



Shellharbour City Council - Calderwood Planning Proposal
Wollongong City Council – Calderwood Planning Proposal

Planning Team Report

October 2012

Contents

1. EXECUTIVE SUMMARY	3
2. INTRODUCTION	4
3. THE SITE	4
4. PLANNING PROPOSALS	6
4.1 WOLLONGONG PLANNING PROPOSAL - CALDERWOOD.....	6
4.2 SHELLHARBOUR PLANNING PROPOSAL - CALDERWOOD.....	6
5. STATUTORY CONTEXT	7
5.1 STATE ENVIRONMENTAL PLANNING POLICY (MAJOR DEVELOPMENT) 2005.....	7
5.2 CONCEPT APPROVAL	8
5.3 PROJECT APPLICATION - STAGE 1.....	8
5.4 FUTURE APPLICATIONS.....	9
6. ASSESSMENT	10
6.1 LEGISLATIVE REQUIREMENTS.....	10
6.2 STRATEGIC PLANNING	13
7. CONCLUSION.....	15

1. EXECUTIVE SUMMARY

The Calderwood development area (as proposed to be developed by Delfin Lend Lease (DLL)) covers 700 hectares, straddling the Wollongong and Shellharbour Local Government Areas (LGA), with the majority of the site (almost 600ha) falling within the Shellharbour LGA.

Calderwood is identified in Schedule 3 of State Environmental Planning Policy (Major Projects) 2005 (the Major Project SEPP) as a State Significant Site. As such, it is the Major Project SEPP, rather than the Local Environmental Plans (LEP) for Shellharbour and Wollongong that sets the zone and planning regime for the land.

Under the SEPP, much of Calderwood is zoned to permit residential and commercial development. A Concept Plan has been approved for approximately 4800 dwellings with 50 hectares of mixed use land to accommodate a range of commercial, retail and light industrial uses. Environmentally significant lands have been identified for open space or environmental protection. The Concept Plan approval reflects the zoning under the Major Project SEPP, but is not dependent upon the SEPP to give approval for the development of the land.

Planning Proposals

Wollongong City Council and Shellharbour City Council have each resolved to prepare a Planning Proposal to remove Calderwood from Schedule 3 of the Major Project SEPP, thereby reinstating local planning control for the area.

Wollongong City Council's Planning Proposal will introduce an E3 Environmental Management zone over the part of the site (approximately 107 hectares) that is in the Wollongong LGA.

Shellharbour City Council's Planning Proposal will introduce a mix of rural, environmental and infrastructure zones over the site.

Assessment

The key issue in deciding whether the Planning Proposals should be supported is consistency with the strategic and statutory planning framework; including State Environmental Planning Policies, the Illawarra Regional Strategy (IRS), and relevant section 117 Directions.

The Proposals - which would reduce housing supply in the Illawarra by 4800 dwellings and remove 50 hectares of employment land – are not supported as they are considered to be inconsistent with the IRS; various section 117 Directions relating to housing, and business and industrial zones; and the Major Project SEPP.

Conclusion

The Department has reviewed the information provided by Wollongong and Shellharbour City Councils and does not support the Planning Proposals.

2. INTRODUCTION

On 31 July 2012 Wollongong City Council submitted a planning proposal to the Department seeking a Gateway Determination to zone land at Calderwood E3 under the Wollongong Local Environmental Plan (LEP) 2009. On 21 August 2012 Shellharbour City Council submitted a planning proposal to the Department seeking a Gateway Determination to zone land at Calderwood to a mix of environmental and rural zones under either the Shellharbour Local Environmental Plan 2012 (if notified) or under the Shellharbour Local Environmental Plan 2000 and Shellharbour Rural Local Environmental Plan 2004.

The planning proposals from both Councils are coordinated to effectively reverse a decision of the former Minister for Planning to zone 700ha of land at Calderwood to enable urban development.

This report has been prepared to document the Department's assessment of both planning proposals. This report is to be read in conjunction with the Planning Team Reports on the LEP Tracking System.

