

DETERMINATION AND STATEMENT OF REASONS

SYDNEY WESTERN CITY PLANNING PANEL

DATE OF DETERMINATION	23 February 2023
DATE OF PANEL DECISION	17 February 2023
DATE OF PANEL MEETING	13 February 2023
PANEL MEMBERS	Justin Doyle (Chair), David Kitto, Brian Kirk, Hugo Morvillo
APOLOGIES	Hugo Morvillo
DECLARATIONS OF INTEREST	Louise Camenzuli: Conflict on the LAHC Bonnyrigg application

Papers circulated electronically on 31 January 2023.

MATTER DETERMINED

PPSSWC-165 – Fairfield – DA234.1/2021 - 26 Bean Crescent, Bonnyrigg - 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.

PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings listed at item 8 in Schedule 1.

At the final briefing, the panel discussed four issues with the council and the applicant. These issues were all related to the consistency of the draft conditions for the development with the terms of the approved concept plan for the broader Bonnyrigg Housing Estate (MP 06_0046).

First, the applicant objected to the draft condition requiring the architectural plans for all social housing dwellings to be submitted to the council for review and comment prior to the construction of dwellings, saying this was inconsistent with the terms of the approved concept plan for the development. While the panel agreed with this, it noted that the indistinguishability of social housing on site was a critical element of the approved concept plan. Consequently, it suggested that the applicant could be required instead to prepare a general policy for the design of social housing on site, in consultation with the council, to ensure any social housing built is indistinguishable from other housing on site. Both the council and the applicant agreed to this suggestion, and the draft condition has been amended accordingly (see condition 35).

Second, the applicant objected to the inclusion of a positive covenant on the titles of all residential lots with landscaping requirements, again because this was inconsistent with the terms of the approved concept plan. The panel agreed with this and has therefore removed the broader landscaping requirements from the relevant conditions (see condition 57 & 107), and notes that the landscaping requirements for dwellings will be determined by either the Bonnyrigg Masterplan or State or Environmental Planning Policy (Exempt & Complying Development Codes) 2008. However, the panel has retained the tree canopy component of the landscaping requirements in the relevant conditions to give effect to the obligations expressed in condition B3 of schedule 2 of the approved concept plan for the development.

Third, the panel noted that the Voluntary Planning Agreement (VPA) for the development is governed by the terms of condition A7 of schedule 1 of the approved concept plan, not the relevant provisions in Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). Further, it is noted that no planning agreement has been entered into under section 7.4 specifically for the development and that the applicant has also not made any offer to enter into a voluntary planning agreement under section 7.4 of the EP&A Act. Under section 7.7(3) of the EP&A Act the Panel cannot lawfully impose such a condition., as was

originally proposed by Council. Consequently, the draft condition has been removed, and the council and the applicant will instead rely on the VPA condition in the approved concept plan to revise the VPA for the whole Bonnyrigg Housing Estate, including this development.

Finally, the panel was advised that condition A8 of schedule 1 of the approved concept plan, which deals with the road upgrades required for this development, was modified on 19 December 2022. The panel suggested the inclusion of an additional condition to link the modified condition in the approved concept plan to the timing of the road upgrade works for this development, which are only required for Stage 2 (see condition 84), and to ensure the necessary land dedications for the road works and associated landscaping area are adequately reflected in the final subdivision plans for Stage 2. Both the council and the applicant have agreed to the inclusion of this condition.

Development application

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The panel determined to approve the application because:




- the development is generally consistent with the terms of the approved concept plan (MP 06_0046), which was issued for the broader Bonnyrigg Housing Estate by the then Minister for Planning in January 2009
- the impacts of the development can be suitably mitigated or managed
- the proposal has merit and will make a significant contribution to housing supply in Western Sydney, including the provision of social housing.

CONDITIONS

The development application was approved subject to the draft conditions of consent dated 15 February 2023 including amendments made following the Panel meeting in line with the Panel's consideration above.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes the Environment Protection Authority and Transport for NSW made submissions on the development and is satisfied that the matters raised in these submissions have been adequately addressed in the council's assessment report, recent modification to the approved concept plan for the Bonnyrigg Housing Estate, and the conditions of consent for the development.

PANEL MEMBERS	
Justin Doyle (Chair) 	David Kitto 
Brian Kirk 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-165 – Fairfield City Council – DA234.1/2021
2	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.
3	STREET ADDRESS	26 Bean Crescent, Bonnyrigg
4	APPLICANT/OWNER	Applicant: NSW Land and Housing Corporation Owner: NSW Land and Housing Corporation
5	TYPE OF REGIONAL DEVELOPMENT	Crown development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Clause 3B of Schedule 2 of the <i>Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017</i> • Concept plan for the Bonnyrigg Housing Estate (MP 06_0046) • Environmental planning instruments: <ul style="list-style-type: none"> ○ 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 • Draft environmental planning instruments: Nil • Development control plans: Bonnyrigg Masterplan (updated 2012) • Planning agreements: Nil • Clause 61(1) of the <i>Environmental Planning and Assessment Regulation 2000</i> • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the Environmental Planning and Assessment Act 1979 or regulations • The public interest, including the principles of ecologically sustainable development • Biodiversity Conservation Act 2016 • National Parks and Wildlife Act 1974
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 19 December 2022 • Council supplementary assessment report: 10 February 2023 • Council draft conditions of consent: 15 February 2023 • Written submissions: EPA & Transport for NSW
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: Monday, 20 September 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), Stuart McDonald, Ninos Khoshaba and Sera Yilmaz ○ <u>Council assessment staff</u>: Lilyan Abosh, Jeyda Kokoden, Sunnee Cullen, Antonio Inzitari, Liam Hawke • Final briefing to discuss council's recommendation: 13 February 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Justin Doyle (Chair), David Kitto, Brian Kirk ○ <u>Council assessment staff</u>: Tia Mills, Liam Hawke, Sunnee Cullen
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Council draft conditions of consent: 15 February 2023