

MODIFICATION REQUEST:

Newleaf Bonnyrigg

***MP06_0046 MOD 4 – Modifications to Amend
the Concept Plan***



Director-General's
Environmental Assessment Report
Section 75W of the
Environmental Planning and Assessment Act 1979
June 2012

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Published June 2012
NSW Department of Planning & Infrastructure
www.planning.nsw.gov.au

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EXECUTIVE SUMMARY

The Bonnyrigg housing project comprises the renewal of the existing public housing area commonly known as Bonnyrigg Housing Estate (the estate) and is being undertaken by Newleaf Communities (formerly Bonnyrigg Partnerships) in a Public Private Partnership with Housing New South Wales.

On 12 January 2009, the then Minister for Planning approved a Concept Plan application for redevelopment of the estate in 18 stages over 13 years, including construction of approximately 2,332 dwellings, a new community precinct and associated infrastructure.

On 20 December 2011, Urbis on behalf of Newleaf Communities (the Proponent) lodged a modification application seeking approval to increase the number of dwellings by 168 from 2,332 to 2,500 dwellings and corresponding changes to the site and road layout and the provision of additional public open space and community space to meet the demand generated by the additional population.

There were four (4) public submissions from existing private residents in the estate, raising concern with the increased density and the associated traffic and amenity impacts.

Fairfield City Council objects to the proposed modifications, primarily raising concerns with the lower occupancy rates used by the proponent to determine the provision of public open space and community facilities.

The department has assessed the application on its merits and the proposed modification is considered to be reasonable and will not result in any significant changes to the development as approved.

It is recommended that the application be approved subject to the modified conditions

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1. BACKGROUND

1.1 The Site

The site has a total area of 81 hectares and is located approximately 40km west of the Sydney CBD and 6km north-west of Liverpool City Centre within the Fairfield Local Government Area (**Figure 1**). The site is described as 'Newleaf Bonnyrigg,' the former Bonnyrigg Housing Estate, and is bounded by Bonnyrigg Avenue, Bonnyrigg Public School, Bonnyrigg Plaza, Elizabeth Drive, Cabramatta Road West, Humphries Road and Edensor Road as shown in **Figure 2** below.

