

<b>JRPP No.</b>	<b>2010SYW013</b>
<b>DA No.</b>	<b>DA 123.1/2010</b>
<b>Proposed Development</b>	<b>Subdivision of the site into 3 super lots, construction of 104 dwellings and ancillary works including site preparation/earthworks, stormwater drainage, servicing and landscaping and subdivision thereof into 82 torrens title lots, 1 community title lot and 4 strata title lots</b>
<b>Location:</b>	<b>Lots 2,3,4,50 &amp; 49, DP 262453, No. 4-12 Bunker Parade, Lots 47,46,45 &amp; 44, DP 262453, No. 16-22 Bunker Parade, Lots 54 &amp; 55, DP 262453, No. 2-3 Cronin Place, Lots 57,58,59,60,61,62 &amp; 63, DP 262453, No. 5-11 Cronin Place, Lot 6, DP 262453, No. 15 Deakin Place, Lot 5, DP 262453, No.4-18 Reeves Crescent, Lot 51, DP 262453, No. 3 Reeves Crescent, Lots 53,32,33,34,35 &amp; 36, DP 262453, No. 7-17 Reeves Crescent, Lots 38,39,40,41,42 &amp; 43, DP 262453, No. 21-31 Reeves Crescent and Lot 6262453, No. 15 Deakin Place, Bonnyrigg</b>
<b>Applicant:</b>	<b>Bonnyrigg Partnerships</b>
<b>Report by</b>	<b>Mark Stephenson, Senior Development Planner Fairfield City Council</b>

**Owner:** Housing NSW

**Capital Investment Value:** \$27,612,000

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## **RECOMMENDATION**

1. That the application proposing the subdivision of the site into 3 super lots, construction of 104 dwellings and ancillary works including site preparation/earthworks, stormwater drainage, servicing and landscaping and subdivision thereof into 82 torrens title lots, 1 community title lot and 4 strata title lots, be approved subject to conditions as outlined in Attachment B of this report.

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## **SUPPORTING DOCUMENTS**

<b>AT-A</b>	Concept Plan and Stage 1 Approvals	51 page(s)
<b>AT-B</b>	Draft Conditions of Consent	24 page(s)
<b>AT-C</b>	Letter of Objection	3 page(s)

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## EXECUTIVE SUMMARY

This development application provides for the subdivision of the subject site into 3 super lots, construction of 104 dwellings and ancillary works including site preparation/earthworks, stormwater drainage, servicing and landscaping and subdivision thereof into 82 torrens title lots, 1 community title lot and 4 strata title lots.

The proposed development forms part of Stage 2 of the redevelopment of the Bonnyrigg public housing estate, which has approval as a Part 3A Project from the Minister for Planning. The redevelopment of the estate is undertaken through a public private partnership between the Department of Housing and Bonnyrigg Partnerships. Once developed, the estate will comprise both public and private housing with a 30% public housing and a 70% private housing distribution throughout the site.

On 9 June 2010, the subject site was zoned 2(b) Residential under Fairfield Local Environmental Plan 1994, pursuant to Environmental Planning and Assessment Act 1979 – Section 75R(3A) Order 2010. The proposed development is permissible within the zone subject to consent. The proposed development has demonstrated general compliance with the Bonnyrigg Masterplan.

The development application was advertised in accordance with the Fairfield City-Wide DCP 2006. One (1) submission was received, however, this submission related to a totally separate issue within another stage of the Bonnyrigg Living Communities Project. As such, this submission was not considered to be relevant to the Stage 2 Development Application.

The application is referred to the Sydney West Joint Regional for consideration pursuant to Clause 13B(1)(a) of State Environmental Planning Policy (Major Development) 2005, as the development has a capital value in excess of \$10 million.

This report summarises the key issues associated with the development application and provides an assessment of the relevant matters of consideration in accordance with the Environmental Planning and Assessment Act 1979, the Fairfield Local Environmental Plan 1994 and the Bonnyrigg Masterplan.

It is considered that the proposed development is appropriate for the site and for the locality and will have minimal impact on the surrounding environment. It is important to note that the proposal represents Stage 2 of an 18 stage redevelopment of the Bonnyrigg public housing estate, which has Concept Plan approval from the Minister for Planning. Based on an assessment of the application, it is recommended that the application be approved subject to conditions.



○ **Locality Diagram** (Source: Residential Logistics Pty Ltd, 4 February 2010)



**Indicative Staging Plan** (Source: Urbis, June 2008)



## **SITE DESCRIPTION AND LOCALITY**

The subject site is located approximately 750 metres to the east of the Bonnyrigg Town Centre and is bounded by Edensor Road, Bunker Parade and Reeves Crescent in Bonnyrigg.

The subject site encompasses a number of allotments, which are known as Lots 2,3,4,50 & 49, DP 262453, No. 4-12 Bunker Parade, Lots 47,46,45 & 44, DP 262453, No. 16-22 Bunker Parade, Lots 54 & 55, DP 262453, No. 2-3 Cronin Place, Lots 57,58,59,60,61,62 & 63, DP 262453, No. 5-11 Cronin Place, Lot 6, DP 262453, No. 15 Deakin Place, Lot 5, DP 262453, No.4-18 Reeves Crescent, Lot 51, DP 262453, No. 3 Reeves Crescent, Lots 53,32,33,34,35 & 36, DP 262453, No. 7-17 Reeves Crescent and Lots 38,39,40,41,42 & 43, DP 262453, No. 21-31 Reeves Crescent, Bonnyrigg.

Currently, the site is undergoing preparatory works in accordance with the Concept Plan approval under Part 3A of the Act. The site is relatively flat and vegetation has been removed where future works will occur.

The land to the north-east on the opposite side of Edensor Road is predominantly single and two storey detached residential dwellings. St Johns Park Primary School is located to the east, near the intersection of Edensor Road and Bunker Parade. To the north and north-west is Stage 1, which is nearing completion. To the south, south-east and south-west is single storey residential development forming part of the existing public housing estate.

## **DEVELOPMENT HISTORY**

- On 12 January 2009, the Minister for Planning granted approval for the Concept Plan for the Bonnyrigg Living Communities Project and the Stage 1 Project Applications for the subdivision of new lots, the erection of 106 dwellings and open space (Major Projects No. MP 06\_0046).
- On 7 September 2009, the Minister for Planning approved a Section 75W Modification (Mod 1) of Major Project No. MP 06\_0046.
- On 19 April 2010, the Minister for Planning approved a Section 75W Modification (Mod 2) of Major Project No. MP 06\_0046.
- On 9 June 2010, the subject site was zoned 2(b) Residential under Fairfield Local Environmental Plan 1994, pursuant to Environmental Planning and Assessment Act 1979 – Section 75R(3A) Order 2010.

## PROPOSAL

The application proposes the subdivision of the site into 3 super lots, construction of 104 dwellings and ancillary works including site preparation/earthworks, stormwater drainage, servicing and landscaping and subdivision thereof into 82 torrens title lots, 1 community title lot and 4 strata title lots.

Specific details of the proposed development are as follows:

- Super-lot subdivision to create 3 unserviced residue lots, dedicate public land and enable the staged construction of the proposed works.
- Construction of 104 residential dwellings comprising:
  - 24 dwellings within a 4-attached building type.
  - 12 dwellings within a 3-attached building type.
  - 40 dwellings within a 2-attached building type or duplex.
  - 28 x detached dwellings.
- Public domain improvements and individual site works including site preparation/earthworks, road re-surfacing (where required), public and private landscaping works, stormwater infrastructure upgrades and individual lot servicing.
- Residential subdivision to create 82 Torrens title lots, 1 community title lot and 4 strata title lots and facilitate the sale/transfer of individual dwellings to private purchasers and Housing NSW.
- It is noted that, the property identified as Lot 6 DP 262453, known as 15 Deakin Place (former privately-owned dwelling) has been acquired by the Proponent and, in accordance with Section 75W Modification (Mod 2) of Major Project No. MP 06\_0046, now forms part of the Concept Plan approval and the Stage 2 Development Application.

The plan provided below depicts the proposed dwelling layout and landscape concept design for Stage 2 of the Bonnyrigg living Communities Project.



**Landscape Concept Plan**

Source: Site Image, 4 February 2010

## **STATUTORY REQUIREMENTS APPLICABLE TO THE SITE**

### **1. Fairfield Local Environmental Plan 1994**

On 9 June 2010, the subject site was zoned 2(b) Residential under Fairfield Local Environmental Plan 1994, pursuant to Environmental Planning and Assessment Act 1979 – Section 75R(3A) Order 2010.

The objectives of the 2(b) zone are as follows:

- (a) to set aside land primarily for the purposes of housing and associated facilities;
- (b) to provide for the orderly development of a wide range of housing types to cater for differing lifestyles and income levels;
- (c) to achieve attractive high quality residential development and allow sensitive infill development such as multi-unit housing;
- (d) to allow people to carry out a reasonable range of business activities from their homes, where such activities are not likely to adversely affect the living environment of neighbours; and
- (e) to allow a range of non-residential uses that:
  - (i) are capable of integration with the immediate locality;
  - (ii) serve the demands of the surrounding population; and

- (iii) do not place demands on services beyond the level reasonably required for residential use; and
- (f) to allow for higher density residential flat development around business centres and railway stations.

