Premise

Statement of Environmental Effects

IN SUPPORT OF A DEVELOPMENT APPLICATION

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CONTENTS

FIGURES

TABLES

DRAWINGS

Premise Drawing TP01 – Existing site plan
Premise Drawing TP02 – Proposed lot layout

Drawing PEN-SK-E-05 – Indicative Property Plan

APPENDICES

APPENDIX A CLAUSE 4.6 VARIATION

1. INTRODUCTION

Premise has been commissioned by Firm Power on behalf of Penrith Smart Battery Pty Limited to prepare a Statement of Environmental Effects (SEE) to accompany a Development Application (DA) for a proposed electricity generating work (battery energy storage facility) to be located 2235-2249 Castlereagh Road, Penrith (Lot 5 DP1017480)

This SEE has been prepared pursuant to Clause 50 and Part 1 of Schedule 1 of the Environmental Planning and Assessment Regulation 2000 and is provided in the following format.

- **Section 2** of this report provides a description of the subject site and its locality.
- **Section 3** outlines the proposed development.
- **Section 4** details the planning framework applicable to the subject site and proposed development.
- **Section 5** identifies the impacts of the proposed development.
- **Section 6** provides a conclusion to the SEE.

2. THE SITE & ITS LOCALITY

2.1 The Site

The site the subject of this application is 2235-2249 Castlereagh Road, Penrith (Lot 5 DP1017480). The site currently hosts the Endeavour Energy Substation in Penrith.

The site has an area of approximately 3.3 hectares and a frontage to Castlereagh Road in the north west of 148 metres, a frontage to Thornton Road to the north-east of 187 metres and a frontage to Museum Drive in the south of 177 metres. Access to the site is via Thornton Road and Museum Drive.

In this location, Castlereagh Road is a busy four-five lane road, Thornton Road is a four lane collector road and Museum Drive is a two lane local access road.

There is a significant amount of overhead electricity infrastructure location, reflective of the role this site plays in providing power services to the locality.

The subject site is reflected in **Figure 1**.

2.2 The Locality

The locality surrounding the subject site predominantly consists of industrial and infrastructure zoned land, with the nearest residential zoned land approximately 200 metres to the east.

The Nepean River is located approximately 650 metres to the west of the site.

The subject locality is reflected in **Figure 2** and the zoning in the locality is reflected in **Figure 3**.

