

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA21/0748
<b>Proposed development:</b>	Torrens Title Subdivision x 2 lots
<b>Property address:</b>	196 Christie Street, ST MARYS NSW 2760
<b>Property description:</b>	Lot 196 DP 31912
<b>Date received:</b>	13 October 2021
<b>Assessing officer</b>	Lucy Goldstein
<b>Zoning:</b>	IN1 General Industrial - LEP 2010 SP2 Infrastructure - Railway - LEP 2010
<b>Class of building:</b>	N/A
<b>Recommendations:</b>	Approve

### Executive Summary

Council is in receipt of a Development Application for Torrens Title Subdivision x 2 Lots at 196 Christie Street, St Marys NSW 2760.

Under Penrith Local Environmental Plan (LEP) 2010, the site is zoned IN1 General Industrial and SP2 Infrastructure-Railway. The proposal is defined as Subdivision, which is permitted with consent in the IN1 General Industrial and SP2 Infrastructure-Railway zone.

The Application seeks to subdivide 196 Christie Street into two allotments to facilitate the development and operation of the site for the purpose of the St Marys Intermodal Freight Hub, a State Significant Development (SSD-7309) approved by the Department of Planning, Industry and Environment on 7 May 2020. The application is for a paper subdivision only, and does not seek consent for any use or physical works.

The proposed subdivision complies with the minimum lot size standard of 1000sqm required for the site under Clause 4.1 of Penrith LEP 2010. In this regard, proposed Lot 1 has a total area of 5.884 hectares, and proposed Lot 2 has a total area of 1.456 hectares. The subdivision provides Lot 1 and 2 with suitable direct access to a public road, being Christie Street.

Of importance to note is that the current allotment traverses Christie Street with a portion of the road corridor being in private ownership of St Marys Land Limited. A right of carriageway exists over the road benefiting Penrith City Council. The proposal retains the existing right of carriageway over Christie Street to enable public use of the road. However, as detailed by the Application, the proposed subdivision will facilitate the future dedication of this portion of road to Council, which is intended to be carried out as exempt development under the provisions of the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

In accordance with Council's Community Engagement Strategy, the proposal did not require to be notified.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and the application is recommended for approval, subject to recommended conditions.

## Site & Surrounds

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The site is legally described as Lot 196 in DP 31912, referred to as 196 Christie Street, St Marys. The site is a narrow, linear allotment bound by the Dunheved Golf Club to the north of the site, and the Western Railway Line to the south of the site. To the east of the site is the St Marys Industrial Precinct and to the west of the site is the South Creek line.

The site previously contained a rail line which was used in association with the former St Mary's Australian Defense Industries (ADI) site located to the north-west of the site.

The allotment has a total area of approximately 7.34 hectares. The lot crosses Christie Street resulting in a portion of the road being in private ownership, with an existing right of carriageway over the road corridor benefiting Penrith City Council. The proposal retains the right of carriage way over Christie Street to enable public use of the road.

The site is being developed for the purpose of the St Marys Intermodal Freight Hub, a State Significant Development (SSD-7309) approved by the Department of Planning, Industry and Environment on 7 May 2020. The St Marys Intermodal Freight Hub as approved will provide a road and rail terminal and container park, providing new port shuttle service to move shipping containers to and from Port Botany by rail and transporting full containers from St Marys to customers in Western Sydney by truck

### Site Constraints

- Mapped party as Bushfire Prone Land;
- Mapped Scenic and Landscape Values;
- Flood related development controls apply;
- Mapped watercourse traverses site;
- Existing Easement for Right Of Carriage of variable Width;
- Existing Easement for Transmission 30.48m wide;
- Existing Easements for Railway Transmission of variable width; and
- Easement for PMG cable 12.9m wide.

## Proposal

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The proposal is for the subdivision of Lot 196 DP 31912 to create two lots, comprising the following:

Proposed Lot	Lot Area
Lot 1	5.884 hectares
Lot 2	1.456 hectares

Proposed Lot 1 is situated south of Christie Street and will contain the St Mary's Intermodal Freight Hub site.

Proposed Lot 2 is situated north of Christie Street and includes a small portion of road (Christie Street) within the lot, which is currently under private ownership of St Marys Land Limited. Importantly, the proposal retains the existing right of carriageway across Lot 2 benefiting Penrith City Council, which allows for public access/use of the road. The proposed subdivision will facilitate the future dedication of the portion of road within Lot 2 to be dedicated to Council as public road, which is intended to be carried out as exempt development under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

The proposal involves no physical works.

## Plans that apply

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- Local Environmental Plan 2010
- Development Control Plan 2014

## Planning Assessment

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- **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

- **Section 4.46 - Integrated development**

The proposal has been assessed against relevant requirements of Section 4.46 of the Act. The proposal does not trigger Integrated Development, as discussed below:

### **Rural Fire Act 1997**

The site is partly mapped as Bushfire Prone Land. Section 100B of the Rural Fires Act 1997 requires a bushfire safety authority for certain types of development on land mapped as Bushfire Prone Land. However, the proposal is not considered Integrated Development for the purpose of the Rural Fire Act, as the proposed subdivision does not create lots for the purpose of residential or rural residential uses. The proposal is a paper subdivision only to facilitate the development of the St Mary's Intermodal Freight Hub.

