

3 November 2011

Mr Mark Stephenson
Senior Planner
Fairfield City Council
PO Box 21
FAIRFIELD NSW 1860

Dear Mark,

Newleaf Bonnyrigg – Stage 3 DA - Response to JRPP Resolution

1 Overview

On 6 October 2011 the Sydney West Region Joint Regional Planning Panel (JRPP) resolved the following:

“The JRPP is of a mind to approve the application but notes that there are a number of non-compliances with the Bonnyrigg Masterplan which has recently been reassessed by the Planning Assessment Commission, and believes the non-compliances to be substantial and so requires changes as follows:

1. *Deletion of the deferred commencement consent condition.*
2. *The submission of amended plans that address the following changes:*
 - i. *The apartment complex is to provide visitor carparking on site as required by the Bonnyrigg Masterplan at a rate of 1 space per 4 units;*
 - ii. *The location of driveways must achieve compliance with AS2890.1.2004;*
 - iii. *Allotments 3310 and 3408 are to be deleted and the subdivision reconfigured, because of the lack of solar access in accordance with the Bonnyrigg Masterplan.*

Amended plans are to be submitted within 4 weeks of this decision and to be the subject of a further Council Town Planning assessment, to be referred to the JRPP for final determination.”

2 Response to JRPP Resolution

Meetings were held with Council Officers on the 17th & 27th October and 1st November to brief Council officers regarding the proposed design amendments to respond to the above resolution.

It was demonstrated that Allotments 3310 and 3408 could be reconfigured to achieve compliance with the residential amenity controls within the Bonnyrigg Masterplan. DKO Architects re-evaluated the orientation of dwellings, and have introduced modified housing products which produce sound amenity and streetscape outcomes. As such, it is not considered necessary or appropriate to delete these lots.

The table below provides an overview of the JRPP resolution and how the project team has responded.

JRPP RESOLUTION	RESPONSE
1. Deletion of the deferred commencement consent condition.	Council to remove deferred commencement consent condition pending their acceptance of the amended plans.
2. The submission of amended plans that address the following changes:	
i. The apartment complex is to provide visitor carparking on site as required by the Bonnyrigg Masterplan at a rate of 1 space per 4 units;	The proposed apartment complex now contains 6 visitor car parking space (i.e. 1 space per 4 units)
ii. The location of driveways must achieve compliance with AS2890.1.2004;	All driveways now comply with AS2890.1.2004.
iii. Allotments 3310 and 3408 are to be deleted and the subdivision reconfigured, because of the lack of solar access in accordance with the Bonnyrigg Masterplan.	To ensure full compliance with all amenity controls, a range of amendments to the subdivision pattern has occurred. The relevant allotments and changes proposed are discussed in more detail below. This demonstrates that all allotments now fully comply with solar access, private open space, deep soil planting and other relevant amenity controls in Bonnyrigg Masterplan.
Amended plans are to be submitted within 4 weeks of this decision and to be the subject of a further Council Town Planning assessment, to be referred to the JRPP for final determination."	The proposed amended plans are submitted to Council within 4 weeks (i.e. by 3 November 2011) in accordance with the resolution.

3 Overview of Proposed Amendments in Response to JRPP Resolution

All of the proposed lot widths now comply with the Bonnyrigg Masterplan. However, the depths of four lots are slightly under the 25m control (Lots 3501, 3502 and 3503, 3402). Lots 3501, 3502 and 3503 are directly adjacent to an existing dwelling which makes compliance difficult to comply with. However, the JRPP accepted that lot dimensions adjacent to existing dwellings may be permitted where they comply with residential amenity controls. Lot 3402 is slightly under 25m (24.2m) due to accommodating a substation – otherwise compliance with the lot depth would be achievable.

The table below (and attached table provided by DKO Architects identifies the proposed amendments to the Development Plans and demonstrates full compliance with the key amenity controls from the Bonnyrigg Masterplan.

