

SYDNEY WESTERN CITY PLANNING PANEL

TO: Sydney Western City Planning Panel

REPORT: SWCPP Report

FILE No: DA 234.1/2019
PAN-52407
PPSSWC-165

SUBJECT:

LOT AND DP	ADDRESS
Lots: 6225, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229 DP's: 1242892, 262449	No's: 26,35,37,39,41,43,45,47,49,51,53,55 Bean Crescent BONNYRIGG
Lots: 107, 108, 109, 110, 111, 112, 114, 115, 41 DP's: 262456, 1172246	No's: 10,12,16,18,20,22,24,26,53 Bishop Crescent BONNYRIGG
Lots: 158,161,162, 163,165,166,167,168,169,170,171 DP: 262449	No's: 2,5,6,7,9,10,11,12,13,14,15 Garden Place BONNYRIGG
Lots: 103, 105, 122, 123, 147, 148, 149, 150, 151, 153 DP's: 262456,262449	No's:185,189,193,195,205,209,211, 213,215,217 Humphries Road BONNYRIGG
Lots: 181,182,183,184,186,187,188,189 DP: 262449	No's: 2,3,4,5,6,7,8,9,11 Joiner Place & 48 Newleaf Parade BONNYRIGG
Lots: 207,209,210,211,185,143,144,145,146 DP: 262449	No's:1 ,3,4,5,6,7,8,9,10 Mason Place BONNYRIGG
Lot: 4224 DP: 1182416	No.65 Newleaf Parade BONNYRIGG
Lot: 4099 DP: 1182418	No.23 Newleaf Parade & 1 ,2,3,4,5,6,7,8,9,10,11,12,12,14,15,16,17,18,19, Kennedy Way BONNYRIGG
Lots: 134, 135, 136, 137, 138, 140, 141, 142, 155, 156, 157, 173, 174, 175, 178, 179, 180 DP: 262449	No's: 50,52,54,60,62,64 Newleaf Parade & 17 Garden Place 66,68,70,125,127,129,131,133,137,139,141 Newleaf Parade BONNYRIGG
Lots: 193, 195, 196, 197, 199, 201, 202, 203, 204, 205, 206 DP: 262449	No's: 1 Palisade Crescent and 44 Newleaf Parade , 5 ,7,9,13,17,19,21,23,25,27 Palisade Crescent BONNYRIGG
Lots: 415 ,416 DP: 262449	No's :15B Palisade Crescent/5A Joiner Place, 5A Mason Place,4A Palisade Crescent /659 Cabramatta Road West,675 Cabramatta Road West BONNYRIGG
Lots: 6212,6213,6214,6216, 212 DP: 1242892	No's:8,10,12,14,16,48 Palisade Crescent BONNYRIGG

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Application lodged	30 June 2021
Applicant	NSW Land and Housing
Owner	NSW Land and Housing Corporation
Application No.	DA 234.1/2021
NSW Planning Portal Application No.	PAN-52407
Planning Panel Reference No.	PPSSWC-165
Proposed Development	Newleaf Bonnyrigg Renewal Project – Stages 8-11 comprising Staged Torrens Title Subdivision to create 219 residential lots, three (3) development lots, four (4) open space lots and one (1) residual lot, and associated road, landscape and public domain works.
Cost of Works	\$34,312,936.00
Zoning	R1 General Residential under the Fairfield LEP 2013.
Primary Planning Issues	<ul style="list-style-type: none"> • Compliance with Bonnyrigg Masterplan (amended in MP 06_0046 MOD 4) built form outcomes using SEPP (Exempt and Complying Development Codes) 2008. • Indistinguishability of social housing developments given the ability to use SEPP (Exempt and Complying Development Codes) 2008. • Non-compliant lot dimensions for proposed residential allotments. • Changes to layout of subdivision, including open space and road layout from Concept Approval MP 06_0046 (MOD 5). • Design of intersection of Cabramatta Road West and Humphries Road as required in Condition A8 of MP 06_0046.

Assessing Officer: Tia Mills – Senior Development Planner

Date of Report: 19 December 2022

ATTACHMENTS

Attachment A – Subdivision Concept Plans
 Attachment B – Pedestrian Link Masterplan
 Attachment C – Solar Access Plans
 Attachment D – TfNSW Response #1
 Attachment E – TfNSW Response #2
 Attachment F – Traffic and Parking Impact Assessment Report
 Attachment G – Traffic Letter (March 2021)
 Attachment H – Parking Assessment
 Attachment I – Parking Diagrams
 Attachment J – Traffic Letter (October 2021)
 Attachment K – Water Cycle Management Report
 Attachment L – Construction Environmental Management Plan
 Attachment M – Landscape Plans
 Attachment N – Biodiversity Development Assessment Report
 Attachment O – Arboricultural Impact Assessment
 Attachment P – Contamination & Acid Sulphate Assessment

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Attachment Q – Civil Engineering Plans
Attachment R – Retaining Wall Plans
Attachment S – Construction Waste Management Plan
Attachment T – Endeavour Energy Referral Response
Attachment U – Utility Services Report
Attachment V – Acoustic Report
Attachment W – Statement of Environmental Effects
Attachment X – Response to RFI – October 2021
Attachment Y – Response to RFI – March 2022
Attachment Z – Newleaf Communities Executive Report
Attachment AA – Submission No. 1
Attachment BB – Submission No. 2
Attachment CC - Draft Conditions of Consent

1. SUMMARY

2. *Development Application No. 234.1/2021 was submitted on 30 June 2021 for the Newleaf Bonnyrigg Renewal Project – Stages 8-11 comprising staged Torrens Title subdivision to create 219 residential lots, three (3) development lots, four (4) open space lots and one (1) residual lot, and associated road, landscape and public domain works.*
3. *The application was publicly notified to occupants and owners of the adjoining properties and in the local newspaper for a period of 21 days between 29 July and 19th August 2021. Two (2) submissions were received.*
4. *There are no variations to any development standards or planning controls proposed.*
5. *The application is recommended for approval subject to the conditions as provided in the attached schedule. The application is referred to the Panel for determination as the development has a capital investment value over \$5 million and has been lodged by the Crown, being NSW Land and Housing.*

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 234.1/2021 which seeks approval for Stages 8-11 of the Bonnyrigg Living Communities Project comprising staged Torrens Title subdivision to create 219 residential lots, three (3) development lots, four (4) open space lots and one (1) residual lot, and associated road, landscape and public domain works.

The application is referred to the Sydney Western City Planning Panel (SWCPP) pursuant to State Environmental Planning Policy (State and Regional Development) 2011 as the proposal has a capital investment value of greater than \$5 million and has been lodged on behalf of the Crown, being Land and Housing Corporation. Accordingly, the matter is to be determined by the SWCPP.

The proposed development is identified as being Stages 8-11 of the Bonnyrigg Living Communities Project, which involves the redevelopment of the Bonnyrigg public housing estate. This project has approval as a Part 3A Project from the Minister for Planning. Once developed, the estate will comprise both public and private housing with a 30% public housing and 70% private housing distribution throughout the estate. The project seeks to provide 3,000 dwellings across 18 stages. Stages 1-7 have been approved and are either completed or currently under construction. The subject development area is bounded by Edensor Road to the north-east, Humphries Road to the south-east and Cabramatta Road West to the south-west.

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Concept Approval No. MP 06_0046 MOD 5 was approved on 23 November 2020 and included a number of changes to the approved Concept Plan. One of which related to the inclusion of a condition of consent (A5) that allowed the use of SEPP (Exempt and Complying Development Codes) 2008 to undertake Complying Development Certificates (CDCs) as an approval pathway for the construction of dwelling houses. Accordingly, there is no mechanism in place for the future development of the subdivided lots to comply with the requirements of the Bonnyrigg Masterplan, which sets out the development controls applicable to the subject site.

The previous Stages 1-7 Development Applications included subdivision and the construction of dwelling houses on each allotment. In this regard, compliance with the built form controls of the Bonnyrigg Masterplan were able to be clearly demonstrated. The subject application relates to subdivision and infrastructure works only and, therefore, one of the primary concerns with the application relates to how the built form controls of the Bonnyrigg Masterplan, that dictate the desired future character of the area, are able to be applied and/or considered when the CDC pathway is undertaken, and once the proposed subdivision has been completed.

Given this relevant and important issue, and in order to maintain the desired future character and built form of the area, a number of restrictions on use and positive covenants are recommended to be included in the subdivision titles and will be included as conditions of consent. These include requirements for landscaping, tree canopy coverage, bin collection locations and car parking. It is considered that these restrictions, combined with the relevant provisions of the SEPP will result in built form outcomes that are generally consistent with those intended as part of the Masterplan.

An assessment of the proposed development against Concept Approval MP 06_0046 MOD 5 indicates that the proposed development is generally consistent with the Concept Approval. The primary inconsistencies relate to the layout of Stages 8-11 and the location of open space and infrastructure. The changes in layout have been dictated by drainage and OSD requirements and the unsuccessful acquisition of a number of allotments throughout the development area that have resulted in road layouts being altered. However, the quantum of open space, dwellings and infrastructure remains generally consistent with the Concept Approval. Open space consists of Junior Play Park, Hilltop Park (extension), a drainage reserve and landscape buffer.

The development provides for 276 dwellings which is a variation of one (1) dwelling from the maximum dwelling yield of 275 dwellings approved for the subject stages of the development. An increase of one (1) is considered to be negligible and is unlikely to have any adverse impacts on the future development of the area. In regard to dwelling mix, the development proposes 23.44% social housing distribution within the proposed development and does not achieve the minimum 30% social housing required. Nevertheless, a calculation of the social housing provided through stages 1-11 equates to a dwelling mix of 33% social housing and 67% private housing and is consistent with the concept approval. As such, the proposed dwelling mix is considered appropriate providing that stages 1-18 achieve the required dwelling mix.

The Concept Approval focused heavily on the proposed social housing dwellings being of an architectural design that is indistinguishable from the surrounding private dwellings. As the subject development application does not include any dwellings it is difficult to address this concern. It is considered appropriate that a condition of consent be imposed requiring the plans for the social housing dwellings to be submitted to Council for review prior to construction. This will ensure that consistency and compatibility of dwelling design is maintained through the estate and indistinguishable social housing is developed.

Condition A8 of the Concept Approval requires intersection upgrades to the Edensor Road and Humphries Road intersection and upgrades and road widening at the intersection of Cabramatta Road West and Humphries Road to be agreed between the proponent and TfNSW prior to the issue

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of a Construction Certificate for residential development. The application was referred to TfNSW pursuant to Clause 104 SEPP (Infrastructure) 2007 three (3) times throughout the assessment of the application. TfNSW provided two (2) formal written responses on 26 July 2022 and 13 October 2022 that stated that the design of the Cabramatta Road West slip lane and intersection upgrade works shall be finalised prior to the determination of the subject application. The primary concern raised by TfNSW indicated that the design of the slip lane on Cabramatta Road West may result in a need for further land, which has the potential to result in a reduction in depth and/or configuration of allotments fronting Cabramatta Road West and a number of lots on Humphries Road. It is noted that a 10m landscaped setback (Lot 1000) is provided between the road and the residential allotments fronting Cabramatta Road West. The subject allotments all exceed the minimum depth requirements by a minimum of 7m. As such, it is considered that the final design of the development is unlikely to result in substantial changes to the layout of the subdivision or result in non-compliant lots. Nevertheless, Council has acknowledged TfNSW comments and provided a written response addressing the concerns. A condition of consent has been imposed requiring written confirmation from TfNSW confirming Lot 999 is sufficient for the required road widening prior to the commencement of works for Stage 2.

Other concerns raised in TfNSW's second referral response in October 2022 related to the proposed swept paths provided for vehicles manoeuvring through the development area. Council's internal traffic branch reviewed the swept path analysis and traffic data provided by the applicant and has determined that due to the nature of the roads and the expected traffic generation that the proposed road layout and intersection designs are acceptable. The intersection of Lane 1 and Bean Crescent will require minor amendments that will be incorporated as a prior to the commencement of works condition of consent.

An assessment of the proposal against the relevant provisions of the Masterplan has determined that the development is generally consistent with the lot size and dimension controls relevant to the proposal. The lot dimensions have been based upon a dwelling house with a single garage. The majority of the allotments achieve the minimum dimension requirements and the lots that have a minor non-compliance have an allotment size that exceeds the minimum required or have been optimally orientated for solar access. As such, no concern is raised regarding future development on these allotments.

The development includes the removal of 329 trees and the retention of 150 trees existing in the development area. Pursuant to Council's Conservation Significance Assessment Mapping, the development area is identified as containing areas of biodiversity significance. In response to this, the applicant prepared a Biodiversity Development Assessment Report that provided details of the areas of significance, biodiversity offset requirements and recommendations for mitigation measures to protect existing fauna and flora intended to be retained. Further, Condition B3 of the Concept Approval requires a minimum tree canopy coverage of 25% of the development area. The applicant has provided landscape plans that demonstrate compliance with this condition, demonstrating that 18% tree canopy coverage is provided in the public domain through the open space areas and street tree planting and 9% of tree canopy coverage on private residential allotments. In this regard, a positive covenant has been included as a condition of consent to ensure development is undertaken in accordance with the landscape plan, including the requirement of a minimum of two (2) large tree species to be planted per residential allotment, one in the front and one in the rear yard in accordance with the approved landscape plan. Further, this positive covenant requires each residential allotment to provide 35% of landscaped area to ensure consistency with the Masterplan and provide a sufficiently landscaped setting for the low density residential development.

Concept Approval MOD 5 incorporated a number of substantial changes to the previously approved development. As such, Condition A7 was imposed that required a new Voluntary Planning Agreement (VPA) to be publicly exhibited and executed prior to the determination of the first

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residential application for Stages 8-18 or as otherwise agreed by Council. The first residential application is the subject application. At the time of the preparation of this report, a new VPA has not been publicly exhibited or executed. Notwithstanding, on 27 September 2022, Council's Outcomes Committee resolved that *Council agree to the determination of the planning application 234.1/2021 for Stages 8-11 of the Bonnyrigg Living Communities Project occurring as the changes to the VPA are in general agreement between the parties with public exhibition and execution to be completed*. As such, Condition A7(3) is satisfied as Fairfield City Council has agreed to the determination of the subject application prior to the public exhibition and execution of the new VPA for Stages 8-18. Accordingly, a condition has been imposed that the VPA must be executed prior to the issuing of the subdivision certificate for Stage 1 of the development.

The development was referred externally to NSW EPA, who raised no concern with the proposed development. Internally, the application was referred to Council's Asset Management, City Outcomes, Catchment Engineering, Strategic Planning, Subdivision Engineering, Natural Resources, Tree Preservation, Traffic Engineering branches for review. No outstanding concerns remain with the subject application subject to conditions of consent.

