

Proposal: Subdivision of the subject site into 6 super lots, construction of 159 dwellings and ancillary works including site preparation/earthworks, stormwater drainage, servicing and landscaping, and subdivision thereof into 137 torrens title and 1 strata title lot (Stage 3).

Location:

- Lot 6622, DP 790377 Bunker Parade;
- Lots 92-98, DP 262456, No. 3A-15 Bunker Parade;
- Lots 67, 68, 76-78 & 91, DP 262456, No.'s 21-22, 24-26 & 28 Barseden Street;
- Lots 79-81, 83 & 84-89, DP 40781-40783 & 40785-40791, No.'s 2-4 & 6-12 Kemp Place;
- Part of Lot 99, DP 262456, No. 1-22 Stroud Way;
- Lots 69-75, DP 42410-42416, No. 1-7 Donovan Place;
- Part of Lot 104, DP 262456, Edensor Road (Bunker Road Reserve);
- Part of Lot 102, DP 262456, No. 3 Bishop Crescent, Bonnyrigg.

Owner: Housing NSW

Proponent: Bonnyrigg Partnerships

**Capital
Investment**

Value: \$39,600,000

File No: DA 1303.1/2010

Author: Mark Stephenson, Senior Development Planner
Fairfield City Council

RECOMMENDATION

1. That the application be approved as deferred commencement consent subject to the submission of amended plans demonstrating the following:
 - a. That the location of driveways, particularly on corner allotments, achieve compliance with AS 2890.1:2004.
 - b. That all allotments for attached and detached housing achieve compliance with the lot sizes as required by the Bonnyrigg Masterplan. The lots that do not comply are identified as Lots

3110 & 3111, Lot 3214, Lot 3339, Lot 3340, Lot 3341, Lot 3408 and Lot 3504.

- c. That the apartment complex is provided with visitor car parking on site as required by the Bonnyrigg Masterplan at a rate of 1 space per 4 units.

The above changes may, and are likely to, necessitate amendments to the layout and design of the development, and may also require a reduction in lots/dwellings. In this regard, all design changes shall be fully documented and shall comply with the minimum requirements outlined within the Bonnyrigg Masterplan and the Australian Standards.

2. That once the above information is submitted to and approved by Council, the application be approved under delegation to Council's Executive Manager, Environmental Standards, subject the draft conditions of consent as outlined in Attachment C of this report.

SUPPORTING DOCUMENTS

AT-A	Modification to Major Project No. MP 06_0046
AT-B	Statement of Environmental Effects
AT-C	Draft Conditions of Consent

EXECUTIVE SUMMARY

This development application proposes the subdivision of the subject site into 6 super lots, construction of 159 dwellings and ancillary works including site preparation/earthworks, stormwater drainage, servicing and landscaping, and subdivision thereof into 137 torrens title and 1 strata title lot.

The proposed development forms part of Stage 3 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 28 July 2011, the Planning Assessment Commission (PAC) approved a Section 75W Modification (Mod 3) to the Major Project approval. In brief, the changes to the Concept Plan include: the reduction in allotment widths and depths for detached dwellings and duplexes; greater flexibility for zero lot configurations; and the provision of apartment buildings where they were not previously envisaged.

Despite strong representation from Council, the changes to allotment widths were considered acceptable by the PAC, albeit under the proviso that optimum lot orientation is also achieved. The reduction in allotment widths are still not supported by Council, as it is considered that the narrower lots will alter the character of the area and will reduce the ability to provide for an adequate level of on-street parking and site landscaping, and as such, it is considered that the changes will have a negative impact upon the public realm.

Notwithstanding the above, 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.

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.

Whilst the development is generally supported by Council and therefore Council's recommendation is that the application be approved, an assessment of the application has revealed a number of non-compliances, particularly with regard to the Bonnyrigg Masterplan in relation to certain lots not meeting the minimum dimensions and the absence of visitor parking for the apartment buildings. In addition, the development does not comply with the Australian Standards with regard to the minimum distance for driveways located on corners.

On this basis, it is recommended that the application be approved as a deferred commencement consent subject to the submission of amended plans demonstrating compliance with the Bonnyrigg Masterplan and the Australian Standards.

SITE DESCRIPTION AND LOCALITY

The subject site is located approximately 800 metres to the east of the Bonnyrigg Town Centre and is bounded by Edensor Road in the north and Bunker Parade in the west.

