plan that is in force. The flood hazard mapping in the report must also be obtained from the flood model prepared by the developer/ARUP, not from Council's mapping system (refer to Figures 19 and 20 of the flood report).

The lack of assessment on the influence of tidal flooding is raised as a concern by Council. Such analysis must be included in the report to ensure tidal impacts on the drainage system are accounted for. In addition, Council recommends a Sea Level Rise Vulnerability Assessment be conducted to confirm potential impacts.

Out of the flood mitigation options presented by ARUP in the report, Option 4 is considered a technically adequate response. Note that emergency vehicle access to the site must be available in the 1% AEP flood event. The Flora Street extension must be designed to avoid floodwaters in the 1% AEP flood event to ensure emergency vehicles can access the site. A flood warning system should also be considered.

The peak 1% AEP flood depth in proposed internal roads must be designed to ensure that peak 1% AEP flow does not overflow to the kerb. Ocean guards/pit inserts in any future land to be dedicated to Council (e.g. pits in the road) are not considered acceptable and should be replaced with an alternative mechanism. A Gross Pollutant Trap(s) should be provided at the downstream end of the stormwater system for any roads in an accessible location that can be serviced by large vehicles.

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

Use of infiltration system nodes in the MUSIC model is problematic and should be replaced with raingardens or bioswale, and a water balance model should be provided to determine the rainwater tank volume with 80% reuse across the site to be implemented.

The above requirements must be reflected in the draft DCP controls.

Traffic and Transport

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

Draft DCP Matters

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

- a) The proposed office car parking rate does not align with the recently adopted Bayside Development Control Plan 2022 (Bayside DCP 2022) office parking rate (1 space per 40 sqm). The draft DCP control C4, Page 8 must reflect the correct rate. Furthermore, the traffic generation assessment for the office component of the proposal is linked to the number of car parking spaces proposed. This assessment must be revised to reflect the correct rate.
- b) Note that supermarket uses require a higher parking rate than other retail uses (1 space per 25 sqm). If the proposed retail area includes a supermarket, the proposed draft DCP must reflect the higher rate.
- c) The hotel must provide 2 coach pick-up/set-down spaces to accommodate a 12.5m HRV coach vehicle and a porte-cochere designed to accommodate these vehicles, as well as other taxi/uber pick-up/drop-off bays. The porte-cochere must not be located on land to be dedicated or owned by Council. The draft DCP must reflect this requirement.

It is recommended that the Masterplan consider relocating the proposed ramp of Building 3a from Flora Street East to Gertrude Street East. This is beneficial as it would minimise conflict between heavy vehicles and pedestrians using Pemulwuy Park to improve amenities and safety; Flora Street East can become a route for truck movement if incidents occur on other routes; and there will be a reduction in noise and fumes to the new park.

As a sustainability measure and consistent with *Planning Priority E19 – Reducing carbon emissions and managing energy water and waste efficiency* of the *Eastern City Precinct Plan*, Electric Vehicle charging should be accommodated in the proposal. A proportion of car parking spaces should be equipped with EV charging facilities including consideration of electric truck charging. This should be reflected in the draft DCP provisions.

Figure 213 of the proposed draft DCP provisions also indicates an excessively deep basement under the office/hotel building, which is raised as a concern due to the poor soil characteristics and shallow groundwater table in this area. Alternative means of providing car parking may need to be applied.

Gertrude Street

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

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

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

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

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

Other Traffic Related Matters

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

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

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

Built Form & Urban Design

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

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

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

Treatment of facades must be further developed through design principles that drive design led solutions. Building lengths of future facades extend up to 150m long, which will have a significant visual impact on the surroundings and interfaces with the parks. The following aspects should be considered as part of a façade-based principle that will ensure visual interest is supported and bulk is minimised:

- Bespoke design in areas that have a significant visual impact to the surroundings (i.e. Gateway to Sydney from the airport);
- Ongoing maintenance;
- Art / First Nations collaboration;
- Interfaces with different uses; and
- Innovation design / lighting strategy.

