



## Approval

### Cooks Cove Southern Precinct Development, Sydney, NSW (EPBC 2016/7767)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

#### Proposed action

**person to whom the approval is granted** Cook Cove Inlet Pty Ltd

**proponent's ACN (if applicable)** ACN: 165 239 592

**proposed action** To construct an 18-hole golf course, clubhouse and associated remediation activities within the southern section of Cooks Cove, Sydney, New South Wales [See EPBC Act referral 2016/7767].

## Approval

Controlling Provision	Decision
Listed threatened species and communities (sections 18 & 18A)	APPROVE

#### conditions of approval

This approval is subject to the conditions specified below.

#### expiry date of approval

This approval has effect until 31 December 2035.

#### Decision-maker

**name and position** Kim Farrant  
Assistant Secretary  
Assessments and Waste Branch

**signature**

**date of decision**

20-7-2018

1. To limit Green and Golden Bell Frog (*Litoria aurea*) deaths during the **construction** phase, before **commencement of construction**, the **approval holder** must:
  - a. erect frog-proof exclusion fencing around the northern perimeter of the Cooks Cove southern precinct, in accordance with the frog exclusion fence map at Annexure A to this decision notice;
  - b. ensure a **suitably qualified person** undertakes pre-clearance surveys for Green and Golden Bell Frog across all development areas after the exclusion fencing is erected;
  - c. provide all Green and Golden Bell Frogs found during the pre-clearance surveys to the **Arncliffe population captive breeding program** (except where otherwise agreed by in writing by the **Department**); and
  - d. not remove the exclusion fencing mentioned in Condition 1(a) until the entire development action is fully completed, except where otherwise agreed in writing by the **Department**.
2. To compensate for impacts to the Green and Golden Bell Frog, the **approval holder** must construct the dedicated Green and Golden Bell Frog habitat areas shown in the map at Annexure B to this decision notice.

**Note:** the proposed offset package including habitat construction is expected to provide approximately five times the offset required to appropriately compensate for the impact in accordance with the EPBC Act environmental offsets policy. Therefore this approval should not prevent the **approval holder** requesting the **Minister** consider up to 80% of the value of the offset delivered as part of the action as an **advanced offset** for a future impact on the Green and Golden Bell Frog. This note is not a guarantee that any **advanced offset** proposal associated with this action will be accepted by the **Minister** for any project with a future significant impact on the Green and Golden Bell Frog.

3. The **approval holder** must prepare a Green and Golden Bell Frog Management Plan and submit it to the **Department** for approval. The **approval holder** must not **commence** the action before the Green and Golden Bell Frog Management Plan is approved. The Green and Golden Bell Frog Management Plan must provide the following:
  - a. detailed designs and planting plans for the habitat areas required by Condition 2;
  - b. draining and filling regimes for the habitat ponds required by Condition 2;
  - c. measures to exclude dogs, golfers, and the general public from entering wetland habitats for Green and Golden Bell Frogs;
  - d. measures to manage predators, particularly foxes and cats;
  - e. measures to prevent run-off harmful to Green and Golden Bell Frog (including but not limited to fertiliser, sediment, saline run-off) from the golf course from entering wetland habitats for Green and Golden Bell Frogs;
  - f. prohibitions on fertiliser, herbicides, insecticides, or other pesticides being used within 15 metres of any wetland habitats for Green and Golden Bell Frogs;
  - g. on-going weeding, trimming, rubbish removal, and mangrove management measures;

- h. monitoring regimes to ensure the habitat areas retain high water quality and remain free of amphibian chytrid fungus and *Gambusia holbrooki*; and
  - i. key performance indicators (including for population size), and adaptive management measures should the key performance indicators not be met.
4. Once the Green and Golden Bell Frog Management Plan required by Condition 3 has been approved by the **Department**, the **approval holder** must place a **covenant** on the title of the property of the proposed New Kogarah Golf Course within 1 year of the date of **commencement**. The **covenant** must:
  - a. endure in perpetuity;
  - b. require that the land owner of the proposed New Kogarah Golf Course must implement the Green and Golden Bell Frog Management Plan required by Condition 3 in perpetuity;
  - c. only permit the Green and Golden Bell Frog Management Plan be amended with the written consent of the **Department**; and
  - d. only permit the **covenant** be amended or removed with the written consent of the **Minister**.
5. The **approval holder** must prepare and submit for approval an Acid Sulfate Soils Management Plan. The **approval holder** must not **commence** the action until the Acid Sulfate Soils Management Plan has been approved by the **Department** in writing. The Acid Sulfate Soils Management Plan must:
  - a. identify risk areas and activities that may lead to soil acidification and acid run-off;
  - b. measures to minimise the risk of incidents of soil acidification and acid run-off; and
  - c. controls to prevent acid run-off from entering wetland habitats for Green and Golden Bell Frog.
6. The **approval holder** must implement hygiene measures to prevent vehicles, equipment, and materials entering the action site (as shown in Annexure A to this decision) introducing amphibian chytrid fungus or its spores.
7. Within 30 calendar days after the **commencement** of the action, the **approval holder** must advise the **Department** in writing of the actual date of **commencement**.
8. The **approval holder** must maintain accurate records substantiating all activities associated with or relevant to these conditions of approval, including measures taken to implement the Frog Habitat Management Plan required by Condition 3 of this approval, and make them available upon request to the **Department**. Such records may be subject to audit by the Department or an independent auditor in accordance with section 458 of the EPBC Act, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on the **Department's** website. The results of audits may also be publicised through the general media.
9. By 30 June of each year after the **commencement** of the action, the **approval holder** must publish a report on their website addressing compliance with the conditions of this approval over the previous 12 months, including implementation of any management plans as specified in the conditions. Non-compliance with any of the conditions of this approval must be reported to the **Department** within 48 hours of the non-compliance being identified.



