

SYDNEY WESTERN CITY PLANNING PANEL

TO: Sydney Western City Planning Panel

REPORT: SWCPP Report

FILE No: DA No. 279.1/2023
PAN-362096
PPSSWC-373

SUBJECT:

Property:	Lot 4099, DP 1182418 No. 123 Newleaf Parade, Bonnyrigg Nos. 1 – 19 Kennedy Way, Bonnyrigg
Application lodged	14 September 2023
Applicant	New South Wales Land and Housing Corporation
Owner	New South Wales Land and Housing Corporation
Application No.	DA 279.1/2023
NSW Planning Portal Application No.	PAN-362096
Planning Panel Reference No.	PPSSWC-373
Proposed Development	Construction of a part three (3) and part four (4) storey residential flat building, comprising twenty-five (25) social housing units, over basement carparking comprising of twenty-seven (27) car parking spaces, associated landscaping and site works on an approved lot within Bonnyrigg Newleaf Stages 8 to 11.
Cost of Works	\$8,830,000.00
Zoning	Part R1 – General Residential and Part RE1 – Public Recreation
Primary Planning Issues	<ul style="list-style-type: none"> • Compliance with Bonnyrigg Masterplan. • Provision of deep soil zone, landscaping and communal open space. • Waste Management.

Assessing Officer: Matthew Korzy – Senior Development Planner

Date of Report: 8th October 2024

ATTACHMENTS

ATTACHMENT A – Architectural Plans

ATTACHMENT B – Landscape Plans

ATTACHMENT C – Civil Engineering Plans

ATTACHMENT D – Statement of Environmental Effects

ATTACHMENT E – Apartment Design Guide (ADG) Assessment

ATTACHMENT F – DA Acoustic Assessment

ATTACHMENT G – Construction and Demolition Waste Management Plan

ATTACHMENT H – Operational Waste Management Plan

ATTACHMENT I – SEPP 65 Design Report

ATTACHMENT J – Transport Impact Assessment

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ATTACHMENT K – Urban Design Report

ATTACHMENT L – Draft Conditions of Consent

SUMMARY

1. *Development Application No. 279.1/2023 (PAN-362096) was lodged on the 14th September 2023 for the construction of a part three (3) and part four (4) storey residential flat building, comprising twenty-five (25) social housing units, over basement carparking comprising of twenty-seven (27) car parking spaces, associated landscaping and site works on an approved lot within Bonnyrigg Newleaf Stages 8 to 11.*
2. *The application is referred to the Panel for determination as the development has a capital investment value of over \$5 million and has been lodged by the Crown, being NSW Land and Housing.*
3. *The subject site is zoned R1 – General Residential, pursuant to the Fairfield Local Environmental Plan (FLEP 2013). The proposal is permitted with consent and is considered to have regard to the objectives of the zone.*
4. *The application was assessed against the applicable controls within the Bonnyrigg Masterplan, State Environmental Planning Policy (Housing) 2021 and Apartment Design Guide. The application was found to be satisfactory against the applicable legislation.*
5. *The application was publicly notified in writing to occupants and owners of the adjoining properties, and was publicly notified on Council's website for a period of fourteen (14) days. One (1) submission was received.*
6. *The application was referred to Council's Building Control Branch, Engineering Assessment Branch, Public Health and Environment Branch, Traffic Branch and Waste Branch. No concerns were raised, subject to conditions of consent. The application was referred to Council's Independent Urban Design Expert who supported the proposal, subject to conditions of consent. The application was externally referred to the Endeavour Energy. no concerns were raised, subject to conditions of consent.*
7. *The subject Development Application is considered to meet the provisions of Section 4.15 of the Environmental Planning and Assessment Act 1979 (EP&A Act 1979). Based on the assessment of the application, it is recommended that the application be approved, in accordance with **Attachment L** of this report.*

EXECUTIVE SUMMARY

Council is in receipt of Development Application No. 279.1/2023, proposing the construction of a part three (3) and part four (4) storey residential flat building, comprising twenty-five (25) social housing units over basement carparking comprising of twenty-seven (27) car parking spaces, associated landscaping and site works on an approved lot within Bonnyrigg Newleaf stages 8 to 11, located at No. 123 Newleaf Parade and Nos. 1 – 19 Kennedy Way, Bonnyrigg.

The Development Application is referred to the Sydney Western City Planning Panel pursuant to State Environmental Planning Policy (Planning Systems) 2021 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 Sydney Western City Planning Panel.

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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 of Two-Hundred and Twenty-Two (222) residential lots, associated drainage and infrastructure works and creation and embellishment of open space. This formed part of the Bonnyrigg Living Communities Project, which will redevelop the Bonnyrigg public housing estate. No dwellings were proposed as part of that Development Application and accordingly, would be subject to separate Development Applications or Complying Development Certificates. The works approved under Stages 8 – 11 are currently under construction and the subject application seeks to develop one (1) of the approved lots for the purpose of a residential flat building.

The subject site is zoned R1 – General Residential and RE1 – Public Recreation under Fairfield Local Environmental Plan 2013. The proposal is located within the R1 – General Residential Zone. The proposal is permissible within the zone, subject to consent.

During the assessment of the Development Application, Council raised a number of concerns in relation to the proposed built form and design, insufficient communal open space, deep soil zone and landscaping proposed, a number of internal unit layouts, stormwater management, insufficient car parking and waste management. Particular concern was raised regarding the proposed location of the driveway, being outside the building envelope, which limited the amount of appropriate deep soil zone, landscaping and communal open space as required under the Apartment Design Guide, along with the required through-site-link envisaged under the Bonnyrigg Masterplan.

In response, the Applicant amended the design of the proposed residential flat building to address the concerns raised by Council. This included relocating the driveway within the building envelope, which increase the amount of deep soil zone, landscaping and communal open space, and also allowed a through-site-link.

An assessment of the amended proposed development against the provisions of the Bonnyrigg Masterplan has determined that the development is generally consistent with the envisaged built form outcomes. However, it is noted that some variations to the controls are proposed, including the height of buildings and car parking.

With reference to Building Height, in accordance with the Bonnyrigg Masterplan it is envisaged that the subject site would have a three (3) storey garden apartment building, however, the proposed development seeks a part-three (3) and part-four (4) residential flat building. The proposal for a fourth storey is to ensure the viability for a lift for the residential flat building. The partial fourth storey is orientated to the corner of the lot and is considered to satisfactorily address the street frontages and reinforce the corner position of the allotment. The proposed fourth storey element does not extend the entirety of the building and is of a smaller scale compared with the floors below. The proposed fourth storey element does not contribute to any adverse overshadowing of any adjacent proposed or existing residences, and the fourth storey is compliant with the Apartment Design Guide's requirements on building separation and overlooking. Furthermore, the fourth floor element does not detrimentally impact the amenity of any surrounding residents and does not compromise the amenity of future residents of the development.

It is noted that the Sydney Western City Planning Panel had previously approved a similar increase in height for a 4 storey social housing development located within the Bonnyrigg Newleaf Estate under Development Consent No. 422.1/2017. The circumstances of that case are similar to this case given that both sites are located on a corner and adjacent to a park. In this regard, the proposed fourth storey element is considered acceptable in this circumstance.

With reference to car parking, in accordance with the Bonnyrigg Masterplan, 'garden apartments' and 'lifted apartments' have differing car parking generation rates. Given the circumstances of this

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application it is considered appropriate that the parking rate for a 'Lifted Apartment' be applied. In this regard, the proposed development, consisting of one (1) one (1) bedroom unit and twenty-four (24) two (2) bedroom units, would generate a car parking demand of twenty-seven (27) car parking spaces. Twenty-seven (27) car parking spaces are proposed within a basement under the development. This car parking rate was also considered appropriate for a 4 storey social housing development located within the Bonnyrigg Newleaf Estate under Development Consent No. 422.1/2017.

The proposed variations to the Bonnyrigg Masterplan are considered acceptable in this circumstance, given the proposed development retains a higher density of residential accommodation at the subject site and provides a high level of amenity for residents within the proposed development and surrounding future development. The proposed development is considered to demonstrate regard to the aims and objectives of the Bonnyrigg Masterplan and is considered acceptable.

The proposed development has been considered against the State Environmental Planning Policy (Housing) 2021 and Apartment Design Guide and found to be acceptable.

The subject Development Application was notified on two (2) occasions for a period of fourteen (14) days. No submissions were received during the first notification period, whereas one (1) submission was received during the second notification period. The issues raised in the submission included increase in traffic congestion in the area, increased risk to the safety of children, increase in noise and pollution as a result of the construction of the development, loss of privacy of adjacent residents, inconsistency with the surrounding built form and impact on flora and fauna. The issues raised have been taken into consideration in the assessment of the application, and where required, conditions have been imposed in order to address these concerns.

The application was externally referred to Endeavour Energy. No concerns were raised, subject to conditions of consent.

Based on an assessment of the application, the proposed development is considered to be suitable for the subject site. The objector's concerns are acknowledged however, it is considered that there are no issues that would warrant refusal of the application. Where appropriate, the objector's concerns can be addressed through conditions of consent. As such, it is recommended that the application be approved, subject to conditions as outlined in **Attachment L** of this report.