The subject site encompasses a number of allotments, which are identified as follows:

- Lot 6622, DP 790377 Bunker Parade;
- Lots 92-98, DP 262456, No. 3A-15 Bunker Parade;
- Lots 67, 68, 76-78 & 91, DP 262456, No.'s 21-22, 24-26 & 28 Barseden Street;

- Lots 79-81, 83 & 84-89, DP 40781-40783 & 40785-40791, No.'s 2-4 & 6-12 Kemp Place;
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- Lots 69-75, DP 42410-42416, No. 1-7 Donovan Place;
- Part of Lot 104, DP 262456, Edensor Road (Bunker Road Reserve);
- Part of Lot 102, DP 262456, No. 3 Bishop Crescent, Bonnyrigg.

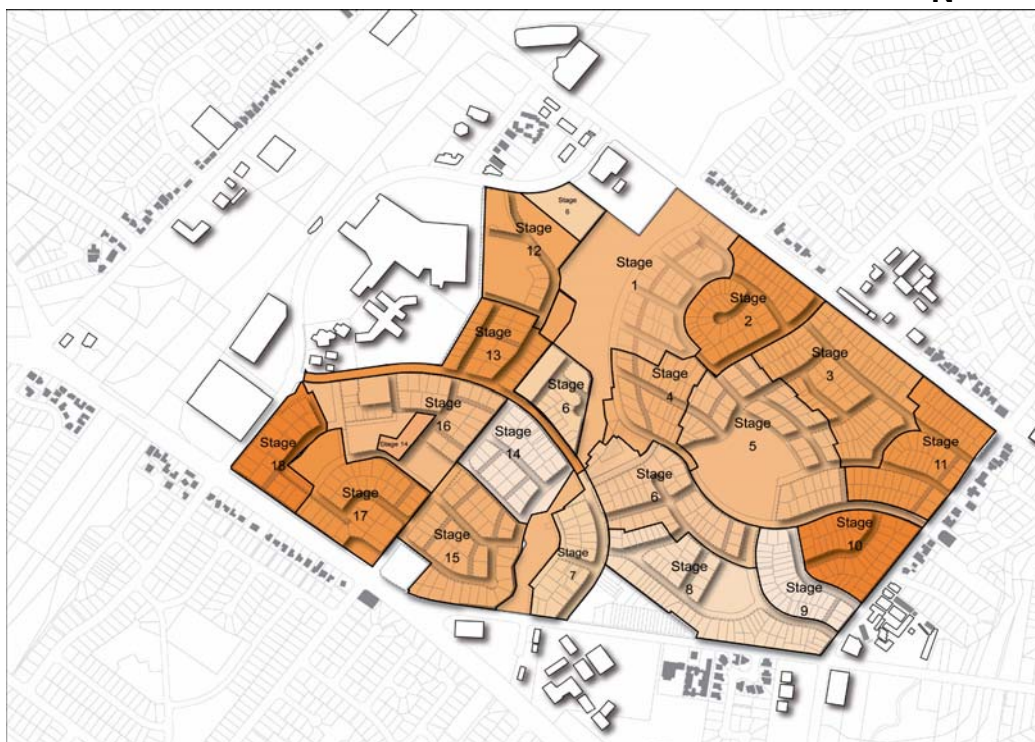
Currently, the site is undergoing preparatory works in accordance with the Concept Plan approval. The site has a significant fall from east to west and vegetation has been removed where future works will occur.

Located to the north, on the opposite side of Edensor Road, is St John's Park Primary School. To the north-east and north-west is single and two-storey detached dwellings. Directly to the west is Stage 2 of the Bonnyrigg redevelopment, which is currently undergoing construction. To the south, south-east and south-west are the future stages of the redevelopment which currently comprise single-storey residential development as well as public open space.

The Stage 3 development area has been reduced in size by approximately 1,100m² from that depicted in the Indicative Staging Plan as shown below (from 55,620m² to 54,620m²). However, the number of dwellings to be provided has not really changed (from 160 to 159). Council is informed by the Applicant that overall density will not increase as a result.



Locality Diagram (Source: Residential Logistics, 2010)





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.
- On 28 July 2011, the Planning Assessment Commission approved a Section 75W Modification (Mod 3) of Major Project No. MP 06_0046.

PROPOSAL

This application proposes the subdivision of the subject site into 6 super lots, construction of 159 dwellings and ancillary works including site preparation/earthworks, stormwater drainage, servicing and landscaping, and subdivision thereof into 137 torrens title and 1 strata title lot (Stage 3).