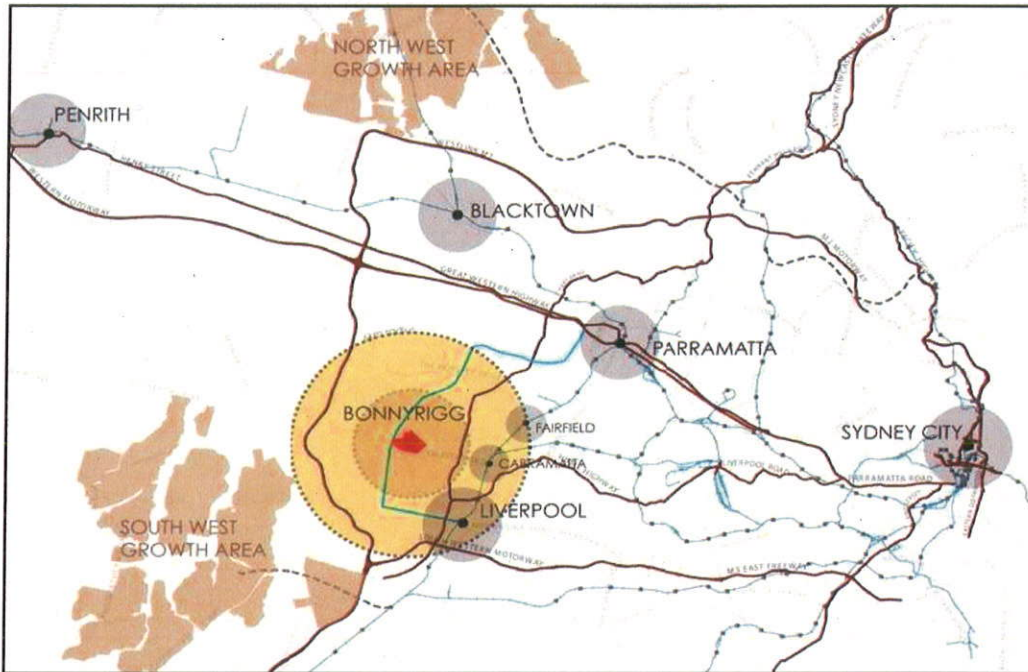


Figure 1: Context Location Plan

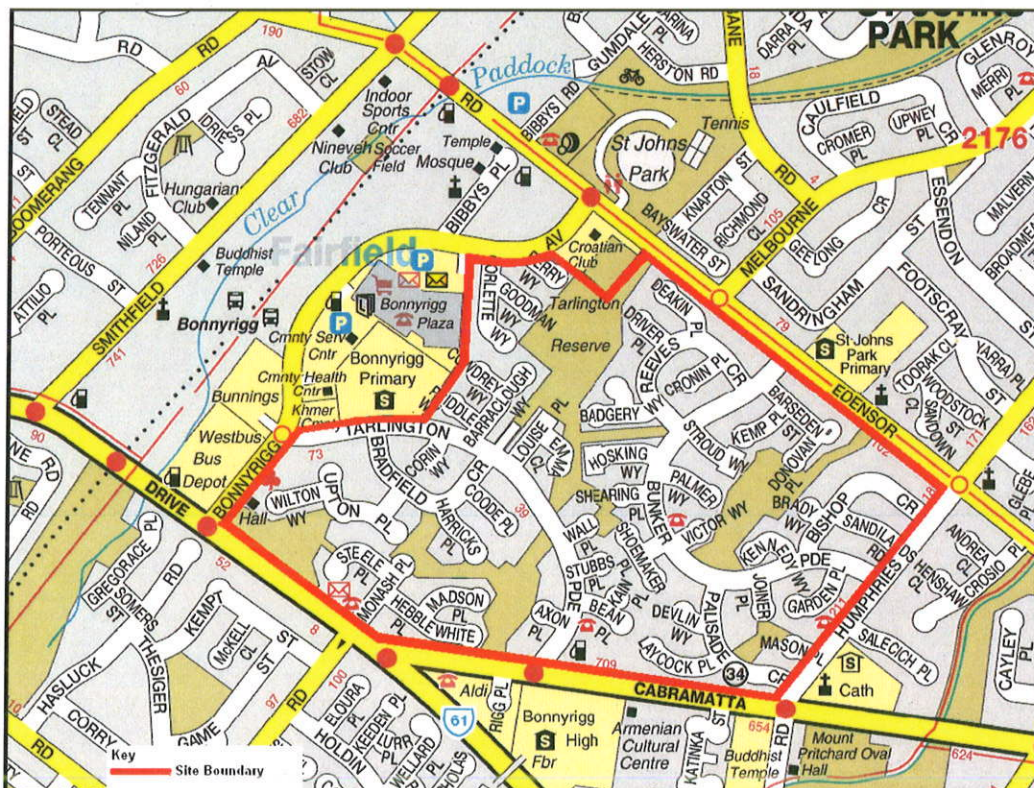


Figure 2: Newleaf Bonnyrigg Masterplan site

1.2 Previous Approvals

Fairfield City Council (the Council), as delegate of the Director General, assessed the Concept Plan and Stage 1 Project Application for redevelopment of the Bonnyrigg Housing Estate. On 12 January 2009, the then Minister for Planning approved the application, including the following:

Concept Plan

- demolition of existing dwellings in stages (excluding privately-owned dwellings);
- construction of approximately 2,332 dwellings in 18 stages over 13 years;
- construction of new roads, with 50% of existing roads to be retained;
- provision of new infrastructure (including stormwater, sewer, recycled water, gas and electrical);
- staged construction of a new community precinct comprising community, retail and commercial activities; and,
- reconfiguration and upgrading of existing public open space.

Stage 1 Project Application

- subdivision 106 new lots in Stage 1; and
- construction of 106 new dwellings and associated infrastructure, provision of new open space and community facilities.

The approved Concept Plan provides a mix of housing types including lifted apartments of 4-6 storey, dwellings attached in groupings (referred to as 8-plex, 6-plex, 4-plex & 3 plex), duplexes and single dwelling houses.

There have been three (3) modifications to the Concept Plan which have been assessed by the department as follows:

Modification Number	Modification	Determining Authority	Date Approved
1	<ul style="list-style-type: none"> • minor amendments to the dwelling design; • updated lot references; and • changes to the conditions 	Executive Director, Major Projects Assessment, as delegate of the Minister for Planning	7 September, 2009
2	<ul style="list-style-type: none"> • included No. 15 Deakin Place as part of the development approval; and • allowed detached dwellings on 8.5 metre wide lots for future Stage 2-18. 	Director Metropolitan Projects, as delegate of the Minister for Planning	19 April, 2010
3	<ul style="list-style-type: none"> • amended the development controls; • introduced garden (or walk-up) apartments adjacent to public open space; and • amended the layout of the staging plan. 	Planning Assessment Commission, as delegate of the Minister for Planning	28 July, 2011

1.3 Part 4 Development Applications Assessed by Council

As part of the approval, the then Minister for Planning provided for the assessment of all future stages of the Concept Plan by the Council under Part 4 of the Act. The current status of the staged development is outlined as follows:

Stage	Dwelling Yield	Status
1	100	Completed and occupied
2	109	The development application (DA) has been approved by Council and construction is nearing completion
3	162	The DA is currently being assessed by Council and is at pre-construction stage
4	94	The DA is currently being assessed by Council and will be determined by the Joint Regional Planning Panel (JRPP). The DA will not be determined until this modification application to the Concept Plan is determined.

2. PROPOSED MODIFICATION

2.1 Modification Description

The proposed modification seeks to increase the dwelling yield (+7.2%) by providing an additional 168 dwellings equating to a total of 2,500 dwellings.

Approximately 60% of the additional dwellings will be 2-bedroom walk-up apartments and 40% will comprise 3-bedroom terraces and duplexes.

There will be some changes to the site layout and the configuration of open space to accommodate the additional dwellings on the site. Refer to the land use and road layout comparison plans shown in **Figure 3**.

The specific amendments to the Concept Plan will:

- increase the number of dwellings by 168 to 2,500;
- alter the road and site staging layout to accommodate the additional number of dwellings;
- increase the provision of public open space by 1,300m² to 12.13 hectares;
- increase the area of the community facility by 140m² to 700m²;
- introduce a specific reference to row/terrace housing typology (some with detached flatettes) for future stages;
- include a parking rate for apartments being 1/apartment, 1.2/apartment (2 bed), 1.5/apartment (3 bed) and 1 visitor space per 5 apartments;
- clarify the intent of existing controls in relation to lot size, streetscape and setbacks; and
- undertake housekeeping changes to the Masterplan mainly involving updating the text to ensure the approved changes in all modification applications are incorporated.