Figure 1 – Subject site

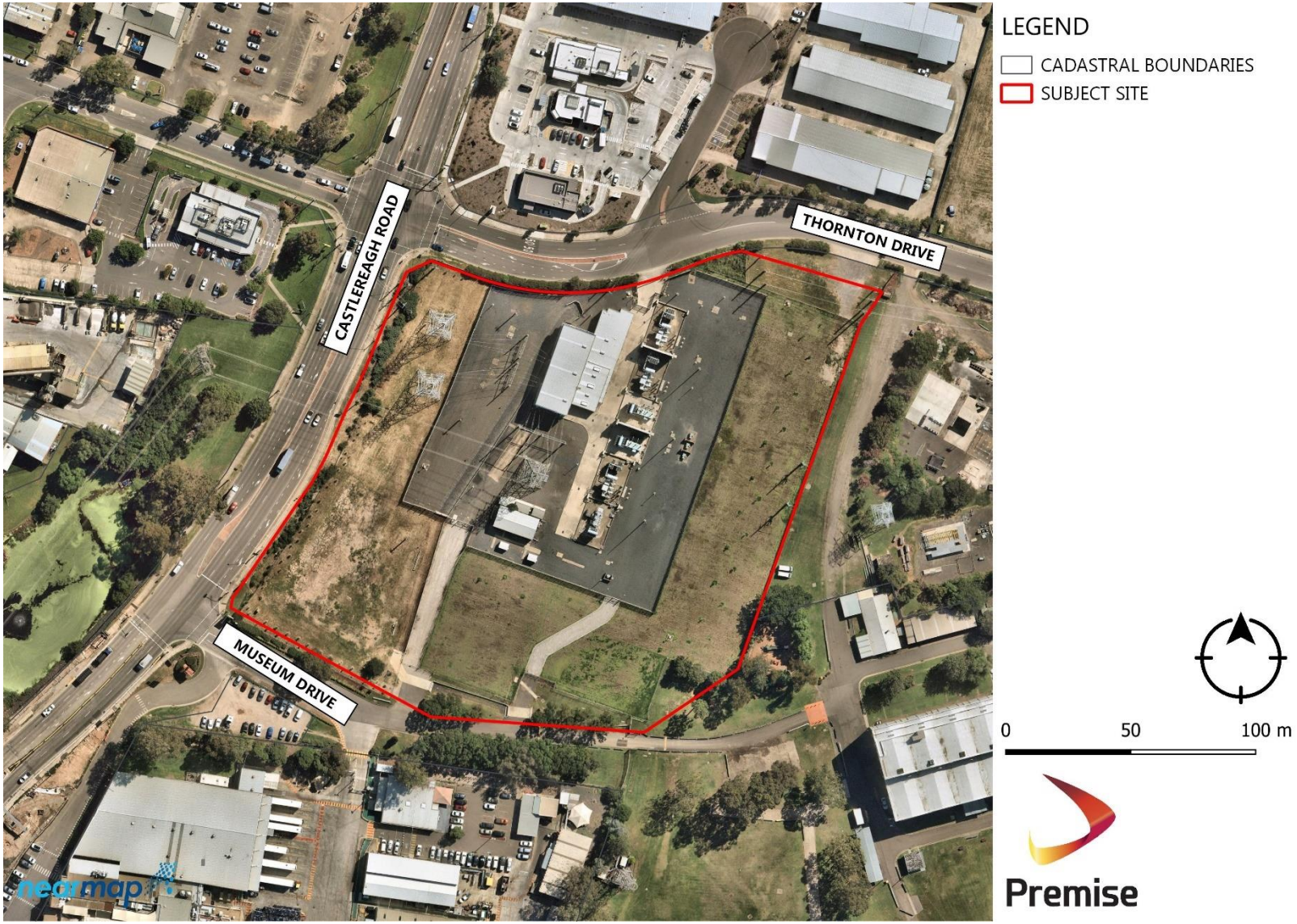
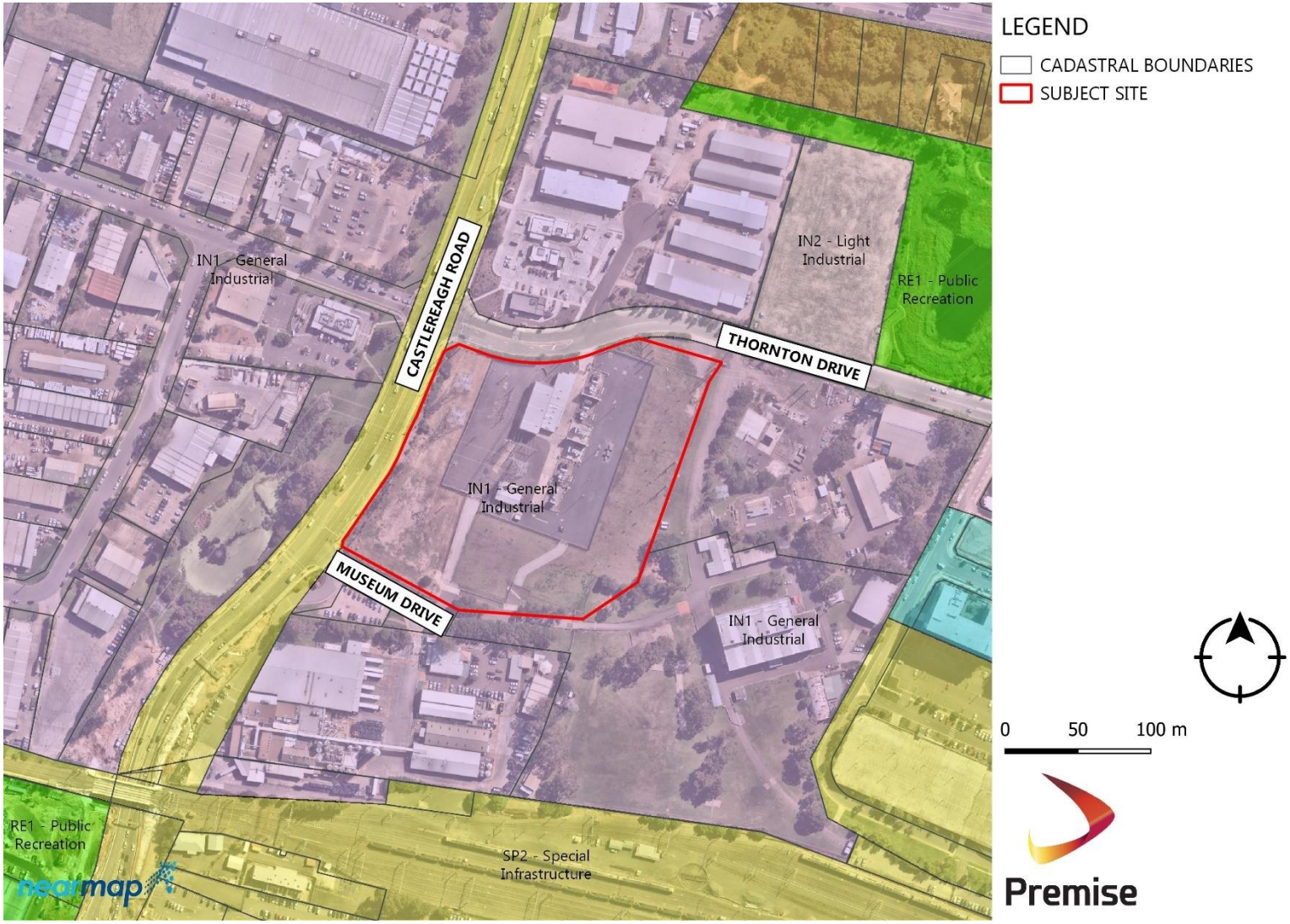


Figure 2 – Subject locality

Figure 3 – Subject site zoning



3. THE DEVELOPMENT

3.1 Development Description

The proposed development entails the installation of a 20MW Battery Energy Storage System (BESS) within the Endeavour Energy Penrith substation. The area accommodating the proposed BESS would be the subject of a lease of greater than five years between the applicant and Endeavour Energy, and therefore this application also proposes the subdivision of land to facilitate the lease.

