



Hon Jeff Seeney MP

Deputy Premier

Minister for State Development, Infrastructure and Planning

Our ref: MBN14/501

20 MAY 2014

Councillor Pam Parker  
Mayor  
Logan City Council  
PO Box 3226  
LOGAN CITY DC QLD 4114

Dear Councillor Parker

I refer to my letter of 8 April 2014, about Logan City Council's decision not to extend the access licence agreement between council and Lend Lease Communities (Yarrabilba) Pty Ltd (Lend Lease).

In my letter, I outlined my concern that council's decision would have an adverse impact on the 400 residents and hundreds of construction workers who no longer have legal access to the Yarrabilba Priority Development Area.

The Logan City Council was given the opportunity to make written representations for me to consider before exercising the power under section 128 of the *Economic Development Act 2012*. As council did not provide a written response or execute a new access licence agreement, I have decided to give council a written direction in the terms set out in the enclosed Direction to a Local Government to Provide Infrastructure.

If you require any further assistance, please do not hesitate to contact my office.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Jeff Seeney', written over a light blue horizontal line.

**JEFF SEENEY MP**  
**DEPUTY PREMIER**  
**Minister for State Development, Infrastructure and Planning**

Enc

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## Section 128 of the *Economic Development Act 2012*

### Direction to A Local Government to Provide Infrastructure

I, Jeff Seeney, Deputy Premier, Minister for State Development, Infrastructure and Planning, and Minister for Economic Development Queensland,

noting that Logan City Council (**the Council**) is the registered owner of land described as Lot 1 on RP138537; and

noting that land is a form of infrastructure under the *Economic Development Act 2012*; and

being satisfied that the provision of infrastructure by the Council, a local government constituted under the *Local Government Act 2009*, is necessary for the proper and orderly planning, development and management of the *Yarrabilba Priority Development Area*, a priority development area having effect under the *Economic Development Act 2012*;

direct the Council as follows:

Provide infrastructure being the whole of the land in Lot 1 on RP138537 (the Land):

- (1) to Lend Lease Communities (Yarrabilba) Pty Ltd ABN 69 103 578 436 (**Lend Lease**) to access and use, by vehicle or on foot, the Land generally for the purpose of carrying out the development of the *Yarrabilba Priority Development Area* and (without limiting the generality of the foregoing) for the purpose of carrying out the development approved by PDA Development Approval 2010/89 and PDA Development Approval 2013/523 (the PDA Development Approvals) on the terms and conditions set out in Schedule 1 annexed to this direction; and
- (2) at all times to members of the public for the purpose of passing and re-passing by vehicle or on foot over the Land from Camp Cable Road and Waterford Tamborine Road to and from the development the subject of the PDA Development Approvals.

The Council must comply with this direction despite any other Act or law.

Dated this ~~20th~~ day of ~~May~~ 2014

Signed:



The Honourable Jeff Seeney MP  
Deputy Premier, Minister for State Development, Infrastructure and Planning  
Minister for Economic Development Queensland

## Schedule 1

### Conditions of Access

#### 1 INTERPRETATION

“**Access Hours**” means the hours during which Lend Lease may access the Land for the Permitted Activities as specified in **item 4 of annexure 1**.

“**Annexure**” means an annexure to this Direction.

“**Commencement Date**” means the date of the Direction.

“**Direction**” means the Direction made by the Minister for Economic Development Queensland under the *Economic Development Act 2012* that relates to the Land.

“**Expiry Date**” means 12 months from the Commencement Date.

“**Fee**” means the sum payable under this Direction from time to time and, initially, as specified in **item 2 of annexure 1**.

“**Land**” means the area described in **item 1 of annexure 1**, being the area that Lend Lease is authorised to use in accordance with this Direction.

“**Lend Lease**” where the context permits, includes Lend Lease's successors, assigns, employees, agents, contractors and invitees but limited always to persons reasonably required to enter the Land for the Permitted Activities.

“**month**” means calendar month.

“**Permitted Activities**” means the business or activity to be carried on at or from the Land as specified in **item 3 of annexure 1**.

“**Term**” means the term of this Direction being from the Commencement Date to the Expiry Date.

#### 2 FEE

2.1 The Fee is payable by Lend Lease within 14 days from the Commencement Date.

#### 3 TERMS AND CONDITIONS OF ACCESS

##### (a) Compliance with Council's directions

Lend Lease will comply with all reasonable directions given from time to time by Council in relation to the use of the Land.

(b) **Nuisance**

Lend Lease will not do omit to do or permit to be done or omitted anything on the Land which may constitute a nuisance, annoyance or danger to any person at, or property in or about, the Land.

(c) **Release**

All property of Lend Lease in the Land and Lend Lease's occupation and use of the Land is at Lend Lease's risk in all respects and to the fullest extent permitted by law Lend Lease releases Council from all claims in relation to loss, damage or injury suffered by Lend Lease or any employee, agent or contractor of Lend Lease.