The proposed increase in density will provide an additional 62 public dwellings enabling an increased number of residents to remain on the estate. In that regard the 70:30 private-public tenure mix identified in the Bonnyrigg Masterplan will not be affected by the proposed modification.

In response to issues raised by the department, relevant agencies and the public, the proponent submitted a "Response to Submissions" report which included additional housekeeping changes to the Masterplan; removed the reference to 6-plex and 8-plex attached dwellings; included the bus requirements of Transport for NSW; and included the Roads Maritime Services visitor parking requirements.



Figure 3 - Bonnyrigg Masterplan – Land Use and Road Layout (originally approved layout on left and proposed layout on right).

3. STATUTORY CONTEXT

3.1 Continuing Operation of Part 3A to Modify Approvals

In accordance with clause 3 of Schedule 6A of the Environmental Planning and Assessment Act 1979 (the Act), section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the modification of the project under section 75W of the Act.

3.2 Modification of the Minister's Approval

The Modification Application has been lodged with the Director General pursuant to Section 75W of the Act. Section 75W provides for the modification of a Minister's approval including *"revoking or varying a condition of the approval or imposing an additional condition of the approval."*

The Minister's approval of a modification is not required if the project as modified will be consistent with the existing approval. However, in this instance, the proposal seeks to modify terms of approval imposed on the Project Approval, and therefore, approval to modify the application is required.

3.3 Environmental Assessment Requirements

No additional environmental assessment requirements were issued with respect to the proposed modifications, as sufficient information has been provided to the department in order to consider the application.

3.4 Delegated Authority

The Minister has delegated his functions to determine Part 3A applications to the Planning Assessment Commission (PAC) where an application has been made by persons other than by or on behalf of a public authority.

The application is being referred to the PAC for determination as Fairfield City Council has lodged a submission objecting to the proposal.

4. CONSULTATION AND SUBMISSIONS

In accordance with Section 75X (2) (f) of the EP&A Act, the Director-General is required to make the modification request publicly available. The modification request was made available on the department's website and referred to Fairfield City Council, NSW Land and Housing Corporation, Transport for NSW, Roads and Maritime Services, Office of Environment and Heritage and Sydney Water for comment.

In addition, the modification request was exhibited for a period of 37 days from 25 January 2012 to 2 March 2012 including notification letters for properties located within the estate and within 100m of the site boundaries, in accordance with Council's notification policy.

The submissions received in response to the notification are addressed below.

4.1 Submissions by public agencies

Submissions were received from Fairfield City Council, NSW Land and Housing Corporation, Transport for NSW, Roads and Maritime Services, Office of Environment and Heritage and Sydney Water. The issues raised are as follows:

Fairfield City Council

Concerns raised by Council	Department's Response
Population Forecast	
An occupancy rate of 3.17 persons per dwelling across the entire site is adopted to predict the additional population increase.	Refer to Section 5.1 of the report
Open Space & Community Facilities	
The proposed increase to the provision of public open space and community facilities is deficient in proportion to the increased number of dwellings and future population.	Refer to Section 5.2 of the report
VPA/Section 94A contributions	
Council recommend the value of the VPA be increased by \$420,000	Refer to Section 5.4 of the report
Design	
<p>The flatette dwelling typology is not supported at the rear of dwellings as it blocks the laneway and they provide reduced amenity.</p> <p>Shared driveways are not supported due to potential issues with on-going maintenance in the absence of strata regulations.</p> <p>Lots with terrace housing should have a predominantly north-south orientation.</p> <p>The 6 and 8 plex arrangement should be removed.</p> <p>Terrace housing should be located adjacent to parks/open space.</p> <p>Privacy and solar access for existing dwellings is not to be compromised by the proposed apartment buildings.</p> <p>Lifts should be provided for the garden apartments</p>	Refer to Sections 4.2 and 5.3 of the report.
Car Parking	
The Roads and Maritime Services car parking rates should be applied for apartment buildings.	The Masterplan is now updated to include the parking rates identified in the <i>RMS Guide to Traffic Generating Developments</i> (1/apartment, 1.2/apartment (2 bed) and 1.5/apartment (3 bed). Visitor parking to be 1 per 5 apartments.

NSW Land and Housing Corporation

NSW Land and Housing Corporation support the increased density and note that the proposed dwelling typologies provide more conventional housing within the Bonnyrigg Estate in a response to market demand. However, concerns were raised with the reduced availability of on-street parking

due to the introduction of more compact lots and driveways and the reliance on on-street parking for medium density apartments.

The Masterplan requires development to incorporate parking on the site in accordance with Roads and Maritime Services parking rates. The department agrees there may be an increased demand for on-street parking in the vicinity of medium density development. The Masterplan has now been updated to include the specified car parking rates for apartments identified in the approved Transport Management Accessibility Plan and Concept Plan, including visitor parking for garden (or walk up) apartments at the rate of 1 space per 5 dwellings. The department considers that on-site parking will be provided at an appropriate rate to minimise impacts on the streetscape.