In accordance with Council's Community Engagement Strategy 2020, the application was notified for a period of twenty-one (21) days. Two (2) submissions were received during the notification period. Concerns raised related to tree removal and the request for an upgrade of the intersection of Humphries Road and Newleaf Parade. The concern regarding tree removal is satisfactorily addressed through documentation provided and relevant conditions of consent. The Concept Approval involved extensive consultation with TfNSW and dictated which intersections of the surrounding road network required upgrade works. The issues raised have been taken into consideration throughout the assessment and it is considered that the concerns raised have been suitably addressed and do not warrant refusal of the application.

The proposed development is considered to be suitable for the subject site, and will have minimal impact on the surrounding environment. Consideration has been given to the future residential built form on the allotments and conditions of consent imposed where relevant. The proposal represents Stages 8 -11 of an 18-stage redevelopment of the Bonnyrigg public housing estate, which has Concept Approval from the Minister for Planning. The proposed development is generally consistent with the Concept Approval and Masterplan, where relevant in this instance. Based on an assessment of the application, it is recommended that the application be approved, subject to conditions as outlined in Attachment CC of this report.

2. SUBJECT SITE AND SURROUNDING AREA

The proposed development is identified as Stages 8-11 of the Bonnyrigg Living Communities Project, which is the redevelopment of the Bonnyrigg public housing estate. This Project has a Part 3A Concept Approval from the Minister for Planning. The project seeks to provide 3,000 new dwellings across 18 stages. Stages 1-7 have development approval and are either completed or currently under construction. The Bonnyrigg Living Communities Project area is identified within Figure 1.

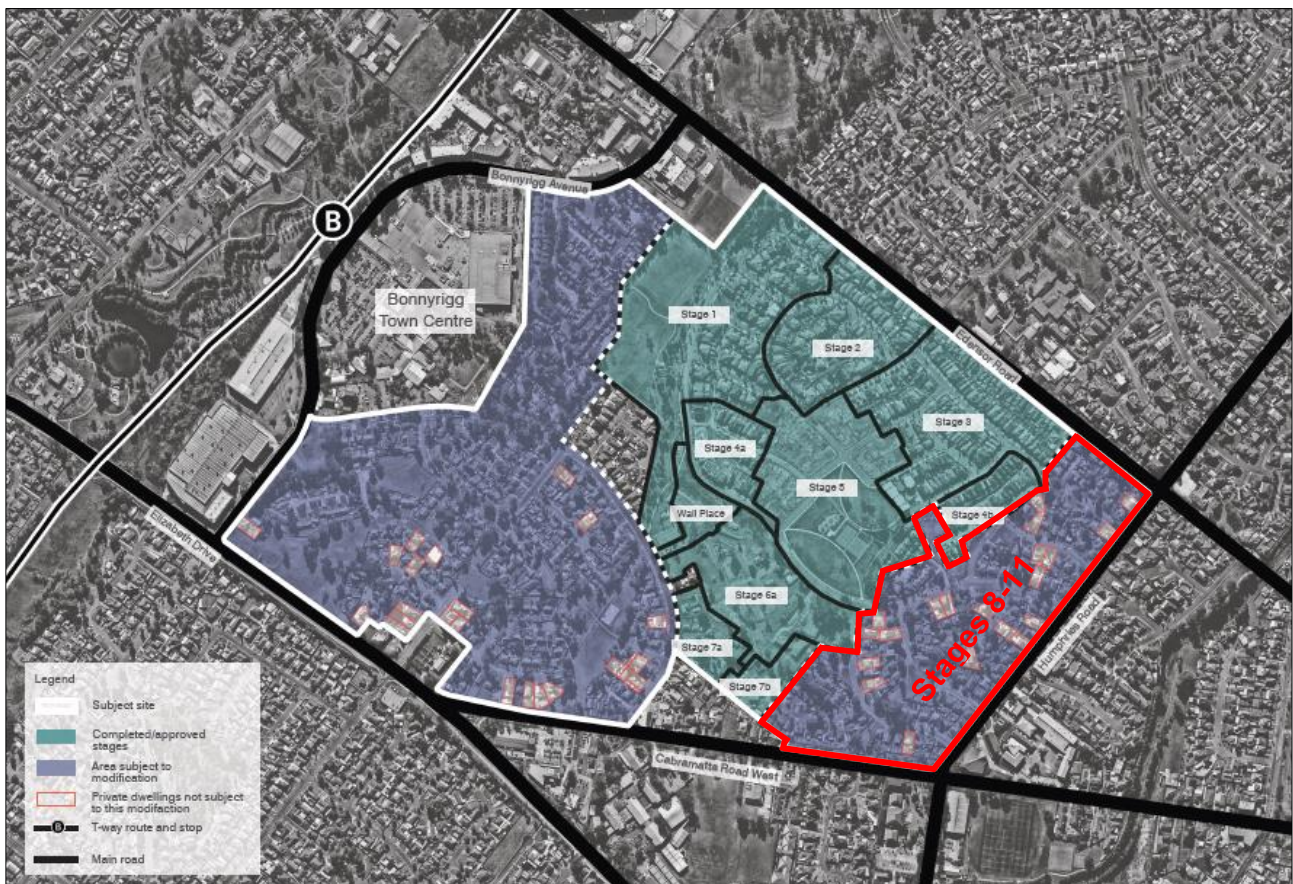


Figure 1: Bonnyrigg Living Communities Project Area, Section 75W Modification Approval MP 06_0046, 2020.

Stages 8-11 of the Bonnyrigg Living Communities is located in the south-eastern portion of the project area and is bound by Cabramatta Road West to the south-west, Humphries Road to the south-east and Edensor Road to the north-east. Figure 2 demonstrates the area of Stages 8-11, the subject area of the proposed subdivision development.

In the vicinity of the development area is Bonnyrigg Plaza and Bonnyrigg Public School, and a variety of other community facilities, commercial premises and places of public worship.

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Figure 2: Extract of Proposed Subdivision Concept, Premise 2021.

3. DESCRIPTION OF THE PROPOSED DEVELOPMENT

3.1 Overview

The proposed development consists of the following:

- Removal of sections of existing infrastructure including roads, drainage and service utilities. The development proposes to retain as much of the existing road network layout as possible, with Newleaf Parade remaining as existing and other roads being extended or relocated.
- Removal of 329 trees and retention of 150 trees.
- Bulk earthworks, road construction and relocation/replacement of drainage and services infrastructure.
Bulk earthworks calculations determine an estimated overall cut volume of 19,750m³, a fill volume of 21,710m³, creating an estimated balance of 1,960m³ of fill material to be imported.
- Staged residential subdivision to create 219 residential lots, 3 development lots, 3 open space lots, 1 drainage reserve and 1 residue lot (road widening).
- Landscape embellishment of open space lots and streetscapes.

All proposed works will be undertaken in two (2) stages, in accordance with Figure 4.



Figure 3: Staged Development Plan. Premise, 2021.

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Concept Approval MP 06_0046 included approval for the demolition of existing dwellings. Only lots identified as being retained will be unaffected by the proposed development.

3.2 Subdivision

The proposed subdivision will create the following:

- 219 residential lots ranging in size from 300sqm to 600sqm.
- 3 development lots (or superlots). These lots will be the subject of future development applications for apartment and integrated housing development.
- 3 open space lots, being Lot 1000, 1001 and 1002. These lots consist of a landscape buffer to Cabramatta Road West (Lot 1000), Junior Play Park (Lot 1001) and an extension to Hilltop Park (Lot 1002).
- 1 drainage reserve, being proposed Lot 1003 (1,705sqm) to be used for stormwater detention.
- 1 residue lot, being proposed Lot 999 (1,046sqm) adjoin the intersection of Cabramatta Road West and Humphries Road. The residue lot has been included to accommodate road widening as part of a future road intersection upgrade by TfNSW.

3.3 Landscaping & Tree Removal

The development proposes the removal of 329 trees and the retention of 150 trees existing in the development area. In accordance with Condition B3 of MP 06_0046 MOD 5, the development is required to provide a minimum of 25% tree canopy coverage as demonstrated in Figure 4. As such, the development involves substantial tree planting throughout the site in the form of street tree planting, open space planting and trees located on residential allotments.



Figure 4: Streetscape & Junior Play Park Landscape Plan. Source: Distinctive, 2021

The development provides three (3) public open space areas, being:

- Junior Play Park – 0.92 ha (Stage 1)
- Hilltop Park (extension) – 0.10ha (Stage 2)
- Drainage Reserve – 0.017ha (Stage 2)
- Landscape Buffer (Cabramatta Road W) – 0.029ha (Stage 1)



Figure 5: Junior Play Park Landscape Plan. Source: Distinctive, 2021.

4. HISTORY

Date	Action
30/06/2021	The Development Application was lodged.
05/07/2021	The Development Application was referred to internal departments and external agencies for review.
26/07/2021	Formal referral response received from TfNSW.
29/07/2021 to 19/09/2021	The application was notified for a period of twenty-one (21) days in writing to surrounding properties, in the local paper and a notice was also displayed at the site. The notification generated two (2) submissions objecting to the proposal.
20/09/2021	SWCPP briefing held.
01/10/2021	Council sent a letter to the applicant requesting additional information.
10/12/2021	Additional information provided by the Applicant to address the concerns raised by Council and the SWCPP.
15/12/2021	Second referral requested from TfNSW (no response received).
07/03/2022	Council sent a letter to the applicant requesting additional information.
24/05/2022	Additional information provided by the Applicant to address the concerns raised by Council.
24/08/2022	Third referral requested from TfNSW.
17/10/2022	Formal referral response received from TfNSW for third referral request.
29/11/2022	Draft Conditions of Consent provided to the Applicant for review and comment.
09/12/2022	Comments on draft conditions of consent received from the Applicant.
15/12/2022	Response from Fairfield City Council provided to the Applicant regarding the requested amendments to the draft conditions of consent.
19/12/2022	Written response provided to TfNSW in response to the third referral received on 17/10/22.

5. DEVELOPMENT HISTORY

The following Development Consents and Concept Approvals have been approved at the subject site:

Part 3A Concept Plan Approval

- 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 Application 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.
- On 9 July 2012, the Planning Assessment Commission approved a Section 75W Modification (Mod 4) of Major Project No. MP 06_0046.
- On 23 November 2020, the Minister for Planning approved a Section 75W Modification (MOD 5) of Major Project No. MP 06_0046. The proposed modification approved the following key amendments to the concept plan:
 - Increase densities - An increase from 2,500 dwellings to 3000 dwellings within the housing estate. This includes a total of 900 social houses and 2100 private houses on-site, this would allow no net loss of social housing on the site within a mix consistent with the NSW Governments Future Directions for Social Housing Policy, that is, 30%:70% mix.
 - Change to the housing typologies - Apartments and mixed-use buildings of between 4 and 8 storeys are now proposed with higher buildings closer to the Bonnyrigg Town Centre.
 - Enhance pedestrian & open space networks - An increase in public open space from 12.13ha to 13.4ha. This includes a total open space provision of 51,702m² with improved connections for pedestrians to the town centre via a new public plaza.
 - Refining the road network - The proposed road network has been refined to improve connections for pedestrians and cyclists to the town centre and around the Estate.
- In August 2022, MP 06_0046 MOD 6, being a Section 75W Modification Application to modify the Concept Approval, was submitted by NSW Land and Housing Corporation (LAHC) to amend condition A8 relating to the requirement for a Transport Infrastructure Contribution Deed with TfNSW to be completed prior to the issue of a Construction Certificate. The primary changes requested to this condition are to change the requirement to being prior to the issue of a Subdivision Certificate and the removal of Condition A8(1)(b) requiring land dedication

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and concept design for the Humphries Road and Edensor Road intersection. The subject intersection directly abuts Stage 11 of the proposal. This application is currently under assessment by the Department of Planning and Environment.

Development Approvals of the Stages

- On 20 July 2010, the Sydney West Joint Regional Planning Panel approved Development Application No. 123.1/2010 for the construction of Stage 2 which involved 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 83 Torrens Title lots, 1 community title lot and 4 strata title lots.
- On 23 December 2011, the Sydney West Joint Regional Planning Panel approved Development Application No. 1303.1/2010 for the construction of Stage 3 which involved subdivision of the subject site into 8 super lots and 4 residue 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 22 strata title lots.
- On 11 October 2012, the Sydney West Joint Regional Planning Panel approved Development Consent No. 1098.1/2011 for the construction of Stages 4a & 4b which involved subdivision of the subject site into 5 residue lots, 64 Torrens title lots and 30 Strata title lots, and the construction of 94 residential dwellings comprising 30 garden apartments, 12 attached dwellings and 52 detached dwellings, and ancillary works including site preparation/earthworks, road re-surfacing, public and private landscaping works, stormwater infrastructure upgrades and individual lot servicing.
- On 23 May 2013, the Joint Regional Planning Panel approved Development Application No. 843.1/2012 for the construction of Stage 5 which involved subdivision of the subject site into 67 Torrens Title lots and 24 Strata Title lots; erection of 91 residential dwellings comprising 4 attached dwellings, 45 detached dwellings, 18 terraces, and 2 x three-storey residential flat buildings containing a total of 24 apartments; construction of Hilltop Park; and ancillary works.
- On 28 May 2018, the Sydney Western City Planning Panel approved Development Application No. 422.1/20217 for Stages 6a & 7 comprising Torrens Title Subdivision (to create 121 Torrens Title Lots, 2 Development Lots and 4 Residue Lots), Construction of 161 dwellings (comprising 75 detached, 46 attached dwellings and 40 garden apartments) and associated road, landscape and public domain works.
- The current application presently before the Sydney Western City Planning Panel comprises the development of Stages 8-11 of the Bonnyrigg Housing Estate.

6. SYDNEY WESTERN CITY PLANNING PANEL BRIEFING NOTES

On 20 September 2021, a briefing occurred via teleconference between Sydney Western City Planning Panel and Fairfield City Council representatives regarding the subject development application. The following provides a response to each of the key issues raised by the Panel during the briefing.

- 1. The Panel is eager to see that the distribution of social housing remains consistent throughout the scheme without a distinguishable typology for the social housing, or concentration of social housing which risks leading to stigmatisation issues.*

The applicant provided additional information identifying the location of the lots to be utilised for social housing throughout the development area. A condition of consent will be imposed requiring the identified lots to be used as social housing.

Further, in order to address the concerns regarding the visual appearance and indistinguishability of the social housing developments, a condition of consent will be imposed requiring Architectural Plans for the social housing developments to be submitted to Council for review and comment prior to any construction works being undertaken. This condition of consent will allow Council to review any existing developments under construction in the locality against the proposed social housing developments and provide recommendations to ensure the indistinguishability of the social housing. It is considered that this matter has been satisfactorily addressed through conditions of consent.

- 2. The increased use of complying development raises concerns that completed development may not be consistent with the concept approval, if the development proceeds with the sale of development lots to individual developers.*

In order to address this concern, a comparison of the proposed development against the Concept Approval was undertaken. Generally, the proposed development provides the same quantum of open space required, the required 25% of tree canopy coverage and has only altered the location of roads and the lot layout of the proposed development. A full assessment of the proposal against the Concept Approval has been undertaken later in this document.

