

**SYDNEY WESTERN CITY PLANNING PANEL**

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**TO:** Sydney Western City Planning Panel

**REPORT:** SWCPP Report

**FILE No:** DA 351.1/2022  
PAN- 278165  
PPSSWC-307

**SUBJECT:**

LOT AND DP	ADDRESS
Lot: 453 DP: 839627	56 Tarlington Parade, Bonnyrigg
Lot: 13 DP: 1143255	24A Tarlington Parade, Bonnyrigg
Lot: 454 DP: 839627	Refer to attached list of 118 properties

<b>Application lodged</b>	18 November 2022
<b>Applicant</b>	Premise Planning
<b>Owner</b>	NSW Land and Housing Corporation
<b>Application No.</b>	DA 351.1/2022
<b>NSW Planning Portal Application No.</b>	PAN- 278165
<b>Planning Panel Reference No.</b>	PPSSWC-307
<b>Proposed Development</b>	Newleaf Bonnyrigg Renewal Project - Stages 12 and 13 comprising Torrens Title subdivision into 4 super lots, 3 open space lots, and associated landscaping, public domain works, earthworks, and roadworks.
<b>Cost of Works</b>	\$7,976,453.10
<b>Zoning</b>	R1 General Residential under the Fairfield LEP 2013.
<b>Primary Planning Issues</b>	<ul style="list-style-type: none"> <li>• Compliance with Bonnyrigg Masterplan (amended in MP 06_0046 MOD 5) and the provision of shareways.</li> <li>• Proposed tree removal and compliance with State Environmental Planning Policy (Biodiversity and Conservation) 2021.</li> <li>• Compliance with the VPA and its timing.</li> </ul>

**Assessing Officer:** Richard Tong – Subdivision Engineer

**Date of Report:** 25 June 2024

**ATTACHMENTS**

- Attachment A – Statement of Environmental Effects Report
- Attachment B – Subdivision Plans
- Attachment C – Construction Environmental Management Plan
- Attachment D – Traffic Impact Assessment
- Attachment E – Utility Servicing Report
- Attachment F – Traffic Modelling Statement
- Attachment G – Engineering Plans

Attachment H – Landscape Plans  
Attachment I – Detailed Site Investigation  
Attachment J – Biodiversity Development Assessment Report  
Attachment K – Arboricultural Impact Assessment  
Attachment L – Schedule of Addresses  
Attachment M - Draft Conditions of Consent

## **SUMMARY**

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1. *Development Application No. 351.1/2022 was submitted on 18 November 2022 for the Newleaf Bonnyrigg Renewal Project - Stages 12 and 13 comprising Torrens Title subdivision into 4 vacant super-lots subdivision, 3 open-space lots and associated embellishment, associated landscaping, public domain works, earthworks, and roadworks.*
2. *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.*
3. *The application was publicly notified to occupants and owners of the adjoining properties for a period of 14 days between 18 November to 2 December 2022. One (1) submission was 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 (Attachment M).*

### **1. EXECUTIVE SUMMARY**

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Council is in receipt of Development Application No. 351.1/2022, which seeks approval for Stages 12 & 13 of the Newleaf Bonnyrigg Renewal Project, known as the 'Town Centre Precinct'. This development proposes a Torrens Title subdivision to create four (4) vacant super-lots, three (3) open-space lots, associated landscaping, public domain works, earthworks, and roadworks. The development is proposed to be completed over three (3) stages.

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 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 12 & 13 of the Bonnyrigg Living Communities Project, which forms part of the redevelopment of the Bonnyrigg public housing estate. Endorsed as a Part 3A Project by the Minister for Planning, this initiative plans to redevelop the estate into a mixed community, allocating 30% for public housing and the remaining 70% for private residences. The overall objective is to construct 3,000 homes across 18 stages, with the first 11 stages already receiving approval and either completed or in the process of construction. The area targeted for this stage of development is enclosed by Bonnyrigg Avenue on the north side and Tarlington Parade on the south.

This report concludes that the proposed development achieves compliance against the Fairfield Local Environmental Plan (FLEP 2013), the Biodiversity Conservation Act 2016, State Environmental

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Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021 and Bonnyrigg 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 and key issues raised during the assessment are around compliance with the Bonnyrigg Masterplan (amended in MP 06\_0046 MOD 5) and the provision of shareways, proposed tree removal and compliance with State Environmental Planning Policy (Biodiversity and Conservation) 2021 and compliance with the Voluntary Planning Agreement (VPA) and its timing.

In regards to the provision of shareways, the Concept Approval (MOD5) requires public share ways within the Town Centre Precinct. These links are to be publicly accessible for pedestrians, cyclists and vehicles. In accordance with the VPA, some of these share ways are required to be provided prior to the issue of an Occupation Certificate for the 440th Dwelling in the Town Centre Precinct. Notwithstanding, the 10m wide road required within proposed Lot 1201 does not form part of this application and is not covered within the VPA. Council initially raised concerns regarding the provision of the shareway.

The Applicant provided additional information advising that this shareway is to be provided at a later date and would be subject to a future separate Development Application. This Application would incorporate the road as part of the future residential development of the site as part of the detailed built form design. During the Preliminary Briefing, the Panel advised that a suitable mechanism needs to be provided in order to ensure that all necessary infrastructure is provided. Given that the current DA is seeking consent for super-lots only, and that the share ways are not required at this stage and will form part of a future DA, it is considered appropriate and necessary that a condition of Consent be imposed that requires a restriction on title. The restriction requires the shareway to be provided and in operation prior to the occupation of any residential accommodation on that lot. Draft conditions were forwarded to the applicant with respect to this requirement and the applicant has agreed with this condition of consent. All other infrastructure not provided within the VPA is included in the subject application and has been conditioned accordingly.

In regards to compliance with State Environmental Planning Policy (Biodiversity and Conservation) 2021, the proposed development involves the removal of 115 trees from the development area, with a portion of the trees located within the areas of significance identified in the Council's Conservation Significance Assessment (CSA) Mapping.

Initial concern was raised as 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. Under the NSW Biodiversity Conservation Act 2016 (BC Act), all development that requires development consent under Part 4 of the EP&A Act that is likely to significantly affect threatened species, as set out in Clause 7.2 of the BC Act and Clause 7.1 to 7.3 of the NSW Biodiversity Conservation Regulation 2017 (BC Regulation), triggers the Biodiversity Offset Scheme (BOS) and must be assessed using the Biodiversity Assessment Method (BAM) 2020 with the results presented in a Biodiversity Development Assessment Report (BDAR).

A BDAR Report, prepared by Cumberland Ecology as submitted revealed that Native vegetation occurring within the Subject Land includes approximately 0.1 ha of Cumberland Plain Woodland and Planted Native Vegetation, of which approximately 0.09 ha will be completely removed, and 0.01 ha will have the ground layer removed only. The remainder of the Subject Land comprises areas of Exotic Woody Vegetation Exotic Dominated Grassland (mown lawns), residential dwellings, and

associated road and footpath infrastructure. As the project includes the removal of an area of native vegetation, offsets are required.

Council's Natural Resource Officer reviewed the documentation and raises no further concerns with the application subject to conditions of consent. The report has satisfactorily calculated the biodiversity offset requirements for the development to achieve the established 'no net loss standard'.

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 residential application for Stages 8-18 or as otherwise agreed by Council.

A new VPA has been publicly exhibited and has been endorsed by Council at its ordinary meeting dated the 27<sup>th</sup> June 2023. The VPA is currently being processed by NSW Homes and is in the process of final sign off by the relevant delegated officer. NSW Homes have stated that they do not have any concerns with the VPA and do not seek any changes to the agreement. It is noted that the VPA has not been executed at the time of writing of this report, however, is in the final stages of completion. Given this, it is recommended that any approval be a Deferred Commencement, which requires that the VPA be executed prior to the Consent becoming Operative. The Applicant has indicated that they accept this condition.

