



26 November 2019

Director – Key Sites Assessments  
Department of Planning, Industry and Environment  
GPO Box 39  
SYDNEY NSW 2001

Our Ref: FP215  
Your Ref: SSD-10344  
SSD-10343

Dear Sir/Madam,

### **STATE SIGNIFICANT DEVELOPMENT APPLICATIONS – BELLA VISTA AND KELLYVILLE**

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Thank you for the opportunity to provide feedback on the State Significant Development Applications (SSDAs) for Government-owned land within the Bella Vista and Kellyville Precincts. The following comments are provided on behalf of Council:

- **Approval Pathway for Future Applications**

The current SSDA applications seek consent for a concept master plan, urban design guidelines and Stage 1 subdivision of public open space lots. Future applications will be required to facilitate further subdivision and the detailed design and construction of buildings, open space, public domain areas and associated civil infrastructure and works.

Under Schedule 2 of State Environmental Planning Policy (State and Regional Development) 2011, the following types of development are identified as State Significant Development within the Bella Vista and Kellyville Precincts:

- (a) *a principal subdivision establishing major lots or public domain areas, or*
- (b) *the creation of new roadways and associated works.*

It is noted that the Department exhibited changes to State and Regional Development SEPP in 2018 to include an additional criterion to allow development in the Precincts that has a capital investment value of more than \$30 million to be considered State Significant (these amendments have not been finalised to date). Council made a submission on this draft SEPP raising concern that the changes would allow future built form applications to be assessed as State Significant Development, overriding established local assessment and approval processes. Council recommended that State Significant Development within the Precincts continue to be limited to principal subdivision and the creation of roads only.

The Environmental Planning and Assessment Act 1979 permits a consent authority, in assessing a concept SSDA, to determine the future stages of development that are to be assessed by Council and that cease to be State Significant. Landcom has requested that the criteria for future applications to be considered State Significant include:

- a principal subdivision establishing major lots or public domain areas, or
- the creation of new roadways and associated works, or
- **has a capital investment value of more than \$30 million.**

It is acknowledged that Landcom's concept SSDAs seek to serve as the primary guiding policy for future development with the Precincts in lieu of the preparation of a site specific DCP. It is important that future applications are assessed against the framework set by the concept SSDAs as well as Council's DCP to ensure high quality development outcomes and a standard of liveability consistent with other high density locations throughout the Shire.

Accordingly, it is recommended that the criteria for State Significant Development continue to be limited to principal subdivision and the creation of roads, excluding development of individual sites regardless of the capital investment value. This approach will also ensure that future applications are able to be assessed through the established local assessment and approval process, including consideration by the Sydney Central City Planning Panel and Council's Design Review Panel which comprise of members with suitable local knowledge and expertise.

- **Infrastructure**

#### Delivery Mechanism

Throughout the SSDAs, it is indicated that Landcom intends to submit a letter of offer to Council setting out its calculated infrastructure obligations and mechanisms to meet those obligations (by way of a Voluntary Planning Agreement). Council has not yet received this letter of offer, which makes it difficult to comment on the reasonableness of the infrastructure provision being proposed as part of the SSDAs.

It is critical that a mechanism to secure the funding and delivery of infrastructure required to support proposed development within the Precincts be established at the concept development application stage. This should be a critical outcome of any SSDA approval. It is expected that Landcom (and/or other developers within the Precinct) will be responsible for the full costs of the provision of new infrastructure required to support the development.

No approval should be granted prior to a mechanism being established between Landcom and Council. It is noted that a separate or joint agreement may also be required to include other agencies with respect to the provision of State infrastructure such as the school or regional road upgrades.

#### Bella Vista Community Facility

Clarification is required regarding the proposed location and size of the Bella Vista Community Facility and Landcom's offer with respect to delivery. A plaza / community centre is shown on Drawing A\_0301 (Rev. B) within the Bella Vista Urban Design Guidelines which has a lot size of 3,575m<sup>2</sup>. However, within Figure 3.3.1 of the Bella Vista Urban Design Report this lot has an area of 3,310m<sup>2</sup> and a GFA entitlement of 2,180m<sup>2</sup> which would not be sufficient to accommodate a 4,000m<sup>2</sup> facility as suggested elsewhere in the SSDA material.

