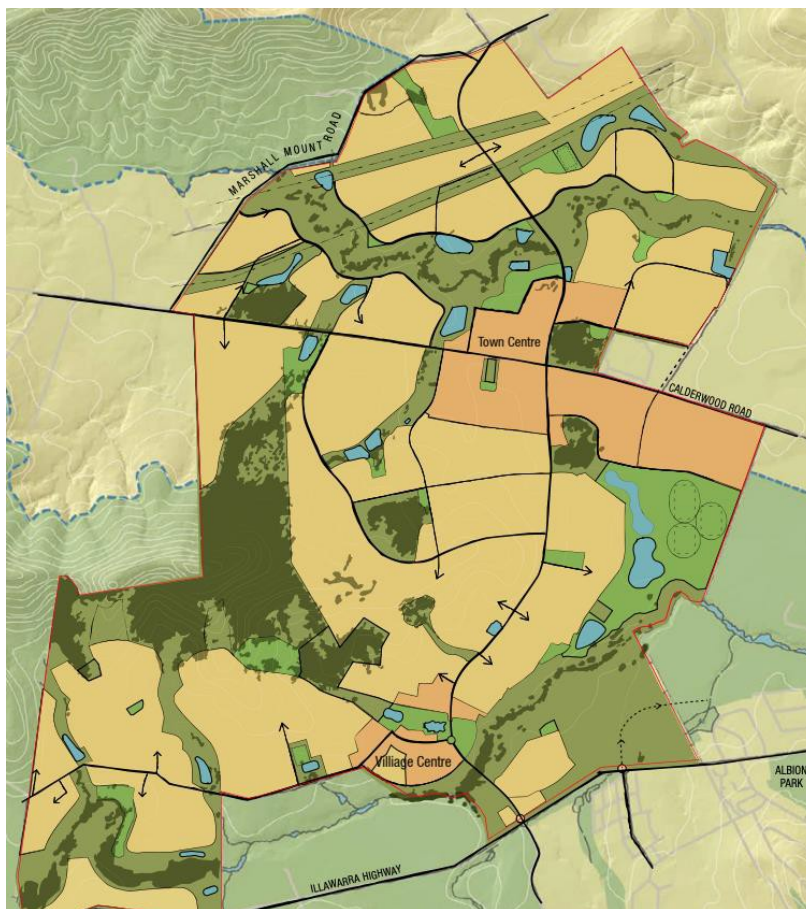


Calderwood Concept Plan Modification 6

Modification to Concept Approval for Development of
Calderwood (MP09_0082 MOD 6)

December 2021



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Cover image: Proposed Concept Plan Layout (Source: Lendlease)

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Glossary

Abbreviation	Definition
Council	Shellharbour Council
Department	Department of Planning, Industry and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
LEC	Land and Environment Court
LEP	Local Environmental Plan
LGA	Local Government Area
LSPS	Local Strategic Planning Statement
Minister	Minister for Planning and Public Spaces
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
SEPP	State Environmental Planning Policy
SSP SEPP	State Environmental Planning Policy (State Significant Precincts) 2005
TfNSW	Transport for NSW
VPA	Voluntary Planning Agreement

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1 Introduction

This report provides the NSW Department of Planning, Industry and Environment's (the Department's) assessment of a request to modify the Major Project Concept Approval (MP09_00982) for the redevelopment of Calderwood.

The modification request seeks to amend Condition C14 of the Approved Concept Plan Conditions to increase the specified timeframe for amendments to the Voluntary Planning Agreement (VPA) from within 6 months after the approval of Modification 4 to within 12 months after the approval of Modification 4.

The request has been lodged by Lendlease Communities (Australia) Limited (the Proponent) pursuant to section 75W of the Environmental Planning and Assessment Act 1979 (EP&A Act).

1.1 Background

The Calderwood Concept Plan approval site (the site) has an area of approximately 700 ha and is located approximately 10 km west of the Shellharbour City Centre and 20 km south-west of Wollongong (**Figure 1**). It is located within the Shellharbour and Wollongong Local Government Areas (LGA).