The layout and security requirements of the proposed logistics precinct associated with airport operations will further isolate access to the foreshore, creating a barrier that is over 600 metres long with limited opportunities to directly access the foreshore both visually and physically. This will potentially create safety issues for people transiting the foreshore link if there are no opportunities to 'escape' or for strong passive surveillance along its length.

Attention is brought to *Clause 6.10 Design Excellence* of the *Bayside LEP2021*, which requires that buildings within the Design Excellence area that propose a height of 40 metres or 12 storeys or higher must undertake an architectural design competition. Note that this clause applies to the Arncliffe and Banksia Precincts, which are also part of the Bayside West Precincts 2036 Plan. Council recommends that *Clause 6.10* of the *Bayside LEP2021*

also applies to this site to be consistent with the rest of the Bayside West Precincts sites and to ensure that the highest standard of architectural, urban and landscape design is achieved.

Cooks River Foreshore

As a highly desired link along the Cooks River Foreshore is supported. The design of the foreshore will need to consider how a comfortable and social pedestrian experience can be achieved alongside what will likely become a highly utilised cycle route.

Council raises concern with respect to safety of users along this long stretch of public domain without options for alternative routes and a fear of entrapment. Direct connectivity and passive supervision from the adjacent built form is imperative to avoid creating unsafe spaces, especially for pedestrians. A high standard of lighting and aesthetic treatment to ensure a high level of activation is also vital.

At the southern point of the route, the foreshore will provide direct access to the council land holdings that are otherwise land locked. This is a positive inclusion. The design as proposed does not allow for direct access from some Council land holdings to the foreshore. Ideally this should occur via the gap between buildings in Block 3B and 3C to create a link to the lookout shelter.

Block 1 and 2 – Fig Tree Grove and Plaza

The concept design for this precinct including the protection of existing fig trees, provision of public access to the foreshore, and connectivity for the public in perpetuity to the foreshore north and south is supported. The activation of the foreshore through landside activities and access to the water is also highly regarded.

Pemulwuy Park North & Pemulwuy Park South (to be delivered by Council)

To achieve the intent, the masterplan will require land transfer of a triangle of parkland near the motorway operations compound (MOC) (not discussed in the document) and land to the south of Block 3C (included in the document). A major concern is the potential for conflicts between heavy vehicles and park users. Ideally this entry point should not be shared with large numbers of heavy vehicle movements.

Metro Greenspace Program

The subject site is currently used as a Golf Course and has been used as such for many decades, until parts of the land owned by Bayside Council were compulsorily acquired for the construction of major road networks and associated infrastructure including a compound for the construction of the M6 Stage 1.

The combination of private and public land provides a significant green buffer between the hard landscape of the Sydney Airport and the current open space, which continues to operate as a golf course. This proposal will significantly change the landscape.

In February 2020, Bayside Council entered into a funding agreement with DPE under the Metro Greenspace Program. The Bayside Priority Green Grid Corridors Spatial Framework (the Framework) was adopted by Council in response to this program to *'set the vision and next steps for delivering integrated open space and ecological assets that promote healthy living, active transport, community engagement and environmental benefits'*.

Part 3 of the document deals with the Rockdale Wetlands Corridor which identifies a consolidated parcel of land identified as 'Marsh Street Open Space' and is named 'Pemulwuy Park' in this Planning Proposal. Council resolved in 2021 that this park would not include a sporting focus as originally planned but would provide a passive focus similar to Centennial Park - as expressed in the Concept Plan below - seeking to protect existing trees and ponds that provide established habitats in the precinct.



Figure 1: Arnccliffe Reinstatement Site Concept Plan

Council collaborated with Cook Cove and their consultants Hassell to develop the landscape masterplan referred to in the controls for Pemulwuy Park. The proposal provided by the Proponents mostly reflects the Council adopted park objectives.