The development application was referred to Council's Asset Management, Strategic Planning, Natural Resources, Tree Preservation, Traffic Engineering and Public Health and Environment 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. One (1) submission was received during the notification period. Concerns raised relate to the start date of the project and how tall the buildings would be. The concern regarding start date and the height of the future buildings will be considered as part of future Development Applications for the site. The issues raised have been taken into consideration throughout the assessment and it is considered that the concerns raised do not warrant refusal of the application.

A copy of the recommended conditions was forwarded to the Applicant as part of the application process. Through this process the Applicant requested changes to the conditions. As such, a meeting was held between Council Officers and the Applicant to further discuss these changes. Through this process, conditions have been amended and agreed to by both the Applicant and Council with the exception of the request for a maintenance bond over future Council assets in relation to roads, drainage, and street trees. Council's standard practice is to require a maintenance bond for a period of 12 months to ensure that should any defects and/or failures occur during this time, then these are able to be rectified. This request has been imposed as a condition of consent on all previous stages of the Bonnyrigg Newleaf Redevelopment. The Applicant has requested that this condition not be imposed, rather, that a letter of undertaking be given to Council as an alternative to this requirement. Despite the applicant's request, it is recommended that the condition remain as proposed.

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 12 & 13 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 M of this report.

**2. SUBJECT SITE AND SURROUNDING AREA**

The proposed development is identified as Stages 12 and 13 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 1-11 have development approval and are either completed or currently under construction. The Bonnyrigg Living Communities Project area is identified within Figure 1.

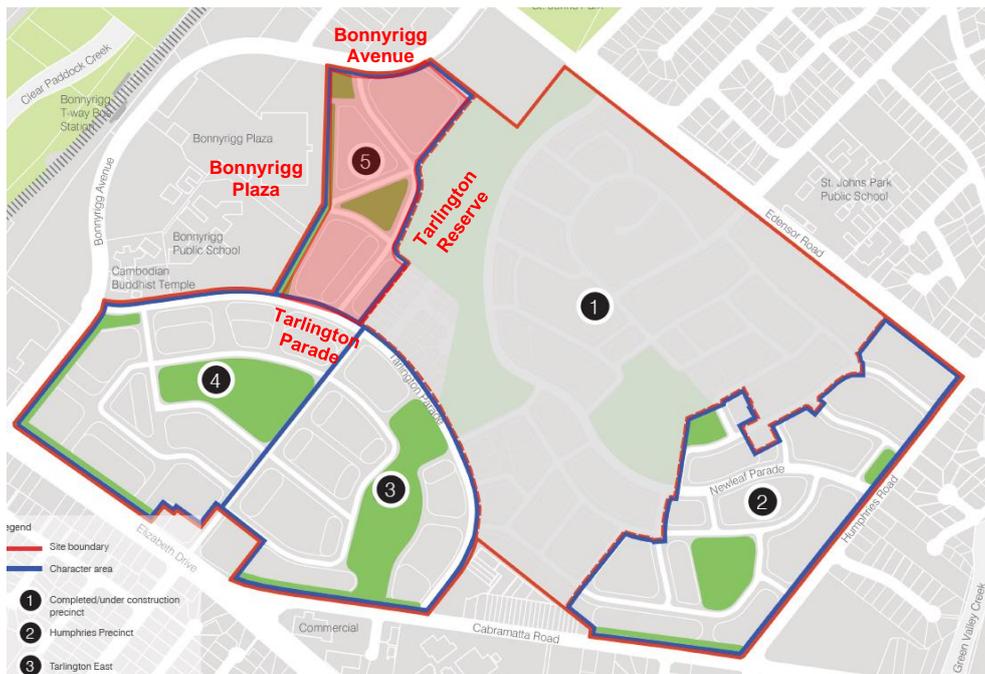


Figure 1 – Town Centre Precinct (Stages 12 & 13) highlighted in Red - Map of Newleaf Housing Redevelopment, Approved Concept Plan.

The subject site is known as Stages 12 & 13 of Newleaf Bonnyrigg Renewal Project, formally known as the 'Town Centre Precinct', and is located within the north-western portion of the overall Newleaf Development. The overall size of the development is 68,050 m<sup>2</sup> (6.805ha) and has street access to Bonnyrigg Avenue to the north and Tarlington Parade to the south.

Stages 12 and 13 are bounded by Bonnyrigg Plaza to the west, Tarlington Reserve to the east, Bonnyrigg Avenue to the north and Tarlington Parade to the south. The subject site is in the vicinity Bonnyrigg Public School, Bonnyrigg Town Centre, open space areas, and a variety of other community facilities such as Places of Worship.

### 3. DESCRIPTION OF THE PROPOSED DEVELOPMENT

#### 3.1 Overview

Development consent is sought for a three staged Torrens title subdivision development that will create four (4) super lots for future high density residential development, three (3) open-space lots, associated landscaping, public domain works, earthworks, and roadworks.

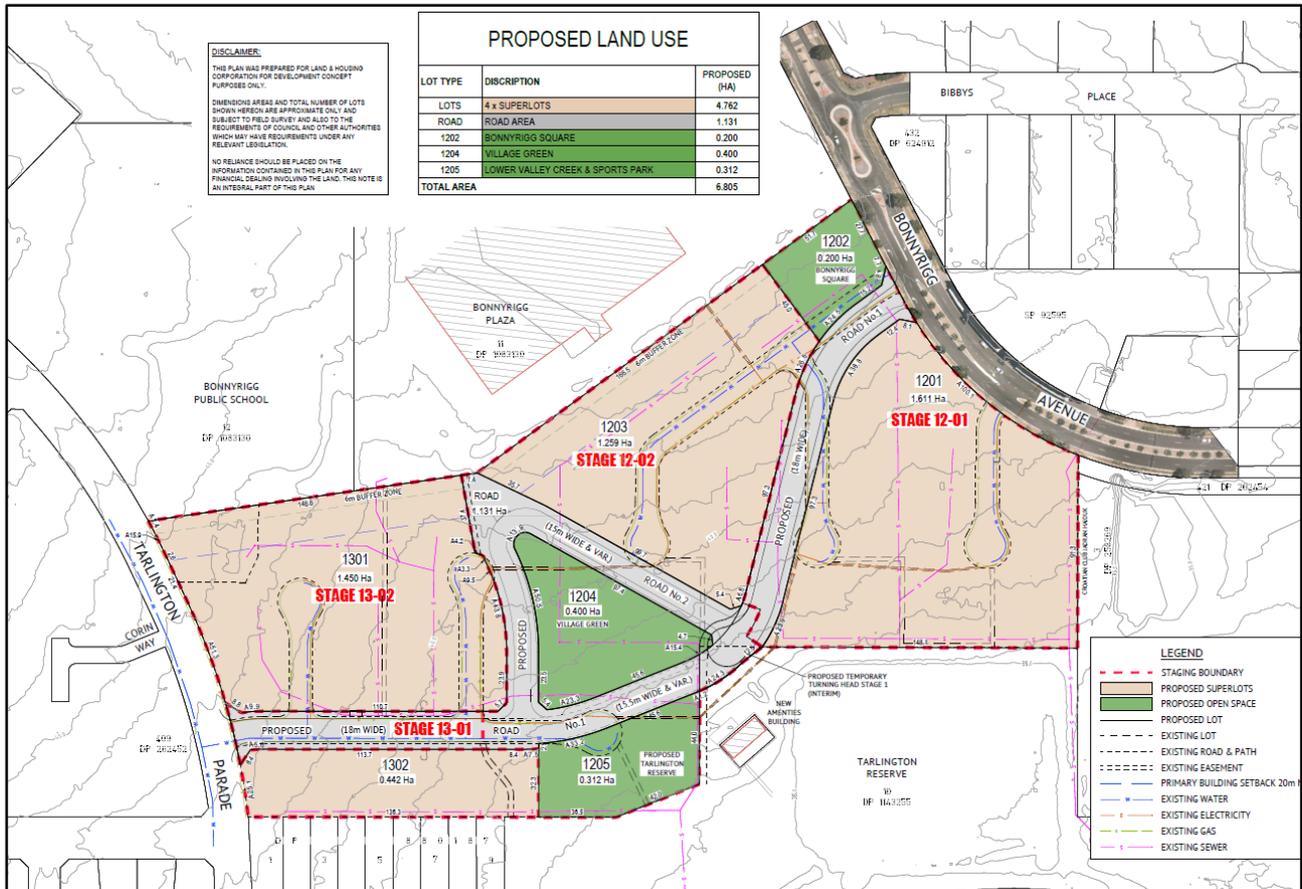


Figure 2 - Proposed Subdivision Plan - Job Code 320300\_01, Rev D, Date 27/10/2022

The development will involve bulk earthworks limited to the roadways and open space areas. No earthworks are proposed within the residential super lots; with the exception of minor battering along the boundaries of the super lots, where they interface with road/open space.