Stage 2 comprises both detached dwellings and multi-unit housing pursuant to Fairfield Local Environmental Plan 1994. These forms of development are permissible within the 2(b) Residential zone, subject to consent. It is considered that the development meets the objectives of the zone, particularly Objectives (a), (b) & (c).

## **2. Threatened Species Act 1995**

The Preliminary Environmental Assessment submitted for the Concept Plan included a detailed analysis of flora and fauna and an eight part test of significance pursuant to the provisions of the Environmental Planning and Assessment Act 1979 and the Threatened Species Conservation Act 1995.

Critical findings of this assessment are as follows:

*The vegetation was found to be no longer representative of any endangered ecological community. The area appears to have been largely cleared of almost all vegetation approximately 30 to 40 years ago.*

*No species impact statement is required and no referral to Environmental Australia is required.*

During preparation of the environmental assessment requirements for the Concept Plan proposal, advice was sought from the NSW Department of Environment, Climate Change and Water (formerly DECC) in relation to the above Report. The following advice was received:

*Due to the existing highly developed and cleared nature of the site the DECC agrees with the preliminary assessment that no further investigations will be required with regard to impacts on threatened species, population, ecological communities and their habitat.*

## **3. National Parks and Wildlife Act 1974**

A Heritage Impact Assessment Report was prepared for the Concept Plan proposal. This report reached the following conclusions in relation to potential Aboriginal Cultural Heritage on the site:

*No evidence for past Aboriginal visitation or use of the Bonnyrigg Estate study area has been identified to date.*

*Based on the conclusion that future works that may be proposed within the Bonnyrigg Estate study area will not impact upon any identified Aboriginal archaeological sites or objects, and that the assessed potential for undetected Aboriginal archaeological items to occur within the subject*

*lands is extremely low given its highly developed nature, it appears that there are no obvious Aboriginal archaeological or cultural heritage constraints at this time to the proposed future uses of the land proceeding as intended.*

#### 4. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

BASIX certification has been submitted for all dwellings and is provided with the development application documentation. Installation of reticulated recycled water system is included as part of the Stage 2 works in accordance with the Revised Statement of Commitments, dated November 2008.

#### 5. Bonnyrigg Masterplan

The Bonnyrigg Masterplan prepared by Urbis (Amended September 2008), forms part of the Concept Plan approval issued by the Minister for Planning on 12 January 2009. The Bonnyrigg Masterplan outlines specific development controls for new residential development within the estate.

Numerical compliance with the Bonnyrigg Masterplan is outlined in the following table.

Criteria	Relevant Development Standard (Bonnyrigg Masterplan)	Proposed	Compliance
Lot Size	<b>Detached dwelling:</b> Width: 8.5m (12.5m if twin garage) Depth: 27.5m <b>2 attached dwellings:</b> Width: 15m (if car spaces located at rear) 17m if car spaces located at street front) Depth: 30m <b>3 &amp; 4 attached dwellings:</b> Width: 20m Depth: 30m	Whilst there are slight non-compliances with some dwellings, the non-compliances are considered minor, and the development is still acceptable	Considered satisfactory
Site Coverage	<b>Building Footprint:</b> Max 65% of any allotment can be built upon, including garages and car spaces  <b>Landscaped Area:</b> Min. 35% of each allotment to be landscaped (includes hard and soft landscaping) Min. 30% of landscaped area must be deep soil	None of the allotments exceed the maximum 65%  All allotments achieve the minimum landscaped area and deep soil zones	Yes  Yes
Streetscape	<b>Garages:</b> All garages must be set back 5.5m from street frontage  Max. combined width of garages fronting street not to exceed 50% of allotment width	Whilst there are slight non-compliances with some dwellings, the non-compliances are considered minor, and the development is still acceptable	Yes



Criteria	Relevant Development Standard (Bonnyrigg Masterplan)	Proposed	Compliance
	<p>Max. combined width of garages fronting access places not to exceed 80% of allotment width</p> <p>No triple or more garages side-by-side fronting streets</p> <p><b>Building Elements:</b> All dwellings to have direct entry from street with visible front doors</p> <p>Dwellings on corner are to be designed so that one elevation addressed the street. Secondary elevation is to be visually interesting. Long blank walls are to be avoided</p>	<p>The design and presentation of all dwellings located on corner allotments is considered to be satisfactory</p>	Yes
Bulk and Scale	<p><b>Building Height:</b> Max. 2 storeys for detached and attached dwellings, with some 3 storey elements for 'hero' sites</p> <p><b>Ceiling Height:</b> Minimum 2.4m floor to ceiling heights</p>	<p>All dwellings comply</p> <p>All dwellings comply</p>	<p>Yes</p> <p>Yes</p>
Setbacks	<p><b>Front:</b> A min. 80% of the width of the front elevation of the building (excl. garages and balconies) is to be setback a minimum of 4.5m from the front boundary A max. 20% of the width of the front elevation of the building may be setback a min. of 1.2m from the front boundary.</p> <p><b>Side:</b> 80% of the dwelling length shall be setback a minimum 900mm A zero setback may be provided on access places</p>	<p>Again, there are minor non-compliances with some dwellings, however, these are considered satisfactory. Similar non-compliances occurred within Stage 1. However, overall the presentation to the street is not affected.</p> <p>All dwellings comply</p>	<p>Yes</p> <p>Yes</p>
Privacy	<p>Dwellings must be designed to prevent overlooking into the living areas and private open spaces of adjoining dwellings</p> <p>If this cannot be achieved, measures to ensure privacy shall be provided</p>	<p>All dwellings have been designed to maintain privacy.</p> <p>Where privacy is difficult to achieve through the layout of the dwelling, privacy screens have been provided</p>	Yes
Safety and Security	Dwellings to be designed to accord with CPTED principles.	The four (4) CPTED principles are reflected within the architectural plans. The Stage 2 dwellings are considered to be satisfactory from safer-by-design perspective	Yes
Private Open Space (POS)	<p>All ground level dwellings should achieve 18m<sup>2</sup> of POS</p> <p>All first floor dwellings should achieve 10m<sup>2</sup> of POS.</p>	All dwellings comply	Yes

Criteria	Relevant Development Standard (Bonnyrigg Masterplan)	Proposed	Compliance
Car Parking and Garages	<b>Detached dwellings:</b> 2 spaces <b>Attached dwellings:</b> 1 or 2 b/r – 1 space 3 b/r – 1.5 spaces Visitor parking	All dwellings provide the minimum required car parking spaces	Yes
Storage	1 b/r dwelling – 6m <sup>3</sup> 2 b/r dwelling – 8m <sup>3</sup> 3 b/r dwelling – 10m <sup>3</sup>	All dwellings comply	Yes
Solar Access	Detached and attached dwellings must be designed to ensure the adjoining living area windows and more than 50% of their private open space on the subject site or any adjoining site receives at least 3 hours of direct sunlight between 9am and 3pm on the 21st of June.	95 out of 104 dwellings in Stage 2 comply. This equates to 91% compliance.	Yes, the majority of dwellings comply

The above table indicates that the dwellings within Stage 2 comply with the controls provided within the Bonnyrigg Masterplan, with the exception of lot size, setbacks and solar access. However, the non-compliances are considered to be minor and affect only a small proportion of the total number of dwellings proposed. As such, the development is considered worth of support.

It is noted that, the determination made by the Minister for Planning approving the Concept Plan for the Bonnyrigg Living Communities Project, allows any subsequent stage of the Project to be considered under Part 4 of the EP&A Act, so long as that stage is generally consistent with the Concept Plan approval.

In this regard, it is considered that the consent authority, when determining a Part 4 Development Application for any stage of the Bonnyrigg Living Communities Project, has the power to vary the development controls contained within the Bonnyrigg Masterplan, so long as it is considered that the development is generally consistent with the Concept Plan approval.

As indicated above, the non-compliances are minor, and the development is considered to be generally consistent with the Concept Plan approval. As such, the redevelopment of Stage 2 is considered worthy of support.

It is considered that the design of Stage 2 is an improvement upon Stage 1. This is due to the fact that there are less 3-Plex and 4-Plex designs, which are inherently problematic with regard to solar access, cross ventilation and the provision of appropriate private open space. While there are still some Plex designs present, Stage 2 adopts more traditional housing forms, such as terrace (or row) housing, dual occupancy and detached dwellings. This was Council's recommendation when the Concept Plan application was first lodged.

It is also important to note that the existing street layout makes it difficult to achieve the maximum solar access. Notwithstanding this constraint, it is considered that the design of dwellings within Stage 2 has had considerable regard to the site and its constraints and, as such, has maximised solar access and cross-ventilation, and thus has maximised the amenity afforded to future occupants of the development.

It is noted that a number of dwellings have their private open space areas located within the front setback. Whilst this is not ideal, it is noted that the developer, as part of their contract, was required to provide ground level private open space for each dwelling. Given that the development involves 3-Plex and 4-Plex designs, private open space within the front setback was inevitable. However, due to rear vehicular access, even some dual occupancies incorporate private open space in the front setback.

This design was considered acceptable for the Concept Plan and for Stage 1. As such, this is also considered satisfactory for Stage 2.