Council's vision for its land is currently at odds with the proposal put forward by TfNSW as part of the Urban Design and Landscape Plan (UDLP) for the M6 Stage 1. The TfNSW proposal is concerned with only a portion of the open space confined to the compound site occupied for the M6 construction (known as the reinstatement site) and is influenced by the cost to remove tunnel spoil. This exaggerated landform comprising of mounded areas (proposed up to 5m above pre-existing levels) will result in poor integration with the surrounding landform of any future park.

Environmental Matters

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

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

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

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

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

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

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

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

Additional Permitted Uses

Advertising Structures

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

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

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

Trade-Related Enterprise

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

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

This clause is not considered necessary, as 'trade related enterprise' is completely appropriate within the suite of uses that are already proposed and permitted with consent under the SP4 Enterprise zone. These uses are supported by the zone objectives to ensure they are directly related to the carrying out of air, land or sea commerce, in support of the international trade gateway.

Airport & Aeronautical Matters

The *Aeronautical Impact Assessment & Airport Safeguarding* report, prepared by Strategic Airspace (dated 30 March 2023) confirms that the proposed height of buildings will not infringe the PANS-OPS surfaces. It notes that construction-related infringement (i.e. cranes) could occur. Confirmation must be provided that there will be no infringement of the protected airspace required during construction, or that any such infringement will be supported by the relevant approval body to demonstrate consistency with *Local Planning Direction 5.3 – Development Near Regulated Airports and Defence Airfields*.

Security constraints and airport safeguarding of the potential bridge connection specified in the proposed draft DCP may pose a problem when navigating the interface between the Cooks Cove public domain and the airside foreshore space. The built form of such a bridge must be complimentary to the public domain and minimise aggressive aesthetic treatment.

Public Benefit Offer

Council is separately working with the proponent through a public benefit offer so that the local community can share some benefit from this significant change. Unfortunately, this has not reached a stage where it could form part of the exhibition, and Council will work with the proponent between now and finalisation of the Planning Proposal.

To ensure that the proponent's offer and obligations are locked in, it is absolutely essential that the final negotiated position is captured in the Planning Proposal process before it is finalised.

Additional Matters

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

- **Riparian Zone** - A minimum 40 metre riparian zone should be included along the Cooks River frontage to ensure an adequate ecological interface that is consistent with DPE's 'Guidelines for riparian corridors on waterfront land'. This riparian zone will support water quality, biodiversity, protection of flora and fauna, and overall ecosystem health, whilst also reducing the dominance of buildings along the river front and creating a more

integrated interface with the public domain. Cycleways and paths that are currently within the 20m zone can then be relocated to the outer 50% of the riparian zone.

- **Land Uses** - It is acknowledged that economic impact is addressed in the Planning Proposal Justification Report at a high level, however, an Economic Impact Assessment should be provided showing the evidence that has informed the quantum of each proposed land use.
- **Block 3B and 3C** - Block 3B will create an impermeable barrier which lacks sensitivity for surrounding natural landscapes, preventing views towards the river, and blocking accessibility and a visual relationship with Pemulwuy Park. The configuration and location of Block 3B will need to be further reviewed by the SECPP and DPE, so that open space and foreshore connections are better considered. A connection for the community between Pemulwuy Park and the foreshore link should be provided between buildings 3B and 3C, in the interest of safety and permeability. Building 3C could be secured separately to the rest of the development, or not in a secure compound to facilitate this.
- **Open Space** - An assessment of open space needs should be provided to DPE to ensure the quality of open space provided is consistent with the needs of the community.
- **Solar Access** - The shadow modelling must accurately confirm that the proposed maximum building heights are acceptable and will not unreasonably impact the quality and useability of publicly accessible places by way of overshadowing.
- **CPTED** - The proposal must demonstrate a commitment to the basic principles surrounding Crime Prevention through Environmental Design. This could be captured in the draft DCP.
- **Water Quality** – Concerns were raised that updated targets are being progressed for the Cooks River, by Sydney Water in conjunction with stakeholders such as the various Councils as part of the Cooks River Alliance but this has not been addressed in the PP. DPE shall consult Sydney Water and other relevant State agencies to respond to the comments raised in relation to water quality in the Cooks River.
- **Litter Prevention** - Litter prevention principles and related development controls should be included in the proposed DCP.
- **View Loss** - A Visual Impact Assessment that assesses the impact on character and views from residences, workplaces and public places should be provided to identify existing viewpoints, and their sensitivity to change, and determine the magnitude of change. Recommendations from the assessment should be incorporated into DCP controls.
- **Environmental Concerns** – Concerns were raised that the developer's use of the Biodiversity Offset Scheme is not appropriate as the NSW Audit Office has demonstrated it to be ineffective. Council requests that DPE consult with relevant State agencies regarding Biodiversity Offset Scheme requirements.