Transport for NSW

Transport for NSW has indicated the Public Transport Plan in Section 4 of the Masterplan to be updated to reflect the current bus routes and stops which have been changed since the original Concept Plan approval. The Masterplan has been updated to reflect current transport requirements.

The Roads and Maritime Services, Office of Environment and Heritage and Sydney Water reviewed the proposal and raise no objections to the proposed development.

4.2 Public Submissions

There were a total of four (4) public submissions received in response to the public exhibition of the modification application.

Of these, one (1) was received from the Bonnyrigg Private Homeowners Group and three (3) public submissions were from existing private residents. The issues raised are summarised as follows:

- Increased density and amenity impacts;
- traffic congestion and noise and fumes from vehicles;
- impacts from apartment buildings, including loss of sunlight, reduced openness and loss of privacy;
- the conversion of cul-de-sacs to through roads and associated amenity impacts;
- decreased property values; and
- lack of community consultation.

Department's response

The primary concern raised by the Bonnyrigg Private Homeowners Group is the conversion of cul-de-sacs to through streets and associated amenity impacts. While this aspect has already been approved, there is one additional cul-de-sac in stage 6 proposed to be converted to a through street as part of the modification application. The department considers the proposed through street is an acceptable change to the street configuration because it improves permeability and provides increased natural surveillance in stage 6.

A landowner in Hibiscus Lane, located in completed Stage 1, raised concern with the proximity of the garages constructed in nearby Lilac Place and the introduction of apartment buildings and associated traffic impacts. The development constructed as part of the approved first stage of the development is not a relevant consideration under this modification assessment. The traffic impacts are discussed below.

The concern raised by the owners of existing private dwellings at Upton Place relate to the proposed location of apartment buildings and associated impacts due to the height, loss of sunlight, reduced openness and loss of privacy. The changes to the layout will potentially result in an apartment building being located across the street, compared to public open space in the approved Concept Plan.

The proponent submitted a preliminary shadow analysis which indicates the closest existing private dwelling at No. 9 Upton Place (refer to **Figure 4**), will retain a minimum of 4 hours direct sunlight from 11:00am to 3:00pm during the winter solstice. The landowner at 9 Upton Place states that the loss of sunlight during the early morning period (between 7:00am-9:00am) will have an adverse impact on their amenity during the winter months. As a guide, Council's existing solar access controls require a minimum of four (4) hours between 9:00am and 3:00pm during the winter solstice. The department is of the view the potential shadows cast by an apartment building opposite No. 9 Upton Place will be within acceptable limits and can comply with Council's solar access controls.