It provides additional information/justification for the recommendation not to support the Wollongong and Shellharbour Planning Proposals relating to Calderwood.

3. THE SITE

Site context

Calderwood is located approximately 20km south-west of Wollongong and 10km west of Shellharbour City Centre. The site has an area of approximately 700 ha and straddles the Shellharbour and Wollongong Local Government Area (LGA) boundaries, with roughly 600ha located in Shellharbour and the remaining area located in Wollongong.



Figure 1 – Site location

Detailed location

The Illawarra Highway forms a large part of the southern boundary of the site. Marshall Mount Road is the northwest boundary, with Tullimbar and Albion Park townships adjacent to the site to the south-east.

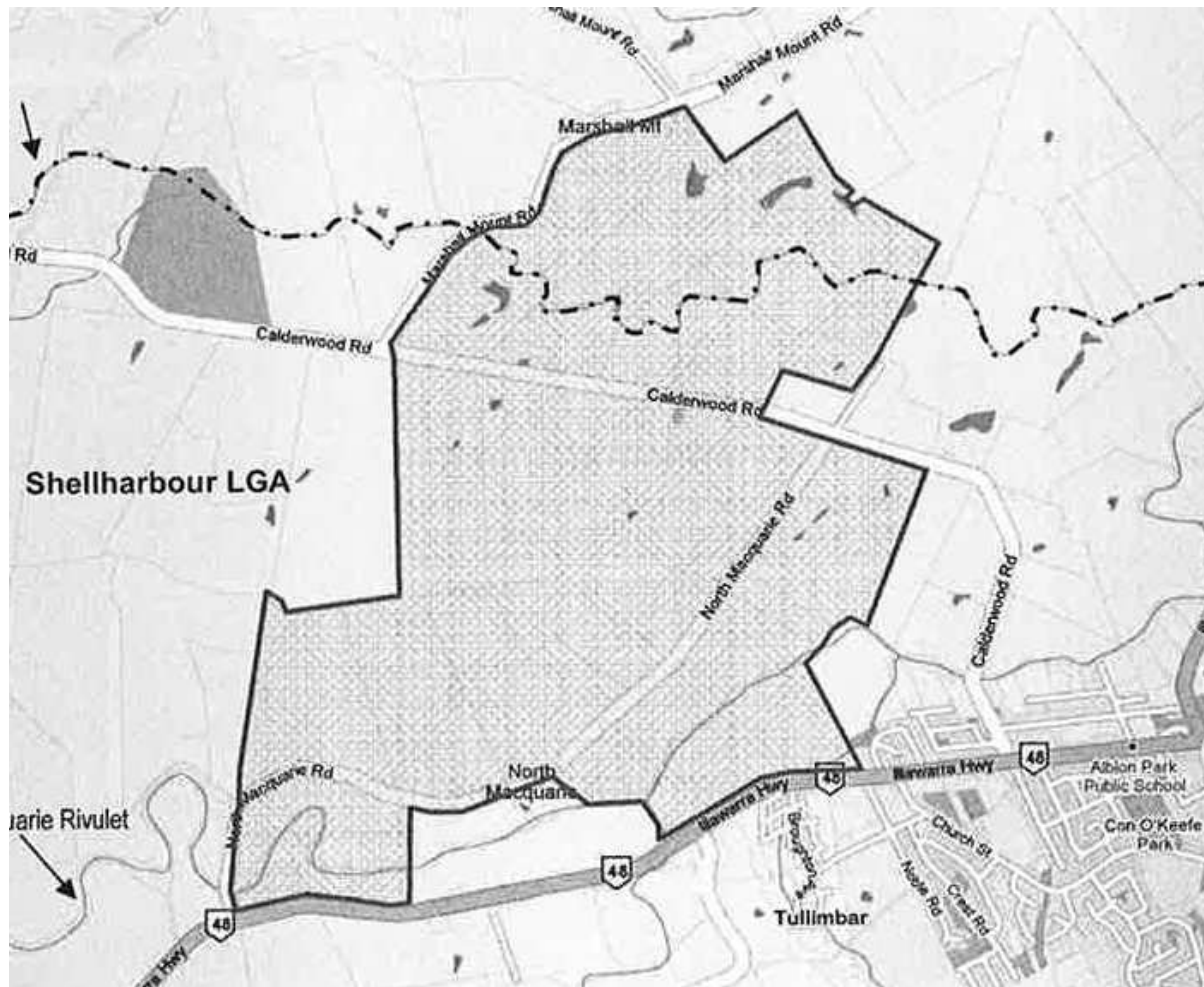


Figure 2 – Detailed site location

Site Features

Two main watercourses – Macquarie Rivulet and Marshall Mount Creek – run through the south and north of the site respectively. There are also several minor tributaries located throughout the area. Johnson's Spur is located in the western part of the site and contains a significant amount of remnant native vegetation. Most of the remainder of the site is cleared grazing land, with patches of vegetation and isolated trees.

The urban areas of Albion Park and Tullimbar adjoin the subject land to the south-east and south. Marshall Mount is located to the north of Calderwood and has its own Planning Proposal to enable it to be developed for urban purposes as part of the West Dapto Release Area. The land to the east and west of the site is predominantly rural.

Calderwood is owned by 22 landowners, although DLL has controlling interests/options of the land that is identified for development in the Major Project SEPP and Concept Plan Approval.

4. PLANNING PROPOSALS

4.1 WOLLONGONG PLANNING PROPOSAL - CALDERWOOD

The Planning Proposal submitted by Wollongong City Council will:

1. Amend State Environmental Planning Policy (Major Development) 2005 to remove "Part 28 Calderwood Site" from Schedule 3 – State Significant Sites; and
2. Amend Wollongong LEP 2009 to zone the Wollongong components of the site E3 Environmental Management and to introduce a 40 hectare minimum lot size and a 9 metre maximum building height.

In its supporting justification for the planning proposal Wollongong Council notes that it does not support the development of Calderwood and that the Draft West Dapto Local Environmental Study identified that the land was not appropriate for urban development due to its flood and topographical constraints. It also identified that the land had agricultural and scenic value.

