

Attachment A

Calderwood Concept Plan Mod 2 – Response to Submissions



Submission		Lend Lease Response
K & P Blisset		
1.	We were informed that the Lend Lease Concept Plan shows a part of our property designated as a park with a walkway up to the park through our private property. As Lend Lease indicated to us they are not interested in purchasing our property this park may have a bearing on us being able to sell our property if this is the case could this park be excluded from the Lend Lease Concept Plan?	<ul style="list-style-type: none"> The approved Concept Plan does not show or propose that the Blissett land is to be used for a park, environmental reserve, open space corridor or bushland etc on the approved Indicative Open Space Network. It is not proposed to be used as a park nor for the provision of public access. The approved Concept Plan does identify that part of the Blissett land has environmental significance both in respect of vegetation and riparian corridor function and this is reflected on the approved Concept Plan drawings. Accordingly, part of the land is shown on the Environmentally Significant Lands, Riparian Corridor and Water Cycle Management drawings that form part of the approved Concept Plan. These drawings do not imply dedication of any part of the land for a public purpose, nor the provision of public access across the land. State Environmental Planning Policy (State Significant Precincts) zones part of the land E3 Environmental Management.
2.	We are also very concerned about flooding in this area. As we have lived on this property since 1965 and have seen some very destructive floods.	<ul style="list-style-type: none"> There are no changes proposed to the physical aspects of the development as part of this modification application. The flooding impacts have already been separately assessed as part of the Concept Plan process and as a result a number of flood mitigation strategies have already been approved as part of the Concept Plan.
Wollongong City Council Submission		
3.	It is considered the information submitted with proposed modification is not clear and further information is required to clarify the proposal. The letter provided by JBA does not clearly identify whether they are seeking a modification to the Special Subdivision Area shown on the Special Subdivision Area map (dated November 2016) or to all E2 and E3 zoned lands currently mapped within the Calderwood site under the SEPP that have no defined minimum lot size.	<ul style="list-style-type: none"> The proposed modification relates to all of the E2 Environmental Conservation, E3 Environmental Management and RE1 Public Recreation land which is currently shown uncoloured on the minimum lot size map under State Environmental Planning Policy (State Significant Precincts) and is therefore not subject to a minimum lot size control under that instrument. The modification proposes to define a Special Subdivision Area in relation to this area of land only. The purpose of the concept plan modification is to clarify and make it abundantly clear that there is no minimum lot size applicable to the subdivision of the E2, E3 and RE1 lands within the proposed Special Subdivision Area. The application does not propose to amend the State Significant Precincts SEPP. However, it is open to the Department to elect to amend the SEPP if it deems it appropriate to do so. This could be undertaken concurrently or at a later time by way of a separate process and as such in our view would not need to delay the modification application.
4.	It is noted the Special Subdivision Area Plan appears to have two (2) colours with blue and darker blue shading which does not fall within the Wollongong City Council Local Government Area.	<ul style="list-style-type: none"> This is a drafting error. All the land coloured on the draft Special Subdivision Area map should be the same the colour. Please see the revised map at Attachment B to this letter confirming this intention.