Specific details of the proposed development are as follows:

- Super-lot subdivision to create 6 unserviced residue lots and enable the staged construction and occupation of the proposed residential development.
- Construction of 159 residential dwellings comprising the following configurations:
 - 107 detached dwellings
 - 30 attached dwellings
 - 22 walk-up apartments (contained in 2 apartment buildings)

- 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 137 Torrens title lots and 1 strata title lot (for the apartment complex).
- There are two apartment buildings proposed to be located in the southern portion of the Stage 3 development area, adjacent to and overlooking Hilltop Park. The two buildings are 3 storeys in height.
 - Building A has three levels, with six (6) x 2b/r apartments on each level (18 units in total).
 - Building B has an enclosed car parking area at grade-level and two levels of apartments above, with each level containing two (2) x 2b/r apartments (4 units in total).
 - An open grade-level car parking area is also located behind both buildings.
 - Twenty-two car parking spaces are provided: one (1) space for each unit. No visitor parking is provided.
- Each dwelling (whether attached or detached) is provided with two (2) car parking spaces – total 274 spaces. Each residential apartment is provided with one (1) car parking space – total 22 spaces. There is a total of 296 parking spaces provided on-site, whilst visitor parking is provided on-street

The plan provided below depicts the proposed dwelling layout and landscape concept design for Stage 3 of the Bonnyrigg living Communities Project.



Landscape Concept Plan (Source: Site Image, 2010)



STATUTORY REQUIREMENTS APPLICABLE TO THE SITE

1. Part 3A of the Environmental Planning and Assessment Act 1979

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).

Whilst there have been significant changes to Part 3A of the Act and SEPP (Major Development) 2005, a Project that has approval under Part 3A of the Act can continue, and in this regard, subsequent stages of the Project can still be assessed and determined by a consent authority under Part 4 of the Act. In addition, approved Projects can also be modified under Section 75W of the Act.

With regard to the above, on 28 July 2011, the Planning Assessment Commission approved a Section 75W Modification (Mod 3) of Major Project No. MP 06_0046. The pertinent modifications are outlined below:

- Reduction to the minimum allotment width for detached dwellings from 8.5 metres to 6.7 metres if north facing rear yard and single garage. For a south facing rear yard the minimum width remains 8.5 metres.
- Reduction in the minimum lot depth for detached dwellings from 27.5 metres to 25 metres.

It is noted that the original modification proposed a minimum lot width of 6.4 metres, regardless of lot orientation. The requirement with regard to orientation was introduced by the Department of Planning.

- Reduction to the minimum allotment width for duplex (attached dwellings) building types from 15 metres to 12.8 metres if north facing yard. For a south facing yard the minimum width remains at 15 metres if parking is located at the rear and 17 metres if garages are located at the street front.
- Reduction in the minimum lot depth for duplex (attached dwellings) building types from 30 metres to 25 metres if north facing yard. For south facing the minimum depth remains at 30 metres.
- The boundary of Stage 3 has been decreased in area by 1,100m², from 55,620m² to 54,520m².
- The Bonnyrigg Masterplan has also been amended to make provision for the inclusion of 3 storey walk-up apartments where they were not previously envisaged. These apartment buildings can now be located throughout the estate, not just in close proximity to the town centre.
- In addition to the above, it was also the Applicant's intention to amend side setback controls so that the length of wall of a dwelling located on the boundary could exceed 12 metres, except where located adjacent to a private lot.

Whilst it is understood that this is still the intention of the Applicant, the relevant control has not been amended by the Planning Assessment Commission. However, this is likely to be an oversight, given that the length of dwellings (particularly those located on the boundary) would need to be increased in order to provide for minimum internal living spaces given the decrease in dwelling width.

With regard to the amended lot size controls, it is noted that 8 out of the 137 attached and detached dwelling allotments do not comply with the minimum controls. This non-compliance is discussed in the section below entitled "6. *Bonnyrigg Masterplan*".

2. Fairfield Local Environmental Plan 1994

On 9 June 2010, the subject site was rezoned 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 3 comprises both detached and attached dwellings and residential flat buildings. These forms of residential 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).

3. Threatened Species Act 1995

The Preliminary Environmental Assessment submitted for the Concept Plan included a detailed analysis of flora and fauna and a seven 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”.

4. 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”.

5. 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 3 works in accordance with the Revised Statement of Commitments, dated November 2008.

6. Bonnyrigg Masterplan

The Bonnyrigg Masterplan prepared by Urbis (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.

As indicated above, certain components of the Bonnyrigg Masterplan were amended as part of a Section 75W Modification (Mod 3) of Major Project No. MP 06_0046, which was approved by the Planning Assessment Commission on 28 July 2011. The amended controls now form part of the Bonnyrigg Masterplan. Numerical compliance with the Bonnyrigg Masterplan is outlined in the following table.

