

17 July 2020

RESPONSE TO SCC COMMENTS ON CONDITIONS AND STATEMENTS OF COMMITMENT

Table 1 SCC

Condition/SoC	SCC Comment	Lendlease Response
Condition A1- Development Description	Council is concerned that this condition is proposed to be amended to refer to documents that are not the latest documents submitted to the Department and that the latest documents are not yet satisfactory to justify the proposed modification these include but are not limited to Water Cycle and Flood Management Strategy, Traffic and Transport response and Open Space provisions. Council has no suggested rewording at this time due to the inadequacies of the documents lodged with the application.	Noted, while to clarify, the documents referred to in the latest response were up to date at the time of lodgement. The intention being that the consent would refer to the most up to date documents at the time of consent.
Condition A2 – Development in Accordance with Plans and Documents	Council is concerned that this condition is proposed to be amended to refer to documents that are not the latest documents submitted to the Department and that the latest documents are not yet satisfactory to justify the proposed modification. eg Water cycle and Flood Management Strategy, Traffic and Transport response and Open Space provisions. Council has no suggested rewording at this time due to the inadequacies of the documents lodged with the application.	Noted, while to clarify, the documents referred to in the latest response were up to date at the time of lodgement. The intention being that the consent would refer to the most up to date documents at the time of consent.
C9 – Urban Design – Town Centre	Council is not agreeable to the removal of this condition as it is of the view that the condition should remain and be reworded to allow a master planned approach to the siting and design of buildings as well as an emphasis on design and fabric outcomes. The intent of the condition should provide opportunities to ensure that the future planning of the town centre is underpinned by strong design criteria. A review of the new DCS provisions do not sufficiently deal with this. The principles in the amended DCS are high level and lacking detail that allows proper interpretation of a desired character. The potential consequence will be a built-form outcome that lacks consistency and results in design conflict. A more detailed examination of the street network and public domain, land use mix, built form and design guidelines are required to provide clarity in the desired character. It is important to note that Council is about to receive a development application for Town Centre South – with no master planning or suitable controls available to Council.	The Urban Design report submitted with the Concept Application is considered to provide a strong indication as to how the Town Centre and surrounding residential precincts are likely to be developed in the future. This also backed up by the principles contained in the DCS. The B4 zone within Calderwood town centre has an area of 160 ha. It is not feasible to provide a mix of uses across such a large area and as such Mod 4 proposes to create high density, primarily residential area in the town centre south and east precincts which will support the viability of the Town Centre core which will accommodate the retail and commercial floorspace. Further to the above, there is merit in concentrating all of retail and commercial space in the Town Centre core as:

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	<p>The Town Centre has transformed from the current CUDP significantly and warrants master planning of the proposed 'Town Centre Residential Areas' and 'Town Centre (Retail)' at a minimum. The masterplan will then better inform future design controls around things like built form, accessibility and pedestrian movement as well as active street fronts, and provide some assurance to Council that the Town Centre will be cohesive and successful. Treatment of the interface of the Town Centre Residential - South with the Town Centre and Stage 3A is also very important. The information currently proposed under Section 1.8.3 of the DCS can assist with the preparation of a masterplan.</p> <p>The master planning should be informed/ supported by documentation such as a retail strategy on the basis that much of the B4 mixed use zoned land is now proposed for residential use.</p> <p>Based on the above, it is recommended that condition C9 be retained and reworded to read:</p>	<ul style="list-style-type: none"> • The proposed core retail and education precinct is appropriate in scale and has agglomeration benefits by focussing development on main roads such as Calderwood Road. Consolidation of these uses increases the viability of businesses without reducing employment potential. • The greater separation of residential and non-residential land uses solves potential land use conflicts (condition C9) • The DCS and Urban design report have demonstrated that the town centre core can accommodate the required non-residential floorspace without requiring amendments to the existing planning controls.
	<p>C9 Urban Design – Town Centre</p> <p>Prior to the first application for the Town Centre (Retail and Residential), a masterplan must be developed in conjunction with and to the satisfaction of Shellharbour City Council. The Masterplan must be developed together with a supporting Development Control Strategy for the various Town Centre areas to encourage the following:</p> <p>a) Suitable interface treatments between the nominated Town Centre Retail and Town Centre Residential Areas.</p> <p>b) Minimisation of land use conflicts through distribution of uses including the consideration of noise, odour, air quality, hours of operation, parking and commercial waste.</p> <p>c) Buildings should address and define streets providing a relatively continuous street frontage for safe and attractive circulation.</p> <p>d) Maximise active ground floor uses as possible and entrances located directly off the main street.</p> <p>e) Provide weather protections for pedestrians in public areas in the form of awnings, sails or other climate appropriate methods.</p> <p>f) The creation of a high quality public domain, including equity of access.</p> <p>g) Appropriate setbacks and interface to the cemetery.</p>	<p>We continue to consider that condition C9 is no longer required due to the certainty that the DCS and Urban Design report. However, should the Department agree with Council we would request that the condition be worded as per the following...</p> <p>C9 – Urban Design -Town Centre</p> <p>Prior to the first application for development in the Town Centre Core, a strategy is to be development and submitted to the Department of Planning for approval, to encourage the following:</p> <p>a) Minimisation of land use conflicts through distribution of uses including the consideration of noise, odour, air quality, hours of operation, parking and commercial waste.</p> <p>b) Buildings should address and define streets providing a relatively continuous street frontage for safe and attractive circulation.</p> <p>c) Maximise active ground floor uses as possible and entrances located directly off the main street.</p> <p>d) Provide weather protections for pedestrians in public areas in the form of awnings, sails or other climate appropriate methods.</p> <p>e) The creation of a high quality public domain, including equity of access</p> <p>f) Appropriate setbacks to the cemetery.</p>
C12- Local Infrastructure Contributions	<p>Council does not support the proposed amendments to this condition as proposed in the 5 May 2020 document. In this regard, it is considered inappropriate to lessen the certainty of Local Infrastructure Contribution by specifying 'or as otherwise agreed with the relevant Council'.</p>	<p>We note that this amendment was included at the request of Council. Lendlease is happy for this to be reverted as was originally drafted.</p>