2. SUBJECT SITE AND SURROUNDING AREA

The subject Development Application is proposed at Lot 4099, DP 1182418, also known as No. 123 Newleaf Parade and Nos. 1 – 19 Kennedy Way, Bonnyrigg. The subject site has an overall area of 13192.3m² and is considered to be an irregular shape. The subject site has a primary frontage to the south to Newleaf Parade, of approximately 165m, a secondary frontages to Rosella Street to the north and Bishop Crescent Sandilands Road to the east. The subject proposal is located within the western portion of the subject site, facing Newleaf Parade.

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Figure 1: Site Aerial View.

The subject site was formerly occupied by open space, medium-density residential dwellings and a road, however the subject site is currently under redevelopment for the Subdivision Works approved under Development Consent No. 234.1/2021. The approved lot where the proposed development will be located is identified below.



Figure 2: Approved lot with Stages 8 to 11.

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The subject site is adjacent Bunker Park to the west and residential dwellings to the north, east and south. The subject site is approximately 140m northwest of Humphries Road, 250m north of Cabramatta Road West and 670m from Bonnyrigg Plaza Shopping Centre.

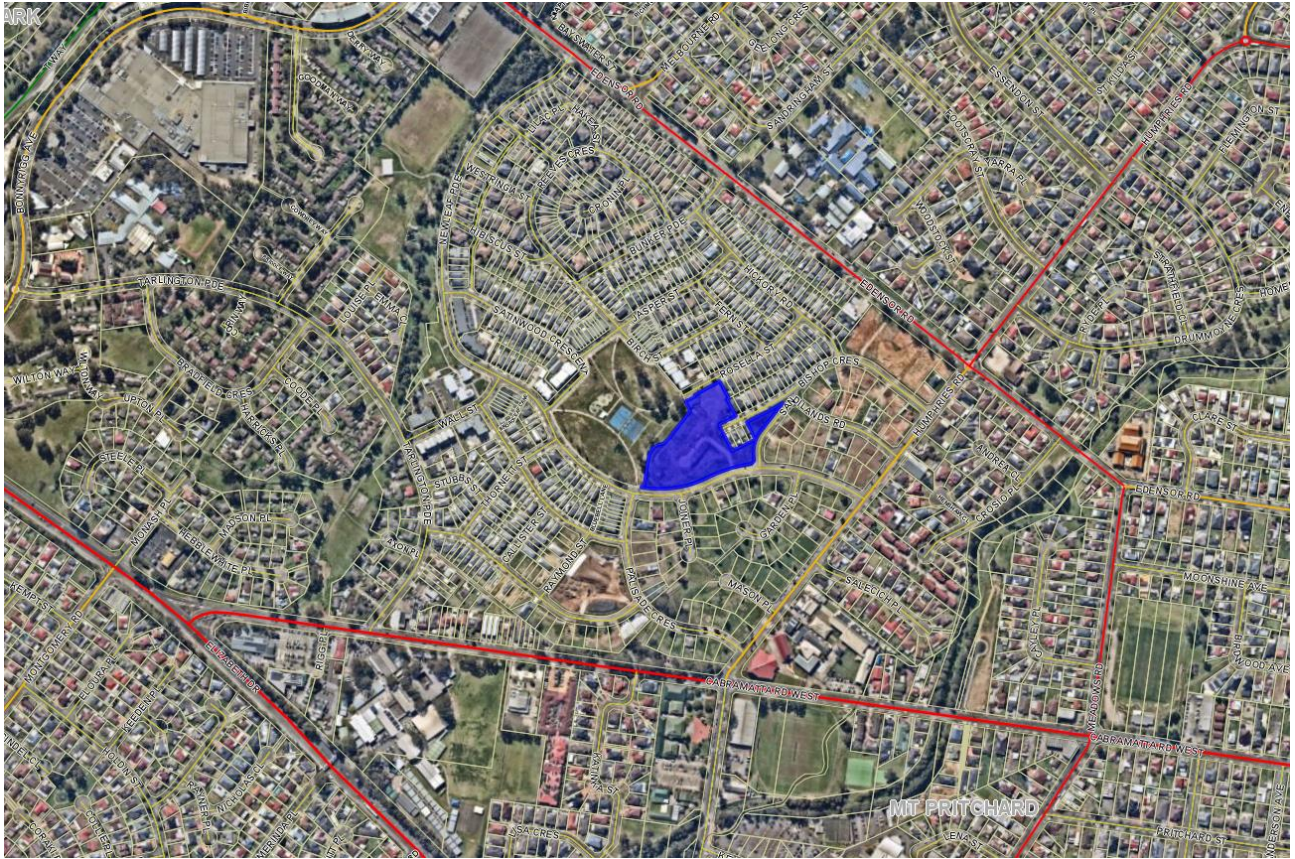


Figure 3: Locality Plan.



Figure 4: View of site from northwest corner (Author 2023).

3. DESCRIPTION OF THE PROPOSED DEVELOPMENT

The subject Development Application seeks consent for the construction of a part three (3) and part four (4) storey residential flat building, comprising twenty-five (25) social housing units, over basement carparking comprising of twenty-seven (27) car parking spaces, associated landscaping and site works on an approved lot within Bonnyrigg Newleaf stages 8 to 11, located at No. 123 Newleaf Parade and Nos. 1 – 19 Kennedy Way, Bonnyrigg. More specifically, details of the proposal are as follows:

- Basement level containing twenty-seven (27) car parking spaces, plant rooms and vertical circulation. The car parking comprises of the following arrangement:
 - 23 x residential car parking spaces,
 - 4 x disabled car parking spaces.
- Ground floor containing six (6) residential units, of the following configuration:
 - 5 x 2-bedroom units,
 - 2 x 1-bedroom units.
- First floor containing seven (7) residential units, of the following configuration:
 - 7 x 2-bedroom units.

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- Second floor containing seven (7) residential units, of the following configuration:
 - 7 x 2-bedroom units.
- Third floor containing five (5) residential units, of the following configuration:
 - 5 x 2-bedroom units.
- Vehicular access is via a driveway crossing from Newleaf Parade.
- Communal open space is provided on the ground floor, to the east of the building and consists of landscaping, lawned space and a barbeque area. Pedestrian access to the communal open space is via the ground floor foyer along from direct access from Unit No. G03, along with street access from Newleaf Parade and New Future Road.
- Pedestrian access to the building is via a pedestrian path from New Future Road along the western elevation of the building, with ground floor units having private access from both New Future Road and Newleaf Parade.
- One (1) lift is proposed.
- The schedule of finishes includes:
 - Austral Bricks: Bowral 76 Simmental Silver
 - Colorbond: Monument, Surfmist, Cottage Green and Pale Eucalypt
 - Dulux: Bretz and Paramount Design
 - Sculptform Batten: Powdercoat Colour Copper Metallic Kinetic and Night Sky.
- Structures within the Newleaf Parade setback includes a hydrant booster and water meter.
- Landscaping proposed includes:
 - 2 x *Fraxinus pennsylvanica*,
 - 4 x *Angophora floribunda*,
 - 1 x *Magnolia grandiflora*,
 - 5 x *Malus domestica*,
 - 8 x *Waterhousia floribunda*,
 - 17 x *Lagerstroemia indica*,
 - 66 x *Acmena smithii*,
 - 14 x *Cotinus coggygria*,
 - 11 x *Callistemon viminalis*,
 - 27 x *Ctenanthe setosa*,
 - 10 x *Philodendron*,
 - 44 x *Rhaphiolepis indica*,
 - 43 x *Melaleuca linariifolia*,
 - 82 x *Evolvulus pilosus*,
 - 98 x *Pittosporum tobira*,
 - 5 x *Berberis atropurpurea*,
 - 12 x *Westringia fruticosa*,
 - 186 x *Cerastium tomentosum*,
 - 30 x *Artemisia absinthium x arborescens*,
 - 87 x *Dianella caerulea*,
 - 548 x *Liriope muscari*,
 - 527 x *Trachelospermum asiaticum*,
 - 32 x *Crassula ovata*,
 - 65 x *Senecio serpens*,

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- 46 x *Casuarina glauca*,
 - 140 x *Dampiera diversifolia*,
 - 27 x *Isolepis cernua*,
 - 25 x *Myoporum parvifolium*,
 - 28 x *Sollya heterophylla*.
- A waste bin storage room and bulky waste storage room is proposed on the ground floor. Residents will deposit waste directly into bins within the bin storage room. The building caretaker will be responsible for transporting waste bins to the kerb along Newleaf Parade for prestation for Council collection.
 - Stormwater generated by the development will drain to the existing stormwater infrastructure along Newleaf Parade.
 - Ancillary earthworks are proposed to enable the development, including excavation works for the basement levels.