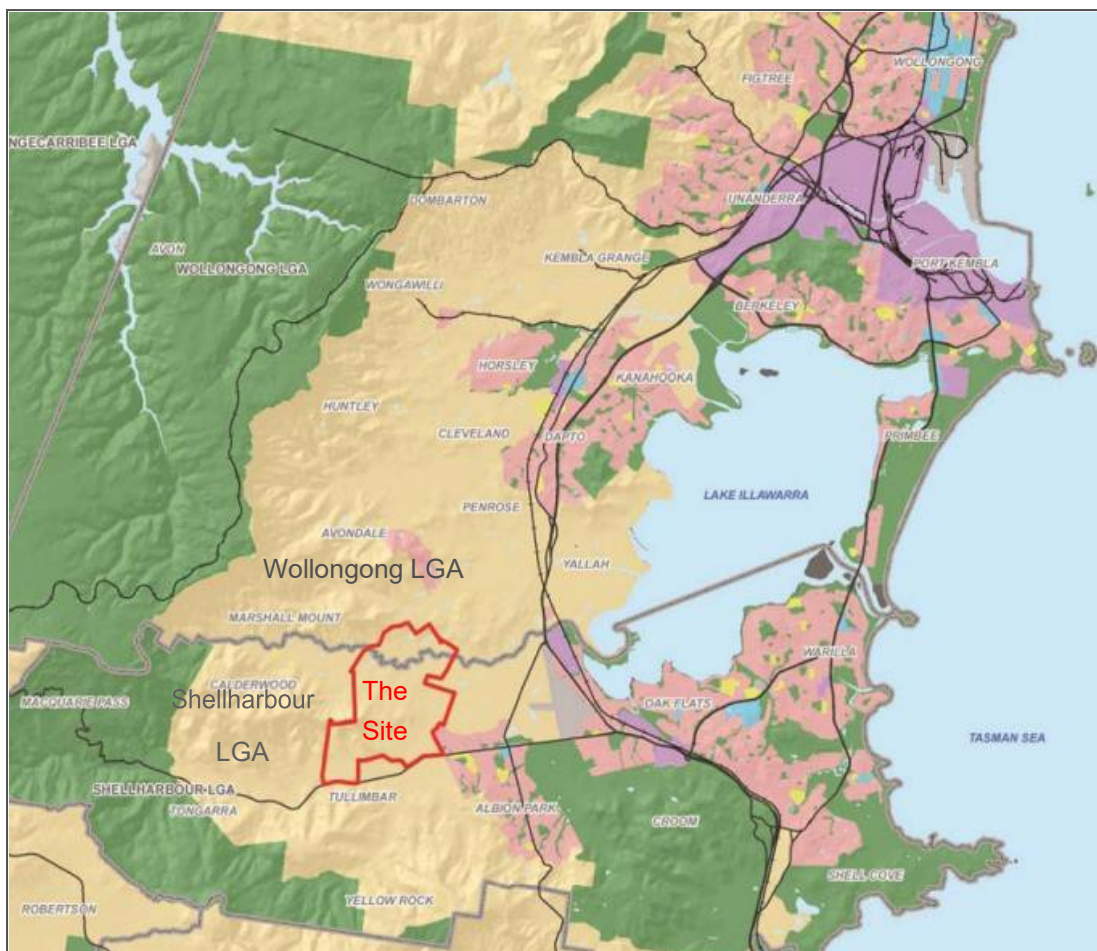


Figure 1 | Regional Context Map (Base source: Calderwood Concept Plan Environmental Assessment)

Lendlease is the developer for 609 ha of the overall 700 ha site, and there are three parts of the site being developed by other owners, known as the ‘non-core’ lands (**Figure 2**). Lendlease has commenced development of the site and a number of stages are now occupied or under construction.