Council also considers that the proposed development of Calderwood is inconsistent with the IRS, will have a negative impact on the development of West Dapto, and is contrary to the land capability of the site generally.

It is understood that Council's concern over the potential negative impacts on West Dapto relate directly to the infrastructure costs and the loss of market share. Council has indicated in previous advice that the competition from Calderwood will potentially delay or slow lot take up in West Dapto, with consequential impacts on section 94 revenues. Council's s94 plan for Stages 1 & 2 of West Dapto identified a responsibility for approximately \$560M worth of infrastructure provision across the release area.

4.2 SHELLHARBOUR PLANNING PROPOSAL - CALDERWOOD

The Planning Proposal submitted by Shellharbour City Council will:

1. Amend State Environmental Planning Policy (Major Development) 2005 to remove "Part 28 Calderwood Site" from Schedule 3 – State Significant Sites; and
2. Amend either the Shellharbour LEP 2012 (if notified) or the Shellharbour LEP 2000 and Shellharbour Rural LEP 2004 to apply a mix of rural, environmental and infrastructure zones to the area - and to introduce a 40 hectare minimum lot size; a 9 metre building height, various environmental overlays and recognise a number of heritage items.

Shellharbour Council does not support the development of Calderwood and notes that the Shellharbour Local Government Small Area Household and Projections Study (2008) does not identify a need for additional residential or commercial zoned land.

Council argues that the development of Calderwood would place an unsustainable maintenance burden on Council, create unacceptable flood impacts, sterilises prime agricultural land, provides excessive amounts of retail floor space, and triggers the need for major unfunded road upgrades.

Council also considers that the proposed development is inconsistent with the Illawarra Regional Strategy.

5. STATUTORY CONTEXT

5.1 STATE ENVIRONMENTAL PLANNING POLICY (MAJOR DEVELOPMENT) 2005

Calderwood was gazetted as a State Significant Site and added to Schedule 3 of the Major Project SEPP on 14 January 2011. The decision to add Calderwood to the SEPP followed the concurrent consideration and public exhibition of a draft zoning change and concept plan application.