(d) **Indemnity**

Lend Lease will indemnify and continue to indemnify Council against:

- (i) loss of or damage to property of Council (including but without limitation to any property under the care and control of Council) or any third party; and
- (ii) claims by any person against Council in respect of personal injury, death or loss of or damage to any property,

arising out of or as a consequence of the conduct of Lend Lease pursuant to the Permitted Activities. Lend Lease's liability to indemnify Council under this clause shall be reduced proportionally to the extent that any act or omission of Council or any employees or agents of Council may have contributed to the loss, damage, death or injury.

(e) **Public liability insurance**

Before Lend Lease enters onto the Land, Lend Lease must take out public liability insurance with a reputable insurer for the amount specified in the Item 5 of the Annexure which, amongst other things, covers Council and Lend Lease's liability to Council pursuant to **clause 3(d)**.

Lend Lease will ensure the public liability insurance policy is current at all times during the Term.

(f) **Other insurances**

Before Lend Lease enters upon the Land, Lend Lease must at its own cost and expense effect and maintain during the Term insurance for:

- (i) **Workers Compensation Insurance** in a form prescribed or approved under or issued in pursuance of any workers compensation legislation applicable to Lend Lease (including insurance in an unlimited amount or to that amount allowed by legislation in respect of employer's liability) and any extension of such policy granted upon request as a matter of usual practice by insurers authorised to issue such policies.

(g) **Evidence of and Requirements for insurance**

Lend Lease is not permitted to enter upon the Land until Lend Lease has effected the insurance required by **clauses 3(e) and (f)** and provided evidence satisfactory to Council, acting reasonably, of the policies of insurance required by these conditions. Should such satisfactory evidence not be provided to Council on demand, Council may take out the policies itself and the premium for such policies shall be a debt due and owing from Lend Lease to Council on demand.

(h) **Notification of occurrence**

Lend Lease shall in writing immediately notify Council of any occurrence or accident likely to give rise to a claim under the insurance policies required to be taken out under the terms of these conditions or of any other matter or thing in respect of which notice should be given by Lend Lease to Council in terms of those policies and must thereafter give all such information and assistance as may be reasonably practicable in all the circumstances and give to Council if requested by Council a statutory declaration as to any matters connected therewith.

(i) **Supply of information**

Lend Lease will, if required by notice in writing by Council, supply to Council such information as Council may reasonably require concerning occupation of the Land including, without limitation, the identity of persons accessing the Land and the purpose for which they are doing so.

(j) **Placement of Lend Lease's property**

Lend Lease will maintain, clean and keep in good order, repair and condition all of Lend Lease's property in the Land.

**(k) Rectification by Council**

If within a reasonable period (as determined by Council) after notice in writing given by Council to Lend Lease requiring any act to be done in accordance with Lend Lease's obligations under this Direction, Lend Lease fails or neglects to do the act, Council may do the act and the expense of so doing (of which expense a certificate by Council shall be conclusive) shall be a debt due by Lend Lease to Council on demand.

**(l) Observance of regulations**

Lend Lease will maintain the Land and all plant, equipment and other chattels in or about the Land in a safe, clean, tidy and sanitary condition and to comply with the provisions of *Workplace Health and Safety Act 2011* and all other relevant legislation or lawful requirements of any appropriate authority.

**(m) Disposal of refuse**

Lend Lease will comply with all Council's reasonable directions as to disposal of waste from the Land including, without limitation, the payment of fees as set by Council.

**(n) Removal of hazardous or contaminated materials**

Lend Lease shall be responsible for the removal of all hazardous or contaminated materials from the Land and shall provide for their secure storage and disposal at all times.

**(o) Non exclusive use**

Lend Lease acknowledges that the use or occupation by Lend Lease of the Land or any part thereof shall in no way exclude the right of Council to possession thereof.

**(p) Storage of explosive or flammable goods**

Lend Lease must not store explosive, flammable, dangerous, hazardous or poisonous goods or substances in or about the Land.

**(q) Comply with law, etc**

(i) Lend Lease will comply with all laws concerning the:

- (A) Land;
- (B) Use of the Land; and
- (C) Permitted Activities.

- (ii) Lend Lease must observe and comply with any requirement, notice, order or direction directed to Lend Lease or to the Council relating to the Permitted Activities, at Lend Lease's own expense, by any governmental department, authority or other relevant body.

(r) **Pests**

Lend Lease must keep the Land and all Lend Lease's and Council's property in the Land free of pests, insects and vermin.

(s) **Representations on Behalf of Landlord**

Lend Lease must not make any statements or provide any undertakings, verbal or otherwise, that would in any way commit or bind Council.