View from southwestern corner of the allotment (corner of Newleaf Parade and Future New Road)

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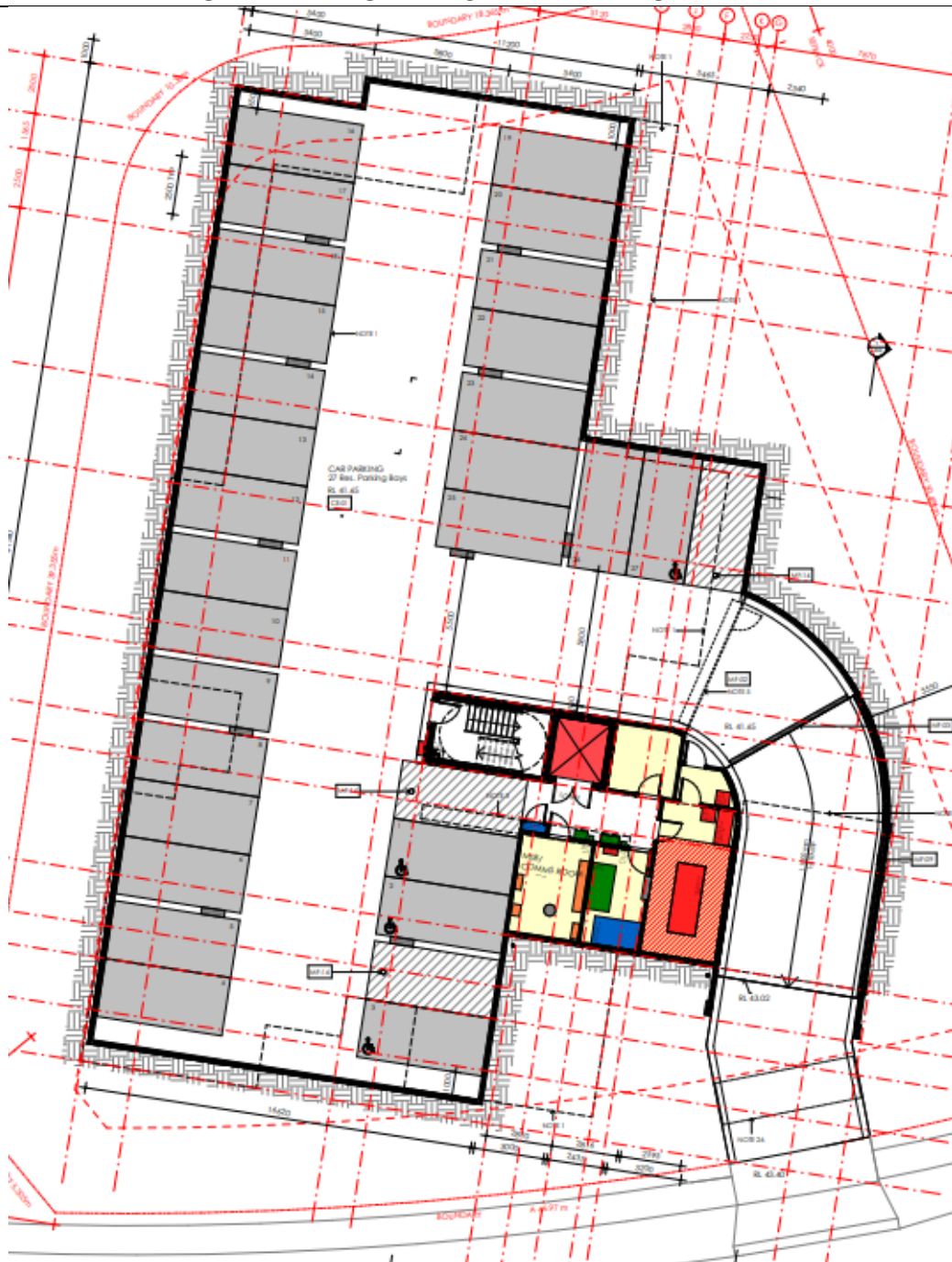


View from southeastern corner of the allotment on Newleaf Parade.

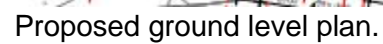


View from northwestern corner of the allotment, on the bend in Future New Road.

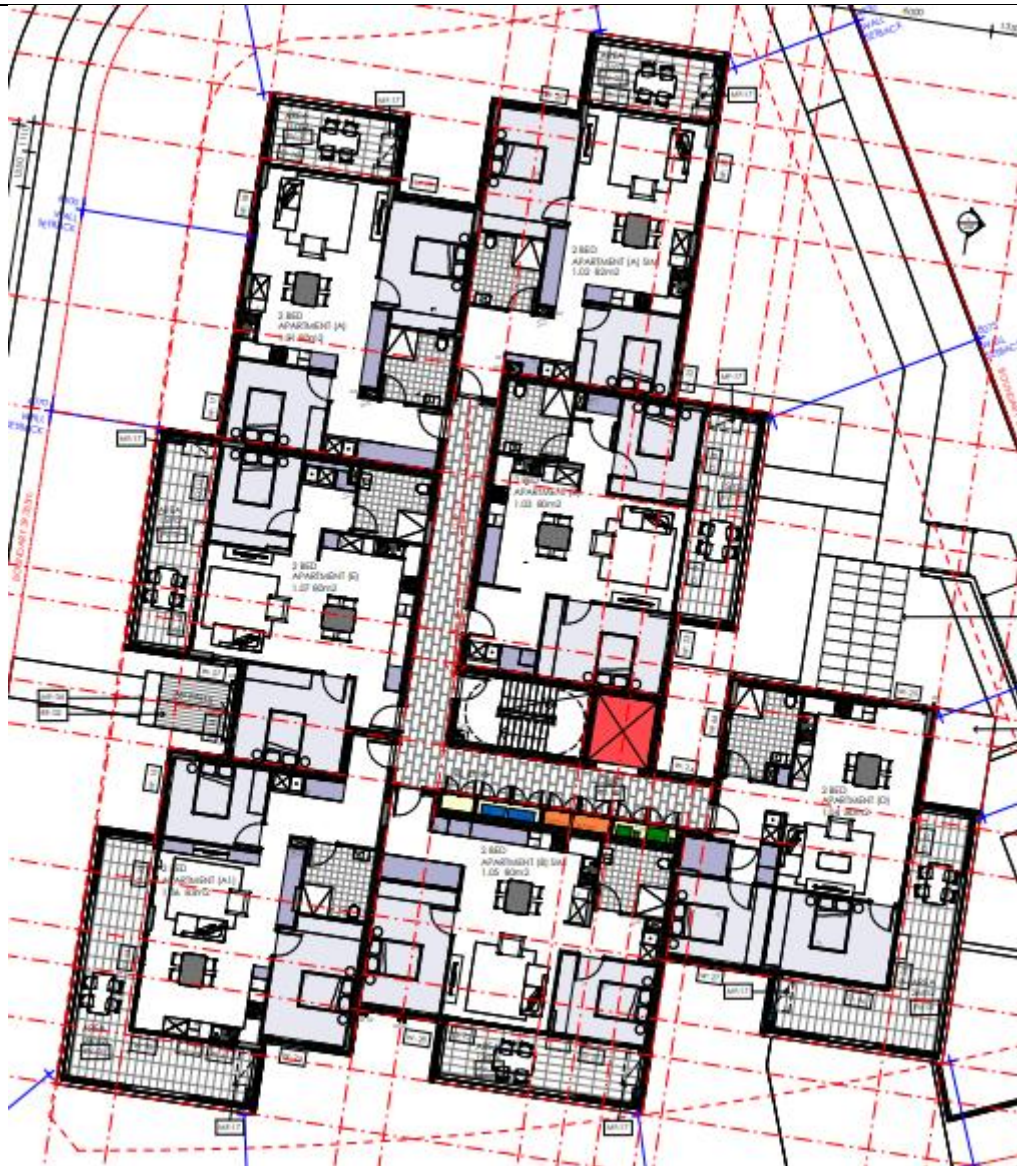
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Proposed basement.