The SEPP zones the majority of the site for residential and mixed use development, with approximately 50 hectares zoned for environmental management and protection, and 50 hectares zoned for rural purposes. In addition, the SEPP sets development standards for height and minimum lot size; and controls to manage issues including flooding, heritage, and provision of infrastructure.

The SEPP enables the residential development of the site, either through the consideration of subdivision applications, or the consideration of a concept plan. The SEPP facilitated the concept plan approval but development can proceed on the basis of the concept plan approval alone.

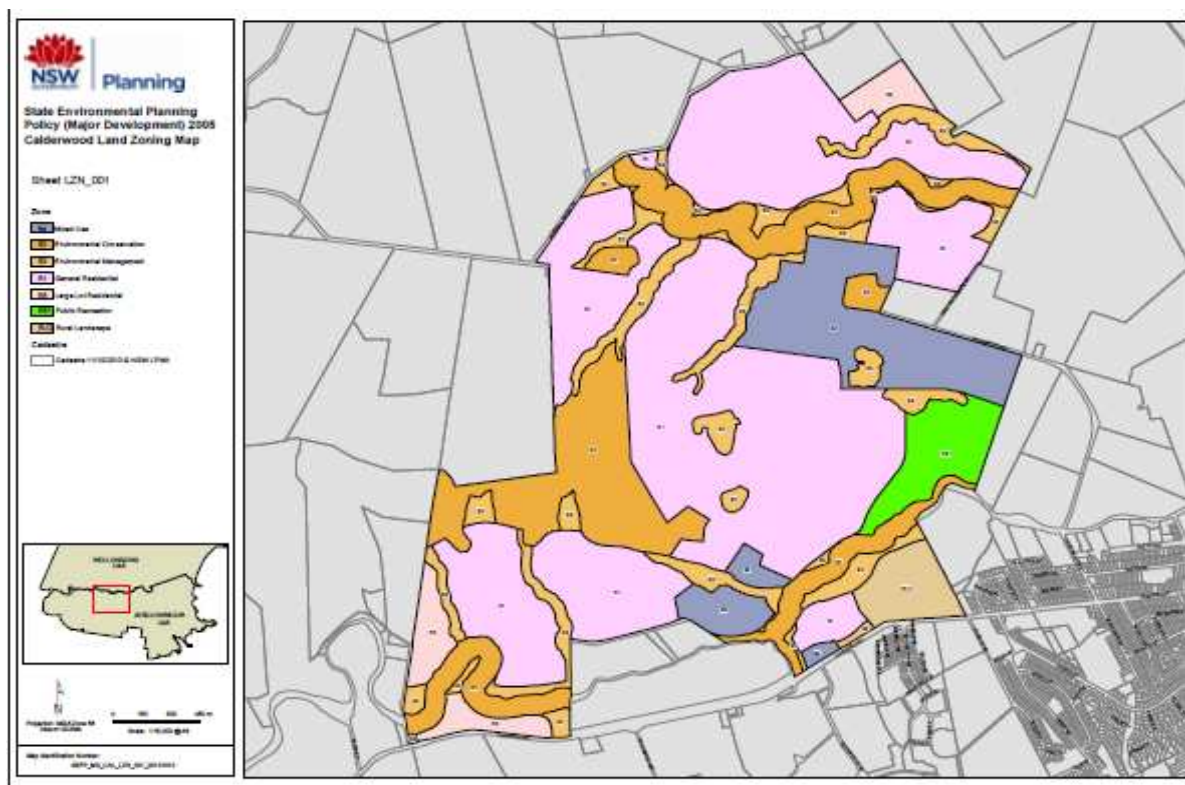


Figure 3 – Zoning of the site under the Major Project SEPP

5.2 CONCEPT APPROVAL

On 8 December 2010, the Minister for Planning approved a Concept Plan for the development of Calderwood under Part 3A of the Environmental Planning and Assessment Act, 1979.