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<p>5.</p>	<p>Concern is raised as including a minimum lot size, would compromise the objective of the E3 zoning within the SEPP. The determining authority should assess the potential environmental impacts of the proposed modification for the SEPP which outlines the core objectives for E3 zoned land as follows:</p> <ul style="list-style-type: none"> • To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values. • To provide for a limited range of development that does not have an adverse effect on those values. <ul style="list-style-type: none"> • It is not proposed to include a minimum lot size for land within the Special Subdivision Area. Rather, it is proposed to confirm that there is no minimum lot size applying to land within the Special Subdivision Area. • In order to deliver the Calderwood Development it will be necessary to subdivide some of the E3, E2 and RE1 land shown within the Special Subdivision Area for the purposes of creating lots of varying sizes to establish road corridors, public recreational parks, drainage etc, which will as a rule be dedicated to the relevant Council. It will also be necessary to subdivide along the boundary of the land zoned E3, E2 and RE1 within the Special Subdivision Area to create the adjacent developable areas that are to be subdivided and developed for housing and other commercial activities. As part of the subdivision and development application process this results in the creation of residual parcels of land within the Special Subdivision Area that are of varying sizes. These parcels will either be owned by a public authority if they are to be used for a public purpose, or they will be retained in private ownership and used for a purpose that is permissible in the relevant land use zone. • For example, the current development application for Stage 2C results in the creation of a parcel of land to accommodate Environmental Reserve No 4, located to the east of the new spine road (Escarpment Drive) and to the south of the schools precinct. The reserve has an area of some 2.86ha and at this stage will remain in private ownership. This residual allotment needs to be created and is a result of the subdivision of this stage. It is not possible to consolidate this disparate parcel of land with adjoining areas, as they are required for public purposes such as drainage, parklands and schools. The creation of this allotment will not undermine its conservation values. Further, this reserve located adjacent to the co-located schools precinct has the potential to provide scientific and educational value for students and visitors and foster knowledge of conservation lands. The proposed modification does not override Schedule 3, Division 2, clause 8 of the State Significant Precincts SEPP which requires a consent authority to have regard to the objectives for development when determining a development application. Consequently, any application made for subdivision within the Calderwood development area would need to demonstrate consistency with the relevant zone objectives. The proposed modification will not undermine the protection, management or restoration of areas with special ecological, scientific, cultural or aesthetic values. To the contrary, it will facilitate the appropriate management of these areas either in public ownership, or in private ownership.

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6.	<p>More information would be required in order to provide comment, including but not limited to:</p> <ul style="list-style-type: none"> a) A map showing what areas are proposed to be dedicated as public open space, drainage corridors, roads etc; b) A zoning map, and the minimum lot size map, with the dedication and their proposal overlaid; and; c) An updated concept plan to reflect the modification proposal. 	<ul style="list-style-type: none"> • As the final subdivision layout is not yet known at this time, it is not possible to provide a map which shows all areas / boundaries of lands proposed to be provided as open space, drainage corridors, roads and the like. These details can and should only reasonably be determined at the time that the detailed subdivision design of each stage of the development is finalised in consultation with the relevant Council. This enables the relevant Council to assess and confirm the appropriate quantum and location of public lands as part of a detailed DA assessment. This process has been successfully occurring with the subdivision design for each stage of development that has occurred within the Shellharbour LGA to date. Each detailed subdivision DA proposes the final areas, configuration and location of all lands that are required for a public purpose and are to be dedicated to the Council with final details determined as part of the relevant subdivision DA assessment in consultation with the Council. Each DA also proposes the inclusion of any residual areas of land zoned E3 or E2 that are not to be transferred to the Council for a public purpose into lots that are to be retained and managed in private ownership ensuring that there is an appropriate outcome commensurate with the environmental significance of the land. • Further it would not be desirable to attempt to lock in a detailed subdivision plan as the land is to be developed in a considered and systematic manner via a staged approach. This will require flexibility as to the appropriate layout to accommodate a variety of factors over time such as Council's preferences in relation to the location and configuration of public lands, likely environmental impacts of the proposed development, and proposed ownership and management arrangements. Accordingly, it is important to retain the inherent flexibility of the Concept Plan to enable the project to adapt and change over time. • That said, to assist the understanding of the proposed modification, we have prepared a zoning map with the minimum lot size map overlain to clearly demonstrate that the proposed modification only relates to uncoloured land that is zoned E2, E3 and RE1 zones (see Attachment C). • This is a relatively minor modification and in our view there is no need to update the Concept Plan to reflect the proposal other than in the manner proposed (ie by inclusion of a Special Area Subdivision map and provision). No change to the approved Concept Plan is otherwise proposed.
7.	<p>Overall it is considered that E2 and E3 zoned land should be consolidated into riparian areas and public reserves and not be subdivided to align with zone objectives.</p>	<ul style="list-style-type: none"> • To date, there is no agreement from relevant public authorities to accept consolidation of the existing fragmented riparian corridors and public reserve lands into public ownership. This outcome may be negotiated at the time of detailed DAs. If Council were to propose to Lendlease that it wished to take ownership of all E2 and E3 zoned land, it would be possible