Tree removal is proposed that corresponds with the extent of the bulk earthworks. A total of 115 trees are to be removed across all stages of the development, to facilitate the construction of the roads and open space. All remaining trees on the site are to be retained and their removal considered as part of the future DAs for the residential super lots.

#### Stage 1 – See Figure 3

- Creation of one (1) residential super lot – Lot 1201 for future residential development (1.1611ha).
- Creation and embellishment of one (1) open space lot comprising Bonnyrigg Square, Lot 1202.

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- Creation of one (1) residue lot, Lot 1203, ready for Stage 2.
- Construction of part of proposed Road No. 1 including the intersection with Bonnyrigg Avenue to its termination at a temporary turning head; leading into the Stage 2 site.
- To provide pedestrian access from the site to the development on the north-eastern side of Bonnyrigg Avenue (and vice versa), works are proposed to the existing Bonnyrigg Avenue median. It is proposed to widen and extend the existing median to the south-east of the intersection of Road 1 with Bonnyrigg Avenue, to provide a 3-metre-wide gap in the median and new pram ramps for pedestrian access. It is also proposed to remove part of the south-eastern median at the intersection of Road 1 with Bonnyrigg Avenue while extending the northern median to account for the alignment of Road 1

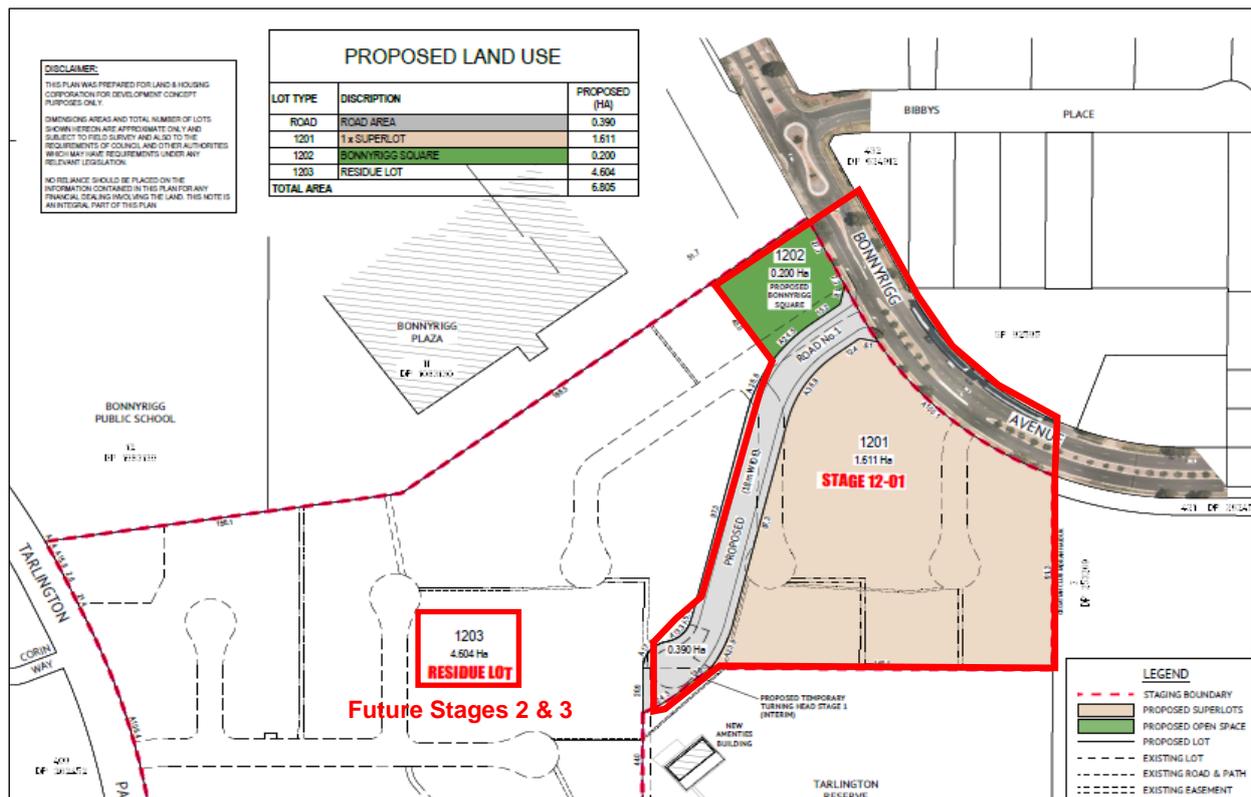


Figure 3 - Stage 1 Subdivision Plan

### Stage 2 – See Figure 4

- Creation of one (1) residential super lot – Lot 1203, for future residential development (1.259ha).
- Creation of one (1) open space lot – Lot 1205 to be dedicated to Council to be consolidated into the existing Tarlington Reserve to the north-east.
- Creation and embellishment of one (1) open space lot comprising the Village Green, Lot 1204.
- Creation of one (1) residue lot, Lot 1206, ready for Stage 3.
- Continued construction of part of proposed Road No. 1 to the Lot 1206 boundary,
- Construction of Road No. 2, around Village Green connecting to Road No. 1.

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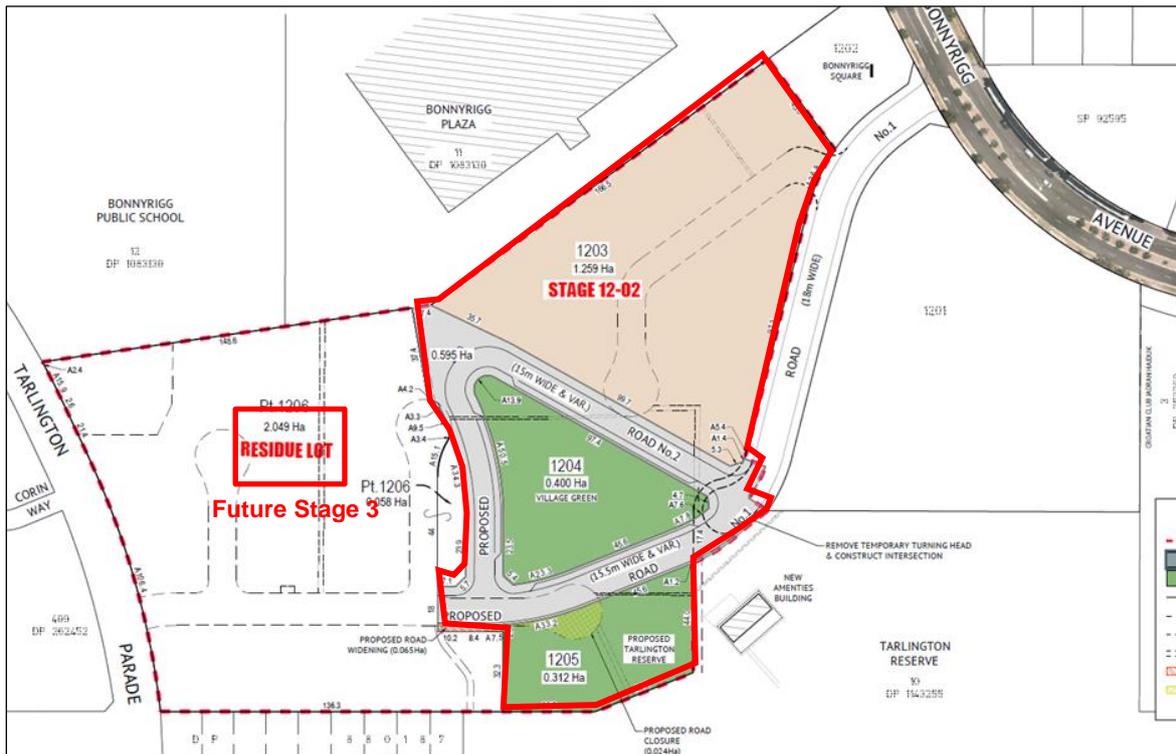