The Concept Approval provided for 4800 dwellings; 50 hectares of commercial, retail and industrial land, and the protection of environmentally significant areas. The Approval was issued following the consideration of submissions, as well as the review of DLL's environmental assessment, preferred project report, and statement of commitments. The consideration of the Concept Approval also involved the commissioning of an independent review of the flooding and traffic reports, and the modification of the original application.

The Concept Approval incorporates a Consolidated Development Control Strategy (DCS) that sets standards for urban design, built form and environmental management for the site. It includes street design and hierarchy, landscape treatments for different types of open space, and public domain materials and treatments. The DCS establishes different residential character areas across the site and identifies different types of dwellings for each character area, ranging from standard detached dwellings, attached integrated housing (subdivision following dwelling construction), and apartment buildings.

There are also controls relating to retail floor areas in the Town and Village Centres (establishing a total Gross Floor Area of 25,000m²); environmental controls for riparian areas, conservation and open space; and controls for flood management; bushfire; and so on.

The Concept Approval remains valid for 10 years and would not be invalidated by a rezoning of the site.

Under Section 75P (now repealed) of the Environmental Planning and Assessment Act (EP&A Act), a subsequent approval must be generally consistent with a Concept Plan approval. In addition, that section provides that a Concept Plan approval overcomes any inconsistency with an environmental planning instrument. Under clause 3B of Schedule 6A of the EP&A Act, the operation of a Concept Plan has been saved with the repeal of Part 3A.

Shellharbour Council's Land and Environment Court challenge of the Concept Plan (on the procedures used to take, assess and determine the approval) was dismissed by Justice Craig in February 2012.

5.3 PROJECT APPLICATION - STAGE 1

In conjunction with the Concept Application, DLL lodged a Project Application for Stage 1 of the development. The first stage is located in the south-eastern portion of the site and is shown on Figure 4. The application was for subdivision to create 231 residential lots, 9 mixed use and medium density lots, one allotment for a future substation, open space and landscaping, flood mitigation works, and infrastructure works.



Figure 4 – Area of Stage 1 Project Application (shaded red)

As DLL had provided reportable political donations, the Stage 1 Major Project application was referred to the Planning Assessment Commission (PAC) for its consideration and determination.

On 17 April 2012, the PAC refused the Project Application for Stage 1 of the Calderwood development.

This refusal is currently being appealed before the Land and Environment Court.

These proceedings could be prejudiced by a change in land zoning at this time.

5.4 FUTURE APPLICATIONS

Calderwood is proposed to be developed over the next 20 years. Future applications for subdivision will be subject to Part 4 of the Act, with the relevant Council as the consent authority. As noted above, the Concept Approval determines that future developments are to be generally consistent with the approved Concept Plan.

6. ASSESSMENT

The key issue in deciding whether the Planning Proposals should be supported is consistency with the strategic and statutory planning framework; including State Environmental Planning Policies, the Illawarra Regional Strategy (IRS), and relevant section 117 Directions.

6.1 LEGISLATIVE REQUIREMENTS

6.1.1 State Environmental Planning Policy (Major Developments) 2005 & Concept Approval

As noted above, Calderwood is identified in Part 28 of Schedule 3 of State Environmental Planning Policy (Major Projects) 2005 (the Major Project SEPP) as a State Significant Site.

Under the SEPP, much of Calderwood is zoned to permit residential and commercial development. A Concept Plan has been approved for approximately 4800 dwellings with 50 hectares of mixed use land to accommodate a range of commercial, retail and light industrial uses. Environmentally significant lands have been identified for open space or environmental protection.

In zoning the site and granting a Concept Approval the former Minister wanted to increase the supply of zoned residential land to encourage additional residential development in the region. At the time of rezoning, West Dapto had been rezoned but development was progressing slowly and other release areas (notably greenfields releases at Shell Cove, Albion Park, and Flinders) were in their final stages.

The table on the following page (extracted from the 2012 Illawarra Urban Development Program Update) shows the status of land supplies in the Illawarra. From the table it is clear that the available supplies of land that had been meeting Greenfield demand (e.g. Shell Cove, Flinders, Albion Park) are nearing exhaustion.