While a formal infrastructure offer is yet to be submitted by Landcom, details of this propose facility should be clearly and consistently represented within the guidelines and drawings that may be approved as part of the SSDA.

#### Embellishment of Caddies Creek Reserve

The Social Infrastructure Assessment prepared by Elton Consulting (August 2019) identifies that the future population within the Bella Vista and Kellyville Precincts would generate demand for an extension to Caddies Creek Sporting Complex with four new playing fields and associated amenities. The EIS Reports submitted with the SSDAs identify this demand will be addressed through the provision of 10ha of open space "land" at Caddies Creek. As noted in Council's previous SEARs submissions, the demand generated by the future population on land within the Bella Vista and Kellyville Precincts will fully utilise any capacity created by the provision of four new

playing fields at Caddies Creek. Accordingly, it is expected that the full cost of embellishment of this facility will be funded by Landcom and secured through a mechanism which addresses local infrastructure as part of the current SSDAs.

It is noted that the land component of this facility is proposed to be funded through the draft Special Infrastructure Contribution Levy for the North West Growth Area – if this were not to occur, it is expected that development within the Bella Vista and Kellyville Precincts would also be responsible for the full cost of any land acquisition associated with the expansion of Caddies Creek Reserve.

### Creek Crossings

Clarification is required regarding which creek crossings are proposed to be funded and/or delivered as part of the subject SSDAs. The Urban Design Guidelines indicate a new pedestrian bridge connecting Lewis Jones Drive Reserve to the proposed Neighbourhood Park in Kellyville Precinct and another bridge connecting Sandstock Way in the Balmoral Road Release Area to a new local road opposite Byles Place in Bella Vista Precinct.

These crossings are considered to be fundamental outcomes associated with development within the Precincts as they will encourage sustainable travel, improve connectivity and create genuine TOD outcomes. It is anticipated that clarification will be provided by way of Landcom's formal infrastructure offer however this should also be clarified within the Urban Design Guidelines proposed to be approved as part of the SSDA.

### Urban Plazas

Clarification is required regarding the responsibility for embellishment of the proposed plaza and ongoing maintenance obligations and arrangements where these remain in private ownership.

Concern is raised with respect to the 'divided' nature of the Kellyville Town Centre plaza / park (KV1). There would be greater benefit in consolidating this space to improve its function, useability and amenity. Potential overshadowing issues could also be addressed by reducing the building bulk and height surrounding the park. It is noted that the Social Infrastructure Assessment prepared by Elton Consulting identifies a desirable size of 3,000m<sup>2</sup> for local parks. Consolidating the plaza within the Kellyville town centre would more closely align with this guideline.

### Schools

Concern is raised that the future population will generate demand for an additional high school which has not been identified in the proposed SSDAs. Based on standard benchmarks, approximately one new high school is required to service every 4,500 new dwellings (noting that up to 5,600 dwellings are proposed as part of the current proposals on the Government land only). The Social Infrastructure Assessment prepared by Elton Consulting notes that NSW Department of Education has identified 'some' capacity in existing high schools to 'help' accommodate the demand from the proposed development. These statements do not provide sufficient comfort or certainty that the future population can be adequately serviced by existing high schools in the area. The Bella Vista and Kellyville Precincts are an ideal location for a new high school being Government owned land in a highly accessible location along the metro corridor where substantial growth will be occurring.

It is also noted there are inconsistencies throughout the material with respect to the size of the proposed primary school, with the Elton report identifying demand for a 1.5ha site and the proposed plans indicating an area of approximately 1ha. Clarification should be provided in this regard.

### Kellyville Neighbourhood Park

References to KV2 'Neighbourhood Park' should be amended to 'Local Urban Park (High Density Areas)' to reflect Council's hierarchy within the recently adopted Recreation Strategy.

▪ **Master Plans & Urban Design Guidelines**

Level of Detail

As the concept approval will effectively constitute a site specific DCP (in satisfaction of Clause 8.5 of The Hills LEP 2012), the Urban Design Guidelines should include sufficient detail to guide the final built form outcome. The guidelines need to have a level of detail equivalent to a DCP and should be expanded to provide guidance on additional matters such as:

- Unit mix and apartment size - future apartment development should comply with Council's housing mix and diversity criteria, as specified within Clause 7.12 of LEP 2012;
- Common and private open space; and
- Character objectives and controls.