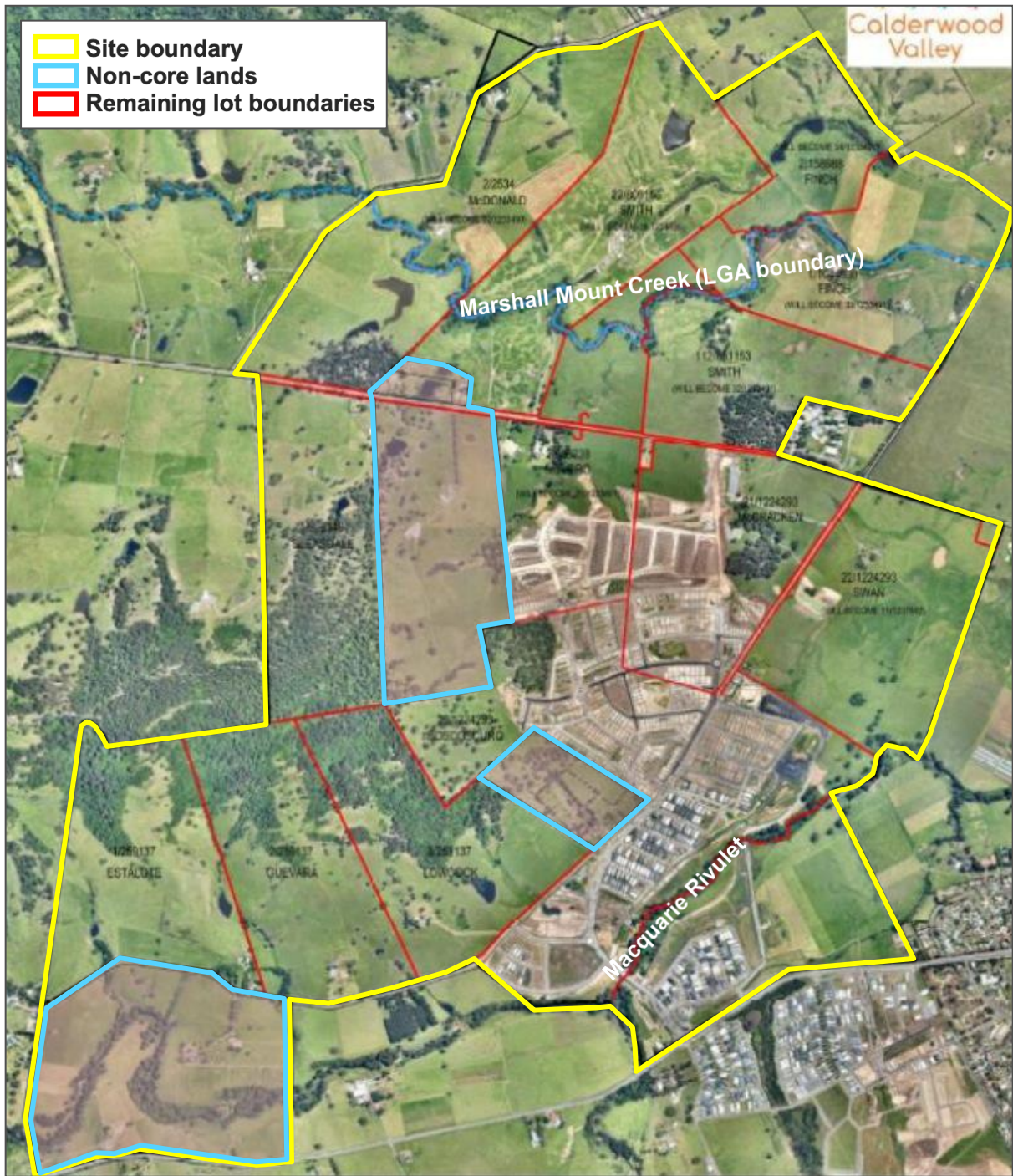


Figure 2 | Aerial view of the site (Base source: MP09_0082 MOD 4 Environmental Assessment Report)

1.2 Concept Approval

On 8 December 2010, the then Minister for Planning granted Concept Approval to guide the development of 700 ha of land at Calderwood for the following purposes:

- 4800 residential dwellings
- 50ha of mixed-use land for a range of retail, commercial and light industrial uses
- open space and the protection of environmentally significant lands
- internal roads, service infrastructure and community facilities.

