

Summary of Submissions – Agencies and Organisations

PP-2022-1748



Agency	Issues Raised	Proponent Response	DPHI Agile Team Response
Air Services	No objection. Comments will be reviewed and actioned as part of future Development Applications (DAs).	Noted.	The Agile Planning team is satisfied that no further action is required at this stage to address the submission.
APA	<p>Requests notification of future DAs in accordance with clause 2.77 SEPP (Transport and Infrastructure).</p> <p>A Safety Management Study (SMS) will be required to be undertaken by the Applicant prior to any future sensitive use development approval being completed on site.</p> <p>Improvements or earthworks within easement subject to detailed considerations and prior approval from APA, and designs are to minimise any encroachment</p> <p>All plans which include the ethane pipeline must have it clearly notated and no works to occur without the prior authorisation of the pipeline operator'</p>	Noted. Detailed design will consider this matter in further detail.	The Agile Planning team is satisfied that no further action is required at this stage to address the submission.
Bayside Council	See separate table below.		

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Civil Aviation Safety Authority (CASA)	No objection. CASA does not object to the Planning Proposal, provided Sydney Airport (in conjunction with Airservices Australia) verifies that approach Runway 07 would not normally be operational in 20+ knot cross winds	<p>An Addendum Windshear Memo (prepared by Arup) concludes that there are no changes required to the indicative reference scheme massing modelling. Accordingly, no amendments are required to the Planning Proposal and that all detailed windshear matters are capable of being addressed at the DA stage.</p> <p>Reference is made to Controls C10 - C12 of Section 3.13 of the Bayside Development Control Plan 2022, which will apply to each future building DA on the site and that these will require, in summary, a windshear assessment to be undertaken, consideration of NASF Guideline B, and engagement with SACL to occur.</p>	<p>The Addendum Windshear Memo (Arup, 12 September 2023) (Attachment A06 – Part 2) notes that windshear concerns raised can be further considered or addressed at the DA stage, in line with more detailed building designs, orientation and massing and associated accurate modelling of final designs. Additionally, Bayside Council DCP controls provide further guidance on managing and mitigating windshear impacts, including further referral to CASA at the DA stage.</p> <p>The Agile Planning team is satisfied that no further action is required at this stage to address the submission.</p>
Department of Climate Change, Energy, the Environment and Water (DCCEW) (Federal)	<p>DCCEW did not have any comment.</p> <p>Notes that this is a separate proposal to that previously approved under the EPBC Act (golf course southern relocation). Future detailed proposals need to consider obligations of the EPBC Act.</p>	<p>Noted and agreed.</p> <p>The EPBC Act will be further considered prior to the detailed DA stage and a referral will be made to the Commonwealth if and when required.</p> <p>Further consideration of ecological matters are addressed within the revised Flora and Fauna Assessment provided at Appendix G.</p>	<p>The Agile Planning team is satisfied that no further action is required at this stage to address the submission.</p>

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Department of Infrastructure, Regional Development, Communications and the Arts (DITRDCA) (Federal)	No objection. DITRDCA requested to be consulted during any subsequent DAs to ensure consideration of airspace protection and National Airport Safeguarding Framework guidelines.	Noted. The Proponent is committed to continuing consultation with DITRDCA and SACL at all stages of the detailed design process.	The Agile Planning team is satisfied that no further action is required at this stage to address the submission.
DPE Environment and Heritage Group (EHG)	See separate table below.		
DPE Water (NRAR)	Comments regarding the Planning Proposals proposed development footprint, which should give due consideration to the Guidelines for Controlled Activities on waterfront land along the Cooks River.	The Guidelines for Controlled Activities have been considered in further detail in Section 4.2.	Additional information was provided by the proponent to address the Guidelines for Controlled Activities which demonstrated the broad consistency of the reference scheme and proposed controls with the Controlled Activities Guidelines. Further consideration to these guidelines can be considered at the detailed design phase. The Agile Planning team is satisfied that no further action is required at this stage to address the submission.

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DPI Fisheries	<ul style="list-style-type: none"> Riparian buffer zone widths should be implemented as outlined in DPI Fisheries P&Gs s.3.2.4.2. Riparian buffer zones should be measured from the top of the bank in Class 1 waterways. As a guide, a buffer zone of 100m is recommended for Class 1 waterways The riparian buffer zones must ensure lateral connectivity between aquatic and riparian habitat and be supported through a Rehabilitation Strategy must be prepared to guide the establishment of the zone. Any installation of infrastructure, terraces, retaining walls, cycle ways, pathways and grass verges within the riparian buffer zone should be avoided/minimised Overshadowing by Block 3C may result in negative impacts to marine vegetation. DPI Fisheries recommends a precautionary approach in the absence of certainty regarding the potential long-term impacts to mangrove and saltmarsh communities from the proposed buildings, specifically Block 3c, within the Cooks Cove development zone. Development applications may require approval under the <i>Fisheries Management</i> 	<p>Noted.</p> <ul style="list-style-type: none"> The riparian buffer zone can be layered with mangroves along the water's edge, grading to saltmarsh and terrestrial habitats comprising trees and shrubs with grassy understorey. To maximise the use of the riparian area, low growing riparian vegetation such as saltmarsh, can be grown in place of lawns to restore more riparian habitats. Areas of lateral connectivity can also be maintained between these plant community types. A detailed Biodiversity Management Plan will be developed to guide rehabilitation of riparian vegetation including local native species, particularly mangroves, coastal saltmarsh and swamp oak. Cumberland Ecology has investigated the potential impacts of shading from future developments on a range of wetland sites across Sydney and maintain that the potential increase in shading from the proposed future development will be limited and will vary seasonally/daily. Cumberland Ecology advise the modelled shading 	<p>The proponent has submitted an updated Flora and Fauna Assessment (Cumberland Ecology, December 2023) (Attachment A12 – Part 2) which does not consider the modelled amount of overshadowing to be detrimental to riparian flora (citing similar occurrences in nearby areas).</p> <p>Further consideration to mitigation and management of development impacts can be addressed through appropriate management plans and detailed consideration to relevant legislation. This can be undertaken at the DA phase.</p> <p>The Agile Planning team is satisfied that no further action is required at this stage to address the submission.</p>

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	<p><i>Act</i> due to the works along the Cooks River and in relation to the removal and re-establishment of saltmarsh and mangroves and the installation of foreshore and bank management structures.</p> <ul style="list-style-type: none"> Water sensitive urban design stormwater treatment measures must be implemented and maintained. Works should be staged to minimise exposed earth and subsequent erosion and sedimentation in forming these areas. Best practice to minimise these impacts must be implemented. 	<p>is unlikely to prevent the reestablishment of native riparian vegetation based on the example of nearby Landing Light wetlands where saltmarsh is growing in the shadows of mangroves and the former substation building. High quality riparian vegetation can be re-established along the Cooks River.</p> <ul style="list-style-type: none"> A Stormwater Management Plan will be prepared at the DA stage to develop and implement WSUD requirements. A Construction Environmental Management Plan will be prepared and implemented to minimise impacts during development. 	
Greater Cities Commission (GCC)	<p>GCC broadly supports the progression of the proposal due to strategic consistency, the removal of residential components from previous versions, and creative solutions for lack of industrial land supply.</p>	<p>Noted and agreed.</p> <p>Refer to further economic justification of the proposal provided within Section 4.7 of the Response to Submissions Report.</p>	<p>The Agile Planning team is satisfied that no further action is required at this stage to address the submission.</p>
Heritage NSW	<p>Satisfied that the key concerns have been addressed.</p> <p>Potential impacts to the Western Outfall Main Sewer, historical and maritime archaeology,</p>	<p>Noted and agreed.</p> <p>Future historical and maritime archaeology and Aboriginal cultural heritage will be</p>	<p>The Agile Planning team is satisfied that no further action is required at this stage to address the submission.</p>