Criteria	Relevant Development Standard (Bonnyrigg Masterplan)	Proposed	Compliance
Lot Size	Detached dwelling: Width: 6.7m if north facing rear yard and single garage 8.5m if south facing rear yard and single garage 12.5m if twin garage	8 out of the 137 attached and detached dwelling allotments do not comply with the minimum controls as recently modified by the PAC.	No Discussed below

Criteria	Relevant Development Standard (Bonnyrigg Masterplan)	Proposed	Compliance
	Depth: 25m 2 attached dwellings: Width: 12.8m if north facing yard Depth: 25m 15m if south facing yard and garages/car parks located at rear 17m if south facing yard car spaces and garages located at street front) Depth: 30m 3 & 4 attached dwellings: Width: 20m Depth: 30m		
Site Coverage	Building Footprint: Max 65% of any allotment can be built upon, including garages and car spaces	None of the allotments exceed the maximum 65%	Yes
	Landscaped Area: Min. 35% of each allotment to be landscaped (includes hard and soft landscaping) Min. 30% of landscaped area must be deep soil	All allotments achieve the minimum landscaped area and deep soil zones	Yes
Streetscape	Garages: 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 Max. combined width of garages fronting access places not to exceed 80% of allotment width No triple or more garages side-by-side fronting streets	All garages set back 5.5m and do not exceed 50% of the allotment width.	Yes
	Building Elements: All dwellings to have direct entry from street with visible front doors 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	The design and presentation of all dwellings is considered to be satisfactory	Yes
Bulk and Scale	Building Height: Max. 2 storeys for detached and attached dwellings, with some 3 storey elements for 'hero' sites	All dwellings comply	Yes
	Ceiling Height: Minimum 2.4m floor to ceiling heights	All dwellings comply	Yes
Setbacks	Front: 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	All dwellings comply	Yes

Criteria	Relevant Development Standard (Bonnyrigg Masterplan)	Proposed	Compliance
	<p>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>Side: 80% of the dwelling length shall be setback a minimum 900mm Zero side setbacks must not exceed a maximum length of 12m.</p>	<p>As indicated above, many dwellings incorporate zero setbacks where the length of wall exceeds 12m. However, it is considered that this control was to be amended as part of the recent s.75W Modification. If so, then compliance is achieved.</p>	Clarification required
Privacy	<p>Dwellings must be designed to prevent overlooking into the living areas and private open spaces of adjoining dwellings 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 3 dwellings are considered to be satisfactory from safer-by-design perspective	Yes
Private Open Space (POS)	<p>All ground level dwellings should achieve 18m² of POS All first floor dwellings should achieve 10m² of POS.</p>	All dwellings comply	Yes
Car Parking and Garages	<p>Detached dwellings: 2 spaces Attached dwellings: 1 or 2 b/r – 1 space 3 b/r – 1.5 spaces Visitor parking will be provided on street</p>	<p>All detached dwellings are provided with the minimum 2 car parking spaces.</p> <p>All attached dwellings are provided with 2 car parking spaces, which is above the minimum required.</p> <p>There are 30 attached dwellings, which require a total of 45 spaces, however, a total of 60 have been provided.</p>	Yes
Storage	<p>1 b/r dwelling – 6m³ 2 b/r dwelling – 8m³ 3 b/r dwelling – 10m³</p>	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	128 out of 137 dwellings in Stage 3 comply. This equates to 93% compliance.	Yes, the majority of dwellings comply

Criteria	Relevant Development Standard (Bonnyrigg Masterplan)	Proposed	Compliance
	adjoining site receives at least 3 hours of direct sunlight between 9am and 3pm on the 21st of June.		

The above table indicates that the detached and attached dwellings within Stage 3 do not comply with minimum dimensions for lot sizes and minimum requirements for solar access. With regard to solar access, the non-compliances are considered to be minor and affect only a small proportion of the total number of dwellings proposed. Accordingly, the level of compliance achieved for solar access is considered acceptable.

However, it is considered that the amended lot size controls produce relatively narrow dwellings and small internal livings space, and thus represent the bare minimum in dwelling design. The Statement of Environmental Effects indicates that all lots comply with the amended lot size controls. As such, no justification has been given for the non-compliances. It is considered that the development should at the very least comply with these bare minimum controls. Below is a list of the dwellings that do not comply:

Lot	Requirement	Provided
3110 & 3111	17m width, 30m depth	12.33m width, 26m / 29m depth
3214	8.5m width	6.7m width
3339	6.7m width, 25m depth	11.42m width, 17.16m depth
3340	6.7m width, 25m depth	10.85m width, 17.43m depth
3341	6.7m width, 25m depth	11.13m width, 19.29 / 23.64 depth
3408	8.5m width	7.1m width
3504	6.7m width, 25m depth	14.73 width, 14.02m depth

Having regard to the above, it is recommended that the above lots be amended to achieve compliance with the minimum lot size controls as amended. A condition to this effect has been included within the draft deferred commencement consent contained at Attachment C of this report.