The Penrith BESS is designed to provide grid flexibility services, dispatching energy at times of critical need to the local Penrith area and providing network support that will allow the electricity network to be operated in an efficient manner.

The BESS will be a lithium-ion based grid storage system, similar to the Hornsdale Power Reserve, Gannawarra Energy Storage System and Ballarat Energy Storage System that have been built in Australia and connected into the national electricity grid.

The BESS would be installed into prefabricated enclosures, similar in dimensions to standard shipping containers. The main equipment of a BESS include battery cells, modules, racks, circuit breakers, relays, voltage and current sensors, transformers, inverters and other associated infrastructure. The majority of this equipment is installed in one of two primary components:

1. Battery Cell Container (BCC)

   A container like enclosure that includes the battery cells and associated ancillary equipment.

2. Power Conversion System (PCS)

   A smaller container like enclosure that includes inverters, switchgear, a power transformer and associated ancillary equipment.

The largest primary components would have indicative dimensions of 15 m long x 4 m wide x 3 m high and a number of these would be distributed across the site. The primary components may be raised off the ground by approximately 1.5 m and hence the resultant height could be up to 4.5 m. In addition to the above equipment, there may be a small enclosure used to house switching and control equipment, some smaller transformers for providing auxiliary supplies and power quality management equipment such as filters. The filters can be up to 6 m high and are consistent with what is located within the adjacent substation..

The BESS would connect with the substation with the ability to store power and can release this power to the network at times of peak demand or critical need to the local area. The BESS will also have the capacity to charge or discharge when power system services are required to maintain the stability of the broader electricity grid. The BESS strengthens the power network by providing greater flexibility in grid management.

The capital investment value of the project exceeds $5 million but is less than $30 million.

The BESS would be installed in the south-western extent of the substation site with a direct connection to the substation as reflected in **Figure 4**.

Access for construction purposes would be via Museum Drive in the south. Maintenance and operational access would also be from Museum Drive.

The primary components associated with the installation of the BESS are as follows:

- Off-site manufacture of the BESS;

- Levelling the site and constructing a bench at the Penrith Substation on which to install the BESS unit;
- Installation of the BESS;
- Connecting the BESS to the substation via electrical cables;
- Installing a new pole with an Air Break Switch (ABS) within the subject property for separating the BESS from the electricity network if and when required;
- Constructing an earthing system for the BESS within the subject property;
- Ancillary high voltage equipment, such as circuit breakers, switching equipment, filters and other electrical protection equipment;
- Auxiliary power, protection, indication and control systems;
- Fencing and gates to match existing fencing as required to provide security around the BESS facility;
- Outdoor sensor lighting to provide illumination, when needed, at night;
- Storage enclosures for storing equipment;
- HVAC equipment for providing cooling and ventilation;
- Commissioning;
- Routine maintenance.