CONCLUSION

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

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

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

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

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Barber', on a light grey background.

Peter Barber
Director City Futures

Enclosed:

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

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

30 October 2023

TfNSW Reference: SYD18/00243/42

Amy van den Nieuwenhof
A/ Manager, Agile Planning
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Parramatta NSW 2150

**RE: TFNSW SUBMISSION ON THE UPDATED DOCUMENTS OF THE COOKS COVE
PLANNING PROPOSAL (PP-2022-1748)**

Dear Ms van den Nieuwenhof

Transport for NSW (**TfNSW**) appreciates the opportunity to provide comment on the post-exhibition updated documents of the Cooks Cove Planning Proposal (**Proposal**) as referred to us in the Department of Planning and Environment's (**DPE**) correspondence dated 28 September 2023.

TfNSW refers to its submission dated 9 October 2023. As set out in our submission, TfNSW submits that a clause should be included in the amending instrument to the *Bayside Council Local Environmental Plan 2021* resulting from the Proposal, to defer commencement of the instrument change (either as a whole, or in respect of the reclassification and rezoning of the Trust Lands only) until:

- (a) such time as TfNSW has confirmed, by written notice to the Planning Secretary, that satisfactory arrangements have been made for the transfer of those parts of the Trust Lands to TfNSW which TfNSW requires for the M6 and M8 motorway projects; or
 - (b) 30 June 2024,
- whichever is the earlier.

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

The landowner, Bayside Council (**Council**), would need to be a party to any such agreement and agree to such a provision. The minutes of Council meeting held on 25 October 2023 indicates that Council agrees, in principle, to be a party to the SPA to enable the dedication of Trust Lands to TfNSW for the purposes of the M6 and M8 motorway permanent Motorway Operations Centre, subject to this being at no cost to Council, and that a further report be received by Council once the terms of the SPA have been negotiated.

The resolution of Council to be a party to any SPA is supported by TfNSW.

However, the matter was first considered at the Council Committee meeting on 11 October 2023. The Council report prepared to inform the Committee's decision-making at that meeting flagged an option for the \$4 million monetary contribution in the SPA, envisaged for pedestrian & cycle infrastructure improvements to Giovanni Brunetti Bridge, to be subject to a sunset provision such that if it is not used for the intended purpose by TfNSW within a specific time, it will revert to Council to spend on whatever community infrastructure is in most need at the time within the vicinity of the development site. Council has indicated that the negotiations will proceed on this basis if Council resolves to be party to the SPA.

As highlighted in our submission to DPE on 9 October 2023, this option has not been discussed with TfNSW, and we are unaware of such an option being discussed with DPE and Cooks Cove Inlet Pty Ltd (**CCI**) previously.

In TfNSW's view, it is not appropriate for State monetary contributions set aside for regional infrastructure upgrades to be transferred to Council for local community infrastructure, and as such, TfNSW does not agree with this being the subject of negotiations or a basis upon which Council resolves to be party to the SPA. For completeness, TfNSW notes that it does not agree with a sunset provision being nominated for any monetary contributions under the SPA. Subject to DPE's confirmation, the contributions will be held by DPE and, to the extent not expended by TfNSW for pedestrian & cycle infrastructure improvements to Giovanni Brunetti Bridge, will be utilised in conjunction with other contributions held in the Bayside West Precincts Special Infrastructure Contribution or funds arising from the Housing and Productivity Contribution fund for regional infrastructure upgrades.