6. State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development is applicable to the subject application, as the proposal incorporates two (2) buildings that are three storeys in height containing four (4) or more dwellings. The overriding objective of the SEPP is to improve the quality of residential flat development in NSW through the establishment of ten design quality principles that must be taken into consideration in the design and assessment of an application.

The design verification statement submitted in support of the application has demonstrated that the proposed development achieves compliance with the ten design quality principles of SEPP 65.

Detailed below is a compliance assessment of the proposed apartment buildings against the relevant controls contained within the Residential Flat Design Code.

RESIDENTIAL FLAT DESIGN CODE		
Standards / Topic	Compliance	Comment
Part 01 – Local Context		
Building Depth 10-18m recommended	Yes	The apartments comply with the recommended building depth, as shown on the plan.
Building separation Up to 4-storeys (12 metres): <ul style="list-style-type: none"> • 12m between habitable rooms / balconies; • 9m between habitable rooms / balconies & non-habitable rooms; and • 6m between non-habitable rooms. 	Yes	9 metre separation has been provided between the balconies on the northern facade of Building A and the southern wall of Building B
Street setbacks	Yes	A setback of between 4.5m and 6.9m has been provided, which is considered acceptable. The units and the ground level courtyards address the street satisfactorily, providing an appropriate relationship between the public and private domain.
Side & rear setbacks	Yes	The zero setback on the northern side of Building B is compliant with the Bonnyrigg Masterplan. There is a 2-3 metre separation between Building B and the proposed two-storey dwelling to the north. Given this dwelling is on the north side, there is no overshadowing. Both buildings have been designed so that privacy is maintained. In addition, the northern elevation of Building B is well articulated, incorporating both two and three-storey elements and a variety of building materials and colours. The separation between the buildings is considered acceptable.
Floor Space Ratio	Yes	The Bonnyrigg Masterplan does not employ FSR controls. However, the FSR for the apartment buildings is consistent with the 0.8:1 FSR employed by Council for residential Flat buildings elsewhere in the city.
Part 02 - Site Design		
Deep Soil Zones Minimum 25% of the open space area should be a deep soil zone, except in urban areas where sites are built out and there is no capacity for water infiltration. In this instance,	Yes	The deep soil zone provided is 576.4m ² , with a total site area of 2143.5m ² , which equates to 26.9%.

stormwater treatment measures must be integrated with the design of the residential flat building.		
Fences & Walls Provide definition between private and public, improve privacy and contribute positively to the public domain	Yes	The proposed fencing is a combination of brickwork and powder coated palisade fencing. The proposed courtyard fencing provides a clear delineation between the public and private domains.
Landscape Design Add value to the quality of live through outlook, privacy and views, habitat for native plants and animals, improve microclimate.	Yes	The landscape design is considered to be satisfactory.
Open Space 25 – 30% of the site to be communal open space; Minimum private open spaces areas are 25m ² , with a dimension of 4m	Yes	The apartment buildings overlook Hilltop Park, which is one of a number of public parks that make up the communal open space for the estate. Private open space for both the ground level and upper level apartments meet the minimum areas and dimensions.
Orientation	Yes	All units are considered to be orientated satisfactorily in order to maximise solar access
Stormwater Management	Yes	The stormwater system for the development is considered to be satisfactory by Council's Senior Development Engineer.
Safety	Yes	The design of the apartment buildings is considered to be consistent with safer-by-design principles.
Visual Privacy	Yes	The proposal provides sufficient spatial separation between the two buildings and between the apartment buildings and adjacent development, to ensure privacy is maintained.
Building Entry	Yes	The proposal provides legible entrances to the apartment building lobbies.
Parking Attached dwellings: 1 or 2 b/r – 1 space Off-street visitors car parking will be provided for apartment buildings (as per Bonnyrigg Masterplan)	No	Whilst parking for each dwelling has been accommodated, off-street parking for visitors has not been provided, as required by the Bonnyrigg Masterplan.
Pedestrian Access	Yes	Central lobbies are provided for all apartments above ground level.
Vehicle Access	Yes	Vehicle access to the car parking spaces is considered satisfactory.
Part 03 - Building Design		
Apartment Layout Single-aspect	Yes	Apartments meet the minimum dimensions to kitchen and minimum apartment sizes.

