



SG/LB
09077
11 November 2016

Ms Carolyn McNally
The Secretary
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2000

Attention: Anthony Witherdin (A/Director, Regional Assessments)

Dear Anthony,

**S75W TO CALDERWOOD CONCEPT PLAN - MP 09_0082 (MOD 2)
CALDERWOOD URBAN DEVELOPMENT PROJECT**

We write to you on behalf of the proponent Lendlease Communities (the Proponent) in relation to a proposed modification to the Calderwood Urban Development Project Concept Plan (Mod 2) MP09_0082 pursuant to Section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The purpose of this modification is to ensure the orderly, efficient and timely implementation of the development that has been approved under the Concept Plan by explicitly providing for the subdivision of certain land comprising riparian / environmental corridors and environmental reserves. It seeks to ensure the Approved Concept Plan can be delivered and provides clarity with respect to the minimum lot size provision for certain lands.

There is no change to the approved land uses, nature or scope of the approved development and no change to the location, configuration or environmental outcomes in respect of the approved riparian / environmental corridors and environmental reserves.

The land comprising riparian / environmental corridors and environmental reserves that is the subject of this modification is zoned either E2 Environmental Conservation or E3 Environmental Management under *State Environmental Planning Policy (State Significant Precincts) 2005* (State Significant Precincts SEPP). Under the State Significant Precincts SEPP there is no minimum lot size shown for this land on the Minimum Lot Size Map. These are the areas shown as uncoloured on the Minimum Lot Size Map.

To implement the Approved Concept Plan, the subdivision of parts of this land will be required in order to create lots that are to be dedicated to the relevant local council for the purpose of public open space, drainage and / or roads and other public infrastructure and also to create lots that will be retained and managed by Lendlease in private ownership as part of the riparian / environmental corridors.

This modification seeks to clarify how the land may be subdivided via inclusion of a new provision specifying the subdivision requirements for the riparian / environmental corridors and environmental reserves land shown on a 'Special Subdivision Area' plan to be included in the Concept Plan. A copy of the proposed Special Subdivision Area plan is included at **Attachment A**.

1.0 BACKGROUND

1.1 Calderwood Urban Development Project Concept Plan

Lendlease Communities (Lendlease) is the proponent of the Calderwood Urban Development Project (the Calderwood Project). On 8 December 2010 the Minister for Planning determined (with modifications) the Calderwood Urban Development Project Concept Plan (MP09_0082) (the Approved Concept Plan). The Approved Concept Plan provides for the development of 700 hectares of land at Calderwood (the Calderwood Project site) for approximately 4,800 dwellings and 50 hectares of mixed use / employment land.

The Calderwood Project is to be developed in stages over an approximately 20+ year period. Following approval of the Concept Plan, on 14 January 2011 Schedule 3 of *State Environmental Planning Policy (Major Development) 2005* (now referred to as *State Environmental Planning Policy (State Significance Precinct) 2005*) was amended and the Calderwood Project site rezoned and mapped.

Together, the planning provisions at Schedule 3 of the State Significant Precincts SEPP and the Approved Concept Plan establish the statutory planning regime for the development of the Calderwood Project site.

1.2 State Environmental Planning Policy (State Significant Precincts) 2005 - Minimum Lot Sizes

Under Part 28 of Schedule 3 of the State Significant Precincts SEPP, the Calderwood Lot Size Map identifies five separate lot size categories ranging from 0m² to 400,000m².

All land within the Calderwood Project is categorised on the Calderwood Lot Size Map, except for those areas of land zoned E2 Environmental Conservation and E3 Environmental Management that comprise the riparian / environmental corridors and environmental reserves. This land is shown on the Minimum Lot Size Map as being 'uncategorised', with no specified minimum lot size.

1.3 Concept Plan Approved Minimum Lot Sizes

The Approved Concept Plan applies to the plans, drawings and documents cited by the proponent in their Environmental Assessment, Preferred Project Report and Statement of Commitments, subject to the modifications and further assessment requirements in Schedule 2 of the notice of the Concept Plan notice of determination.

Relevantly, Condition A1(1) of the Concept Plan determination states that approval is granted to the carrying out of development necessary to facilitate (amongst other things) open space and protection for environmentally significant lands.

The Approved Concept Plan includes the retention, future use and management of riparian corridors that perform a significant drainage and flooding function in accordance with a Riparian Corridor Network, and also the retention and protection of land with identified significant or contributory biodiversity for environmental conservation and / or environmental management purposes in accordance with an approved Indicative Open Space Network that identifies open space corridors and environmental reserves.

The Approved Concept Plan does not include any conditions that specifically relate to minimum lot size for the riparian / environmental corridors and environmental reserves.