LOT	PROPOSED	COMPLIANCE WITH AMENITY CONTROLS IN MASTERPLAN
3109	Existing product rotated to gain better solar access	YES
3110	Existing product rotated to gain better solar access	YES
3111	Existing product rotated to gain better solar access	YES
3401	Existing product amended to achieve compliance with AS2890.1.2004	YES
3402	Existing product minor amendment to site area	YES
3403	Existing product minor amendment to site area	YES
3404	Existing product minor amendment to site area	YES
3405	Existing product minor amendment to site area	YES
3406	Existing product minor amendment to site area	YES
3407	Existing product minor amendment to site area	YES
3408	New product with increased lot width	YES
3409	Existing product with minor amendment to site area	YES
3411	New product with garage accessed off Barseden Road	YES
3428	New product with garage accessed off Kemp Place	YES
3501	New product with garage accessed off Road Two	YES
3502	New product with garage accessed off Road Two	YES
3503	New product with garage accessed off Road Two	YES
3618	New product with garage accessed off Road Two	YES
Apartments	The apartment complex has shifted closer towards the share-way within Hilltop Park in order to accommodate additional visitor car parking provision.	YES

4 Additional Documentation

As discussed, the following additional plans will be submitted early next week to assist in your final assessment of the proposed amendments:

- Updated Landscape Plans prepared by Site Image
- Updated Civil Drawings prepared by Hughes Truman Mott McDonald

- Updated Subdivision Plans by Vince Morgan Surveyors

5 Draft Conditions of Consent

Further to our recent discussions and meetings we have reviewed the draft conditions and seek some modifications of these prior to consent being issued here. The table below outlines the relevant condition, our preferred wording and justification for these changes.

	CONDITION	PROPOSED WORDING	JUSTIFICATION
	Description of Development Subdivision of the subject site into 6 super lots, construction of 159 dwellings and ancillary works including site preparation/ earthworks, stormwater drainage, servicing and landscape and subdivision thereof into 137 Torrens title and 1 strata title lot (Stage 3)	Description of Development Subdivision of the subject site into 6 super lots, construction of 159 dwellings and ancillary works including site preparation/ earthworks, stormwater drainage, servicing and landscape and subdivision thereof into 137 Torrens title and 4 2 strata title lot (Stage 3)	The description of development incorrectly refers to the number of Strata Title lots. There are 2, rather than 1 strata title lots, comprising the social housing and private apartment dwellings.
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.	Sydney Water Consent Prior to the commencement of any construction works on site issue of a Building Works Construction Certificate , 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.	The current wording of this condition is open to interpretation. 'Quick checks' are usually only required prior to commencing building works and there is a statutory pre-condition of obtaining a building works Construction Certificate to get a quick check done. We understand that Council have recently changed this standard condition and we request this be updated accordingly.
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	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	This condition requires that all fill imported to site must be VENM (Virgin Excavated Natural Material). This precludes the use of ENM (Excavated Natural Material) such as remediated fill. We consider that this preclusion is contrary to the Protection of the Environment Operations (Waste) Regulation 2005. Further, the 1999 EPA Regulation no longer exists,

	CONDITION	PROPOSED WORDING	JUSTIFICATION
	Guidelines – Assessment Classification and Management of Liquid and Non-Liquid Wastes 1999 and written verification provided to the satisfaction of the Principal Certifying Authority.	Guidelines – Assessment Classification and Management of Liquid and Non-Liquid Wastes 1999 and written verification provided to the satisfaction of the Principal Certifying Authority. Any imported fill materials must either meet the definition of Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or for which an exemption is in place under the provisions of the Protection of the Environment Operations (Waste) Regulation 2005, e.g., Excavated Natural Material (ENM).	so this condition cannot be complied with in any event. We consider the proposed wording is more appropriate under the circumstances.
42	<p>Method of Stormwater Drainage</p> <p>The stormwater drainage generated from the development shall be directed to the existing stormwater drainage system</p> <p>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)</p> <p>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</p> <p>The complete roof guttering system must be operational as</p>	<p>Method of Stormwater Drainage</p> <p>The stormwater drainage generated from the development shall be directed to the existing stormwater drainage system</p> <p>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)</p> <p>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</p> <p>The complete roof guttering system must be operational as</p>	<p>The last part of this condition is difficult to comply with and impractical during the construction process.</p> <p>We propose some slightly modified wording to ensure flexibility here.</p>