Plans for Approval

For clarity, it is recommended that the GFA and yield ranges for each lot be included on the 'Plans for Approval' for the Bella Vista Precinct, as is the case for the Kellyville Precinct.

Setbacks

Landcom is seeking to vary the minimum setback controls for residential flat buildings under The Hills LEP 2012 from 5 metres to the following:

*Town Centre / Main Streets*

- Podium: 0-2m
- Upper storeys: further 3m

*Residential Areas / Local Streets*

- Podium: 2-5m
- Upper storeys: further 3m (Kellyville) or 5m from the boundary (Bella Vista)

The SSDA material justifies these variations on the basis of the intended urban character of the precincts, the presence of landscaped verges along streets, desire for increased passive surveillance for streets and greater opportunity for varied street walls leading to more interesting streetscapes.

Landcom's justification is not considered reasonable. The minimum setbacks within The Hills LEP 2012 were set as a result of detailed precinct planning completed by the NSW Government and already vary substantially from Council's typical front setback requirements for apartment buildings of 10 metres. The reduced setback within the LEP already acknowledges the urban character of these areas, whilst continuing to allow reasonable space for deep soil planting and larger tree species, providing a green and leafy character, increased urban tree canopy and increased privacy for future residents. Greater setbacks would also enhance solar access to streets and reduce wind impacts which are highly desirable from an amenity perspective in high density areas.

It is also considered inappropriate to vary the requirements as part of a master plan approval, without any detailed concepts for individual buildings to justify the variation. It is noted that there would remain scope for variation to setbacks to be considered on a case-by-case basis as part of future built form applications for individual buildings. This would allow for consideration of variations having regard to the detailed design of individual buildings and specific opportunities and constraints afforded by individual sites.

An approach could be applied within the Bella Vista and Kellyville Precincts consistent with Council's adopted DCP controls for other station precincts (Showground and Castle Hill North) where a setback of 3 metres can be applied where apartment developments proposed a 'terrace edge'.

### Mix of Housing Typologies

The proposed mix of medium and higher density housing is considered a positive outcome. Whilst the proposed GFA ranges will go some way to securing the provision of medium density forms such as terraces, it is considered this could be further secured by specifying a minimum percentage of terrace style housing for certain sites.

### Street Profiles

The street profiles for the Bella Vista Precinct should be included within Section 02 'Street Hierarchy, Public Domain, Street Interface and Street Setbacks' of the Bella Vista Urban Design Guidelines. Care should also be taken to ensure the design of new streets will present a uniform and logical profile with the existing streets already constructed by NRT.

All streets profiles should include a 2.5m shared path on at least one side to facilitate both pedestrian and cycle movements throughout the precincts.

### Building Envelopes

Clarification should be provided of whether the proposed building envelopes are inclusive of plant and lift overruns. These features should not protrude about the maximum permissible building height unless fully integrated into the design of an architectural roof feature in accordance with Clause 5.6 of The Hills LEP 2012.

### Building Lengths

Concern is raised with respect to the visual bulk of buildings which in some cases exceed 65 metres in length. It is recommended that a control be applied within both Precincts which is consistent with the adopted DCP controls for other station precincts (Showground and Castle Hill North) and imposes a maximum building length of 65 metres.

### Retail Laneways

Care should be taken to ensure that laneways are appropriately activated to avoid these becoming dormant / unsafe spaces.

### Wind

Given the density and foot traffic expected for these precincts, it is recommended that wind controls be included in the Urban Design Guidelines to require buildings of 8 or more storeys to be subject to wind tunnel testing and demonstrate the following:

- In open areas to which people have access, the annual maximum gust speed should not exceed 23 metres per second;
- In walkways, pedestrian transit areas, streets where pedestrians do not general stop, sit, stand, window shop and the like, annual maximum gust speed should not exceed 16 metres per second;
- In areas where pedestrians are involved in stationary short-exposure activities such as window shopping, standing or sitting (including areas such as bus stops, public open space and private open space), the annual maximum gust speed should not exceed 13 metres per second;
- In areas for stationary long-exposure activity, such as outdoor dining, the annual maximum gust speed should not exceed 10 metres per second; and
- The report is to be prepared by a suitably qualified engineer.