## **4 TERMINATION OF DIRECTION**

### **4.1 Termination provisions**

This Direction will cease to apply if:

- (a) Lend Lease omits or fails to observe or perform any of the terms, conditions or covenants of this Direction required to be observed or performed by Lend Lease, after Council has given Lend Lease a notice in writing requiring Lend Lease to remedy the omission or failure or to observe or perform the term, condition or covenant within 14 days of the date of the notice or such other period of notice as is reasonable in the circumstances; or
- (b) a winding up order is made in respect of it, or a resolution for voluntary winding up is passed by Lend Lease or a provisional liquidator, a receiver and manager or a receiver of Lend Lease or of a company of which Lend Lease is a subsidiary is appointed; or
- (c) an assignment or composition is made by Lend Lease for the benefit of Lend Lease's creditors; or
- (d) a person is appointed under any legislation to investigate or manage any part of the affairs of Lend Lease or any of its subsidiaries;

and Council may re-enter upon Land or any part thereof in the name of the whole and this Direction shall thereupon determine but without prejudice to any claim, right of action or remedy which Council may have against Lend Lease in respect of any breach of this Direction.

### **4.2 Lend Lease's property and make good**

- (a) Lend Lease must remove Lend Lease's property from the Land immediately upon termination or expiry of this Direction.

- (b) Lend Lease must restore and leave the Land in the state it was in at the date that Lend Lease entered onto the Land. This obligation will not apply to any area of the Land gazetted as a road except where Lend Lease has abandoned the completion of the road works.
- (c) Lend Lease must immediately make good any damage done to any property of Council or any other person as a result of Lend Lease removing Lend Lease's property from the Land.
- (d) Any of Lend Lease's property not removed from the Land within 7 days of the termination or expiry of this Direction shall become the absolute property of Council and the costs incurred by Council in removing this property from the Land and putting the Land into the state required under this **clause 4.2** shall be a debt due and owing to Council by Lend Lease on demand.

## **5 SALE OF LAND**

- 5.1 The Council must not sell the Land without first procuring that the transferee execute a deed of covenant in a form acceptable to Lend Lease (acting reasonably) whereby the transferee covenants with Lend Lease that it will observe and be bound by the terms covenants and conditions on the part of the Council contained in this Direction as if it were named as the Council under this Direction.

### **5.2 Reservation**

Council reserves the right together with its agents at all reasonable times upon giving to Lend Lease reasonable notice (except in the case of an emergency when no notice is required) to enter upon the Land and view the state of repair and to carry out any repairs necessary to the Land.

## **6 USE OF THE LAND**

- 6.1 Lend Lease must access and use the Land only in accordance with the Permitted Activities

## **7 GST**

- (a) In this clause the expressions "adjustment note", "consideration", "GST", "input tax credit", "supply", "tax invoice", "recipient" and "taxable supply" have the meaning given to those expressions in the *A New Tax System (Goods and Services Tax) Act 1999*.
- (b) Unless otherwise stated, all amounts payable under this Direction exclude GST.
- (c) If the rate of GST is varied, the consideration payable for any supply under this Direction will be varied to reflect the change of rate and any reduction in any other tax, duty or statutory charge connected with the rate change.



- (d) If this Direction requires a party to reimburse or indemnify the other party for any expense, loss or outgoings (“reimbursable expense”) the amount required to be paid by the first party will be the sum of:
  - (i) the amount of the reimbursable expense net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense (“net amount”); and
  - (ii) if the other party’s recovery from the first party is a taxable supply, any GST payable in respect of that supply.
- (e) If a GST inclusive price is charged or varied, the supplier will deliver to the recipient a valid tax invoice or adjustment note at or before the time of payment. The recipient can withhold payment of the GST until the supplier provides a valid tax invoice or adjustment note as appropriate.
- (f) “Pay As You Go” withholding amounts will be deducted from payments to be made to Lend Lease if at the time of payment Lend Lease has not provided to Council a valid Australian Business Number or if Council otherwise reasonably forms the view that deductions are required to be made under Part 2-5 of the *Taxation Administration Act 1953*.

## ANNEXURE 1

**ITEM 1            Land**

(clause 1.1)

Lot 1 on RP 138537, Cnr Camp Cable and Waterford Tamborine Roads,  
Yarrabilba

**ITEM 2            Fee**

(clause 1.1)

The Fee shall be \$2,000.00 (plus GST) per annum payable in advance –  
no refund for early lawful termination of this Direction

**ITEM 3            Permitted Activities**

(clause 1.1)

To Lend Lease to access and use, by vehicle or on foot, during the Access Hours, the Land generally for the purpose of carrying out the development of the *Yarrabilba Priority Development Area* and (without limiting the generality of the foregoing) for the purpose of carrying out the PDA Development Approvals on the terms and conditions set out in Schedule 1 above of which this Annexure forms part.

**ITEM 4            Access Hours**

(clause 1.1)

Subject to any lawful requirement to the contrary, 24 hours per day  
Monday to Sunday.

**ITEM 5            Insurance**

(clause 3(e))

\$20,000,000