## INTERNAL REFERRALS

During the assessment process, comments were sought from a number of sections within Council, as detailed below:

<b>Building Control Branch</b>	No Objection, subject to standard conditions
<b>Development Engineering</b>	No Objection, subject to standard conditions
<b>Subdivisions</b>	No Objection, subject to standard conditions
<b>Open Space Branch</b>	No Objection, subject to standard conditions
<b>Traffic and Road Safety Branch</b>	No Objection, subject to standard conditions See below for a more detailed assessment
<b>Environmental Management Branch</b>	No Objection, subject to standard conditions See below for a more detailed assessment
<b>Bonnyrigg Place Manager</b>	No Objection
<b>Manager Policy and Community Development</b>	No Objection, subject to standard conditions See below for a more detailed assessment
<b>Manager Special Projects</b>	No Objection, subject to standard conditions See below for a more detailed assessment

### *Traffic and Road Safety Branch*

Below is a summary of the advice provided by Council's Senior Traffic Engineer.

*With regard to the traffic impact of the development, a traffic report was considered not to be required, given that a Transport Mobility Access Plan (TMAP) was submitted and assessed as part of the Concept Plan. The TMAP considered the level of service and capacity of the surrounding road network and recommended appropriate upgrade works. There are no upgrade works required as part of Stage 2.*

*Initially, it was considered that the driveways proposed along Edensor Road, between Melbourne Road and Bunker Parade, be restricted to left in/left out movements only, and in order to prevent right turns into and out of the site, physical barriers (e.g. central median islands) should be constructed.*

*However, given the high level of visibility along this section of Edensor Road, and given the fact that there are already driveways located along Edensor Road, a risk assessment was undertaken by Council's Traffic Branch to determine the level of risk associated with the proposed development.*

*The risk assessment compared Edensor Road with other roads within the LGA with similar characteristics (i.e. level of service and capacity). For example, it was found that along Canley Vale Road, there have been only 5 accidents over the 5 years from January 2004 to December 2008, for right-turning traffic.*

*Having regard to the risk assessment undertaken for this stretch of Edensor Road, it was considered unnecessary for vehicles exiting driveways to be restricted to left in/left out movements only or a median island preventing right hand turns to be constructed.*

*However, for future stages located along Edensor Road, such restrictions may be appropriate given the existing crest within Edensor Road, located just to the east of Stage 2.*

*No objection is raised to the proposed development, subject to appropriate conditions.*

#### *Environmental Management Branch*

Council's Co-ordinator Environmental Management has advised as follows:

*It is noted that Condition A3(1) of the Concept Plan approval requires the submission of a detailed contamination assessment for each stage of development.*

*The submitted Remedial Action Plan (RAP) prepared by JBS Environmental for Stage 1 makes reference to a range of previous investigations, including a Detailed Contamination Investigation conducted by JBS Environmental for Stage 2 of the Bonnyrigg Living Communities Project. Although this report appears not to have been submitted with the Stage 2 Development Application, a summary of the findings of the report is provided within the RAP.*

*The RAP appears to have been prepared in accordance with the relevant legislation and DECCW Contaminated Sites Guidelines and makes note that "privately owned residential properties are specifically excluded" from*

*the Stage 2 Report. These include 2 and 14 Bunker Parade; 15 Deakin Place; A, 5B and 19 Reeves Crescent; and 4 Cronin Place.*

*It is now understood that 15 Deakin Place has been acquired and will form part of the overall development, therefore requiring investigation and possible remediation.*

*In considering the conditions imposed under the approval for Stage 1, it is suggested that similar conditions could be applied to Stage 2, and therefore future stages. In this regard, a NSW EPA Accredited Site Auditor could view the relevant reports and confirm in the end that the site has been validated and is suitable for the intended use(s). Appropriate conditions will therefore be provided, that include consideration of 15 Deakin Place as part of the overall Stage 2 development.*

*No objection is raised to the proposed development, subject to appropriate conditions*

#### *Manager Policy and Community Development*

Below is a summary of the advice provided by Council's Manager Policy and Community Development:

*The Concept Plan approval contained a number of conditions that the Proponent was required to meet for each stage of the Bonnyrigg Living Communities Project. The relevant conditions are summarised below:*

#### **Condition A4 Social Impacts**

- (1) The Rehousing Services Plan shall be fully implemented throughout all stages of the project.
- (2) The Community Renewal Implementation Plan shall be updated annually in liaison with Housing NSW. A copy shall be forwarded to Council following approval by HNSW
- (3) Submit a revised Community Renewal Services Plan and accompanying Implementation Plan which is to be updated on an annual basis and shall address the following:
  - (a) Undertake a Social Impact Assessment for the Aboriginal Community with mitigation strategies included in all future plans.
  - (b) Develop mitigation strategies and programs to ensure maximum use of open space and promotion of healthy living for residents within the estate. Mitigation strategies to be included in all future plans.
  - (c) Development of agreed employment targets for Bonnyrigg.
  - (d) Mitigation strategies to be developed for children and families to minimise potential negative impacts from the redevelopment. Mitigation strategies to be included in all future plans.
  - (e) Review the Re-housing Strategy to limit the number of empty dwellings prior to demolition within each stage of development.

- (f) Evaluation and monitoring strategy to be updated to include The Premier's Council for Active Living's participation in the ongoing monitoring and evaluation strategies for the renewal project. This shall be linked to the mitigation strategies and programs to be developed for use of open space and promotion of healthy living measures.

*In support of the Stage 2 Development Application, the Proponent has submitted the Rehousing Plans and Community Renewal Service Plans as required by the Concept Plan.*

*Bonnyrigg Partnerships should be commended for the community renewal works they have undertaken. While Housing NSW is focused on the renewal within the estate, Councils role in reviewing the Plan is to ensure that a broader assessment is undertaken and that the impacts on the broader community are addressed.*

*The Community Renewal Plan and associated Implementation Plan has changed format and emphasis. This allows strategies to address specific population groups, however narrows the opportunity to look at integrated strategies and strategies which extend beyond the boundaries of the estate.*

*However, no Aboriginal Social Impact Assessment has been made available to Council for consideration. The Concept Plan approval requires that the Proponent "Undertake a Social Impact Assessment for the Aboriginal Community with mitigation strategies in all future plans" (Condition A4 (3)(a) of Concept Plan approval).*

*While the development is undertaking an extensive community renewal program and is positive in its approach and outcomes, it is disappointing that the above issues have not been addressed and provided to Council for consideration as part of the ongoing development approval process. While they are significant issues, it is felt they should not preclude approval of Stage 2 being issued. However, they should be addressed prior to the commencement of the next stage of the project.*

It is important to note that Council does not have an assessment role with regard to the submission of the above Plans in order to meet Condition A4 – Social Impacts. Under the Concept Plan approval, the abovementioned Plans are required to be submitted to, and approved by, Housing NSW on an annual basis.

### *Manager Special Projects*

Council's Manager Special Projects has advised as follows:

*The Stage 2 Development Application is considered to be consistent with the approved Concept Plan. The works contained in the Stage 2 Development Application are considered to be consistent with the Infrastructure and Services Delivery Plan (ISDP) and Voluntary Planning Agreement (VPA) as agreed between Council and the Proponent.*

## EXTERNAL REFERRALS

During the assessment process, comments were sought from a number of external bodies who were considered to have an interest in the proposed development. Detailed below are the comments received from those external bodies.

### *Department of Planning*

The Department of Planning stated that *“The Stage 2 proposal is considered to be generally in accordance with the Concept Plan approval (MP06\_0046) subject to the submission to Council of a Tree Assessment Report and further details of potential contamination of 15 Deakin Place for assessment prior to determination”*.

With regard to the above, a Tree Assessment Report was submitted by the Proponent. The Tree Assessment Report indicated that many of the tree specimens existing on the site have significant defects and / or are unstable now, or have the potential to be unstable in the future. This is due to a lack of maintenance of the trees causing many to crowd each other and become damaged and unstable.

The report has identified a number of trees that are healthy and could be retained should the development permit. However, these trees do not have to be retained. It is noted that the development has been designed to retain as many trees as possible. There are also a number of replacement trees to be planted and, as such, there is an increase in the number of trees overall.

Having regard to the findings of the Tree Assessment Report, no objection is raised to the removal of the trees identified within the Report.

With regard to the potential contamination of 15 Deakin Place (i.e. former privately-owned dwelling), Council’s Environmental Management Section has indicated that the Remedial Action Plan (RAP) submitted with the Stage 2 Development Application makes note that *“privately owned residential properties are specifically excluded”* from the Stage 2 Report.

With regard to the above, Council’s Environmental Management Section has recommended that the RAP be amended prior to the issue of a Construction Certificate to include and address any potential contamination of the property known as 15 Deakin Place.

### *Roads and Traffic Authority*

The Roads and Traffic Authority has stated that, *“The information provided has been reviewed and the RTA raises no objection to the Bonnyrigg Estate redevelopment (Stage 2)”*.

## **PUBLIC NOTIFICATION**

In accordance with the Fairfield City-Wide Development Control Plan 2006, the application was notified to adjoining and surrounding owners and occupiers for a period of fourteen (14) days.

During this time, one (1) letter of objection was received from the residents of Emma Close and Louise Place in Bonnyrigg, which included eighteen (18) signatories. This letter raised objection to an existing car park located within the Stage 1 open space area and the erection of amenities block adjacent to the car park. Concern was raised specifically with regard to the potential traffic generated by the car park, odour from the amenities block, rubbish from users of the facilities and noise pollution from cars.