More specifically, in relation the use of the complying development provisions and the sale of individual development lots, a comparison of the use of complying development controls against the controls within the Masterplan has been undertaken. All identified inconsistencies in development undertaken utilising complying development provisions compared to the Masterplan have been addressed through conditions of consent requiring the imposition of restrictions on title or positive covenants. Restrictions and positive covenants include parking requirements, landscaping requirements, tree planting requirements, and building typology permitted on site. This will ensure that the final development, that is, the construction of dwellings (not the subject of this application) upon completion of subdivision will remain consistent with the primary requirements set out in the Masterplan that applies to the Bonnyrigg estate.

It is considered that the proposal is generally consistent with the Concept Approval and sufficient conditions of consent and restrictions on title have been provided to ensure consistency with the requirements of the Masterplan.

3. *Information as to how the tree canopy targets will be met will assist the panel having regard to the anticipated fragmentation of the development lots.*

The applicant provided additional information in the form of a landscape plan that provided visual information regarding existing trees to be retained and proposed tree planting locations. The Predicted Canopy Coverage Plan demonstrates that the development will provide 18% tree canopy coverage within the public domain areas and 9% tree canopy coverage in the private domain areas. The 9% of tree canopy coverage within the private domain areas relies on each lot planting a tree in the front yard and one tree in the rear yard of the properties. Noting that these calculations do not consider trees located on existing lots that have not been acquired and the three (3) proposed development lots, which will be the subject of future development applications.

A Positive Covenant will be imposed requiring each allotment to plant and maintain two (2) trees per allotment, from the species list provided. As such, it is considered that this matter has been satisfactorily resolved, through conditions of consent.

4. *The present number of dwellings being constructed for stages completed to date appears to be delivering a yield that is well short of that anticipated in the concept plan (while noting that the concept plan addresses dwelling yield as a maximum). The Panel seeks information from the applicant as to whether the originally anticipated yield is still expected to be achieved, and an assurance that if it is not to be met that the ratio of the anticipated social housing to general housing will remain as anticipated.*

The applicant provided additional information to address the proposed dwelling yield. In accordance with the concept approval, Stages 8-11 is intended to provide a total of 275 dwellings. The proposed development proposes 276 dwellings and is generally consistent with the approved dwelling yield for Stages 8-11 of the New Leaf development.

In regard to social housing, Stages 8-11 of the development will provide a social housing mix of 23.44%. When calculating the social housing percentage provided for Stages 1-11, the social housing provided equates to 33% of the dwellings provided.

Through the completion of Stages 1-18 of the New Leaf development, there will be a total of 30% social housing distributed throughout the development. The Concept Approval does not specify that each stage of work be required to provide 30% social housing, only that at the completion of the development will result in 30% social housing provided.

5. *The Panel notes that there are topography challenges but removal of the through site links will need to be justified.*

The development proposes to retain the primary through site links proposed as part of the Concept Approval. As demonstrated on the below image, the development retains the public through site link from Cabramatta Road West to an internal road and from Newleaf Parade and an internal road adjacent to Bunker Park. Further, the internal key pedestrian thoroughfares are retained in essence and slightly modified where required to make appropriate use of the proposed internal road network.

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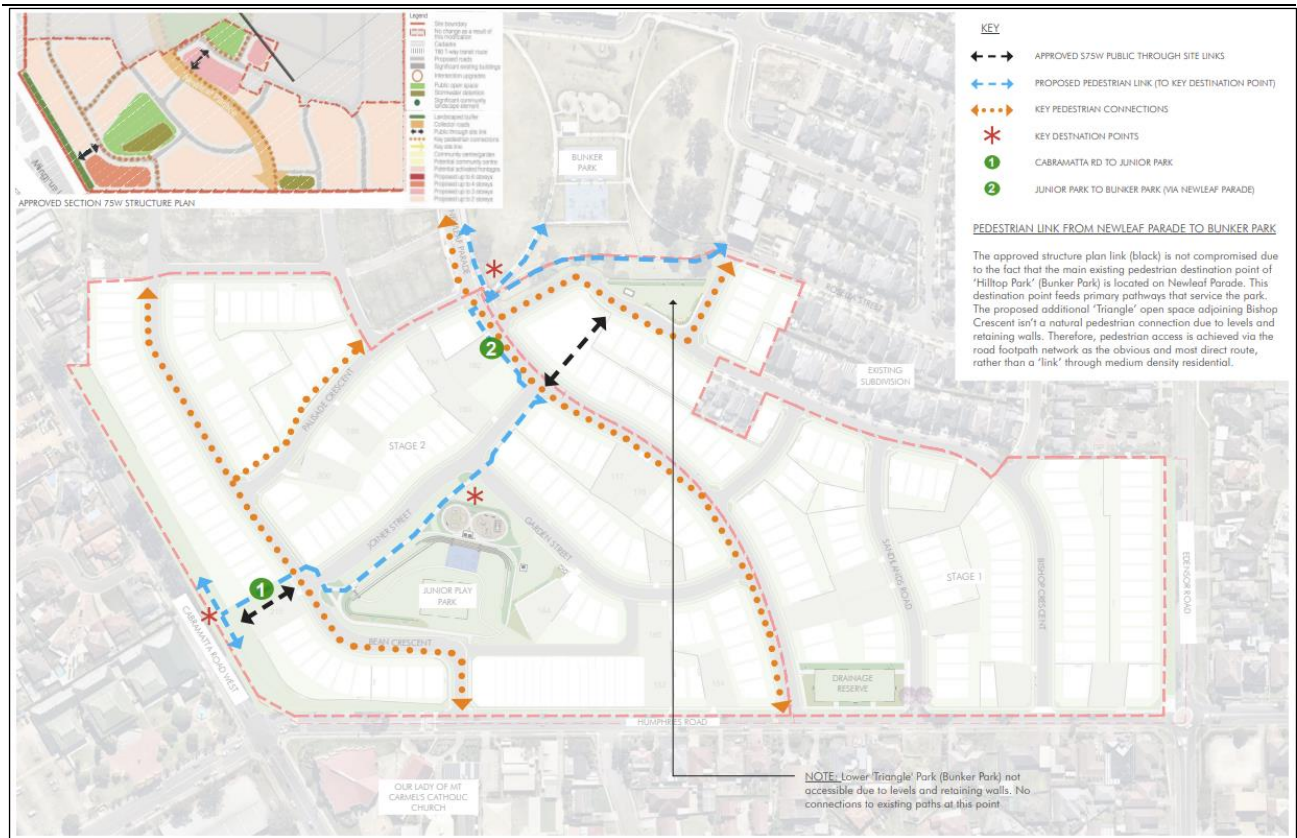


Figure 6: Pedestrian Link Masterplan. Source: Distinctive, 2021.

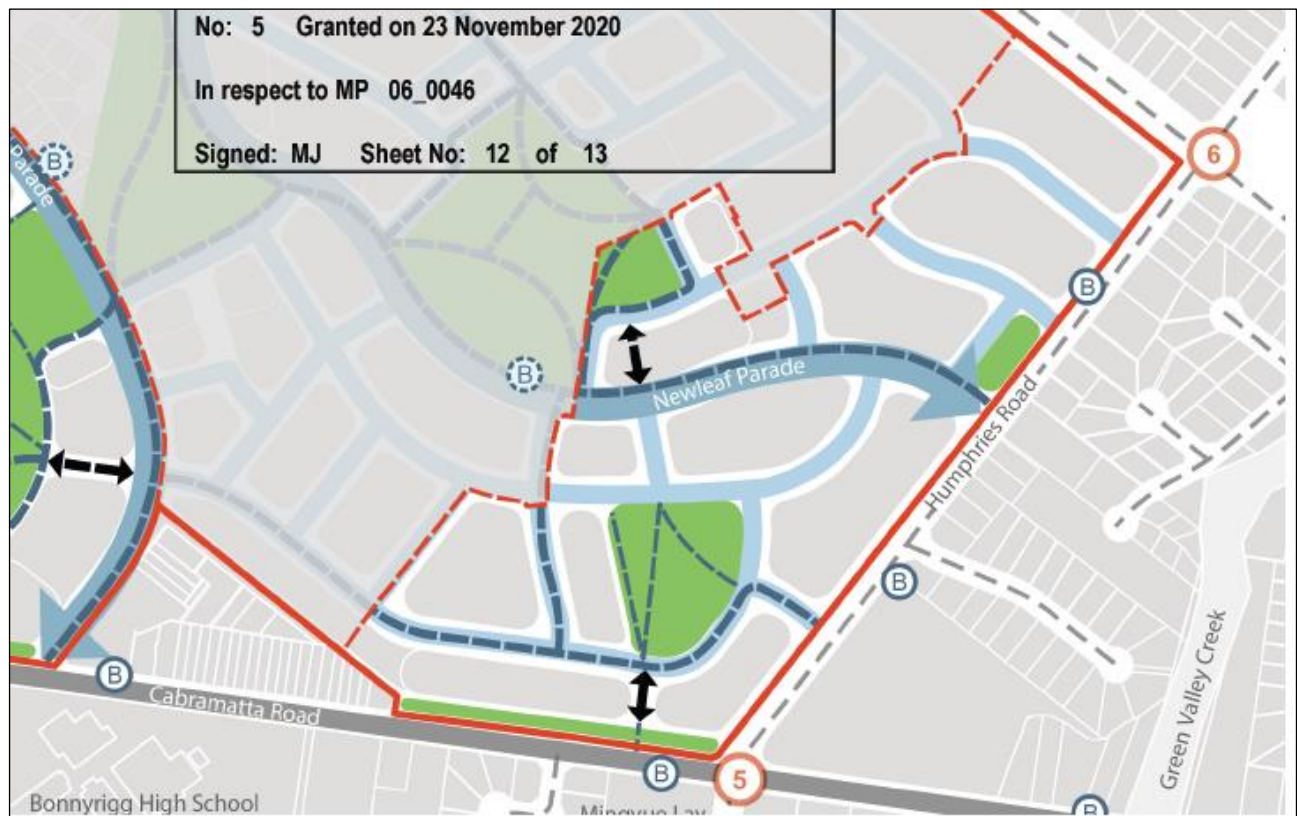


Figure 7: Access Plan, Concept Approval MOD 5. Source: Architectus, 2019

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6. *The Council reports a number of departures or likely future departures from the Bonnyrigg Masterplan 2011 arising from the completed development and this DA design. The Panel understands that compliance with the Masterplan is required as a term of the concept development approval (such as quality of solar access and minimum widths of the cycle ways). The Panel understands that departure from the Masterplan cannot be permitted unless the concept development approval is first varied.*

As outlined previously, an assessment of future development undertaken through the complying development provisions in comparison to the requirements of the Masterplan has been undertaken within this report. Where inconsistencies between the complying development provisions and the masterplan have occurred, restrictions to user or positive covenants have been imposed on land titles to ensure issues such as car parking, landscaping, tree canopy coverage and building typologies permitted are addressed and any future development will be required to be generally consistent with the Masterplan.

The proposed development is generally consistent with layout of Concept Approval MOD 5. As such, the orientation of the lots was considered as part of the Concept Approval and was subsequently deemed to be acceptable and approved. The lots that receive the least solar access are constrained by the existing road networks of Cabramatta Road West, Humphries Road and Newleaf Parade. It is noted that the development does not comply with the required solar access requirements of the Masterplan, however, the development is consistent with the Concept Approval and is considered to be generally acceptable.

The development provides sufficient cycle way widths of 2m in width for Newleaf Parade.

7. *Road widths should meet the masterplan minimum 4m width requirements. Again, this would appear to be essential to achieve compliance with the concept development approval.*

The minimum road width proposed within the development is 8m for Lane 1. All other roads within the development area are a minimum of 15m in width.

7. INTERNAL REFERRALS

Asset Management

The development application was referred to Council's Asset Management Branch for review on two (2) occasions. It has been advised that the development application is satisfactory and, therefore, can be supported subject to recommended conditions of consent.

Catchment Engineering

The development application was referred to Council's Catchment Engineering Branch for review on two (2) occasions. Initial concern was raised regarding the flood affectation of the site, insufficient detail regarding detention basins and additional information required for water quality improvement devices. Additional information was provided to address these matters and it is considered that the development is satisfactory and can be supported subject to recommended conditions of consent.

City Outcomes

The development application was referred to Council's City Outcomes Branch for review on two (2) occasions. It has been advised that the development application is satisfactory and, therefore, can be supported subject to recommended conditions of consent.

Environmental Management

The development application was referred to Council's Environmental Management Branch for review on two (2) occasions. It has been advised that the development application is satisfactory and, therefore, can be supported subject to recommended conditions of consent.

Natural Resources

The development application was referred to Council's Natural Resources Branch for review on four (4) occasions. The site is identified as an area of biodiversity significance on Council's Conservation Assessment Mapping and, as such, concern was raised regarding the substantial tree removal proposed for the development. The Applicant submitted additional information throughout the assessment, being a Biodiversity Development Assessment Report prepared by a suitably qualified professional. Following the submission of this report, it is considered that the proposed development is satisfactory and can be supported subject to recommended conditions of consent.

Place Manager for Bonnyrigg

The development application was referred to Council's Place Manager for review on two (2) occasions. It has been advised that the development application is satisfactory and, therefore, can be supported subject to recommended conditions of consent.

Strategic Planning

The development application was referred to Council's Strategic Planning Branch for review on two (2) occasions. Concern was raised regarding the discrepancies between the proposed development and the layout of Stages 8-11 approved as part of the Concept Approval, insufficient information regarding the dwelling yield and the ability for the development to be consistent with the Newleaf Bonnyrigg Masterplan and achieve the required built form outcomes when the development intends

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for SEPP (Exempt and Complying Development Codes) 2008 to be used for dwelling construction. These concerns will be addressed in detail later in this document, however it is considered that the issues have been satisfactorily addressed.

Subdivision

The development application was referred to Council's Subdivision Branch for review on two (2) occasions. Initial concern was raised regarding a number of the allotments not meeting the minimum dimensions required in the Bonnyrigg Masterplan. This issue will be addressed later in this document however it is considered that the allotment size and dimensions are considered to be generally acceptable. It has been advised that the development application is satisfactory and, therefore, can be supported subject to recommended conditions of consent.

Traffic Engineering

The development application was referred to Council's Traffic Engineering Branch for review on two (2) occasions. Initial concern was raised regarding the proposed road widths, the use of a one-way laneway and insufficient swept paths provided for the largest service vehicle that would transverse the residential area. Additional information was provided by the Applicant and subsequently, it has been advised that the development application is satisfactory and, therefore, can be supported subject to recommended conditions of consent.

Tree Preservation Officer

The development application was referred to Council's Tree Preservation Officer for review on three (3) occasions. It has been advised that the development application is satisfactory and, therefore, can be supported subject to recommended conditions of consent.