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	and Aboriginal cultural heritage will be addressed in as part of future DAs	addressed as required in the future detailed design process.	
Jemena	Will review and comment on future DAs.	The Proponent is committed to continuing consultation with Jemena at all stages of the detailed design process.	The Agile Planning team is satisfied that no further action is required at this stage to address the submission.
NBN Co.	No objection and notes the opportunity to service any future development.	The Proponent has undertaken further consultation with NBN Co since the submission was made to understand servicing lead times.	The Agile Planning team is satisfied that no further action is required at this stage to address the submission.
NSW EPA	No objection. EPA has no comments on this proposal as the development does not meet the criteria for an Environment Protection Licence or further regulation/consultation from EPA.	Noted and agreed. No further response required.	The Agile Planning team is satisfied that no further action is required at this stage to address the submission.
State Emergency Services (SES)	<ul style="list-style-type: none"> Site is subject to frequent flooding isolation. Risk assessment should consider PMF and critical storm durations. Self-evacuation should be achievable and a 'shelter in place' strategy is not an endorsed flood management strategy. Risk assessment should have regard to flood warning and evacuation routes. 	<ul style="list-style-type: none"> The project design has been changed to raise Flora Street South by 0.37m and include a 30m culvert under Flora Street South (within CCI land) to accommodate the 1:500 AEP flows. There will not be any inundation of the developed parts of the site in all floods up to the 1:2000 AEP flood. 	As part of the response to submissions, the proponent prepared a Flood Impact Report and Assessment (FIRA) (Arup, September 2023) (Attachment A13), which confirmed that the site will not be inundated for any flood events in and up to the 1:2000 AEP. The FIRA also considered that a shelter in place strategy for the site could be supported, particularly with

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	<ul style="list-style-type: none"> Additional guidance on commercial floor levels and basement access and other design elements. 	<ul style="list-style-type: none"> Access to and from the developed parts of the site will be possible in all floods up to the 1:500 AEP flood. There would be only a short period of time in rarer floods when the hazard is higher than H1. The risk of isolation has been addressed by changing the design of the Planning Proposal with significantly improved access at Flora Street South onto Marsh Street. Full range of flooding events now considered, 1:100, 1:200, 1:500, 1:2000 and PMF. Concurrent critical storm durations are also considered in terms of relative impacts. Refer to Appendix E, which also considers periods of isolation, including during events factoring in sea level rise and rainfall increases. The Planning Proposal meets all of the requirements of the draft Shelter-in-place Guideline (2023). Refer to the comprehensive FIRA prepared by ARUP which responds to this matter (Appendix E). Refer to the comprehensive FIRA prepared by ARUP which responds to this matter (Appendix E) including the 	<p>consideration to the proposed non-residential land uses.</p> <p>An additional response was provided from SES on 6 November 2023 (Attachment I), which:</p> <ul style="list-style-type: none"> reiterated that shelter in place is not an endorsed flood management strategy and SES warnings will override any private arrangements; recommended further consideration of the proposed 0.8m Sea Level Rise modelling (which was undertaken instead of 0.9m) – further testing was against the 0.9m SLR by CCI; recommended consideration of tsunami evacuation ensure the proposal is assessed against the Ministerial Section 9.1 Directions. <p>With regards to evacuation and shelter in place, the FIRA demonstrates that during the most significant of storm or flood events, the 'shelter in place' strategy would last for a maximum of 6 hours and occupants would remain with access to communications, food and water.</p> <p>The FIRA and additional updated flooding information confirmed through additional modelling that:</p>

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		assessment of a full range of AEP events and the effects of climate change, hazards and evacuation matters.	<ul style="list-style-type: none"> A 0.9m SLR value would raise flood levels by 35mm; The difference in impact between 0.8m and 0.9m is negligible; and the conclusions drawn in the FIRA relating to the flood performance of the proposal remain valid. <p>A future emergency response plan can be prepared at future planning stages to include consideration of tsunami evacuation, and the proponent has adequately demonstrated that the proposal is consistent with Ministerial Direction 9.1 4.1 Flooding</p> <p>SES no longer objects to the proposal based on these outcomes, and further risk management measures can be undertaken at a development or construction stage with flood risk management plans.</p> <p>The Agile Planning team is satisfied that no further action is required at this stage to address the submission.</p>
Sydney Airport Corporation Limited (SACL)	<p>Sydney Airport is in support of the Planning Proposal, with additional comments regarding:</p> <ul style="list-style-type: none"> Further assessment required on specific building generated windshear scenarios. 	<ul style="list-style-type: none"> An Addendum Windshear Assessment as considered the additional scenario as put forward by CASA and SACL and concludes that there are no changes required to the indicative 	<p>A Windshear and Turbulence Assessment (Arup, 12 January 2023) (Attachment A06 – Part 1) was exhibited to support the proposal. As per the per the Windshear Memo (Arup, September 2023) (Attachment A06 – Part 2),</p>

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	<ul style="list-style-type: none">• Future development will need to ensure that the risk of wildlife strike is appropriately managed.• Additional consideration is required for any building that exceeds the OLS, and separate applications will be required under Protection of Airspace Regulations for any height exceedances or for temporary cranes.• Parking rates are appropriate, and a shuttle service should be provided.• Consideration should be given to the ongoing effect of the restrictive covenants on title.	<p>reference scheme massing modelling. Accordingly, no amendments are required to the Planning Proposal and that all detailed windshear matters are capable of being addressed at the DA stage.</p> <ul style="list-style-type: none">• Controls C10 - C12 of Section 3.13 of the Bayside Development Control Plan 2022 will apply to each future building DA on the site. These will require a windshear assessment to be undertaken as well as consideration of NASF Guideline B, and additional consultation with SACL to occur.• The Urban Design and Landscape Report provided has been designed to consider the requirements of NASF Guideline C. This has been a considered balanced approach between delivering on the principles of the 'Green Grid' within this location and ensuring planting does not compromise the operational safety of Sydney Airport through the attraction of birds. Subsequent DAs will provide a full assessment against the provision of NASF Guideline C.	<p>no changes considered necessary in to respond to the SACL submission.</p> <p>The Agile Planning Team is satisfied that windshear considerations can be further considered at the detailed design and that the submission from SACL has been appropriately addressed.</p>

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		<ul style="list-style-type: none">CCI commits to consultation with the Commonwealth and SACL and compliance with relevant provisions (Bayside LEP 2021 and DCP 2022, the National Airports Safety Framework Guidelines and the Commonwealth Aviation (Protection of Airspace) Regulations 1996). Collectively, these supersede any covenant to ensure aviation safety outcomes are achieved, whilst the SP4 zoning ensures only appropriate land uses are developed.An application under Protection of Airspace Regulations will be submitted at the detailed design phase as required. Prior arrangements will be made with CASA in relation to the Civil Aviation (Buildings Control) Regulations 1988 prior to construction, however the Commonwealth has foreshadowed these legislative requirements will be potentially 'sunsetting' in the near term.	
Sydney Desalination Plant (SDP)	Requires a contractual agreement to ensure integrity of the asset is not compromised by	Noted and agreed.	The Agile Planning team is satisfied that no further action is required at this stage to address the submission.