Figure 4 - Stage 2 Subdivision Plan

Stage 3 – See figure 5

- Creation of two (2) residential super wide lots – Lot 1312 & Lot 1302, for future residential development (1.450ha and 0.442ha).
- Continued construction of part of proposed Road No. 1 to an Tarlington Parade.



Figure 5 - Stage 3 Subdivision Plan

**3.2 Subdivision**

The proposed subdivision will create the following:

Lot No.		Lot Size (m <sup>2</sup> )
Lot 1201	Stage 1 Super Lot 1 – For High-Density Residential Development	16,110 m <sup>2</sup>
Lot 1202	Stage 1 Open Space Lot – Bonnyrigg Square	2,000 m <sup>2</sup>
Lot 1203	Stage 2 Super Lot 2 – For High-Density Residential Development	12,590 m <sup>2</sup>
Lot 1204	Stage 2 Open Space Lot – Village Green	4,000 m <sup>2</sup>
Lot 1205	Stage 2 Open Space Lot – Dedication to Tarlington Reserve	3,120 m <sup>2</sup>
Lot 1301	Stage 3 Super Lot 3 – For High-Density Residential Development	14,500 m <sup>2</sup>
Lot 1302	Stage 3 Super Lot 4 – For High-Density Residential Development	4,420 m <sup>2</sup>
New Road	Proposed Road No. 1 & No. 2	11,131 m <sup>2</sup>

**3.3 Landscaping & Tree Removal**

The development proposes the removal of 115 trees within the proposed open space lots and the proposed road (highlighted in RED in Figure 6) and proposes to retain all trees within the proposed super-lots.



Figure 6 - Staged Tree Removal Plan (Landscape Plan, Sheet No. 06-22.10)

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Over the three stages, the development proposes to plant 109 street trees along proposed Road No. 1, Road No. 2, and part of Bonnyrigg Avenue. Excluding the area of the super lots and the Council verge, 38% of area within the Public Domain and streetscape is covered by the overall canopy.



Figure 7 - Street Tree Master Plan (Landscape Plan, Sheet No. 06-22.20)

Stage 1 includes the development of 'Bonnyrigg Square' (See Figure 8); and Stage 2 includes the development of 'Village Green' (See Figure 9), as follows:

	Village Green	Bonnyrigg Square
<b>Total Area (m<sup>2</sup>)</b>	4880.8	2038.9
<b>Paved Area (m<sup>2</sup>)</b>	1182.38	828.8
<b>Turfed Area (m<sup>2</sup>)</b>	1626.0	579.4
<b>Soft Landscaping (m<sup>2</sup>)</b>	678.0	291.4
<b>New Trees</b>	101	42

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 such, the development involves substantial tree planting throughout the Open-space areas, and therefore satisfies this requirement.

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Figure 8 - Bonnyrigg Square (Landscaping Plan, Sheet No. 06.22-41)



Figure 9 - Village Green (Landscaping Plan, Sheet No. 06-22.31)

**4. HISTORY**

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<b>Date</b>	<b>Action</b>
18/11/2022	The Development Application was lodged.
05/12/2022	Internal Council Referrals sent out to Asset Management, Natural Resources, Planning, Public health & Environment, Strategic Planning, Traffic, Tree Management and Parks Place.
23/03/2023	An 'Additional Information Letter' was uploaded to the portal requesting outstanding items/issues to be addressed by the applicant.
27/03/2023	Panel Meeting with Sydney Western City Planning Panel
14/07/2023	Applicant submitted updated Plans to Council for Review, whilst there remained outstanding reports regarding biodiversity/tree matters
03/08/2023	Internal Council Referrals sent out to Asset Management, Natural Resources, Planning, Public health & Environment, Strategic Planning, Traffic, Tree Management and Parks Place.
08/12/2023	An 'Additional Information Letter' was uploaded to the portal requesting changes relating to non-compliances within the Landscaping Plan, additional information on Biodiversity, and additional information on the proposed share way designs.
02/02/2024	The Applicant submitted the Biodiversity Development Assessment Report to the Planning portal (Report prepared by Cumberland Ecology, Report No. 23123RP1, version 03, date 14 Feb 2024)
26/02/2024	Internal Referrals were completed, with further changes required in the Landscape Plans. Comments were prepared and sent to the Applicant.
15/03/2024	Updated Landscape Plans submitted to Council via the Planning Portal
25/06/2024	Draft conditions of Consent were agreed, except those discussed in this report.

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## **5. DEVELOPMENT HISTORY**

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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 51,702m<sup>2</sup> 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, 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.

### **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. 422.1/2017 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.
- On 23 February 2023, the Sydney Western City Planning Panel approved Development Application No. 234.1/2021 for Stages 8-11 of the Bonnyrigg Housing Estate, proposing a Torrens Title Subdivision into Two-Hundred and Twenty-Two (222) Residential Lots, Associated Drainage and Infrastructure Works and Creation and Embellishment of Open Space. No dwellings were proposed as part of the application. The development will be completed over two (2) Stages. Once the lots are created, then separate Development Applications or Complying Development Certificates can be issued for each individual lot.
- The current application presently before the Sydney Western City Planning Panel comprises the development of Stages 12 & 13 of the Bonnyrigg Housing Estate.

## **6. SYDNEY WESTERN CITY PLANNING PANEL BRIEFING NOTES**

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On 27 March 2023, a briefing occurred via teleconference between Sydney Western City Planning Panel, the Applicant and Fairfield City Council regarding the subject Development Application. The following provides a response to each of the key issues raised by the Panel during the briefing.

*When the super-lots are created, all necessary road and pedestrian infrastructure required for the overall development is either constructed, or that secure mechanisms are in place to ensure they are constructed when they are needed. The Applicant would need to satisfy the Panel as to why those works should not be completed before the subdivision is registered.*

The applicant provided further information regarding the timing of construction of the infrastructure. The future development of Lots 1201 and 1301 will be subject to separate Development Applications (DAs), and any assessment undertaken in accordance with the provisions of the Concept Approval. Given that the current DA is seeking consent for super lots only, the applicant has proposed the share ways to form part of the future DAs, at which point they will be incorporated into the detailed built form design. Given this, a condition has been recommended that the lot be restricted so that no occupation of any residential accommodation be allowed until such time as a 10m wide road is constructed and in operation. In regards to the delivery of the Town Centre Shareway, in accordance with the VPA, the share way is to be completed prior to the issue of an Occupation Certificate for the 440th Dwelling on the site. It is considered that this is an appropriate mechanism required in order to provide the necessary infrastructure.

All other roads and pedestrian infrastructure required for the development is proposed in the subject application and has been conditioned accordingly.