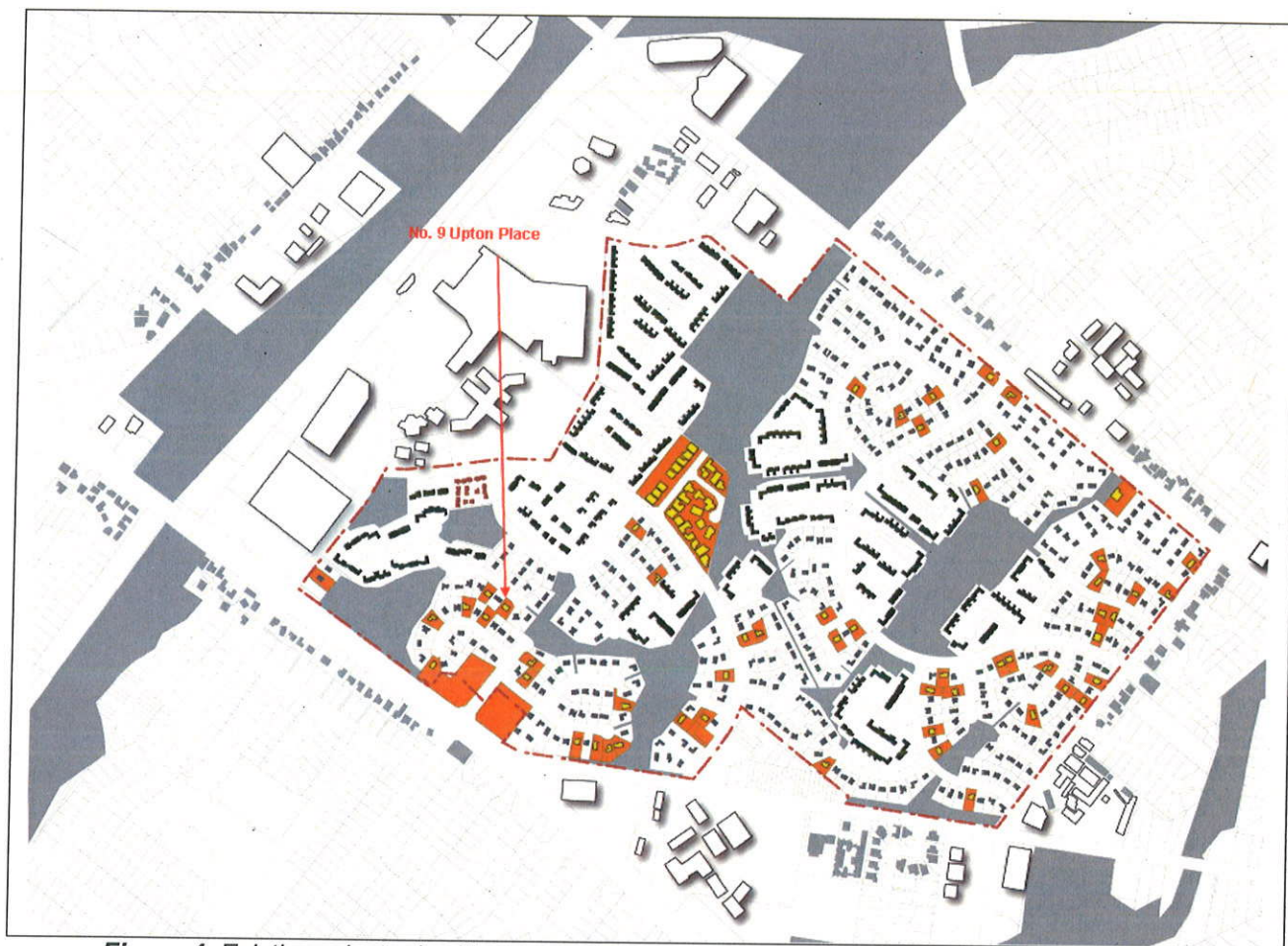


Figure 4: Existing private dwellings shown as properties marked orange

There will be no significant privacy impacts to existing private dwellings fronting Upton Place given any potential views from an apartment on the opposite side of the road will be of the front yard and not the private open space at the rear of the dwelling house. In any event the distance afforded by the proposed 10.5m wide road will minimise overlooking from the upper levels of any future apartment building to existing private dwellings in Upton Place.

The outlook from the existing private properties in Upton Place may change from a suburban park to the view of a residential flat building up to six storeys. The view from the existing private dwellings in Upton Place is of single storey dwelling houses with landscaped front setbacks. The Masterplan requires consideration to be given to the suburban character of the area and the provision of ground level courtyards and landscaped spaces between buildings which will provide building separation and assist with ventilation to neighbouring properties. The Masterplan also aims to provide innovative building articulation to avoid uniform and bulky development and add visual interest to the streetscape. These controls will ensure the visual impact of apartment buildings is acceptable when viewed from adjoining properties and the street.

Furthermore, the detailed design of any apartment building at the development application stage is required to be considered against *State Environmental Planning Policy No. 65 – Residential Flat Design (SEPP 65)* which includes requirements to minimise impacts to adjoining properties in relation to solar access, visual and acoustic privacy, streetscape and visual bulk.

The department accepts there will potentially be a significant change to the outlook from the existing private dwellings in Upton Place however, the impacts can be minimised at the detailed design stage with careful consideration to landscaping measures, building design and setbacks.

There are no significant changes to the road layout under the proposed modification. The two main collector roads (Bunker Parade and Tarlington Parade) will be retained together with the majority of the access streets. In that regard the proposed modification is generally consistent with the approved Concept Plan. The proponent submitted a Traffic and Parking Assessment, prepared by GTA Consultants with the application. The report concluded that no additional mitigation works are required by the additional traffic generated by an additional 168 dwellings. The department is of the view that the additional traffic can be accommodated within the proposed road network and there will not be any significant additional traffic congestion on the roads or adverse impacts to the amenity of existing private residents.

The issue relating to decreased property values is not a relevant planning matter for consideration. Notwithstanding, it is considered that the proposed changes will not have any significant impacts on the property values of existing dwellings.

The department notified the application in accordance with the Council's notification policy for a period of 37 days. In addition to the proponent's exhibition of the proposal, the proponent has contacted all 900 households in the estate by letterbox drop about the modified plans and several community information sessions were held with bi-lingual support workers. The proponent submitted a detailed community consultation report with the application. The department considers the level of community consultation undertaken to be adequate.

5. ASSESSMENT

5.1 Population Forecast (dwelling occupancy rates)

A key issue relates to the expected population increase generated by the increase in the number of dwellings on the site, as it informs the required level of public open space and community facilities in the Concept Plan. The population forecast is a point of contention between Council and the proponent for the following reasons:

- Council and the proponent have applied differing dwelling occupancy rates; and
- Council applies the projection across the entire estate and the proponent applies it to the proposed 168 additional dwellings.

Council adopts an occupancy rate of 3.17 persons per dwelling which is sourced from Informed Decision, a private demographic company. Council considers the rate to be appropriate because it is an independent survey and adopts a range of indicators such as household type, births, deaths and migration trends based on the current approved Concept Plan.

The proponent argues that the more reasonable occupancy rate to adopt is the actual occupancy rate of 2.2 persons per private dwelling and 3.2 persons per public dwelling. These rates were calculated from completed stages one and two and an analysis of sales in stage three. However, in light of Council's higher occupancy rate, the proponent has adopted a rate of 2.6 persons per private dwelling. This figure has been adopted from Council's draft Development Contributions Plan.

Council has applied an updated occupancy rate to the total number of dwellings in the estate in order to determine the provision of open space and community facilities for the entire population.

However, the department considers that only the additional proposed number of dwellings should be used to forecast the additional population and the demand for open space and community facilities. Council's method is not supported by the department because it includes the already approved number of dwellings and is beyond the scope of assessment for this modification application.

Council considers the use of a rate based on the actual occupancy to be flawed because of the small sample size and number of rental properties in the first two stages of the development. The department accepts that the sample size is small, however, the rate is based on the actual trend which provides a higher degree of certainty in predicting the additional population, compared to a projected rate. The department does not accept that the tenure status would have any significant impact on the actual rate of occupation.

