



MEMORANDUM

Reference: **DA20/0782**

To: Penrith Local Planning Panel

From: Lauren van Etten – Senior Development Assessment Planner

Date: 23 February 2022

Subject: Proposed Residential Subdivision & Related Works – 19 Middlebrook Rise & Lot 2000 Bradley Street, Glenmore Park

I refer to the subject development proposal and the related assessment report that is scheduled for consideration by the Penrith Local Planning Panel on 23 February 2022.

This memorandum provides a response to questions from the Local Planning Panel ahead of the upcoming Local Planning Panel meeting and outlines proposed amendments to the recommended conditions of consent.

Item	Response
1. <i>Land use permissibility in the RU2 and RE1 zones if roads are characterised as ancillary to the residential lots</i>	<p>Penrith LEP 2010 defines a road as “a public road or a private road within the meaning of the Roads Act 1993, and includes a classified road”. The proposed roads, being future public roads, satisfy this land use definition.</p> <p>The physical construction of roads in this instance is not necessarily considered ancillary to the proposed lots, but rather an independent land use which is permissible with consent in both the RU2 and RE1 zones.</p> <p>In addition to providing access to the proposed residential lots, the proposed roads will also provide public road access to the RE1 and RU2 zoned land.</p> <p>Council’s Legal Services Manager has been consulted in relation to this interpretation of the LEP provisions and raised no concerns in this regard.</p>
2. <i>Clarification in relation to required VPA amendment and suitability of condition requiring VPA amendment</i>	<p>Council’s Legal Services Manager has been consulted in relation to the suitability of recommended Condition 3, which (in part) requires execution of a VPA amendment to defer the southern 20m of required</p>

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		<p>planting works to the western riparian corridor.</p> <p>Although the applicant can still pursue the proposed VPA amendment, it is considered appropriate that recommended <u>Condition 3</u> be amended to exclude this requirement. In its place, the applicant will now be required to provide a landscape plan for the southern 20m of the riparian corridor. This plan will need to be submitted to, and approved by Council prior to the issue of any Subdivision Works Certificate. The riparian corridor planting works will need to be completed in full prior to the issue of a Subdivision Certificate, as per the terms of the current VPA.</p> <p>In the event the VPA amendment is executed, the applicant could seek a modification of this consent condition to reflect the deferral of the southern 20m of corridor planting.</p>
3.	<p><i>Is the proposed cul-de-sac east of Stage 7A part of the proposal? Will it be within a right of way and have all owners provided consent?</i></p>	<p>The proposed cul-de-sac which is east of Stage 7A forms part of the proposal. It is a temporary cul-de-sac to facilitate access and circulation for Council's waste collection vehicles as part of the staged subdivision, noting that proposed Road 113 is intended to be extended and connected to the east as part of future development.</p> <p>The temporary cul-de-sac head will be sited within land that is subject to the application, and as such, there is no requirement for separate landowner's consent to be provided. The proposed cul-de-sac will remain in the ownership of the current landowner with a right of carriageway to be created benefiting Council until such time as the cul-de-sac is decommissioned and the</p>

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		<p>road is extended to the east as part of future development.</p> <p>The requirement for registration of a right of carriageway is addressed via recommended Condition 80(i).</p>
4.	<i>Inclusion of GTA (General Terms of Approval) references in conditions</i>	<p>Recommended <u>Condition 2</u> can be amended to include the relevant reference numbers and dates of the GTAs issued for the proposal by the integrated development authorities.</p> <p>It is Council's standard practice to attach a copy of the GTAs to the notice of determination.</p>
5.	<i>Clarification in relation to suitability of condition requirements to address impact of proposed removal of hollow-bearing tree</i>	<p>Council's Biodiversity Officer has confirmed the recommended conditions address the impact of the proposed removal of the hollow-bearing tree, subject to two amendments.</p> <p>In relation to recommended <u>Condition 21</u>, the pre-clearance survey results and actions taken are to be reported to Council prior to clearing works commencing (rather than within one month of clearing works).</p> <p>In relation to recommended <u>Condition 27</u>, evidence of satisfaction of the condition requirements is to be prepared by the project ecologist and submitted to Council within one month following clearing activities.</p>
6.	<i>Proposed amendments to recommended conditions as requested by applicant</i>	<p>The applicant intends to stage the proposed development into sub-stages and initially seek a bulk earthworks Subdivision Works Certificate (SWC). In order to reflect this intention, it is necessary to replace the reference to <i>prior to the issue of "any" SWC</i> to <i>prior to the issue of "the relevant" SWC</i> for recommended <u>Conditions 3, 42, 43,</u></p>

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		<p><u>44, 52, 53, 54, 55, 56, 57, 58, 65, 66, 68, 69, 70, 71, 72, 77 and 78.</u></p> <p>In relation to recommended <u>Condition 1</u>, the first plan in the table is to be updated to reference Revision N of the Subdivision Plan (dated 16/02/2022).</p> <p>In relation to recommended <u>Condition 3</u>, paragraph 3 is to be amended to require that Pinnacle Park is delivered <i>prior to the issue of the relevant Subdivision Certificate</i>, rather than <i>prior to the issue of any Subdivision Certificate</i>.</p> <p>In relation to recommended <u>Condition 22</u>, this condition is to be amended to clarify that temporary protection fencing is to be installed to the park and corridor areas prior to works commencing and permanent fencing is to be installed prior to the issue of the relevant Subdivision Certificate.</p> <p>In relation to recommended <u>Condition 62</u>, this condition is not relevant to the proposal and can be deleted.</p> <p>In relation to recommended <u>Condition 80(f)</u>, this condition can be deleted. In this regard, further review of the subdivision design, including the proposed perimeter road, site mounds and associated landscaping, has satisfied Council staff that two storey dwellings can be built along proposed Roads 120 and 121 without impacting The Northern Road view shed.</p>
7.	<i>Additional recommended condition</i>	The following additional condition is recommended regarding the fitness stations proposed within the riparian corridor, as no details of this equipment were provided:



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		<p><i>Riparian corridor equipment plans and details are to be submitted to, and approved by Council prior to the issue of the relevant Subdivision Works Certificate.</i></p> <p><i>Prior to the issue of the relevant Subdivision Certificate, compliance documentation, including installation sign-off and warranties, shall be provided to Council.</i></p>
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Lauren van Etten
Senior Development Assessment Planner