

The Department issued a Gateway Determination on 5 August 2022, and a Gateway Alteration issued on 12 April 2023. Since then, the planning proposal and supporting documents have been updated in accordance with the Gateway Conditions. An assessment against the Gateway Determination has been undertaken (see table below).

The Agile Planning team is satisfied that the planning proposal and supporting documents have been amended to meet the conditions of the Gateway Determination and the planning proposal is suitable for consideration by the Panel.

It is noted that the assessment below relates to the Gateway conditions as altered on 12 April 2023.

The planning proposal description, as altered in the Gateway issued on 12 April 2023, is

~~To facilitate the development of part of the Cooks Cove precinct by removing the subject land from the operation of Chapter 6 of State Environmental Planning Policy (precincts – Eastern Harbour City) 2021 and insert new planning provisions into Bayside Local Environmental Plan 2021.~~

To facilitate the development of part of the Cooks Cove precinct by removing the subject land from the operation of Chapter 6 of State Environmental Planning Policy (precincts – Eastern Harbour City) 2021 and insert new planning provisions into Bayside Local Environmental Plan for:

- ***Land to be zoned a combination of SP4 (Enterprise), RE1 (Public Recreation) and SP2 (Infrastructure);***
- ***Maximum building height of RL51 for the majority of the land zoned SP4 (Enterprise) (Blocks 2 and 3), stepping down to RL48, RL44 and RL40 at the southern portion of this zone, and maximum building height of 24m for Block 1 at the north of the site;***
- ***Maximum Gross Floor Area across the site of:***
 - ***Block 1: maximum FSR of 1.25:1 (P2);***
 - ***Blocks 2 and 3 (Area 16) Development is not to exceed:***
 - ***a total of 340,000sqm GFA,***
 - ***20,000sqm GFA of office premises,***
 - ***20,000sqm GFA of hotel or motel accommodation and serviced apartments, and***
 - ***10,000sqm GFA of shops and food and drink premises.***
- ***Additional permitted uses:***
- ***‘Advertising Structures’ permitted in Block 1; and***
- ***‘Trade Related Enterprises’ permitted in SP4 land.***

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Gateway Condition		Assessment
1	The planning proposal is to be updated prior to community consultation to:	
1(a)	Address consistency with section 9.1 Direction 1.12, including:	
1(a)(i)	obtain approval from TfNSW that the planning proposal will not compromise future transport links, deliver a safe road network and enhance walking and cycling connectivity and the use of public transport in accordance with the requirements of the principles;	Condition met TfNSW issued written correspondence on 8 March 2023 addressing Condition 1(a)(i). DPHI PLUSH Team, in their role of the LPMA have written to the Panel advising that they are satisfied the Condition has been met.
1(a)(ii)	provide additional information to demonstrate that the planning proposal will ensure best practice design and a high-quality amenity with reference to the NSW design policy Better Placed;	Condition met Table 41 within the revised planning proposal details consistency with 'Better Placed.'
1(a)(iii)	provide additional information to demonstrate the planning proposal will deliver an enhanced, attractive connected and publicly accessible foreshore and public open space network. This should include further details to justify the extent of land intended to be zoned RE1 Public Recreation adjacent to the Cooks River; and	Condition met Section 3.4 of the revised planning proposal and the Urban Design and Landscape Report by Hassell (Appendix B to planning proposal in Attachment A). details the project's open space. Section 3.4.3 outlines that the Cooks River foreshore is a minimum 20m wide landscaped corridor approx. 1km in length, increasing in width to 40m in the southern part of the site. During exhibition Council advised that they did not wish to acquire the land, and therefore the proposed zoning has been changed to C2 Environmental Conservation, with easements to be registered on title to protect public access and maintenance of the land.
1(a)(iv)	provide additional information to demonstrate that the planning proposal will enhance the environmental attributes of the site, including protected flora and fauna, riparian areas and wetlands and heritage.	Condition Met The site's flora, fauna habitat and environmental attribute enhancements are presented Section 5.6 of the proposal and detailed in a Flora and Fauna Assessment (Appendix K to the planning proposal in Attachment A).
1(b)	address consistency with 9.1 Direction 3.2 Heritage through further consultation with Heritage NSW and updating the planning proposal accordingly;	Condition Met Section 5.9 addresses Direction 3.2. An Archaeological and Heritage Assessment is also provided (Appendix L to the planning proposal in Attachment A). See also Table 48.