Waste

The development application was referred to Council's Waste Branch for review on two (2) occasions. It has been advised that the development application is satisfactory and, therefore, can be supported subject to recommended conditions of consent.

8. EXTERNAL REFERRALS

NSW Environment Protection Authority (EPA)

The development application was referred to NSW EPA for review and comment on one (1) occasion on 5 July 2021. NSW EPA responded within 21 days and raised no objection to the proposal subject to compliance with a number of requirements related to the removal of electricity supply and the possibility of site remediation works required for redundant electricity infrastructure.

Transport for NSW (TfNSW)

The development application was referred to TfNSW on 5 July 2021 in accordance with Clause 104 Traffic Generating Development of SEPP (Infrastructure) 2007 as the development is identified as a form of traffic generating development.

Clause 104 (3) states the following:

- (3) Before determining a development application for development to which this clause applies, the consent authority must—*
- (a) give written notice of the application to TfNSW within 7 days after the application is made, and*
 - (b) take into consideration—*
 - (i) any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and*

Pursuant to Clause 104, prior to determination of the application, Council must consider any submission made by TfNSW within 21 days of the referral. No concurrence from TfNSW is required.

A referral response was received from TfNSW on 26 July 2021 stating the following:

TfNSW provided a response to the Department of Planning, Industry and Environment in Attachment 1 for the MP 06_0046 MOD 5 Application, which requires the proponent to provide land dedication at the Cabramatta Road West and Humphries Road intersection, to satisfy consent conditions in MP 06_0046 application. As such, the subdivision plan / concept plan (in .dwg or compatible format), showing the requested land dedication to satisfy TfNSW requirements and the MP 06_0046 consent should be submitted to TfNSW for endorsement prior to the determination of this application.

A second referral response was received from TfNSW on 13 October 2022 providing the following:

TfNSW has reviewed the submitted application and does not support the proposed development in the current form and provides the following comments to Council:

- 1. TfNSW notes as per response dated 26 July 2021 (Attachment A) that the land dedication requirement for MP06_0046 MOD 5 should be satisfied prior to the determination of DA 234.1/2021.*

It is noted that the plan of subdivision includes proposed lot 999 being for future road widening. However, it is unclear at this stage if this is the full extent of land required for future road widening.

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It is understood that the matter is being dealt with under continuing discussion in connection with MP06_0046 MOD 5. When the extent of road widening is known this matter can be resolved.

Council's Response

Condition A8 of MP 06_0046 MOD 5 is as follows:

A8 Transport Infrastructure Contributions

(1) The Proponent shall enter into a Transport Infrastructure Contribution (TIC) deed with Transport for NSW (TfNSW) to undertake the following works prior to the issue of construction certificate for any future development of the site:

- (a) Land dedication and a concept plan for the intersection of Cabramatta Road and Humphries Road is required to allow for a left turn slip lane from Cabramatta Road into Humphries Road; and a right turn from Humphries Road onto Cabramatta Road*
- (b) Land dedication and a concept design for Humphries Road and Edensor Road is required for proposed Traffic Control Signals as a double diamond intersection. This entails the applicant to undertake traffic modelling and develop concept design of the intersection to the satisfaction of Transport for NSW and Council*

It is understood that the Applicant and TfNSW have been in discussions since prior to the lodgement of the application in June 2021 to prepare acceptable designs for the intersection of Cabramatta Road West and Humphries Road and Edensor Road and Humphries Road. The road works to the intersections do not form part of the proposed development, however, additional road widening for a 'slip lane' is required on the south-western side of the development, as identified in Figure 4.

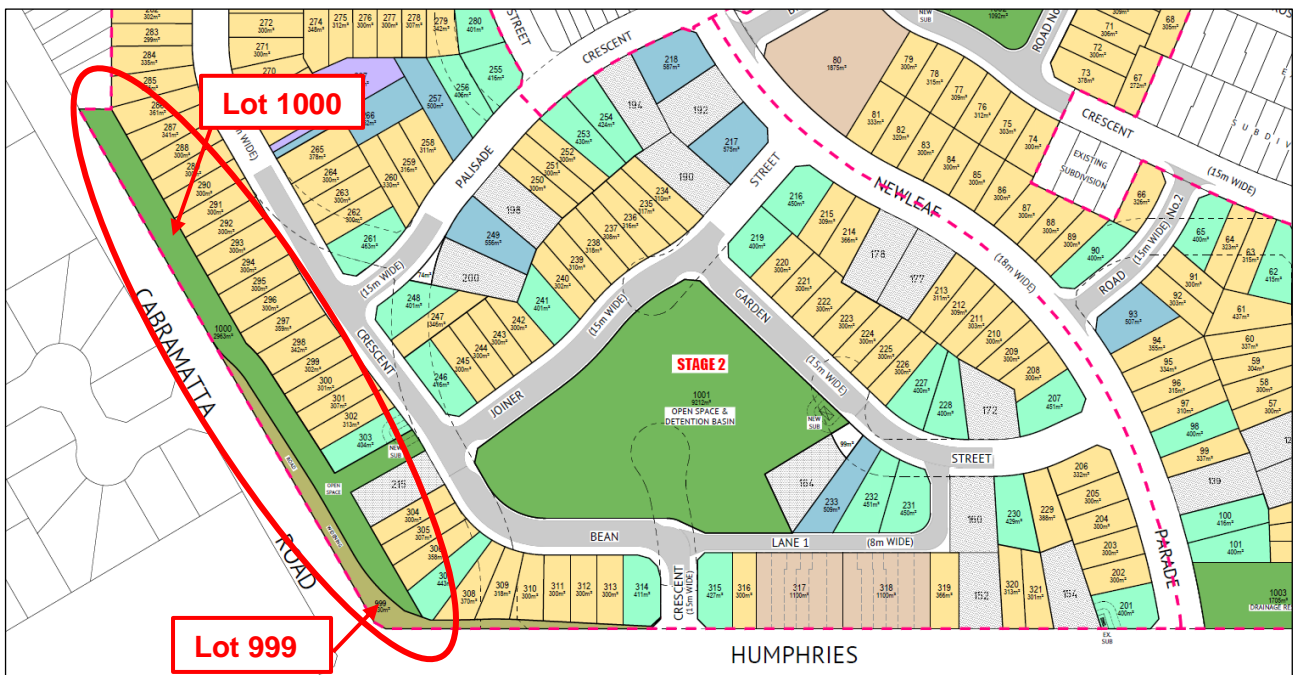


Figure 8: Subdivision Plan, area of road widening circled in red. Premise, 2021.

As the design of the slip lane and intersection has not been finalised and agreed to by both parties, the applicant has provided a minimum 10m setback from Cabramatta Road West to the proposed residential allotments, being Lot 1000, in order to cater for any increase in the residue lot area that has been allocated for the required road widening. The design of the subdivision is such that if the

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width of Lot 999 is required to increase, for the majority of the proposed residential allotments, there would be no change to the lot dimensions or size. Any changes to lot sizes required as the result of the final road widening design would be the subject of a Section 4.55 Modification Application.

If the final design of the intersection and slip lane requires land additional to the 10m landscaped setback and residue lot provided in the proposal (Lot 999 and Lot 1000), a reduction of the lot length of the affected lots may be required. In this regard, the majority of lots that would be affected are a minimum of 32m in length and have the ability to comply with the 25m minimum lot length specified in the Bonnyrigg Masterplan. However, this would be the subject of further assessment and likely a Section 4.55 Modification Application.

Further, if a reduction in the area dedicated as landscaped buffer results in a reduction in the tree canopy coverage provided as part of the development, further tree planting will be required to be included throughout the development area to ensure compliance with Condition B3 of the Concept Approval.

In considering the above, it is paramount that TfNSW provide written confirmation that the area provided by the applicant along the Cabramatta Road West frontage is sufficient to cater for the road works required under Condition A8 of MP 06_0046 MOD 5. Notwithstanding, it is considered that the required road works are unlikely to result in any substantial changes to the proposed subdivision, and associated works. Given the extensive delays that have been caused thus far in relation to this issue, and to avoid any further delays in the determination of the application, it is considered that the most appropriate way forward given these considerations the imposition of a condition of consent. The condition of consent shall state that prior to the commencement of any works related to Stage 2 of the development, written confirmation from TfNSW be forwarded to Council confirming that the size of Lot 999 is of a sufficient width to cater for the proposed road widening.

2. *In the Swept Path Analysis – Humphries Road to Bean Crescent, it appears that the vehicle turning left into Bean Crescent goes over a kerbside concrete median.*

Council's Response

Council's Traffic Branch has reviewed the proposed subdivision development and it is noted that there is no kerbside concrete median at the Humphries Road and Bean Crescent intersection. The swept paths provided demonstrate that vehicles utilising this intersection are within the carriageway (kerbface to kerbface).

3. *The swept path encroaches the opposing movement in the following Swept Path Analysis drawings:*
 - a. HUMPHRIES ROAD TO BEAN CRESCENT 11M WASTE TRUCK & AS2890.1 5.2M B99 VEHICLE
 - b. BEAN CRESCENT 11M WASTE TRUCK & AS2890.1 5.2M B99 VEHICLE
 - c. JOINER STREET - GARDEN STREET 11M WASTE TRUCK & AS2890.1 5.2M B99 VEHICLE
 - d. BEAN CRESCENT - JOINER STREET 11M WASTE TRUCK & AS2890.1 5.2M B99 VEHICLE
 - e. BEAN CRESCENT - NO.3 ROAD 11M WASTE TRUCK & AS2890.1 5.2M B99 VEHICLE

Council's Response

Council's Traffic Branch has reviewed the intersections identified above and have undertaken a risk assessment of the minor encroachments on opposing movement. It is Council's position that the proposed development relates to a low density residential subdivision where the majority of lots will

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be used for dwelling houses only, as such, the internal road network will not result in significant traffic generation. The Applicant provided information to address this issue and advised that the encroachments relate to the 0.5m clearance and is considered to be acceptable for local streets in urban areas. On this basis, it is Council's view that there is no issue to be dealt with in respect to the swept paths.

The intersection of Lane 1 and Bean Crescent has been identified as requiring minor modifications to ensure no adverse vehicular conflict occurs. A condition of consent will be imposed in this regard, requiring the issue to be resolved prior to the commencement of any works on the site.

4. *More information is required regarding the modelling, please provide the model and the lane summaries of this model. How does Scenario 6 – 2027 with 3,000 dwelling development have better levels of service and lower average delays than Scenario 2 – 2027 No Development?*

Council's Response

It is unclear what modelling is being referred to in this instance as no modelling was submitted as part of the subject development application. The query references 3,000 dwellings so it is assumed that the query relates to MP06_0046 MOD 5 which was approved by the Minister on 23 November 2020. The development proposes 276 dwellings, which is one (1) additional dwelling over the dwelling yield approved as part of MP06_0046 MOD 5 and does not result in a need for a review of the previously prepared modelling. It is considered that Point 4 is not relevant to the subject development application.

A letter expressing the above has been provided to TfNSW, along with an invitation for a representative from TfNSW to attend the Panel meeting and express any outstanding concerns with the application.

It is considered that given the extensive amount of time the applicant has been working with TfNSW to resolve the design of the road widening required for Cabramatta Road West and the understanding that an increase in width of residue Lot 999 is unlikely to substantially alter the approved lot design, it is recommended that the application proceed to determination with a condition of consent requiring this issue be resolved prior to the commencement of Stage 2 subdivision works. This will avoid any further unnecessary delays as a consequence of the above matter and it is considered that the above suggested condition will allow the application to proceed to determination. In the event that the advice from TfNSW requires additional area to be set aside for road widening proposed, then this can be suitably dealt with through the submission of modification application requiring further consideration by Council should this transpire.

9. STATUTORY REQUIREMENTS

Environmental Planning and Assessment Act 1979 – Part 3A (repealed) Concept Approvals

On 12 January 2009, the Minister for Planning granted approval for the Concept Plan for the Bonnyrigg Living Communities Project and Stage 1 Project Application for the subdivision of residential lots, the erection of 106 dwelling and open space (MP 06_0046).

Whilst Part 3A has since been repealed, 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 23 November 2020, MP 06_0046 MOD 5 was approved under Section 75W. A general description of the modifications are outlined below:

- Modifications specifically to Stages 8 to 18
 - increase the number of dwellings by 500 (to 3,000 dwellings site-wide);
 - provide 2,217.20 m2 of non-residential floor space (up to 3,000 m2 site-wide)
 - amend maximum building heights
 - reconfigure, relocate and increase the amount of public open space by 910 m2 (to 13.04 hectares site-wide)
 - reconfigure and relocate road, footpath, access and stormwater layouts and designs
 - revised Concept Plan masterplan development controls
- Modifications to all Stages
 - revised statement of commitments
 - revised voluntary planning agreements.

In August 2022, MP 06_0046 MOD 6, being a Section 75W Modification Application to modify the Concept Approval, was submitted by NSW Land and Housing Corporation (LAHC) to amend condition A8 relating to the requirement for a Transport Infrastructure Contribution Deed with TfNSW to be completed prior to the issue of a Construction Certificate. The primary changes requested to this condition are to change the requirement to being prior to the issue of a Subdivision Certificate and the removal of Condition A8(1)(b) requiring land dedication and concept design for the Humphries Road and Edensor Road intersection. The subject intersection directly abuts Stage 11 of the proposal. This application is currently under assessment by the Department of Planning and Environment, and as such, MOD 5 is the most recent approval to be considered.

The relevant conditions of consent of MOD 5 to be considered as part of the subject application are as follows:

- **Condition A5 - Exempt and Complying Development Code** - MOD 5 provided a condition of consent that allows the use of SEPP (Exempt and Complying Development Codes) 2008 to undertake residential development within Stages 8-18. The resultant impact of the inclusion of this condition is that development undertaken using the SEPP are not required to consider the provisions of the Bonnyrigg Masterplan which informs the desired character and relevant built form controls for the Newleaf area. An assessment of the Masterplan against a detached dwelling housing approved using the SEPP is undertaken later in this report.

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- **Condition B3 - Tree Canopy Coverage** - This condition requires future stages of the development, being Stages 8-18, to achieve a tree canopy coverage of 25%. To ensure this condition is met, positive covenants have been imposed on the relevant allotments to ensure that the Landscape Plan is adhered to and to ensure that a minimum of one large tree is planted on each allotment. This is to ensure that the tree canopy coverage condition is met and maintained throughout the future use of the allotments.
- **Condition A8 - Transport Infrastructure Contributions** - This condition relates to the requirements for the treatment and upgrade requirements for the Edensor Road and Humphries Road intersection and the Cabramatta Road West and Humphries Road intersection. The requirements of this condition have been expressed earlier in this report.
- **Condition A7 – Voluntary Planning Agreement(s)** - Due to the changes to the Concept Approval introduced as part of MOD 5, it was considered appropriate that a new VPA be prepared in order to address some of the substantial changes approved. Condition A7 required the new VPA be publicly exhibited and executed prior to the determination of the first residential development application for Stages 8-18, being the subject DA, or otherwise agreed by Council. Council's Outcomes Committee resolved to allow the subject application to be determined as the applicant and Fairfield City Council are in general agreement in regard to the new VPA. The VPA shall be addressed further in the S4.15 Assessment later in this report.