This objection was also received during the assessment of the Concept Plan and Stage 1 Project Applications. As part of the commitments made by the Proponent, an amenities block is to be provided near the open space facilities within Stage 1. The objection was assessed by Council staff, and then considered by Council's Independent Hearing and Assessment Panel who recommended that the amenities block be relocated further west so that residents along Louise Place (next to Emma Close) would have better sight lines over the park (Refer Attachment A – Condition A6(2)). This recommendation was accepted by the Department of Planning.

It is noted that subject car park is located approximately 200 metres from the Stage 2 site area. On this basis, and considering that the matter was dealt with during the assessment and determination of the Concept Plan and Stage 1 Project Applications.

As such, this submission is not considered to be relevant to the Stage 2 Development Application.

## **SECTION 94 CONTRIBUTIONS**

The Concept Plan and subsequent development of Stage 2 is subject to a Voluntary Planning Agreement. The works contained in the Stage 2 Development Application are considered to be consistent with the Infrastructure and Services Delivery Plan (ISDP) and Voluntary Planning Agreement (VPA) as agreed between Council and the Proponent. As such, there are no Section 94 Contributions applicable to this development.



## Section 79C Considerations

The proposed development has been assessed and considered having regard to the matters for consideration under Section 79C of the Environmental Planning and Assessment (EP&A) Act 1979 and no issues have arisen that would warrant the application being refused on planning grounds. The following is a brief assessment of the proposal with regard to Section 79C.

### (1) **Matters for consideration—general**

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

*(a) the provisions of:*

*(i) Any environmental planning instrument*

The proposed development is permissible within the 2(b) Residential zone and is considered to be consistent with the objectives of that zone.

*(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*

There are no draft environmental planning instruments that relate to the site.

*(iii) any development control plan*

The proposed development has demonstrated general compliance with the requirements of the Bonnyrigg Masterplan.

*(iiia) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and*

The works contained within the Stage 2 Development Application are considered to be consistent with the Voluntary Planning Agreement (VPA) as agreed between Council and the Proponent.

*(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph),*

There are no matters prescribed by the Regulations that apply to this development.

*(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality*

It is considered that the proposal is unlikely to result in any adverse impact upon the amenity of the locality.

*(c) the suitability of the site for the development*

The site is considered suitable for the proposed development. There are no known constraints which would render the site unsuitable for the proposed development.

*(d) any submissions made*

One (1) submission was received during the notification process, however, as indicated within the Notifications section of this report, this submission is not considered to be relevant to the Stage 2 Development Application.

*(e) the public interest*

It is considered that the proposed development is in the public interest.

## **TOWN PLANNING ASSESSMENT**

The proposed development of Stage 2 of the Bonnyrigg Living Communities Project is permissible within the 2(b) Residential Zone subject to consent, and is considered to be an acceptable form of development.

It is considered that the Proponent has addressed all the relevant conditions within for the Concept Plan approval for the redevelopment of the Bonnyrigg public housing estate.

The Stage 2 dwellings are considered to be a significant improvement on Stage 1. Even though the site is constrained by the existing street layout, the position and layout of the dwellings have been designed to maximise solar access and cross-ventilation.

Even though there are still a few 'Plex' designs, the predominant housing form is a more conventional style of residential architecture and, as such, the amenity to future occupants is increased and is considered satisfactory. From

a visual point of view, the designs are adequately articulated and there is a good mix of materials and finishes used.

Whilst there are a few non-compliances with the Bonnyrigg Masterplan, particularly with regard to lot size, setbacks and solar access, the non-compliances are only minor and affect only a small proportion of the total number of dwellings proposed. As such, the minor non-compliances are considered satisfactory and the development is worthy of support.

Overall, the proposed development is considered to be satisfactory and is recommended to be approved subject to conditions.

#### **RECOMMENDATION**

1. That the application proposing the subdivision of the site into 3 super lots, construction of 104 dwellings and ancillary works including site preparation/earthworks, stormwater drainage, servicing and landscaping and subdivision thereof into 82 torrens title lots, 1 community title lot and 4 strata title lots, be approved subject to conditions as outlined in Attachment A of this report.

## **DRAFT CONDITIONS – CONSTRUCTION OF DWELLINGS**

### **APPROVED PLANS**

#### **1. Compliance with Plans**

The development shall take place in accordance with the following plans prepared by:

##### *Residential Logistics*

- Job No. 1511, Drawing No. ARC-RL-SO2-SUBDIVISION PLAN Page No. 1 of 1, Issue k, dated 29 September 2009.
- Job No. 1511, Drawing No. ARC-RL-SO2-STREETSCAPE ELEVATIONS Page No. 1 – 2 of 2, Issue B, dated 4 February 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-101-102, Page No. 1 – 2 of 2, Issue B, dated 15 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-103 & 133, Page No. 1 – 5 of 5, Issue C, dated 12 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-104-105, Page No. 1 – 2 of 2, Issue B, dated 13 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-106, Page No. 1 of 1, Issue D, dated 15 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-107-108, Page No. 1 – 2 of 2, Issue C, dated 15 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-109, Page No. 1 of 1, Issue B, dated 12 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-110, Page No. 1 – 2 of 2, Issue B, dated 14 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-111, Page No. 1 – 2 of 2, Issue C, dated 15 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-112, Page No. 1 of 1, Issue B, dated 12 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-113, Page No. 1 – 2 of 2, Issue C, dated 14 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-114, Page No. 1 of 1, Issue B, dated 13 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-115, Page No. 1 of 1, Issue C, dated 15 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-116, Page No. 1 – 2 of 2, Issue C, dated 15 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-117, Page No. 1 of 1, Issue B, dated 15 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-118, Page No. 1 – 2 of 2, Issue B, dated 12 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-119, Page No. 1 – 3 of 3, Issue C, dated 15 April 2010.

- Job No. 1511A, Drawing No. ARC-RL-SO2-120, Page No. 1 – 2 of 2, Issue B, dated 12 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-121-122, Page No. 1 – 2 of 2, Issue C, dated 15 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-123, Page No. 1 of 1, Issue B, dated 15 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-124-125, Page No. 1 – 2 of 2, Issue B, dated 12 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-126, Page No. 1 – 2 of 2, Issue B, dated 12 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-127, Page No. 1 of 1, Issue C, dated 15 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-128, Page No. 1 – 2 of 2, Issue B, dated 12 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-129, Page No. 1 – 2 of 2, Issue C, dated 12 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-130, Page No. 1 – 2 of 2, Issue C, dated 15 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-131, Page No. 1 – 2 of 2, Issue C, dated 12 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-132, Page No. 1 – 2 of 2, Issue B, dated 12 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-202-204, Page No. 1 – 3 of 3, Issue C, dated 8 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-207-208, Page No. 1 – 2 of 2, Issue C, dated 16 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-209-210, Page No. 1 – 2 of 2, Issue B, dated 12 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-211-212, Page No. 1 – 2 of 2, Issue C, dated 19 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-214-215, Page No. 1 – 2 of 2, Issue C, dated 16 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-216, Page No. 1 – 2 of 2, Issue C, dated 13 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-217-218, Page No. 1 – 2 of 2, Issue C, dated 13 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-219-220, Page No. 1 – 2 of 2, Issue B, dated 22 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-207-208, Page No. 1 – 2 of 2, Issue C, dated 16 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-221-222, Page No. 1 – 2 of 2, Issue C, dated 12 April 2010;
- Job No. 1511A, Drawing No. ARC-RL-SO2-225-227, Page No. 1 – 3 of 3, Issue C, dated 7 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-228, Page No. 1 – 2 of 2, Issue C, dated 16 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-229, Page No. 1 – 3 of 3, Issue C, dated 7 April 2010.

- Job No. 1511A, Drawing No. ARC-RL-SO2-301, Page No. 1 – 2 of 2, Issue B, dated 14 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-302, Page No. 1 – 2 of 2, Issue C, dated 16 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-303, Page No. 1 of 1, Issue C, dated 16 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-304-307, Page No. 1 – 3 of 3, Issue C, dated 13 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-308-310, Page No. 1 – 3 of 3, Issue C, dated 16 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-311-312, Page No. 1 – 2 of 2, Issue D, dated 16 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-313, Page No. 1 – 2 of 2, Issue C, dated 13 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-314-315, Page No. 1 – 2 of 2, Issue C, dated 7 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-317, Page No. 1 – 3 of 3, Issue C, dated 7 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-318-320, Page No. 1 – 3 of 3, Issue C, dated 16 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-321-322, Page No. 1 – 2 of 2, Issue C, dated 16 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-323-324, Page No. 1 – 2 of 2, Issue C, dated 7 April 2010.
- Job No. 1511A, Drawing No. ARC-RL-SO2-325-326, Page No. 1 – 2 of 2, Issue C, dated 7 April 2010.