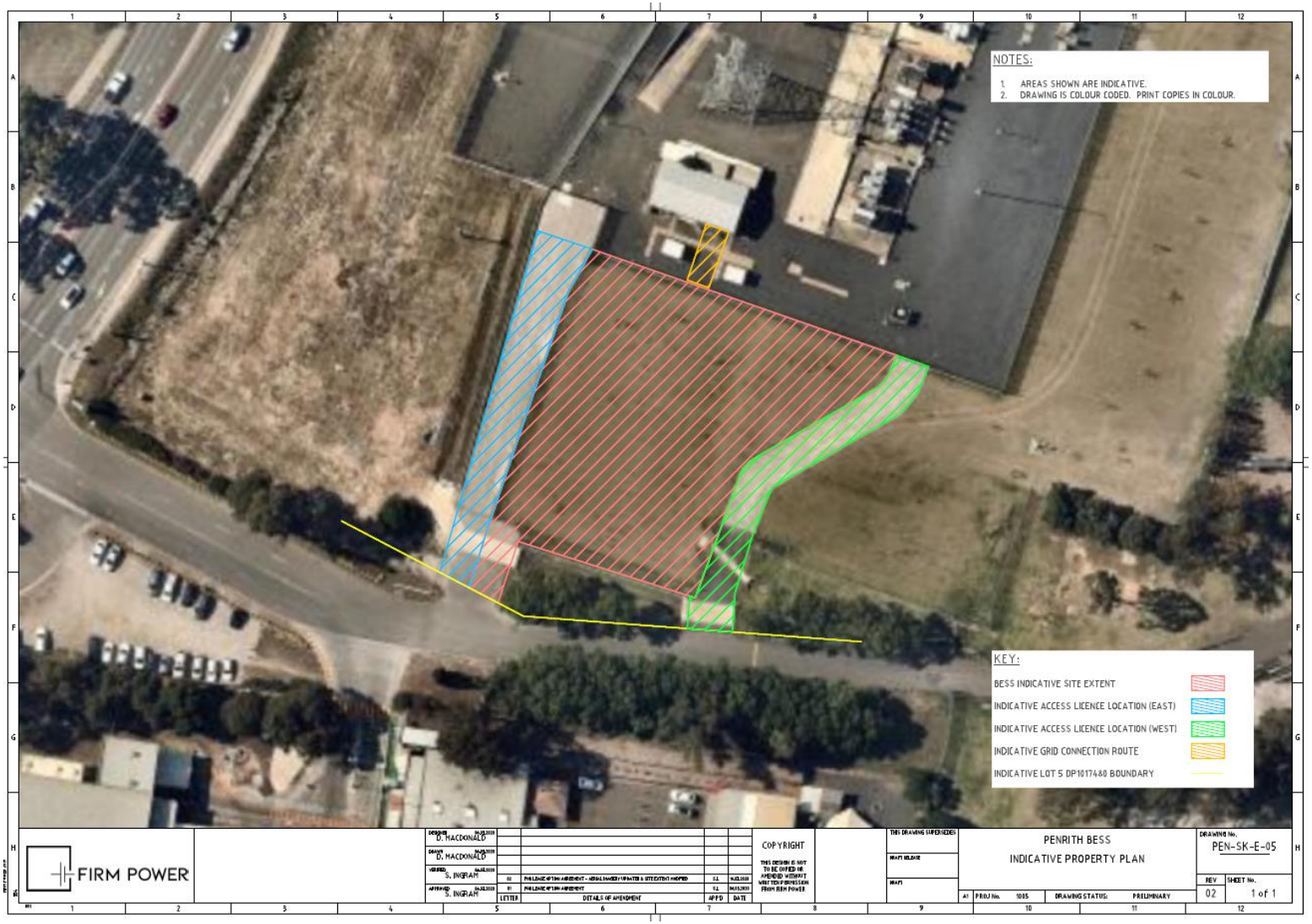
Upon decommissioning of the BESS, the following indicative steps would occur:

- The above ground equipment would unbolted from the concrete slab and removed by crane onto transporters and taken away from site to an appropriate recycling or waste facility;
- The concrete gravity slab foundations would be broken down and removed;
- Underground services would be cut back to below ground level and capped;
- The site would then be landscaped back to the original condition.

A decommissioning arrangement is in place with Endeavour Energy to provide security for the decommissioning components described above..

The proposed subdivision of land for lease purposes would create a leasable land parcel between the applicant and Endeavour Energy. The leasable area would front Museum Drive and would have an area of approximately 3,000 square metres and a frontage to Museum Drive of approximately 6 metres.

Figure 4 – Proposed development footprint



4. STATUTORY PLANNING FRAMEWORK

4.1 Objects of the EP&A Act

In New South Wales (NSW), the relevant planning legislation is the *Environmental Planning and Assessment Act 1979* (EP&A Act). The EP&A Act instituted a system of environmental planning and assessment in NSW and is administered by the Department of Planning, Industry & Environment (DPIE). In 2017, the Act was amended to provide a range of updated objects. The objects of the EP&A Act are:

> *(a) To promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
>
> *(b) To facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
>
> *(c) To promote the orderly and economic use and development of land,*
>
> *(d) To promote the delivery and maintenance of affordable housing,*
>
> *(e) To protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
>
> *(f) To promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
>
> *(g) To promote good design and amenity of the built environment,*
>
> *(h) To promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
>
> *(i) To promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
>
> *(j) To provide increased opportunity for community participation in environmental planning and assessment.*

The proposed development is not considered to be antipathetic to the above objects.

4.1.1 ECOLOGICALLY SUSTAINABLE DEVELOPMENT

The National Strategy for Ecological Sustainable Development (NSESD) (Department of Environment and Heritage 1992) defines Ecologically Sustainable Development (ESD) as:

> *using, conserving and enhancing the community's resources so that ecological processes, on which life depends, are maintained, and the total quality of life, now and in the future, can be increased (refer website)*

The concept of ESD gives formal recognition to environmental and social considerations in decision-making to ensure the current and future generations can enjoy an environment that functions as well as or better than the environment they inherit.

The core objectives of the NSESD are:

- To enhance individual and community well-being and welfare by following a path of economic development that safeguards the welfare of future generations;
- To provide for equity within and between generations; and
- To protect biological diversity and maintain essential ecological processes and life-support systems.

As outlined in Schedule 2 of the *Environmental Planning and Assessment Regulation 2000*, the four principles of ESC are listed below. These are discussed in the following sections.

- Precautionary principle;
- Intergenerational equity;
- Conservation of biological diversity and ecological integrity; and
- Improved valuation and pricing of environmental resources.