These controls are consistent with adopted DCP controls for other station precincts (Showground and Castle Hill North).

### Overshadowing

No detailed overshadowing analysis has been provided for the Bella Vista Precinct. This should be submitted for review.

### Urban Tree Canopy

The provision of street trees is not considered sufficient (e.g. spacing of 15 metres). Trees should be spaced a maximum of 10 metres apart with large canopy species to support the 'Garden Shire' character and minimise environmental heat impacts.

### Car Parking

Concern is raised with respect to the proposed parking rates (0.6 – 1.4 spaces per unit, 1 visitor space per 10 units and 1 space per 145m<sup>2</sup> of commercial gross floor area). It is recommended that parking rates for residential flat buildings be included within the Urban Design Guidelines which are consistent with Council's housing diversity provision (1 space per apartment and 1 visitor space per 5 apartments). It is further recommended that parking rates be considered for commercial uses which are more in line with current requirements within the Shire (Council's current 'Commercial Centres' rate is 1 space per 40m<sup>2</sup>).

### Subdivision

The SSDA includes the subdivision of the proposed public domain areas but does not include any physical works. The mechanism for the embellishment of these spaces which are being created needs to be clarified as part of this process, especially as it is the development itself which drives the need for these public domain areas.

The subdivision plan should be prepared by a registered surveyor. If plans created by an architect are relied upon it should be more clearly dimensioned with respect to the areas/boundaries proposed.

Ownership of the two 'riparian breakaway spaces' in Kellyville should be clarified regarding Council or Sydney Water ownership.

### ▪ **Water Management**

#### Orderly Development

The SSDAs need to consider orderly development in relation to the required stormwater drainage network and flood levels. It is acknowledged that staged development is proposed, however further progression of the SSDAs and future Development Applications need to consider the management of stormwater and flooding with consideration to proposed filling of the land.

#### Soil Contamination

Due to potential soil contamination, future development applications must include conditions that all soil is to be tested to determine suitability for re-use.

#### Flood Planning Levels

Both SSDAs consider a flood planning level of 500mm above the 100 year Average Recurrence Interval (ARI) overland flow levels. A flood planning level against the 100 year ARI levels in Elizabeth Macarthur Creek was not specified. The justification given was that the developable land can be filled up to, or above the 100 year ARI level. Nevertheless, a freeboard of 500mm from the 100 year ARI in Elizabeth Macarthur Creek should be adhered to.

#### On-Site Detention

The SSDAs propose that on-site detention is not required due to the minimal change in flood levels expected as a result of the proposed development with predicted 90%-100% imperviousness. The minimal impact was stated to be approximately 20mm at the most impacted location. Further submission should be made which details and/or models how the determination of 20mm was calculated. Without review of this information Council is unable to support this claim. Regardless of flood impact, to reduce erosive impact and instability within the waterway corridor as a result of the proposed developments increased imperviousness, on-site detention ought to be considered.

### Gross Pollutant Traps

The SSDA's propose Gross Pollutant Traps (GPTs) at multiple locations along Elizabeth Macarthur Creek to treat stormwater before being discharged to the watercourse. The likely number and locations needs to be demonstrated. Additionally, confirmation with respect to the asset owner of the GPTs and responsibility for the ongoing management and maintenance is required.

### Tree Pits

Both SSDAs propose tree pits. Consideration should be given to their design, location and number permitted with conditions likely to be recommended as part of future development applications. Additionally, review of the submitted documentation in support of the SSDAs found that there is inconsistency across the documentation in regard to the proposed spacing of tree pits.

The Stormwater Management Plans submitted in support of the SSDAs nominate the modelling details of the proposed tree pits. The details presented indicate a filter area greater than the surface area which cannot be the case. All numbers used in the modelling of Water Sensitive Urban Design measures need to be reviewed and amended as necessary.

