

# **CCI Further Response to Transport for NSW**

17 March 2023



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16 March 2023

Mr. Brendan Pegg  
Ms. Rachel Cumming  
Land Use, Network & Place Planning  
Transport for NSW

**Reference SYD18/00243/33**

Dear Brendan & Rachel,

**Cooks Cove Planning Proposal (Pre-Exhibition Consultation) – Revised Letter of Offer**

Thank you for your letter dated 15 March 2023.

We propose to pursue the Reclassification of Lot 14/DP213314 and Lot 1/DP108492 ('Trust Lands') as an element of the Cooks Cove Planning Proposal, as directed.

We acknowledge TfNSW's requirement that as a prerequisite to the rezoning of land being finalised, that:

1. Legally binding agreements are executed to ensure TfNSW retains the ability to continue to access and use the Trust Lands for delivery of the M6 Stage 1 motorway and associated infrastructure, at no cost, including, but not limited to, permanent land acquisitions within these lots that are reasonably required to facilitate delivery and operation of the M6 Stage 1 and M8 Projects; and,
2. Cook Cove Inlet Pty Ltd (**CCI**) executes a legally binding Planning Agreement with TfNSW.

The Planning Agreement scope of work will be informed by the Public Exhibition process, and confirmed by TfNSW upon completion of the review of the Transport Impact Assessment (JMT Consulting 2/3/23) and the issue of TfNSW's in-principal agreement to proposed intersection layouts.

The Cooks Cove Planning Proposal must deliver a flood mitigation outcome that is compliant with NSW legislation. The Arup preferred flood mitigation strategy '(Option 4)' is considered to meet these legislative requirements and facilitates TfNSW compliance with relevant M6 and M8 Conditions of Approval, including B23.

In line with 24/2/23 discussions with TfNSW/ Bayside Council, CCI has retained Arup and Hassell to further investigate flood compliant landform refinements to the recommended 'Option 4', that would also meet the recreation, amenity and connectivity requirements of Bayside Council, yet are designed to be cost effective in terms of delivery by maintaining similar earthwork volumes to the exhibited M6 Urban Design Landscape Plan. Whilst agreeable in principal, further consultation is required to understand what delivery parameters are necessary to achieve an outcome that will 'remain cost neutral to TfNSW'.

We request it be noted that as presented by Arup, all flood mitigation compliant schemes are reliant on CCI's dedication of freehold land within Lot100/DP1231954 to



offset the flood impacts on the Cooks Cove development zone otherwise arising from the design and construction of the adjacent permanent M6/M8 surface infrastructure.

We would welcome the opportunity for further discussions with TfNSW, DPE and Bayside Council to facilitate the expedient resolution of a Planning Agreement, once the Public Exhibition process is complete, and we are in receipt of all stakeholder submissions, including those of TfNSW and Bayside Council, such that the Planning Agreement/s scope of works can be appropriately refined to provide a comprehensive response to relevant issues raised.

Further, we note TfNSW advice that the Planning Agreement may potentially require a future interface agreement with the M6 and M8/WestConnex. On several previous occasions CCI have noted willingness to resolve such as an agreement, but have not been able to obtain any clarity on what the scope or process required to facilitate resolution. Could TfNSW please arrange an introduction to the counterparties to the interface agreement at the earliest opportunity and provide clarity on the agreement requirements?

Pending such discussions, we herewith provide a revised Letter of Offer (refer **Attachment A**) to that submitted on 22/12/22, addressing the TfNSW feedback provided 15/3/23.

Key to achieving the 'cost neutrality' objective of TfNSW and the public domain aspirations of Bayside Council for Pemulwuy Park is continued collaboration and the collective commitment to a process that will permit CCI to provide certainty as to outcome and avoid the delivery of redundant scope within the Trust Lands as the M6 Stage 1 and M8 projects approach completion.

We look forward to continuing discussions.

Yours Sincerely

A handwritten signature in black ink, appearing to read "Peter Bettridge".

Peter Bettridge  
General Manager



16 March 2023

Mr Rob Sharp  
Secretary  
Transport for NSW

TfNSW Ref SYD18/00243/33

Dear Secretary,

**Cooks Cove Planning Proposal – Letter of Offer to enter into a Planning Agreement**

We, Cook Cove Inlet Pty Ltd (as Proponent), write to TfNSW in relation to the Cooks Cove Planning Proposal (PP-2022-1748), to outline the infrastructure contribution offer associated with the proposal.