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	<p>construction methods and that SDP can continue to enjoy access.</p> <p>Requests a 'Deed of Agreement' with the Developer/Council to manage future risks to SDP assets, as SDP's Pipeline passes directly through the proposed Cooks Cove Project.</p> <ul style="list-style-type: none"> SDP outlines terms of a potential agreement and identifies possible risks aligned with the scope of the subject proposal. 	<p>The proposal will not impact upon TfNSW's ability to deliver the M6 Stage 1 UDLP design.</p>	
Sydney Water (SW)	<ul style="list-style-type: none"> Requests that a detailed option assessment and modelling of the proposed sewerage system is required via the engagement of a Water Servicing Coordinator. Connection to SWSOOS maybe costly but can be supported however it is recommended to defer the Planning Proposal until the wastewater options study is completed and endorsed. The Western Outfall Main Sewer, the section of the SWSOOS within the site boundary is listed as a State Significant item. As the SWSOOS is an operational asset, any work to the asset must be done in a manner that does not damage the structure unduly. If the proponent seeks connections into the SWSOOS, additional 	<ul style="list-style-type: none"> A Servicing and Utilities Strategy was exhibited (prepared by Arup in consultation with Sydney Water). It confirmed that new connections would be required – these would need to extend to the existing 500 mm diameter and 750 mm diameter mains in the Princes Highway at the intersection of West Botany Street. A new 300 mm diameter main would then extend to the site via West Botany Street and Flora Street. It is agreed that further assessment will be undertaken at the DA stage and subsequent applications. The request to defer the Planning Proposal was rescinded. Sydney 	<p>The Sydney Water (SW) submission was subsequently amended following the consultation period on 4 August 23 (Attachment G1). It confirmed that:</p> <ul style="list-style-type: none"> SW has no objection to the planning proposal; That the water system may have capacity to service the development but further assessment is required to confirm capacity for wastewater servicing; and that an options assessment can be completed and endorsed by SW at the DA stage. <p>Additional information was provided to SW in September 2023, and a final submission was</p>

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	<p>heritage impact assessment and approval would be required.</p>	<p>Water has now requested that an Options Assessment be completed and endorsed by Sydney Water prior to any subsequent Development Application.</p> <ul style="list-style-type: none"> Further consultation with Sydney Water will be undertake at the DA stage. 	<p>received from the agency on 26 October 2023. This submission confirmed previous comments raised on 4 August 2023 and requested the completion of a Growth Data Form be completed and sent to SW. This has been undertaken by the proponent.</p> <p>The Agile Planning team is satisfied that no further action is required at this stage to address the submission.</p>
Transport for NSW (TfNSW)	<ul style="list-style-type: none"> TfNSW requests to retain current right to acquire 'Trust land' at no cost despite proposed reclassification. Requests that the proposal not be made until the transfer of the trust land occurs Requests provision of additional detailed traffic assessment modelling scenario in the Traffic and Transport Impact Assessment. Requests infrastructure to be resolved in Planning Agreements including road infrastructure and intersection upgrades at no cost to TfNSW. Commentary that the future development must not compromise TfNSW's ability to satisfy M6/M8 conditions of consent. 	<ul style="list-style-type: none"> The Proponent understands TfNSW's concerns associated with acquisition of relevant portions of land (at no-cost), should they be necessary to complete the M6 Stage 1 and M8 final works associated with the Arncliffe MOC. Council has been formally requested to be party to the Stage VPA to facilitate this process. Bayside Council staff have advised the request will be referred to the Planning Committee and Council in October 2023. CCI remain committed to the delivery of relevant infrastructure in a State Planning Agreement (SPA) with TfNSW. An updated SPA Letter of 	<ul style="list-style-type: none"> Appropriate provisions in relevant planning agreements are in place to ensure that the trust lands can be transferred at no cost, and the funding and delivery of road and public infrastructure items have been addressed in these agreements. It is expected that the State and Local Planning Agreements will be exhibited in the second or third quarter of 2024. Whilst the State VPA agreement is the preferred method of securing the transfer of the trust lands, the Agile Planning team is aware that TfNSW and Council are currently in discussions to secure a separate agreement for this transfer. It is a recommendation of the team that the LEP

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	<ul style="list-style-type: none"> Commentary that the preferred flooding mitigation option is contrary to the current M6 'Trust lands' park design within the Urban Design and Landscape Plan, and proposed open space conflicts with infrastructure being delivered by TfNSW. 	<p>Offer on 15/8/23 specified that CCI will (amongst other items):</p> <ul style="list-style-type: none"> be responsible for constructing/delivering all Works in Kind. deliver Gertrude Street East and Flora Street East intersection improvements, adjoining roads and drainage infrastructure within Lot 14 (Pemulwuy Park North), currently occupied by TfNSW, on terms agreed with TfNSW and Bayside <ul style="list-style-type: none"> CCI remains committed to resolving design conflicts. CCI has developed, in collaboration with Bayside Council, an integrated spatial plan for Pemulwuy Park. Approval is not sought for the spatial design and outcome of Pemulwuy Park as part of the Planning Proposal, and is subject to design development to be undertaken by Bayside Council. Final arrangement of open space assets and pedestrian circulation paths are to be designed and developed by Bayside Council. 	<p>not be made until the land transfer process is finalised.</p> <ul style="list-style-type: none"> Following ongoing collaboration and liaison with TfNSW and Bayside Council after the preparation of updated document in September 2023, a revised approach to flood mitigation works has been broadly accepted by TfNSW (and Bayside Council) to best share flood impacts between Pemulwuy Park and CCI lands. More detailed consideration of this option can be addressed in later planning stages and during development consent. Ongoing work has been undertaken in consultation with TfNSW to ensure that the proposal aligns with the M6/M8 works and public land, including updated flooding information demonstrating consistency with the relevant Conditions of Approval. Future considerations around the final design of the park will be addressed at later planning stages by Bayside Council. TfNSW has provided written advice that the current proposals to manage overland flow across the site are acceptable subject to no cost or design impacts on TfNSW in parts of the future park they are delivering.,

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		<ul style="list-style-type: none">CCI has held coordination workshops with both TfNSW and the M6 Stage 1 contractor (CGU) in an effort to collectively resolve the design. It is believed that a revised UDLP design is to be documented in the coming months for delivery by the M6 Stage 1 contractor in 2024 - this includes a general lowering of finished levels as communicated by TfNSW (19/7/23). CCI will resolve a future modification of these works where necessary to permit an acceptable outcome for the Cooks Cove project and to facilitate the delivery of a future integrated Pemulwuy Park design by Bayside Council (with contribution by CCI).All traffic circulation proposed by CCI will be designed in consultation with TfNSW in a manner that does not impact access to, or operation of, the M8 or M6 motorways or the MOC. CCI is committed to delivering widened roadways and provision of an alternate access road to the MOC.Condition of Approval requirements are acknowledged. CCI is committed to cooperation with TfNSW and	The Agile Planning team is satisfied that no further action is required at this stage to address the submission.

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		Bayside Council to resolve potential conflicts and ensure the implemented flood mitigation strategy is consistent with CoA requirements. A Revised Cooks Cove FIRA demonstrates an option which meets the Conditions of Approval.	
NSW Ports	No objection.	<ul style="list-style-type: none">CCI has committed to deliver Gertrude Street East and Flora Street East intersection improvements, adjoining roads and drainage infrastructure within Lot 14 (Pemulwuy Park North), currently occupied by TfNSW, on terms agreed with TfNSW and Bayside. Refer to the revised State VPA letter of offer (Appendix L). Areas required permanently for operation of TfNSW infrastructure are assumed to be secured separately from areas of Pemulwuy Park available for public recreation.Bayside Council to deliver Pemulwuy Park South, within Lot 1 DP 108492, external to areas occupied by TfNSW. CCI to make a progressive monetary contribution to Bayside Council towards the cost of passive recreation embellishment. CCI to deliver passive	The Agile Planning team is satisfied that no further action is required at this stage to address the submission.