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	<p>The proposal indicates the proponent requested further consultation on 14 November 2022 with DPE Heritage in relation to the revised scheme intended for public exhibition. A response was received on 7 February 2023 raising no objection.</p> <p>Heritage NSW raised no objection to the proposal during the public exhibition of the planning proposal.</p>
<p>1(c)</p>	<p>address consistency with 9.1 Direction 4.1 Flooding by preparing an options analysis to clearly outline flood mitigation options available with clear reasoning for the preferred option</p> <p>Condition met</p> <p>Section 5.2. of the proposal details flooding, stormwater and WSUD.</p> <p>Table 49 steps through the Direction requirements, demonstrating compliance with the requirements of the 9.1 Direction.</p> <p>A detailed Flood Impact Risk Assessment (FIRA) has been undertaken during and post exhibition to ensure consistency with the Direction and required WSUD elements (. planning options analysis is provided within the Flooding, Stormwater and WSUD Report (Appendix C to planning proposal in Attachment A). WSUD assess' proposal against the Direction, as does Table 46 of the proposal.</p>
<p>1(d)</p>	<p>address consistency with 9.1 Direction 5.2 Reserving Land for a Public Purpose by seeking approval from TfNSW that the land currently zoned Special Uses is no longer needed for public purposes</p> <p>Condition met</p> <p>Information/approval from TfNSW provided in correspondence dated 8 March 2023.</p> <p>Consistency with Direction addressed at Table 54 of the planning proposal in Attachment A.</p> <p>Exhibition and post exhibition work has further considered requirements of Trust lands.</p>
<p>1(e)(i)</p>	<p>testing of the desired built form outcome against the proposed maximum GFA to ensure it is coordinated with the intended building typology, height and overall built form outcomes across the site;</p> <p>Condition met</p> <p>Section 5.1 details the proposal's Urban Design outcomes. A revised Urban Design and Landscape Report is provided at Appendix B to the planning proposal in Attachment A.</p>
<p>1(e)(ii)</p>	<p>clear diagrams to show the intended distribution of floorspace across the site having regard to the intended future uses;</p> <p>The report includes a master plan as an indicative reference scheme which provides support for land use planning controls sought under this Planning Proposal. It has also been prepared to respond to Gateway Condition 1(e)(i) to (viii).</p> <p>The indicative reference scheme presents a</p>

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	<p>further developed built form arrangement which has allowed for a detailed analysis and apportionment of the GFA within Blocks 1-3 and by land use.</p> <p>Intended massing, character and land use allocation shown in Figure 53 combined with Table 14.</p>
1(e)(iii)	<p>Condition met</p> <p>Refer to page 85 of proposal.</p> <p>Built form strategy outlined in Appendix B to the planning proposal in Attachment A. All building heights are proposed to be generally consistent with the adjacent high rise residential and hotel developments to the north of Marsh Street and the T1 International Terminal commercial office precinct.</p>
1(e)(iv)	<p>Condition met</p> <p>Refer to Section 4.1.3 of the planning proposal – page 68 in Attachment A.</p> <p><i>This approach has been adopted to allow the achievement of a flexible development and built form composition throughout the site, but one which will controlled by an overall quantum of floorspace. This approach will also ensure a flexible approach to staging which will ensure a straightforward calculation and transparency in terms of assessment. The quantum of GFA proposed has been arrived at through a number of specialist studies to investigate the site's suitability. As such the adoption of a GFA as opposed to a broader FSR for Blocks 2 and 3 has consistency in terms of areas used for the precinct's traffic modelling.</i></p>
1(e)(v)	<p>Condition met</p> <p>Refer to page 84 of the planning proposal in Attachment A. Built form layout analysis and indicative renderings provided.</p>
1(e)(vi)	<p>Condition met</p> <p>Refer to page 87 of the planning proposal in Attachment A. Solar access performance detailed. Shadow diagrams provided.</p> <p>It is noted that the land adjoining the Cooks River will not be zoned RE1. However, the planning proposal considers and responds to the potential overshadowing impacts of this land in addition to the land identified as RE1</p>