The substance of the Offer is to be delivered by way of a Planning Agreement that meets the requirements of Division 7.1 of the Environmental Planning & Assessment Act 1979 .

This letter specifically addresses the works-in-kind upgrades proposed to local and regional grade infrastructure (**Table A**), and additional monetary contributions (**Tables B & C**), that have been identified as beneficial to the delivery of a safe road network. These tables are supported by a diagram for indicative purposes only (**Figure 1**).

This Letter of Offer is indicative in nature with the intent that the Planning Agreement, and associated Infrastructure Schedule that will define the Scope of Works and Contributions, will be resolved following Public Exhibition of the Planning Proposal, in consultation with the State of New South Wales and Bayside Council.

A legally binding Planning Agreement will be executed prior to the finalisation of the Planning Proposal and gazettal of the amendment to the *Bayside Local Environmental Plan (LEP) 2021*.

This offer is premised upon the realisation of the development intensity and scope outlined within the rezoning proposal, as described in Section 1 below.

**1. Planning Proposal scope and description**

The Planning Proposal intends to insert new planning provisions covering the Cooks Cove development zone and adjoining lands, through the amendment of the *Bayside LEP 2021*, accordingly removing this same area from the jurisdiction of *State Environmental Planning Policy (Precincts—Eastern Harbour City) 2021* (formerly *Sydney Regional Environmental Plan No. 33 – Cooks Cove*).

Specifically, the Planning Proposal will:

- Seek new land use zones within the development zone, including a primary 'SP4 Enterprise' zone across the majority of the former Kogarah Golf Course



freehold land, 'RE1 Public Recreation' foreshore and passive open space zones and elements of 'SP2 Infrastructure'.

- Impose a primary overall maximum building height of RL51m with appropriate reduction to respond to aviation controls within the southern section of the site and a maximum height of 24m to the north of Marsh Street, to respond to neighbouring developments .
- Limit development potential through an appropriate combination of gross floor area (GFA) and floor space ratio (FSR) provisions to achieve the overall intended logistics, commercial, retail and short-term accommodation land uses. A maximum GFA of 340,000m<sup>2</sup> will be applicable south of Marsh Street and a further 1.25:1 FSR (circa 3,250m<sup>2</sup> of GFA) will be applicable north of Marsh Street .
- Allow other additional permitted uses being 'Advertising Structures' and 'Trade Related Enterprises', responding to the gateway location adjacent Sydney Airport, and site-specific planning provisions; and,
- Promote the reclassification of Lot 14 DP213314 and Lot 1 DP108492 (Council owned and the subject of Charitable Trusts), initially from 'community' to 'operational' to ensure appropriate access, improve utility of public open space and to create contiguous boundaries. This process will remove Charitable Trust affectations. A condition precedent to this process being finalised, will be the resolution of legally binding arrangements that ensure TfNSW retains the ability to access and use the Trust Lands for the purpose of completing delivery of the M6 Stage 1 and associated infrastructure, including related land acquisitions, at no cost. Following rezoning and subdivision it is subsequently intended that Council reclassify residue RE1 parcels as 'community' by resolution.

The Proposal is a response to DPE's *Bayside West Precincts 2036 – Arncliffe, Banksia and Cooks Cove* (released August 2018) and the subsequent Ministerial Directions under s9.1 of the EP&A Act, being Local Planning Directions 1.11 Implementation of Bayside West Precincts 2036 Plan and 1.12 Implementation of Planning Principles for the Cooks Cove Precinct.

#### Description of the Indicative Master Plan

The Cooks Cove indicative master plan, as prepared by Hassell, represents an optimised and refined reference scheme, to guide best practice design and the preparation of detailed planning controls to achieve an attractive precinct with high amenity. Key features of the Cooks Cove Master Plan are:

- A net development zone of approximately 15ha with up to 343,250m<sup>2</sup> Gross Floor Area (GFA) comprising:
  - 290,000m<sup>2</sup> of multi-level logistics and warehousing.
  - 22,350m<sup>2</sup> for commercial office uses.



