

Draft Third Deed of Amendment to Planning Agreement

Minister for Planning, Lendlease Communities (Australia) Ltd

Explanatory Note

Introduction

On 3 March 2011, the Minister for Planning entered into a planning agreement with Lendlease Communities (Australia) Ltd, 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 Planning Agreement is to be further amended by Second Deed of Amendment to the Calderwood Urban Development Project Planning Agreement (**Second Amendment Deed**).

The purpose of this explanatory note is to provide a plain English summary to support the notification of the proposed third deed of amendment to the Planning Agreement (**Third 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*.

Parties to the Third Amendment Deed

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

Purpose of the Third Amendment Deed

The purpose of the Third Amendment Deed is to amend the date by which land for the first public primary school is required to be delivered by the Developer under the Planning Agreement.

The Planning Agreement currently provides that the first public school site is to be delivered in accordance with the Education Milestone which is before the issue of the Subdivision Certificate which relates to land comprised in an allotment on which the 600th dwelling is proposed to be constructed.

This amendment to the Planning Agreement seeks to change the timing to allow the Developer to deliver the first public primary school site before the issue of a Subdivision Certificate which relates to land comprising an allotment on which the 1500th dwelling is proposed to be constructed.

The Department of Education does not object to the change in the timing for the delivery of the first public primary school.

Description of the Subject Land

The Planning Agreement as amended by the Third 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, approximately 50 hectares of mixed use land 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 (**Proposed Development**).

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

The Third Amendment Deed seeks to amend the Education Milestone for the delivery of the first public primary school site from before the issue of a Subdivision Certificate which relates to land comprising an allotment on which the 600th dwelling is proposed to be constructed, to before the issue of a Subdivision Certificate which relates to land comprising an allotment on which the 1500th dwelling is proposed to be constructed.

The objective of the Planning Agreement as amended by the Third 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 Third Amendment Deed

The planning purpose of the Third Amendment Deed

In accordance with section 93F(2) of the Act, the Planning Agreement as amended by the Third 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 Third Amendment Deed and both hold the view that the provisions of the Third 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, in a timely manner, towards the provision of State infrastructure and services.

How the Third Amendment Deed promotes the public interest

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

How the Third Amendment Deed promotes the objects of the Act

The Planning Agreement as amended by the Third 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 Third 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, including education facilities.

The 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 Third 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 Third Amendment Deed requires the Developer to procure the dedication of the first public primary school site prior to the issue of certain subdivision certificates.

The Planning Agreement as amended by the Third Amendment Deed 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 Third Amendment Deed

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