*The Panel made inquiries as to progress with the VPA which has been exhibited. From the documents available to the Panel on the Portal (which does not seem to include the conditions of the concept approval) condition A7(3) of the concept approval says the revised VPA for the whole estate must be exhibited and executed prior to the determination of the first residential DA for Stages 8-18 unless otherwise agreed with Fairfield City Council.*

Concept Approval MOD 5 incorporated several substantial changes to the Concept Approval. Condition A7 was imposed that required a new Voluntary Planning Agreement (VPA) to be publicly exhibited and executed prior to the determination of the application for Stages 12 & 13 or as otherwise agreed by Council.

The Updated VPA received endorsement from Fairfield City Council and was publicly exhibited on 15 March 2023. Council endorsed the VPA at its Ordinary meeting on 27<sup>th</sup> June 2023. The VPA is currently with NSW Homes for endorsement, however, this has not been finalised at the time of writing this report. Once this has been completed the VPA will come back to Fairfield City Council for execution once NSW Homes have signed the VPA. The Applicant has indicated that the VPA is agreed to, however, they are still awaiting the matter to be signed off by the appropriate delegated officer. Given this, it has been recommended that any approval of the subject application be done as a Deferred Commencement Condition, which requires the VPA to be executed until the Consent can become operative.

*The works will need to be consistent with the VPA.*

An assessment of the Application has concluded that the proposed development is consistent with the Updated VPA.

## **7. INTERNAL REFERRALS**

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### Asset Management

The development application was referred to Council's Asset Management Branch for review on three (3) occasions. Initial concern was raised regarding the services and details of the open space. Additional information was provided by the applicant to address these matters and it is considered that the development is satisfactory and can be supported subject to recommended conditions of consent.

### Public Health & Environmental Management

The development application was referred to Council's Public Health & Environment Branch for review on two (2) occasions. Initial concern was raised regarding the Contamination of the subject site. Additional information was provided by the applicant to address this matter and it is considered that the development is satisfactory and can be supported subject to recommended conditions of consent.

### Parks Place Manager

The development application was referred to Council's Parks Place Branch for review on one (1) occasion. 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 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. A condition which required a Construction Traffic Management Plan and Detailed Construction Plans is to be submitted and approved by Fairfield City Council.

### 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.

### Planning Branch

The development application was referred to Council's Development Planning Branch for review on three (3) occasions. Initial concern was raised regarding the removal of the share ways, roads, Pedestrian access to and from the Bonnyrigg Plaza / T-Way, concerns with the VPA and on-street parking. The Applicant submitted additional information throughout the assessment, with updated Civil Engineering and Landscaping Plans prepared by a suitably qualified professional. Following the submission of these reports, it is considered that the proposed development is satisfactory and 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. It has been advised that the development application is satisfactory and, therefore, can be supported.

### Tree Preservation Management

The development application was referred to Council's Tree Preservation 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**

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The Application was not required to be referred to any external agency.

## **9. STATUTORY REQUIREMENTS**

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### **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 m<sup>2</sup> of non-residential floor space (up to 3,000m<sup>2</sup> site-wide)
  - amend maximum building heights
  - reconfigure, relocate and increase the amount of public open space by 910m<sup>2</sup> (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.

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

**A4 Development in Accordance with Plans and Documentation (Stages 8-18)**

Concept approval is granted only to the following development in Stages 8 to 18 as follows:

(1) The development shall be carried out generally in accordance with the:

- a. Section 75W modification application MP 06\_0046 MOD5 and attachments prepared by FPD Pty Ltd and dated May 2019.
- b. Statement of Commitments titled 'Revised Statement of Commitments Bonnyrigg Communities Plus Project Concept Plan (MP06\_0046)' prepared by FPD and dated 15 May 2019 (Appendix C of MP06\_0046 MOD 5 Environmental Assessment).
- c. Concept Plan development controls contained within the document titled 'Modified Concept Plan 2019 Bonnyrigg Communities Plus Project' prepared by Architectus / AJC and dated 10 May 2019 (Appendix N of MOD 5, Response to Submissions).

(2) Stages 8 to 18 of the development shall be carried out generally in accordance with the approved plans in the table below (as may be amended by conditions in Schedule 2).

(3) The development controls within the Bonnyrigg Master Plan (updated December 2011), which was approved as part of MP06\_0045 MOD 4, will apply to attached, semi-detached and detached dwellings unless they are assessed as complying development where the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 applies.

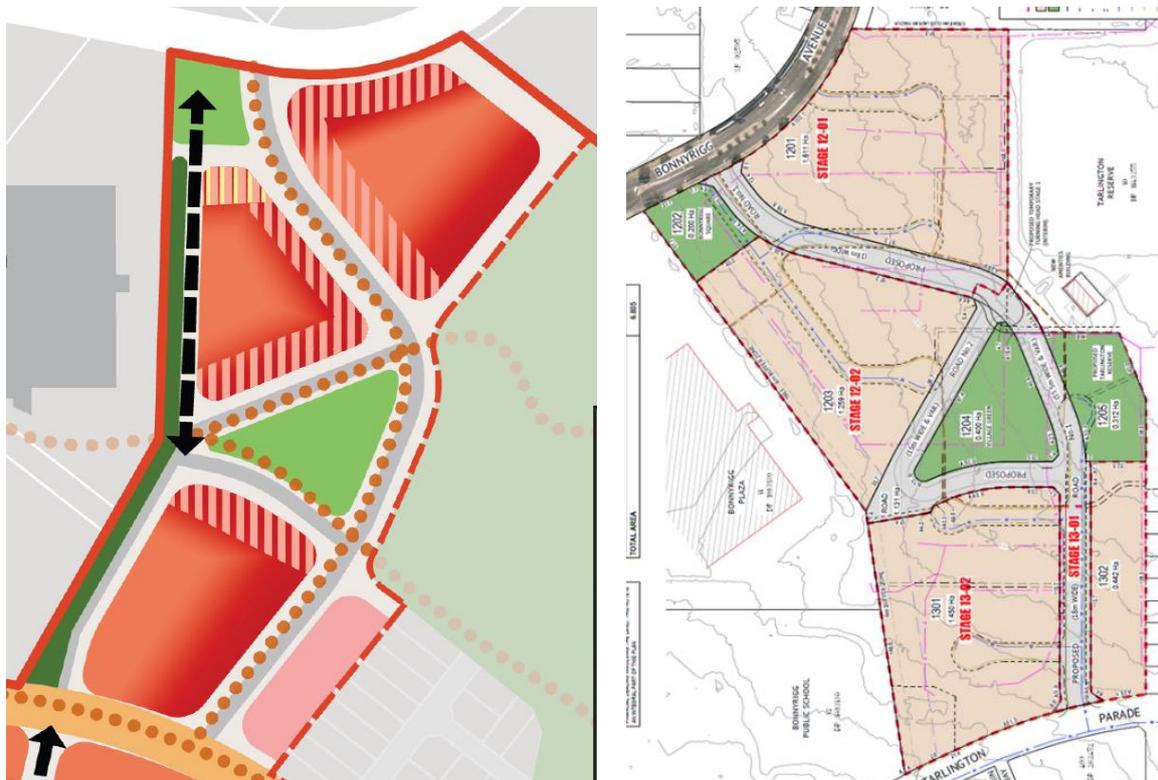


Figure 11 – Comparison of Approved Concept Plan (Left; Dwg No. MOD0002) & Proposed Subdivision Plan (Right).

A visual comparison of the concept plans and the proposed subdivision plans indicates that the overall shape, size and locations of the future super lots, the open spaces and road network is generally consistent with Concept Approval MP 06\_0046 MOD 5 (See figure 11).