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		recreation, road and flood mitigation infrastructure on the portions of Lot 100/DP1231954 to be dedicated to Council as part of the Local VPA (Appendix M).	

Environment and Heritage Group (Department of Environment, Climate Change and Water)

EHG Submission & Response Table		
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Flooding		
<u>Flood Function</u> <ul style="list-style-type: none">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 difference scales up to and including the probable maximum flood (PMF).Flood function mapping provided by the proponent is unsatisfactory: the response to submissions (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 described in detail in the FIRA.The identification of floodways and flood storage areas require a performance-based approach which involves a combination of qualitative assessment based on the	<p>In regard to EHG's query on the technique used to define flood functions, the following is provided:</p> <ul style="list-style-type: none">For floodway definition, the conveyance technique was used (consistent with DPE Flood Function Guideline (FB02)).For flood storage definition, the encroachment technique was used (consistent with DPE Flood Function Guideline (FB02)).For flood fringe, this was defined as being that inundated land that is not flood way nor flood function (consistent	<p>The amended flood modelling and changes to the proposal as a consequence of the agency submissions are acceptable for the following reasons:</p> <ul style="list-style-type: none">The updated FIRA has been developed consistent with NSW Policy and Section 9.1 Directions.The site is within a highly-modified, urban environment. Whilst the land currently houses a golf course, it could be redeveloped for commercial, and enterprise uses under the current controls.

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EHG Submission & Response Table

<p>characteristics of the areas and a quantitative assessment related to the degree of change in flood behaviour.</p> <ul style="list-style-type: none"> EHG does not agree with the proponent's position in the information provided to EHG in the RtS. Filing and redirecting of flows in a floodway and flood storage areas 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 & Maintain natural flood functions and Principle 8 (Maintain natural flood functions) of the Flood Risk Manual 2023. 	<p>with DPE Flood Function Guideline (FB02)).</p> <p>It is worth noting that the principle of defining natural floodplain floodways and flood storage areas is a very important step in managing flood risk on a floodplain that is generally in its natural state. However, the lower Cooks River and its floodplain is almost entirely man-made and was constructed in the middle part of the 20th century.</p> <p>Hence, the value in defining and preserving floodways in a non-natural floodplain requires consideration in this instance. The proposed flood mitigation strategy is consistent with Principle 8 for the following reasons:</p> <ul style="list-style-type: none"> Principle 8 is clearly focused on maintaining the "natural flow conveyance and storage function of the floodplain". The Cooks River is a highly modified and constructed river and floodplain, meaning the natural flood functions are no longer present due to these modifications. It is worth noting that the floodways in this site only become active in floods larger than the 0.5% (1:200) AEP flood and Bayside Council has never mapped nor identified floodways on this site. 	<ul style="list-style-type: none"> With respect to the discussion around natural floodplain, the site will only utilise parts of the future parkland in events more serious than 0.2% (1 in 500). Bayside Council (the future landowner) has never mapped or identified floodways on this site. The revised FIRA outlines circumstances where flood free access can be obtained from Flora Street up to 1:500AEP for small vehicles and up to 1:2000 AEP for some small vehicles and emergency vehicles. This includes the incorporation of a 37m culvert under the road. The movement of water in flood events will not create any adverse impacts on upstream and downstream developed areas, which significantly avoids any 'detrimental impacts to the community' as is stated in Principle 8 of the FRA. The subsequent workshop with Council and TfNSW (the current and future landowners) about overland flow has resulted in further changes (new undercroft under building 3C) to the proposed flood model that again reduces impacts on the future public land and better shares it with future CCI land.
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EHG Submission & Response Table

	<ul style="list-style-type: none">The Planning Proposal would result in a scenario where “flowpaths are partially or fully blocked by development or fill”. However, it needs to be recognised that the capacity of the flowpaths is to be retained in a nearby location. While Principle 8 goes on to state that in this scenario “<i>alternative flowpaths may form, with potentially detrimental impacts to the community</i>”, the flood assessment (including small floods up to the PMF) has demonstrated that the altering of this floodway can be achieved without any detrimental impacts to the community. There are no adverse impacts upstream or downstream and the hazards on the site are consistent with public open space usage. The Cooks Cove Planning Proposal is not inconsistent with the requirements or intent of Principal 8.	
<p><u>Other catchments</u></p> <ul style="list-style-type: none">It is important to understand flood function of both mainstream flooding and 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 points are also critical and should be reported.	<p>EHG indicates that the flood behaviour from Muddy Creek (and its tributaries) is critical for the flood assessment of this site. However,</p> <ul style="list-style-type: none">there is no evidence that the site could be affected in any way from the Muddy Creek catchment as it is located downstream of the site;	<p>DPE Agile is comfortable with CCI’s response that clearly demonstrates:</p> <ul style="list-style-type: none">These tributaries have been modelled as part of the overall flood modelling; andCCI’s consultant has adequately demonstrated that the proposed development will have no impact on these tributaries in flood events.

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	<ul style="list-style-type: none"> the land between the site and Muddy Creek is at an elevation of 7m AHD and will not be overtopped by Muddy Creek or Cooks River flooding in all events up to a PMF; The Cooks River flood model includes representation of the Muddy Creek floodplain (including Spring Drain and Scarborough Ponds) and the flows from the Muddy Creek catchment. <p>In summary , the Muddy Creek catchment has no influence on the flooding behaviour of the site and the local inflows from this catchment are y accounted for in the flood assessments.</p>	
<p><u>Climate Change</u></p> <ul style="list-style-type: none"> Proponent needs to adequately consider Sea Level Rise (SLR) in the hydrodynamic modelling. 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. 	<p>The recommended EHG sea level rise values of 1.3m and 2.4m are inconsistent with the current NSW Sea Level Rise (SLR) Policy statement value of 0.9m for 2.1m. Although the FIRA has used a value of 0.8m for SLR (instead of 0.9m) the consequences are minor / negligible.</p> <p>Additional flood modelling has confirmed that the use of a 0.9m SLR instead of a 0.8m only raises flood levels on the site by 0.035m (35mm). The minor influence of changes to the SLR value is due to the relatively steep flood gradient at the mouth of the Cooks River.</p>	<p>DPE Agile were advised that the 1.3m and 2.4m measures for SLR are recommendations, not mandated. Accordingly, Agile is comfortable with the response from CCI given that Council's SLR policy is to measure 0.9m, which has now been done and demonstrates acceptable impacts.</p> <p>It is noted that tidal inundation (no flood or storm surge) as a consequence of a 1.3m or 2.4m SLR, would result in land including the airport, much of the suburb adjacent to Marsh Street and other parts of the area under water on a daily basis.</p>

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Hence, the conclusions drawn in the FIRA relating to the flood performance of the Cooks Cove Planning Proposal with sea level rise are still valid. The proposed floor levels would still be more than 0.5m above the 1% AEP flood levels with 0.9m SLR and 20% increased rainfall intensities, which can be addressed at the DA stage.

Figure 2-2 and Figure 2-3 below show the extent of tidal inundation (no flooding) due to a high tide with sea level rise of 1.3m and 2.4m respectively. It is apparent in these scenarios that large parts of Arncliffe and a long section of Marsh Street would be largely under water. This would occur regularly in this scenario (i.e. twice a day). Further, key parts of Sydney Airport would be under water, which would impact significantly on the purpose of the development, which is to support trade related enterprises.