apartments to be limited in depth to 8m from a window. Back of a kitchen to be less than 8m from a window. Min apartment sizes: 1 bed – 50m ² 2 bed – 70m ² 3 bed – 95m ²		
Apartment Mix	Yes	Whilst all 22 apartments are 2 b/r, the residential design code is targeting larger-scale residential flat development. Notwithstanding this, the Bonnyrigg redevelopment as a whole provides a good range of dwelling sizes.
Balconies Provide all apartments with private open space, ensure functional and integrated into the overall architectural form, and allow for casual overlooking and address.	Yes	Each unit is provided with a balcony that complies with the minimum required area and dimensions, which are functional and have been orientated to maximise solar access and integrate into the architectural form.
Ceiling Heights	Yes	Proposal provides a range of ceiling heights of 2700mm and 3000mm.
Flexibility	Yes	Four (4) apartments are provided as adaptable housing.
Ground Floor Apartments Optimise ground floor apartments with separate entries and access to private open space as a terrace or garden.	Yes	All ground floor units have separate entries and access to ground level open space.
Internal Circulation	Yes	Development considered satisfactory
Storage In addition to kitchen cupboards and bedroom wardrobes, accessible storage facilities should be provided at the following rate: Studio – 6m One-bedroom – 6m Two-bedroom – 8m Three-bedroom – 10m	Yes	All units satisfy the minimum storage requirements.
Acoustic Privacy Ensure high level of amenity by protecting	Yes	It is considered that the development provides adequate building separation within the development and from neighbouring buildings to maximize the potential for acoustic privacy.

the privacy of residents within residential flat buildings both within the apartments and in private open spaces		
<p>Daylight Access</p> <p>Living areas and private open spaces of at least 70% of apartments should receive a minimum of 3 hours of direct sunlight between 9am & 3pm in mid-winter. In dense urban areas, a minimum of 2 hours is acceptable.</p> <p>Single aspect apartments with a southerly aspect (SW-SE) to be limited to 10%.</p>	Yes	The majority of the apartments have their living areas orientated to the north. There no single aspect apartments proposed.
<p>Natural ventilation</p> <p>60% of residential units should be naturally cross ventilated.</p> <p>25% of kitchens within a development should have access to natural ventilation.</p>	Yes	All apartments are provided with adequate cross ventilation.
Awning & Signage	Yes	Development considered satisfactory.
<p>Facades</p> <p>Promotes high quality architecture, ensure facades define and enhance public domain and desired street character, and ensure building elements are integrated into building form and façade design.</p>	Yes	<p>Both apartment buildings employ modern architectural design, the facades are adequately articulated, and there is a variety of building materials and colours.</p> <p>The design of the apartment buildings is considered to be satisfactory.</p>
<p>Roof Design</p> <p>Contribute to the overall quality of the building, integrate it into the design of the building composition and contextual response</p>	Yes	The modern roof design integrates well into the design of the building and the surrounding new development.
<p>Energy Efficiency</p> <p>Reduces the requirement for heating and cooling, reliance on fossil fuels, minimize greenhouse emissions</p>	Yes	The proposal will comply with BASIX requirements.

and promote renewable energy initiatives.		
Maintenance	N/A	The building and landscaping should be maintained by a Body Corporate.
Waste Management	Partial	The proposal provides adequate storage for waste bins.
Water Conservation	Yes	As per Concept Plan

The above table indicates that the proposed design of the apartment buildings demonstrates a high level of compliance with SEPP 65. Where there is a non-compliance, particularly with regard to side setbacks, the development is considered to be satisfactory as the design of the buildings are such that privacy is maintained and there is no overshadowing.

The only other non-compliance is in relation to visitor car parking, which relates more to the Bonnyrigg Masterplan than to SEPP 65. With regard to visitor car parking, it is considered appropriate that the apartment design be amended so that visitor parking is provided on-site. Whilst there is no numerical control in the Bonnyrigg Masterplan for visitor parking, the Masterplan does state that visitor parking is to be provided on site. On this basis, and in the absence of a numerical control, it is recommended that visitor parking be provided at a rate of 0.25 spaces per dwelling, which is the rate Council employs for residential flat building development elsewhere in the City.

In this regard, the 22 apartments would require six (6) additional car parking spaces to be provided on site for the purpose of visitor parking. This would require a considerable redesign of the apartment complex, and may necessitate the deletion of some apartments, or an amendment to the allotment layout. However, given the limited nature of on-street car parking provided within Stage 3, it is considered necessary that visitor car parking be provided on site, and as such, the apartment design be redesigned to meet the requirements of the Masterplan. A condition to this effect has been included within the draft deferred commencement consent contained at Attachment C of this report.

INTERNAL REFERRALS

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

Building Control Branch	No Objection, subject to standard conditions
Subdivision Branch	No Objection, subject to standard conditions
Open Space Branch	No Objection, subject to standard conditions
Development Engineering Branch	No Objection, subject to amendments See below for a more detailed assessment
Traffic and Road Safety Branch	No Objection, subject to standard conditions See below for a more detailed assessment
Environmental	No Objection, subject to standard conditions

Management Section	See below for a more detailed assessment
Bonnyrigg Place Manager	No Objection
Manager Policy and Community Development	No Objection, subject to standard conditions See below for a more detailed assessment
Manager Special Projects	No Objection See below for a more detailed assessment

Development Engineering Branch

Council's Senior Development Engineer has indicated that a number of corner allotments do not comply with AS2890.1, as the driveway is located within 6 metres of the tangent point of the corner. This is due to the reduction in lot width for detached dwellings.