Open Space

In Figures 12 & 13, the Concept Plan and proposed landscape plans for both Bonnyrigg Square and Village Green are considered to be consistent. It is noted that Drawing No. MOD0011 of the Concept Plans determines the minimum areas that both Bonnyrigg Square and Village Green must be designed to be compliant. The following table confirms the proposed developments consistency with the Concept Approval:

	<b>Concept Approval (MOD0011)</b>	<b>Proposed in this DA</b>
<b>Bonnyrigg Square</b>	0.4 ha	0.488 ha
<b>Village Green</b>	0.2 ha	0.203 ha



Figure 12: Concept Plan (Pictured on Left) and Proposed Landscape Plan (Pictured on Right) – Bonnyrigg Square



Figure 13: Concept Plan (Pictured on Left) and Proposed Landscape Plan (Pictured on Right) – Village Green

Share Ways

It is noted that the share ways within the super lots have not been proposed, as detailed within Figure 14 below.



Figure 14 - Location of Share Ways (MOD0012)

The Applicant has sought to provide the detail and design of these shareways/road once the individual Development Applications are lodged for each respective stage. Given this a condition has been imposed on Stage 1 that a restriction on the Title be imposed that the shareway is to be provided prior to any occupation of the site. Furthermore, the shareways in Stages 2 and 3 are required to be provided within the VPA. It is considered that these mechanisms are appropriate to ensure that the proposed development is consistent with the Concept Approval.

**A7 Voluntary Planning Agreements**

- (1) *The proponent must comply with the 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*

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.

The Updated VPA received endorsement from Fairfield City Council and was publicly exhibited on 15 March 2023. Council endorsed the VPA at its Ordinary meeting on 27<sup>th</sup> June 2023. The VPA is currently with NSW Homes for endorsement, however, this has not been finalised at the time of writing this report. Once this has been completed the VPA will come back to Fairfield City Council for execution. The Applicant has indicated that the VPA is agreed to, however, they are still awaiting the matter to be signed off by the appropriate delegated officer. Given this, it has been recommended that any approval of the subject application be done as a Deferred Commencement, which requires the VPA to be executed prior to the Consent becoming operative.

**B3 Tree Canopy Coverage**

*Future stages of the development shall demonstrate that the proposal would achieve tree canopy coverage of 25% in accordance with the target set by MP06\_0046 MOD 5*

The Applicant has submitted the landscape plan that provides detail on types and quantities of vegetation being retained, vegetation to be planted, and the total canopy coverage. Landscape Plan, sheet No. 06-22.20 provides the following information:

Canopy Coverage:

Total Area = 17,449.7 m<sup>2</sup> (Excluding super lots & council verge external to subject site).

Approximate Overall Canopy Cover:

Public Domain:	13.3%
Streetscape:	25.7%
<b>Total:</b>	<b>38%</b>

The Landscape Plan proposes a design and new trees to be planted that will provide canopy coverage to 38% of open space and streetscape, complying with the minimum requirement of 25%.

**Biodiversity Conservation Act 2016**

The proposed development involves the removal of 115 trees from the development area, with a portion of the trees located within the areas of significance identified in the Council’s Conservation Significance Assessment (CSA) Mapping (See Figure 15).

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.



## State Environmental Planning Policy (Biodiversity and Conservation) 2021

The subject development is consistent with the objectives and the requirements:

### Clause 2.3 – Land to which Chapter applies

This Chapter applies to land in local government areas, including City of Fairfield and land within the Georges River Catchment.

#### a. Chapter 2 Vegetation in Non-Rural Areas

The proposal does not conflict with the provisions of Chapter 2 of the SEPP and is considered acceptable. As discussed above, the site is mapped as containing biodiversity values and the existing vegetation within the site will be impacted.

In order to address this Chapter a BDAR Report, prepared by Cumberland Ecology was submitted for consideration. The report concludes the project includes the removal of an area of native vegetation, and therefore offsets are required in the form of ecosystem credits.

Council's Natural Resource Officer has reviewed the documentation and raises no further concerns with the application subject to conditions of consent. The report has satisfactorily calculated the biodiversity offset requirements for the development to achieve the established 'no net loss standard'.

Given this, it is considered that the proposal is consistent with Chapter 2 of the SEPP.

#### b. Chapter 6 Water Catchments

### Clause 6.6 – Water Quality and Quantity

In deciding whether to grant development consent to development on land in a regulated catchment, the consent authority must consider:

- a) Whether the development will have a neutral or beneficial effect on the quality of water entering a waterway,
- b) Whether the development will have an adverse impact on water flow in a natural waterbody,
- c) Whether the development will increase the amount of stormwater run-off from a site,
- d) Whether the development will incorporate on-site stormwater retention, infiltration, or reuse,
- e) The impact of the development on the level and quality of the water table,
- f) The cumulative environmental impact of the development on the regulated catchment,
- g) Whether the development makes adequate provision to protect the quality and quantity of ground water.

**Compliant** – The subject development may decrease the amount of impervious area and stormwater run-off to natural waterways within the Georges River Catchment as it will be creating 4 super lots, and 3 open space areas where both will be turfed and vegetated, which will naturally reduce stormwater run-off and maintain water quality.

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The proposed public roads will generate stormwater run-off and will be directed to the existing stormwater system. The Applicant has submitted Engineering Plans (Attachment G), prepared by J. Wyndham Prince which identify the stormwater arrangements for the proposed subdivision development. To compensate for the new public roads and future residential developments on each super lot, two gross pollutant traps are proposed to be installed at the downstream sections of the stormwater design, before it enters the natural waterways.

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 considered to be satisfactory.

### **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 (Resilience and Hazards)**

SEPP (Resilience and Hazards) requires the consent authority 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 and submitted by JBS&G dated 25 March 2022 Ref: 62436-143977 (Rev A). 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 Public Health and Environment Branch have reviewed the submitted documentation and raise no further concerns, subject to conditions of consent.

### **State Environmental Planning Policy (Transport and Infrastructure) 2021**

The provisions of SEPP (Transport and Infrastructure) 2021 have been considered in the assessment of the development application:

Clause 2.120 – Impact of road noise or vibration on non-road development:

This section applies to any ‘Residential Accommodation’ that is on land in or adjacent to the road corridor for a freeway, a tollway or a transitway or any other road with an annual average daily traffic volume of more than 20,000 vehicles (based on the traffic volume data published

on the website of TfNSW) and that the consent authority considers is likely to be adversely affected by road noise or vibration – **Not Applicable**; the subject development seeks to create 4 super lots and a new public road and Bonnyrigg Avenue does not have a daily traffic volume of more than 20,000 vehicles.

Clause 2.122 – Traffic Generating Development:

This section applies to development specified in Column 1 of the Table to Schedule 3 that involves new premises of the relevant size or capacity, or an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.

Schedule 3 Traffic-Generating Development to be referred to TfNSW

Subdivision of Land that seeks to create 200 or more allotments where the subdivision includes the opening of a new public road – **Not Applicable**; the subject development seeks to create 4 super lots and a new public road.

**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) as

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		the proposal provides for a new drainage system 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	N/A	The development area is not a flood affected 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 December 2011) 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. There have been modifications to the Masterplan and the later Stages of Newleaf from Stages 8-18. The Master Plan 2011 has been overridden by MP06\_0046 MOD 5 as referred to in the approval instrument, specifically Section A3 4(c):

- (4) *In the event of any inconsistencies,*  
 (a) *the preferred project report and revised Statement of Commitment in (2) prevails to the extent of any inconsistency in the plans and documentation identified in (1), and*  
 (b) *the modifications of the Concept Plan approval identified in Schedule 2 prevail over the documentation listed in (1) and (2) above.*  
**(c) the modifications of Stages 8 to 18 the Concept Plan approval under MP06\_0046 MOD 5 (identified in ToA A4) prevail over the documentation listed in ToA A3(1), (2) and (3).**

Notwithstanding, consideration has been given to compliance with the objectives and controls of the Masterplan. The below table provides an assessment of the relevant controls in the Masterplan.