Hence, it is highly improbable that these scenarios would be permitted to eventuate without some type of intervention or mitigation (e.g. raising of seawalls, tidal gates, raising of Marsh Street). The key element to note is even in the EHG nominated 2.4m sea level rise scenario, the ground floors of all buildings in the Cooks Cove site would not be inundated in a Highest Astronomical Tide.

As a consequence, this scenario is inappropriate to be tested only on this site, when the impact of 'do nothing' with this level of sea rise would make much of the whole area uninhabitable.

Further, Government Policy is for Council's to set their own SLR levels for measurement, which for Bayside is 0.9m.

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	In conclusion, assessing sea level rise values of 1.3m and 2.4m would add no value to the assessment of flood risks for this site if it is assumed that this occurs in isolation.	
<p><u>Duration of Inundation</u></p> <ul style="list-style-type: none"> 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. The maximum duration of flooding should be established using the long duration PMF storms per the Generalised Southeast Australia Method. The 12-, 24- and 36-hour storms should be run to establish the maximum duration of both overland and riverine flooding. Hydrographs of the various temporal patterns should be presented to confirm the longest duration of time to significant flood affectation. The 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”. Annual Exceedance Probability (AEP) is the preferred terminology. 	<p>In summary, EHG is requesting further assessments of the PMF to understand the possible duration of isolation that would occur in a PMF event (1:10,000,000 AEP).</p> <p>The techniques used in the FIRA to estimate hydrographs for the PMF were somewhat conservative. It is likely that the use of the Generalised Southeast Australia Method would lead to slightly shorter durations of isolation.</p> <p>However, the key point here is that there is no disagreement that the duration of isolation for a PMF flood would be in the order of 8 hours to 12 hours for the current climate and up to 20 hours for the climate change scenario (with sea level rise).</p> <p>This consequence needs to be assessed in conjunction with the probability of this event (1:10,000,000 AEP or a 1 in 100,000 chance during the 100 year life of the project). The consequences of this event are that people would be isolated in buildings for half a day to one day with access to communications, food and water.</p>	<p>CCI's evidence demonstrates that, irrespective of the method used, the 'shelter in place' duration, during only the most significant of storm or flood events, would be 8-12 hours, with access to communications, food and water.</p> <p>Even a 1:2000 AEP event, access would still be maintained for many vehicles, and would only require up to 6 hours shelter in place, under certain circumstances.</p> <p>SES no longer objects to the proposal based on these outcomes, and further risk management measures can be undertaken at a development or construction stage with flood risk management plans.</p>

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	<p>In summary, the technical risk-based approach as presented in the FIRA provides a sound basis for assessment of the risks (i.e. consequences and probability) associated with durations of isolation. The assessment concluded that the risks associated with very rare floods are low and acceptable.</p>	
<p><u>Flood Emergency Management</u></p> <ul style="list-style-type: none"> 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”. not all durations (particularly long duration of rainfall events and SLR have been modelled. Therefore the duration of isolation presented in Section 7.4 the RtS may not be accurate. The proposed evacuation route for Block 1 (via Levey Street west to March Street or under Giovanni Brunetti Bridge) will be cut during frequent events and is being unsuitable for evacuating users of the Block 1 buildings. The proposed construction of a ramp to access Marsh Street on the approach to Giovanni Brunetti Bridge is a significant undertaking and will involve significant feasibility assessment. This needs to be discussed with TfNSW and presented in further detail prior to a decision on this planning proposal. 	<p>DPE’s Draft Shelter-in-place Guideline (2023) states “<i>SIP in infill developments is being approved on an ad hoc basis (part of a merit-based assessment of each development), while it is not considered an acceptable flood management approach in greenfield areas or large-scale urban renewal.</i>”</p> <p>The Cooks Cove Planning Proposal is neither greenfield (the land is currently zoned Trade and Technology) nor large-scale urban renewal.</p> <p>The expected population that would be working at the site under the Cooks Cove Planning Proposal indicative reference scheme is (3,300 people) which is significantly less than the expected population under the current zoning of Trade and Technology (11,000 people). Hence, the Cooks Cove Planning Proposal represents a significant reduction in the</p>	<p>The proposed flood management and risk mitigation measures are considered acceptable from an emergency management perspective.</p> <p>SES, the agency specifically responsible for emergency management has stated in their submission that:</p> <ul style="list-style-type: none"> 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 <p>Whilst SES notes that ‘Shelter in place’ is not an endorsed strategy by SES, it does not raise a fundamental objection to the approach.</p> <p>further risk management measures can be undertaken at a development or construction stage with flood risk</p>

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<ul style="list-style-type: none">Regarding Section 7.3, sheltering in place for new development is generally not supported by DPE, EHG nor SES.The Cooks Cove site is susceptible to flood constraints, emergency management constraints and heightened risks from climate change, and as such, 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.	<p>possible population exposed to the risks of isolation (which are low risks anyway).</p> <p>The Cooks Cove Planning Proposal relies upon evacuation as the primary emergency management approach for all floods up to the 0.2% (1:500) AEP flood. Hence, in the unlikely event of a rarer flood (i.e. it is not likely that such an event occurs in the 100 year design life of this project), then SIP would be employed.</p> <p>The Cooks Cove Planning Proposal meets all of the seven requirements listed in DPE's Draft Shelter-in-place Guideline (2023) – see Section 7.5 of the FIRA.</p> <p>Through extensive consultation with DPE, TfNSW and Bayside Council, Arup as technical experts for CCI developed an undercroft concept under Block 3C to accommodate a flowpath within the Planning Proposal site, which is not fully active in 1:100 AEP floods, but is fully active in 1:200 AEP floods. This is not required to address offsite or critical infrastructure afflux, but was devised to reduce the area of Pemulwuy Park inside the Planning Proposal boundary which is required to perform the function of an overland flow path in rare events.</p> <p>The introduction of the undercroft approach means that no material alteration or</p>	<p>management plans, as well as DCP controls agreed with Council.</p>
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disruption is expected to be required to the TfNSW Urban Design Landscape Plan (UDLP) for Pemulwuy Park in conjunction with the M6 project. What is more, these works will provide an overall flowpath that will be imperceptible to the average user of Pemulwuy Park as passive open space. The design will be addressed in detail though a DCP to be developed with Council and a public benefit commitment by CCI of some \$13.35 million, which Council may elect to spend on further Pemulwuy Park embellishments for the communities' benefit. In appropriately resolving Council's concerns, CCI's freehold lands (Lot 100) will accommodate approximately 43% of the overland flow path, or 53% downstream of Lot 14 – achieving a balanced outcome of spreading regional flooding impacts across both privately owned land and local passive open space.