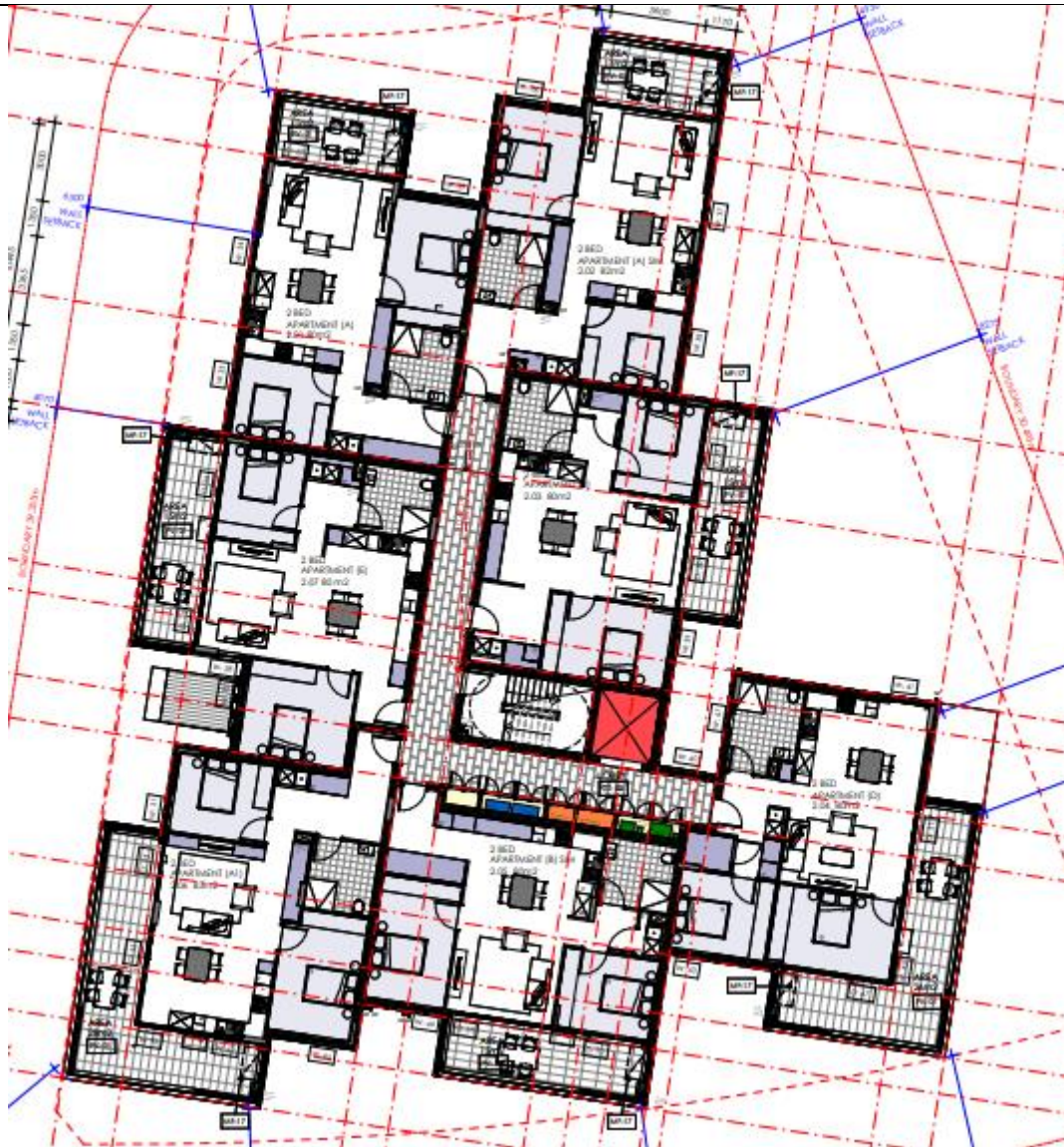


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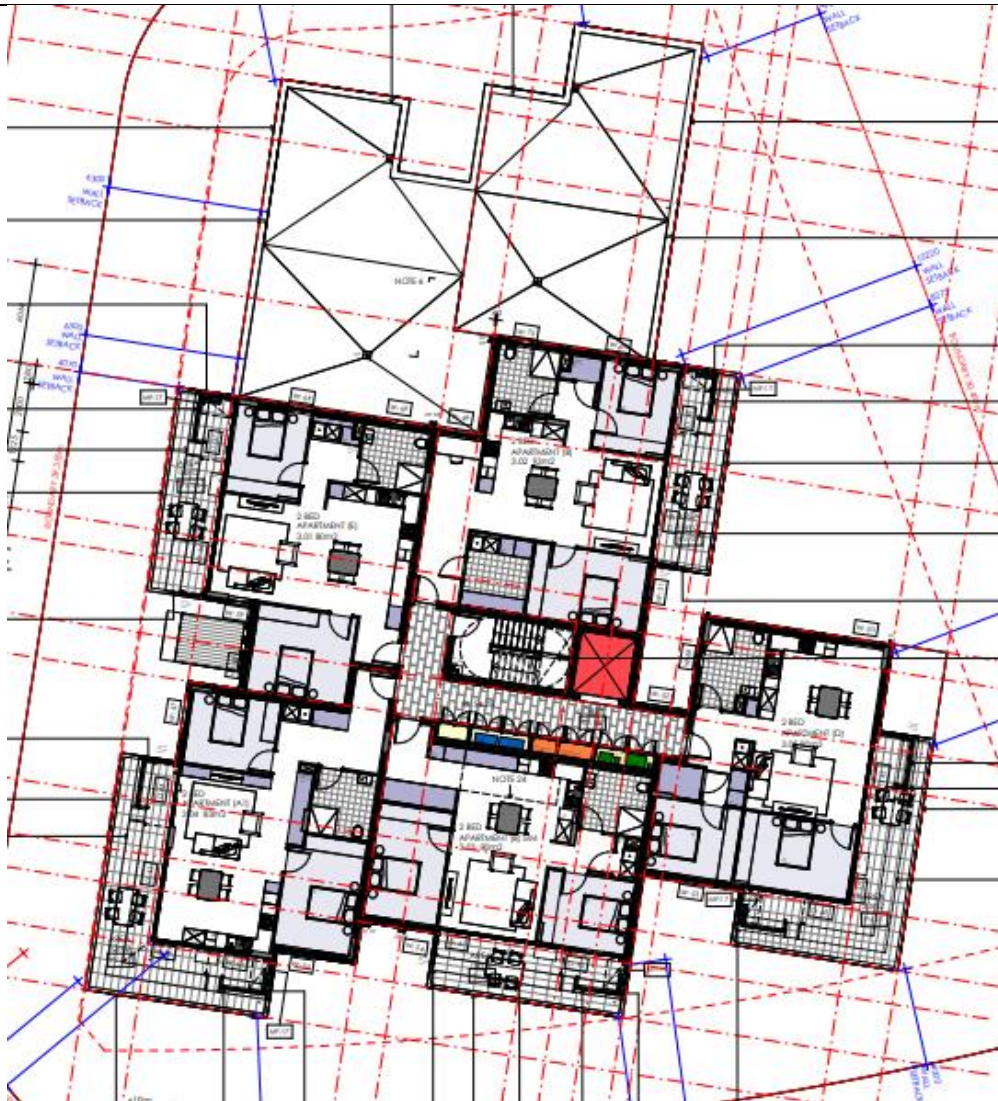
Proposed first floor plan.

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Proposed second floor plan.

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Proposed third floor plan.



Northern Elevation.

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Eastern elevation.



Southern elevation



Western elevation

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HISTORY AND BACKGROUND

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 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 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.

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

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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.
- On 23 February 2023, the Sydney Western City Planning Panel approved Development Application No. 234.1/2021 for Stages 8 to 11 comprising 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.

SYDNEY WESTERN CITY PLANNING PANEL PRELIMINARY BRIEFING NOTES

On 13th November 2023, a preliminary briefing was held via teleconference between the Sydney Western City Planning Panel, Fairfield City Council and the Applicant regarding the subject Development Application. The following provides a response to each of the comments raised by the Panel.

1. *The panel noted that several inconsistencies with the masterplan concept plan approval are noted within the SEE – with the comment “No however justified”.*
2. *The Panel chair questioned whether the concept plan required modification given the conditions which were not complied with were imposed by the Minister. If so, that should be done urgently.*

Response: The Applicant provided the following response:

“The Environmental Planning and Assessment (Savings, Transitional and Other Provisions) 2017 relevantly provides the following at Schedule 2 (Transferred transitional arrangements on repeal of Part 3A – former Schedule 6A to the Act):

3B (d) a consent authority must not grant consent under Part 4 of the development unless it is satisfied that the development is generally consistent with the terms of the approval of the concept plan.

Our interpretation of the term “generally consistent” has been informed by the approach applied to the determination of DA 422.1/2017, which was approved by the Sydney Western City Planning Panel on 28 May 2018. It is noted that this DA included variations to the endorsed Concept Plan, not dissimilar to those being sought as part of this current DA.

The Determination and Statement of Reasons for DA422.1/2017 relevantly acknowledged:

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2. The proposal is generally consistent with planned stages 6a and 7 of the Bonnyrigg Living Communities Project Part 3A Concept Plan Approval and subsequent amendments.

3. The proposal adequately conforms with the Bonnyrigg Master Plan. While some minor amendments to that plan, including garden apartment design, parkland provision and road layout these amendments have been assessed as being acceptable on merit.

As part of DA 234.1/2021 which approved the subdivision of Stages 8-11, variations to the Concept Approval were endorsed through the approved subdivision layout. Namely, the distribution of yield in accordance with the Concept Approval 'Maximum GFA/Dwellings' plan and the future building heights in accordance with the Concept Approval 'Building Heights' plan. The residential block at the intersection of Cabramatta Road and Humphries Road is identified in the Concept Approval for development up to 4 storeys in height and the delivery of 58 dwellings. As a result of the depth of this residential block, it was determined that apartment development would not be feasible. As a result, 11 standard residential lots were approved in this area as part of DA 324.1/2021 [sic].

This variation was considered as part of the assessment of DA 234.1/2021, to ensure that the overall yield for the precinct would be achieved. The endorsed Assessment Report relevantly provided:

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

To compensate for the loss of density at the intersection of Cabramatta Road and Humphries Road it was determined as part of DA 324.1/2021 that Lot 80 would need to accommodate 25 dwellings.

For the site to accommodate 25 dwellings, a variation to the maximum building height is sought, noting that Lot 80 is subject to a maximum three-storey building height. The development proposes a fourth storey comprising 4 dwellings.

Similarly, DA 324.1/2021 endorsed a variation to the public through-site link identified in the Concept Approval Access Plan, noting that due to differences in levels and the location of retaining walls, the link would not be feasible.

Having regard to the above, the variations sought to Controls A.8 (Building Heights), A.11 (Access) and A.16 (Maximum Gross Floor Area/Dwellings) of the Bonnyrigg Master Plan are in response to the subdivision layout approved under DA 234.1/2021. The development as proposed is generally consistent with the Concept Approval, as it ensures the delivery of the overall yield required, as assessed under DA234.1/2021.