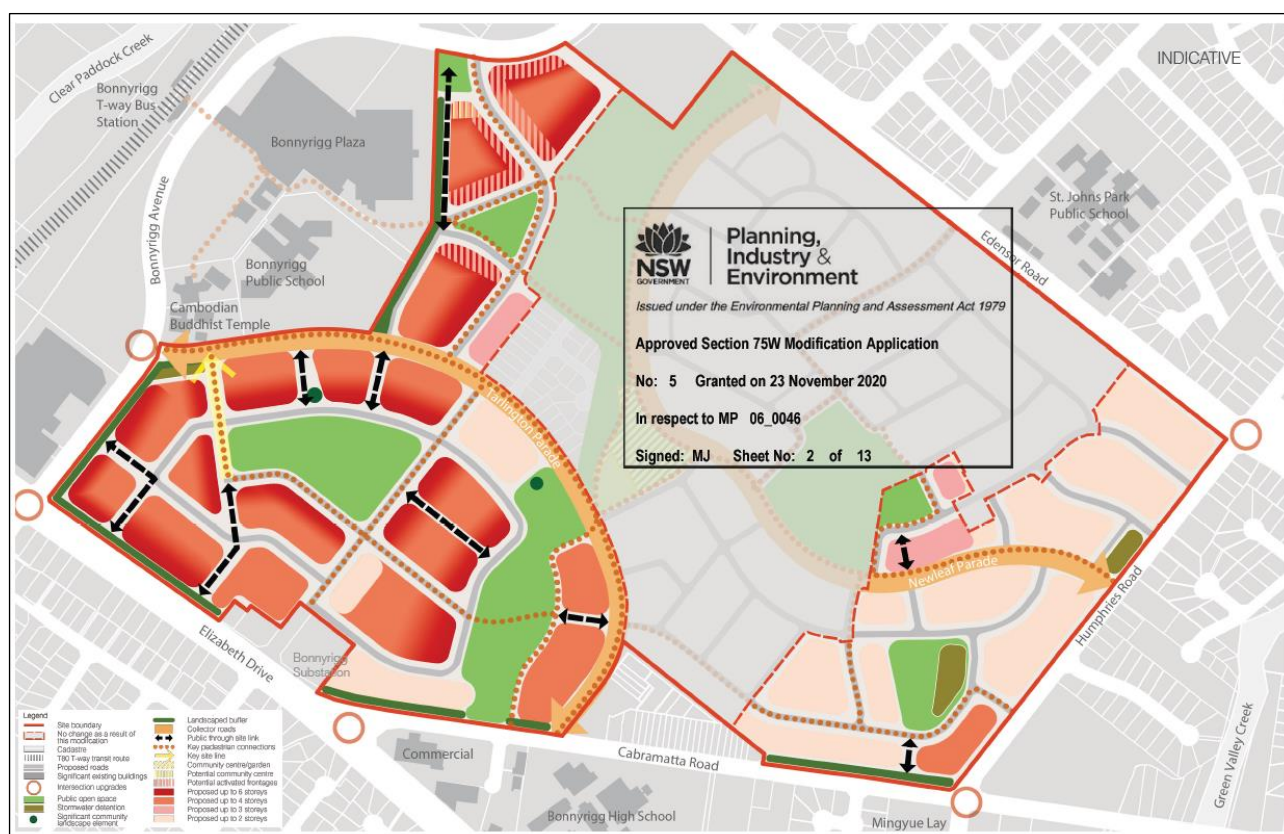


Figure 9: MP 06_0046 MOD 5 - Structure Plan. Source: Architectus, 2019.

An assessment of the proposed development indicates that the Stages 8-11 development application is generally consistent with the MOD 5 Concept Approval. In essence, the proposed development has altered the road layout and location of open space and drainage reserves. The development is

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consistent with the approved Concept Approval in terms of the number of dwellings provided, being 275 and sufficient community infrastructure is provided in the form of open space and road networks.

The reasons for the inconsistencies primarily relate to the failed acquisition of seventy-six (76) allotments within the development area and further consideration and investigation of drainage and OSD basin requirements for this area of the site.



Figure 10: Proposed Subdivision Layout Plan. Source: Premise, 2021.

Dwelling Yield

Stages 8-11 of the Concept Approval specifies a total of 275 dwellings for this area of the development.

The development proposes a total estimated dwelling yield of 276 dwellings, as follows.

	No. of Dwellings
New residential lots	219
Development lot No. 80	25
Development lot No. 317	6
Development lot No. 318	6
Existing privately owned lots	20
TOTAL	276

The development proposes a variation to the maximum dwelling yield by one (1) dwelling. The variation is considered to be acceptable and is unlikely to result in any adverse impact and will not negatively affect Stages 8-11 or any future works in the Newleaf Bonnyrigg Housing Estate.

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The variation has resulted from the failed acquisition of a number of allotments throughout the area and the changes required to the open space area due to drainage and OSD requirements.

It is also noted that the number of dwellings proposed for the development lots are estimates only and may be subject to change through future development applications.

Open Space

The inconsistency identified with the Concept Plan Approval is the location of the open space area, being Junior Play Park, refer to Figures 7 and 8 for a visual comparison of the changes in location.

The quantum of open space provided in the proposed development remains as approved as part of the Concept Plan Approval. Open Space is provided in Stages 8-11 as follows:

	Concept Approval	Proposed
Junior Play Park	0.92 ha	0.9212 ha
Hilltop Park (extension)	0.10 ha	0.109 ha
Drainage Reserve	-	0.017 ha
Landscape Buffer (Cabramatta Road W)	-	0.029 ha

As outlined previously, the changes in the layout of stages 8-11 has resulted from drainage and OSD requirements and the unsuccessful acquisition of a number of allotments throughout the development area. The proposed changes in location of the open space areas, primarily Junior Play Park, is considered to be generally acceptable as the development will provide the minimum required open space areas specific within the Concept Approval and the amended location does not result in any adverse impact to the development of Stages 8-11 or future development stages.

Potential Social Impacts

The community Renewal Implementation Plan and a Community Renewal Services Plan that was approved under the Concept Plan was required to be updated annually and submitted to Council. The Newleaf Communities Executive Services Report, Financial Year 2020-2021 has been provided and details community feedback and indicative strategies to implement the feedback provided.

Distribution and Indistinguishability of Social Housing

Dwelling Mix

In accordance with the Concept Approval, the development is required to provide a dwelling mix of 30% social housing and 70% private housing. The development proposes 60 dwellings as dedicated social housing, the social housing lots include development lot 80 and development lot 318. This results in 23.44% of the 276 dwellings as social housing (20 lots are retained as privately owned lots and are not included in this calculation).

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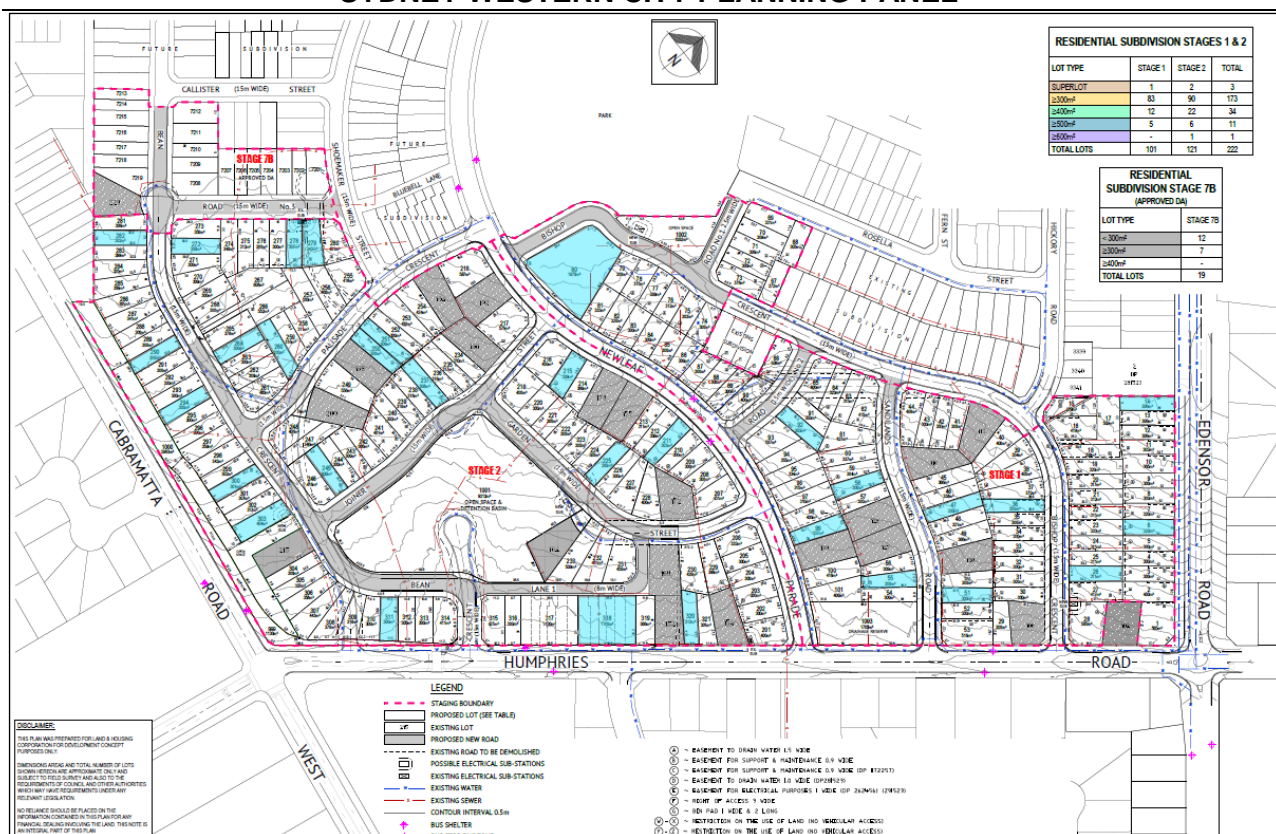


Figure 11: Proposed Subdivision Layout, social housing lots identified in blue. Source: Premise, 2021.

A calculation of the approved Stages 1-7 and proposed Stages 8-11 results in 321 social housing dwellings and 646 private dwellings, which equates to a dwelling mix 33% social housing and 67% private dwellings.

Whilst the proposed Stages 8-11 do not achieve the minimum required 30% social, 70% private dwelling mix, the current dwelling mix for the entirety of the Newleaf Bonnyrigg Housing development currently exceeds the minimum social housing requirements. The intention of dwelling mix is to ensure that a 30% social and 70% private dwelling mix is achieved at the conclusion of the stages of the Newleaf development. As such, the current Stages 1-11 exceed the required social housing quantity and will be subject to reciprocal decrease in social housing provided and will comply with the dwelling mix.

Distribution

The distribution of social housing is demonstrated in Figure 7, it is considered that the social housing has been sufficiently distributed throughout the development area.

Indistinguishability of Social Housing

The Concept Approval included a desired outcome for social housing to be indistinguishable from the private housing developments. Compliance with built form controls of the Bonnyrigg Masterplan 2011 would ensure the indistinguishability of all dwellings within the development area. However, Concept Approval MOD 5 included an additional condition of consent that allowed future development to use the provisions of SEPP (Exempt and Complying Development Codes) 2008 to be used for the construction of dwellings for Stages 8-18 of the housing development. The use of

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the SEPP allows for development to circumvent the built form requirements of the Masterplan and has the potential to result in social housing that is distinguishable from the surrounding private housing developments.

In this regard, a condition of consent has been imposed requiring the plans for the social housing lots to be submitted to Council for review prior to the construction of any dwellings on these allotments.

Further, the applicant has advised that the intended housing delivery will include 'project home products' that will result in a general housing design that is consistent over a number of the private allotments as well as the social housing lots.

It is considered that a condition of consent requiring the review of the proposed social housing allotments is sufficient to ensure the indistinguishability of the future social housing developments.

Biodiversity Conservation Act 2016

The development area is identified on Council's Conservation Significance Assessment (CSA) Mapping as containing areas of biodiversity significance as shown in Figure 10.



Figure 12: Conservation Significance Assessment (CSA) Mapping. Source: Fairfield City Council, 2021.

It is noted that the subject development area does not appear on the NSW Biodiversity Values Mapping as containing areas of biodiversity significance or threatened species (Figure 11).

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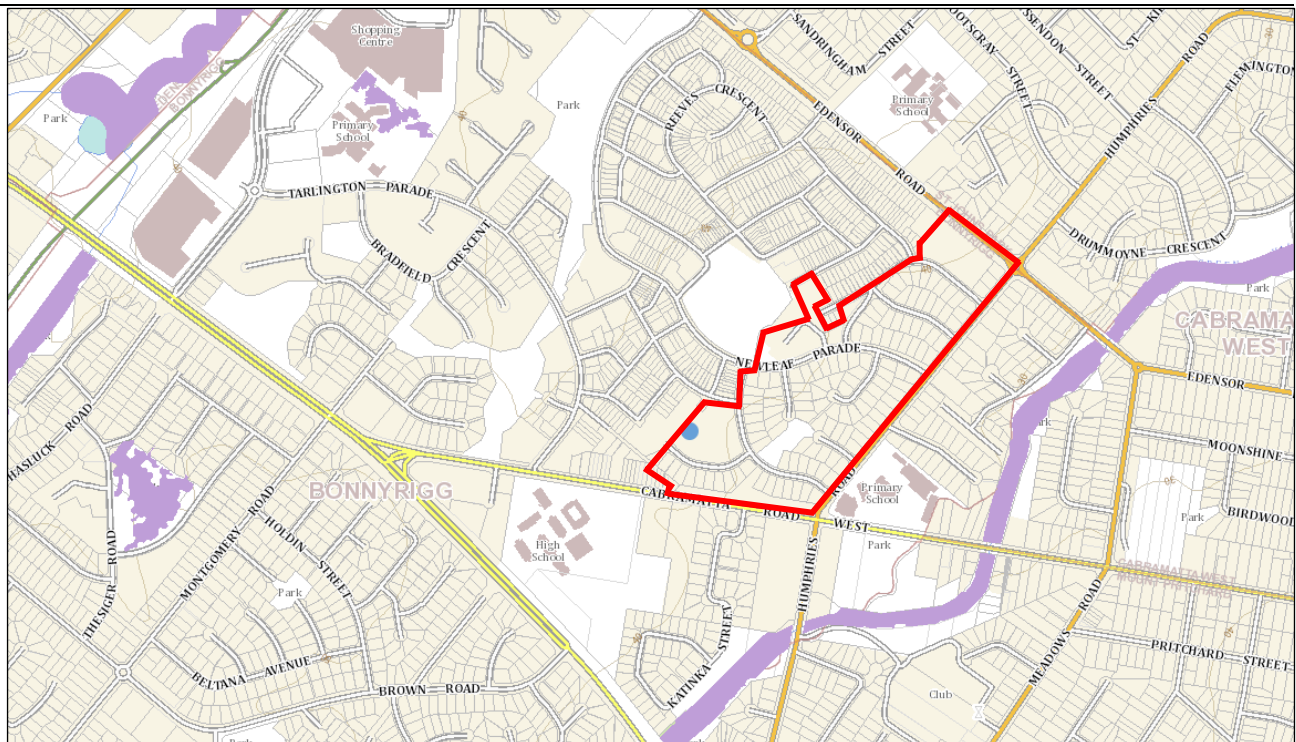


Figure 13: Extract of NSW Biodiversity Values Map, areas of significance in purple. Source: NSW Government.