In relation to Council's future Pemulwuy Park open space area, the proposal retains a flood hazard categorisation that has not changed from the prior hazard categorisation as a golf course and by comparison is similar to that of nearby Cahill Park. Due to the slow velocities of floodwater in the catchment, i.e. the fact the area is not prone to 'flash flooding', allows ample time for users of the open space to retreat to ground higher than the PMF or to

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	leave the site, with adjacent public car park access which will permit safe egress in events up to 1:500 AEP, appropriately ensuring public safety as a result of the proposal.	
Biodiversity		
<u>Inconsistency</u> <ul style="list-style-type: none"> 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 and grossly misrepresents the occurrence of this species throughout the planning proposal area. EHG requests that the FFA detailing the Arncliffe GGBF population - "<i>currently increasing in numbers based on recent monitoring surveys</i>"- be amended to reflect the Green and Golden Bell Frog Monitoring, Arncliffe, Annual Report for 2021-2022 (AMBS Ecology & Heritage Pty Ltd, January 2023). 	The updated FFA (September and December 2023) considers in full detail, all matters relevant to the GGBF habitat and proposed mitigation and habitat augmentation matters, including the updates requested of EHG regarding appropriate monitoring opportunities.	<p>DPE Agile is comfortable with CCI's response and updated FFA, which:</p> <ul style="list-style-type: none"> Incorporates appropriate measures to protect and rehabilitate the GGBF and other populations. Future DCP controls will also be incorporated with Bayside Council to protect vulnerable populations.
<u>C2 Environmental Conservation Zone</u> <ul style="list-style-type: none"> 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. EHG does not support the inclusion of the additional objective 'To provide <i>for recreational activities that are compatible with the land's environmental sensitivities</i>' as 	N/A	<p>The zone objectives proposed are the ones that Council has requested, and will not include the objective to 'provide for recreational facilities.'</p> <p>The objectives and uses will align with Council's requested objectives and permissible uses given the proposed zoning is to sit within BLEP 2021.</p>

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<p>'recreational' activities are not compatible with the long-term survival of GGBF.</p> <ul style="list-style-type: none">EHG does not support the inclusion of 'Flood mitigation works; Recreation areas: Roads: Water reticulation systems' in the proposed list of permissible uses.		<p>DPE Agile recommends:</p> <ul style="list-style-type: none">To provide public access to areas of high environmental value and amenity where such access would not have a significant impact on those values (new)To protect and enhance the ecology, hydrology and scenic views of waterways, riparian land, groundwater resources and dependent ecosystems (Camden)To provide for land uses compatible with the high ecological, scientific, cultural or aesthetic values of the zone (Cessnock)To ensure the long-term viability of populations of threatened species and ecological communities by protecting and improving the conditions of wildlife habitats (Griffith) <p>The recommended permitted uses are:</p> <p>(2) Permitted without consent</p> <p>Environmental Protection Works</p> <p>(3) Permitted with consent</p> <p>Environmental facilities; Environmental protection works; Flood mitigation works; Information and Education Facilities;</p>
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			Oyster aquaculture; Recreation areas; Roads;
<u>RE1 Public Recreation Zone/ Pemulwuy Park</u> <ul style="list-style-type: none"> 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 <i>State Environmental Planning Policy (Precincts- Eastern Harbour City) 2021</i> to be included. 	N/A		DPE Agile raises no objection to including a similar provision within the Bayside LEP 2021.
<u>Objectives and provisions for biodiversity and GGBF conservation under SEPP (Precincts- Eastern Harbour City) 2021</u> <ul style="list-style-type: none"> A robust planning framework must be provided that is applicable to all future planning processes that will apply to the Cooks Cove site to ensure GGBF habitat is protected and enhanced in perpetuity. EHG requests the DPE Planning provide further information on how the intent of the <i>SEPP (Precincts- Eastern Harbour City) 2021</i> provisions will be delivered by the planning proposal to ensure the ongoing protection of the Arncliffe GGBF population. 	N/A		<p>The proposed C2 zoning of the areas of habitat for GGBF provide significant additional protection to this population, in addition to the future assessment requirements through both state and federal environmental legislation at the DA stage.</p> <p>DPE Agile raises no objection to inclusion of similar clauses in the Bayside LEP 2021 that current exist within <i>SEPP (Precincts- Eastern Harbour City) 2021</i> to ensure the ongoing protection of the Arncliffe GGBF population.</p>
<u>Development Control Plan and LEP</u> EHG requests that the following be amended accordingly:	Noted. The draft DCP and UDLR will be updated to specify further guidance to support and improve GGBF	Noted. The draft DCP and UDLR will be updated to specify further guidance to support and improve GGBF habitats within the site as follows.	The DCP will be coordinated between Council and CCI. Council has advised that they are committed to ensuring appropriate controls in the DCP to ensure adequate protection of GGBF habitat.

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<p>One of the controls (C1) for Ecology and Environmental Management in the draft DCP (Bayside DCP 2022 - Draft Section 7.18 Cooks Cove - 20 September 2023 v1.4), includes the following (page 28) " ... <i>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.</i>"</p> <p>EHG highlights that 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.</p> <p>EHG requests that the following maps be amended accordingly:</p>	<p>habitats within the site as follows.</p> <ul style="list-style-type: none"> the objectives of the DCP will be updated to reinforce the need to support the continued occupation of Cooks Cove, including the former Kogarah Golf Course, by GGBF; the design for Pemulwuy Park will be informed by the habitat requirements for GGBF and best practice guidelines for habitat creation, and is developed with input from an appropriately qualified herpetologist; the design for Pemulwuy Park includes car parks, roads and the community hub being located as far away from GGBF habitat (including breeding, foraging, dispersal habitats etc) as possible; traffic is kept 	<ul style="list-style-type: none"> the objectives of the DCP will be updated to reinforce the need to support the continued occupation of Cooks Cove, including the former Kogarah Golf Course, by GGBF; the design for Pemulwuy Park will be informed by the habitat requirements for GGBF and best practice guidelines for habitat creation, and is developed with input from an appropriately qualified herpetologist; the design for Pemulwuy Park includes car parks, roads and the community hub being located as far away from GGBF habitat (including breeding, foraging, dispersal habitats etc) as possible; traffic is kept to a minimum in Pemulwuy Park South, with trucks being excluded at the very least; dispersal/movement habitat is provided throughout the park, linking the parks water bodies to each other (including to the existing RTA ponds), and to water bodies located outside of the planning proposal boundary; and off leash dog areas are excluded from Pemulwuy Park South ; the DCP will be revised to address the need to retain existing GGBF habitat (including existing ponds) where possible, as well as to create a range of new, improved GGBF habitats (including breeding, foraging, 	<p>It is also noted that the existing state and federal legislative framework, combined with the C2 zoning will provide appropriate protections for GGBF during the development assessment stage.</p>
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<ul style="list-style-type: none"> 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 Southeast 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. 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 habitat. The management plan will need to consider, among other things, operational aspects like slashing/mowing procedures, 	<ul style="list-style-type: none"> to a minimum in Pemulwuy Park South, with trucks being excluded at the very least; dispersal/movement habitat is provided throughout the park, linking the parks water bodies to each other (including to the existing RTA ponds), and to water bodies located outside of the planning proposal boundary; and off leash dog areas are excluded from Pemulwuy Park South ; the DCP will be revised to address the need to retain existing GGBF habitat (including existing ponds) where possible, as well as to create a range of new, improved GGBF habitats (including breeding, foraging, refuge/sheltering and dispersal/movement), and to ensure their 	<ul style="list-style-type: none"> refuge/sheltering and dispersal/movement), and to ensure their management in perpetuity; some additional pond areas are created for GGBF at the detailed design stage, should these be necessitated by further assessments; the design principles for Pemulwuy Park, as referred to in the controls in the draft DCP on page 6, encapsulate the above points; and the mapping in the DCP and LEP includes appropriate breeding, foraging and dispersal/movement habitats for GGBF across the planning proposal boundary. 	
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<p>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.</p> <ul style="list-style-type: none">• Clarify what <i>"the relevant Green and Golden Bell Frog Management Plan"</i> 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	<p>management in perpetuity;</p> <ul style="list-style-type: none">• some additional pond areas are created for GGBF at the detailed design stage, should these be necessitated by further assessments;• the design principles for Pemulwuy Park, as referred to in the controls in the draft DCP on page 6, encapsulate the above points; and• the mapping in the DCP and LEP includes appropriate breeding, foraging and dispersal/movement habitats for GGBF across the planning proposal boundary.		
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the GGBF management plan that accounts for the future development pathway for the delivery of Pemulway Park. In addition, the DCP requirement should provide qualitative, measurable and enduring requirements for the delivery of the GGBF management plan.			
<p><u>Preparation and Implementation of a GGBF Management Plan</u></p> <ul style="list-style-type: none">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". This has not been included in the draft DCP and is required.The statement on page 26 of the RtS report- "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". EHG notes that 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.'	Refer to above commentary as to the process and preparation of the DCP and any associated environmental management plans.	It is not appropriate to include consultation with EHG as a LEP provision. However, Agile Planning raises no objection to an appropriate DCP Clause, subject to Council's support.	