The Planning Proposals are clearly inconsistent with the Major Projects SEPP as they remove the supplies of residential zoned land created by the SEPP. The Proposals will also rezone the land for rural and environmental purposes, contrary to the intent of the provisions of the SEPP.

Greenfield Dwelling Forecast

Release Area	Status	Potential	11/12	12/13	13/14	14/15	15/16	5 yr total	Remaining capacity beyond 5 yrs
Bulli Brickworks	Zoned	205	-	-	50	50	50	150	55
Haywards Bay	Zoned & Serviced	145	50	50	45	-	-	145	0
Sandon Point	Zoned & Serviced	240	-	80	80	80	-	240	0
Tallawarra	Zoned	1,000	-	-	70	70	70	210	790
West Dapto (Stages 1-5)	Partially zoned	16,999	160	120	145	175	170	780	16,219
Redgum Ridge	Zoned & Serviced	115	30	30	30	25	-	115	0
Albion Park South	Zoned & Serviced	60	-	60	-	-	-	60	0
Flinders	Zoned & Serviced	268	135	133	-	-	-	268	0
Shell Cove	Zoned & Serviced	1,400	100	100	100	100	100	500	900
Shellharbour City Centre	Zoned & Serviced	873	-	-	-	-	-	0	873
Tullimbar Village	Zoned & Serviced	1,550	50	50	50	50	50	250	1,300
South Gerringong	Beyond 5 years	180	-	-	-	-	25	25	155
Spring Creek	Within 5 years	163	-	-	60	60	43	163	0
Miscellaneous Kiama LGA	Zoned & Serviced	101	-	-	-	-	11	11	90
Calderwood (Shellharbour & Wollongong)	Zoned	7,700	-	180	180	180	150	690	7,010

Source: DP&I, 2012, *Illawarra Urban Development Program Update 2012*

6.1.2 Section 117 Directions

The Minister for Planning, under section 117(2) of the EP&A Act issues directions that relevant planning authorities, such as local councils, must follow when preparing planning proposals for new Local Environmental Plans. Directions relate to employment and resources, housing and infrastructure, environment and heritage, hazard and risk, regional planning, and local plan making.

The following Directions are relevant to the Planning Proposals for Calderwood.

1.1 Business and Industrial Zones (Shellharbour Planning Proposal only)

This Direction aims to protect employment land in business and industrial zones. It directs that a Planning Proposal must:

- retain the areas and locations of existing business and industrial zones,
- not reduce the total potential floor space area for employment uses and related public services in business zones, and
- not reduce the total potential floor space area for industrial uses in industrial zones.

The Planning Proposal submitted by Shellharbour Council removes 31,500m² of zoned commercial, industrial and employment land.

The reduction in employment land is clearly inconsistent with this Direction. A reduction in industrial or employment land can be allowed under the Direction where the reduction is justified by a study or strategy.

Council defends the inconsistency by noting that the Shellharbour Employment Lands Study (2009) and the Retail and Commercial Centres Studies (2008) indicate that there is sufficient business and industrial zoned land in the LGA. Council further notes that Stockland Shellharbour has recently expanded and provides an additional 22,000m² of retail floor area in the LGA.

Council's comment does not address the relationship between the residential development and the employment land.

There is no B4 Mixed Use land within the Wollongong portion of the site and so the Wollongong PP is not inconsistent with this Direction.

3.1 Residential Zones

This Direction states that a Planning Proposal must not reduce the permissible residential density of land.

Large areas of Calderwood are zoned R1 General Residential and R5 Large Lot Residential under the Major Projects SEPP.

The Planning Proposals will remove these zonings thereby significantly reducing the permissible residential density.

Shellharbour Council acknowledges and defends the inconsistency with this Direction, noting that the Shellharbour LGA Small Area Household and Demographic Projections Study (2008) doesn't indicate a need for additional residential zoned land in the LGA. Council also states that based upon population projections, the Planning Proposal is considered to be consistent with the Illawarra Regional Strategy and therefore considers that the inconsistency with the Direction is justified.