For the above reasons, TfNSW is requesting the deferred commencement clause notwithstanding Council's favourable resolution of 25 October 2023, because Council's entry into the SPA remains contingent on Council being satisfied as to its terms, and the timing of execution is also uncertain.

Furthermore, TfNSW has reviewed the post-exhibition updated documentation and provides detailed comments at **Attachment A** for the Sydney Eastern City Planning Panel's (**Panel**) consideration.

Should you have any further enquiries, Carina Gregory – Senior Manager - Strategic Land Use (Eastern) would be pleased to take your call on 0403 738 876 or email: development.sydney@transport.nsw.gov.au

Sincerely,



Rachel Cumming
Director Land Use
Land Use, Network & Place Planning

**Attachment A – Detailed TfNSW Comments – Cooks Cove Planning Proposal – Post-Exhibition
Updated Documents**

Item ref. number	Section/ Page ref	Comment/suggestion
1	Appendix A / page 14	It is supported that CCI remains committed to cooperating with TfNSW and Bayside Council to resolve potential conflicts of the future Cook Cove enabling work with the objective of doing so without incurring additional cost to the M6 Stage 1 project. TfNSW refutes the comment that TfNSW has confirmed the exhibited UDLP Lot 14 Pump track has been deleted and the public car park downgraded to a temporary scope. No planning approval has been received to confirm this outcome.
2	Appendix A / Page 15, 16, 19 & 20	Following consultation with Bayside Council during the Arncliffe Parkland design development process, it is TfNSW's understanding that design and development of Pemulway Park (as stated by CCI) has not been agreed with Bayside Council. It is also TfNSW's understanding that the integrated spatial plan (concept level UDLP) has also not been formally approved by Bayside Council.
3	Appendix A / page 17	CCI's proposed flood management strategy maintains status quo to Option 4 as exhibited, and requires significant redesign work or retrospective redesign and construction to the M6 Arncliffe Parklands open as supported by Bayside Council. Option 4 is also in conflict with Bayside Council's concerns re: diversion or concentration of an overland flow path across Council owned land.
4	Appendix A / page 18	Following consultation with Bayside Council during the Arncliffe Parkland design development process, it is TfNSW's understanding that design and development of Pemulway Park (as stated by CCI) has not been agreed with Bayside Council. It is also TfNSW's understanding that the integrated spatial plan (concept level UDLP) has also not been formally approved by Bayside Council. In fact, Bayside Council has provided very clear direction to TfNSW as to the open space outcomes they desire for the M6 Arncliffe Parkland open space which is contrary to CCI's concept masterplan. As such, it is incorrect for CCI to request TfNSW to direct the M6 Stage 1 contractor to allow for a meaningful collaboration and integrated final design solution that integrates with the final solution proposed by CCI.
5	Appendix A / page 18	TfNSW notes: To date CCI has held coordination workshops with both TfNSW and the M6 Stage 1 contractor (CGU) in an effort to collectively resolve the design. Through this engagement TfNSW has not provided any direction to the M6 Stage 1 contractor to amend/ integrate designs to the final solution proposed by CCI. CCI request that TfNSW provide direction to the M6 Stage 1 contractor to allow for a meaningful collaboration and integrated final design solution. TfNSW is required to proceed with the current UDLP design and has provided direction to the M6 contractor about opportunities to achieve a design that is approved by DPE and is supported by Bayside Council.