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	<p>The requested modification to condition A2 (3) specifying that the development that occurs must be generally in accordance will give the level of flexibility needed to consider any alternative provisions under this condition.</p> <p>Council would also like to highlight that the proposed modified areas of land and floor spaces have not been agreed to by Council or negotiated through any letter of offer to enter into a VPA by the proponent.</p> <p>The condition should also read C12 (d) a – d not g-j It is assumed that this is a typing error.</p> <p>Council is currently negotiating the upgrade of Calderwood Road outside of the project area as required under the existing condition C12(d) (a) and recommends that the condition be made clearer and state that the road must be to a standard agreed to by Council and a clear timeframe specified. This will then also link to a revised Commitment 23 and the TMAP. Based on the above it is recommended that subject to the land areas and floor spaces being agreed upon the condition be reworded to:</p>	<p>Yes, agreed that this was a typo. It should reach a – d.</p> <p>Lendlease notes that this matter has been subject to ongoing discussions and further clarification from Cardno on the requirements for Calderwood Road, and does not, as a result, support the amendments proposed. Council's recommendation is requiring upgrades over and above that is necessary to serve the development or provided elsewhere in the locality.</p>
	<p>Condition C12 – Local Infrastructure Contributions</p> <p>The requirements for local infrastructure for all development carried out pursuant to this Concept Plan approval shall be generally in accordance with the following;</p> <p>a) Community facilities – the following community facilities as identified Appendix K of the Preferred Project Report are to be provided:</p> <ul style="list-style-type: none"> a. A temporary community centre (approximately 120-150m²) b. A permanent community centre (approximately 1,120m²), including the dedication of 4000m² land; and c. Monetary contributions towards library facilities, equivalent to 780m² floor space. <p>b) Open Space – the following open space areas are to be provided:</p> <ul style="list-style-type: none"> a. A total of approximately 21.84ha of open space (made up of local parks, district parks and city-wide parks); and b. Sports fields/active open space of approximately 21.96ha, <p>Note: the area identified as Johnson's Spur and the ancillary open space areas (made up of drainage reserves and riparian corridors) are not to be included in the open space contributions.</p> <p>c) Local Roads – contribution towards the following road works are supported. The total cost, apportionment and timing of these works shall be determined in consultation with the Department of Planning, Industry and Environment:</p> <ul style="list-style-type: none"> a. Upgrade of Marshall Mount Road (referred to in the TMAP as 22, 23 & 24); b. Upgrade of Yallah Road from Marshall Mount Road to Haywards Bay Drive (referred to in the TMAP as 25); c. Upgrade to the intersection of Marshall Mount Road and Yallah Road (referred to in the TMAP as 36); d. Construction of the Tripoli Way extension (referred to in the TMAP as 14, 15 & 16); e. The construction of the intersection of Tripoli Way with the Illawarra Highway (referred to in the TMAP 30); 	<p>Lendlease agrees with the amendments proposed, with the exception of c12(d)a. whereby we propose that the condition read as the following:</p> <p>d) Other Road Works – the following road works are needed to directly access to site and are therefore not to be included in the S7.11 framework. These will be required as per conditions of approval and the timing will be determined as part of future subdivision approval.</p> <ul style="list-style-type: none"> a. The upgrade of Calderwood Road from the site boundary to Tripoli Way extension (referred to in the TMAP as 32) to be delivered as a two lane major collector rural road designed in accordance with the Austroads Standards prior to the issue of an occupation certificate for any retail use within the Calderwood Town Centre Core; <p>It is noted that Lendlease is no longer pursuing the additional 5,000m² retail floor space within the Town Centre and with this reduction the level of traffic Calderwood undoubtedly need only be a two lane road.</p>