The proposed development involves the removal of 329 trees from the development area, some of which are located within the areas of significance identified in the CSA Mapping. Council's Natural Resource Officer raised concern with the information provided in that an Arborist Report was submitted, however, there was insufficient information about the biodiversity significance of the site and the potential significance of the tree species proposed for removal. Further, no consideration had been given to the requirements of the Biodiversity Conservation Act 2016.

In order to mitigate Council's concerns, a Biodiversity Development Assessment Report was prepared by Eco Planning. The report expresses the subject area is located in an urban setting where historic vegetation clearing and residential development has previously occurred, predominately in the 1970s. By locating the development within historically cleared land, the development is located within an area generally lacking, or with low, biodiversity values. The investigation revealed that the biodiversity values present within the development area are in poor condition as evidenced by a low VI score, and do not include any mapped important habitat or significant fauna habitat features such as nest trees.

In order to minimise impact on biodiversity, the development avoids areas which support the greatest number and density of canopy trees, being the undisturbed rows of canopy trees fronting Cabramatta Road West located within the landscape buffer. The development involves the planting of over 350 native trees and, as such, the residual biodiversity impacts will be mitigated and values such as connectivity would be retained.

No impacts on threatened species (including species credit species) are anticipated from the proposal. No threatened species were opportunistically recorded during the field survey, and assessment of candidate SAIL species excluded the requirement for further assessment.

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The report addresses the requirements of the Biodiversity Conservation Act 2016, and provides mitigation and management measures to be followed to mitigate the impacts on biodiversity as much as possible, these are summarised as follows:

- Compliance with the Construction Environmental Management Plan (CEMP), which has formed a condition of consent to ensure compliance.
- Pre-clearance protocols to be followed to ensure fauna remains unharmed and vegetation to be retained is protected.

Further, the report has satisfactorily calculated the biodiversity offset requirements for the development to achieve the established 'no net loss standard'.

Council's Natural Resource Officer has reviewed the documentation and raises no further concerns with the application subject to conditions of consent.

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".

State Environmental Planning Policy No. 55 (Remediation of Land) (SEPP 55)

State Environmental Planning Policy (Resilience and Hazards) 2021 has replaced SEPP 55, now repealed, and commenced on 1 March 2022. As the development was lodged in June 2021, the development application is required to consider SEPP 55.

SEPP 55 requires Council to consider whether land is contaminated and if it requires remediation prior to granting consent to any development. The consent authority must be satisfied that any necessary remediation has occurred before the use of the land is permitted.

A Detailed Site Investigation Report has been prepared by JBS&G dated 30 April 2021. The report provides recommendations based on the conclusions of the report that involve further investigation works, preparation of an unexpected finds protocol and a Remediation Action Plan. A condition of consent has been imposed to ensure the recommendations are followed prior to any works commencing on the site.

Council's Environmental Management Branch have reviewed the submitted documentation and raise no further concerns, subject to conditions of consent.

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State Environmental Planning Policy (Infrastructure) 2007

State Environmental Planning Policy (Transport and Infrastructure) 2021 has replaced SEPP Infrastructure, now repealed, and commenced on 1 March 2022. As the development application was lodged in June 2021, the development application is required to consider SEPP Infrastructure.

The provisions of SEPP (Infrastructure) 2007 have been considered in the assessment of the development application.

Control	Comment	Compliance
44 Excavation – corridors and transmission circuits	The application is not subject to clause 44 of the SEPP as it is not located in proximity to any of the identified transmission corridors.	N/A
45 Development likely to affect an electricity easement	The application is not subject to clause 44 of the SEPP as it is not located in proximity to an electricity easement.	N/A
101 Development with frontage to a classified road	<p>The subject development area has frontage to a classified road, being Cabramatta Road West. The proposed development provides a landscape buffer between the proposed residential lots and the classified road. No vehicular access is permitted via the classified road.</p> <p>The ongoing operation of the development will not be adversely affected by the proposed residential subdivision.</p> <p>The development is for future residential development which is sensitive to traffic noise and vehicle emissions. As such, a minimum 10m landscape buffer has been provided between the road and the lots fronting the classified road.</p>	Yes
102 Impact of road noise or vibration on non-road development	The development includes a restriction on title that requires specific acoustic attenuation measures and construction materials to be utilised during the construction of the future dwellings to ensure compliance with 102(3) and ensure the amenity of residents. Utilising the materials and attenuation measures required the development should receive acoustic compliance.	Yes

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104 Traffic generating development	<p>The subject development is identified as a traffic generating development in Schedule 3 of the SEPP as the development involves the subdivision of land with over 200 lots that includes the opening of public roads. As such, the development was referred to TfNSW for review and the comments are required to be considered by the consent authority during the assessment of the application.</p> <p>Concerns from TfNSW have been addressed earlier in this report and a written response provided. Condition A8 of the Concept Approval has not yet been satisfied and has the potential to impact the size of the proposed road widening allotment and landscape buffer allotment. Therefore, a condition of consent has been imposed requiring written confirmation from TfNSW confirming Lot 999 is sufficient to cater for the required road widening, prior to the commencement of works for Stage 2.</p>	<p>Yes</p>
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Greater Metropolitan Regional Environmental Plan no. 2 – Georges River Catchment

The subject development is considered to be consistent with the objectives and the requirements outlined in the above REP. In addition, the specific matters of consideration as outlined in the REP are as follows:

“Specific matters for consideration

- *The potential cumulative environmental impact of any industrial uses on water quality within the Catchment.*
- *The adequacy of proposed stormwater controls and whether the proposal meets the Council's requirements for stormwater management.*
- *Whether proposed erosion control measures meet the criteria set out in Managing Urban Stormwater: Soil and Construction Handbook (1998) prepared by and available from Landcom and the Department of Housing.*
- *Likely impact on groundwater and remnant vegetation.*
- *The possibility of reusing treated waste water on land and the adequacy of proposed waste water disposal options.*
- *Whether adequate provision has been made to incorporate vegetated buffer areas to protect watercourses, foreshores or other environmentally sensitive areas where new development is proposed.*
- *The adequacy of planned waste water disposal options.”*

The applicant has submitted sufficient information demonstrating that the proposal will not create an unreasonable environmental impact to the surrounding locality. The application is therefore

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considered to be satisfactory with respect to addressing the objectives and requirements of REP No. 2.

Fairfield Local Environmental Plan 2013 (FLEP2013)

The subject site is zoned R1 General Residential under FLEP 2013. The proposed development is for Torrens Title Subdivision, earthworks, infrastructure works and landscaping works. Clause 26 (1) states that land to which the FLEP 2013 applies may be subdivided, but only with development consent.

Other relevant matters to be considered under the Fairfield LEP 2013 for the proposed development are summarised below.

DEVELOPMENT STANDARD	COMPLIANCE	DISCUSSION
4.1 Minimum subdivision lot size	N/A	No minimum lot size is specified for the development area. As such, the controls of the Bonnyrigg Master Plan 2011 apply to the subject development.
4.3 Height of Buildings	N/A	No maximum building height is prescribed for the land.
4.4 Floor Space Ratio	N/A	No maximum FSR is prescribed for the land.
4.6 Exceptions to development standards	N/A	The proposed development does not require consideration of any exceedance of a development standard.
5.10 Heritage Conservation	N/A	The subject site is not heritage listed and is not within a heritage buffer.
6.1 Acid Sulphate Soils	N/A	The land is not mapped as being affected by acid sulphate soils.
6.2 Earthworks	Yes	The proposal requires development consent for the proposed bulk earthworks. The earthworks have been considered against the controls of Clause 6.2 (3) and it is considered that the development will have an impact on existing drainage patterns, however, provides for a new drainage system and OSD basins as part of the application. The earthworks will have a positive impact on the future development of the land and intends to utilise as much of the soil existing on the site to undertake the earthworks.
6.3 Flood Planning	Yes	The development area is identified as being flood affected land for some portions of the site. The development application has provided a Water Cycle Management Plan that provides sufficient detail

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		regarding the flood affectation of the land and the drainage plans for the site.
6.5 Terrestrial Biodiversity	N/A	The subject land is not mapped as containing terrestrial biodiversity.
6.6 Riparian Land and Watercourse	N/A	The subject land is not mapped as containing riparian land and watercourse.
6.9 Essential Services	N/A	All necessary essential services are provided to the land.

Bonnyrigg Masterplan

The Bonnyrigg Masterplan (revised March 2012) prepared by Urbis forms part of the Concept Approval issued by the Minister of the Planning on 12 January 2009. The Bonnyrigg Masterplan outlines specific development controls for new development within the estate.

Lot Size and Dimensions

The following table describes the lot dimension requirements specified in the Bonnyrigg Masterplan.

Criteria	Relevant Development Standard
Lot Size	<p>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 Depth: 25m</p> <p>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)</p> <p>3 & 4 attached dwellings: Width: 20m Depth: 30m</p> <p>Row Houses / Terraces: Width: 5m Depth: 25m</p>

The intention of the proposed subdivision is to generally provide for single detached dwelling houses. In this regard, the minimum allotment depth is required to be a minimum of 25m and the allotment width is to be a minimum of 8.5m.

Using the dimensions of 8.5m x 25m, it is considered that the minimum allotment size is 212.5smq. It is noted that all residential allotments exceed 300sqm.

The following allotments do not meet either the minimum depth or width requirements on one or both sides of the allotment.

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Lot No.	Allotment Width	Allotment Depth	Allotment Size	Comment/Justification
37	14m – 5.3m	38.6m – 39.8m	372sqm	The lots have an average width of 9.1m – 11.4m, which exceeds the minimum width requirements. The lots have substantial depth and exceed the minimum lot size intended for detached dwelling houses. The non-compliance in lot width results from the lots location on a corner and the requirement to retain a number of existing private lots. The non-compliance is unlikely to adversely impact solar access to future development.
38	14.8m – 5.6m	39.7m – 39.8m	405sqm	
39	12.9m – 5.3m	38.2m – 39.7m	354sqm	
40	15.8m – 7m	34.7m – 38.2m	400sqm	
55	10.2m – 6.4m	34.2m – 34.3m	300sqm	The lots have an average width of 8.3m – 9.25m. Each allotment has one boundary of the allotment that exceeds the minimum 8.5m lot width requirement and all lot depths exceeds the minimum required by a minimum of 7.5m and provide sufficient site area for development. The subject lots are located either side of existing private lots that are retained.
56	11.9m – 6.6m	33m – 34.2m	309sqm	
58	5.9m – 10.7m	32.5m – 32.2m	300sqm	
59	7.4m - 11.1m	32.5m – 33.9m	304sqm	
74	11m - 13.5m	24.3m – 25m	300sqm	The subject lots are constrained by the existing road patterns and have an average depth of 24.6m. Only one side of the allotments are non-compliant with the minimum depth requirements and it is considered unlikely that the non-compliance will have any adverse impact in solar access for future development and continues to allow for sufficient site area.
75	12.4m	24.3m – 25m	303sqm	
79	12.4m – 12.3m	23.6m – 25.5m	300sqm	
84	12.2m	24.3m – 25.1m	300sqm	The lots are immediately adjacent to lots 74, 75 and 79 and are constrained by the existing road pattern. Whilst both sides of the allotments are non-compliant with the minimum depth requirements, it is considered that the lot sizes are acceptable for future built form and the sites are optimally orientated for solar access with rear yards facing north.
85	12.2m – 12.4m	24.3m – 24.6m	300sqm	
86	9.8m – 13.5m	23.1m – 24.6m	300sqm	
87	12.3m – 12.6m	23.1m – 24.6m	300sqm	
207	14.4m – 14m	23.2m – 32.6m	451sqm	The subject allotments are constrained by the existing private allotments that are being retained, as well as the existing road network. Lot 207 is a corner allotment that has a substantial site area. Both lots have a width that substantially exceeds the minimum required and it is considered that the lots will receive sufficient solar access and are of a sufficient size for future development.
208	12.8m – 13.3m	23.2m – 25.8m	300sqm	
241	14.6m – 17m	23.3m – 30.3m	401sqm	The lots are irregular in shape and one side of the allotment exceeds the minimum depth requirements. The lots are constrained by the retention of existing private allotments. The lots will receive sufficient solar access and are of a sufficient size for future development.
242	12.2m – 13.7m	23.3m – 32.5m	300sqm	
305	7.9m – 9.5m	34.9m – 35.7m	307sqm	

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306	7.6m – 12m	35.7m – 38.2m	358sqm	The subject allotments are located on the corner of Cabramatta Road and Humphries Road and, as such, have smaller frontages and are non-compliant with the minimum lot width requirements. The average width of all lots exceed the minimum width of 8.5m and provide a sufficient lot area for building. The non-compliance is considered to be minimal and will not result in a significant reduction in solar access.
307	6m – 16.8m	38.2m – 40.5m	443sqm	
308	6m – 18m	40.5m – 32.2m	370sqm	
309	8m – 13.1m	32.2m – 27.7m	318sqm	
310	8.4m – 13.8m	26.8m – 27.7m	300sqm	

The proposed non-compliances are considered to be minor and are unlikely to result in any adverse impacts to future development in terms of solar access and site area.

Battle-axe Lots

The development proposes three (3) battle-axe allotments, being Lot 17, Lot 266 and Lot 267. Battle-axe allotments were not considered in the Bonnyrigg Masterplan as a favourable form of subdivision due to a lack of passive surveillance opportunities.

The proposed subdivision pattern is constrained by the existing allotments that were unsuccessfully acquired and the required retention of at least part of the existing road network. As such, the resulting subdivision pattern includes three (3) battle-axe allotments.

The use of battle-axe allotments are optimally orientated to allow for north facing rear yards. The battle-axe allotments will provide a high level of amenity for future occupants without resulting in any significant adverse impacts on the amenity of surrounding allotments. The use of battle-axe allotments in this circumstance are considered generally acceptable as the lots have a high level of solar access, meet the minimum allotment depth requirements and are larger in size than the minimum required.