### **Water Management Act 2000**

A mapped watercourse traverses the site. However, the application does not involve any physical works, and is for a paper subdivision only. As such, works are not proposed within 40m of a watercourse. It is noted that the St Mary's Intermodal Freight Hub development (SSD-7308) will require to address water quality impacts and management.

With consideration to the above, the proposal does not trigger Integrated Development Requirements, and does not require separate approvals under the Rural Fire Act 1997 and Water Management Act 2000.

## **Section 4.15(1)(a)(i) The provisions of any environmental planning instrument**

### **Local Environmental Plan 2010**

<b>Provision</b>	<b>Compliance</b>
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 2.6 Subdivision - consent requirements	Complies - See discussion
Clause 4.1 - Minimum subdivision lot size	Complies - See discussion
Clause 5.21 Flood planning	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion

### **Clause 2.3 Permissibility**

Under Penrith LEP 2010, the majority of the site is zoned IN1 General Industrial. On the southern edge of the site, a small slither of the lot is zoned SP2 Infrastructure. The proposal is defined as Subdivision, which is permissible with consent in the IN1 General Industrial zone and SP2 Infrastructure zone.

### **Clause 2.3 Zone objectives**

The proposal is compatible with the objectives of the IN1 General Industrial zone, specifically to *To encourage employment Opportunities* and *To support and protect industrial land for industrial uses*. In this regard, the subdivision will facilitate the development of the site as the St Mary's Intermodel Freight Hub, which will create employment opportunities and serve industrial uses.

### **Clause 2.6 Subdivision - consent requirements**

Clause 2.6(1) of Penrith LEP 2010 permits the subdivision of land to which the Plan applies, but only with development consent. The current application seeks development consent for subdivision in accordance with the requirements of Clause 2.6.

Clause 2.6.(2) relates to the subdivision of land on which a secondary dwelling is situated, and is not relevant to the assessment. The proposal is for the subdivision of industrial land, and the site does not contain existing dwelling(s).

### **Clause 4.1 - Minimum subdivision lot size**

Under Penrith LEP 2010, a Minimum Subdivision Lot size of 1000sqm applies to the site. The proposed lot comply with the Minimum Subdivision Lot Size standard of 1000sqm, comprising the following lot areas:

- **Lot 1:** 5.884 hectares (58,840sqm)
- **Lot 2:** 1.456 hectares (4,560sqm)

It is noted that under Clause 4.1, the site is not subject to a minimum lot width standard.

Accordingly, the proposal satisfies the requirements under Clause 4.1 of Penrith LEP 2010.

### **Clause 5.21 - Flood planning**

The site is partly identified as flood affected. In consideration of flooding matters, the proposal is unlikely to adversely affect flood behaviour, as the application does not involve any physical works or land uses. Further, the application has been reviewed by Council's Development Engineer, who raised no objections to the proposal.

### **Clause 7.5 Protection of scenic character and landscape values**

The site is mapped as land with scenic landscape character and values. The application has been assessed against Clause 7.5 and is found to be satisfactory, as the application is for subdivision only, and will not alter the visual impact of the land from major roads and other public places.

## Section 4.15(1)(a)(iii) The provisions of any development control plan

### Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	N/A
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	N/A
C4 Land Management	N/A
C5 Waste Management	N/A
C6 Landscape Design	N/A
C7 Culture and Heritage	Complies
C8 Public Domain	Complies
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	N/A
C11 Subdivision	Complies - see Appendix - Development Control Plan Compliance
C12 Noise and Vibration	Complies
C13 Infrastructure and Services	Complies

## Section 4.15(1)(b) The likely impacts of the development

### Setting and Context

The application is for subdivision only and will not alter the existing streetscape as no physical works are proposed. It is noted that the northern portion of the site (proposed Lot 2) contains dense vegetation. No vegetation is proposed as part of this application.

### Future Development

Penrith DCP discourages long and narrow lots. However, the shape and orientation of the lot is a legacy of its previous use (of containing a railway line). The approval of this subdivision does not imply that the site has the ability to accommodate future industrial development as a result of the lands zoning. Any future development would require assessment of any relevant matters, including site suitability.

### Access

Proposed Lot 1 and 2 will have direct vehicle access to Christie Street.

### Environmental Matters

The proposal is unlikely to result in adverse environmental impacts, as the application is for subdivision works only. It is noted that the current development of Lot 2 for the purpose of the St Mary's Intermodal Freight Hub is subject to separate environmental assessment under the State Significant Development application SSD7308.