	CONDITION	PROPOSED WORDING	JUSTIFICATION
	soon as the roof for each dwelling is clad. Surface stormwater shall not be directed or cause nuisance to adjoining properties.	soon as the roof for each dwelling is clad. Surface stormwater shall not be directed or cause nuisance to adjoining properties. Discharge from the roof guttering system and surface stormwater during and after construction shall not be directed or cause nuisance to adjoining properties.	
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.	Tree Preservation Order Unless identified in the Tree Removal Plan for Stage 3 , 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.	Specific trees are identified in the Stage 3 Tree Removal Plan for removal. To avoid uncertainty, we recommend that this condition be amended to reflect this.
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.	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.	No stopping restrictions have been documented within Stage 2 (between Melbourne and Bunker Parade) plans already. We understand this condition is a duplication of Condition 44 of Stage 2.
51	Bus Shelters Council's Assets Section and the	Bus Shelters Council's Assets Section and the	The Bonnyrigg Infrastructure and Services Delivery Plan which forms part of the Concept Plan Approval

	CONDITION	PROPOSED WORDING	JUSTIFICATION
	local bus companies shall be consulted in relation to the location and installation of internal local bus shelters and sheets.	local bus companies shall be consulted in relation to the location and installation of internal local bus shelters and sheets. Contributions of funding for the provision of bus shelters should be paid in accordance with the Bonnyrigg Infrastructure and Services Delivery Plan.	only stipulates the payment of contributions in relation to bus shelters. At present, this condition may result in undue delays to construction and we propose alternative wording.
53	Compliance with Plans The development shall take place in accordance with the approved development plans as prepared by Vince Morgan Surveyors, reference no. 15785-3C4, dated 25 November 2010, 15785-3C6, dated 29 November 2010, except as modified in red by Council and/or any conditions of this consent.	Compliance with Plans The development shall take place in accordance with the approved development plans as prepared by Vince Morgan Surveyors, reference no. 15785-3C, 15785-3C2, 15785-3C3, 15785-3C3, 15785-3C4 dated 25 November 2010, 15785-3C 5, 15785-3C6, dated 29 November 2010, and 15785-3C8 except as modified in red by Council and/or any conditions of this consent.	This condition does not include all the subdivision plans submitted with the DA. Please note these will be subject to change due to the JRPP resolution of some of the lots within Stage 3.
55	Subdivision Certificate Release Fee The payment to Council of a Subdivision Certificate release fee in accordance with Council's Annual Schedule of Fees and Charges. Please note that this fee is subject to review each financial year. The value of this fee will be reviewed by Council in accordance with the rates listed in Council's Annual Schedule of Fees and Charges following compliance with the conditions of approval and the submission of the Subdivision Certificate. Super Lot 1: \$1,520.00,	Subdivision Certificate Release Fee The payment to Council of a Subdivision Certificate release fee in accordance with Council's Annual Schedule of Fees and Charges. Please note that this fee is subject to review each financial year. The value of this fee will be reviewed by Council in accordance with the rates listed in Council's Annual Schedule of Fees and Charges following compliance with the conditions of approval and the submission of the Subdivision Certificate. Super Lot 1: \$1,520.00,	We are unclear as to why there are fees for both individual lots and superlots. Council to clarify.