The Concept Plan has been modified on three occasions (**Table 1**).

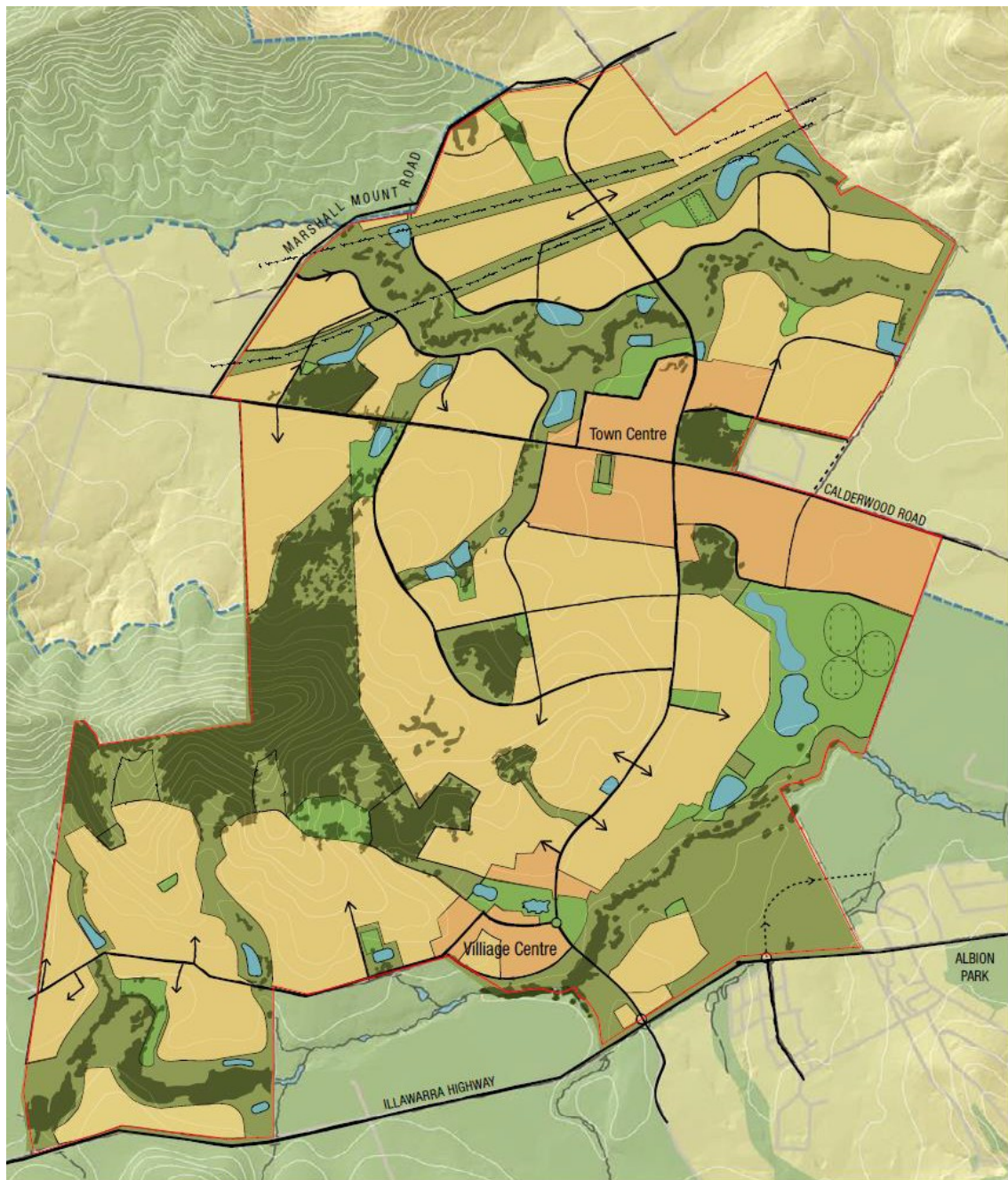
The approved Concept Plan layout is shown in **Figure 3**.