The Applicant's Civil Engineer has argued that the following caveat with the AS, means that compliance is not necessary:

"...it shall not apply to any access driveways serving a property which would otherwise be denied access due to the physical impossibility of meeting the requirement" (AS/NZS 2890.1:2004 – 3.2.3(a)).

The Applicant's Civil Engineer has indicated that they have maximised the distance from the driveways to the kerb tangents, but due to the lot sizes, have not physically been able to achieve the 6m.

It is considered however, that the *"physical impossibility"* is created by the proposed subdivision, meaning that it is not impossible to comply if the lots, or the dwelling designs, were amended. The circumstances surrounding this non-compliance are not exceptional, and the situation is created by the subdivision plan, rather than being an existing situation. It is considered that the 6m separation indicated within the standard is to improve visibility and increase traffic safety. The minimum control is not considered to be excessive or burdensome, and should be easily achieved through design changes.

It is therefore considered appropriate that the allotments, or the dwelling designs (i.e. driveway and garage locations), be amended so that compliance with AS2890.1 is achieved. A condition to this effect has been included within the draft deferred commencement consent contained at Attachment C of this report.

Traffic and Road Safety Branch

Council's Senior Traffic Engineer has indicated that, 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 3.

Environmental Management Section

Council's Coordinator Environmental Management has advised that perusal of the submitted Environment & Construction Management Plan (ECMP) for the Stage 3 development works confirms the inclusion of relevant considerations resulting in a robust document for implementation on-site.

In this regard, Council's Coordinator Environmental Management believes that the Stage 3 ECMP provides sufficient direction for the Project Manager and Contractors, to avoid or minimise where appropriate, impacts on the surrounding environment during construction activities.

The EMS is therefore satisfied with the level of environmental protection that should be provided (by implementation of the ECMP), during the proposed Stage 3 construction works.

With regard to contaminated land considerations, Council's Coordinator Environmental Management has indicated that the Applicant has now submitted a Remedial Action Plan for Stage 3 as required under the Concept Plan approval. In this regard, once the remedial works are complete, a NSW EPA Accredited Site Auditor will need to review any relevant contamination reports and confirm that the site has been validated and is suitable for the intended use(s). This would take the form of a Site Audit Report and Site Audit Statement issued by an Accredited Site Auditor. A condition to this effect is included within the draft conditions of consent.

Manager Policy and Community Development

During the assessment of the Stage 2 Development Application, Council's Manager Policy and Community Development stated that a Social Impact Assessment (SIA) for the Aboriginal community had not been undertaken, as required by Condition A4 of the Major Project approval. The SIA for the Aboriginal community has still not been undertaken.

Council's Manager Policy and Community Development has indicated that, at the commencement of the redevelopment project, the Aboriginal population on the Estate was 5.3%. This is a significant population compared to Fairfield (0.6%), Liverpool (1.3%), Sydney SD (1.1%) and NSW (2.1%). The initial Social Impact Assessment for the overall project was insufficient in addressing what impact the development will have on this cohort. With the redevelopment being over 15 years, the need to consider the impact of the redevelopment on the Aboriginal community is essential.

The delay in undertaking the SIA for the Aboriginal community is of serious concern. Anecdotal reports indicate a significant drop in the Aboriginal population in the area. What was a strong and supportive community may have already become isolated and fragmented with services moving away. Whilst Council acknowledges that the development of the SIA for the Aboriginal community has commenced, any further delay will only compound the effects of the development on this community.

Subsequently, it considered appropriate that the SIA for the Aboriginal community be completed prior to the issue of the Construction Certificate, and that the recommended mitigation strategies be included in all future Community Renewal Plans for those Aboriginal communities on and off the estate. A condition to this effect has been included within the draft conditions of consent.

Manager Special Projects

Council's Manager Special Projects has advised that the Stage 3 Development Application is considered to be consistent with the approved Concept Plan. The works contained in the Stage 3 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.

Roads and Traffic Authority

The Roads and Traffic Authority reviewed the application and raised no objection to the proposed development.

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 twenty-one (21) days. During this time, no submissions were received.