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		<p>for Lendlease to facilitate the consolidation of these lands and their dedication to the Council. Otherwise, these lands, which are already fragmented, will need to be retained in multiple parcels in private ownership.</p> <ul style="list-style-type: none"> It is the intention of Lendlease to subdivide the land according to its riparian and public purposes and also to ensure the ongoing management/ownership of those spaces is appropriately resolved via each detailed subdivision DA. The detailed subdivision DAs, as with all DAs, will be subject to thorough environmental assessment with a view to ensuring that environmental objectives of the zones are achieved.
8.	Alternatively, a provision which enables subdivision of split zones similar to Clause 4.1A of the Wollongong Local Environmental Plan 2009 could be considered.	<ul style="list-style-type: none"> Utilising a clause similar to clause 4.1A in Wollongong LEP 2009 would not assist with the delivery of the Calderwood Development as parts of the E3 zone will need to be subdivided into smaller lots to enable dedication of land for the purposes of roads, open space, reserves and the like and to create the boundaries of the developable lands (residual lots). The issue is not the land use zoning but clarifying the lot size provisions so that they can appropriately facilitate the development contemplated in the Concept Plan, including the provision of open space, reserves, roads and the like.
Shellharbour City Council Submission		
9.	It would appear that this MOD 2 is proposed following a condition of consent that has been imposed on DA663/2015 – Stage 2B requiring the residue lots that are uncoloured on the lot size map be consolidated to achieve 40 hectares' minimum lot size in accordance with SLEP 2000 for subdivision in the Rural 1(a) zone.	<ul style="list-style-type: none"> Lot consolidation to achieve a minimum 40ha area is not possible, particularly for the four (4) disparate parcels of E2/E3 zoned land. Requiring the creation of 40 ha parcels would prevent the orderly and efficient subdivision of the developable areas of the land for residential and other purposes in accordance with the approved Concept Plan. For example and as noted above, the current development application for Stage 2C requires the creation of allotments to accommodate residual parcels of land, to create an allotment for Environmental Reserve No 4 and to also create drainage and riparian allotments (separate parcels) that are well below the minimum lot size provisions (40ha). Environmental Reserve No 4 is only 2.86ha. The land, subject of this application, requires the subdivision of uncoloured lands on the minimum lot size map that are below the 40ha provision in order to appropriately give effect to the Concept Plan.
10.	It is noted that the applicant does not seek to modify Clause 18(4) of the State Environmental Planning Policy (State Significant Precincts) 2005, which appears to prohibit all subdivision less than 40 hectares at Calderwood. It has been used to prevent the fragmentation of the riparian zones and open space networks that are on the Rivulet flood plain.	<ul style="list-style-type: none"> Each detailed subdivision DA will still need to be considered on its own merits including by reference to flooding impacts and the environmental objectives of the relevant zones. It is not the intention of Lendlease to fragment the ownership of the riparian zones and open space networks but rather to facilitate the delivery of public infrastructure within these zones such as drainage, public recreation facilities, reserves and roads. Many of the areas of land required to be set aside for these public purposes will have an area less than 40ha (particularly given the existing pattern of subdivision). Any land in the riparian zones that is