- 20,000m<sup>2</sup> for hotel or motel accommodation and serviced apartment uses.
- 10,900m<sup>2</sup> of retail uses.
- Multi-level logistics with building heights generally up to 5 storeys (approx. 48m).
- A retail podium with commercial office and hotel above, up to a total of 12 storeys (approx. 51m).
- Built form of a scale and composition which caters for the generation of approximately 3,300 new jobs.
- A surrounding open space precinct including:
  - A highly activated waterfront including the Fig Tree Grove outdoor dining and urban park precinct.
  - A safe and significant off-road extension to the regional Bay to Bay cycle link, 'Foreshore Walk', including active and passive recreational uses, together with environmental enhancements; and
  - Master planned and Council-owned 'Pemulwuy Park' – with an agreed embellishment outcome of passive open space and environmental enhancements to be delivered in stages post construction of the M6 Stage 1 Motorway.

## 2. Works-in-kind infrastructure contributions

**Table A**

<b>Description</b>	<b>Ref</b>	<b>Scope</b>	<b>Value</b>
Gertrude Street Extension (Marsh Street to Levey Street)	A1	<ul style="list-style-type: none"> <li>- Construction of new link road with two lanes in each direction between Levey Street and Marsh Street.</li> <li>- Road base, drainage, subsurface utility relocation.</li> <li>- New kerb and gutter, footpaths, fencing, basic landscaping, signage and lighting.</li> <li>- To be delivered pursuant to a Works Authorisation Deed (WAD), managed by TfNSW, in circumstances where Traffic Signals are approved at Marsh Street.</li> </ul>	To be quantified for draft VPA on receiving in-principal endorsement of concept scope.
Levey Street / Gertrude Street Signalised Intersection	A2	<ul style="list-style-type: none"> <li>- Conversion of existing roundabout to 4-way signalised intersection</li> <li>- Installation of traffic signals, line marking, signage, and lighting</li> <li>- Utility relocations and adjustments</li> <li>- Amendments to on-street parking in Levey Street.</li> </ul>	To be quantified for draft VPA on receiving in-principal endorsement of concept scope.

Description	Ref	Scope	Value
		<ul style="list-style-type: none"> <li>- To be delivered pursuant to a WAD, managed by TfNSW, where Traffic Signals are approved.</li> </ul>	
Gertrude Street Upgrade (Levey Street to Princes Highway)	A3	<ul style="list-style-type: none"> <li>- Widening of marked two lane road to four lanes, between Levey Street to the approach of Princes Highway.</li> <li>- Line marking and realignment of northern footpath, kerb and gutter, basic landscaping.</li> <li>- Utility relocations and adjustment to lighting</li> <li>- Works agreement between Proponent and Bayside Council. Transport for NSW involvement required if concept approval requires any alteration to Gertrude Street/Princes Highway Traffic Signals.</li> </ul>	To be quantified for draft VPA on receiving in-principal endorsement of concept scope.
Marsh Street / Gertrude Street Intersection Enhancement	B1	<ul style="list-style-type: none"> <li>- Revision to concrete medians to create northbound dual right turn bay into Gertrude Street East and southbound dual right turn bay into Gertrude Street Extension (new link road).</li> <li>- Construction of Marsh Street southbound deceleration lane to permit left turn into Gertrude Street East.</li> <li>- Installation of traffic signals, intersection, and pedestrian line marking</li> <li>- Remove traffic signals serving Innesdale Road and undertake necessary adjustments required to alter medians and linemarking to facilitate permitted movements to left in and left out only to/from Marsh Street</li> <li>- New footpaths, fencing, signage, lighting, road sheeting as required.</li> <li>- Utility relocations and adjustments</li> <li>- To be managed by TFNSW in accordance with WAD.</li> </ul>	To be quantified for draft VPA on receiving in-principal endorsement of concept scope.
Marsh Street / Flora Street Intersection Enhancement	B2	<ul style="list-style-type: none"> <li>- Revision to concrete medians to eliminate northbound right turn bay into existing M6/M8 temporary construction compound and lengthening of southbound right turn bay to M5 Motorway</li> <li>- Intersection line marking and traffic signal adjustments including new pedestrian crossing.</li> <li>- Extension of the northbound right turn bay to Gertrude Street (item B1 integration)</li> <li>- Construction of southbound deceleration / left turn bay to Flora Street east.</li> <li>- New kerb and gutter, footpaths, required adjustments to Marsh Street east cycleway</li> </ul>	To be quantified for draft VPA on receiving in-principal endorsement of concept scope.