*Hughes Trueman*

- HT Project No. 09P520, Drawing No. CIV-HT-S01-DAC0101, Revision C, dated 29 January 2010.
- HT Project No. 09P520, Drawing No. CIV-HT-S01-DAC0105, Revision C, dated 29 January 2010.
- HT Project No. 09P520, Drawing No. CIV-HT-S01-DAC0110, Revision C, dated 29 January 2010.
- HT Project No. 09P520, Drawing No. CIV-HT-S01-DAC0111, Revision C, dated 29 January 2010.
- HT Project No. 09P520, Drawing No. CIV-HT-S01-DAC0120, Revision C, dated 29 January 2010.
- HT Project No. 09P520, Drawing No. CIV-HT-S01-DAC0121, Revision C, dated 29 January 2010.
- HT Project No. 09P520, Drawing No. CIV-HT-S01-DAC0122, Revision C, dated 29 January 2010.
- HT Project No. 09P520, Drawing No. CIV-HT-S01-DAC0123, Revision C, dated 29 January 2010.
- HT Project No. 09P520, Drawing No. CIV-HT-S01-DAC0130, Revision C, dated 29 January 2010.

### *Site Image Landscapes*

- Job No. SS09-2033, Drawing No. LAN-SI-S02-0050, Issue 1, dated 19 April 2010.
- Job No. SS09-2033, Drawing No. LAN-SI-S02-0000, Issue 3, dated 4 February 2010.
- Job No. SS09-2033, Drawing No. LAN-SI-S02-0101, Issue 3, dated 4 February 2010.
- Job No. SS09-2033, Drawing No. LAN-SI-S02-0102, Issue 3, dated 4 February 2010.
- Job No. SS09-2033, Drawing No. LAN-SI-S02-0103, Issue 3, dated 4 February 2010.
- Job No. SS09-2033, Drawing No. LAN-SI-S02-0104, Issue 3, dated 4 February 2010.
- Job No. SS09-2033, Drawing No. LAN-SI-S02-0105, Issue 3, dated 4 February 2010.
- Job No. SS09-2033, Drawing No. LAN-SI-S02-0106, Issue 3, dated 4 February 2010.
- Job No. SS09-2033, Drawing No. LAN-SI-S02-0501, Issue 3, dated 4 February 2010.
- Job No. SS09-2033, Drawing No. LAN-SI-S02-0502, Issue 3, dated 4 February 2010.

except as amended in red by Fairfield City Council and/or any conditions of this consent.

## **2. Compliance with Reports**

The development shall take place in accordance with the following documents:

- Statement of Environmental Effects prepared by Urbis, Report No. SA3338.Stage 2 SEE, dated February 2010.
- Environmental Assessment Report (EAR) prepared by Urbis, Job No. SA3338, Report No. Concept Plan and Project Application.v12a, dated November 2007.
- Preferred Project Report (PPR) prepared by Urbis, Job No. SA3338, Report No. SA333.PPR-050608 Final, dated 5 June 2008 and the Revised Statement of Commitments dated November 2008.
- Bonnyrigg Masterplan prepared by Urbis, dated September 2008.
- Amended Voluntary Planning Agreement (VPA), dated July 2008.
- Bonnyrigg Infrastructure and Services Delivery Plan prepared by Bonnyrigg Partnerships, Job Code SA3338, Report No. Bonnyrigg Infrastructure and Services Delivery Plan – 180608 – Finals, dated June 2008.

- Transport Management and Accessibility Plan (TMAP) prepared by SKM, Final Report, dated 28 October 2008.
- Stage 2 Environment and Construction Management Plan prepared by Hughes Trueman, Revision 4, dated 13 April 2010.
- Water Cycle Management Report prepared by Hughes Trueman, Revision C, dated 5 August 2008.
- Stage 2 Stormwater Design prepared by Hughes Trueman, Revision C, dated 29 January 2010.
- Remedial Action Plan prepared by JBS Environmental Pty Ltd, Report No. JBS 40756-14105 (Rev 0), dated January 2010.

except as amended in red by Fairfield City Council and/or any conditions of this consent.

## **PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

**The following conditions of consent must be complied with prior to the issue of a Construction Certificate by a Certifying Authority. All necessary information to comply with the following conditions of consent must be submitted with the application for a Construction Certificate.**

### **3. Contract of Insurance or Owner-builder Permit**

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that:

- A contract of insurance that complies with Part 6 of the Home Building Act 1989 is in force in relation to the subject work. A certificate of insurance is to be provided to the other party of the contract; or
- An owner-builder has a valid owner-builder permit issued by the Department of Fair Trading.

### **4. Stormwater Drainage Certificate**

Prior to the issue of a Construction Certificate, a certificate shall be submitted to the Certifying Authority certifying that:

- Satisfactory arrangements have been made for the disposal of stormwater;
- The proposed development and alterations to the natural surface contours will not impede or divert natural surface water runoff so as to cause a nuisance to adjoining properties;
- The piped drainage system has been designed to an Average Recurrence Interval of not less than 5 years.



**Note:** Where Fairfield City Council is nominated to issue a Construction Certificate for stormwater drainage, the following details will be required:

- a. Full details of the proposed stormwater drainage system should be submitted. Details should include a full calculation schedule producing hydrologic and hydraulic grade line analysis (similar to that shown in "Australian Rainfall and Runoff", published by the Institution of Engineers, Australia), catchment plan, pipe sizes, discharge points, natural and finished surface levels, invert levels etc.
- b. A Plan showing the natural surface and finished surface and finished surface contours to AHD should be submitted. The natural surface contours should be extended into the adjoining properties. The finished surface contours should be of such an interval as to give a true representation of the proposed regarding of the site. If so desired, the finished surface contours may be presented in red ink on a single print of a site plan that shows proposed finished surface spot levels.

## **5. Engineering Construction Certificate**

Prior to the issue of a Building Construction Certificate an Engineering Construction Certificate shall be submitted to the Certifying Authority for the construction of the footpaths and inter-allotment drainage works including drainage works external to the proposed lots in accordance with approved plans and specifications at no cost to Fairfield City Council.

For the issue of the Engineering Construction Certificate, five (5) copies of plans and specifications giving full details of the design and construction shall be submitted with the application.

## **6. Vehicular Crossing Application**

Prior to commencement of construction works, a vehicular crossing application shall be submitted to and approved by Fairfield City Council. Access to the development shall be via a standard crossing in accordance with Fairfield City Council's requirements. All vehicular crossings shall be located a minimum of one (1) metre from any utility pole.

## **7. Remedial Action Plan**

Prior to the issue of a Construction Certificate, the Remedial Action Plan prepared by JBS Environmental Pty Ltd, Report No. JBS 40756-14105 (Rev 0), dated January 2010, shall be amended to include and address any potential contamination of the parcel of land known as 15 Deakin Place (now included within the Stage 2).

The revised Remedial Action Plan shall then be submitted to and approved by a NSW EPA Accredited Site Auditor prior to the issue of a Construction Certificate.

**8. Validation Report**

Upon completion of all required remedial works, a Stage 4 Validation Report summarising the results of the remediation and final validation sampling for the Stage 2 site, shall be carried out in accordance with the NSW EPA Contaminated Sites Guidelines. This Validation Report must then be submitted to and approved by a NSW EPA Accredited Site Auditor, confirming the suitability of the land for the intended use(s).

The Stage 4 Validation Report will determine if the site has been validated for the residential purposes and if there is potential for future impact upon human health or the environment. A copy of the Site Audit Report and Site Audit Statement shall be submitted to Fairfield City Council.

**9. Demolition and Construction Traffic Management Plan**

The submission of a Demolition and Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control shall be submitted to Fairfield City Council for approval prior to the issue of Construction Certificate.

**PRIOR TO THE COMMENCEMENT OF ANY WORKS**

**The following conditions of consent have been imposed to ensure that the administration and amenities relating to the proposed development comply with all relevant requirements. All of these conditions are to be complied with prior to the commencement of any works on site.**

**10. Construction Certificate Required**

Prior to the commencement of any building and construction works, a Construction Certificate is required to be issued by a Certifying Authority.

**11. Appointment of a Principal Certifying Authority**

Prior to the commencement of any construction works, the person having benefit of a development consent, or complying development certificate must:

- a. appoint a Principal Certifying Authority; and
- b. notify Fairfield City Council of the appointment.

**12. Notify Fairfield City Council of Intention to Commence Works**

The applicant must notify Fairfield City Council, **in writing** of the intention to commence works at least two (2) days prior to the commencement of any construction works on site.

### **13. Sydney Water Consent**

Prior to the commencement of any construction works on site, the approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements, and if further requirements need to be met.

If the development complies with Sydney Water's requirements, the approved plans will be appropriately stamped and shall be submitted to the Certifying Authority prior to the commencement of any works on site.

For Quick Check agent details please refer to the website [www.sydneywater.com.au](http://www.sydneywater.com.au), see Building Developing and Plumbing then Quick Check or telephone: 13 20 92.

### **14. Kerb and Gutter Status Form**

Prior to the commencement of any construction works on site, the applicant shall return the attached footpath/kerb and gutter form to Fairfield City Council detailing the existence of, and the condition of, any foot paving, and/or kerb and gutter provided adjoining the site for checking against Fairfield City Council's records. Damage to footpaths, kerbs, stormwater systems and general streetscape will require restoration at the developer's expense.

### **15. Erosion and Sedimentation Control**

Prior to the commencement of any construction works on site, controls in accordance with Fairfield City Council's Erosion and Sedimentation Control Policy shall be implemented prior to clearing of any site vegetation, to ensure the maintenance of the environment and to contain soil erosion and sediment on the property. Erosion and sediment controls shall be maintained until all construction works are completed and all disturbed areas are restored by turfing, paving and revegetation.

The documented erosion and sediment control plan shall be available on-site for inspection by Fairfield City Council Officers and all contractors undertaking works on the site.