However, the Approved Concept Plan does provide for:

- A minimum lot size of 100,000 m² for certain land within the E3 Environmental Management Zone, being that E3 zoned land that does not comprise riparian corridors / environmental

reserves under the Landscape and Open Space Masterplan (refer to Preferred Project Report prepared by JBA dated August 2010 pp. 2, 51 and 55); and

- No minimum lot size for all other land within the E3 Environmental Management Zone (refer to p.111 of State Significant Site Listing and Environmental Assessment Report prepared by JBA dated March 2010).

The Concept Plan does not specifically state an intended minimum lot size for the E2 Environmental Conservation Zone. This is on the basis that development for residential and other urban purposes is not permissible in this zone.

2.0 PROPOSED MODIFICATION TO CONDITION

A new condition (Condition B7) is proposed to be added to Schedule 2, Part B of the Concept Plan as follows:

Condition B7 – Riparian and Environmental Reserve Land

The land identified on the Special Subdivision Area plan prepared by Lendlease and dated November 2016 may be subdivided irrespective of the size of the lots that are created.

However, development consent must not be granted for a residential purpose or for an ecotourism facility on land identified on the Special Subdivision Area Plan that is zoned E3 Environmental Management unless the size of the lot is equal to or greater than the relevant contiguous area of land zoned E3 Environmental Management as at November 2016.

A copy of the proposed Special Subdivision Area plan is included at **Appendix A**.

3.0 JUSTIFICATION FOR PROPOSED MODIFICATION

The proposed modification is necessary to enable the orderly, efficient and timely delivery of the Calderwood Project.

The relevant areas of land that are zoned E2 Environmental Conservation and E3 Environmental Management are irregular in shape and configuration, vary in size and do not follow the existing underlying pattern of subdivision.

Various parts of the land that is zoned E2 Environmental Conservation and E3 Environmental Management under the State Significant Precincts SEPP and that is shown as 'uncategorised' on the Minimum Lot Size Map will need to be subdivided to facilitate the dedication of land for public open space, drainage, roads and/or other public infrastructure purposes to the relevant local Council.

Those parts of the land zoned E2 Environmental Conservation and E3 Environmental Management that are not to be dedicated for public open space, drainage, roads and / or other public infrastructure purposes will be retained in Lendlease / private ownership and used for purposes that are permissible in the relevant zone and that are also in accordance with the Approved Concept Plan i.e. they will be used for the primary purpose of riparian / environmental corridors and environmental reserves along with compatible land uses such as environmental facilities, community facilities, kiosks, parklands etc as is permitted under the State Significant Precincts SEPP and contemplated by the Approved Concept Plan.

It is also generally necessary to establish by subdivision the boundaries of the development footprint along the common boundary between the riparian / environmental corridor land that is zoned E2 Environmental Conservation and E3 Environmental Management and the areas of adjacent land within the R1 General Residential, R5 Large Lot Residential and B4 Mixed Use Zones

that is to be further subdivided, sold and developed for housing and other urban purposes in accordance with the Approved Concept Plan.

Because the land use zone boundaries do not follow the existing pattern of subdivision, establishing the footprint of the 'developable' lands will result in the creation of residual parcels of land within the riparian / environmental corridors and environmental reserves of varying sizes and configurations.

The subdivision and dedication of land for public purposes and the establishment of the boundaries of the developable lands will occur on a stage by stage basis over the 20+ year life of the Project at the time of each subdivision development application, as is relevant. This has already occurred with the Stage 1 Project Application approved by the NSW Land and Environment Court and also the initial stages of residential development that have been approved by Shellharbour City Council.

The application of the minimum lot size controls to the subdivision of the E2 Environmental Conservation and E3 Environmental Management Zones has led to the imposition of conditions of development consent requiring the amalgamation of residual areas of E2 Environmental Conservation and E3 Environmental Management zoned land with other areas of land elsewhere within the site that is yet to be developed on a progressive basis. It is not practical to continue to develop the site in this manner.

Therefore, in order to facilitate the orderly and efficient implementation of the Approved Concept Plan this modification seeks to explicitly clarify that the subdivision of those areas of riparian / environmental corridor and environmental reserve lands that are shown as 'uncategorised' on the Minimum Lot Size Map may occur irrespective of the size of the lots created, other than where subdivision of land within the E3 Environmental Management Zone is for the purpose of accommodating permissible residential (and associated) development.

Where permissible residential development is proposed on land shown on the Special Subdivision Area Plan in the E3 Environmental Management Zone, it is proposed that a minimum lot size at least equal to the relevant contiguous area of land that is zoned E3 Environmental Management as at November 2016 be applied.