Wollongong Council acknowledges that the proposal is inconsistent with this Direction but considers that the inconsistency is justified and that the proposed E3 zoning better reflects the capability of the land and is consistent with the Illawarra Regional Strategy and the West Dapto Local Environmental Study.

This Direction is designed to protect residential zoned land from back zoning to ensure the availability of residential land. These Planning Proposals would significantly reduce the amount of zoned residential land, impacting on housing affordability, reducing geographic choice, and inhibiting the ability to meet housing demand in the region. There is an argument that should the Planning Proposals be approved, that they would negatively impact on developer confidence.

As noted earlier, the decision to zone the Calderwood lands as residential was a conscious decision by the Minister to expand the supplies of residential land in the face of the slow development rate in West Dapto and the near exhaustion of other sites in the Illawarra. The issue of consistency with the IRS is addressed below. Additionally, neither Council have addressed the fundamental change in landholders' expectations that have occurred as a result of the zoning change. Removing the residential zoning over the land reflects a backzoning that could create a potential compensation claim for the landholders.

6.2 STRATEGIC PLANNING

6.2.1 Illawarra Regional Strategy (IRS)

The State Significant Site process that zoned Calderwood to permit residential and employment uses included an assessment of the merits of the proposed development of the area. This assessment addressed the issue of consistency with the IRS.

The IRS identifies that Calderwood provides an opportunity for an additional urban release area if demand for housing exceeds expectations and if the number of lots available in existing release areas (such as West Dapto) are not sufficient.

The IRS allows specific consideration of new release areas where they can demonstrate compliance with the Sustainability Criteria (listed in Schedule 1 of the IRS). In deciding to declare Calderwood a State Significant Site, the Minister determined that the Calderwood proposal satisfactorily addressed the Sustainability Criteria. The Director General's Assessment Report on the Concept Application notes (page 17) that *"the Sustainability Criteria have been considered as part of the proposed State Significant Site proposal, and have also been covered as part of the assessment of the impacts of the proposal in this report. It is considered that subject to recommended modifications to the Concept Plan, the proposal is satisfactory in this regard."*

The Regional Strategy Update Report was released in 2009 and revealed that the population in the Illawarra had grown at a faster rate than was forecast in the IRS. The Report recognised that there is an ongoing need to provide an affordable housing supply in the Illawarra.

The Department has also released the Illawarra Urban Development Program in 2010 and subsequent updates in 2011 and 2012, with all showing that there was a shortage of land in the Illawarra that is serviced and available for development in the short term.

It is the case that both the population growth (which is a determinant of housing demand) in the Illawarra exceeded expectations and that lot yields from urban release areas have been less than anticipated. Therefore, the development of Calderwood for residential and commercial uses – as identified in the approved Concept Approval - is consistent with the IRS.

The Planning Proposals submitted by Wollongong and Shellharbour City Councils are considered to be inconsistent with the Illawarra Regional Strategy as they would remove housing supply in the Illawarra that has already demonstrated the achievement of the prerequisites outlined in the Strategy.

The Proposals would remove a significant source of housing supply and inhibit the ability to meet housing demand in the Region.

Shellharbour and Wollongong Councils have suggested that the release of Calderwood will divert resources and infrastructure needed for the development of West Dapto and have a negative impact on the development of West Dapto. These statements downplay the significant infrastructure planning undertaken to facilitate development across the 'West Lake Illawarra' area, covering Calderwood, West Dapto, and Tallawarra. As part of this infrastructure planning work, the Government released a draft Special Infrastructure Contribution plan for the West Lake Illawarra Area. That plan was based on road, education and human/emergency services needs for the entire area.

While West Dapto itself provides a number of housing fronts, release areas such as Shell Cove and Flinders are in their final stages which, when exhausted, will reduce geographic choice for home buyers. The joint release of land for housing at Calderwood and West Dapto will provide housing choice, and thereby assist in the provision of affordable housing and the ability to meet the demand for housing in the region.