Table 1 | Summary of Modifications

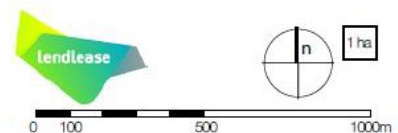
Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	Amendments to requirements for local infrastructure contributions	N/A	75W	Withdrawn
MOD 2	Modification to permit subdivision of environmental zoned land	IPC	75W	27 March 2018
MOD 3	Modifications to Integrated Housing requirements and the Development Control Strategy	N/A	75W	Withdrawn
MOD 4	Modifications to add approximately 1200 dwellings and to modify the provision of open space, road infrastructure, community infrastructure, the dedication of land for schools, water cycle management and sustainability measures	Department	75W	21 May 2021
MOD 5	Clarify the zoning of a section of land and replace an open riparian corridor with a habitat enhancement linkage	Department	75W	6 March 2020

1.3 State Significant Site Approval / Rezoning

On 14 January 2011, the subject site was declared a State Significant Site (SSS) in the then *State Environmental Planning Policy (Major Development) 2005* (now the SSP SEPP). The SSS listing carried over most of the zoning and minimum lot size controls proposed in the Environmental Assessment and Preferred Project Report (PPR) for the SSS Listing and Concept Plan, however, minor amendments were made to minimum lot sizes within environmental lands, changes to zoning to address flood evacuation and provide appropriate transition to the adjoining rural properties.



Concept Plan (MOD 4 PPR)



Subject to verification and detailed site survey 1:20,000 @ A4 10m Contours May 2019

Figure 3 | Approved Concept Plan Layout (Approved MP09_0082 MOD 4 Documentation)

1.4 Other Approvals

On 23 September 2013, and following refusal of the application by the Planning Assessment Commission, the Land and Environment Court (LEC) approved a project application for the first stage of the development, including 231 residential lots, nine mixed use and medium density lots and associated infrastructure on the subject site (MP 09_0083).

Shellharbour City Council (Shellharbour City Council) has also approved several Part 4 development applications permitting the creation of new residential allotments, public reserves, roads and public domain works. Some stages have been completed and are now occupied. Other applications have also been made on the non-core landowner sites.

2 Proposed modification

The request seeks to modify Condition C14 of the approved Concept Plan Approval to increase the timeframe for amending the Voluntary Planning Agreement to include changes made in MOD 4 from 6 months to 12 months.

The modification is proposed as follows:

C14 State Infrastructure

Within ~~6~~ **12** months of the approval of Modification 4, the existing VPA with the Minister is to be amended to:

- (a) include delivery of a signalised intersection at Illawarra Highway / Tripoli Way / Broughton Avenue, and
- (b) change the timing for delivery of the land for Schools and the size of the land for schools in accordance with the details submitted with Modification 4.

2.1 Applicant's Justification

The Applicant outlined that due to the administrative process of the amendments to the VPA, including requiring all relevant parties approvals, that the original 6 month timeframe is not achievable. The increase to 12 months will ensure the VPA will be amended and finalised with all signatories and relevant parties consulted.

3 Strategic context

3.1 The Illawarra Shoalhaven Regional Plan 2041

The Illawarra Shoalhaven Regional Plan recognises Calderwood as forming part of a major regional release area essential for the delivery of long-term housing growth in the region. The modification will aid in delivering the Calderwood development by providing for the appropriate delivery of the items specified within the VPA. This would aid the delivery of a development consistent with the directions outlined in the Regional Plan including:

- Grow the region's Regional Cities (Objective 2)
- Activate regionally significant employment precincts to support new and innovative economic enterprises (Objective 4)
- Respond to the changing nature of retail (Objective 7)
- Protect important environmental assets (Objective 11)
- Provide housing supply in the right locations (Objective 18)
- Deliver housing that is more diverse and affordable (Objective 19)
- Respond to the changing needs of local neighborhoods (Objective 21)
- Embrace and respect the region's local character (Objective 22)

3.2 Shellharbour Local Strategic Planning Statement

The Shellharbour Local Strategic Planning Statement (LSPS) estimates that by 2041, the total population in the LGA will increase by almost 30% (to 94,877 people) resulting in the need for an additional 10,625 dwellings.

