

**Our Ref:** M190009

16 June 2023

Michelle Niles  
Acting Team Leader, Regional Assessments  
Department of Planning and Environment  
Locked Bag 5022  
**PARRAMATTA NSW 2124**

Via email- [Michelle.Niles@planning.nsw.gov.au](mailto:Michelle.Niles@planning.nsw.gov.au)

Dear Ms Niles,

**Proposed Modification of Penrith Lakes Employment Land Subdivision (DA 9876)  
Nos. 14-28, 30-68 and 70-98 Old Castlereagh Road, Penrith**

We act as town planning consultants to the owners of the above property.

Introduction

On 31 March 2022, the Land and Environment Court granted development consent for DA 9876 (*Great River NSW v Minister for Planning and Public Spaces LEC 2021/204069*). The approved development is described as follows:

*“Penrith Lakes Employment Lands subdivision and construction works comprising:*

- *Torrens title subdivision of three lots into four environmental lots and one residual lot;*
- *Subdivision of the residual lot into 93 Community title lots and one community association lot;*
- *Thirteen (13) development stages;*
- *Earthworks to achieve the final site levels;*
- *Construction of internal roads, including a slip lane to Old Castlereagh Road, footpaths and sharewd pathways and infrastructure to be dedicated to Council;*
- *Landscaping works including removal of 36 trees and certain vegetation and planning of new trees and vegetation; and*
- *Freestanding advertisement signage.*

The development consent relates to the following three (3) existing land parcels shown in **Figure 1**:

- No.14-28 Old Castlereagh Road, Penrith (Lot 3 DP 1263486)
- No. 30-68 Old Castlereagh Road, Penrith (Lot 2 DP 1263486)
- No. 70-98 Old Castlereagh Road, Penrith (Lot 1 DP 1263486)

Lots 1 and 2 above are held in the ownership of *NBP Estates Pty Ltd*, and Lot 3 above is held in the ownership of *BFSF3 Pty Ltd*. Consolidation of these three lots is currently problematic due to the ownership being in different entities and therefore our client would like to retain the lots in accordance with the original titles for the time being. Consolidation will of course occur at the time of ultimate subdivision in accordance with the approved plans. Separation of the land required for open space is not impacted by this modification.



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**Figure 1** Subject site indicating location of the three subject existing lots

### Reasons for Modification

We have been advised that the proposed sequence of subdivision and consolidation creates issues regarding the issue of new titles over the residual lots. There are also difficulties associated with the current ownership of the three parent parcels that must be resolved prior to their consolidation into a single lot. Further information regarding the nature of these issues can be provided to the Department if required.

For this reason, we seek the modification of the approved subdivision as described below. .