### **16. Toilet Facility**

Prior to the commencement of any construction works on site, a flushing toilet facility is to be provided on site. The toilet must be connected to either a public sewer, or an accredited sewage management facility, or to an alternative sewage management facility (chemical closet) approved by Fairfield City Council.

## **17. Sign During Construction**

Prior to the commencement of construction works, a sign must be erected in a prominent position on site during construction:

- a. Stating that unauthorised entry to the work site is prohibited,
- b. Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours, and
- c. Showing the name, address and a telephone number of the Principal Certifying Authority for the development.

## **PRIOR TO OCCUPATION OF THE DEVELOPMENT**

**The following conditions of consent must be complied with prior to the issue of an Interim Occupation Certificate or Final Occupation Certificate by the Principal Certifying Authority.**

## **18. Interim / Final Occupation Certificate Required**

Prior to the commencement of any use and/or occupation of the subject development (whole or part), either an Interim Occupation Certificate or Final Occupation Certificate must be issued.

Prior to the issue of any Occupation Certificate the Principal Certifying Authority must be satisfied that the development (part or whole) is in accordance with the respective Development Consent, Construction Certificate or Complying Development Certificate.

## **19. Works on Adjacent Roads**

Prior to the issue of the Final Occupation Certificate, the following works are to be completed:

- a. The footway adjacent to the development shall be regraded topsoiled and turfed in accordance with the approved levels.
- b. All redundant kerb laybacks shall be removed and replaced with Fairfield City Council's standard kerb and gutter. Any redundant crossings shall be removed and the footpath topsoiled and turfed.

All works to be carried out on adjacent lands under the control of Fairfield City Council, shall be in accordance with the standard requirements and specifications of Fairfield City Council.

**20. Ancillary Development Works Required**

Prior to the issue of the Final Occupation Certificate, the following work shall be undertaken to the satisfaction of the Principal Certifying Authority:

- a. All retaining walls and associated drainage shall be constructed;
- b. Grading of the external ground;
- c. Construction of the driveway; and
- d. Turfing, paving and dividing fencing.

**21. Smoke Alarm Certification**

Prior to the issue of an Occupation Certificate (Interim or Final), a certificate prepared by licensed electrical contractor shall be submitted to the Principal Certifying Authority, certifying that the smoke alarms have been installed in accordance with the Building Code of Australia, AS 3786 and AS 3000.

**22. Termite Protection Certification**

Prior to the issue of the Final Occupation Certificate, a certificate of treatment prepared by a suitably qualified pest control contractor shall be submitted to the Principal Certifying Authority. The certificate of treatment shall certify that the building has been protected from subterranean termites in accordance with AS 3660-2000.

**23. Basix Certification**

Prior to the issue of an Occupation Certificate (Whether interim or final), a compliance certificate shall be submitted to the Principal Certifying Authority, certifying that the building has been constructed in accordance with the commitments identified on the Basix Certificates.

Should the design of the dwellings alter or the Basix commitments change, new Basix Certificates will be required to be completed and submitted to the Principal Certifying Authority and Fairfield City Council.

**24. Adjustments to Public Utilities**

Prior to the issue of the Final Occupation Certificate, adjustments to any public utilities necessitated by the development are to be completed in accordance with the requirements of the relevant Authority. Any utility costs are to be at no cost to Fairfield City Council.

**25. Mailbox Required**

Prior to the issue of the Final Occupation Certificate, a mailbox shall be provided on site in accordance with the requirements of Australia Post.

**26. House Number Required**

Prior to the issue of the Final Occupation Certificate, the applicant shall contact Fairfield City Council's Land Information Systems Branch on ph. 9725-0318 to request allocation of house and where appropriate, unit numbers. The numbers shall be placed on the mailbox and on the building in a readily visible location.

**27. Building in Saline Environments**

The whole of the Fairfield Local Government Area is potentially saline affected, and as such appropriate design features and building materials need to be incorporated into the construction of buildings, to minimize the risk of salt damage.

Prior to the issue of an Occupation Certificate, documentary evidence shall be submitted to the Principal Certifying Authority, certifying that the building has been constructed in accordance with Fairfield City Council's 'Building in Saline Environments Policy'.

**28. Environmental Report Certification**

Prior to the issue of an Occupation Certificate (Interim or Final), written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and Fairfield City Council, stating that all works/methods/procedures/control measures/recommendations contained within the following documents and relevant to Stage 2 have been completed:

- Statement of Environmental Effects prepared by Urbis, Report No. SA3338.Stage 2 SEE, dated February 2010.
- Environmental Assessment Report (EAR) prepared by Urbis, Job No. SA3338, Report No. Concept Plan and Project Application.v12a, dated November 2007.
- Preferred Project Report (PPR) prepared by Urbis, Job No. SA3338, Report No. SA333.PPR-050608 Final, dated 5 June 2008 and the Revised Statement of Commitments dated November 2008.
- Bonnyrigg Masterplan prepared by Urbis, dated September 2008.
- Amended Voluntary Planning Agreement (VPA), dated July 2008.
- Bonnyrigg Infrastructure and Services Delivery Plan prepared by Bonyrigg Partnerships, Job Code SA3338, Report No. Bonnyrigg Infrastructure and Services Delivery Plan – 180608 – Finals, dated June 2008.
- Transport Management and Accessibility Plan (TMAP) prepared by SKM, Final Report, dated 28 October 2008.

- Stage 2 Environment and Construction Management Plan prepared by Hughes Trueman, Revision 4, dated 13 April 2010.
- Water Cycle Management Report prepared by Hughes Trueman, Revision C, dated 5 August 2008.
- Stage 2 Stormwater Design prepared by Hughes Trueman, Revision C, dated 29 January 2010.
- Remedial Action Plan prepared by JBS Environmental Pty Ltd, Report No. JBS 40756-14105 (Rev 0), dated January 2010.

## 29. **Registration of Easements and Covenants**

Prior to the issue of the Final Occupation Certificate, proof of the creation of reciprocal easements and positive covenants to drain water and maintain gutters, downpipes and stormwater lines shall be submitted to the Principal Certifying Authority, for proposed lots where the roof storm water encroaches an adjoining property.

The terms of the easement and the positive covenant shall be as follows:

### **Terms of Easement**

An easement to drain stormwater to permit the stormwater from the roof of the benefited lot across the roof, along the guttering and through the storm water pipes of the affected lot while the building erected on the benefited lot at the time of granting this easement shall remain on the lot benefited.

### **Terms of Positive covenant**

The registered proprietor(s) of the burdened lots covenant with the Fairfield City Council that they will maintain and repair the structure and works on the land in accordance with the following terms and conditions:

- i. The registered proprietor(s) will:
  - (a) Keep the structure and works clean and free from silt, rubbish and debris;
  - (b) Maintain and repair at the sole expense of the registered proprietor(s) the whole of the structure and works so that it functions in a safe and efficient manner.
- ii. For the purpose of ensuring observance of the covenant, the Fairfield City Council may by its servants or agents at any reasonable time of the day upon giving to the person against whole the covenant is enforceable not less than two days notice (but at any time without notice in the case of an emergency) enter the land and view the condition of the land and the state of construction maintenance or repair of the structure and works on the land.

- iii. By written notice the Fairfield City Council may require the registered proprietor(s) to attend to any matter and to carry out such work within such time as the Fairfield City Council may require to ensure the proper and efficient performance of the structure and works and to the extent Section 88F(2)(a) of the Act is hereby agreed to be amended accordingly.
- iv. Pursuant to Section 88F(3) of the Act the authority shall have the following additional powers pursuant to this consent:
  - (a) in the event that the registered proprietor(s) fails to comply with the terms of any written notice issued by the Fairfield City Council as set out above the Fairfield City Council or its authorised agents may enter the land with all necessary equipment and carry out any work which the Fairfield City Council in its discretion considers reasonable to comply with the said notice referred to in 3 hereof;
  - (b) the Fairfield City Council may recover from the registered proprietor(s) in a Court of competent jurisdiction:
    - i. any expense reasonably incurred by it in exercising its powers under subparagraph (a) hereof. Such expense shall include reasonable wages for the Fairfield City Council's own employees engaged in effecting the said work, supervising the said work and administering the said work;
    - ii. legal costs on an indemnity basis for issue of the said notices and recovery of the said costs and expenses together with the costs and expenses of registration of a covenant charge pursuant to 88F of the Act, or providing any certificate required pursuant to Section 88G of the Act, or obtaining any injunction pursuant to Section 88H of the Act.
- v. This covenant shall bind all persons who claim under the registered proprietor(s) as stipulated in Section 88E(5) of the Act.

For the purposes of this covenant:

**Structure and works** shall mean the storm water drainage system constructed on the land including all roof gutters, pipes, drains, walls, kerbs, pits, grates, tanks, chambers, basins and surfaces designed to control storm water on the land.

Name of Authority having the power to release vary or modify the easements shall be Fairfield City Council.

### 30. **Certification for Drainage Works**

Prior to the issue of the Final Occupation Certificate, a certificate shall be submitted to the Principal Certifying Authority, Certifying that all drainage works have been completed in accordance with the approved engineering drawings/Works-As-Executed drawings.