The LSPS advises that additional dwellings should be provided by increasing density within and around existing centres. The modification will aid in delivering the Calderwood development by providing for the appropriate delivery of the items specified within the VPA. This would aid in the delivery of a development consistent with this intention in that the emerging Calderwood Centre is recognised as one of eight town centres in the LGA which are important for providing local employment, services and amenity to support residential growth.

The development is also consistent with a range of other planning priorities, including delivery of greater housing diversity and affordability to meet the changing needs of the community and ensuring the protection of environmental and rural lands by delivering the additional density within existing approved urban areas.

3.3 Wollongong Local Strategic Planning Statement

The Wollongong LSPS states that over the next 20 years, the Wollongong population is estimated to grow by 47,000 persons, who will require an additional 23,800 dwellings.

The LSPS recognises Calderwood as one of the key urban release areas that will contribute to the provision of housing stock in the LGA, estimated to provide 800 dwellings towards the required 23,800.

The modification will aid in delivering the Calderwood development by providing for the appropriate delivery of the items specified within the VPA. This would aid the delivery of a development that will support the Wollongong LSPS's aim to deliver additional dwellings to support the anticipated population growth.

4 Statutory context

4.1 Modification of the Minister's Approval

The concept plan was originally approved under Part 3A of the EP&A Act, which has been repealed. The power to modify concept plans approved under Part 3A of the EP&A Act under former section 75W of the EP&A Act is being wound up.

Clauses 3BA(5) of Schedule 2 to the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017 (ST&OP) Regulation) provides that an approved concept plan can only be modified under section 75W in response to a request lodged after 1 March 2018 if the Minister is satisfied that:

- a) the proposed modification is to correct a minor error, misdescription or miscalculation, or
- b) the proposed modification is of minimal environmental impact, or
- c) the project to which the concept plan as modified relates is substantially the same as the project to which the concept plan currently relates (including any modifications previously made under section 75W).

The Department of Planning Industry and Environment (Department) is satisfied the proposed changes are within the scope of clause 3BA(5)(b) as it is a minor modification with minimal environmental impact, as considered in Section 5.

4.2 Consent authority

The Minister for Planning and Public Spaces is the consent authority for the modification request. However, the Director, Regional Assessments, may determine the request, under delegation dated 26 April 2021, as a political disclosure statement has not been received and no public or Council objections were received.

4.3 Relevant matters for consideration

The following matters are relevant to the consideration of the modification request:

- relevant environmental planning instruments (EPIs)
- objects of the EP&A Act
- Environmental Planning and Assessment Regulation 2000.

Environmental Planning Instruments (EPIs)

The Department comprehensively assessed the project against the mandatory matters for consideration under section 4.15 of the EP&A Act as part of the original assessment (of MP 09_0082). The Department has also considered the modification request against the relevant EPIs that currently apply to the proposal, including:

- State Environmental Planning Policy (State Significant Precincts) 2005 (SSP SEPP)
- State Environmental Planning Policy (Infrastructure SEPP)
- State Environmental Planning Policy No. 55 – Remediation of Land
- Draft State Environmental Planning Policy (Remediation of Land)

The proposal complies with the EPIs that apply to the assessment of the modification.

Objects of the EP&A Act

The objects of the EP&A Act are the underpinning principles upon which the assessment is conducted. The statutory powers in the EP&A Act (such as the power to grant approval) are to be understood as powers to advance the objects of the legislation, and limits on those powers are set by reference to those objects. Therefore, in making an assessment the objects should be considered to the extent they are relevant.