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	<p>d) Other Road Works – the following road works are needed to directly access to site and are therefore not to be included in the S7.11 framework. These will be required as per conditions of approval and the timing will be determined as part of future subdivision approval.</p> <p>a. The upgrade of Calderwood Road from the site boundary to Tripoli Way extension (referred to in the TMAP as 32) to be delivered to a standard agreed to by Shellharbour City Council and prior to occupation of Stage one of the Town Centre Retail or by the end of year 2027 whichever occurs first;</p> <p>b. Construction of the internal north-south sub arterial road (referred to in the TMAP as 33, 34 & 35);</p> <p>c. Upgrade of the intersection of the Illawarra Highway and Yellow Rock Road to provide site access (referred to in the TMAP as 37).</p>	
Statement of Commitments	The following comments specifically relate to the proposed amendments to the Statement of Commitments of the Concept Plan Approval.	
	a) General comment – the latest version of the proposed modification to the Statement of Commitments (dated April 2020) introduces the term ‘Relevant landowner/applicant’ into the responsibility/timing column. On occasion, this term has been used where the actual commitment refers to the ‘Proponent’ and may lead to confusion when interpreting and implementing the commitment. Definitions need to be provided as part of the approval and commitments reworded where necessary to clearly specify whether it is a commitment specifically relating to individual developments within the project or the project as a whole.	We note that this term is not new and has been proposed since lodgement of the original modification application.
	b) Commitment 2 – Council have not agreed to take ownership of the Johnston’s Spur Area. Therefore, the reference to Council in this commitment should be removed. In the event that the Department of Lands does not agree to take ownership of Johnson’s Spur, the Developer should explore all options for its future ownership and conservation. This should include providing a mechanism(s) such as funding and management plans, to control and manage the land to promote greater opportunities for ownership/ stewardship.	We seek that this is SOC is not changed.. The commitment already includes wording which allows for alternative land ownership options if Council or the Department of Lands do not agree to take ownership.
	c) Commitment 3 – The example of a suitable maintenance period for the Environmental Reserves should be amended to 5 years as recommended in Council’s earlier submission	We seek that this SOC is not changed, given that . 3 years is a standard period and has been implemented in this manner to date on the site.
	d) Commitment 4 – As per the comment above – The example of a suitable maintenance period for the Riparian Corridors should be amended to 5 years as recommended in Council’s earlier submission.	We seek that this SOC is not changed, given that 3 years is a standard period and has been implemented in this manner to date on the site.
	e) Commitment 5 – The proposed changes to the commitment are not accepted by Council as they are part of a wider unresolved issue relating to the application of possibly multiple VPA’s and the appropriate provision of community infrastructure. The commitment has been amended to recognise multiple developers and possibly multiple VPAs to be entered into which solely relate to those items that are required for each individual land owner/developer. It should also be demonstrated that all relevant landowners are agreeable to the commitments being made by Lendlease on their behalf. The commitment does not acknowledge infrastructure that serves demand across ownership boundaries e.g.	We can advise that the non-core landowners have now entered into VPAs with DPIE and Wollongong Council and we understand that negotiations are progressing for contributions wit Shellharbour City Council.