4.0 ENVIRONMENTAL ASSESSMENT

Land within the E2 Environmental Conservation Zone

Under the State Significant Precincts SEPP permissible land uses within the E2 Environmental Conservation Zone are restricted to drainage; environmental protection works; environmental facilities; flood mitigation works; information and education facilities; kiosks; recreation areas; roads; sewerage systems; stormwater management systems; water reticulation systems; water supply systems; water bodies; waterway or foreshore management activities.

The land that is zoned E2 Environmental Conservation cannot therefore be subdivided and used for residential or other commercial / urban scale uses.

As such, the subdivision of land within the E2 Environmental Conservation Zone as is necessary to excise the various areas of land that are to be dedicated for a public purpose and also to establish the boundaries of the adjoining land that is to be developed for residential and other urban purposes as part of the implementation of the Approved Concept Plan will not result in any adverse impact on the riparian / environmental corridor values of this land.

Whilst parts of the riparian / environmental corridors will necessarily comprise separate land titles of varying size, the use and development of the land will nonetheless remain consistent with the objectives of the E2 Zone, namely to protect, manage and restore areas of high ecological,

scientific, cultural or aesthetic values and to prevent development that could destroy, damage or otherwise have an adverse effect on those values.

Regardless of the ultimate size and configuration any parcels of E2 Environmental Conservation zoned land, this land will continue to form part of the broader riparian / environmental corridors in accordance with the Approved Concept Plan. It is considered that the provisions of the SEPP, together with the Approved Concept Plan will provide sufficient protection for the ongoing retention of the riparian / environmental corridor land regardless of the individual lot sizes of the E2 Environmental Conservation land that comprises the corridor.

Land within the E3 Environmental Management Zone

Under the State Significant Precincts SEPP permissible land uses within the E3 Environmental Management Zone include bed and breakfast accommodation; building identification signs; business identification signs; community facilities; drainage; dwelling houses; eco-tourism facilities; environmental facilities; environmental protection works; flood mitigation works; home-based child care; home businesses; home industries; information and education facilities; kiosks; recreation areas; roads; sewerage systems; stormwater management systems; water reticulation systems; waterbodies; waterway or foreshore management activities.

Because the E3 Environmental Management Zone allows development for the purpose of dwelling houses (and other associated residential uses such as bed and breakfast accommodation, home businesses, home industries, home based child care etc) and also for some limited commercial activity in the form of eco-tourism facilities, it is proposed that where the E3 Environmental Management land is to be subdivided for these uses that the minimum lot size should be such that it does not result in fragmentation of the relevant area of E3 Environmental Management land.

By requiring the minimum lot size within the E3 Environmental Management Zone to be at least equal in size to the relevant area of contiguous land zoned E3 as it existed as at November 2016, in order for residential or eco tourism facility development to be approved, it is considered that sufficient protection will be provided to ensure that any subdivision proposal and subsequent development potential remains consistent with the objectives of the E3 Environmental Management Zone namely to protect, manage and restore areas of special ecological, scientific, cultural or aesthetic values, and to provide for a limited range of development that does not have an adverse effect on those values.

It is not considered necessary for the same limitation on lot size to be imposed for development for the purpose of other permissible land uses, which do not have the potential to result in adverse impact to the environmental attributes of the land.

For clarity, it is therefore proposed to articulate clearly in the Concept Plan that the E3 Environmental Management zoned land may be subdivided, irrespective of the lot size that results, as long as the land is not to be used for a residential or eco tourism facility purpose i.e as long as it is used for a purpose consistent with its identification as a riparian / environmental corridor or environmental reserve under the Approved Concept Plan including those compatible land uses that are permitted in accordance with the relevant land use zone.

Approved Concept Plan

The modification does not change, in any way, the approved dwelling yield of the Project and does not give rise to any change to the environmental outcomes for riparian and environmental lands as otherwise envisaged and approved by the Concept Plan.

It is considered that the proposed modification will clarify the intention with respect to how the subdivision of land within the riparian / environmental corridors and environmental reserves is to occur consistent with that which has always been contemplated by the Concept Plan and in a manner that is consistent with implementation of the Concept Plan as approved.

5.0 CONCLUSION

The proposed amendment seeks to remove the potential for any ambiguity and provide ongoing certainty for Lendlease in the delivery of this key project.

In view of the above, and in the absence of any adverse environmental impacts, we support a S75W Modification Application to modify the Concept Plan (Mod 2).

I trust this is all the information you require at this stage, however should you have any queries regarding this matter or require any further particulars then please do not hesitate to contact me on 9956 6962 or lbull@jbaurban.com.au.

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Lesley Bull', with a stylized flourish at the end.

Lesley Bull
Director