	<b>Masterplan</b>	<b>Guidelines</b>	<b>Comment</b>
<b>Street Hierarchy</b>	The Bonnyrigg Masterplan dated December 2011 has been modified and approved to MP06_0046 MOD 5	The proposed works are illustrated in the <i>MP06_0046 MOD 5 plans</i> .	The proposed street access from Bonnyrigg Avenue to Tarlington Parade and the internal roads are all consistent with the approved MP06_0046 MOD 5 plans being proposed.
<b>Trees</b>	Trees are an important structural element in the landscape of Bonnyrigg. Trees provide	<ul style="list-style-type: none"> <li>Street trees must be planted on both sides of all streets except access streets with parks and minor roads;</li> <li>Locate 'cultural plantings' in formal</li> </ul>	Landscape Plan has been submitted and are considered appropriate and supported.

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	<p>both aesthetic and practical amenity, including important ecological and micro-climate functions.</p>	<p>groupings or strategic locations as feature trees to provide cultural interest and a sense of place. Cultural plantings are species which relate to community heritage and which can be grown at Bonnyrigg;</p> <ul style="list-style-type: none"> <li>• Adopt a copping approach to street tree planting except at entries. Copping of trees shall be no closer than 1m apart and no further than 15m apart. Group in ones, twos and threes only;</li> <li>• Only use formally spaced alley planting to designated entry points to Bonnyrigg, and along park edges as indicated;</li> <li>• Use nominated species as shown in species list and to areas located in the street tree masterplan; and Street trees are to be located in raingardens to obtain passive irrigation from stormwater runoff. One tree per ten 90-degree car spaces and one tree per three parallel car spaces; and</li> <li>• A tree canopy coverage of 30% of the total site area is to be achieved.</li> </ul>	
<p><b>Pedestrian and Bicycle Connections</b></p>	<p>The masterplan will facilitate the increased use of the existing and proposed walking and cycling networks</p>	<ul style="list-style-type: none"> <li>• Shareways to be 2.4m wide brushed concrete; and</li> <li>• Standard path to be 1.2m wide brushed concrete.</li> </ul>	<p>The proposed standard path for foot pedestrians is achieved with the proposed width being 1.2m or greater. This can be seen in the details and sections in the concept plan</p>
<p><b>WSUD and Water Management</b></p>	<p>WSUD techniques incorporated into the Masterplan will ensure that the new</p>	<ul style="list-style-type: none"> <li>• Establish roadside tree bays to form raingardens to collect road runoff prior to discharge to a piped system;</li> </ul>	<p>Two proposed GPTs are incorporated in the design along the eastern portion of Tarlington Reserve. This is generally consistent with the Masterplan.</p>

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	<p>Bonnyrigg will make better use of vital resources.</p>	<ul style="list-style-type: none"> <li>• Piped systems must drain through a gross pollutant trap (GPT) prior to discharge to secondary treatment facilities;</li> <li>• Piped outlets to Tarlington Reserve must discharge above ground to raingardens or linear creek line;</li> <li>• Reduce potable water demand via reticulated recycled water supply;</li> <li>• Detain stormwater on-site to limit stormwater discharge to pre-development levels;</li> <li>• All street kerblines on parks must be broken to allow infiltration into turfed buffer zones; and</li> <li>• Establish raingardens along the creekline to encourage bio-retention.</li> </ul>	
<p><b>Parks</b></p>	<p>Parks and open space are part of the formative elements of community building. They form major destinations and links to the walking and cycling network.</p>	<p>Bonnyrigg Square and Village Green are conceptually approved from the Concept Plan.</p>	<p>Concept Plan has been submitted and has been approved by Council's Open Space Branch.</p>

**Planning Assessment**

Tree Removal and Tree Canopy Coverage

The development proposes the removal of 115 trees and the retention of a portion of 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 a minimum of 25% canopy coverage within public and private domains. The Applicant has submitted a landscape plan that provides detail on types and quantities of vegetation being retained, vegetation to be planted, that will provide canopy coverage to 38% of open space and streetscape, therefore complying with the minimum requirement of 25%.

New Public Roads

The development includes the demolition of existing roads as well as the construction of new Public Roads. The Modified Concept Plan identifies the type of each new road, the dimensions and design controls. The Applicant has submitted Engineering Plans (Attachment G), proposing a road network that is consistent with the Concept Plan controls.

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. The proposed roads satisfy the width requirements according to Modified Concept Plan 2019 (MOD 5), with the following:

- Road type 1A being 18m (Concept Plan) with 11m pavement from gutter to gutter (Cross-section), while the Civil plan shows an 11m pavement.
- Road type 6A being 14m (Concept Plan) with 8m of pavement from gutter to gutter (Cross-section), whilst the Civil plan shows 10.5m. This will allow more on-street parking.
- Road type 6B being 15m (Concept Plan) with 8m of pavement from gutter to gutter (Cross-section), whilst the Civil plan shows 10.5m. This will allow more on-street parking.

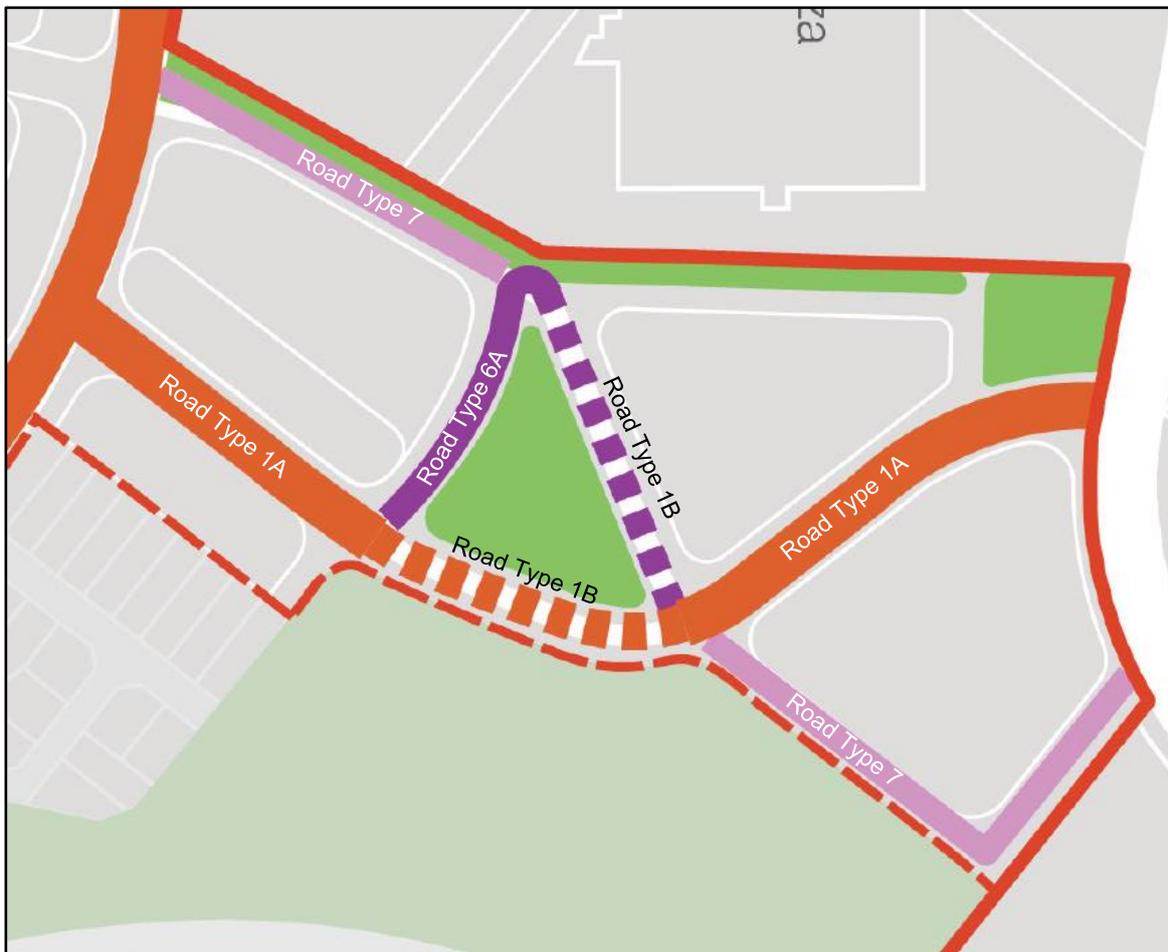


Figure 16 - Proposed Street Network (A.15 of Modified Concept Plan 2019)