The department is of the view that a rate based on the actual occupancy for existing stages is more reliable than a rate based on a likely population projection. In that regard the department accepts the rate adopted by the proponent of 2.6 persons per private dwelling in line with Council's draft Development Contributions Plan.

Using this rationale, Council forecasts the total population of the entire estate as 8,160 residents.

Based on a 70% and 30% split between private and public dwellings (as specified in the Masterplan), the population generated by the additional proposed number of dwellings is 463 residents (to a total of 6,880 residents). The department accepts this as the basis on which to determine the additional demand for public open space and community facilities.

5.2 Public Open Space and Community Facilities

Public Open Space

There is a disagreement between Council and the proponent regarding the provision of public open space to satisfy the needs of the estate due to a discrepancy with the forecast population as outlined in **Section 5.1**.

Council's view is that the provision of public open space should not be less than 2ha per 1,000 residents (equating to 20m² per person) in accordance with the rate applied to the entire estate under the approved Concept Plan. Council has applied this rate to the total forecast population of the estate and arrived at a total of 16.32ha or an additional 4ha of public open space being required.

Council's preferred open space rate is 2.83ha per 1,000 persons (28.3m² per person) which is taken from the *Department of Planning 2010 Recreation and Open Space Guidelines for Local Government* and the current Fairfield City Council Contributions Plan. Council recommends the higher rate because it is considered to meet the needs of residents living in apartments and assist with healthy living for the residents.

The proponent adopts a lower rate of 2.78m² per person which is consistent with the Council's Draft Contributions Plan and when applied to the additional population of 463 residents equates to the provision of 1,287m² or 0.13ha of additional public open space.

The question therefore arises as to what is an appropriate rate to apply to the additional population. The rate of 2.83ha per 1,000 persons preferred by Council was intended for new release areas and is not practical for existing urban areas such as Bonnyrigg and is therefore not supported by the department. The proponent's rate of 2.78m² per person, sourced from Council's Draft Contributions Plan, is considered a more suitable rate for the Bonnyrigg estate due to the constraints associated with the renewal of an existing urban area. The provision of 0.13ha of public open space is considered to meet the needs of the additional population and is supported by the department.

The department does not support Council's application of the public open space rate to the entire population. This application relates to the additional population generated by the changes to the Concept Plan. It is beyond the scope of this assessment to revisit the open space needs already approved in the Concept Plan for the entire estate. Notwithstanding, the Department considers the approved open space to be sufficient for the approved Concept Plan.

In addition to the quantum of open space, the amendments in this modification application will result in the reconfiguration of the approved public open space in the western part of the estate (refer to **Figure 3**). The public open space will maintain connectivity and provide adequate amenity for the benefit of future residents in accordance with the principles in the Masterplan. The department supports the changes to public open space.

Community Facilities

The increase in population from the additional dwellings will create a greater demand for the provision of community facilities. The approved Concept Plan provides a community centre of 560m².

In order to satisfy the additional demand the proponent adopts a rate of 0.14m² per additional person based on Council's draft Contributions Plan. Based on the additional population of 463 residents generated by 168 additional dwellings, an additional 140m² of community space is proposed to satisfy the needs of the population.

Council agrees with the rate of 0.14m² per additional person but argues the additional area for the community facility should be based on the future population for the estate as a whole, not just the incremental additional population generated by the additional 168 dwellings. Council's calculation is based on a total population forecast of 8,159.5 persons. On that basis Council recommends that the community centre should be a minimum of 1,142m² which is an additional 442m² greater than the size of the community centre proposed in this modification application (700m²).

The department is of the view the rate should be applied to the additional population generated by the additional dwellings as proposed in this application. Council's approach which is based on the entire population of the estate is beyond the scope of the modification assessment and not supported by the department. Notwithstanding, the Department considers the approved community facilities to be sufficient for the approved Concept Plan.

Council reinforces the need to provide social infrastructure in high density disadvantaged communities to ensure resources are available to support the socio-economic needs of the community. The proponent submitted a *Social Infrastructure Needs Analysis and Social Impact Assessment* which concluded there is adequate supply of social infrastructure in the vicinity of the site with the capacity to accommodate the additional demand.

The department considers the additional area of the community facility of 140m² is adequate to meet the demand created by the additional population in the modification application.

5.3 Terrace Housing/Design

The proposal introduces a new terrace form of dwelling typology into the Bonnyrigg estate. **Figures 5** and **6** shows the typical layout of terrace housing in the Stage 4 development application currently being considered by Council. This type of dwelling is sought primarily to replace the previously approved 6 and 8 plex dwelling typology which has been abandoned by the proponent noting amenity constraints in the design and subdued demand for this type of housing. Council supports the proposed terrace housing form but raises concerns with the 'flatette' on the rear laneway boundary which is a self contained one bedroom flat above garage parking (as shown on the preliminary concept plans submitted to Council for Stage 4). Council officers are concerned with the potential impact, such as overshadowing and reduced private open space.

