

Ms Carolyn McNally
Secretary
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

27 March 2018

Dear Ms McNally

**Determination of Modification Application
Calderwood Concept Plan Approval (MP 09_0082 MOD 2)**

Thank you for your Department's letter received on 26 February 2018 referring the above modification application (the Application) to the former Planning Assessment Commission, now Independent Planning Commission (the Commission), for determination under Ministerial delegation of 14 September 2011. Professor Mary O'Kane, Chair of the Commission nominated us, Ms Annelise Tuor (chair) and Mr David Johnson to constitute the Commission to determine the Application.

The Commission notes the amendments to the *Environmental Planning and Assessment Act* entered into force on 1 March 2018, before the completion of this report. However, this does not affect the determination of the modification application.

Lend Lease Communities (Australia) Limited (the proponent) seeks to amend the Calderwood Concept Plan Approval – MP 09_0082 MOD 2 (the Concept Plan) to clarify the subdivision requirements for certain land comprising riparian/environmental corridors and environmental reserves approved under the Concept Plan and zoned E2 Environmental Conservation or E3 Environmental Management under *State Significant Precinct State Environmental Planning Policy*. (SSP SEPP). Specifically, the Application seeks to permit subdivision of these lands below the requirement in Schedule 3, Part 28, Division 1, cl 18(4) of SSP SEPP which in effect references the minimum 40ha requirement of the former Wollongong Local Environmental Plan 1990 and Shellharbour Local Environmental Plan 2000. The amendment is to provide lots consistent with the staging of development and provision of land for public purpose approved under the Concept Plan.

The modification includes:

- insertion of a Special Subdivision Area Plan (SSA Plan) in the Concept Plan to delineate Environmental Reserve Lands and Special Riparian/Environmental Corridor Subdivision Areas;
- facilitation of the subdivision and dedication of land to the relevant public authorities;
- insertion of a new Condition B7 - Riparian and Environmental Reserve Land that would:
 - i. not permit subdivision of Environmental Reserve Lands below their existing size
 - ii. permit subdivision and subsequent consolidation of lots below 40ha of Special Riparian/Environmental Corridor Subdivision Areas but only in specific circumstances;
- amendment of Condition C3 to require vegetation management plans to be submitted and approved for each development application for subdivision; and
- insertion of a new Condition C13 to require that future developments demonstrate consistency with the Consolidated Development Control Strategy, dated February 2018.

We have visited the site, met with the Department of Planning and Environment, both Shellharbour and Wollongong city councils, and the proponent. Notes from the meetings are contained in **Appendix 1**

We have considered carefully the Department's environmental assessment report, all of the information provided by the proponent, public submissions and information provided by government agencies and section 75W of the Environmental Planning and Assessment Act 1979.

We note there was one public submission received during the notification period. This raised concerns in relation to the development causing potential flooding impacts in the area and whether parks or footpaths would be accommodated in 269 North Macquarie Road. We note that the proposed modification will not result in additional flooding impacts than those already assessed and it does not propose changes to the already approved uses.

We consider the key matters for consideration in the Application include changes to the minimum lot size requirements and future fragmentation and potential for increased development potential of Special Riparian/Environmental Corridor land that is within the E3 zone as well as the ongoing management of the land that remains in private ownership. We have reviewed the Department's assessment of these matters, have sought further clarification from the Department and made amendments to the proposed conditions.

A key concern of both councils was that the E3 zone in SSP SEPP permits a range of uses, including dwellings and ecotourism development, and that subdivision below the minimum 40ha may result in an increase in the development potential of this land, which may not be consistent with its environmental constraints. These uses are permissible now on an existing lot in the E3 zone under the SSP SEPP even if the lot is below 40ha.

The requirement in proposed condition B7 is that subdivision of land within the Special Riparian/Environmental Corridor can only occur if the lots created are consolidated into a single lot and are subsequently consolidated with other contiguous areas of Special Riparian/Environmental Corridor. This will limit additional development potential as will the requirement for a restrictive covenant that would prevent further subdivision of the lots created. Furthermore, proposed Condition B7 also includes a requirement for future development applications to be consistent with the objectives of the Special Riparian/Environmental Corridor.

Another concern of Shellharbour Council was the ongoing management of land that will remain in private ownership. Amendments to condition C3, which require that the land be managed in perpetuity in accordance with a Vegetation Management Plan should address this issue regardless of the ownership.

The modification also seeks to include Condition C13 which replaces the Concept Plan Development Control Approval 2013 with the Consolidated Development Control Strategy – which was subsequently amended in March 2018. The Commission is satisfied that this is an appropriate administrative change.

With these amendments we are satisfied that the Application would clarify the subdivision requirement for the riparian/environmental corridors and environmental reserves, prevent the fragmentation of the riparian/environmental corridors and facilitate the orderly redevelopment of the site in accordance with the approved Concept Plan.

For the reasons set out above, we accept the Department's recommendation that this proposal be approved. Consequently, we have determined to grant consent to the modification application subject to the amended conditions set out in the Notice of Modification.



Annelise Tuor
Member of the Commission (Chair)



David Johnson
Member of the Commission