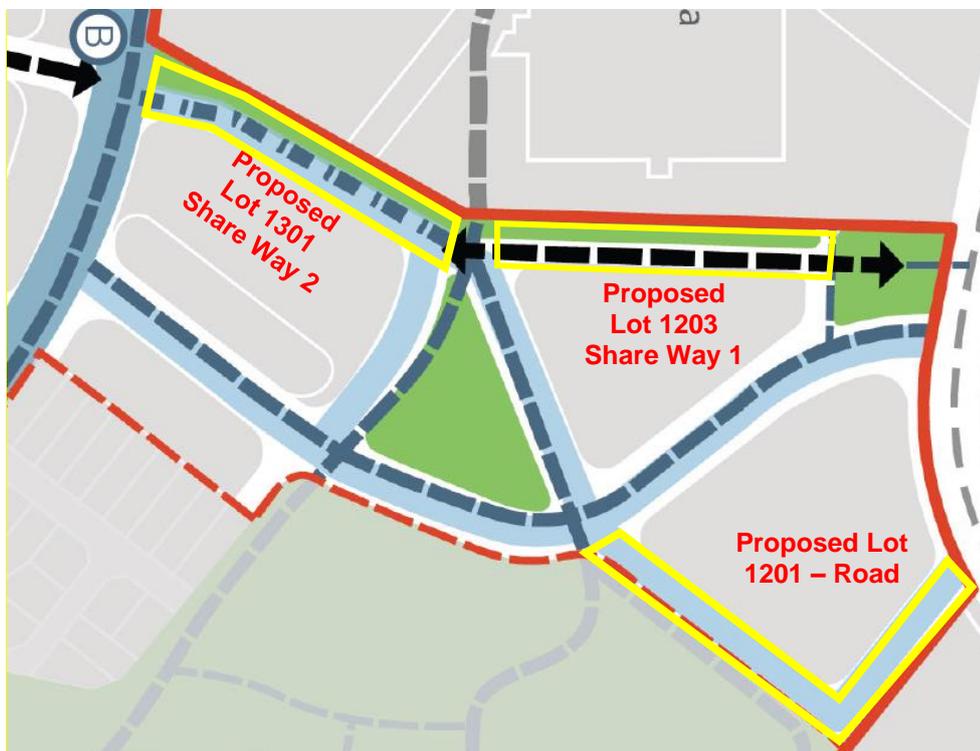
On-street Parking

The Concept Plan provides controls that on-street car parking must be designed to ensure that cars are not parked across pedestrian, or cycle paths located in the street verge. For non-residential uses the car parking rates in the Fairfield City- Wide Development Control Plan 2013 apply.

The proposal indicates that the Civil Plans prepared by J.Wyndam Prince, Issue D has adequate on-street parking spaces as the width of the roads matches or is greater than the concept plan. The concept plan shows multiple areas where car parking spaces can be designated. This ratio is consistent with the previously approved stages and provides sufficient on street parking for residents and/or visitors. A condition of consent has been imposed requiring the number of parking spaces indicated on the approved Parking Diagrams to be provided and confirm the number of on-street parking spaces is consistent with the Parking Diagrams.

Provision of Shareways/Road

The Concept Approval requires shareways/roads within three (3) of the super lots as shown on Figure 17 below.



*Figure 17 - Proposed Locations of Shar Ways / Road*

These shareways provide access for pedestrians, cyclists and vehicles in certain circumstances. It is noted that under the current Application Shareway 2 within Proposed Lot 1301 and the Road within Lot 1201 is not included in the subject application.

Council initially raised concerns regarding the provision of the shareway/roads. The Applicant provided additional information identifying that these shareway/road would be provided at a later date and would be subject to a separate Development Application for residential accommodation at which point they will be incorporated into the detailed built form design. During the Preliminary

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Briefing, the Panel advised that a suitable mechanism needs to be provided in order to ensure that all necessary infrastructure is provided.

It is noted that the shareway within Proposed Lot 1301, is subject to the VPA. The VPA requires that the shareway be completed prior to the issue of an Occupation Certificate for the 440<sup>th</sup> Dwelling within the precinct. Based on the Concept Approval it is envisaged that the 440<sup>th</sup> dwelling would be completed by the time lot 1301 is likely to be developed. Given this it is considered that there is an appropriate mechanism to ensure the delivery of shareway 2 within Lot 1301.

Furthermore, in regards to the 10m wide road within Proposed Lot 1201, this has not been proposed and is not included within the VPA. Given this, to ensure that the future development includes the road in accordance with the Modified Concept Plan 2018 MOD 05, it is recommended that a condition be imposed that requires a restriction be imposed on the new lot as follows:

*“There shall be no occupation of the burdened lot for any residential accommodation or otherwise until such time that a 10m wide road reserve has been constructed and is in operation in accordance with the Bonnyrigg Community Plus Concept Approval dated 2019. The location and width of the road shall be as shown on Bonnyrigg Community Plus Project Architectus Sydney & AJ+C, Drawing sheet ‘Street Hierarchy’, Sheet Drawing MOD0013, Issue B, Dated 18th December 2019”.*

This mechanism will bind the future owner to ensure that the 10m wide is provided at an appropriate timeframe. All other infrastructure not provided within the VPA is included in the subject application and has been conditioned accordingly. Given this, it is considered that sufficient mechanisms are in place that ensures that all necessary infrastructure for the proposed lots is provided at the appropriate time.

### **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:

- Biodiversity Conservation Act 2016
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- 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.

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### 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 subject to conditions to 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.*

Council has endorsed the VPA and at the time of writing this report, the VPA is with the applicant to be endorsed.

Accordingly, it is recommended that any approval be a Deferred Commencement requiring that the VPA be executed prior to the Consent becoming Operative.

### 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, 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. One (1) submission was received during the notification period.

Concerns raised related to the start date of the project and how tall the buildings would be. The concern regarding start date and the height of the future buildings would be addressed through subsequent Development Applications.

The issues raised have been taken into consideration throughout the assessment and it is considered that the concerns do not warrant refusal of the application.

### 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.

## CONCLUSION

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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 (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021 and Bonnyrigg Masterplan. It is considered that the proposed development is satisfactory and therefore recommended 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.

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.

## **RECOMMENDATION**

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That Development Application No. 351.1/2022 for Newleaf Bonnyrigg Renewal Project – Stages 12 & 13 comprising Staged Torrens Title Subdivision into 4 vacant super-lots subdivision, 3 open-space lots, associated landscaping, public domain works, earthworks, and roadworks be approved subject to the conditions set out at Attachment M.

## **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 (Resilience and Hazards) 2021, State Environmental Planning Policy (Transport and Infrastructure) 2021, State Environmental Planning Policy (Biodiversity and Conservation) 2021 and Bonnyrigg Masterplan and is considered to be satisfactory.
4. Comments were sought from Council's Asset Management, Natural Resource, Planning, Public Health & Environment, Strategic Planning, Traffic, Tree Management and Parks Place branches for assessment. No concerns were raised to the proposal subject to conditions of consent.
5. 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. One (1) submission was received during the notification period. It is considered that the issues raised would not warrant refusal of the application.
6. Approval of the application is considered to be in the public interest.