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	community centre, district parks etc. The Department should not determine the application until this issue is resolved to the satisfaction of Council.	
	f) Commitment 6 – Council is currently not in a position to agree with Appendix M as it relates to unsettled issues of open space provisions, embellishment and delivery. It should also be demonstrated that all relevant landowners are agreeable to the commitments being made by Lendlease on their behalf. The Department should not determine the application until this issue is resolved to the satisfaction of Council.	Clarifying that the open space provision proposed in the non-core landowners application is consistent with the development applications that have been lodged with Council. We note that the non-core landowners have not objected to this part of the modification application.
	g) Commitment 7 – Council is currently not in a position to agree with Appendix M as it relates to unsettled issues relating to the provision of community infrastructure.	A letter of public benefit has been issued to Council. Lendlease is awaiting a response from Council in this regard.
	h) Commitment 8 – Council is currently not in a position to agree with Appendix M as it relates to unsettled issues relating to the provision of community infrastructure.	A letter of public benefit has been issued to Council. Lendlease is awaiting a response from Council in this regard.
	i) Commitment 9 – Council is currently not in a position to agree with Appendix M as it relates to unsettled issues relating to the provision of community infrastructure.	A letter of public benefit has been issued to Council. Lendlease is awaiting a response from Council in this regard.
	j) Commitment 18 - Council is of the view that the commitment must remain and be reworded to correlate with Council's recommended retention and rewording of Condition C9 including a desired character for the future Town Centre. Following the completion of the Masterplan for the Town Centres Retail and Residential, a revised DCS should be prepared in consultation with Shellharbour City Council and submitted to the Department of Planning, Industry and Environment for approval. Currently the proposed modifications to the DCS provide little guidance for future developers wishing to build in the town centre and further adds to the complexity of development assessment for any applications for the built form.	Lendlease seek to maintain this proposed amendment. The DCS has been prepared as per the requirement of the commitment and to the satisfaction of the Department and satisfies the requirements of condition C9. The commitment has no relation to condition C9.
	k) Commitment 19 – The proposed changes to the commitment cannot be accepted as Council has not agreed to the modified DCS.	To clarify, the modified DCS forms part of the Mod 4 application. The commitment is proposed to be amended such that it reflects the updated DCS if approved by DPIE.
	l) Commitment 20 – The proposed changes to the commitment cannot be accepted as Council has not agreed to the modified DCS.	To clarify, the modified DCS forms part of the Mod 4 application. The commitment is proposed to be amended such that it reflects the updated DCS if approved by DPIE.
	m) Commitment 21 – The proposed changes to the commitment cannot be accepted as Council has not agreed to the modified DCS or Appendix M.	To clarify, the modified DCS forms part of the Mod 4 application. The commitment is proposed to be amended such that it reflects the updated DCS if approved by DPIE.
	n) Commitment 23 – These measures should be consolidated and listed so those reviewing the approval don't need to look through the old documents that lack detail to resolve what civil works both within the site and external to the site are included in the Statement of Commitments and are identified as required by the Proponent. Also the commitment should be reworded to specifically refer to the road hierarchy specified for the upgrade of Calderwood Road for its full length extending outside of the project area as required under Condition C12(d) (a) and as identified in the TMAP and figure 2.3 of the updated traffic report dated 2018. In this regard, the commitment should specify that the minimum standard of the upgrade of Calderwood Road (which is required under condition C12(d)(a)) is	Lendlease would be happy to provide a consolidated list of documents if required. The design of Calderwood Road, east of the town centre has been the subject of negotiations with Council, Lendlease and the other non-core landowners. The appropriate design for Calderwood Road is considered to be a Major Collector Rural Road designed in accordance with the Austroads standards for a rural road. Refer to the separate response prepared by Cardno.

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	equivalent to that specified for a collector road adjacent to rural land in Fig 2.3 of the updated traffic and transport report dated 2018. In particular, a minimum 22m road reserve with a 2.5m shared use pathway is required for safety of road users. The approach and departure treatments from Tripoli Way also requires additional lanes and this will determine the reserve configuration in this location.	It is noted that Lendlease is no longer pursuing the additional 5,000m ² retail floor space within the Town Centre and with this reduction the level of traffic Calderwood undoubtedly need only be a two lane road.
	o) Commitment 25 – This should be expanded as it is difficult to measure at the subdivision stage as it is difficult to measure compliance with this commitment;	Best practices is suggested by the SOC and is considered appropriate, as this technology changes rapidly and can become outdated quickly. The Concept Plan will have a life of over 20 years.
	p) Commitment 27 – It is unclear whether best practice measures include the adoption of technologies to reduce the demand or need for servicing.	Best practices is suggested by the SOC and is considered appropriate, as this technology changes rapidly and can become outdated quickly. The Concept Plan will have a life of over 20 years.
	q) Commitments 29 and 30 – The commitments should detail what a “riparian corridor” actually means – it should be provided in accordance with the relevant guidelines produced by NRAR. This includes planting.	This recommendation is not considered necessary as the requirements for the treatment of the riparian zones are clearly detailed in the Biodiversity reports. Any future application will also need to detail as to how the proposal complies with the NRAR requirements.
Development Control Strategy	Council continues to have some concerns and does not support the proposed modified Development Control Strategy. Council's concerns include:	
	a) The inclusion of Town Centre controls and specifications that have not been developed through an agreed Master planning process.	We note that the Urban Design Report outlines an indicative masterplan as to how the town centre could be developed. Council will be able to have further design input at the detailed development application stage.
	b) The lack of definitions for zipper lots and smart lots that are referred to within the document.	To clarify, details of each allotment type are provided in the DCS and the building layout diagrams at Appendix C.
	c) The New insertion at 1.6.2 Laneways – Council is of the opinion that there must be provision for all laneways to have kerb and gutter to allow clear delineation of property ownership, driveway and placement of bins.	Confirming that this section of DCS was included at the request of DPIE. The photo included is indicative only. Council could require the provision of kerbs and gutters at the detailed DA stage.