Consideration of the Objects of the EP&A Act, as they relate to the proposed modification, is provided at **Table 2**.

Table 1 | Response to the objects of section 1.3 of the EP&A Act

Objects of the EP&A Act	Consideration
(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources	The Calderwood development seeks to maximise the use of the site and provides social and economic benefits by the delivery of increased housing supply and improvements to housing diversity and affordability. The modification will aid in the delivery of the development. The proposal would not expand the urban footprint and would not adversely impact on the State's natural or other resources.
(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment	The Precautionary and Inter-generational Equity Principles have been applied in the decision-making process by a thorough assessment of the environmental impacts of the project. Overall, the proposal is generally consistent with ESD principles noting the modification does not seek to change ESD initiatives and sustainability measures.
(c) to promote the orderly and economic use and development of land	The Calderwood development involves the orderly and economic use of land through the utilisation of land already approved for urban development adjacent to a new local centre for the delivery of additional dwellings with good access to services and public transport.
(d) to promote the delivery and maintenance of affordable housing	Although the Calderwood development doesn't specifically deliver affordable housing, the provision of additional dwellings on smaller lots will make a positive contribution to housing supply and affordability in the area.
(e) to protect the environment, including the conservation of threatened and other species of native animals and	The Department considers the proposal would not result in unacceptable environmental impacts.

plants, ecological communities and their habitats

(f)	to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage)	The modification request does not impact on built or cultural heritage. The Department is satisfied impacts to both Aboriginal heritage and European heritage would be appropriately assessed, minimised and mitigated as part of future applications.
(g)	to promote good design and amenity of the built environment	The Department considers the proposal would not result in unacceptable built form impacts.
(h)	to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants	N/A. No construction approved by the Concept Plan. Construction matters would be assessed as part of future development applications.
(i)	to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State	The Department notified the modification request, which included consultation with Shellharbour Council, Wollongong Council and TfNSW (Section 5) and consideration of their responses (Section 6).
(j)	to provide increased opportunity for community participation in environmental planning and assessment.	The Department notified the application as outlined in Section 5 .

Environmental Planning and Assessment Regulation 2000

Subject to any other references to compliance with the EP&A Regulation cited in this report, the relevant requirements for Notification and Fees have been complied with.

5 Engagement

5.1 Department's engagement

The Department notified the modification request for 14 days between 19 November 2021 and 3 December 2021. The request was made publicly available on the Department's website. The Department also provided written notice to Shellharbour Council, Wollongong Council and TfNSW.

5.2 Summary of Submissions

Wollongong Council had no objection to the proposed modification. Shellharbour Council raised no objection to the proposed modification and outlined that the amended timing of the requirement to amend the VPA would closer align with the timing of the amendment to the VPA between the Applicant and Council as a result of the modification.

TfNSW raised no objection to the proposed modification, providing comments in relation to the VPA itself and consultation with TfNSW prior to the finalisation of the VPA. These comments have been passed on to the relevant Department team.

6 Assessment

In assessing the merits of the proposed modification, the Department has considered:

- the Modification Report and associated documents (**Appendix A**)
- the Environmental Assessment and conditions of the original approval and previous modifications
- relevant EPIs, policies and guidelines
- the requirements of the EP&A Act.

The Department considers the key assessment issue associated with the proposal to be the increase in the timeframe to amend the VPA and the associated impacts. This is considered below.

6.1 Increased Timeframe for Amendment

The VPA between the Minister for Planning and Lendlease Communities (Australia) Limited was first entered into on 3 March 2011 and has been amended by the First Amendment dated 21 December 2016 and the Second and Third Amendments, both dated 10 July 2018.

The existing VPA with the Minister provides contributions towards State transport infrastructure and is the subject of Condition C14, inserted as part of MOD 4. Condition C14 added the requirement to amend the existing VPA within six months of the approval of MOD 4, by including the following:

- a) include delivery of a signalised intersection at Illawarra Highway / Tripoli Way / Broughton Avenue, and
- b) change the timing for delivery of the land for Schools and the size of the land for schools in accordance with the details submitted with Modification 4.