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Gateway Condition		Assessment
		as part of the future Pemulwuy Park.
1(e)(vii)	public domain connections through the site and to intended future public open space;	Condition met Refer to page 83 of the planning proposal in Attachment A . Detailed Movement and Circulation plan provided at Figure 68.
1(e)(viii)	intended new roads across Council land and how this will ensure an acceptable public open space outcome in terms of amenity and design.	Condition met Refer page 93 of the planning proposal in Attachment A . Details the proposed extension the Flora Street and Gertrude Street.
1(f)	provide a plain English explanation of the proposed new land use definition 'Trade Related Enterprises';	Condition met Provided at Section 4.1.2 of the planning proposal in Attachment A .
1(g)	Ensure all documentation is updated to correctly reference the former State Regional Environmental Plan No 33 – Cooks Cove to its current title of the State Environmental Planning Policy (Precincts - Eastern Harbour City) 2021;	Condition met Updated throughout the planning proposal in Attachment A . Acknowledged as such on Page 19.
1(h)	include a local provision to prepare a site-specific Development Control Plan (DCP) outlining heads of consideration for inclusion in the DCP. The planning proposal is to include proposed key controls applying to future development on the site.	Condition met A site specific DCP for Cooks Cove has been prepared to integrate with and supplement the Bayside DCP. Provided at Appendix O to the planning proposal in Attachment A . Bayside LEP 2021 includes an existing DCP requirement Clause (6.16). It is anticipated that the subject site will be included within the existing DCP Clause as part of the finalisation process.
1(i)	provide a plain English explanation of a future LEP provision that seeks to allow consideration of the NSW Land Use Safety Planning Framework and the land use safety study risk assessment (LUSS), prepared by Arriscar, at the development application stage. Specifically, this provision will need to:	
1(i)i.	apply to the land proposed to be rezoned to B7 Business Park SP4 Enterprise and encompassing the proposed retail, office, hotel, serviced apartment, trade-related enterprises and warehouse logistics development; and	Satisfied Section 4.1.3 outlines the proposed provisions. Appendix J to the planning proposal in Attachment A is the Ethane Pipeline Risk Assessment Report.
1(i)ii	ensure notification to and consideration of any comment from the Department prior to the	

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Gateway Condition		Assessment
	issuing of any development consent for the specified developments by the consent authority.	
1(j)	provide further justification and reasoning to support the following proposed Additional Permitted Uses (APU's):	
1(j)(i)	'Advertising Structures' having regard to the context of the site, intended locations for these structures and a clear need for this to occur;	<p>Condition met</p> <p>The proposed addition of 'advertising structures' as a permissible land use is addressed at Section 4.1.5 of the planning proposal in Attachment A. See also Table 10. To be confined to 'Block 1' on the APU map.</p>
1(j)(ii)	'Retail Premises' including clarification of the maximum potential floor space proposed for this use and reasons for the need for the permissibility of all uses under its umbrella definition; and	<p>Clarification of the 'retail premises' land use definition within the planning proposal in Attachment A is addressed at Section 4.1.1 – see page 63.</p> <p>'retail premises' as an umbrella definition is no longer proposed in this Planning Proposal. The flexible nature of the SP4 Enterprise zone has enabled 'shops' and 'food and drink premises' to be added as permissible land uses and for 'retail premises' to be made prohibited. 'Shops' and 'food and drink premises' have been afforded a collective maximum of 10,000sqm of GFA subject to an additional local provision introduced.</p>
1(j)(iii)	'Tourist and Visitor Accommodation' including further justification and reasons for the need for the permissibility of all uses under its umbrella definition.	<p>Clarification of the 'tourist and visitor accommodation' land use definition within the planning proposal in Attachment A is addressed at Section 4.1.1.</p> <p>'Tourist and visitor accommodation' as an umbrella definition has been added to the prohibited land uses, with 'hotel and motel accommodation' and 'serviced apartments' implemented to serve the specific intention for the site and remove the potential for the implementation of undesirable land uses. Note that serviced apartments are currently permissible on the site under SEPP (Precincts – Eastern Harbour City) 2021.</p>
1(k)	clarify whether 'industrial training facilities' is proposed as an APU and if so, provide further details and justification.	No longer proposed within the revised planning proposal
2	Prior to community consultation, the planning proposal is to be revised to address Condition 1 above and forwarded to the Department for review and approval.	<p>Condition met</p> <p>The LPMA provided written confirmation of the satisfaction of Conditions prior to exhibition.</p>
3	Prior to the commencement of community consultation, the proponent must consult with Sydney Airport Corporation Limited and the Commonwealth Department of Infrastructure,	<p>Condition met</p> <p>Both Sydney Airport Corporation Limited and the Department of Infrastructure, Transport, Regional Development, Communications</p>

