

DATE OF DETERMINATION	Tuesday, 11 May 2021
PANEL MEMBERS	Justin Doyle (Chair), Louise Camenzuli, Nicole Gurran, Glenn McCarthy and Ross Fowler
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on Monday, 19 April 2021.

MATTER DETERMINED

PPSSWC-90 – Penrith – DA20/0360 at Lot 5 DP 1017480,2235 – 2249 Castlereagh Road, Penrith NSW 2750 – Installation of Electricity Generating Works (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The panel considered the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Application to vary a development standard

Following consideration of a written request from the applicant (a report prepared by Premise, dated 20 August 2020), made under cl 4.6 (3) of the Penrith Local Environmental Plan 2010 (LEP), that has demonstrated that:

- a) compliance with cl. 4.1(3) Minimum Subdivision Lot Size (development standard) is unreasonable or unnecessary in the circumstances, (in particular, the delivery of an effective and efficient electrical network supports the provision of development within the region with no detrimental impacts to the environment or heritage of Penrith); and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.1 (development standard) of the LEP and the objectives for development in the IN1 General Industrial zone; and
- c) the concurrence of the Secretary has been assumed.

Development application

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The panel determined to uphold the Clause 4.6 variation to building height and approve the application for the reasons outlined in the council assessment report.

As per the Briefing Record for this matter dated 17 August 2020, the two primary issues for consideration in the assessment of this matter relate to the minimum lot size and flooding,

In relation to the minimum lot size, the Panel considered the clause 4.6 variation request and was satisfied that the variation is not considered to impact on the objectives of the zone or the minimum lot size control. The proposed subdivision is required to facilitate the long term lease arrangement (20 years) between Penrith Smart Battery P/L and Endeavour Energy. The lot is to remain in the ownership of Endeavour Energy.

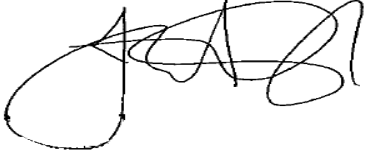
In relation to flooding, while the site is highly impacted by floodwaters, the Application has demonstrated that the proposed development will not have an adverse impact on mainstream flooding and local overland flow flooding (noting the proposal to create bench pads for the battery storage units has now been amended to instead use piers to elevate the battery storage units above the 1% AEP flood event affecting the site).

CONDITIONS

The development application was approved subject to the conditions in the council assessment report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Louise Camenzuli
 Nicole Gurran	 Glenn McCarthy
 Ross Fowler	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-90 – Penrith – DA20/0360
2	PROPOSED DEVELOPMENT	Installation of Electricity Generating Works (Battery Storage) and Facilitating Torrens Title Subdivision x 2
3	STREET ADDRESS	Lot 5 DP 1017480,2235 – 2249 Castlereagh Road, Penrith NSW 2750
4	APPLICANT/OWNER	Applicant: Penrith Smart Battery Pty Limited Owner: Epsilon Distribution Ministerial Holding Corporation
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy (Infrastructure) 2007 - State Environmental Planning Policy No. 55 – Remediation of Land - Sydney Regional Environmental Plan No. 20 – Hawkesbury/Nepean - Penrith Local Environmental Plan 2010 - Draft environmental planning instruments: Nil - Development control plans: - Penrith Development Control Plan 2014 - Planning agreements: Nil - Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil - Coastal zone management plan: Nil - The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality - The suitability of the site for the development - Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations - The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	- Council assessment report: Monday, 19 April 2021 - Additional information received – Conditions Confirmation – Thursday, 22 April 2021 - Clause 4.6 Application relates to is the minimum lost size control under Penrith Local Environmental Plan 2010 - Written submissions during public exhibition: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Briefing: Monday, 17 August 2020 <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurrán, Louise Camenzuli and Ross Fowler <u>Council assessment staff</u>: Jane Hetherington, Kate Smith and Gavin Cherry - Final briefing to discuss council's recommendation: Friday, 23 April 2021 <u>Panel members</u>: Justin Doyle (Chair), Louise Camenzuli, Nicole Gurrán, Glenn McCarthy and Ross Fowler <u>Council assessment staff</u>: Robert Craig, Jane Hetherington and Gavin Cherry
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report