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<ul style="list-style-type: none"> 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. 		
<p><u>Biodiversity Assessment Method</u></p> <ul style="list-style-type: none"> 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. 	<p>The proposal seeks to enhance the values listed above by providing biodiversity enhancements including:</p> <ul style="list-style-type: none"> Water quality improvements by trapping sediment, nutrients and other contaminants within the development zone. A diversity of habitats for terrestrial, riparian and aquatic plants (flora) and animals (fauna), with an expansion of suitable plant species. Maintaining connectivity between wildlife habitats A well-designed interface or buffer between developments and waterways Maintaining the flood conveyance of the current terrain as evidenced by the flood modelling outcomes (i.e. no upstream afflux) <p>To achieve these enhancements, the design has been amended to incorporate a number of features and enhancements to the</p>	<p>Consideration of appropriate riparian corridor will be required during the development assessment stage.</p> <p>However, the proponent has significantly increased the riparian corridor along the waterfront and has demonstrated that it is capable of achieving the required merit based outcomes at a development assessment stage.</p> <p>The proposal now retains a full 40m (or more) Riparian corridor for the south of the site, with appropriate offsets for areas further north than reduce, in parts, to 27m.</p> <p>Detailed design of the Riparian corridor and associated urban interfaces will be developed with Council as part of detailed DCP controls and DA details.</p>

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	<p>foreshore. These are documented in the Cooks Cove Urban Design Report Addendum A</p> <p>Key features of this proposal include:</p> <ul style="list-style-type: none">• A 40 m wide corridor through the Marshland Parts of the foreshore (see Figure 3-3)<ul style="list-style-type: none">◦ Providing for ecological improvements far superior to which presently exist along the Cooks River and Muddy Creek within the vicinity of the precinct.◦ The zone includes zones for semi-aquatic planting that is protected from wave and current action in the main channel.◦ Zones of large trees that can provide habitat.◦ Connectivity back to the existing pond network to the west to provide habitat connectivity.• A natural precinct that interfaces with the SP4 Enterprise zones<ul style="list-style-type: none">◦ Providing for ecological improvements far superior to which presently exist along the Cooks	
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	<ul style="list-style-type: none">○ River and Muddy Creek within the vicinity of the precinct.○ A general design which is largely comparable to that recently undertaken by Bayside○ Council for the interface with the Cooks River in nearby Cahill Park○ This zone provides opportunities for mangrove planting along the foreshore, similar to those located on the foreshore at Caringbah in the Sharks League facility redevelopment.○ Zones for larger planting and habitat.● An urban interface zone that reflects the values of the norther portion of the precinct as a central urban hub<ul style="list-style-type: none">○ A design which welcomes the adjacent residential community through to the water's edge to enjoy enhanced connectivity, amenity and recreation outcomes.○ These steps include planting and other opportunities for intertidal ecosystems.	
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	<ul style="list-style-type: none">Large trees to provide a comfortable environment by natural means, as well as habitat opportunities.	
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Bayside Council Submission

Bayside Council	Proponent Response	DPHI Agile Team Response
Land use and zoning		
Council's preference is to zone the 20m wide foreshore strip of land RE2 Private Recreation and to have the public access and private maintenance arrangements registered on title captured in a Planning Agreement. There is precedent for this approach at nearby Discovery Point Park in Wolli Creek, which is owned by the Community Association, but available for public use.	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. 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.	Agile is recommending that the full length of the land along the river edge on the site be C2 Environmental Conservation to maximise opportunity for rehabilitation and conservation.
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	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.	The Agile Planning team is satisfied with this response, noting that the proposal delivers on the long-term vision for the site as a trade and enterprise 'gateway'.

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the evidence that has informed the quantum of each use.		
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 proposed draft DCP has been further amended 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	The Agile Planning team is satisfied with this response.
Trade-Related Enterprise definition insertion and applicable to Blocks 2 and 3. This clause is not considered necessary, as 'trade related enterprise' is completely appropriate within the suite of uses that are already proposed and permitted with consent under the SP4 Enterprise zone.	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.	The Agile Planning team is satisfied with this response.
Flooding		
The Planning Proposal fails to meet Ministerial Direction 4.3 – Flood Prone Land and Planning Priority E20 which seeks to avoid locating new urban development in areas exposed to natural and urban hazard.	In response to DPE EHG, SES and Council submissions the Proponent commissioned Arup to prepare a Flood Impact Risk Assessment. 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.	Agile Planning is satisfied with the changes made to the scheme and revised FIRA to address the relevant Ministerial Direction, including: <ul style="list-style-type: none"> Evacuation from the site for 1:500AEP and up to and including 1:2000 AEP through Flora Street, which now has a 37m culvert running underneath.

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		<ul style="list-style-type: none"> Shelter in Place will only be up to 6 hours including a 1:2000 AEP with access to food and infrastructure, and only 8-12 hours maximum in PMF, again with required infrastructure. Overland flow is to be better shared across Council and CCI land through the provision of an 'under croft' under building 3C.
The proposed flood mitigation strategy burdens adjoining public land by diverting overland flow around the development site, resulting in a reduction in value to the community by limiting functionality and potential use of public land.	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 and Section 4.1 of the Response to Submissions Report.	A workshop was held in November 2023 with Council, CCI and TfNSW to explore solutions to manage overland flow equitably and safely. The potential solution of a 'under croft' under 3C, plus other measures to be negotiated between Council and CCI during development stage, are satisfactory for this stage in the process in the opinion of Agile Planning.
The lack of assessment on the influence of tidal flooding is a concern. Such analysis must be included in the report to ensure tidal impacts on the drainage system are accounted for. In addition, a Sea Level Rise Vulnerability Assessment should be conducted.	<p>The revised Flooding Impact Risk Assessment has specifically addressed Sea Level Rise in analysis scenarios (2100, 0.8m sea level rise, 20% rainfall increase) which demonstrate an acceptable outcome based on further input and guidance from NSW SES and DPE EHG.</p> <p>A detailed Sea Level Rise Vulnerability Assessment is recommended as a site-specific DCP provision which will be</p>	<p>Draft DCP controls have been updated post exhibition (Attachment A10) which address key issues raised by Council.</p> <p>The development and finalisation of the DCP controls will be undertaken with Bayside Council directly.</p>

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	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 the FIRA.	The Agile Planning team is satisfied that the issues raised by Council relating to the DCP can be resolved directly with the proponent during the finalisation of these controls.
<p>Out of the flood mitigation options presented by ARUP, Option 4 is considered a technically adequate response, noting that:</p> <ul style="list-style-type: none"> 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>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).</p>	<p>The Agile Planning team is satisfied with this response.</p> <p>Refer to detailed discussion in the report and earlier in this table.</p>
<p>Flood design considerations must be accounted for, including:</p> <ul style="list-style-type: none"> 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 A Gross Pollutant Trap(s) should be provided at the downstream end of the stormwater system for any roads in an 	<p>References to the Bayside DCP 2022 have been incorporated in the revised Flooding Impact Risk Assessment prepared by Arup. The report includes reference to the Arup flood modelling for the assessment of flood hazard on the site.</p>	<p>Draft DCP controls have been updated post exhibition (Attachment A10) which address key issues raised by Council.</p> <p>The development and finalisation of the DCP controls will be undertaken with Bayside Council directly.</p> <p>The Agile Planning team is satisfied that the issues raised by Council relating to the DCP can be resolved directly with the proponent during the finalisation of these controls.</p>