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	<p>Regional Development and Cities. Should the proponent be advised that permission is required in accordance with (2)(d) of s9.1 Direction 5.3 and/or the Airports Act 1996, this permission must be granted prior to the commencement of community consultation.</p> <p>The planning proposal must also be updated with the outcomes of this consultation prior to community consultation.</p>	<p>and the Arts were consulted in relation this item.</p> <p>Acknowledgment that the proposal does not constitute a controlled activity application under the Airports (Protection of Airspace) Regulations 1996 and ability for the Planning Proposal to proceed to public exhibition was provided by entities on 15 November 2022. Refer to Appendix Q of the proposal for copies of correspondence.</p>
4.	Public exhibition is required under section 3.34(2)(c) and clause 4 of Schedule 1 to the Act as follows:	
4.a	the planning proposal is categorised as complex as described in the Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021) and must be made publicly available for a minimum of 30 days; and	<p>Condition met</p> <p>The exhibition met the requirements outlined in the subject conditions.</p>
4.b	the planning proposal authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in Local Environmental Plan Making Guidelines (Department of Planning and Environment, 2021).	
5	<p>Consultation is required with the following public authorities and government agencies under section 3.34(2)(d) of the Act and/or to comply with the requirements of applicable directions of the Minister under section 9 of the EP&A Act:</p> <ul style="list-style-type: none"> • Transport for NSW (TfNSW); • Bayside Council; • Department of Planning and Environment's Environment, Energy and Science Team; • State Emergency Services (SES); • Greater Cities Commission (GCC); • Federal Department of Infrastructure, Transport, Regional Development and Communications; • NSW Ports; • NSW Environmental Protection Authority (EPA); • Heritage NSW; • Sydney Desalination Plant; 	<p>Condition met</p> <p>The referenced agencies were consulted during the exhibition process in accordance with the requirements of the Act and condition.</p>

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<ul style="list-style-type: none"> Sydney Water; Natural Resource Access Regulator; Ausgrid; Department of Energy and Environment Department of Primary Industries; Air Services of Australia; NBN Co; APA Group; Jemena <p>Each authority and agency is to be provided with a copy of the planning proposal and any relevant supporting material via the NSW Planning Portal and given at least 40 days to comment on the proposal.</p>	
<p>6</p> <p>A public hearing is required to be held into the matter by any person or body under section 3.34 of the Environmental Planning and Assessment Act 1979 and Section 29 of the Local Government Act 1993.</p> <p>After the community consultation period has ended, at least 21 days public notice is to be given before the hearing is held.</p> <p><i>A public hearing is required to be held into the matter by the Sydney East City Planning Panel under Section 3.34 of the Environmental Planning and Assessment Act 1979.</i></p> <p><i>After the community consultation period has ended, at least 21 days public notice is to be given before the meeting is held.</i></p>	<p>Condition met</p> <p>A public hearing was held on 30 June 2023 under Section 3.34 of the EP&A Act and was held at least 21 days after the community consultation period was ended for the planning proposal.</p> <p>Refer to Attachment J of the package for the Public Hearing report.</p>
<p>7</p> <p>Prior to finalisation, the planning proposal must address consistency with section 9.1 Direction 5.2 Reserving Land for a Public Purpose including by clarification of an acquisition authority (and update to the Land Acquisition Map) for any land being zoned RE1 Public Recreation that is not currently owned by a public authority.</p>	<p>Condition met</p> <p>Council has accepted its role for the land to be zoned RE1 as the future Pemulwuy Park.</p> <p>The land adjacent Cooks River is to be zoned C2 Environmental Conservation, with easements for access and maintenance to be ensured through restrictions on title.</p>
<p>8</p> <p>The Panel as planning proposal authority is not authorised to be the local plan-making authority under section 3.36(2) of the EP&A Act.</p>	<p>Noted</p>
<p>9</p> <p>The LEP should be completed on or before 5 May 2024.</p>	<p>Noted</p> <p>The Panel is making their recommendation prior to 5 May 2024. The LPMA will be responsible for finalising the LEP prior to this date.</p>