4.1.1.1 Precautionary principle

The precautionary principle states where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a justification for not implementing mitigation measures or strategies to avoid potential impact. This has been held in various decisions in the NSW Land and Environment Court to include considerations associated with climate change (impact of the development on climate change and impacts of climate change on development).

The potential impact from the proposal has been identified in the environmental assessment section of this report and all mitigation measures summarised in **Section 5**.

The proposal, among other things, supports the development of sustainable forms of renewable energy through balancing electricity consumption and generation across the network, and in doing so reduces reliance on traditional forms of electricity generation, including the burning of fossil fuels. This assists in reducing the long term impacts of climate change and is therefore in the public interest. The potential outcome of climate change, being higher temperatures and greater periods of sunlight, also suggests that increasing reliance of solar forms of energy generation is sustainable. This is discussed in further detail in **Section 5.23**.

4.1.1.2 Intergenerational equity

The second principle of ESD is intergenerational equity, such that the present generation should ensure the health, diversity and productivity of the environment are equal to or better for future generations.

All work would be carried out in accordance with the environmental safeguards in **Section 5.24** to mitigate potential impact associated with noise and vibration, socio-economic considerations, traffic and transport, drainage and water quality, air quality, greenhouse gas emissions, climate change, Aboriginal and non-Aboriginal heritage, topography, soils, waste and hazardous materials.

The proposal, among other things, supports the development of sustainable forms of renewable energy through balancing electricity consumption and generation across the network,, and in doing so reduces reliance on traditional forms of electricity generation, including the burning of fossil fuels. This assists in reducing the impacts of climate change and therefore assists in ensuring the health of future generations is

protected; the development is therefore in the public interest. This is discussed in further detail in **Section 5.23**.

4.1.1.3 Conservation of biological diversity and ecological integrity

The third principle of ESD is conservation of biological diversity and ecological integrity such that ecosystems, species and genetic diversity within species are maintained.

The proposed development would not result in any significant impact to native vegetation by reference to **Section 5.11**.

The mitigating measures for protecting biodiversity at the site are provided in **Section 5.11**.

4.1.1.4 Improved valuation, pricing and incentive mechanisms

The final principle of ESD is improved valuation and pricing of environmental resources which establishes the need to determine economic values for services provided by the natural environment such as the atmosphere's ability to receive gaseous emissions, cultural values and visual amenity. The principle is designed to improve methods of carrying out valuation of environmental costs and benefits and use this information when making decisions.

The development of policy to guide pricing and incentive mechanisms in delivering ecologically sustainable development is the responsibility of governments and regulatory stakeholders.

4.2 Section 1.7

Section 1.7 of the EP&A Act requires consideration of Part 7 of the *Biodiversity Conservation Act 2016* (BC Act). Part 7 of the BC Act relates to an obligation to determine whether a proposal is likely to significantly affect threatened species. A development is considered to result in a significant impact in the following assessed circumstances.

Table 1 – Section 1.7

Test	Assessment
1. it is likely to significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3, or	The subject site features managed land associated with the substation land use. A review of Bionet confirms no known species on or near the site that would likely be significantly affected by the project – refer **Section 5.11**.
2. the development exceeds the biodiversity offsets scheme threshold if the biodiversity offsets scheme applies to the impacts of the development on biodiversity values, or	There is a 1.25 hectare minimum lot size applying to the site, therefore a clearing threshold of 0.25 hectares applies. More than 0.25 hectares of clearing of native vegetation is not proposed.
3. it is carried out in a declared area of outstanding biodiversity value.	The area is not located within an area of mapped outstanding biodiversity value.

Source: Environmental Planning and Assessment Act 1979

4.3 Subordinate Legislation

The EP&A Act facilitates the preparation of subordinate legislation, consisting of:

- Environmental Planning Instruments (EPIs) (including State Environmental Planning Policies (SEPP), Local Environmental Plans (LEP), and deemed EPIs; and
- Development Control Plans (DCP).

In relation to the proposed development, the relevant subordinate legislation includes:

- *State Environmental Planning Policy No. 55 – Remediation of Land;*
- *State Environmental Planning Policy (Infrastructure) 2007;*
- *State Environmental Planning Policy (State and Regional Development) 2011;*
- *Penrith Local Environmental Plan 2010;* and
- Penrith Development Control Plan 2014.

The requirements of these are discussed at **Section 4.5** of this Statement

4.4 Integrated Development

Section 4.46 of the EP&A Act states that development requiring consent and another activity approval is defined as Integrated Development. The proposed development is not classified as Integrated Development on the basis that no external approvals or consents are required.

4.5 Environmental Planning Instruments

4.5.1 STATE ENVIRONMENTAL PLANNING POLICY

4.5.1.1 State Environmental Planning Policy No. 55 – Remediation of Land

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP55) provides a state-wide approach to remediation of contaminated land and aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment.

Clause 7 of the SEPP No. 55 states that a consent authority must not consent to the carrying of development unless it has considered, among other things, whether the land is contaminated.

A search of the NSW EPA contaminated land record was undertaken for contaminated sites within the Penrith LGA on 8 April 2020. 42 notices relating to 8 sites were identified but none of these sites related to the subject site.