10. Upon the direction of the **Minister**, the **approval holder** must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to the **Minister**. The independent auditor must be approved by the **Minister** prior to the commencement of the audit. Audit criteria must be agreed to by the **Minister** and the audit report must address the criteria to the satisfaction of the **Minister**.
11. The **approval holder** may choose to revise the Acid Sulfate Soils Management Plan approved by the **Department** under Condition 5 of this approval without submitting it for approval under section 143A of the **EPBC Act**, if the taking of the action in accordance with the revised Acid Sulfate Soils Management Plan would not be likely to have a **new or increased impact**. If the **approval holder** makes this choice, they must:
- i. notify the **Department** in writing that the approved plan has been revised and provide the **Department** with an electronic copy of the revised plan;
  - ii. implement the revised plan from the date that the plan is submitted to the **Department**; and
  - iii. for the life of this approval, maintain a record of the reasons the **approval holder** considers that taking the action in accordance with the revised plan would not be likely to have a **new or increased impact**.
- b. The **approval holder** may revoke their choice under Condition 11 at any time by written notice to the **Department**. If the **approval holder** revokes the choice to implement a revised Acid Sulfate Soils Management Plan, without approval under section 143 of the **EPBC Act**, the plan approved by the **Department** must be implemented.
- c. If the **Department** gives a written notice to the **approval holder** that the **Department** is satisfied that the taking of the action in accordance with the revised Potential Acid-forming Soils Management Plan would be likely to have a **new or increased impact**, then:
- i. Condition 11 does not apply, or ceases to apply, in relation to the Acid Sulfate Soils Management Plan; and
  - ii. the **approval holder** must implement the Acid Sulfate Soils Management Plan approved by the **Department**.
- To avoid doubt, Condition 11(c) does not affect any operation of Conditions 11, 11(a), or 11(b) in the period before the day the notice is given.
- At the time of giving written notice under Condition 11(c), the **Department** may also notify that for a specified period of time Condition 11 does not operate.
- d. Conditions 11, 11(a), 11(b), and 11(c) are not intended to limit the operation of section 143 of the **EPBC Act**, which allows for the **approval holder** to submit a revised plan to the **Minister** for approval.
12. If, at any time after five years from the date of this approval, the **approval holder** has not **commenced** the action, then the **approval holder** must not **commence** the action without the written agreement of the **Minister**.

13. Unless otherwise agreed to in writing by the **Minister**, the person taking the action must publish all management plans, reports, and **covenants** referred to in these conditions of approval on their website. Each management plan, report, or **covenant** must be published on the website within one month of being approved by the **Minister**.

## Definitions

**Advanced offset** – has the same meaning as under the **Department's Policy Statement: Advanced environmental offsets under the Environment Protection and Biodiversity Conservation Act 1999** (September 2017).

**Approval holder** – has the same meaning as under the **EPBC Act**.

**Arncliffe population captive breeding program** – the Arncliffe population of Green and Golden Bell Frogs is the population identified in Department of Environment and Climate Change (NSW) 2008, *Management Plan for the Green and Golden Bell Frog Key Population on the lower Cooks River*. Department of Environment and Climate Change (NSW), Sydney. Available at: <http://www.environment.nsw.gov.au/resources/threatenedspecies/2007391LowerCooksRiverGGBFMP.pdf>. The captive breeding program refers to the program for this population being managed by Dr. Arthur White on behalf of NSW Roads and Maritime Services.

**Clearing** – means the cutting down, felling, thinning, logging, removing, killing, destroying, poisoning, ringbarking, uprooting, burning or otherwise harming of remnant or regrowth native vegetation, or of vegetation providing habitat for any listed threatened species under the **EPBC Act**.

**Commencement** – means the first instance of any **construction** or **clearing** associated with the action.

**Construction** – means any and all works to construct any infrastructure associated with the action (excluding fences and signage), and includes preparatory and remediation works.

**Covenant** – means an enduring covenant created under section 88B of the *Conveyancing Act 1919* (New South Wales), or similar legal mechanism approved in writing by the **Department**.

**Department** – means the Australian Government Department or any other agency administering the **EPBC Act** from time to time.

**EPBC Act** – means the *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth), as amended from time to time.

**Minister** – means the Minister administering the **EPBC Act** from time to time, and includes a delegate of the Minister.

**New or increased impact** – means a new or increased impact on any matter protected by the controlling provisions for the action, when compared to the Potential Acid-forming Soils Management Plan that has been approved by the **Department**.

**Suitably licensed person** – a person will be taken to be suitably licensed to undertake pre-clearance surveys for the Green and Golden Bell Frog if that person holds a Threatened species licence under Part 2 of the *Biodiversity Conservation Act 2016* (NSW) that authorises them to capture Green and Golden Bell Frogs for this project.





Annexure A:





ANNEXURE B