The remaining variations sought relate to design specific aspects of the development:

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- Control A.9 (Built Form – Residential Flat Buildings) – a variation is sought noting that there is a minor encroachment of the basement into the required 4 metre deep soil setback; and
- A.11 (Car Parking) – a variation is sought to the minimum car parking space dimensions – acknowledging that the proposed dimensions achieve compliance with AS 2890.

These design variations are considered minor, with the resultant development maintaining consistency with the Concept Approval.”

It is considered that the amended proposal addresses the matters raised.

On 26th February 2024, a second preliminary briefing was held via teleconference between the Sydney Western City Planning Panel, Fairfield City Council and the Applicant regarding the subject Development Application. The following provides a response to each of the comments raised by the Panel.

1. **Consistency with the Bonnyrigg Concept Plan** – *The approved Part 3A Bonnyrigg Concept Plan regulates development in the Bonnyrigg Estate. Under the concept plan, development in this part of the Bonnyrigg Estate must be carried out generally in accordance with the concept plan development controls contained in the document titled “Modified Concept Plan 2019 Bonnyrigg Communities Plus Program” prepared by Architectus/AJC and dated 10 May 2019 (Appendix N of Mod 5, Response to Submission). These development controls restrict buildings in this part of the Bonnyrigg Estate to 3 storeys. Given the proposal is for 4 storeys, there is some doubt about whether the proposal is generally consistent with the requirements of the Bonnyrigg Concept Plan. Council indicated that the Panel has previously accepted slight divergences from these controls as being generally in accordance with the concept plan development controls and is likely to support the proposed divergence in this case subject to some refinements to the building design.*

Response: The amended proposal is considered to be satisfactory

2. **Request for Information** – *On 22 February 2024, Council issued a further RFI to the Applicant, requiring several changes to the design of the building. These changes included:*
 - *Addressing the non-compliances with the communal open space requirements*
 - *Incorporating the driveway into the building envelope of the development*
 - *Allowing the provision of a public through site link, as envisaged by the approved Bonnyrigg Concept Plan, at some stage in the future*
 - *Incorporating at least 5 visitor car parking spaces into the basement*
 - *Improving the visibility of the communal entrance. The Applicant indicated it is unwilling to move the driveway as it will increase the bulk and scale of the building.**The Panel encourage the Council and the Applicant to meet as soon as possible and try to resolve the outstanding design issues. It also indicated that Council should consider the merits of allowing increases in the bulk and scale of the building to facilitate a better configuration of the driveway.*

Response: The Applicant has amended the development, relocating the proposed driveway to be within the building envelope, providing additional space for deep soil zones, landscaping and communal open space, along with the through-site-link. The amended design also included additional car parking spaces and improved the visibility of the communal entrance.

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INTERNAL REFERRALS

Building Control Branch

The subject Development Application was referred to Council's Building Control Branch for assessment. No concerns were raised, subject to conditions of consent.

Engineering Assessment Branch

The subject Development Application was referred to Council's Engineering Assessment Branch for assessment. Initial concerns were raised to the management of stormwater generated by the development. Amended information was submitted to Council, which was reviewed by Council's Engineering Assessment Branch. No concerns were raised to the amended information, subject to conditions of consent.

Public Health and Environment Branch

The subject Development Application was referred to Council's Public Health and Environment Branch for assessment. No concerns were raised, subject to conditions of consent.

Traffic Branch

The subject Development Application was referred to Council's Traffic Branch for assessment. Initial concerns were raised to the number of car parking spaces provided onsite for visitors car parking. Amended information was submitted to Council, which was reviewed by Council's Traffic Branch. No concerns were raised to the amended information, subject to conditions of consent.

Tree Preservation Officer

The subject Development Application was referred to Council's Tree Preservation Officer for assessment. No concerns were raised, subject to conditions of consent.

Waste Branch

The subject Development Application was referred to Council's Waste Branch for assessment. Initial concern was raised to the proposed allocation of waste bins and associated presentation to the kerbside for collection, along with an insufficient bulky waste storage room and other onsite waste infrastructure. Amended information was submitted to Council, which was reviewed by Council's Waste Branch. No concerns were raised, subject to conditions of consent.

Independent Urban Design Expert

The subject Development Application was referred to Council's Independent Urban Design Expert. Initial concern was raised to the lack of Urban Design Report submitted, along with a number of design aspects, including siting of the development, insufficient details in the articulation of the development and location of the driveway. Amended information was submitted to Council, which was reviewed by Council's Independent Urban Design Expert. The amended proposal was supported by the Independent Urban Design Expert.

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EXTERNAL REFERRALS

Endeavour Energy

The subject Development Application was referred to Endeavour Energy, pursuant to s2.4 (Determination of development applications – other development) of the State Environmental Planning Policy (Transport and Infrastructure) 2021. No concerns were raised, subject to conditions of consent.

PUBLIC NOTIFICATION

In accordance with Council's 2024 Community Engagement Strategy the application was notified for a period of fourteen (14) days in writing to surrounding properties. No submissions were received during the notification period. Given amendments to the design of the development, the subject application was renotified in accordance with Council's 2024 Community Engagement Strategy. One (1) submission was received raising concern to the increase in traffic congestion in the area, increased risk to the safety of children, increase in noise and pollution as a result of the construction of the development, loss of privacy of adjacent residents, inconsistency with the surrounding built form, impact on flora and fauna.

Council attempted to contact the objector via telephone however, no response was received. The concerns raised by the objector are considered to be satisfactorily addressed. Council's Traffic Branch, Tree Preservation Officer, Public Health and Environment Branch and Independent Urban Design Expert have assessed the subject Development Application and raise no concerns, subject to conditions of consent. Thus, it is considered that the objector's concerns have been addressed.

STATUTORY REQUIREMENTS

State Environmental Planning Policy (Resilience and Hazards) 2021

Pursuant to Clause 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021, a consent authority must not consent to the carrying out of any development on land unless it has considered whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purposes for which the development is proposed to be carried out, and, if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The subject site was approved for residential development by the Sydney Western City Planning Panel under Development Consent No. 234.1/2021 where the contamination of land was considered. No additional concerns were raised by Council's Public Health and Environment Branch in relation to land contamination at the subject site, subject to the conditions of consent imposed under Development Consent No. 234.1/2021.

State Environmental Planning Policy (Sustainable Buildings) 2022

A BASIX Certificate in support of the Application was submitted and is in accordance with the provisions of the State Environmental Planning Policy (Sustainable Buildings) 2022. The certificate outlines the developer's commitments relating to water, energy and thermal comfort. The application has been amended and an amended BASIX Certificate was provided in the amended package.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

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The proposal is considered to be in accordance with the provisions of State Environmental Planning Policy (Biodiversity and Conservation) 2021. The subject site was approved for tree removal under Development Consent No. 234.1/2021. Council's Tree Preservation Officer has reviewed the proposed development and raises no concerns.

State Environmental Planning Policy (Planning Systems) 2021

Pursuant to the State Environmental Planning Policy (Planning Systems) 2021, the application is a Crown development with an estimated development cost of over \$5 million, thus, it is required to be determined by the Sydney Western City Planning Panel (SWCPP).

Clause	Prescribed	Assessment	Compliance
Schedule Regionally significant development	6	4. Crown development over \$5 million Development carried out by or on behalf of the Crown (within the meaning of Division 4.6 of the Act) that has an estimated development cost of more than \$5 million.	The proposed development is a crown development with an estimated development cost of \$8,027,273.00 Yes

Fairfield Local Environmental Plan 2013 (FLEP 2013)

The subject site is zoned R1 – General Residential and RE1 – Public Recreation under Fairfield Local Environmental Plan 2013. The proposed development is located within the section of the site zoned R1 – General Residential. The proposed development is characterised as a 'residential flat building', which is defined in the Fairfield Local Environmental Plan 2013 as follows:

“residential flat building means a building containing 3 or more dwellings, but does not include an attached dwelling, co-living housing or multi dwelling housing

Note –

*Residential flat buildings are a type of **residential accommodation**.*

Residential flat buildings are permitted with consent within the R1 – General Residential Zone. The objectives of the R1 – General Residential Zone are as follows:

- *To provide for the housing needs of the community.*
- *To provide for a variety of housing types and densities.*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To permit a range of non-residential land uses that are capable of integration with the surrounding locality.*

The proposal is considered to have regard to the objectives of the R1 – General Residential.

Clauses 4.3 and 4.4 of the Fairfield Local Environmental Plan 2013 regulate building height and floor space ratio, respectively. There are no development standards in the Fairfield Local Environmental Plan 2013 restricting the development in terms of building height and floor space ratio.

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Concept Plan MP06_0046 MOD 5

The proposed development has been considered against Concept Plan MP06_0046 MOD 5 and is considered to be consistent with the majority of controls. The following table provides an assessment of the proposed development against the numerical controls.

Section	Prescribed	Assessment	Compliance
Building Heights	Up to 3 storeys.	The proposed development has a part fourth storey element located to the southern portion of the proposed development.	Considered acceptable, see town planning assessment
Street Frontage Heights – Residential Flat Buildings	3 storeys.	The proposed development has a part fourth storey element located to the southern portion of the proposed development.	Considered acceptable, see town planning assessment
Street Setbacks – Residential Flat Buildings	4m landscape/deep soil setback	A 4m wide landscape setback is provided along the Newleaf Parade and Future New Road frontage.	Yes
Activation	Key pedestrian connection	Pedestrian connections are proposed from Newleaf Parade.	Yes
Access	Through-site link provided along the eastern boundary.	A through-site-link has been provided along the eastern boundary of the allotment.	Yes

Bonnyrigg Masterplan

The Bonnyrigg Masterplan outlines specific development controls for new residential development within the Bonnyrigg Estate. Numerical compliance with the Bonnyrigg Masterplan is outlined in the following table.