## Section 4.15(1)(c) The suitability of the site for the development

The site is considered suitable for the proposal, noting that the proposal does not involve physical works or use of the site, and any future development will be subject to assessment.

## Section 4.15(1)(d) Any Submissions

### Community Consultation

In accordance with Council's Community Engagement Strategy, the proposal did not require to be notified.

## Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Development Engineer	No objections

## Section 4.15(1)(e) The public interest

The proposal is unlikely to generate any significant issues of public interest, as no physical or building works are proposed as part of this application.

## Conclusion

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In assessing this application against the relevant environmental planning policies, being Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies.

Importantly, the proposal complies with the minimum lot size standard for the site, provides direct and suitable access to the proposed lots, and is unlikely to result in adverse environmental impacts as the application does not involve any physical works. The proposal will facilitate the orderly development of the site for the approved St Mary's Intermodal Freight Hub (State Significant Development SSD-7308).

The proposal is unlikely to generate issues of public interest, as the proposal does not involve physical or building works.

Therefore, the application is recommended for approval, subject to the following conditions.

## Recommendation

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That Development Application DA21/0748 for Torrens Title Subdivision x 2 Lots at 196 Christie Street, St Marys NSW 2760 be approved subject to the attached conditions (Development Assessment Report Part B).

# CONDITIONS

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## General

### 1 [A001 - Approved plans table](#)

The development must be implemented substantially in accordance with the following plans stamped approved by Council, the application form, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions:

Drawing Title	Drawing Reference	Prepared by	Dated
Plan of Subdivision of Lot 196 in DP31912	PR138258-DP3 Sheet 1 of 1 Sheets	Laura Elizabeth Walsh	29 September 2021

### 2 [A Special - Subdivision Only](#)

This Development Consent relates to subdivision only, and does not approve physical or building works.

## Utility Services

### 3 [G001 - Installation of services and Service Clearances \(subdivision\)](#)

Prior to the release of the linen plan, the following service authority clearances shall be obtained:

- a Section 73 Compliance Certificate under the Sydney Water Act 1994 shall be obtained from Sydney Water. This is required prior to the issue of the Subdivision Certificate and
- a letter from Integral Energy stating that satisfactory arrangements have been made for electricity supply to all proposed allotments in the subdivision, including any necessary easements; and
- a letter from an approved telecommunications service provider that satisfactory arrangements have been made for underground telephone services to all proposed allotments in the subdivision, including any necessary easements.

These clearances are to be submitted to the Principal Certifying Authority.

## Subdivision

### 4 [M008 - Subdivision Certificate requirements](#)

**Prior to the issue of the Subdivision Certificate**, the following is to be submitted:

An original plan of subdivision and associated administration sheets. The plan of subdivision must indicate, where relevant -

- All drainage easements, rights of way, restrictions and covenants.
- All proposed dedications of roads/drainage/public reserve, which are to be undertaken at no cost to Penrith City Council.

The following information is to be shown on one (1) copy of the plan.

- The location of all buildings and/or other permanent improvements shall comply with any statutory boundary clearances or setbacks as defined by the Building Code of Australia and Council's resolutions.
- All existing services are wholly contained within the lot served and/or covered by an appropriate easement.

**Prior to lodgement of the Subdivision Certificate Application, street address numbering must be obtained/approved by Penrith City Council's Rates Team. Proposed street addresses can be forwarded to [council@penrith.city](mailto:council@penrith.city) for approval.**

5 [M014 - Surveyors certificate](#)

A Surveyors Certificate is to be lodged with the application for a Subdivision Certificate that certifies that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries.

## **Certification**

6 [Q008 - Subdivision Certificate](#)

A Subdivision Certificate is to be obtained prior to the release of the linen plan of subdivision. The Subdivision Certificate will not be issued if any of the conditions in this consent are outstanding.

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### Part C - City-wide Controls

#### C2 Vegetation Management

The proposal does not involve any tree removal or clearing works.

#### C11 Subdivision

The proposal is generally consistent with relevant objectives and controls under Section C.11-Subdivision, as discussed below:

- A safe access point to an existing public road is provided to Lot 1 and 2 (Christie Street). The subdivision does not result in a battle-axe arrangement.
- It is noted that Penrith DCP discourages long and narrow allotments, stating that lots should generally have a maximum of 4:1 depth to width ratio. However, the proposal is unable to comply with this control, given that the existing site already exceeds a 4:1 depth to width ratio. The site by nature is a long and narrow lot as the site previously contained a rail line associated with the former ADI site. Further, the proposal will not result in a reduction in the width of the lots. Therefore, the proposal is considered acceptable in this regard.
- Section 11.4.1 requires a minimum lot width of 20m for an industrial site. Proposed Lot 1 and 2 exceed 20m in width.
- The proposal does not seek consent for use of the lots. Lot 1 will be developed for the purpose of the St Mary's Intermodal Freight Hub, a State Significant Development project which was approved in May 2020.
- The proposal will not alter the existing drainage arrangements.