Under the IRS, a projected 19,000 greenfield dwellings would be needed over the 25 year life of the Strategy. This equated to approximately 760 dwellings per year, across multiple development fronts. Since the release of the Strategy, the development industry has been critical that this figure has not yet been reached in annual lot production – raising the need for multiple sites and a stronger supply to meet demand.

6.2.2 Illawarra Urban Development Program (IUDP)

The IUDP monitors the planning, servicing and development for new urban areas in Wollongong, Shellharbour, and Kiama; as well as the provision of housing in existing urban areas.

The most recent IUDP update (2012) notes that the Illawarra continues to experience a slowing in housing development resulting in a reduction in dwelling production and approvals. The 2012 update identified that an annual average of 516 greenfield lots were forecast for production, which is approximately 32% lower than the 760 dwellings per year identified in the IRS. This is expected to turn around over the next few years, partly due to increases in housing supply through the development of Calderwood (along with the release of land at West Dapto, and final releases from Flinders and Shell Cove).

The IUDP notes that the average annual dwelling supply in the Illawarra over the last 10 years has been approximately 1220 dwellings, of which only 464 were in greenfield areas. The IRS has identified a need for 1520 dwellings per year. The development of Calderwood will assist in closing this gap.

In the Shellharbour LGA, Calderwood was forecast to provide 180 dwellings per year from 2012/2013 when discussed at the 2011 developers' forum. The development of the Wollongong component is not expected to occur within the next 5 years but will ultimately contribute 1145 dwellings to regional housing supply.

Wollongong City Council's section 94 plan is predicated on the production of 500 dwellings per annum from Stages 1 & 2 of the West Dapto Release Area. Without Calderwood, this would not meet the required greenfield lot production of 760 lots per annum. The issue is further exacerbated when supplies from a number of significant new release areas across Shellharbour and Wollongong are forecast to be exhausted by 2012/2013.

Calderwood is expected to provide up to 180 lots per annum which, when added to the anticipated supply from West Dapto, would still not exceed expected demand of 760 lots per annum.

6.2.3 Environmental, social and economic impacts

The Planning Proposals would have adverse social impacts as they reduce the amount zoned for residential development and therefore reduce the potential supply of housing.

The reduction in amounts of land zoned for residential and commercial uses would result in adverse economic impacts. The reduction in housing supply may reduce housing affordability by removing the pressure on lot production created by competing development fronts, and would deny employment and economic opportunities associated with housing construction.

An additional economic impact is the reduction in the amount of employment land in the Region.

The Proposals may have positive environmental and agricultural impacts. They would protect farming land and areas of environmental value, however the existing zones under the SEPP do provide for the protection of environmentally significant areas. It is also noted that in 1986 the Illawarra Regional Environmental Plan (IREP) identified the potential urban suitability of the area. This changed the underlying land value and meant that genuine agricultural activity has typically been lost – while there are pockets of dairy in the area, this has also been affected by outside influences such as dairy deregulation.

A Flood plain risk management study is being prepared for the Macquarie Rivulet. This work will assist Councils in the assessment of future stages of the development to achieve development outcomes that ensure flooding issues are not exacerbated.

7. CONCLUSION

The Planning Proposals submitted by Wollongong and Shellharbour City Councils would reduce housing supply in the Illawarra by 4800 dwellings and remove 50 hectares of employment land. These Proposals are inconsistent with the IRS; inconsistent with section 117 Directions relating to housing, and business and industrial zones; and inconsistent with the Major Project SEPP.

The Department does not support the Planning Proposals.

In making this decision, the Department acknowledges that the planning for Calderwood does present a challenge for both Wollongong and Shellharbour Councils in relation to resources, coordination of infrastructure, developer contributions, and managing multiple release areas.

It is important for the Department to work closely with the Councils to assist in integrating the planning for Calderwood into the Councils' planning regimes. To this end, the Department is in the process of establishing a Project Control Group for West Dapto and Calderwood to discuss State and local development levies, prepare infrastructure coordination plans, and oversee an Integrated Assessment Group to ensure there is a consistent approach to State and local planning requirements for new release areas in the region.

A handwritten signature in blue ink, appearing to read "Brett Whitford".

Regional Director, Southern Region