SECTION 94 CONTRIBUTIONS

The Concept Plan and subsequent development of Stage 3 is subject to a Voluntary Planning Agreement. The works contained in the Stage 3 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 or Section 94A Levy 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. The development application has also demonstrated general compliance with State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development

(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 3 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 reduction in lot width will have a significant impact on the public domain, due to the reduction in dwelling size and width, and the inability to provide for adequate on-street car parking and site landscaping.

- (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*

During the notification process no submissions were received.

- (e) *the public interest*

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

TOWN PLANNING ASSESSMENT

The proposed development of Stage 3 of the Bonnyrigg Living Communities Project is permissible within the 2(b) Residential Zone subject to consent. It is considered that the Proponent has addressed all the relevant conditions within the Major Project approval for the redevelopment of the Bonnyrigg public housing estate, with the exception of minimum lot sizes and visitor parking for the apartment buildings.

As indicated above, modifications to the Concept Plan were recently approved by the Planning Assessment Commission. With regard to the modifications, it is considered that the changes to the fundamental development controls have the potential to alter the nature of the redevelopment as approved. However, these modifications were approved by the PAC, despite representations from Council, and in this regard, are beyond the control of this assessment.

Notwithstanding this, it is considered that the modifications, particularly the reduction in lot widths for detached dwellings and duplexes, have the potential

to alter the character of the locality, as traditional dwellings are reduced to a width of just 5.8 metres.

The impact to the public realm is also considered to be significant, as the narrower lots may reduce the ability to provide for an adequate level of on-street parking and site landscaping. With regard to parking, this is made all the more difficult given the small size of the internal spaces, which could result in the garage being converted to a storage area, and the need for on-street parking all the more important.

Notwithstanding the above, it is considered that the architect in most instances has been able to overcome the constraints of the lot sizes and the site itself, and design the dwellings in order to maximise solar access and cross ventilation, although the size of the internal living spaces is somewhat less than ideal. Whilst there are similarities in design for the detached dwellings, thus leading to an homogenous architectural style, the variety of materials and colours is considered acceptable.

Further to the above, the abandonment of the 'Plex' designs, which are provided throughout Stage 1 and to a lesser extent in Stage 2, and the provision of more traditional housing forms, has meant that the quality and quantity of private open space has improved.

The design of the attached and detached dwellings within Stage 3 display a high level of compliance with the Bonnyrigg Masterplan as amended. The apartment buildings are of modern design and the units themselves easily comply with SEPP 65 principles, and thus would afford the future occupants a good level of amenity.

However, there are a few instances where the design does not comply with the required guidelines. In particular, some of the allotments do not comply with the width and depth controls of the Bonnyrigg Masterplan. Given that these controls were only recently modified and, it is considered, result in only the bare minimum sizes for residential lots, it is considered appropriate that the lots that do not comply be amended accordingly.

Secondly, some of the corner allotments do not comply with the Australian Standards in relation to the separation distance between the driveways and the tangent points of the corner. This is considered to be a direct result of the reduction in width of the lots. As such, it is considered appropriate that the allotments, or the dwelling designs, be amended to comply with the Australian Standards.

Lastly, the proposed development does not provide any off-street parking for visitors to the apartment buildings, as required by the Bonnyrigg Masterplan. During the assessment of the Concept Plan, Council strongly opposed the Proponent's position that visitor car parking for attached and detached dwellings be provided on street and not on site, as would normally be required for other multi-unit developments elsewhere in the City. Council was assured though that visitor parking for the apartment buildings would be provided on

site. This is considered necessary, given the potential lack of on-street car parking due to narrower lot widths.

Based on an assessment of the application, it is considered appropriate that the design is amended to address the abovementioned non-compliances. However, this should not preclude approval of the application, and as such, it is recommended that the application be approved as a deferred commencement consent subject to the submission of amended plans demonstrating compliance with the above.

RECOMMENDATION

1. That the application be approved as deferred commencement consent subject to the submission of amended plans demonstrating the following:
 - a. That the location of driveways, particularly on corner allotments, achieve compliance with AS 2890.1:2004.
 - b. That all allotments for attached and detached housing achieve compliance with the lot sizes as required by the Bonnyrigg Masterplan. The lots that do not comply are identified as Lots 3110 & 3111, Lot 3214, Lot 3339, Lot 3340, Lot 3341, Lot 3408 and Lot 3504.
 - c. That the apartment complex is provided with visitor car parking on site as required by the Bonnyrigg Masterplan at a rate of 1 space per 4 units.

The above changes may, and are likely to, necessitate amendments to the layout and design of the development. All design changes shall be fully documented and shall comply with the minimum requirements outlined within the Bonnyrigg Masterplan and the Australian Standards.

2. That once the above information is submitted to and approved by Council, the application be approved under delegation to Council's Executive Manager, Environmental Standards, subject the draft conditions of consent as outlined in Attachment C of this report.