Clause	Prescribed	Assessment	Compliance
5.4 Garden Apartments	Garden (or walk up) apartments should be provided in a variety of locations which allow opportunities for enhanced residential amenity, design quality and environmental sustainability within Newleaf Bonnyrigg in accordance with the	The proposed garden apartment allows for enhanced residential amenity, design quality and environmental sustainability within Newleaf Bonnyrigg, in accordance with the guidelines contained within the former	Yes

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	guidelines contained within SEPP 65.	SEPP 65, now SEPP (Housing) 2021.	
	Areas such as those in close proximity to open space, parks and activity centres will be suitable as they provide 'breathing space' for housing, opportunities for passive and active recreational opportunities, pleasant views, outlooks and circulation space and casual surveillance.	The proposed garden apartments are located adjacent Bunker Park. The subject development is designed to provide breathing space, opportunities for passive and active recreational opportunities, pleasant views and outlooks, circulation space and casual surveillance.	Yes
	These apartments will be designed in an innovative manner and contain high quality materials and finishes. They will reinforce street edges where required and positively contribute to the surrounding characteristics of individual areas within the estate.	The proposed garden apartments are designed in an innovative manner, containing high quality materials and finishes. The development will reinforce the street edge and positive contribute to the surrounding characteristics of the area.	Yes
	Car parking for garden apartments is to be provided at the rate referred to in the RMS Guide to Traffic Generating Developments Guidance (1/apartment, 1.2/apartment (2 bed) and 1.5/apartment (3 bed). Visitor parking to be 1 per 5 apartments.)	The development provides a total of 25 residential car parking spaces and 2 visitors car parking spaces. It is noted that previous stages of the Newleaf Bonnyrigg development were assessed with respect to RMS Guide to Traffic Generating Development. The proposal provides car parking in accordance with the guide, as discussed below.	Considered satisfactory

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State Environmental Planning Policy (Housing) 2021: Schedule 9 – Design Principles for Residential Apartment Development

The subject Development Application has been considered against State Environmental Planning Policy (Housing) 2021 and found to be generally acceptable with regards to the design of the building.

Principles	Comment
Principle 1: Context and Neighbourhood Character	It is considered that the proposal provides an acceptable design response and will contribute positively to the context and character of Bonnyrigg Newleaf. Furthermore, the development is consistent with the building design controls of the Apartment Design Guide.
Principle 2: Built Form and Scale	The built form of the development is considered an appropriate response to the attributes of the site. The development provides an acceptable level of internal amenity to the apartments in that natural cross-flow ventilation and solar access are prevalent in the majority of apartments. The development successfully defines the streetscape along Newleaf Parade and the new road and is considered to have an appropriately articulated built form.
Principle 3: Density	The proposal does not strictly comply with the envisaged under the Bonnyrigg Masterplan in regards to height, however the proposed development provides the setbacks and separation required under the Apartment Design Guide and is considered to result in a high level of amenity for residents of the development and adjacent development.
Principle 4: Sustainability	<p>The development is considered to have been designed to make use of natural resources particularly in terms of natural ventilation and solar access. Moreover, the communal open space allows for northerly sunlight and the general greening of the site will help reduce cooling and heating costs.</p> <p>The communal open space allows passive solar access to it and making it an attractive recreation area for the residents.</p>
Principle 5: Landscape	Given the context of the site within a residential area, the landscaping proposed within the communal open space, results in a good level of site landscaping.
Principle 6: Amenity	<p>It is considered that the amenity provided to the majority of apartments is of a good standard given the level of cross-ventilation, aspects and the provision of private open space in the form of a balcony.</p> <p>Further, the positioning of the communal open space, as well as the height of the buildings aids to minimise its potential amenity impact particularly in terms of acoustics and overlooking.</p>
Principle 7: Safety	<p>The proposed façade treatment has been designed to appropriately address Newleaf Parade and the new road. The entrances to the building are located so there are no hidden corners away from view and the layout provides for the overlooking of the adjacent public roadways.</p> <p>As such, the issue of safety and security is considered to be satisfactorily addressed by the development.</p>

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Principle 8: Housing Diversity and Social Interaction	The proposal provides a mix of apartment types and sizes, including adaptable apartments, which encourages diversity. While the overall layout includes several areas of formal and informal meeting spaces thereby providing for social interaction.
Principle 9: Aesthetics	The proposal satisfactorily responds to the orientation of the site. In terms of the appearance of the development, it is considered that the building consists of a balanced composition of built form, modulations, materials and finishes that shall contribute to the desired future character of the area.

Apartment Design Guide

An assessment of the application in accordance with the Apartment Design Guidelines is as follows;

Clause	Comment	Compliance
Part 2 Developing the Controls		
2A Primary Controls	The development complies with required building separation and setback requirements.	Yes
2B Building Envelopes	The development is compliant with setbacks and building separation requirements and the building envelope is considered to be acceptable.	Yes
2C Building Height	<i>Permissible building height: Three (3) storeys</i> Proposed building height: Four (4) storeys	Considered acceptable, see planning assessment
2D Floor Space Ratio	<i>Permissible FSR: N / A</i>	Considered acceptable
2E Building Depth	The building depth proposed is considered to be acceptable and meets the building separation and setback requirements.	Yes
2F Building Separation	<p><i>Required:</i></p> <p><i>Up to four storeys (approximately 12m):</i></p> <ul style="list-style-type: none"> • 12m between habitable rooms and balconies, • 9m between habitable rooms and non-habitable rooms, • 6m between non-habitable rooms <p>The subject site has only one (1) boundary that will be adjacent to other residential development.</p> <p>The proposed setback to this boundary is varied given the orientation of the allotment, ranging from 4.9 to 8.2m.</p> <p>The balconies of Unit Nos. G02, 102 and 202 encroach on the 6m building setback. The encroachment is minor in this circumstance and will not result in any overlooking and amenity impacts of future residents adjacent by way of the orientation of the balconies and windows. Privacy screens have also been provided and in this instance.</p> <p>Council's Independent Urban Design Expert raises no concerns to the proposed design in terms of building separation.</p> <p>The proposed development's setbacks are considered acceptable and will not significantly prejudice the future redevelopment of adjacent allotments in accordance with the</p>	Yes

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	required building separation controls under the Apartment Design Guide, whilst providing residents appropriate visual privacy.	
2G Street Setbacks	<p><i>Bonnyrigg Masterplan:</i></p> <p><i>Setbacks:</i></p> <ul style="list-style-type: none"> 4m landscape/deep soil setback <p>The subject site is adjacent Newleaf Parade and a new future road.</p> <p>The proposed front setback is 4m.</p>	Yes
2H Side and Rear Setbacks	Refer to comments in 2F Building Separation.	Yes
Part 3 Siting the Development		
3A Site Analysis	The development application was accompanied by satisfactory site analysis that provides sufficient context for the proposed development and is considered to justify the built form proposed on the site.	Yes
3B Orientation	The proposal is considered to be a form of in-fill development and has been designed to maximise solar access and acoustic and visual privacy to future residents.	Yes
3C Public Domain Interface	<p>The proposed development provides a residential foyer from the new future road frontage, with a pergola structure highlighting the entrance to the building.</p> <p>The private terraces of Unit Nos. G01, G02, G05, G06 and G07 have direct access to the street. The privacy of these units are maintained through level changes and landscaping.</p> <p>The private open space of a majority of units on the floors above overlook the street frontages and contribute to surveillance of the public domain, whilst allowing for sufficient privacy for residents.</p> <p>The length of solid walls facing the street is reduced.</p> <p>A seating area within the front entrance pergola will allow for casual interaction between the residents and the public domain.</p> <p>Opportunities for people to be concealed have been minimised.</p> <p>The proposed mailboxes will be located within the foyer of the building, perpendicular to the street.</p> <p>The proposed substation, gas and water meters and fire hydrant booster locations are proposed along the street frontages which is typical and considered acceptable. Other service areas are within the basement.</p>	Yes
3D Communal and Public Open Space	<p><i>Minimum COS Required: 468.75m² (25% site area)</i></p> <p>Proposed COS: 477.85m² (25.5%), located around the base of the building.</p> <p>The COS provided is located around the base of the building and is accessible from the ground floor by residents. The communal open space includes landscaped areas, lawned space and an undercover Pilates and barbeque area. The principal useable part of the communal open space receives a minimum of 2 hours of sunlight between 9am and 3pm on 21 June.</p>	Yes