The online List of NSW contaminated sites notified to EPA as of 16 March 2020 was searched for Penrith suburbs. 11 sites were found, however none relate to the subject site. The closest listed site is the BP services station, located on the corner of Castlereagh Road and Coreen Avenue, located approximately 270 metres to the north of the subject site.

The site is in use as an electricity substation. There is a risk that contamination associated with the substation use could be present on the site however, on the basis of the following it is considered unlikely that contamination requiring remediation is likely to be identified on site:

- The portion of the site to be utilised is not actively in use for substation purposes,
- There are no contaminated sites recorded on or adjacent to the proposed development;
- It is common practise for Endeavour Energy, when decommissioning substation and other electrical sites, to install a geofabric marker layer over any conduits remaining in the ground with a soil cap of approximately 300 mm above. Given this practise it will be evident if any interaction with capped

materials were occur. Whilst not anticipated, in the event of interaction with buried, redundant, conduits, work would cease and a management plan for safe removal and disposal would be developed prior to works re-commencing.

The proposed use of the site is consistent with the current use and there is no additional receptor pathways to contamination.

The land is considered suitable for the proposed purpose without the need for remediation and therefore the development is acceptable in the context of SEPP55.

4.5.1.2 State Environmental Planning Policy (Infrastructure) 2007

The *State Environmental Planning Policy (Infrastructure) 2007* (ISEPP) aims to facilitate the effective delivery of infrastructure through the state.

By virtue of Clause 34(1) of Division 4 of Part 3 of the ISEPP the development of electricity generating works are permitted with consent on prescribed land. By virtue of clause 33 of the ISEPP, prescribed land includes land zoned IN1 – General Industrial. Electricity generating works as defined by the ISEPP has the same meaning as in the standard instrument, on which the LEP is based. Electricity generating works are defined as:

> *electricity generating works means a building or place used for the purpose of—*
>
> *(a) making or generating electricity, or*
>
> *(b) electricity storage.*

It is considered that as the proposed development satisfies the definition of an electricity generating works and is located on prescribed industrial land; it is therefore permissible with the consent of the relevant consent authority, in this case the Sydney Western City Regional Planning Panel (SWCRPP) – refer **Section 4.5.1.3**.

Clause 45 of the ISEPP relates to the determination of a DA which has the potential to affect an electricity transmission line. Before determining a DA, which meets the relevant criteria provided by Clause 45, the consent authority must first notify the relevant electricity supply authority and take consideration of any comments made by this authority within 21 days of the notice.

Clause 104 of the ISEPP relates to development that constitutes traffic generating development. Schedule 3 of the ISEPP provides a list of developments that must be referred to the NSW Roads and Maritime Services (RMS). Electricity generating works are not listed as a development in Schedule 3. Section 104 also applies where a development has capacity to accommodate 200 or more vehicles. The development would not have capacity to accommodate 200 or more vehicles either during construction or operation and therefore the development does not represent traffic generating development.

4.5.1.3 State Environmental Planning Policy (State and Regional Development) 2011

The aims of the *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP) are to identify development that is State Significant Development (SSD), State Significant Infrastructure, Critical State Significant Infrastructure and regionally significant development

Clause 8 of the SRD SEPP provides that development is declared to be State Significant Development for the purposes of the EP&A Act if:

- The development is not permissible without consent under Part 4 of the EP&A Act; and

- The development is specified in Schedule 1 or 2.

Clause 20 of Schedule 1 of the SRD SEPP provides:

> *"Development for the purpose of electricity generating works or heat or their co-generation (using any energy source, including gas, coal, bio-fuel, distillate and waste and hydro, wave, solar or wind power), being development that:*
>
> *(a) has a capital investment value of more than $30 million, or*
>
> *(b) has a capital investment value of more than $10 million and is located in an environmentally sensitive area of State significance."*

The proposed BESS is a development for the purpose of an electricity generating works but would not have a capital investment value in excess of $30 million, the estimated CIV is between $5 million and $30 million. The proposal is not located on an environmentally sensitive area of State significance. Accordingly, the proposed BESS is not declared to be SSD for the purposes of the EP&A Act.

The development is however a private infrastructure facility (electricity generating works) with a CIV exceeding $5 million (pursuant to clause 5 of Schedule 7 of the SRD_SEPP) and therefore, by virtue of the provisions of clause 20 of the SRD SEPP, the development is regional development and the consent authority for the application is the SWCRPP.