Description	Ref	Scope	Value
		fencing, signage, lighting, road sheeting, basic roadside landscaping as required. - Utility relocations and adjustments - To be managed by TfNSW under WAD	
Gertrude Street East Extension	B3	- Beyond the Marsh Street intersection boundaries to be designed to Bayside Council requirements - Provision of a five-lane connector road to Marsh Street to boundary of Lot 100/DP1231954 - Integration of a southbound left turn slip lane into new Gertrude Street East. - Stormwater culvert consistent with flood mitigation strategy - Road base, drainage, subsurface utility relocation. - New medians, footpaths, fencing, signage, lighting - To be delivered by Proponent in consultation with Bayside Council	To be quantified for draft VPA on receiving in-principal endorsement of concept scope.
Flora Street East Extension	B4	- Provision of five-lane connector road to Marsh Street / Flora Street intersection - Maintain access to Arncliffe Motorway Operations Compound at all times. Integrate new road design and undertake necessary modifications to the road access arrangements arising from M6 Stage 1 to AMOC - Road beyond the Marsh Street intersection to be constructed to Council requirements, subject to TfNSW review and approval of access intersection with M6/M8 Arncliffe Motorway Operations Centre (AMOC) complex. - Land dedication of part Lot 100 DP1231954 and four-lane road incorporating necessary southbound AMOC access modifications and access to Lot 1/DP108492 and 40 bay at grade car parking facility. - Stormwater culvert consistent with flood mitigation strategy - Road base, drainage, subsurface utility relocation. - New medians, footpaths, line marking, fencing, signage, lighting - Pedestrian crossing to facilitate access from Lot 14 / DP213314 to Lot 1 DP108492 via Lot 100 / DP1231954	To be quantified for draft VPA on receiving in-principal endorsement of concept scope.



Description	Ref	Scope	Value
All Signalised intersections	-	<ul style="list-style-type: none"> <li>- Land to be dedicated as public road for ongoing maintenance purposes of signals (indicatively a minimum of 30 metres from the stop lines on all legs)</li> <li>- 10-year maintenance contribution by Proponent for each set of new traffic signals, or pro-rata contribution in the circumstances of modification of existing signals</li> </ul>	To be quantified for draft VPA on receiving in-principal endorsement of concept scope.
Bus stops	E1	<ul style="list-style-type: none"> <li>- Northbound and southbound bus stops to the south of the Marsh / Gertrude Street intersection. Southbound with signage, recessed bus bay (subject to TfNSW/Bayside endorsement) and shelter. Northbound bus stop signage only as it is believed there is insufficient area to accommodate a bus shelter within northbound Marsh Street road reserve.</li> <li>- To be managed by TfNSW under the WAD for intersection works on Marsh Street.</li> <li>- Maintenance agreement with Bayside Council</li> </ul>	To be quantified for draft VPA on receiving in-principal endorsement of concept scope.
Environmental Approvals	-	<ul style="list-style-type: none"> <li>- The Proponent is responsible for procuring environmental approval for the works (including requisite community consultation)</li> </ul>	To be borne by Proponent

### 3. Additional infrastructure monetary contributions

Table B

Description	Ref	Scope	Value
Pedestrian & cycle infrastructure improvements to Giovanni Brunetti Bridge	B7	<p>A number of studies, including the Bayside West Precincts 2036 Plan, have identified that active transport improvements to this TfNSW asset would benefit the Bayside Community, the Cooks Cove project, Sydney Airport and regional pedestrian and cyclists. CCI commit to a \$4,000,000 progressive contribution, payable in proportion to the completion of approved floorspace, to this, or an alternative active transport improvement to access between Cooks Cove and Sydney Airport.</p> <p>The Proponent acknowledges that this contribution is insufficient to fund the comprehensive active transport upgrade of the Giovanni Bridge, which is a Transport for NSW asset, but rather it is a contribution to be held by DPE and utilised in conjunction with other contributions to the Bayside</p>	<p>\$4m</p> <p>Further consultation with DPE</p>

