

PENRITH LOCAL PLANNING PANEL

DETERMINATION AND STATEMENT OF REASONS

APPLICATION NUMBER	DA22/0083
DATE OF DETERMINATION	27 April 2022
PANEL MEMBERS	Jason Perica (Chair) John Brunton (Expert) Christopher Hallam (Expert) Geoff Martin (Community Representative)
DECLARATIONS OF INTEREST	No conflicts of interest were declared
LISTED SPEAKERS	Vince Hardy

Public Meeting held via video conference on Wednesday 27 April 2022, starting at 12:00pm.

Matter Determined pursuant to Section 4.16 of the Environmental Planning and Assessment Act 1979

Development Application DA22/0083, Lot 1444 DP 788282, 27a Phoenix Crescent, Erskine Park – Torrens Title Subdivision into 3 Lots Including 2 x Future Residential Lots and 1 x Lot to be Retained As Phoenix Reserve, Tree Removal and Ancillary Civil Works.

Panel Consideration

The Panel had regard to the assessment report prepared by Council's independent assessment officer (external planning consultant), supporting plans and information and the following environmental planning instruments and policies;

- Penrith Local Environmental Plan 2010 (Amendment 4)
- Penrith Development Control Plan 2014
- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- Sydney Regional Environmental Plan No. 20 – Hawkesbury/Nepean River (now repealed and relevant considerations transferred into State Environmental Planning Policy (Biodiversity and Conservation) 2021

In terms of considering community views, the Panel noted there were no submissions received from the public notification of the Development Application.

Panel Decision

DA22/0083, Lot 1444 DP 788282, 27a Phoenix Crescent, Erskine Park – Torrens Title Subdivision into 3 Lots Including 2 x Future Residential Lots and 1 x Lot to be Retained as Phoenix Reserve, Tree Removal and Ancillary Civil Works be deferred, subject to the following terms:

1. Trees 1, 2 and 3, identified as having high retention value with the application, should be retained and protected by an appropriate mechanism, such as a covenant.
2. The Applicant be invited to consider the implications of 1 above and either amend the proposal to achieve this outcome and/or provide future development footprints and envelopes to demonstrate this outcome will be achieved.

This information shall be provided by the Applicant prior to 31 May 2022. Upon receipt of this information Council staff shall prepare another report for the Panel's consideration and determination, which may be by electronic means, as soon as practicable. The same Panel shall be reconvened as practical.

Reasons for the Decision

The Panel formed the view that the proposal is not supportable in its current form and warrants amendment to allow for the retention of high value trees. Trees numbered 1, 2 and 3 were deemed to be particularly worthy of retention and are considered to require retention and protection to address biodiversity considerations relating to avoidance or minimisation of loss, given the ecological significance of the vegetation on the site and the removal of other trees. While having a greater impact on development potential of the lots than the recommendation to the Panel, the Panel was none-the-less of the view retention of trees 1-3 provided an appropriate balance between ecological impacts and considerations and future development of the site(s).

The Panel had regard to the comments and recommendations of Council's Senior Biodiversity and Tree Management Officers, who recommended refusal of the application. While the Panel was not of a mind to refuse the application, it did agree that trees identified as high retention value could and should be retained.




In terms of other trees on proposed lots 1-2, the Panel saw some practical possibility in retaining certain trees near the front or side boundaries proposed. However, these trees were not of such significance to warrant their inclusion in the restriction on title, also noting a likely impact on future development.

The applicant should be invited to submit a revised development application that addresses the reasons for deferral above. This could be by way of an amended plan of subdivision or consolidation of proposed lots. This may require resubmission of the Clause 4.6 contravention request.

In terms of considering community views the Panel noted that no submissions were received to the proposed development.

Votes

The decision was unanimous.

Jason Perica – Chair 	John Brunton – Expert 
Christopher Hallam – Expert 	Geoff Martin (Community Representative) 