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	Super Lot 2: \$2,565.00, Super Lot 3: \$2,565.00 (part 1), \$1,330.00 (part 2), Super Lot 4: \$2,660.00, Super Lot 5: \$665.00, Super Lot 6: \$1,710.00 (Part lot)	Super Lot 2: \$2,565.00, Super Lot 3: \$2,565.00 (part 1), \$1,330.00 (part 2), Super Lot 4: \$2,660.00, Super Lot 5: \$665.00, Super Lot 6: \$1,710.00 (Part lot)	
60	Tree Preservation Order No trees shall be pruned or removed without prior written consent in the form of a Tree Preservation Order from Fairfield City Council	Tree Preservation Order No trees shall be pruned or removed without prior written consent in the form of a Tree Preservation Order from Fairfield City Council	Delete as duplication of Condition 44.
61	Alignment of Roadway The alignment of Baresden Street, Kemp Place, Roads 1, 2, 3 and 4 to be in accordance with plans issued with an Engineering Construction Certificate by an Accredited Certifier or by Fairfield City Council prior to the commencement of works on site.	Alignment of Roadway The alignment of Baresden Street, Kemp Place, Roads 1, 2, 3 and 4 to be in accordance with plans issued with an Engineering Construction Certificate by an Accredited Certifier or by Fairfield City Council prior to the commencement of works on site.	This condition appears to unduly replicate Condition 1 which states that “development should take place in accordance with the approved development plans”.
62	Construction of Roadway The construction of full width of part Baresden Street, part Kemp Place, Roads 1, 2, 3 and 4 adjacent to the proposed allotments in accordance with plans and specifications issued with an Engineering Construction Certificate by an Accredited Certifier or by Fairfield City Council prior to the commencement of works on site.	Construction of Roadway The construction of full width of part Baresden Street, part Kemp Place, Roads 1, 2, 3 and 4 adjacent to the proposed allotments in accordance with plans and specifications issued with an Engineering Construction Certificate by an Accredited Certifier or by Fairfield City Council prior to the commencement of works on site.	This condition appears to unduly replicate Condition 1 which states that “development should take place in accordance with the approved development plans”.
70	Validation of Fill Any fill imported to the site shall be validated in accordance with the	Validation of Fill Any fill imported to the site shall be validated in accordance with the	This condition needs to be expanded to include reference to the new Regulations in relation to

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	EPA's Contaminated Sites Sampling Design guidelines 1995.	EPA's Contaminated Sites Sampling Design guidelines 1995 or in accordance with any exemption issued under the Protection of the Environment (Waste) Regulation 2005.	Waste.
71	Wheel Wash Facility All trucks leaving the site, having had access to unpaved or contaminated areas, shall depart via a wheel wash facility in order to prevent mud, dust or debris from being deposited on Council roads. In order to achieve this, a wheel wash facility shall be constructed prior to any truck movements occurring. A plan and operational guidelines for the wheel wash facility shall be submitted for approval prior to the commencement of the removal of fill material from the site. Any direction of Council with regard to cleansing trucks or the clean up of road pavements adjoining the site shall be complied with immediately.	Wheel Washing Facility All trucks leaving the site, having had access to unpaved or contaminated areas, shall depart via a wheel wash facility in order to shall be cleaned appropriately to prevent mud, dust or debris from being deposited on Council roads. In order to achieve this, a wheel wash facility shall be constructed prior to any truck movements occurring. A plan and operational guidelines for the wheel wash facility shall be submitted for approval prior to the commencement of the removal of fill material from the site. Any direction of Council with regard to cleansing trucks or the clean up of road pavements adjoining the site shall be complied with immediately.	Condition 59 stipulates control measures in relation to erosion and sediment. We consider that wheel washing can be managed/achieved through the implementation of that Condition.
81	Fencing Restrictive Covenant The creation of a restrictive covenant over following proposed Torrens and Strata Lots that no fencing shall be erected without Council approval and that all fencing shall be in accordance with Council's Fencing Code: Lot 3019, Lot 3213, Lot 3401, Lot 3411, Lot 3416, Lot 3428, Lot 3501, Lot 3502, Lot 3601, Lot	Fencing Restrictive Covenant The creation of a restrictive covenant over following proposed Torrens and Strata Lots that no fencing shall be erected without Council approval and that all fencing shall be in accordance with Council's Fencing Code: Lot 3019, Lot 3213, Lot 3401, Lot 3411, Lot 3416, Lot 3428, Lot 3501, Lot 3502, Lot 3601, Lot	A fencing strategy accompanies the Bonnyrigg Masterplan and covenants relating to this strategy are on all Section 88b Instruments relating to the each stage.

	CONDITION	PROPOSED WORDING	JUSTIFICATION
	3618, Proposed Strata Lot	3618, Proposed Strata Lot	

We trust that the proposed amendments seek to comprehensively respond to the matters raised at the recent JRPP meeting, and that Council are in a position to finalise their assessment of the application.

Should you have any questions in the meantime please do not hesitate to contact me on 8233 7606.

Yours sincerely,



Andrew Harvey
Senior Planner