4.5.2 PENRITH LOCAL ENVIRONMENTAL PLAN 2010

4.5.2.1 Introduction

The *Penrith Local Environmental Plan 2010* (LEP) is the applicable local planning instrument applying to the land. The aims of the LEP are:

> *(1) This Plan aims to make local environmental planning provisions for land in Penrith in accordance with the relevant standard environmental planning instrument under section 3.20 of the Act.*
>
> *(2) The particular aims of this Plan are as follows—*
>
> *(a) to provide the mechanism and planning framework for the management, orderly and economic development, and conservation of land in Penrith,*
>
> *(b) to promote development that is consistent with the Council's vision for Penrith, namely, one of a sustainable and prosperous region with harmony of urban and rural qualities and with a strong commitment to healthy and safe communities and environmental protection and enhancement,*
>
> *(c) to accommodate and support Penrith's future population growth by providing a diversity of housing types, in areas well located with regard to services, facilities and transport, that meet the current and emerging needs of Penrith's communities and safeguard residential amenity,*
>
> *(d) to foster viable employment, transport, education, agricultural production and future investment opportunities and recreational activities that are suitable for the needs and skills of*

residents, the workforce and visitors, allowing Penrith to fulfil its role as a regional city in the Sydney Metropolitan Region,

(e) to reinforce Penrith's urban growth limits by allowing rural living opportunities where they will promote the intrinsic rural values and functions of Penrith's rural lands and the social well-being of its rural communities,

(f) to protect and enhance the environmental values and heritage of Penrith, including places of historical, aesthetic, architectural, natural, cultural, visual and Aboriginal significance,

(g) to minimise the risk to the community in areas subject to environmental hazards, particularly flooding and bushfire, by managing development in sensitive areas,

(h) to ensure that development incorporates the principles of sustainable development through the delivery of balanced social, economic and environmental outcomes, and that development is designed in a way that assists in reducing and adapting to the likely impacts of climate change.

The proposed development is not antipathetic to the aims of the plan.

4.5.2.2 Mapping

A review mapping associated with the LEP identifies the following applicable mapped constraints:

Table 2 – Penrith Local Environmental Plan 2010

Constraint	Applicability	Section addressed
Land Application Map	The site is within the Penrith Local Government Area	No discussion required
Clause Application Map	Not applicable	No discussion required
Land Zoning Map	The site is zoned IN1 – General Industrial	Refer **Section 4.5.2.3**
Lot Size Map	The minimum lot size applying to the land is 1.25 ha	Refer **Section 4.5.2.4**
Floor Space Ratio Map	No floor space ratio applying to the land	No discussion required
Height of Buildings Map	Height of building limit of 12 metres applies	Refer **Section 4.5.2.5**
Land Reservation Acquisition Map	Land is not reserved for acquisition	No discussion required
Heritage Map	Land does not contain or is not located near to a heritage item	No discussion required
Natural Resources Sensitivity Land Map	Land contains no mapped areas of natural resource sensitivity	No discussion required
Scenic and Landscape Values Map	Land is located within area mapped as 'Penrith' Land with scenic and landscape values	Refer **Section 4.5.2.6**

Constraint	Applicability	Section addressed
Key Sites Map	Land is not mapped as a key site	No discussion required
Urban Release Area Map	Land is not mapped as being within an urban release area	No discussion required
Additional Permitted Uses Map	Land is not mapped as containing any additional permitted uses	No discussion required
Active Street Frontages Map	Land is not mapped as being within an area active street frontages	No discussion required
Flood Planning Land Map	Land is not mapped as a flood planning area	No discussion required
Land Reclassification Map	Land is not mapped for reclassification	No discussion required

The above matters, together with other relevant LEP clauses, are discussed in the following sections.

4.5.2.3 Land Use Zoning

The site is zoned IN1 – General Industrial. The objectives of the zone are:

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*
- *To minimise any adverse effect of industry on other land uses.*
- *To support and protect industrial land for industrial uses.*
- *To promote development that makes efficient use of industrial land.*
- *To permit facilities that serve the daily recreation and convenience needs of the people who work in the surrounding industrial area.*

The proposed development of an electricity generating works is an efficient use of industrial land, given it is co-located with other electricity infrastructure.

The project is defined as electricity generating works, which via the standard instrument, is:

> *means a building or place used for the purpose of making or generating electricity.*

Electricity generating works are not listed as a permitted activity within Part 3 of the IN1 Land Use Table. However, by virtue of clause 34 of the ISEPP, the carrying out of electricity generating works on prescribed industrial land is permitted with consent – refer **Section 4.5.1.2**.

By virtue of clause 1.8, the ISEPP prevails to the extent of any inconsistency with another planning instrument. Therefore, despite the prohibition via the LEP, the development is permitted by the ISEPP and this prevails.

The development may proceed with consent.

4.5.2.4 Minimum Lot Size

The minimum lot size applying to the land is 2,000 square metres. The application proposes the creation of two lots, one of 3,000 square metres and the other of 300 square metres, the latter of which would house the proposed BESS. Proposed Lot 51 achieves the minimum lot size and is therefore compliant with clause 4.1.

As the proposed BESS lot (proposed Lot 52) has a size less than the minimum lot size, a clause 4.6 variation is supplied as **Appendix A**.

Further discussion in respect of Clause 4.6 is supplied in respect

4.5.2.5 Height of building

The height of building limit applying to the land is 12 metres by virtue of LEP clause 4.3.

The proposed BESS would not have a height of greater than 12 metres and is therefore compliant with LEP clause 4.3.