6	Appendix A / page 18	CCI refers to "TfNSW to construct the 4.5m wide pedestrian and council maintenance vehicle pathway from Lot 14 to Lot 1 through the proposed new GGBF habitat, as illustrated in the UDLP". This is incorrect and GGBF habitat will not be impacted by the M6 UDLP design.
7	Appendix A / page 20	Indicates that the site specific DCP has been altered to require reference to any applicable guidelines relevant at the time for the assessment of air quality impacts of the M6 and M8 on new development. This reference is not apparent in the draft DCP provided (Appendix K).
8	Response to submissions / page 18	It is noted that 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. It is also important that flowpaths are not taken over land where significant community recreation assets identified in the M6 UDLP are located.
9	Response to submissions / page 21	It is stated that "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...". However, the Figure 5 and Appendix C (Draft Land Zoning Map) does not appear to indicate proposed RE2 Private Recreation zone on the site.
10	Appendix C	The proposed protection of the GGBF habitat ponds through a C2 zone, local LEP provisions and DCP controls is supported.
11	Appendix D	Following consultation with Bayside Council during the Arncliffe Parkland design development process, it is also TfNSW's understanding that the integrated spatial plan (concept level UDLP) has also not been formally approved by Bayside Council. In fact, Bayside Council has provided very clear direction to TfNSW as to the open space outcomes they desire for the M6 Arncliffe Parkland open space which is contrary to CCI's concept masterplan.
12	Appendix G / page 15	It's noted that proposed C2 Environmental Conservation area will be subject to works intended to be completed during construction of the M6 Stage 1 by TfNSW contractor and at present there are no enhanced proposed further works to be delivered by Council and any additional impact should be mitigated by this Proposal.
13	Appendix K	It is noted that the design provided in the revised indicative Urban Design and Landscape Package (Appendix D) is indicative only and will change as needed as the detailed park design is finalised. The provided indicative design differs from the current urban design currently being finalised by the M6 Stage 1 Project in accordance with it's approval. Any changes required to align designs must be undertaken with the objective of doing so without incurring additional costs to the M6 Stage 1 Project.
14	Appendix K	Following consultation with Bayside Council during the Arncliffe Parkland design development process, it is also TfNSW's understanding that the integrated spatial plan (concept level UDLP) has also not been formally approved by Bayside Council. In fact, Bayside Council has provided very clear direction to TfNSW as to the open space outcomes they desire for the M6 Arncliffe Parkland open space which is contrary to CCI's concept masterplan.
15	Appendix L	TfNSW notes that Appendix L contains the revised letter of offer dated 15 August 2023 which has been superseded with an updated revised letter of offer submitted by CCI dated 10 October 2023. TfNSW is currently reviewing the revised updated letter of offer and will liaise with CCI separately in due course.

DPE Agile Planning
Attn: Amy van der Nieuwenhof
4 Parramatta Square
12 Darcy Street
Parramatta NSW 2150

Re: Consultation for Planning Proposal PP-2022-1748 – Post Exhibition Response to Submissions

Dear Amy,

Thank you for your email dated 28 September 2023 seeking DPI Fisheries comment on the response to submissions and amended proposal. DPI Fisheries is a division of NSW Department of Primary Industries.

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

DPI Fisheries has reviewed the response to submissions and amended proposal in light of those provisions and has the following recommendations:

1. DPI Fisheries advised that installation of infrastructure, terraces, retaining walls, cycle ways, pathways and grass verges within the riparian buffer zone should be avoided or minimised. This is of particular importance when adjacent to marine vegetation. DPI Fisheries recommends detailed designs ensure a minimum continuous vegetated buffer of 10m between the waterway (measured from highest astronomical tide) and cycle path / shared path infrastructure. This vegetated buffer will incorporate the maintenance of lateral connectivity between aquatic and riparian habitat while also increasing resilience of marine vegetation by allowing space for landward migration in the event of future sea level rise. DPI Fisheries suggests minimising the footprint of the boardwalks below the highest astronomical tide included in the concept designs to ensure areas of rehabilitated saltmarsh are maximised.
2. DPI Fisheries notes that the proponent will prepare a detailed Biodiversity Management Plan and which will be at the approval of Council prior to commencing works. This plan should be prepared in consultation with DPI Fisheries. The draft DCP Chapter also makes note of a

vegetation / landscape management strategy and a riparian rehabilitation strategy, DPI Fisheries should also be consulted in the preparation of these plans.

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

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J Hyland', with a stylized, cursive script.

Jess Hyland

Fisheries Manager, Coastal Systems

DPI Fisheries