**31. Works on Adjacent Roads**

Prior to the issue of the Final Occupation Certificate, the following works are to be completed:

- a. The footway adjacent to the development shall be regraded topsoiled and turfed in accordance with the approved levels.
- b. All redundant kerb laybacks shall be removed and replaced with the appropriate kerb and gutter or roll top gutter, in accordance with Fairfield City Council's specifications. Any redundant crossings shall be removed and the footpath topsoiled and turfed.
- c. The developer shall remove and replace all damaged or displaced path paving at no cost to Fairfield City Council.

All works to be carried out on adjacent lands under the control of Fairfield City Council, shall be in accordance with the standard requirements and specifications of Fairfield City Council.

**32. Works-As-Executed Plans for Stormwater Drainage**

Prior to the issue of the Final Occupation Certificate, Works-As-Executed drawings signed by a registered surveyor demonstrating that the stormwater drainage and finished ground levels have been constructed as approved shall be submitted to the Principal Certifying Authority.

**33. Stormwater Drainage Easement**

Prior to the issue of the Final Occupation Certificate, proof of the creation of an easement to drain water in favour of upstream properties over the interallotment drainage line shall be submitted to the Principal Certifying Authority.

**34. Adjustments to Public Utilities**

Prior to the issue of the Final Occupation Certificate, adjustments to any public utilities necessitated by the development are to be completed in accordance with the requirements of the relevant Authority. Any utility costs are to be at no cost to Fairfield City Council.

**GENERAL CONDITIONS**

**The following conditions have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the planning instrument affecting the land.**

**35. Compliance with Construction Certificate**

All building works approved in this development consent must comply with the terms of the consent the plans, specifications and any other approved documents relevant to the approved Construction Certificate.

**36. Compliance with the Building Code of Australia**

All building work must be carried out in accordance with the provisions of the Building Code of Australia. Compliance with the performance requirements can only be achieved by:

- a. complying with the deemed-to-satisfy provisions; or
- b. formulating an alternative solution which:
  - i. complies with the performance requirements; or
  - ii. is shown to be at least equivalent to the deemed-to-satisfy provisions; or
- c. a combination of (a) and (b).

**37. Compliance with approved Waste Management Plan**

The approved Waste Management Plan (Appendix A of Stage 2 Environment and Construction Management Plan prepared by Hughes Trueman, Revision 4, dated 13 April 2010) shall be adhered to throughout all stages of the demolition and/or construction process. Source separation of materials and maximum reuse and recycling of materials are requirements of Fairfield City Council's Waste Not DCP. The applicant is required to keep supporting documentation (receipts/dockets), of reuse/recycling/disposal methods carried out, which shall be produced upon request by Fairfield City Council.

In addition, the applicant is to supply Fairfield City Council with the name and address of the waste disposal facility where the fill materials will be disposed. The applicant must keep supporting documentation (dockets/receipts), which is to be produced upon request by Fairfield City Council.

**38. Excavation and Backfilling**

All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards. All excavations must be properly guarded and protected to prevent them from being dangerous to life or property.

**39. Retaining Walls**

Where retaining walls are required as a result of cut and fill for the development, details of the retaining walls or other approved methods necessary to prevent soil movement, together with associated stormwater drainage measures shall be submitted to Fairfield City Council or Principal Certifying Authority.

**40. Filling within a Building Envelope**

Filling shall be sourced on-site and shall remain wholly within the confines of the external walls. Any fill imported into the site to fill within the building envelope must meet the criteria of "Virgin Excavated Natural Material" as defined in EPA

Environmental Guidelines – Assessment Classification and Management of Liquid and Non-Liquid Wastes 1999 and written verification provided to the satisfaction of the Principal Certifying Authority.

**41. During Construction or Demolition**

During the construction or demolition period the applicant must ensure that:

- a. There is provision of a trade waste service to ensure that all debris and waste material is removed from the site for the period of construction or demolition;
- b. All plant equipment, fencing or materials of any kind is not placed or stored upon any public footpath or roadway; and
- c. Any building work is to be carried out within the following hours.
  1. Monday – Friday between the hours of 7:00am to 6:00pm and Saturday between 8:00am and 1:00pm in all zones. No work may be carried out on Sundays or public holidays.

**42. Method of Stormwater Drainage**

The stormwater drainage generated from the development shall be directed to the existing stormwater drainage system.

**Note:** Drainage lines across the footpath shall be of 75mm x 200mm galvanised R.H.S laid at a fall not exceeding 1:40 (A 100mm sewer grade pipe is an acceptable alternative for single lot residential applications).

**Note:** If a street outlet is required it shall be constructed using a 100mm x 50mm galvanised rectangular connector laid into the kerb with the invert of the converter to be 10mm above the invert of the gutter.

The complete roof guttering system must be operational as soon as the roof for each dwelling is clad. Surface stormwater shall not be directed or cause nuisance to adjoining properties.

**43. Critical Stage Inspections**

In accordance with Section 109E of the Environmental Planning and Assessment Act 1979 the Principal Certifying Authority for this development is to inform the applicant of the Critical Stage Inspections prescribed for the purposes of Section 109E (3) (d) Environmental Planning and Assessment Regulation 2000.

**44. Tree Preservation Order**

You are not permitted to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside the building envelope unless you have obtained prior written consent from Fairfield City Council. Fines may be imposed if you contravene Fairfield City Council's Tree Preservation Order.

**45. No Stopping**

An application shall be submitted to Fairfield City Council's Built Systems Manager with regard to the installation of 'No Stopping' restrictions for the full frontage of the site along Edensor Road, between Melbourne Road and Bunker Parade. The 'No Stopping' restrictions shall apply on school days only, between the hours of 8.00am to 9.30am and 2.30pm to 4.00pm. All works shall be at no cost to Council.

**46. Vehicular Crossings**

All vehicular crossings shall be located a minimum of one (1) metre from any utility pole.

**47. Gradient of Driveways**

The gradient of proposed driveways shall comply with AS/NZS 2890.1:2004.

**48. Switchboards**

Switchboards for utilities must not be attached to the front elevations of the building(s).

**49. Clothes Drying Areas**

The clothes drying areas for the individual dwelling units shall be positioned and screened from public view.

**50. Landscape Protection Works**

Prior to the commencement of any construction works on site, the following works shall be undertaken to protect existing trees and other landscaping to be retained as part of the development. These works shall be consistent with any other requirements of the approved landscape plan:

- a. Isolate the root zone to the drip line (canopy line) of individual or groups of trees through the erection of a clearly marked fence, prior to land clearing or construction work.
- b. No dumping of materials, parking of vehicles, excavation or filling is to be permitted within the fenced root zone.
- c. Minimise soil disturbance in the surrounding area (to twice the canopy width).
- d. Where trenches for services cannot be laid outside the fenced zone, roots greater than 75mm wide in diameter are to be clean cut and treated with an approved hormone compound and sealed with bitumen.
- e. Tree guards, barriers or other measures as necessary are to be provided.



## **DRAFT CONDITIONS – SUBDIVISION**

### **APPROVED PLANS AND REPORTS**

#### **51. Compliance with Plans**

The development shall take place in accordance with the approved development plans prepared by Residential Logistics Pty Ltd, Reference No. ARC-RL-S02 – Subdivision Plan, Issue K, dated 29 September 2009, except as amended on the approved development plans and/or any conditions of this consent.

#### **52. Environmental Reports Certification**

Prior to the release of the Subdivision Certificate, written certification from a suitably qualified person(s) shall be submitted to the Principal Certifying Authority and Fairfield City Council stating that all critical works, methods, procedures, control measures and recommendations relevant to Stage 2 within the following reports have been completed:

- Stage 2 Environment and Construction Management Plan prepared by Hughes Trueman, Revision 4, dated 13 April 2010.
- Water Cycle Management Report prepared by Hughes Trueman, Revision C, dated 5 August 2008.
- Stage 2 Stormwater Design prepared by Hughes Trueman, Revision C, dated 29 January 2010.
- Remedial Action Plan prepared by JBS Environmental Pty Ltd, Report No. JBS 40756-14105 (Rev 0), dated January 2010.

### **CONDITIONS ADVISING OF FEES AND CHARGES APPLICABLE TO THE SUBDIVISION.**

**The following conditions have been imposed to provide for various facilities and services required to meet the demands arising from the proposed subdivision.**

#### **53. Subdivision Certificate Release Fee**

A Subdivision Certificate release fee shall be paid to Fairfield City Council, in accordance with the Annual Schedule of Fees and Charges.

## **CONDITIONS RELATING TO WORKS ASSOCIATED WITH THE SUBDIVISION**

**The following conditions have been imposed to ensure that adequate and safe public access is available to the subdivision for both pedestrian and vehicular traffic and that the subdivision will not have detrimental effects on the environment.**

### **68. Satisfactory Access to all Lots**

The provision of satisfactory access to all lots. In this regard, a vehicular layback, in accordance with Fairfield City Council's specification, is to be provided in the kerb adjacent to all proposed allotments.

### **69. Erosion and Sediment Control Plan**

A detailed Erosion and Sediment Control Plan prepared in accordance with Fairfield City Council's policy for Urban Erosion and Sediment Control shall be issued with an Engineering Construction Certificate by an Accredited Certifier or by Fairfield City Council. The control measures detailed in the approved plan shall be implemented prior to commencement of any works, including stripping or clearing, on site.

### **70. Tree Preservation Order**

No trees shall be pruned or removed without prior written consent from Fairfield City Council, and the provisions of Fairfield City Council's Tree Preservation Order.