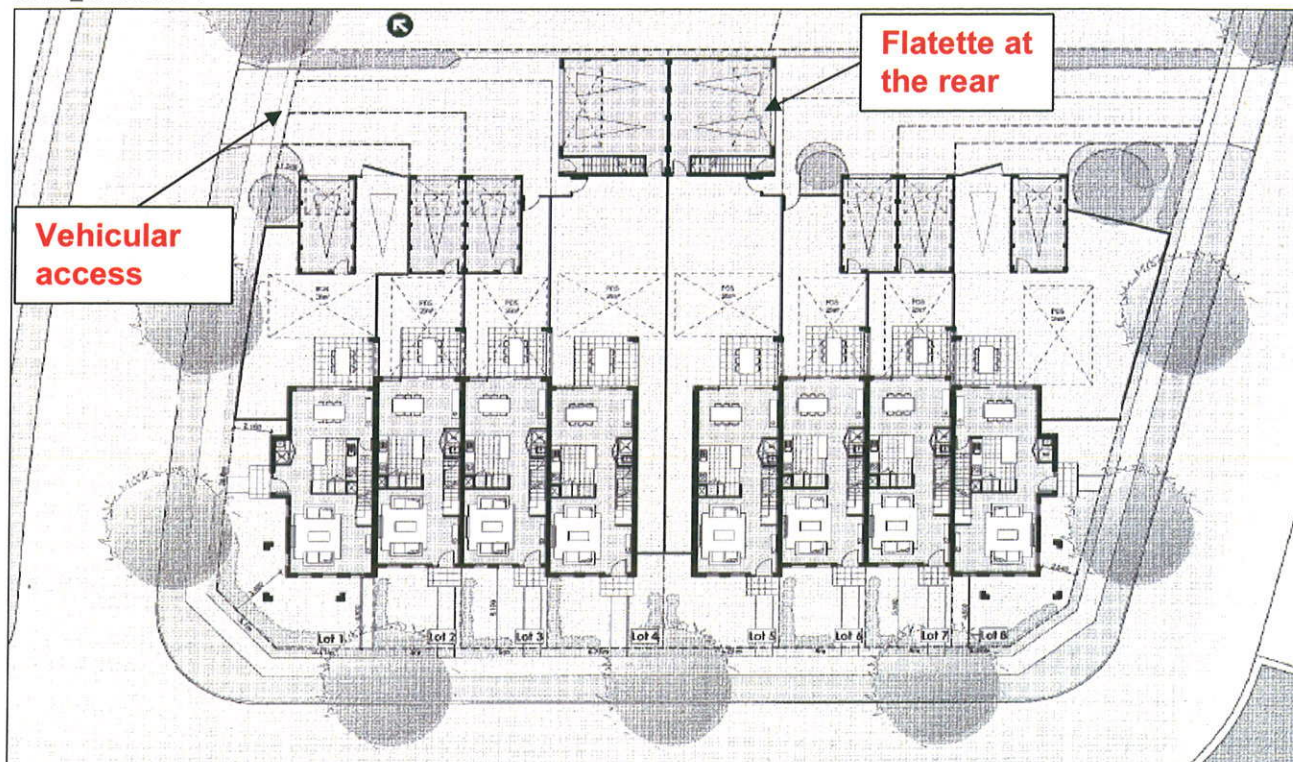


Figure 5: Proposed terrace housing (ground floor) - Stage 4 DA with Council

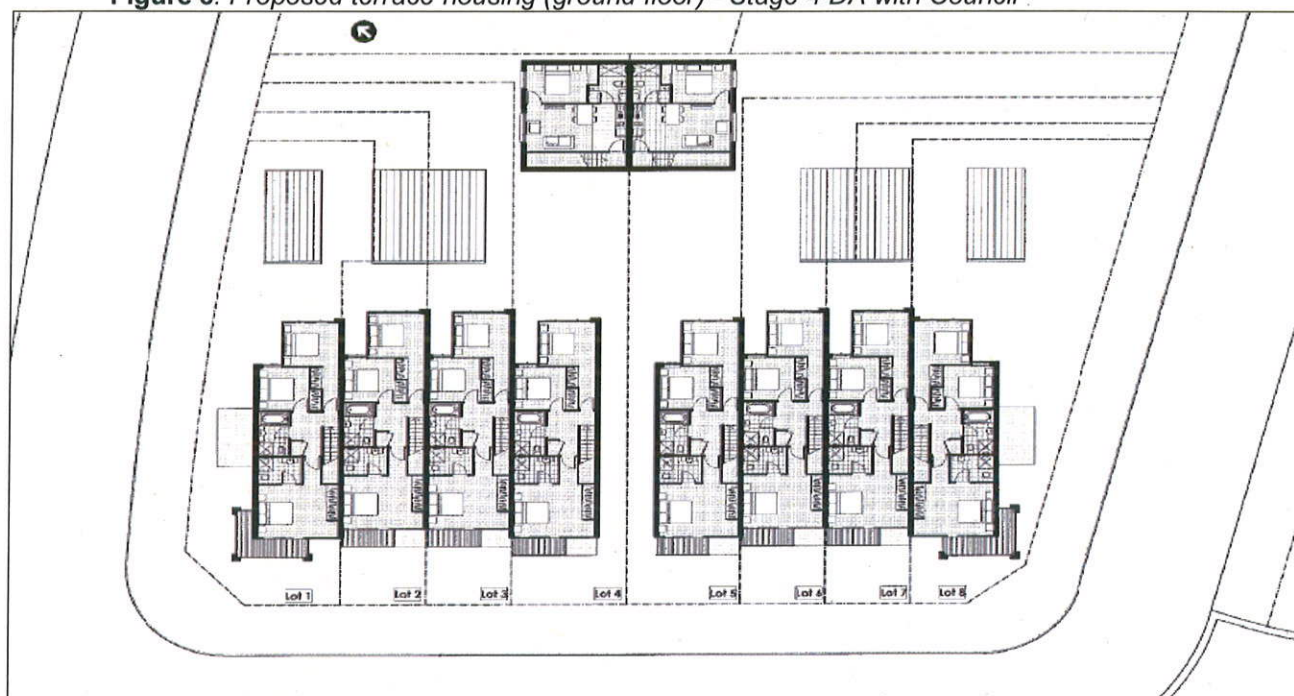


Figure 6: Proposed terrace housing (first floor) - Stage 4 DA with Council

The department considers the 'flatette' is a suitable form of development that will add to a diverse range of housing being provided in the estate. The department has viewed the preliminary concept plan for Stage 4 and it is likely that terrace housing with a flatette at the rear boundary will achieve in excess of 25m² of private open space for the main dwelling house as well as opportunity for space for the occupant of the flatette. The potential overshadowing impacts will vary depending on the orientation of the allotment. The amenity impacts arising from the flatette type of development can be dealt with at the DA stage.

Council has recommended that terrace housing be located adjacent or directly opposite to public open space. The terrace housing typology replaces the former 6 and 8 plex attached dwellings of a similar or higher density which were provided unrestricted across the entire estate. Council has

also requested that locational criteria for apartments be changed so that they are located directly opposite public open space or the community facility precinct. The Masterplan identifies apartments in a variety of locations most of which are fronting onto or nearby open space. This allows opportunities for enhanced residential amenity, design quality and environmental sustainability in accordance with SEPP 65. The Masterplan controls are supported by the department.

The department does not support siting restrictions for terrace and apartment buildings because it may create a uniform development pattern which will detract from the diversity and visual interest of the built form pattern intended to be adhered to in the Masterplan.

Council has raised concern with the location of apartment buildings adjacent to existing private dwellings and the potential impacts, particularly relating to privacy and solar access. This aspect has been discussed in **Section 4.2** of the report.

Council has also raised concern with the introduction of 3 storey garden (walk up) apartments without lift access and suitable levels of residential amenity. The 3 storey garden (walk up) apartments were approved as part of the previous modification application (MOD 3) and are not a relevant matter for consideration in this modification assessment. In any event the department does not support a requirement for lifts to be provided in 3 storey apartments for the following reasons:

- it would add considerable cost to the development and reduce the affordability of apartments where other housing options are available for the less mobile; and
- the Building Code of Australia does not require provision of lifts for 3 storey residential flat buildings.

The Department is satisfied that the application of SEPP 65 and Building Code of Australia requirements at the development application stage will ensure suitable levels of amenity are achieved for apartment buildings and their future occupants.

5.4 VPA/Section 94 Contributions