Other Relevant Provisions

The development involves subdivision only and the applicant has intended that future owners, excluding the development lots, will be able to construct the dwellings by utilising the provisions of SEPP (Exempt and Complying Development Codes) 2008 (the SEPP) through a Complying Development Certificates (CDC) pathway. The primary concern with the approval of subdivision and associated infrastructure works only and the ability to use the provisions of the SEPP is that the specific controls of the Masterplan, which created the vision for the Concept Approval are not required to be adhered to under CDC and the requirements of the SEPP differ from the Masterplan.

Due to the nature of the proposed development being subdivision and associated infrastructure works, no other provisions of the Masterplan are specifically relevant to the proposed development. Nevertheless, as the development approval method likely to be used for future dwelling houses through the CDC pathway and not through a development application, consideration has been given to methods of meeting the objectives and controls of the Masterplan. The below table provides a comparison analysis with respect to the Masterplan and the SEPP pathway.

	Masterplan	SEPP	Comment
Site Coverage & Landscaping	Max. 65 % site coverage	FSR: >300m ² –350m ² = 235m ²	<i>Site Coverage</i>
	Landscaping: Min. 35% (incl. hard	>350m ² –450m ²	The FSR prescribed in the SEPP and the maximum 65% site coverage specified in the

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	<p>stand areas), with 30% of this area to be deep soil.</p>	<p>= 25% of lot area + 150m²</p> <p>>450m²–560m² = 290m²</p> <p>>560m²–600m² = 25% of lot area + 150m²</p> <p>Landscaping:</p> <p>300-450sqm: 15% lot area</p> <p>450-600sqm: 20% lot area</p> <p>Note: this included soft landscaping only.</p>	<p>Masterplan results in a similar numeric outcome. For example, a site area of 350sqm is permitted to have 235sqm of floor space under the SEPP and 227.5sqm of site coverage under the Masterplan. For a two-storey detached dwelling house, the SEPP provides more stringent controls in regard to floor area compared to a site coverage provided in the Masterplan.</p> <p>The reliance on the SEPP in this instance is considered acceptable and will result in a negligible difference.</p> <p><i>Landscaping</i></p> <p>The majority of the proposed residential allotments have a site area between 300-450sqm, and, as such, are subject to a minimum landscaped area of 15% of the site area under the SEPP.</p> <p>Under the Masterplan, a dwelling house is required to have a minimum landscaped area of 35% of the site area.</p> <p>The difference in the minimum required landscaped area under the SEPP and the Masterplan result in a substantial numeric difference in the landscaped area provided onsite.</p> <p>In this regard, a positive covenant has been provided for each relevant residential lot to provide a minimum of 35% landscaped area (hard and soft) on each site.</p> <p>The landscaped area requirement in the Masterplan includes both hard and soft landscaped areas, whilst the SEPP landscaping provisions relate only to soft landscaping. As such, it is considered that the provision of a positive covenant requiring a minimum of 35% landscaping (hard and soft) will not be an onerous provision that</p>
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			adversely impacts the ability to use the provisions of the SEPP, while ensuring that the desired character and built form characteristics for residential development outlined in the Masterplan are achieved.																								
Bulk and Scale	Building Height: max. 2 storeys	Max. Height: 8.5m	A maximum building height for detached dwellings of 8.5m equates to a 1-2 storey dwelling house. Therefore, the SEPP is consistent with the Masterplan provisions.																								
Setbacks	<p>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 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. A zero setback may be permitted for limited building elements and only on secondary street frontages.</p> <p>Side & Rear: 80% of the dwelling length shall be setback a minimum of 0.9m from the side boundary (except for zero setbacks). Zero side setbacks must not exceed a maximum length of 12m where it adjoins a private allotment; Windows or openings are permitted within these walls only where they satisfy BCA requirements for fire safety and</p>	<p>Front: >300m²–900m² =4.5m</p> <p>Side:</p> <table> <tr> <th>Lot width at the building line</th> <th>Building height at any point</th> <th>Minimum required setback from each side boundary</th> </tr> <tr> <td>6m–10m</td> <td>0m–5.5m</td> <td>900mm</td> </tr> <tr> <td>6m–10m</td> <td>>5.5m–8.5m</td> <td>(building height–5.5m) ÷ 4 + 0.9m</td> </tr> <tr> <td>>10m–18m</td> <td>0m–4.5m</td> <td>900mm</td> </tr> <tr> <td>>10m–18m</td> <td>>4.5m–8.5m</td> <td>(building height–4.5m) ÷ 4 + 0.9m</td> </tr> <tr> <td>>18m–24m</td> <td>0m–4.5m</td> <td>1.5m</td> </tr> <tr> <td>>18m–24m</td> <td>>4.5m–8.5m</td> <td>(building height–4.5m) ÷ 4 + 1.5m</td> </tr> <tr> <td>>24m</td> <td>0m–8.5m</td> <td>2.5m</td> </tr> </table> <p>Rear:</p> <p>0-4.5m height = 3m</p> <p>4.5-8.5m height = 8m (lot size 300-900sqm)</p>	Lot width at the building line	Building height at any point	Minimum required setback from each side boundary	6m–10m	0m–5.5m	900mm	6m–10m	>5.5m–8.5m	(building height–5.5m) ÷ 4 + 0.9m	>10m–18m	0m–4.5m	900mm	>10m–18m	>4.5m–8.5m	(building height–4.5m) ÷ 4 + 0.9m	>18m–24m	0m–4.5m	1.5m	>18m–24m	>4.5m–8.5m	(building height–4.5m) ÷ 4 + 1.5m	>24m	0m–8.5m	2.5m	<p>Front: The Masterplan and SEPP are consistent in a minimum 4.5m setback to the front boundary.</p> <p>Side: The Masterplan and SEPP are generally consistent in requiring a minimum side setback of 900mm to the side boundary. The SEPP provides further guidance in requiring dwellings to step in further above 4.5-5.5m in building height. This will assist in enhancing solar access and privacy between properties.</p> <p>Rear: The Masterplan does not provide any specific numeric controls for the rear building setback. It is considered that the SEPP provides sufficient guidance and ensures that the first floor of dwellings are setback from the rear to enhance privacy and solar access for neighbouring properties.</p> <p>The Masterplan and SEPP are generally consistent in terms of setback controls and the SEPP provides sufficient controls that will enhance the future amenity of residents by requiring built form to be set back further at higher building heights.</p>
Lot width at the building line	Building height at any point	Minimum required setback from each side boundary																									
6m–10m	0m–5.5m	900mm																									
6m–10m	>5.5m–8.5m	(building height–5.5m) ÷ 4 + 0.9m																									
>10m–18m	0m–4.5m	900mm																									
>10m–18m	>4.5m–8.5m	(building height–4.5m) ÷ 4 + 0.9m																									
>18m–24m	0m–4.5m	1.5m																									
>18m–24m	>4.5m–8.5m	(building height–4.5m) ÷ 4 + 1.5m																									
>24m	0m–8.5m	2.5m																									

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	where no privacy impacts arise;		
Private Open Space	<p>Ground floor dwellings: 25sqm</p> <p>First floor dwellings: 10sqm</p>	<p>6m-10m lot width: 16sqm</p> <p>>10m lot width: 24sqm</p>	<p>The proposed residential allotments vary in terms of lot width and the lot width will be further determined by the siting of the future dwelling on the site. The introduction of a positive covenant relating to a minimum of 35% landscaping to be provided ensures that sufficient landscaping and usable outdoor recreational area is provided on the site. The 35% landscape positive covenant includes both hard and soft landscaping and which will provide sufficient area for private open space and landscaping on the site.</p> <p>Further, any allotment with a width over 10m is required to provide a minimum of 24sqm of private open space per allotment and is consistent with the Masterplan.</p>
Solar Access	<p>Detached and attached dwellings must be designed to ensure the 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.</p>	<p>No solar access requirements.</p>	<p>Lots have been orientated with a north facing rear yard where possible, and east and west facing rear yards being the next most appropriate orientation. As mentioned throughout this report, the design of the subdivision has been constrained by drainage requirements and by the unsuccessful acquisition of a number of allotments.</p> <p>Under the SEPP a dwelling house is permitted to have a maximum building height of 8.5m and the proposed lot areas are a minimum of 300sqm and exceeds the minimum required lot area (based on the minimum dimensions). As such, it is considered that future development will not be of such a scale that there will be any significant adverse impacts in terms of overshadowing. Where possible, lots are optimally orientated for solar access.</p>
Car Parking & Garages	<p>Detached dwellings: 2 parking spaces</p> <p>Note: one parking space can be open.</p>	<p>At least 1 parking space is to be provided on each lot unless the lot has a width of less than 8m at the building line.</p>	<p>The SEPP prescribes that all lots with a width of less than 12m are not permitted to have a garage door opening width of more than 3.2m. As such, only lots over</p>

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			<p>12m will be permitted to have a double /twin garage under a Complying Development Certificate, which is generally consistent with the lot width requirements of the Masterplan.</p> <p>As the proposal is for subdivision only, it is unknown where the future building will be placed on the site. It is considered likely that the majority of lots will be a minimum of 8m at the building line, however, in the event that a lot has a width of less than 8m at the building line, a positive covenant will be imposed requiring a minimum of two off-street parking space to be provided per lot.</p> <p>Further, the SEPP provisions provide for the minimum lot width requirements for a double car garage to ensure the garage does not dominate the built form of the future dwelling houses.</p>
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Town Planning Assessment

Tree Removal and Tree Canopy Coverage

The development proposes the removal of 329 trees and the retention of 150 existing trees within the development area. In accordance with Condition B3 of Concept Approval MP 06_0046 MOD 5, the development is required to provide minimum of 25% tree canopy coverage across the development area; public and private domains. The Concept Approval acknowledged that the revitalisation of the Newleaf Bonnyrigg area would require the removal of vegetation, and, as such, ensured that the future development area would have sufficient tree canopy coverage to maintain the landscaped setting of the locality.

A Positive Covenant has been included as a condition of consent that applies to all allotments in the development area requiring compliance with the approved landscape plans which delineates the tree canopy coverage of the development, as shown in Figure 11. A further positive covenant has been introduced requiring a minimum of two (2) large trees to be planted on each residential allotment, one in the front and one in the rear yard, consistent with the requirements of the Predicted Tree Canopy Coverage Plan. The following delineates the species of trees permitted to be planted on the residential allotments.

32-20 Plant Species within Private Domain								
Code	Genus	Species	Hybrids/ Cultivars	Common Name	Pot Size	Height	Width	Density
Trees								
Hi Ru	Hibiscus	tiliaceus	'Rubra'	Sea Hibiscus	75L	4	2	As Shown
El eu	Elaeocarpus	eumundii		Quondong	45L	8	5	As Shown

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La Si	Lagerstroemia	indica	x L. Fauriei 'Sioux'	Sioux (hot pink) Crepe Myrtle	45L	4	3	As Shown
Ma io	Malus	ioensis	'plena'	Iowa Crabapple	45L	6	4	As Shown
Pr Ni	Prunus	cerasifera	'Nigra'	Purple-leaved Flowering Plum	45L	5	4	As Shown
Py us	Pyrus	ussuriensis		Manchurian Pear	75L	9	7	As Shown
Wa Sw	Waterhousia	floribunda	'Sweeper'	Sweeper Weeping Lilly Pilly	75L	6	4	As Shown

Figure 14: Permitted Tree Species List. Source: Distinctive, 2021.

Further, the positive covenant requires a minimum of 35% of the site to be landscaped area to further enhance the landscaped setting of the development area and provide further consistency with the desired development outcomes of the Concept Approval and associated Master Plan.

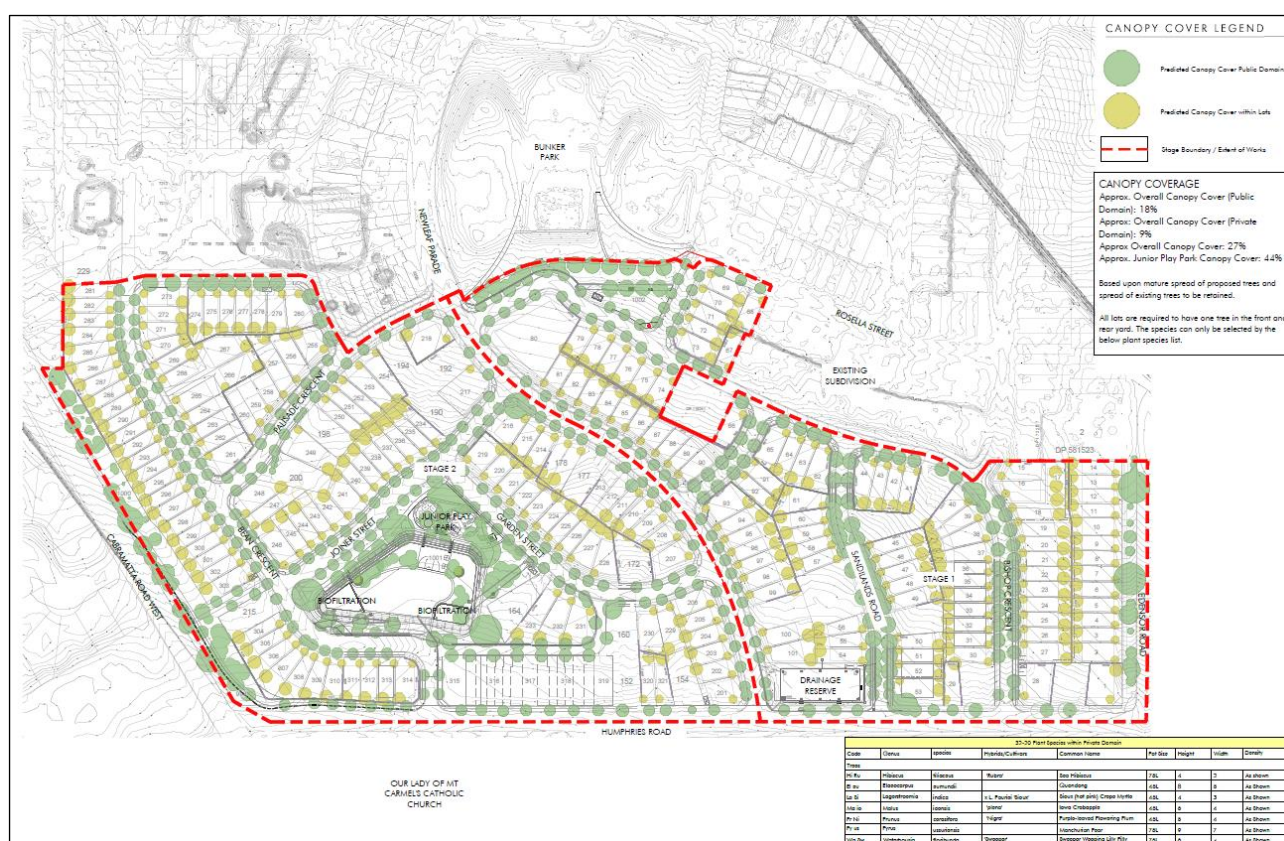


Figure 15: Predicted Tree Canopy Coverage. Source: Distinctive, 2021.