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<p>accessible location that can be serviced by large vehicles</p> <ul style="list-style-type: none"> sufficient riparian zones must be provided along any proposed waterway, with access for maintenance vehicles. A bioswale or raingarden is preferred infiltration system and should be reflected in the DCP 		
Traffic and car parking		
<ul style="list-style-type: none"> Updates required to the draft DCP to reflect appropriate parking rates and provision as well as sustainability measures Works In Kind agreement required to replace and lost car parking spaces. 	<p>The revised site-specific DCP is updated to reflect relevant parking requirements and considerations, in alignment with the agreed traffic assessment.</p> <p>The proposal seeks to implement a long-standing Council-led infrastructure enhancement which has been identified in the Wolli Creek and Bonar Street Precincts Urban Renewal Area Contributions Plan 2019. Identified as item WC3.3.4 "Gertrude St (north side between Princes Hwy and Levey St Road widening". The widening works as proposed in the revised Local VPA Letter of Offer have been revised in consultation with Council officers and will retain on-street parking or suitable alternative arrangements.</p>	Both the car parking rates and WIK associated with the VPA have been directly resolved between Council, TfNSW and CCI.
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.	A detailed traffic model using a refined VISSM existing and future year model has 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	Council and TfNSW are now both satisfied with the traffic modelling and outcomes.

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	movements consistent with the high-density growth planned within future precincts such as Bayside West Precincts 2036.	
Foreshore and open space		
Limited opportunities to directly access the foreshore both visually and physically - potentially creates safety issues for people using the foreshore link. Concern with respect to safety along this long stretch of public domain without options for alternative routes. A high standard of lighting and aesthetic treatment to ensure a high level of activation is also vital.	DCP controls are drafted to ensure a foreshore is achieved which is both visually and physically linked appropriately, including park design to provide a visual linkage from east to west and to provide a publicly accessed reserve adjacent to Block 2. However, in response to Council's comments, CCI propose additional DCP controls for safety lighting and CPTED.	The Agile Planning team is satisfied with this response. Given there is currently no public access to the foreshore on this site, the proposal represents a significant improvement.
Open spaces including Pemulwuy Park North and South and Fig Tree Plaza must be available to the public in perpetuity, and the proposal must address considerations of land transfers. Concern that the delivery of the Park will conflict with heavy vehicles.	Development and maintenance of Fig Tree Grove and Plaza t is further addressed within the Local VPA revised Letter of Offer. The revised Local VPA letter of offer 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. 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.	Council and CCI are currently working on DCP and other controls to ensure the optimal delivery and amenity of Pemulwuy Park. Agile Planning is satisfied that these spaces can be appropriate designed and managed.
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	The concept for Pemulwuy Park, as documented within the Planning Proposal Urban Design and Landscape package, as prepared by Hassell, was the product of extensive	Council, TfNSW and CCI have subsequently worked to largely resolve this matter and Agile Planning is

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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	engagement with Council staff. Since the submission of the Planning Proposal, ongoing consultation with TfNSW has resulted in the in-principle agreement reached between TfNSW and Council to reduce the volume of retained fill with regards to the proposed treatment of the M6 Stage 1 construction compound at the conclusion of this project. Levels of up to RL3.5 are proposed to be transitioned with up to 1:10 batters surrounding the compound. Refer to the revised Flooding Impact Risk Assessment (Appendix E) for further assessment of the proposed flow path.	comfortable that it is resolved at an appropriate level this stage of the strategic planning process.
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.	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.	Agile Planning is satisfied that the quantum of open space being delivered by the proposal provides a significant public benefit. The proponent is also seeking to enter into a local planning agreement with Bayside Council, through which Council has the option to fund new open spaces.
A minimum 40 metre riparian zone should be included along the Cooks River frontage to ensure adequate ecological interface, 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.	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 riparian interface is proposed to be increased from a 20m to 40m in 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	The planning proposal now includes a 40m riparian corridor for the southern portion of the river edge. Where it is reduced to 27m in certain circumstances, it is offset in others and will still provide significant rehabilitation and vegetation opportunities. The Agile Planning team is satisfied with this response.

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Cycleways and paths that are currently within the 20m zone can then be relocated to the outer 50% of the riparian zone.	planting in comparison to the current artificial golf course edge.	
Built form		
<p>Controls to include:</p> <ul style="list-style-type: none"> active ground level uses to interface public domain, fine grain articulation of materials, offices to be orientated towards the open spaces and corridors. Treatment of facades Reduced visual impact of bulk through ongoing maintenance; Art / First Nations collaboration, innovative n design, lighting strategies Litter prevention 	<p>Commits to resolving Council's built form concerns through site-specific DCP controls. 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 provisions will strengthen the requirement for ground level activation and diverse materiality to be achieved.</p> <p>Further provisions will be addressed in consultation with Council.</p>	<p>Draft DCP controls have been updated post exhibition (Attachment A10) which address key issues raised by Council.</p> <p>The development and finalisation of the DCP controls will be undertaken with Bayside Council directly.</p> <p>The Agile Planning team is satisfied that the issues raised by Council relating to the DCP can be resolved directly with the proponent during the finalisation of these controls.</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.	<p>Enhancement in terms of fauna connection is improved.</p> <p>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</p>	The Agile Planning Team is satisfied with this response.

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A connection 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.	which are physically separated from the adjacent publicly accessible open space	
Recommend that Clause 6.10 of the Bayside LEP 2021 also apply to this site, consistent with Bayside West Precinct, to ensure the highest standard of architectural, urban and landscape design is achieved.	The proponent agrees and has sought amendment to the mapping associated with Clause 6.10 to apply to the Cooks Cove precinct.	The Agile Planning Team is satisfied with this response.
Shadow modelling must confirm that proposed maximum building heights are acceptable and will not unreasonably impact the quality and useability of publicly accessible places.	Further refinements to overshadowing diagrams to the future publicly accessible open space has been undertaken by Hassell.	Additional overshadowing detail has been provided in (Attachment A14 – Part 2). While the proposal will result in overshadowing to the foreshore, this is limited to afternoon periods in mid-winter.
A Visual Impact Assessment assessing impact on character and views from residences, workplaces and public places should be provided and recommendations incorporated into DCP controls.	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).	A visual impact comparison has been prepared by the proponent (Attachment A15), demonstrating the proposal's reduced footprint from the 2006 DA approval.
Confirmation of no infringement of the protected airspace required during construction or that any such infringement will be supported by the relevant approval body to demonstrate consistency with Local Planning Direction 5.3 – Development Near Regulated Airports and Defence Airfields.	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)	Appropriate consultation has been undertaken with the Civil Aviation Safety Authority, Air Services and Sydney Airport, and the proposal has demonstrated capacity to adhere to relevant legislated requirements.

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	application requirements in relation to aviation safety, as relevant – which is consistent with 5.3(2)(d).	
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.	<p>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. 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.</p> <p>Airside facilities will not impact on the function of the publicly accessible foreshore zone.</p>	<p>Considerations around future bridge connections are a matter for the detailed design stage.</p> <p>The Agile Planning Team is satisfied with this response.</p>