The additional population generated by the 168 additional dwellings will increase the demand for infrastructure needed to support the community. The developer has committed to providing the entire public infrastructure through a Voluntary Planning Agreement (VPA) with Council including the additional open space and community facilities discussed in **Section 5.1** and **5.2** of this report. The estimated value of the total infrastructure provision in the VPA is \$95 million.

Council has advised the value of the VPA should be increased by \$420,000 to cater for the additional population generated by 168 additional dwellings. This is based on a 1% levy in accordance with Section 94A of the Environmental Planning and Assessment Act, 1979 (Section 94A), and an average construction cost of \$250,000 per dwelling.

The proponent notes that the Section 94A contributions would be payable in lieu of the additional public facilities and has calculated the value of providing the additional community space and public open space (including embellishment) at \$502,000. This is in excess of the payment that would otherwise be required under the Section 94 contributions plan. The department considers it unreasonable for Council to apply a monetary contribution where public works are being provided to offset the demand generated by an increased population on the site.

The proponent has advised that the VPA (incorporating the Infrastructure Services Delivery Plan) will be updated to reflect the changes in the modification application. The department is of the view that changes to the VPA arising from this modification application is a matter between the proponent and Council and will need to be updated at each stage of the development.

6. CONCLUSION

The department has assessed the application on its merits and the proposed modification is considered to be reasonable and will not result in any significant changes to the development as approved. The changes reinforce the provision of a more conventional terrace housing typology which is a direct response to the market demands identified in the first two stages of the development.

The department is satisfied that the provision of public open space and community facilities will satisfy the demand generated by an additional 168 dwellings in the estate.

The modified proposal remains generally consistent with the overall design intent and terms of approval and is considered to be acceptable. It is therefore recommended that the application be approved, subject to modified conditions.

7. RECOMMENDATION

It is recommended that the Planning Assessment Commission:

- (a) **consider** the findings and recommendations of this report;
- (b) **approve** the modifications subject to conditions under Section 75W of the Environmental Planning and Assessment Act 1979; and
- (c) **sign** the attached Instrument of Modification for MP06_0046 MOD 4.

Prepared by: Thomas Mithen
Planner, Metropolitan & Regional Projects South

Endorsed by:



A/Director
Metropolitan & Regional Projects South



Executive Director
Major Projects Assessment

29.6.12



Deputy Director-General
Development Assessment &
Systems Performance

30/6/12

APPENDIX A MODIFICATION REQUEST

See the department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5111

APPENDIX B SUBMISSIONS

See the department's website at

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=5111

APPENDIX C RECOMMENDED MODIFYING INSTRUMENT