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	<p>The communal open space has a minimum dimension of 3m, with certain sections exceeding this.</p> <p>The communal open space is co-located with the deep soil areas.</p> <p>Direct and equitable access is provided to the communal open space from the residential foyer.</p> <p>The COS proposed is a well-designed and usable space that integrates landscaped areas and recreation areas for various ages.</p> <p>The location of the facilities responds to the site and provides both solar access and shade for users.</p> <p>The visual impact of services has been minimised within the communal open space.</p> <p>The communal open space is readily visible from habitable rooms and private open space areas, whilst also maintaining the privacy of residents.</p>	
3E Deep Soil Zones	<p><i>Required: 7% of site area – 131.25sqm (6m min. dimensions)</i> <i>Recommended: 15% of the site area – 281.25m²</i></p> <p>Proposed deep soil zone: 301.5sqm.</p> <p>The area of deep soil zone is co-located with the proposed communal open space area around the base of the building and does not include areas over the basement and areas used for the purposes of OSD.</p>	Yes
3F Visual Privacy	<p>The proposed development has one (1) boundary adjacent future residential development to the east.</p> <p>The ground, first and second floors have a varied setback to the eastern boundary, ranging from 4.9m to 8.2m, which are considered acceptable. Visual privacy for residents is maintained with these setbacks.</p> <p>The communal open space, common areas and access paths are separated from the private open spaces of residential units on the ground floor using a combination of landscaping, and fencing.</p> <p>Habitable room windows directly adjacent to the communal open space on the ground floor will have highlight windows to reduce any visual privacy impacts on residents.</p> <p>Bedrooms, living spaces and other habitable rooms are separated from the circulation space by apartment service areas.</p> <p>The balconies and private terraces of units are located in front of living rooms.</p> <p>Ground floor units accessible to the street are offset from the ground level of the street by level changes.</p>	Yes
3G Pedestrian Access and Entries	<p>The proposal seeks one (1) primary pedestrian entrance into the residential foyer, and two (2) secondary entrances into the communal open space from the street frontages.</p>	Yes

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	<p>The proposed entrance location relates to the street and subdivision pattern.</p> <p>The proposed building entrance is easily identifiable and communal entrances are easily distinguishable from the private entrances.</p> <p>The building access area is visible from the public domain and communal open space.</p> <p>The design of the ground floor and underground carpark minimises level changes for pedestrians.</p>	
3H Vehicle Access	<p>The proposed development seeks an underground basement carpark. One (1) driveway is proposed from Newleaf Parade onto the property. The proposed carpark access is integrated into the building design and minimises visibility from the street.</p> <p>The carpark entrance is located behind the building line.</p> <p>The vehicle entrance is located at the lowest point of the Newleaf Parade frontage.</p> <p>The driveway is of an appropriate and safe width, whilst also maintaining appropriate landscaped area in the front setback.</p> <p>The proposed access point avoids headlight glare to habitable rooms.</p> <p>Clear sightlines are provided at pedestrian and vehicle crossings.</p> <p>Pedestrian and vehicle access is separated and distinguishable.</p>	Yes
3J Bicycle and Car Parking	<p>The development proposes 27 off-street car parking spaces in total.</p> <p>The carparks provide direct, clearly visible, and well-lit access into common circulation areas.</p> <p>A clearly defined and visible lobby and waiting area is provided to lifts.</p>	Yes
Part 4 Designing the Building		
4A Solar and Daylight Access	<ul style="list-style-type: none"> <i>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid winter.</i> <i>A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid winter.</i> <p>88% of all units receive at least 2 hours of direct sunlight between 9am and 3pm at mid-winter.</p> <p>The design of the building maximises solar access throughout the day, with south-facing units minimised.</p> <p>The number of single aspect units is minimised.</p> <p>Dual aspect and shallow unit depths are utilised.</p> <p>The design incorporates shading structures on windows where appropriate.</p>	Yes

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4B Natural Ventilation	<p>The building's orientation and layout maximise the capture and use of prevailing breezes for natural ventilation.</p> <p>Adequate natural ventilation is achieved in single aspect units.</p> <p><i>Requirement: At least 60% of apartments are naturally cross ventilated.</i></p> <p>Provided: 68% of apartments are naturally cross ventilated.</p> <p>Dual aspect unit designs are incorporated into the building design.</p>	Yes
4C Ceiling Heights	<p><i>Habitable Rooms: 2.7m</i> <i>Non-habitable Rooms: 2.4m</i></p> <p>The development provides 2.7m floor to ceiling heights for residential units.</p> <p>The ceiling height can accommodate the use of ceiling fans.</p>	Yes
4D Apartment Size and Layout	<p>All apartments meet the minimum apartment sizes numerically and provide layouts that are considered to be practical and provide adequate amenity for residents.</p>	Yes
4E Private Open Space and Balconies	<p>The development provides private open space in the form of balconies on all aspects of the development. All private open space is numerically compliant and is considered to provide adequate usable space.</p> <p>Visual and acoustic privacy has been adequately considered in the design of the private open space.</p>	Yes
4F Common Circulation and Spaces	<p>The development provides a single residential foyer and circulation space on all floors.</p> <p>The maximum number of apartments off a single circulation core is seven (7).</p> <p>Daylight and natural ventilation are provided in all circulation spaces. Windows are provided within all circulation spaces.</p> <p>The overall arrangement is considered to be acceptable and will provide residents with a high level of amenity.</p>	Yes
4G Storage	<p>Storage is located internally within units and is numerically compliant.</p>	Yes
4H Acoustic Privacy	<p>Adequate building separation is provided within the development.</p> <p>The building design primarily orientates noise generating locations, i.e., internal and vertical circulation spaces and building entrances away from quiet areas, i.e., bedrooms.</p> <p>The number of party walls for each unit is minimised.</p> <p>Council's Public Health and Environment Branch have reviewed the proposal and associated Acoustic Assessment Report and have raised no further concerns, subject to conditions of consent.</p>	Yes
4J Noise and Pollution	<p>The site is not considered to be situated in a hostile environment.</p> <p>The Acoustic Report submitted with the application addresses the impact of noise to and from the development and has been assessed by Council's Public Health and Environment Branch</p>	Yes

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	who raise no issues of concern with this aspect of the proposal, subject to conditions.	
4K Apartment Mix	Apartment mix is considered to be acceptable.	Yes
4L Ground Floor Apartments	The proposed ground floor apartments are considered to achieve appropriate amenity for residents. Direct access is provided between the communal open space each ground floor unit. Privacy and safety are provided for all residences on the ground floor through the combined use of fencing and landscaping.	Yes
4M Facades	The architectural design proposed is considered acceptable and includes a composition of varied building elements, a defined base, middle and top of the building and includes changes in texture material and detail to modify the prominence of elements. The façade includes both horizontal and vertical, proportional, and arranged elements. Sufficient articulation of the façade is provided with an external brick materiality proposed.	Yes
4N Roof Design	No concern is raised with the flat roof design proposed.	Yes
4O Landscape Design	The proposed landscape design is considered acceptable and includes a variety of plantings. The proposed landscaping responds to its environment.	Yes
4P Planting on Structures	Not applicable.	NA
4Q Universal Design	All units have been designed with the ability to incorporate the Liveable Housing Silver level requirements.	Yes
4R Adaptive Reuse	Not applicable.	NA
4S Mixed Use	Not applicable	NA
4T Awnings and Signage	Not applicable	NA
4U Energy Efficiency	The development provides adequate solar access and outdoor areas, as well as adequate natural ventilation.	Yes
4V Water Management and Conservation	The development is supported by a BASIX Certificate that demonstrates the development meets BASIX requirements.	Yes
4W Waste Management	Council's Waste Officer has reviewed the amended design and supports the application as submitted.	Yes
4X Building Maintenance	The proposed building maintenance is considered acceptable.	Yes

TOWN PLANNING ASSESSMENT

Height of Building

The Bonnyrigg Masterplan envisages 'garden apartments' to be located on the subject site, limited to three (3) storeys in height. The subject Development Application proposes a part-three (3) and part-four (4) storey residential flat building containing twenty-five (25) dwellings. It is noted that the proposed development does not strictly comply with the height control identified in the Bonnyrigg Masterplan by incorporating a part-four (4) storey element into the design. The partial fourth storey element is proposed in order to ensure that it is viable to allow the provision of a lift into the development. This would increase the amenity of the residents and ensure that the housing is more accessible.

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The fourth floor of the development is a smaller scale when compared to the storeys below, containing only five (5) units, as opposed to six (6) and seven (7), as per the floors below. The proposed fourth storey element of the development is setback 4m from the western frontage of the site, 16m from the northern frontage of the site, 6.1m from the proposed eastern boundary of the site, and 4m from the southern frontage of the site. The fourth floor element is primarily orientated to the proposed corner of the subject site at the intersection of Newleaf Parade and a new future road.

The orientation of the fourth floor means that any additional overshadowing will fall onto Newleaf Parade for the majority of the day. Any adjacent existing and future residential development will still achieve the minimum required solar access during the Winter Solstice despite the fourth storey element. Additionally, the potential for overlooking of adjacent future residential dwellings has been taken into consideration, and is not considered to cause an impact given the proposed building separation to the eastern boundary of the subject site, and its compliance with the objectives and design criteria of the Apartment Design Guide.

The aims and objectives of 'garden apartments' within the Bonnyrigg Masterplan is to allow for opportunities of enhanced residential amenity, design quality and environmental sustainability within Newleaf Bonnyrigg in accordance with the guidelines contained within SEPP 65. 'Garden apartments' are to be designed in an innovative manner and contain high quality materials and finishes, reinforce street edges where required, and positively respond to the surrounding characteristics of individual areas within the estate.