Acoustics

The proposed development is located in proximity to a major arterial road being Cabramatta Road West and another highly frequented road being Humphries Road. As such, the applicant was required to provide an acoustic assessment of the road traffic noise emanating from the surrounding road network. As a result of the acoustic report the following conclusions were reached:

The results of the noise modelling indicate that:

- Exceedances of the ISEPP criteria are predicted at the residential lots along the southern, eastern and northern portions of the subdivision.

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- *For facades that are exposed to noise levels above the ISEPP, acoustic constructions for treatment are required to achieve the internal noise level criteria.*
- *If the internal criteria can only be achieved with windows closed, then mechanical ventilation or air conditioning that meets the requirements of the Building Code of Australia must also be provided to ensure fresh airflow inside the dwelling. It is important to ensure that mechanical ventilation does not provide a new noise leakage path into the dwelling and does not create a noise nuisance to neighbouring residential premises. It is noted that windows are not required to be sealed shut/fixed and can be operable.*

The results conclude that the future residential development is required to be subject to certain construction material requirements, mechanical ventilation is required to be provided as without any acoustic attenuation, the development area will exceed the relevant acoustic criteria.

As such, positive covenants are included as conditions of consent applying to all residential allotments requiring the recommendations of the acoustic report to be implemented for the construction of future residential development. The inclusion of the positive covenant will ensure acoustic compliance for future residential development.

Public Roads and Parking

The development includes the retention and extension of a number of existing roads as well as the construction of new roads. The majority of the existing roads are 15m in width, with one road being 12.5m in width and one laneway 8m in width proposed. The applicant has submitted sufficient documentation that demonstrates that waste vehicles and emergency service vehicles can manoeuvre within the proposed road without interference to the on-street parking plan.

On-street Parking

The proposal provides a total of 300 on-street parking spaces in accordance with the Parking Diagram prepared by J.Wyndam Prince, Issue C. This ratio is consistent with the previously approved stages and provides sufficient parking for residents and visitors. A condition of consent has been imposed requiring the number of parking spaces indicated on the approved Parking Diagrams to be provided and that the Works as Executed Plans prepared confirm the number of on-street parking spaces is consistent with the Parking Diagrams.

Bin Collection Locations

Concern was raised regarding the future location of waste bins for collection for the battle-axe allotments. A positive covenant has been imposed for the battle-axe allotments to ensure the waste bins are located in the area dictated on the Subdivision Plans only. Further, a restriction on use has been included as a condition of consent for the allotments adjacent to the battle-axe lots to ensure that no structures or vehicular access are built on the dedicated waste collection locations.

Restrictions to User and Positive Covenants

As outlined throughout the report, in order to ensure the future amenity of residents and to ensure consistency with the Concept Approval and associated Bonnyrigg Masterplan, a number of restrictions to user and positive covenants have been included as conditions of consent to be included in the future Titles of the allotments. A brief summary of the restrictions is provided below:

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Condition	Summary	Reason
Dual occupancies, Secondary dwellings and Studios	No secondary dwellings, dual occupancies or studios are to be constructed on any of the residential allotments.	The purpose of this restriction is to ensure the allotments are used for dwelling houses only and to ensure the built form of future development is consistent with the intention of the Concept Approval and Masterplan.
Tree Canopy Coverage	Trees are to be planted/retained as per the approved landscape plans.	The purpose of this covenant is to ensure Condition B3 of the Concept Approval is met and 25% tree canopy coverage is provided throughout the development.
Vehicular Access	No vehicular access is permitted for the majority of lots fronting Humphries Road and Cabramatta Road West. Exceptions include Lot 320 and 321 and existing allotments fronting Humphries Road.	The purpose of this restriction is to ensure vehicular access is limited to the classified road and arterial roads and vehicular access to future lots is maintained through the internal road network so as to not interrupt traffic flow on the surrounding road network.
Car Parking	A minimum of two (2) car parking space is to be provided per residential lot.	The purpose of this condition is to maintain consistency with the Concept Approval and Masterplan and ensure street parking is maintained for visitors. It is noted that under CDC, each dwelling with a lot width of over 8m at the building line is required to provide a parking space onsite. This condition ensures that a minimum of two (2) spaces are provided for all lot, no matter the width, and for future dwelling houses and is consistent with the requirements of the Masterplan.
Landscaping	A minimum of 35% of the site area is to be used for landscaping (hard and soft), with 30% of that area to be deep soil planting, including the planting of two (2) large tree species consistent with the landscape plan.	The purpose of this condition is to maintain consistency with the Concept Approval and Masterplan, and to provide for the landscaped setting as intended by the Concept Approval. A dwelling house constructed through a CDC requires, on average, only 15% site area as landscaping and is inconsistent with the Masterplan.
Acoustic Treatment	Construction materials and acoustic attenuation measures are to be applied as per the approved Acoustic Report.	The purpose of this covenant is to ensure future residential development achieves acoustic compliance with SEPP Infrastructure due to the site's proximity to a classified road with heavy vehicular traffic.
Bin Location/Driveway Location	Driveways on lots adjacent to the battle-axe allotments are	This condition is to ensure that there is a dedicated location for the bins of

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	only permitted to locate their driveways as per the subdivision plan, and bins are to be placed for collection as per the subdivision plan.	the battle-axe dwellings to be located that remains free of driveways and obstructions in the future.
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Environmental Planning and Assessment Act 1979 – Section 4.15 Evaluation

The proposed development has been assessed and considered having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979 and no significant 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 4.15(1).

The provisions of any Environmental Planning Instruments (EP& A Act s4.15 (1)(a)(i))

An assessment of the proposal against the following Environmental Planning Instruments identified as being of relevance to the proposal has been undertaken:

- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
- State Environmental Planning Policy No. 55 – Remediation of Land.
- State Environmental Planning Policy (Infrastructure) 2007.
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment.
- Fairfield Local Environmental Plan 2013 (FLEP 2013).

The proposal is permitted with consent and found to have regard to the provisions of the above-mentioned planning instruments.

The provisions of any draft Environmental Planning Instruments (EP& A Act s4.15 (1)(a)(ii))

Not applicable – there is currently no draft environmental planning instrument of relevance to the subject site or proposal.

The provisions of any Development Control Plans (EP& A Act s4.15 (1)(a)(iii))

An assessment of the development application against the relevant objectives and development controls of the Bonnyrigg Masterplan is provided earlier in this report. The assessment determined the proposed development is considered to be satisfactory and relevant restrictions on title and positive covenants successfully preserve the desired future character of the area as expressed in the Masterplan.

Any planning agreement that has been entered into under part 7.4, or any draft planning agreement that a developer has offered to enter into under part 7.4, (EP&A Act s4.15(1)(a)(iiia))

Concept Approval MP_0046 was subject to the Bonnyrigg Living Communities Project Voluntary Planning Agreement between the proponent and Fairfield City Council, dated July 2008.

MP 06_0046 MOD 5 approved modifications to the Concept Approval including the following condition of consent;

A7 Voluntary Planning Agreement(s)

- (1) The proponent must comply with provisions of the Planning Agreement(s) entered into with Fairfield City Council under Subdivision 2 of Division 6 of Part 4 of the Environmental Planning & Assessment Act 1979 (NSW) which relates to the project which is the subject of this approval. The proponent shall continue to liaise with Council and the local community during the development process.*
- (2) Voluntary Planning Agreement(s) (VPA) between NSW Land and Housing Corporation (or its nominated entity) and Fairfield City Council shall be prepared in accordance with the commitments contained within the public benefit offer titled 'VPA offer and amendment to existing VPA' reference D19/1983622 and dated 18 December 2019. The structure of the VPA(s) shall be in accordance with the public benefit offer or an alternative structure that may be otherwise agreed with Fairfield City Council.*
- (3) The VPA(s) shall be publicly exhibited and executed prior to the determination of the first residential development application for Stages 8 to 18 following the approval of MP06_0046 MOD 5 or as may be otherwise agreed with Fairfield City Council. A copy of the executed VPA(s) shall be submitted to the Secretary.*

The applicant is currently working with Fairfield City Council to prepare a revised VPA to reflect the changes in Stages 8-18 as approved as part of MOD 4 and MOD 5 of the Concept Approval. At this stage, the new VPA has not been publicly exhibited or executed.

On 27 September 2022, Council's Outcomes Committee resolved that '*Council agree to the determination of the planning application 234.1/2021 for Stages 8-11 of the Bonnyrigg Living Communities Project occurring as the changes to the VPA are in general agreement between the parties with public exhibition and execution to be completed*'.

As such, Condition A7(3) is satisfied as Fairfield City Council has agreed to the determination of the subject application prior to the public exhibition and execution of the new VPA for Stages 8-18. Accordingly, a condition of consent has been imposed requiring the VA to be executed prior to the completion Stage 1 of the subdivision works.

It is noted that the proposed development is generally consistent with the existing VPA for the development area dated July 2008. The minor discrepancies relate to the changes in layout of the infrastructure and the allotments. The provision of open space, being Junior Play Park has changed in location, however, provides the same quantum of open space.

The provisions of the Regulations (EP& A Act s4.15 (1)(a)(iv))

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

The Likely Environmental, Social or Economic Impacts (EP& A Act s4.15 (1)(b))

Subject to recommended conditions of consent and restrictions to use and positive covenants on the future allotments, it is considered unlikely that the proposed development will result in any adverse impacts.

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The suitability of the site for the development (EP&A Act s4.15 (1)(c))

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

Submissions made in accordance with the Act or Regulation (EP&A Act s4.15 (1)(d))

Website ☒

Mail ☒

In accordance with the Environmental Planning and Assessment Regulation 2000, the application was notified for a period of twenty-one (21) days in writing to surrounding properties, on Council's website and a notice was also displayed at the site. Two (2) submissions were received during the notification period.

The objectors raised concern for the proposed tree removal, street trees and a number of traffic concerns relating to the treatment of the intersection of Newleaf Parade and Humphries Road and double unbroken lines throughout the road network within the estate.

In response to the concern regarding tree removal and street trees, a Biodiversity Development Assessment Report was prepared by the applicant that provided details of the significance of the trees to be removed and provided recommendations of ways to provide existing fauna and any trees able to be retained throughout the development area. Further, a condition of consent has been imposed that requires a minimum of two (2) trees to be planted on each residential allotment in accordance with the Predicted Tree Canopy Coverage Plan.

In regard to the intersection treatment and request for unbroken lines on the road network, the Concept Approval determined any infrastructure and intersection treatment upgrades required for determined that the no further intersection upgrade works were required for the Newleaf Parade and Humphries Road intersection.

The individual objectors were contacted by telephone to discuss the concerns that were raised. In relation to the telephone discussions, one (1) of the two (2) objectors accepted Council's response and raised no further concerns. The second objector was not able to be contacted over the phone, however, email correspondence was provided addressing their concerns.

The public interest (EP& A Act s4.15(1)(e))

Having regard to this assessment the proposed development is considered to be in the public interest and warrants approval.

10. CONCLUSION

The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, Fairfield Local Environmental Plan 2013, State Environmental Planning Policy No 55 and Bonnyrigg Masterplan and is considered to be satisfactory for approval, subject to conditions.

The proposed development is appropriately located within the R1 General Residential under the relevant provisions of Fairfield LEP 2013. The proposal is consistent with all statutory and non-statutory controls applying to the development.

The development is generally consistent with Concept Approval MP 06_0046 MOD 5, and has satisfied the majority of relevant conditions of the development consent. Condition A8 relating to the intersection treatment of Cabramatta Road West and Humphries Road has not yet been satisfied and referral responses from TfNSW suggest that the subject application should not be determined until such time that this matter is resolved. The proposed development is set out into two (2) stages, with Stage 1 being bound by Edensor Road and Humphries Road and Stage 2 being bounded by Cabramatta Road West and Humphries Road. As such, an acceptable solution is the imposition of a condition of consent requiring written confirmation from TfNSW be provided to Council confirming that Lot 999 is sufficient to cater for the required road widening, prior to the commencement of any works for Stage 2. As reiterated throughout this report, any changes to Lot 999 are unlikely to result any substantial alterations to the subdivision design and are unlikely to result in any changes to the residential allotments.

The applicant has satisfactorily demonstrated in the submitted documentation that the site is suitable to accommodate the proposed development and the development can be carried out in an orderly manner with minimal impacts to the surrounding locality. The development will facilitate future residential development within the development area and provides all relevant infrastructure including road networks, open space and drainage requirements. The development is considered to perform adequately in terms of its relationship to its surrounding built and natural environment.

For these reasons, it is considered that the proposal is satisfactory having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act, 1979, and the development is recommended for approval subject to conditions.

11. RECOMMENDATION

That Development Application No. 234.1/2021 for Newleaf Bonnyrigg Renewal Project – Stages 8-11 comprising Staged Torrens Title Subdivision to create 219 residential lots, three (3) development lots, four (4) open space lots and one (1) residual lot, and associated road, landscape and public domain works be approved subject to the conditions set out at Attachment CC

REASONS FOR DECISION

Having regard to the assessment of the Application, the proposed development is considered acceptable and should therefore be approved for the following reasons;

1. The subject site is zoned R1 General Residential the LEP 2013 and the development is permissible subject to development consent.
2. The proposed development is generally consistent with the Concept Approval MP 06_0046 MOD 5 and the Bonnyrigg Masterplan. Conditions of consent have been imposed to ensure consistency with the Masterplan and the desired character of Newleaf, Bonnyrigg.
3. The development application has been assessed against the relevant requirements of the Environmental Planning and Assessment Act 1979, Environmental Planning and Assessment Regulation 2021, Fairfield Local Environmental Plan 2013, State Environmental Planning Policy No 55 and is considered to be satisfactory.
4. Comments were sought from Council's Building Control Branch, Traffic Section, Environmental Management Branch, Development Engineering Branch, Place Manager and Tree Preservation Officer, Natural Resources Branch, Assets Branch, Subdivision Engineering for assessment. No concerns were raised to the proposal subject to conditions of consent.
5. The application was referred to NSW Environmental Protection Authority and Transport for New South Wales. No concerns were raised by NSW EPA. TfNSW recommended that the application not be determined until Condition A8 of Concept Approval MP 06_0046 MOD 5 was satisfied. In this regard, a condition of consent has been imposed requiring written confirmation from TfNSW to Council that Lot 999 is sufficient or the required road widening, prior to the commencement of any works for Stage 2.
6. In accordance with Council's Public Notification Policy, the application was notified for a period of twenty-one (21) days in writing to surrounding properties, on Council's website and a notice was also displayed at the site. Two (2) submissions were received during the notification period. It is considered that the issues raised with the application have been satisfactorily addressed through conditions of consent and there are no concerns raised that warrant refusal of the application.