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		<p>not required for a public purpose will be retained in private ownership by Lendlease until such time as a suitable entity is found to manage the areas in perpetuity. This application does not propose to amend the State Significant Precincts SEPP and nor does Lendlease consider it necessary.</p> <ul style="list-style-type: none"> This is because of the operation of Clause 3B(2)(a) and 3B2(f) of Schedule 6A of the Environmental Planning and Assessment Act 1979 (EP&A Act). In relation to development for which a concept plan has been approved under repealed Part 3A of the EP&A Act. In relation to development for which a concept plan has been approved under Part 3A, Clause 3B(2)(a) of Schedule 6A provides that “if Part 4 applies to the carrying out of the development, the development is taken to be development that may be carried out with development consent under Part 4, <u>(despite anything to the contrary in an environmental planning instrument)</u>”. Accordingly, consent can be granted to lots smaller than 40ha despite Clause 18(4) subject to greater clarity being provided in the Concept Plan. This modification seeks to provide greater clarity in respect of the special subdivision area. Notwithstanding, it is open to the Department to amend the SEPP if it considers it warranted. However, this process could be undertaken concurrently and therefore could be achieved without delaying determination of the modification application.
11.	The proposal to have no specific minimum lot sizes is not supported. The applicant should prepare a specific lot size map for all parts of the uncoloured area.	<ul style="list-style-type: none"> As previously stated this is an impractical exercise to do as the final lot layout is not yet known and will only be determined on a stage by stage basis once the detailed design is undertaken, such as drainage design and the like. It is noted that the Calderwood Development is to occur over a 20 year period and issues relating to long-term ownership and management of this land is still being resolved. As such the controls relating to this issue need to remain flexible to maximise the opportunity to accommodate the most appropriate outcome in relation to ownership and management of the riparian lands. It is noted that Shellharbour Council has requested that the final location, configuration and boundaries of lands that are to be dedicated for a public purpose be proposed with each detailed subdivision DA enabling a detailed assessment and decision at the appropriate time. Generally, a proposed land ownership plan accompanies each application and addresses the areas of land needed for drainage and open space purposes, and other purposes as necessary.
12.	Any lot created must a) have no dwelling entitlement. b) have a restriction on title requiring the land be kept in the ownership of Lend Lease unless Council approves the dedication of the land for the	<ul style="list-style-type: none"> Statement of Commitment No. 4 states the following: <i>The Proponent will dedicate the riparian corridor and adjoining open space/drainage lands identified as Items E2 01, 02 and E2 03, and RE1 01-02, RE1 04, RE1 09, RE1 12, RE1 15, RE1 22 and RE1 28 on the Land Ownership Options Plan included at Appendix H of the Consolidated Concept Plan prepared by JBA dated March 2011 (previously referenced as Appendix I of the Preferred Project Report prepared by JBA Urban</i>