The proposed design of the fourth storey element of the design is considered to be in accordance with SEPP 65 (now SEPP (Housing) 2021) including deep soil zone and landscaping. The fourth storey element is considered to be designed in an innovative manner, containing high quality materials and finishes. Its orientation to the street corner of Newleaf Parade and a new future road contributes to its reinforcement of the street edge. Given its location adjacent to Bunker Park, the fourth floor element is considered to positively respond to the surrounding characteristics of the area. In this regard, whilst not strictly compliant with the Bonnyrigg Masterplan, the addition of a fourth storey element is considered to be consistent with the aims and objectives of the 'garden apartment' building typology.

The fourth storey element of a garden apartment has been previously considered and approved by the Sydney Western City Planning Panel under Development Application No. 422.1/2017, located at the corner of Wall Place and Shoemaker Street, Bonnyrigg. The subject building approved under Development Application No. 422.1/2017 is similarly located on a street corner near a park, with the fourth storey element reinforcing the corner and of a reduced scale in comparison with the storeys below.

The subject Development Application has been reviewed by Council's Independent Urban Design Expert, who raised concern initially to the design, however upon receipt of amended designs, supports the design of the development.

Car Parking

Under the Bonnyrigg Masterplan, the number of car parking spaces is dictated by the building typology proposed and the make up of unit types within the development. The proposed development is for a part-three (3) and part-four (4) storey residential flat building containing one (1) one (1) bedroom unit, and twenty-four (24) two (2) bedroom units.

In accordance with the Bonnyrigg Masterplan, the car parking rate for 'garden apartments' is as follows:

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- 1 x car parking space per one (1) bedroom unit,
- 1.2 x car parking spaces per two (2) bedroom unit,
- 1.5 x car parking spaces per three (3) bedroom unit,
- 1 x visitors car parking space per five (5) residential units.

Under this rate, the development would require a total of thirty-five (35) car parking spaces consisting of:

- 30 x residential car parking spaces,
- 5 x visitors car parking spaces.

However, given the subject development seeks a partial fourth floor element, the building typology is altered under the Bonnyrigg Masterplan to be a 'lifted apartment', which has a different car parking rate of:

- 0.6 x car parking space per one (1) bedroom unit,
- 0.9 x car parking space per two (2) bedroom unit,
- 1.4 x car parking spaces per three (3) bedroom unit,
- 0.2 x visitors car parking space per unit.

Under this rate, the development would require a total of twenty-seven (27) car parking spaces, consisting of:

- 22 x residential car parking spaces,
- 5 x visitors car parking spaces.

The proposed development provides twenty-seven (27) car parking spaces within the basement level, which is compliant with the required number of car parking spaces under the requirement for 'lifted apartments' under the Bonnyrigg Masterplan.

In addition to the above, it is noted that when the initial subdivision was approved the total number of on-street car parking spaces envisaged under Development Consent No 234.1/2021 for the subject site is eighteen (18). The proposed development has been assessed by Council's Traffic Branch, which raise no concerns to the number of car parking spaces proposed, subject to conditions of consent. In this regard, it is considered that the subject development provides sufficient car parking for the proposed residential flat building in accordance with the Bonnyrigg Masterplan, subject to conditions.

Provision of Communal Open Space

Under Objectives 3D-1 of the Apartment Design Guide, the minimum area of communal open space to be provided is equal to 25% of the total area of the lot. In this circumstance, the proposed communal open space is to be at least 468.75m².

The Applicant initially proposed a communal open space area equating to 516m², however it should be noted that areas that are to be excluded from calculations under the Apartment Design Guide had been included. This included areas of insufficient width and depth. Excluding these areas, Council calculated the proposed communal open space to be approximately 200m², which is a shortfall of 268.75m² of the required area.

Under the approved Bonnyrigg Concept Plan MP06-0046-Mod-5, the subject site is envisioned as a residential area with a maximum built form of up to three (3) storeys. The proposed development

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seeks a variation to the approved concept with a proposed fourth storey. Given the increase in residential density sought, it is not considered unreasonable to ensure the minimum required area of communal open space is provided onsite. The provision of the required communal open space would increase the amenity of the residents of the development, soften the development's built form, and to provide sufficient separation between future buildings within the area, particularly given the inclusion of a fourth storey.

The Applicant amended the design of the development in response to this, removing areas of inadequate width and depth and location, which reduced the communal open space area to 326.5m². Council's calculations of the communal open space found inappropriate areas were still included in the Applicant's calculation and determined the actual area to be approximately 314m². The Applicant sought to justify that the subject site's adjacency with Bunker Park should be taken into consideration. However, Council reaffirmed the proposed variation to the number of storeys onsite meant it was critical to provide sufficient communal open space and associated landscaping and deep soil zones.

The insufficiencies in the amount of communal open space provided was a direct result of the isolated driveway design. Initially, the proposed basement vehicular driveway was located parallel to the eastern boundary of the subject site, located outside of the building envelope. The proposed driveway location conflicted with the requirement to provide a through-site-link through the subject site. The Applicant was advised to reconsidered the location of the driveway, and in response amended the design to reposition the driveway within the building envelope, which allowed a large amount of the subject site to be utilised for the purposes of communal open space, landscaping and deep soil zone.

Council's calculation of the provided communal open space revealed an area of 462m² of communal open space located to the east of the building and 15.85m² of communal open space to the west of the building. In this regard, a total of 477.85m² of communal open space is provided onsite for residents. The principal communal open space, the eastern portion, receives adequate solar access, passive surveillance and privacy for residents, and is co-located with the through-site-link, whereas the western portion of the communal open space is co-located with the proposed nearby entrance to the building and adjacent Bunker Park. Council's Independent Urban Design Expert has reviewed the amended designs and raises no concerns with the provision and nature of the communal open space. In this regard, the proposed design is considered acceptable.

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 pursuant to Section 4.15 of the Environmental Planning and Assessment (EP&A) Act 1979 and no issues have arisen that would warrant the application being refused on planning grounds. The following is a brief assessment of the proposal regarding 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 (Resilience and Hazards) 2021\
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Sustainable Buildings) 2022
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Housing) 2021
- Fairfield Local Environmental Plan 2013 (FLEP 2013).

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The subject Development Application has been considered against the abovementioned instruments and found to be satisfactory.

The provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved) (EP& A Act s4.15 (1)(a)(ii))

Not applicable.

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

An assessment of the development against the relevant objectives and development controls of the Bonnyrigg Masterplan and Apartment Design Guide is provided earlier in this report. The assessment determined the proposed development is considered satisfactory.

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)(iia))

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.

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.

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))

In accordance with Council's 2024 Community Engagement Strategy, the application was notified twice for a period of fourteen (14) days in writing to surrounding properties. One (1) submission was received during the notification period, raising matters with regard to increase in traffic congestion in the area, increased risk to the safety of children, increase in noise and pollution as a result of the construction of the development, loss of privacy of adjacent residents, inconsistency with the surrounding built form and impact on flora and fauna. The issues raised have been taken into consideration in the assessment of the application, and where required, conditions have been imposed in order to address these concerns.

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

Having regard to the assessment the proposed development, the development is considered to be within the public interest.

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SECTION 7.11 DEVELOPMENT CONTRIBUTIONS

The Concept Plan and subsequent development Stages 8 – 11 of the Bonnyrigg Living Communities Project is subject to a Voluntary Planning Agreement. The works contained within the subject Development Application are considered to be consistent with the Voluntary Planning Agreement and Infrastructure Services Delivery Plan as agreed between Council and the Proponent. As such, there are not Section 7.11 Development Contributions are applicable to this development.

RECOMMENDATION

That Development Application No. 279.1/2023 for construction of a part three (3) and part four (4) storey residential flat building, comprising twenty-five (25) social housing units, over basement carparking comprising of twenty-seven (27) car parking spaces, associated landscaping and site works on an approved lot within Bonnyrigg Newleaf stages 8 to 11, at No. 123 Newleaf Parade and Nos. 1 – 19 Kennedy Way, Bonnyrigg, be approved subject to the conditions set out in Attachment L.

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, pursuant to the Fairfield Local Environmental Plan (FLEP 2013). The proposal is permitted with consent and is considered to have regard to the objectives of the zone.
2. The proposed development has been considered against State Environmental Planning Policy (Resilience and Hazards) 2021, State Environmental Planning Policy (Sustainable Buildings) 2022, State Environmental Planning Policy (Biodiversity and Conservation) 2021, State Environmental Planning Policy (Planning Systems) 2021 and State Environmental Planning Policy (Housing) 2021. The application was found to be satisfactory against the applicable legislation.
3. The proposed development is generally consistent with the Concept Approval MP06_0046 MOD 5 and the Bonnyrigg Masterplan. The proposed development is consistent with the Apartment Design Guide.
4. Comments were sought from Council's Building Control Branch, Engineering Assessment Branch, Public Health and Environment Branch, Traffic Branch, Tree Preservation Officer, Waste Branch, Independent Urban Design Expert and Endeavour Energy. No concerns are raised to the amended proposal, subject to conditions of consent.
5. In accordance with Council's 2020 Community Engagement Strategy, the application was notified for a period of fourteen (14) days. No submissions were received. Upon receipt of amended plans, the proposed development was notified in accordance with Council's 2024 Community Engagement Strategy for a period of fourteen (14) days. One (1) submission was 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.
6. The subject Development Application is considered within the public interest, as the proposal will provide social housing units for residents.