### **71. Redundant Vehicular Layback**

The redundant vehicular layback adjacent to the subject subdivision shall be removed and replaced with Fairfield City Council's standard kerb and gutter.

### **72. Kerb and Gutter Status Form**

Prior to the commencement of any works on site, the applicant shall return the attached footpath/kerb and gutter form to Fairfield City Council detailing the existence of, and the condition of, any foot paving, and/or kerb and gutter provided adjoining the site for checking against Fairfield City Council's records. Damage to footpaths, kerbs, stormwater systems and general streetscape will require restoration at the developer's expense.

### **73. Site During Construction**

Prior to the commencement of works, a sign must be erected in a prominent position on site during construction:

- a. Stating that unauthorised entry to the work site is prohibited;

- b. Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours; and
- c. Showing the name, address and a telephone number of the Principal Certifying Authority for the development.

**74. Works-As-Executed Drawings**

Following completion of the works, the applicant shall submit a detailed Works-As-Executed drawing to the Principal Certifying Authority and to Fairfield City Council signed by a registered surveyor showing the finished surface levels of the access, inter-allotment drainage and any lot filling, carried out under this consent.

**NOTE:** Fairfield City Council will not accept Works-As-Executed plans with coloured highlighter markings on the plans. All dimensions and levels shall be handwritten in blue or red pen only.

**75. Lot Filling**

Any lot filling operations carried out in accordance with this consent shall be tested to establish the field dry density every 300 mm rise in vertical height. The minimum compaction requirement is 95% standard compaction. Test sites shall be located randomly across the fill site with 1 test per 500 m<sup>2</sup> (minimum 1 test per 300 mm layer). A report from a suitably qualified Geotechnical Engineer shall be submitted in this regard.

**76. Validation of Fill**

Any fill imported to the site shall be validated in accordance with the EPA's Contaminated Sites Sampling Design guidelines 1995.

**CONDITIONS RELATING TO THE PROVISION OF SERVICES TO THE SUBDIVISION.**

**The following conditions have been imposed to ensure that the subdivision is provided with adequate services.**

**77. Inter-Allotment Drainage Construction**

Inter-allotment drainage shall be provided to all lots which do not wholly slope toward the street. Details of the proposed drainage works are to be issued with a Construction Certificate by an Accredited Certifier or by Fairfield City Council prior to the commencement of works on site.

**78. Easements for all Services**

Easements shall be created over all services and/or stormwater pipelines located within private property which service adjacent roads or properties.



**79. Registered Surveyor Certification**

Written confirmation shall be provided from a Registered Surveyor that easements have been created for all encroaching services connections, or alternatively that all services are contained wholly within their respective allotments.

**80. Sydney Water Compliance Certificate**

A Section 73 Compliance Certificate under the Sydney Water Act, 1994 must be obtained for the subdivision.

Application must be made through an authorised Water Servicing Co-ordinator, for details see the Sydney Water web site [www.sydneywater.com.au/customer/urban/index](http://www.sydneywater.com.au/customer/urban/index) or telephone 13 20 92.

Following the application, a 'Notice of Requirements' will be forwarded detailing water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority.

**81. Integral Energy Notification of Arrangement**

The submission of 'Notification of Arrangement' from Integral Energy stating that satisfactory arrangements have been made for the provision of underground low voltage electricity installation.

**NOTE:** The attached application form should be completed and submitted to The Project Manager, Integral Energy, Hoxton Park Road, Hoxton Park together with a set of plans detailing all engineering works to be constructed in association with the subdivision and a plan detailing the proposed lot dimensions.

**NOTE:** It is considered that the provision of natural gas services is desirable to new subdivisions and in this regard, the developer is requested to liaise with Jemena, Sydney ([www.jemena.com.au](http://www.jemena.com.au)).

**82. Telecommunications Compliance Certificate**

A Compliance Certificate from the relevant telecommunications carrier shall be submitted to the Principal Certifying Authority, as evidence that satisfactory arrangements have been made for all communications plant to be laid underground.

**NOTE:** For further enquiries regarding the issue of the Compliance Certificate, contact Telstra at postal address Locked Bag 5390 Parramatta NSW 2124.

**NOTE:** It is considered that the provision of natural gas services is desirable to new subdivisions and in this regard, the developer is requested to liaise with the Australian Gas Light Company, Sydney.

## **GENERAL CONDITIONS**

**The following conditions have been imposed to ensure that the subdivision does not prejudice the amenity of the local environment and/or to achieve the objectives of the relevant planning instruments and statutory authorities.**

### **83. Easements for Support**

Creation of suitable easements for support over all walls encroaching on adjoining properties in accordance with Section 181(b) of the Conveyancing Act, 1919.

### **85. Dedication of Road Splay**

The dedication to the public as road on the final plan of subdivision at no cost to Fairfield City Council, of a 3m x 3m splay on the corner of the following intersections:

- Cnr of Reeves Crescent and Cronin Place adjacent to proposed lot 301.
- Cnr of Bunker Parade and Reeves Crescent adjacent to proposed lot 306.
- Cnr of Bunker Parade and Reeves Crescent adjacent to proposed Strata Lot 119.
- Cnr of Cronin Place and Reeves Crescent adjacent to proposed Strata Lot 229.
- Cnr of Bunker Parade and Reeves Crescent adjacent to proposed Strata Lot 317.

### **86. Easement for Access and Maintenance**

An easement for access and maintenance shall be created for each Strata lot. The creation of an easement for access and maintenance shall be created in the following terms:

Full and free right for every person who is at any time entitled to an estate or interest in possession in the land herein indicated as the lot benefited or any part thereof with which the right shall be capable of enjoyment, and every person authorised by that person to enter upon the lot burdened and to remain there for any reasonable time with any tools, implements or machinery necessary for the purpose of renewing, replacing, painting, repairing and maintaining the residence adjacent to the easement and to enter upon the lot burdened and to remain there for any reasonable time for the said purpose and the Registered Proprietor for the time being of the lot hereby burdened shall not erect or permit to be erected any building or other structure of any kind or description on or over the said easement with the exception of the eave and gutter of any main building erected on the subject lot and any underground utility services appurtenant to such main building.

Name of authority empowered to release, vary or modify the Restrictive covenant:

The Council of the City of Fairfield without the consent of any other person or persons provided that any such release, variation or modification shall, if approved be made and done in all respects at the cost and expense of the persons or persons requesting such release, variation or modification

**87. Community Property – Lot 103**

The proposed subdivision shall be undertaken using the Community Land Development Act 1989, to enable the creation of Community Property (Lot 1 - driveway).

**88. Management Statement – For Lot 103**

The management statement created in conjunction with the Community Title subdivision shall be submitted to and approved by Fairfield City Council prior to the release of the final plan of Subdivision.

The management statement shall include terms relating to the management, maintenance and appointment of any costs arising there from, for all community property.

**89. Easement for Services, Maintenance Covenant**

A Right of Carriageway, Maintenance Covenant and Easement for Services shall be created over proposed lots as appropriate.

**90. Right-of-Carriageway – Maintenance and Repair**

The creation of a Right-of-Carriageway (variable width) and Positive Covenant for maintenance and repair over proposed lots as appropriate in the following terms:

- (1) Full and free right for every person who is at any time entitled to an estate or interest in possession in the land identified in the abovementioned plan as a lot benefited or any part thereof with which the right shall be capable of enjoyment, and every person authorised by that person to go, pass and re-pass at all times and for all purposes with or without animals or vehicles or both to and from the said lot benefited or any part thereof, subject to the following provisions.
- (2) The proprietors of the lots hereby benefited shall at all times and from time to time maintain and repair without delay any part of any lot hereby burdened identified on the above mentioned plan as the site of the right of carriage way variable width and in respect of any part of any such lot hereby burdened on which any part of such right of carriage way variable width is constructed or located PROVIDED THAT all costs and expenses of such maintenance and repair shall be borne equally by the proprietors of the lots hereby benefited or

the proprietors of any part or parts thereof with which the right shall be capable of enjoyment.

- (3) The land to which the benefit of the positive covenant referred to in paragraph 2 hereof is appurtenant is any lot hereby burdened by the right of carriage way variable width identified in the abovementioned plan.
- (4) The land which is subject to the burden of the positive covenant referred to in paragraph 2 hereof is any lot hereby benefited by the right of carriage way variable width identified in the abovementioned plan.
- (5) If any dispute arises relating to the need to carry out any maintenance and repair pursuant to the positive covenant referred to in paragraph 2, including the nature of work or its reasonable cost, that dispute shall be determined by an arbitrator appointed by the proprietors under the Commercial Arbitration Act, 1984 whose determination shall be final and binding on all proprietors.
- (6) For the purposes of the positive covenant referred to in paragraph 2 hereof, unless inconsistent with the context:-

*Maintain and repair* includes in relation to the lots burdened, the maintenance, repair and replacement of any pavement, surface or finish to the site of the right of carriage way variable width together with any foundation to same and any gutters, drains, trenches, earth banks and kerbs forming part of the site of the right of carriage way variable width.

*Proprietor* includes the registered proprietor of any lot from time to time and all the heirs, executors, assigns and successors in title to any lot and where there are two or more registered proprietors of such lot the terms of the positive covenant shall bind all those registered proprietors jointly and severally.