### Stormwater Re-Use

Further iterations of the proposals will need to provide a water balance for the proposed stormwater re-use for the irrigation of district open space. It is acknowledged that a 1300L tank is proposed and modelled for the Bella Vista precinct. For Bella Vista more specifically, the Stormwater Management Plan needs to address potential groundwater influences and constraints in relation to the proposed WSUD measures.

The Kellyville Station Precinct Stormwater Management Plan (SMP) proposes that the neighbourhood park between Blocks C and D is to be connected to a rainwater re-use tank for irrigation purposes. This is not supported and this rainwater tank and re-use system is to be removed from the MUSIC model for the precinct and the pollution reduction achievements re-calculated.

### Riparian Assessment

A riparian assessment for the Bella Vista precinct should be submitted, similar to that provided for Kellyville. Further progression of the Kellyville precinct SSDA and future Development Applications ought to comply with mitigation measures specified in the riparian assessment completed by EcoLogical Australia in support of the Kellyville precinct SSDA.

### Stormwater Harvesting

It is noted that, without further information, Council will not accept ownership or management responsibility of any assets associated with Sydney Water's (conceptual) regional stormwater harvesting pipeline or related drainage infrastructure.

### ▪ **Traffic and Transport**

#### Connectivity with Private / Other Government Land

The SSDAs should outline how the proposed road network/layout could integrate with any future road network on the land not included as part of the current proposals. These could be shown as 'potential future connections'. Additionally, clarification is needed of which roads are proposed to be provided as part of the current SSDAs. The 'Plans for Approval' and various figures throughout the documentation show certain roads on land outside of the red SSDA boundary which is not within Landcom's control.

#### Road Hierarchy

It is unclear what road types are being proposed, as such a clear road hierarchy needs to be developed. Any public road should comprise of a verge width of 3.5m, except where a wider verge is necessary for a bike path. Narrower 1m verge may be appropriate next to Elizabeth McArthur Creek dependent on stormwater elements installed along this road edge.

### Intersections

Median strips along Mawson Avenue and Celebration Drive should be considered. Both roads are 20m wide punctuated by many east-west local roads which have the potential to affect access through the precinct.

The amount of additional land which may be required to facilitate identified intersection upgrades has not been specified. Land-take in association with upgrades at the intersections of Old Windsor Road and Celebration Drive and Samantha Riley Drive and Decora Drive should be accounted for in plans.

### ▪ Biodiversity

The proposed developments in Bella Vista and Kellyville Precincts will impact on 1.57ha and 2.05ha respectively of Cumberland Plain Woodland, of which 0.42ha and 1.85ha respectively meets the criteria for listing under the *Environment Protection Biodiversity Conservation Act 1999* (EPBC Act). Clearing of this woodland may result in serious and irreversible impact.

Within the Kellyville Precinct, it is not clear that the proposal has been designed to attempt to avoid impacts to Cumberland Plain Woodland or minimise its impact, with 98% of the Cumberland Plain Woodland present within the study area to be impacted.

Before approval, consideration should be given to exploring options to retain additional Cumberland Plain Woodland or if the proposal does not change, mitigating the loss of Cumberland Plain Woodland via offsets in the Blacktown or Hills Shire LGA. Additional offsets may be required to address indirect impacts such as increases in sedimentation or change in surface flow of water and evidence of this should be demonstrated in the BDAR.

### ▪ Waste Servicing

All future roads must be able to accommodate Council's standard 12.5m long Heavy Rigid Vehicle (AS2890.2) to circulate the road network. Waste collection is unlikely to be supported in narrow laneways (less than 10 metres total reservation width). This requirement should be included as a control within the Urban Design Guidelines.

A control should also be included within the Urban Design Guidelines that where roads terminate, a cul-de-sac turning head with a minimum diameter of 19 metres must be provided to enable efficient waste collection with no reversing. A further control should be included that all developments should provide for on-site waste collection either at grade or via a basement and waste collection vehicles must be able to enter and exit the site in a forward direction.

Should you wish to discuss any of the matters raised within this letter further, please do not hesitate to contact Nicholas Carlton, Manager – Forward Planning on 9843 0416.

Yours faithfully



**Michael Edgar**  
**GENERAL MANAGER**