		West Precincts Special Infrastructure Contribution fund for this identified or other active transport upgrade.	
Forest Road, Arncliffe – Eden Street and Firth Street intersections	E2	Contribution to road network upgrades along Forest Road, west of Princes Highway, or alternative locations as identified by TfNSW to improve the State/Regional road network or signalised intersections in the vicinity of the Cooks Cove site, or allocation as a further contribution to active transport upgrades to the Giovanni Brunetti bridge	\$4.7m

#### 4. Additional monetary contributions

**Table C**

<b>Description</b>	<b>Ref</b>	<b>Scope</b>	<b>Value</b>
Reasonable Professional Fees incurred by the M6 Stage 1 project investigating the proposed integration with the Cooks Cove project, including the proposed Pemulwuy Park on Lot 14/DP213314 and Lot 1/DP108492.	X1	<p>TfNSW have highlighted the potential for additional costs to be incurred by the M6 Stage 1 team in the investigation of the proposed integration of the implementation of the Cooks Cove Planning Proposal, including Pemulwuy Park by Bayside Council, in the alternative to implementing the exhibited Marsh Street Parklands UDLP Scheme, and sought compensation for such additional costs.</p> <p>The Proponent is agreeable in principle, however, seeks clarification as to the requested scope and quantum of compensation sought and a mechanism that limits our liability to reasonable professional costs directly incurred assessing integration options.</p>	\$ To be confirmed through Scope Resolution
Access & Flood Mitigation – TfNSW Cost Neutral Outcome intersections	X2	<p>The Cooks Cove Planning Proposal, M6 and M8 Projects must cumulatively achieve a flood compliant outcome in relation to upstream afflux, flood resiliency of the Cooks Cove Development and PMF integrity of M6 and M8 State Significant Infrastructure. Superior Public Domain, Active Transport and Infrastructure accessibility is thought attainable through an integrated approach by all landowners. TfNSW has advised they will consider alternatives to current F6 Stage 1 designs but wishes to achieve a 'cost-neutral outcome for TfNSW'.</p> <p>The Proponent is agreeable in principle, however seeks the opportunity for further collaboration with Bayside Council and TfNSW to understand the</p>	\$ To be confirmed through scope resolution



	<p>parameters required and feasibility of achieving a cost neutral outcome for TfNSW.</p> <p>The Planning Proposal has identified the proposed dedication of freehold land within Lot 100/DP1231954, at no cost, to facilitate the implementation of effective flood mitigation strategies and improved accessibility, in order to contribute to the required cost neutral outcome.</p>	
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5. Indicative diagram of works described.

Figure 1





## 6. Timing and delivery terms of contributions

The above components are intended to be delivered as follows:

- a) **Planning Agreement** – Cook Cove Inlet would enter into a Planning Agreement/s with TfNSW (and DPE, Bayside Council ) prior to the gazettal of amended planning controls the subject of this Planning Proposal. The Planning Agreement would be finalised by both parties acting reasonably within four months of the commencement of the drafting of the deed.
- b) **Works-in-kind** – Cook Cove Inlet will facilitate the implementation of the works-in-kind components identified as A1-A3, B1-B4 and E1 prior to an Occupation Certificate being issued for floorspace the subject of this Planning Proposal within Lot 100 in DP 1231954 or Lot 31 DP1231486
- c) **Monetary contributions** –
  - (i) Cook Cove Inlet to make staged payments in relation to the monetary contributions items B7 and E2 at the rate of \$25,588 per 1,000sqm (the total equivalent of \$8.7m), prior to the progressive issue of Occupation Certificates for floorspace arising from the gazettal of this Planning Proposal within Lot 100 in DP 1231954 or Lot 31 in DP1231486.
  - (ii) Cook Cove Inlet to make staged payments in relation to X1 and X2 as agreed with TfNSW in the Planning Agreement
- d) **Legal costs** – Cook Cove Inlet will pay TfNSW's reasonable legal costs associated with resolution of the Planning Agreement. We understand our liability for this contribution to be indicatively in the range of \$50,000 to \$100,000, subject to variation, depending on the complexity, number of iterations and reviews of the draft Planning Agreement and time to reach agreement on Scope of Works.

We look forward to TfNSW's response on the proposal outlined in this letter and the opportunity to collaborate on the earliest resolution of the scope of works and subsequent Planning Agreement.

Kind regards

John David Boyd  
Director