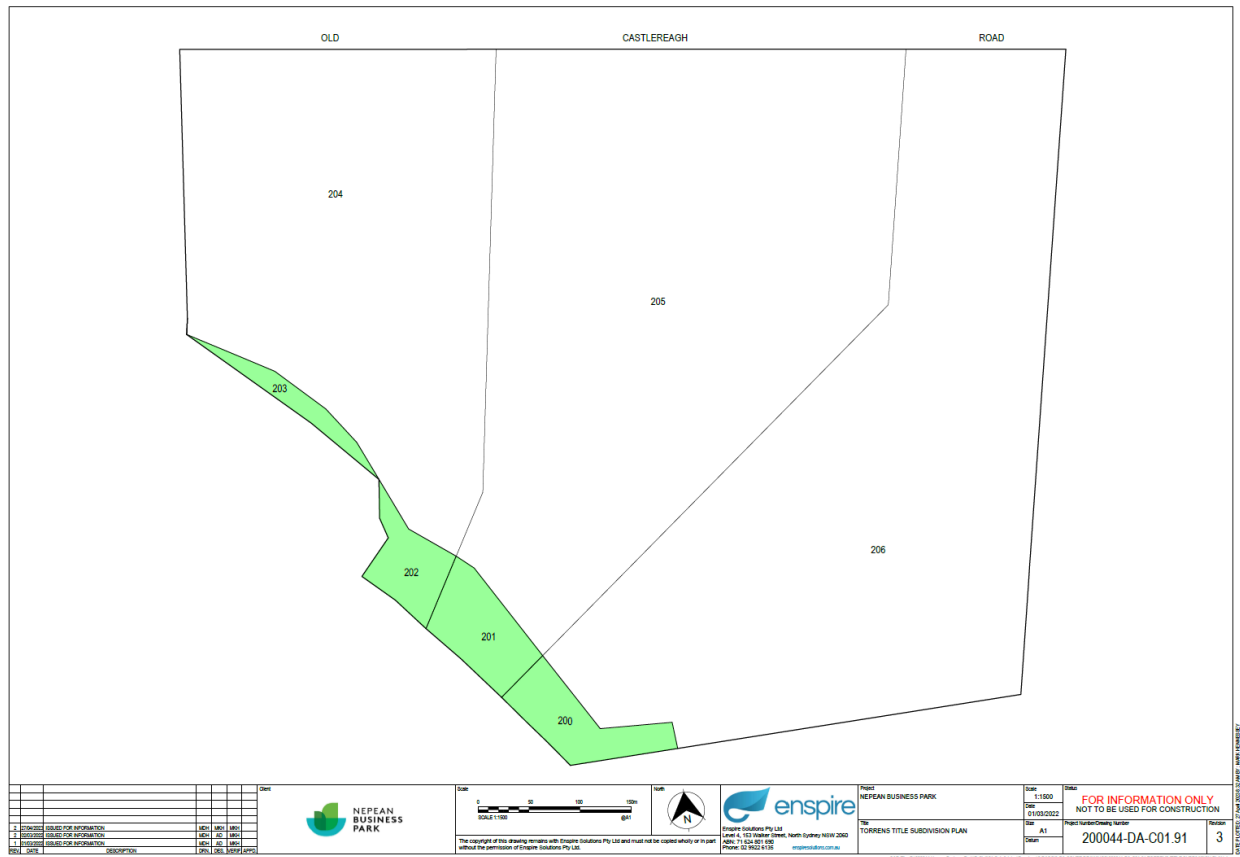
### Proposed Modification

This proposal concerns the arrangements for subdivision and consolidation of the subject land to give effect to the approved development. It is proposed that the approved subdivision be modified under Section 4.56(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) to resolve the above issues by providing for the following titling arrangements:

1. A plan of subdivision to be lodged with *Land Registry Services* (LRS) that would subdivide Lots 1 to 3 within Deposited Plan DP 1263486 to create:
  - (i) Lot 200 in the new DP that would sit within the area of former Lot 3,
  - (ii) Lot 201 in the new DP that would sit within the area of former Lot 2,
  - (iii) Lots 202 and 203 in the new DP which would wholly sit within the area of the former Lot 1,
  - (iv) Lot 204 comprising the residue of Lot 1,
  - (v) Lot 205 comprising the residue of Lot 2, and
  - (vi) Lot 206 comprising the residue of Lot 3.
2. Identify Lots 204, 205 and 206 as “base parcels” for the Community Plan.



These changes are indicated in the draft plan of subdivision prepared by *Enspire Solutions* as indicated in **Figure 2** below.



**Figure 2** Proposed plan of subdivision

The proposed changes to the approved subdivision plan are generally consistent with the approved development and will allow for the an equivalent outcome. These arrangements allow for the respective financiers for the subject land to take security over the relevant land titles and will allow the project to proceed as intended.



## Statement of Environmental Effects

Section 4.56(1) of the EP&A Act provides for a consent authority to modify a consent where:

- *It is satisfied that the development to which the consent as modified relates is substantially the same development for which the consent was originally granted and before the consent was modified (if at all), and*
- *It has notified the application in accordance with the regulations, if the regulations so require, or a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- *It has notified, or made reasonable attempts to notify each person who made a submission in respect of the relevant application of the proposed modification by sending written notice to the last address known to the consent authority of the objector or other person, and*
- *It has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

The proposed modification of **DA9876** described above has been considered having regard to Section 4.15 of the EP&A Act 1979 as follows:

Table 1 Section 4.15 Matters for Consideration		
EP&A Act, 1979.	Matters for Consideration	Comments
S 4.15(1)(a)(i)	The provisions of any: <ul style="list-style-type: none"><li>- environmental planning instrument,</li><li>- any proposed instrument that has been the subject of public consultation under the Act,</li><li>- any development control plan,</li><li>- any planning agreement that has been entered into under section 7.4, or any draft planning agreement and</li><li>- the Regulations (to the extent that they prescribe matters for the purpose of this paragraph)</li></ul> that apply to the land to which the development application relates.	Satisfactory – the proposed changes to the approved subdivision of the subject parcels does not involve any conflicts with the relevant environmental planning instruments that apply to the site (including Chapter 5 of <i>SEPP (Precincts – Western Parkland City) 2021</i> ).
S 4.15(1)(b)	Likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.	Satisfactory – the proposed changes to the approved subdivision of the subject parcels will <u>not</u> have any unreasonable impact on either the built or natural environment.
S 4.15(1)(c)	The suitability of the site for the development,	Satisfactory – the proposed changes to the approved subdivision do not alter the site's existing suitability for the proposed development.
S 4.15(1)(d)	Any submissions made in accordance with this Act or the regulations.	N/A

Table 1 Section 4.15 Matters for Consideration

S 4.15(1)(e)	The public interest.	Satisfactory – the proposed changes to the approved subdivision do not involve any adverse impacts in respect of the public interest.
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The proposed modification does not have any adverse impact to the approved development or the surrounding locality and does not impede the development methodology or outcome.

#### Conclusion

The proposed subdivision plan merely seeks to modify the method of the consolidation of the residual land in the approved subdivision without delaying the titling of the future environmental land. Having regard to the minor nature of the proposed changes, the proposed modification is worthy of approval.

Should you require any further information, do not hesitate to contact me on (02) 9531 2555.

Yours faithfully,



Troy Loveday  
**Principal Planner**  
**Planning Ingenuity Pty Ltd.**