This modification request seeks to extend the timeframe in which these items are required to be added to the VPA from six months to twelve months due to the timeframe of the administrative process including obtaining sign off from all relevant parties. This modification will therefore require the Applicant to amend the VPA by 21 May 2022.

The key consideration for the increase in timeframe is any impacts on the timing of delivery of the two items above that are required to be added to the existing VPA.

The development currently has approximately 1250 approved dwellings with 800 of those being occupied dwellings. There is currently further anticipated subdivision certificates to be issued prior to 21 May 2022 for an additional 142 lots and therefore at this date there is anticipated to be subdivision certificates issued for approximately 1392 dwellings.

The timing for the delivery of the signalised intersection referred to in part (a) is prior to the release of a subdivision certificate which relates to land on which the 5281st dwelling is proposed to be constructed. The Department notes that extending the requirement for the VPA to be amended to include the signalised intersection will have no impact on the delivery of the intersection as the development is anticipated to have subdivision certificates for approximately 1392 dwellings as of 21 May 2022

The timing, as approved by MOD 4, for the delivery of the schools land referred to in part (b) is as follows:

- First Primary School prior to the issue of a subdivision certificate which relates to land comprising (amongst other land) an allotment on which the 1500th dwelling is proposed to be constructed; and
- High School prior to the issue of a subdivision certificate which relates to land comprising (amongst other land) an allotment on which the 2800th dwelling

The High School timing as per the current VPA is currently prior to the issue of a subdivision certificate which relates to land comprising (amongst other land) an allotment on which the 1500th dwelling. The fourth amendment will adjust this timing to the 2800th dwelling as above.

The Department notes that the timing of the delivery for the first school is prior to the subdivision of the 1500th dwelling and therefore the extension to make the amendments to the VPA until 21 May 2022 will not impact on the timing or delivery of the land for the schools as the development is anticipated to have subdivision certificates for approximately 1392 dwellings as of 21 May 2022.

To ensure a subdivision certificate is not issued for the 1500th dwelling (the first trigger for the items included in Condition C14) prior to the VPA being amended as per Condition C14, the Department has included within the recommended modification instrument the requirement for the VPA to be amended prior to any subdivision certificate being issued for land on which the 1500th dwelling is proposed to be constructed..

The Department is satisfied that the modification to the timing of the requirement to amend the VPA to include the two items outlined in Condition C14, subject to the recommended conditions, will have no impact on the delivery of these items and does not amend the agreed items with the VPA. Instead, the modification will allow the timeframe to amend the VPA to be increased to allow for appropriate consultation and to obtain signatures from the relevant parties, ensuring the outcomes of Condition C14 will be delivered. Further, the modification will more closely align with the required timeframe for the Applicant to amend the existing VPA with Shellharbour Council.

7 Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposal to be acceptable, subject to the recommended conditions, as:

- the proposal complies with statutory requirements of relevant environmental planning instruments;
- the proposal seeks a minor modification to accommodate a necessary element of the proposal; and
- the modifications will not create any significant environmental impacts.

The Department is satisfied that the modification can be approved, subject to the recommended conditions (**Appendix B**).

8 Recommendation

It is recommended that the Director, Regional Assessments, as delegate of the Minister for Planning and Public Spaces:

- considers the findings and recommendations of this report
- determines that the application MP 09_0082 MOD 6 falls within the scope of former section 75W of the EP&A Act
- accepts and adopts all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- modifies the project approval MP09_0082 MOD 6
- signs the attached Modification of Project Approval (**Appendix B**).

Recommended by:



Tahlia Sexton
Planning Officer
Regional Assessments

Recommended by:



Kendall Clydsdale
Team Leader
Regional Assessments

9 Determination

The recommendation is **Adopted/Not Adopted** by:

A handwritten signature in blue ink, appearing to read 'K T' followed by a long horizontal stroke.

21/12/2021

Keiran Thomas

Director

Regional Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – Modification Report

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10702

Appendix B – Modification of Project Approval

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=10702