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	purpose of a reserve. This is required to ensure that Statement of Commitment No. 4 is not undermined.	<p><i>Planning Consultants Pty Ltd dated August 2010) prepared by JBA Urban Planning Consultants Pty Ltd dated August 2010 to the Department of Lands free of cost and “under reserve” on a stage by stage basis, subject to the agreement of the Department of Lands to take ownership of this land.</i></p> <p><i>If the Department of Lands does not agree to take ownership of this land, subject to the underlying land use zone, the Proponent will identify a suitable alternative public or private land ownership option at the relevant subdivision stage. Any land to be transferred into public ownership in accordance with this commitment will be subject to an identified management regime. The land will only be transferred upon completion of any agreed embellishment and a suitable period of maintenance (eg 3 years).</i></p> <p>A restriction on dwelling entitlements is not considered necessary as land use is already controlled by way of the zoning of the property. Land within the E3 zone has a dwelling entitlement under the provisions of the SEPP. Dwellings are not permitted in the E2 zones. There may be instances where dwellings are a suitable and appropriate land use in the E3 zone following an environmental assessment and the implementation of any necessary mitigation measures (such as any relevant asset protection zone/s or building envelope control). This will be subject to further environmental assessment requirements.</p>
13.	Any lot created must not be able to be consolidated with any adjoining residential allotment.	<ul style="list-style-type: none"> • Such a restriction would be inconsistent with the approved Concept Plan and unnecessarily restrictive in terms of the resolution of E2 or E3 zoned lands that are required to be retained in private ownership. Dwelling Houses and Eco-tourist facilities are permissible within the E3 zone. There is no planning reason that land zoned E2 or E3 that Council will not accept as land required for a public purpose should not be able to be consolidated with adjoining land that has development potential and retained and managed in private ownership.
14.	The applicant’s justification that it is not practical to consolidate the E2/E3 zoned residues as subdivision progresses is not substantiated. Specific minimum lot sizes should be implemented for different E2/E3 zoned areas to prevent its fragmentation, and the proposal to permit dwellings and ecotourism on E3 zones that are contiguous is not supported.	<ul style="list-style-type: none"> • If this requirement were to be implemented it would mean that Lendlease could not dedicate parcels of land such as new public parks, roads or drainage to Council on a stage by stage basis. Further this requirement would not be consistent with the Concept Plan. • The proposal does not seek to alter the existing permissible land uses in the E3, E2 or RE1 zones. Rather it seeks to allow for the consolidation of existing lots zoned E3, E2 or RE1 that are already less than 40 ha with other parcels of land which may or may not result in a lot area of 40ha. A restriction is proposed in draft condition B7 which would prevent these lots being further reduced in area.
15.	The areas that are uncoloured on the lot size map were never intended to be developed, whereas other parts of the Concept Plan area specify minimum lot sizes for the E3 zone (shaded maroon and red) and it is those areas that were identified as being permissible for dwellings, B&B and ecotourism only. In this	<ul style="list-style-type: none"> • The Concept Plan has always proposed development on land shown uncoloured on the lot size map for purposes permissible in the relevant zone, and particularly for purposes such as roads, drainage, footpaths, cycleways, utilities, public recreation facilities and the like which are to be located within these areas.

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<p>regard B7 should be adjusted as follows:</p> <p>Condition B7 – Riparian and Environmental Reserve Land <i>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.</i> <i>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.</i></p>	<ul style="list-style-type: none"> • The first district park in Stage 1 (c3.8ha) is located on “uncoloured land” zoned E3 and is due for completion at the end of the year. • The first local park in Stage 1A is also located on “uncoloured” land zoned E3 and is now complete. • The modification does not seek to alter where development for a residential or Eco tourist facility is permissible. Rather it clarifies that where one of these facilities is proposed, any subdivision in relation to these facilities cannot further reduce or fragment the size of the existing lot. This is intended to protect these areas of land in a manner commensurate with what Council is requesting. • It is noted that many of the existing lots in the E2, E3 and RE1 zones are already less than 40ha in area. • To provide further safeguards that rigorous environmental assessment of proposed subdivision that results in the creation of an allotment that may accommodate permissible uses, we recommend that the proposed condition B7 be modified as follows: <p>Condition B7 – Riparian, Environmental Reserve and Open Space Land</p> <ol style="list-style-type: none"> 1. <i>The land identified on the Special Subdivision Area plan prepared by Lendlease and dated March 2017 may be subdivided irrespective of the size of the lots that are created.</i> 2. <i>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 on which the development is proposed is equal to or greater than the relevant contiguous area of land zoned E3 Environmental Management as at March 2017.</i> 3. <i>In granting consent to the subdivision of land identified on the Special Subdivision Area plan the consent authority must take into consideration the following:</i> <ol style="list-style-type: none"> a. <i>A plan showing whether each of the lots to be created as part of that application is proposed to be retained in public or private ownership, and details of the public purpose of any lands that are proposed to be dedicated to the relevant Council;</i> b. <i>A plan showing the relationship of any lot to be created as part of that application and proposed to be retained in private ownership to the anticipated pattern of future development under the Concept Plan on immediately adjoining land;</i> c. <i>Whether the permissible uses of any lot proposed to be created as part of that</i>

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		<i>application and retained in private ownership (whether or not the lot also includes land located outside of the Special Subdivision Area) is consistent with the objective of protecting the ecological, scientific, cultural or aesthetic values of the land identified on the Special Subdivision Area plan.</i>