

Draft Second Deed of Amendment to Planning Agreement

Minister for Planning, Lendlease Communities (Australia) Limited

Explanatory Note

Introduction

On 3 March 2011, the Minister for Planning entered into a planning agreement with Lendlease Communities (Australia) Limited, formerly known as Delfin Lend Lease Limited (**Planning Agreement**).

On 21 December 2016, the Planning Agreement was amended by 'Amendment Deed Calderwood Urban Development Project' (**First Amendment Deed**).

The purpose of this explanatory note is to provide a plain English summary to support the notification of the proposed Second Deed of Amendment to the Planning Agreement (**Second Amendment Deed**), prepared under Subdivision 2 of Division 6 of Part 4 of the *Environmental Planning and Assessment Act 1979* (**Act**).

This explanatory note has been prepared jointly by the parties as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000*.

Words appearing with initial capital letters in this note have the meanings given to them in this note or (if not defined in this note) in the Planning Agreement as amended by the Second Amendment Deed.

Parties to the Second Amendment Deed

The parties to the Second Amendment Deed are Lendlease Communities (Australia) Limited (**Developer**), and the Minister for Planning (**Minister**).

Purpose of the Second Amendment Deed

The purpose of the Second Amendment Deed is to substitute the mechanism for the review of the Development Contributions at clause 14 of the Planning Agreement as amended by the First Amendment Deed with a different mechanism which enables the Draft SIC Determination, which was publicly exhibited before the date of the Planning Agreement, to be applied (as may be updated by the Secretary) in the calculation of the Development Contributions.

Description of the Subject Land

The Planning Agreement as amended by the Second Amendment Deed will continue to apply to the same land to which the Planning Agreement as amended by the First Amendment Deed applied, being the land identified in Schedule 3 to the Planning Agreement (**Land**).

Description of the Proposed Development

The Proposed Development is the development of the Land as proposed in the Concept Plan Application No. 09_0082, and as varied by the Concept Plan Approval dated 8 December 2010, for approximately 4800 dwellings, 3 school sites, 50

hectares of a mix of uses including employment, retail and commercial uses, the provision of open space, internal roads, associated infrastructure and community facilities, and the provision of land for riparian corridors and conservation.

Summary of objectives, nature and effect of the Second Amendment Deed

The Second Amendment Deed substitutes the mechanism for the review of the Development Contributions at clause 14 of the Planning Agreement as amended by the First Amendment Deed with a different mechanism which enables the Draft SIC Determination which was publicly exhibited before the date of the Planning Agreement, to be applied (as may be updated by the Secretary) in the calculation of the Development Contributions.

The objective of the Planning Agreement as amended by the Second Amendment Deed is to facilitate the delivery of appropriate contributions by the Developer and to make provision for State infrastructure to meet certain demands created by the Proposed Development.

Assessment of the merits of the Second Amendment Deed

The planning purpose of the Second Amendment Deed

In accordance with section 93F(2) of the Act, the Planning Agreement as amended by the Second Amendment Deed has the following planning purpose:

- the provision of (or the recoupment of the cost of providing) public amenities or public services.

The Minister and the Developer have assessed the Planning Agreement as amended by the Second Amendment Deed and both hold the view that the provisions of the Second Amendment Deed provide a reasonable means of achieving the planning purpose set out above. This is because it will ensure that the Developer makes appropriate contributions towards the provision of State infrastructure and services.

How the Second Amendment Deed promotes the public interest

The Planning Agreement as amended by the Second Amendment Deed promotes the public interest by ensuring that an appropriate contribution is made towards the provision of State infrastructure and services to satisfy needs that arise from the development of the Land.

How the Second Amendment Deed promotes the objects of the Act

The Planning Agreement as amended by the Second Amendment Deed promotes the objects of the Act by encouraging:

- the promotion and co-ordination of the orderly and economic use and development of land; and
- the provision of land for public purposes.

The Planning Agreement as amended by the Second Amendment Deed promotes the objects of the Act set out above by requiring the Developer to make a contribution towards the provision of State infrastructure and services.

This purpose represents an important public benefit, and the Developer's offer to contribute towards this purpose will provide an important positive impact on the public who use the infrastructure and services to which these purposes relate.

Requirements relating to construction certificates and subdivision certificates

The Planning Agreement as amended by the Second Amendment Deed does not specify requirements that must be complied with prior to the issue of a construction certificate or an occupation certificate.

The Planning Agreement as amended by the Second Amendment Deed requires:

- the payment of a Transport Contribution prior to the issue of each subdivision certificate; and
- determination of the location of the proposed school sites and their transfer prior to the issue of certain subdivision certificates.

The Planning Agreement as amended by the Second Deed of Amendment therefore contains a restriction on the issue of a subdivision certificate within the meaning of section 109J(1)(c1) of the Act.

Interpretation of further amended Planning Agreement and Second Amendment Deed

This Explanatory Note is not to be used to assist in construing the further amended Planning Agreement or the Second Amendment Deed.