



Our reference: P-335684-W1T1  
Contact: Gavin Cherry  
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25 July 2022

Michelle Niles  
Email: [Michelle.Niles@planning.nsw.gov.au](mailto:Michelle.Niles@planning.nsw.gov.au)

Dear Michelle,

**Response to Submissions – Extension of the Great River Walk, Nepean Business Park (DA 10693)**

I refer to your request to provide comments on the above application, specifically the package of documents associated with the Response to Submissions.

Council previously provided advice on the proposal in letter dated 8 September 2021. Whilst Council supports the provision of a contributory connection to the Great River Walk, it is noted that land ownership, design and access issues raised at points 1.3 through 1.5 of Council's previous 8 September submission are not adequately responded to and these critical issues remain unresolved.

**1. Dedication of Land / Great River Walk Land Ownership Matters**

Although it is noted in the applicant's response (Section 2, Response to Request for Further Information dated 14 June 2022 prepared by Planning Ingenuity) that:

*'...the land the subject of the application be transferred into Council or State ownership for use as regional open space, including the constructed walking track. The walking track would be constructed for the benefit of the eventual owner'...*

it remains unclear as to who will be the final landowner of the land being the subject of the Walk, how dedication or acquisition will occur, what level of final embellishment is proposed – and to which authority's standards the design and construction will have regard to. These matters are not satisfactorily addressed.

Further, the applicant has not suitably addressed Council's design related comments (refer section 2 of the above-mentioned letter) and it appears from statements related to maintenance, that the intent is to have the section of the Walk remain in private ownership, which is contradicted elsewhere in the response document.

The timing of any land-ownership change is not detailed.

It is recommended that the Department seek clarity from the applicant on these important aspects of the proposal.

In addition to the above, the following comments from Council's internal Strategic Planning team and Council's engineering, biodiversity and tree management teams, are provided for your consideration in relation to this matter.

## **2. City Planning Considerations**

Contributions under Council's Section 7.12 plan are to be addressed and relevant conditions imposed should the application be supported.

In addition to the above, the applicant must accurately demonstrate future public ownership of the land and must be clear as to the extent of works applicable to the walk.

This section of the walk must not remain in private ownership. Should DPE allow the walk to remain in private ownership a public easement must be created to ensure that it is publicly accessible and adequate maintenance obligations are imposed on the title of the land and via a set of conditions on the consent.

Leaving any sections of the Great River Walk in private ownership without any mechanisms to facilitate public access will result in future issues of trespassing, acquisition, maintenance and the like.

It is recommended that the applicant nominate a public authority to dedicate this land to and is to explain and detail the process proposed for this dedication.

All land forming part of the Great River Walk is to be publicly accessible, accessible for maintenance reasons and is to be delivered in a rational and contiguous form.

## **3. Development Engineering Considerations**

Should the Department of Environment and Planning (DPE) be of a mind to support the proposal, the following engineering condition is recommended to be included in the relevant section of the consent.

- All works shall be completed in accordance with Penrith City Council's Engineering Construction Specification for Civil Works document.

## **4. Biodiversity and Tree Considerations**

### **(a) Biodiversity**

The Biodiversity Thresholds Test concludes that no native vegetation will be removed or modified which is identified on the Biodiversity Values Map and that the project will not exceed the area clearing threshold or result in a significant impact on threatened ecological communities, flora or fauna species.

Notwithstanding the above, the Recommendations provided in Section 12 of the Ecological Assessment Statement prepared by Eco Resolve, should form part of consent conditions prepared.

In addition to the above, the proposed footprint of works should be fenced and works area demarcated with fencing to reduce the risk of accidental clearing or damage to surrounding vegetation.

Adequate conditions of consent are to be imposed which require the preparation of a Tree Impact Assessment. Plans (in the form of a survey or similar accurate map) accompanying the TIA are to indicate where Tree Protection Fencing and ground protection measures are to be installed around trees where the works are in close proximity.



This is to avoid accidental impacts, and compaction to the soil within the tree protection zones.

Any works within Tree Protection Zones should be supervised by a Level 5 AQF Consulting Arborist.

**(b) Trees**

The civil plans and the Arborist report cannot be cross referenced to determine the full impacts of trees affected by the proposed works and to determine those works which may require tree removal.

It is recommended that DPE required civil plans to be provided with tree numbering in accordance with the numbering provided in the arborist report to enable an accurate assessment to be undertaken.

Civil plans also show that there is a 3 metres shared path to be installed with a 2.5 metre 'cleared' area on either side of the pathway equalling an 8.0 metre clearance zone. It does not appear that the arborist report addresses this as they only provide assessment of a 3.0 metre construction/maintenance path and presumably a 3m shared path. There must be consistency between the civil plan and the arborist report. Without accurate assessment data, full impacts of the works cannot be determined.

Should you require any further information regarding the comments, please do not hesitate to contact me on (02) 4732 8567.

Yours Sincerely,

Kathryn Saunders  
**Acting Development Assessment Coordinator**