4.5.2.6 Clause 4.6

Clause 4.6 – Exceptions to Development Standards allows for the variation of development standards of an LEP. The clause objectives are:

> *(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,*
>
> *(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

The variation request is attached as **Appendix A**, and discusses:

- That in this case, compliance with the development standard is unnecessary and unreasonable,
- The proposed development is consistent with the objectives of clause 4.1 of the LEP,
- The proposed development is consistent with the objectives of the IN1 zone,
- There are sufficient environmental planning grounds to justify the variation.

With the evidence submitted in the clause 4.6 variation in **Appendix A**, there are sufficient grounds for the proposed development to be supported.

4.5.2.7 Scenic Protection Land

Clause 7.5 seeks to protect scenic character and landscape values. The specific objectives of the clause are to:

> *(a) to identify and protect areas that have particular scenic value either from major roads, identified heritage items or other public places,*
>
> *(b) to ensure development in these areas is located and designed to minimise its visual impact.*

Clause 7.5 applies to land mapped via the Scenic and Landscape Values map and therefore applies to the site.

Clause 7.5(3) states:

> *Development consent must not be granted for any development on land to which this clause applies unless the consent authority is satisfied that measures will be taken, including in relation to the location and design of the development, to minimise the visual impact of the development from major roads and other public places.*

The proposed BESS would be installed within the fenced substation compound and co-located with similar infrastructure. The site features a range of landscaping on the street frontages to assist to integrate the site within the locality. The introduction of further infrastructure within the substation compound area is unlikely to lead to any diminution of existing visual values

By reference to Table C1.1 of the Penrith Development Control Plan 2014, the area of Castlereagh Road is visually sensitive, particularly at land use interfaces and intersections. The subject site is located at an intersection.

To address the requirements of Section C1 of the DCP, a visual assessment is provided in **Section 5.2**.

The proposed development is not considered to be inconsistent with the objectives of clause 7.5.

4.6 Strategic Framework

4.6.1 THE GREATER SYDNEY REGION PLAN

The Greater Sydney Region Plan – A Metropolis of Three Cities applies to the metropolitan areas of Greater Sydney, including the subject site.

The Plan is built on a vision of three cities where most residents live within 30 minutes of their jobs, education and health facilities, services and great places.

To achieve this vision, the Plan is supported by four core tenants, being:

1. Infrastructure and collaboration
2. Liveability
3. Productivity
4. Sustainability

The Plan identifies, among other things, that:

> *Infrastructure will need to be not only resilient but adaptable to technological transformation such as renewable energy, smart energy networks, distributed energy and water systems and energy-efficient homes and buildings.*

In the context of sustainability, at page 145, the plan states:

> *Greater Sydney has the potential to become a leader and innovator in environmental technology and management of energy, water and waste, building on a range of programs and initiatives that promote energy and water efficiency in buildings, the generation and storage of renewable energy and precinct-based approaches to the sustainable use of resources.*
>
> *Greater Sydney, the nation's largest city, has an important role in Australia's response to climate change. The communities within Greater Sydney, with their differing characteristics, require targeted responses to mitigate climate change, focusing on the design of neighbourhoods and managing land use, infrastructure and transport. This could include using renewable energy,*

reducing consumption of energy and water and reducing waste and greenhouse gas emissions, which would help to deliver a more efficient and sustainable city.

The project is considered to be to consistent with the overarching vision of the Plan.

4.6.2 WESTERN SYDNEY DISTRICT PLAN

The Western Sydney District Plan is a sub-plan of the Greater Sydney Regional Plan and seeks to implement the vision of the GSRP in the Western Sydney area.

Planning Priority W19 seeks to reduce carbon emissions and manage energy, water and waste efficiently. This includes supporting building and precinct-scale renewable energy generation. Action 82 states:

Support precinct-based initiatives to increase renewable energy generation and energy and water efficiency, especially in Growth Areas, Planned Precincts, Collaboration Areas, State Significant Precincts and Urban Transformation projects.

The project supports the delivery of renewable energy projects through the capacity to store and discharge energy generated from renewable and other electricity generators, and release this at peak times. This capacity therefore directly supports the vision and priorities of the district plan.

4.6.3 PENRITH COMMUNITY PLAN 2017

The community plan is the community's plan for the City's future.

Strategy 5.2 seeks to support the community to use resources wisely.

The project assists in developing a more balanced power system by storing electricity at times when energy demands are low, and discharging it when energy demands are high. It also supports installation of small and large scale renewable energy generation by providing a store to capture excess capacity when they are at peak output.

This also assists reduce reliance on fossil fuels.

By providing a more efficient system, there is the opportunity for cost savings for end users through provision of a lower cost electrical network.

In this manner, the project is consistent with the community plan.

4.6.4 PENRITH CITY STRATEGY

The Penrith City Strategy seeks to help build a sustainable future for the City and community.

In the context of resource management, the City Strategy identifies the need to reduce the reliance on non-renewable energy sources and increase the use of renewable forms of energy.

Through enhancing the capacity of local renewable energy projects, this project is considered to be consistent with the City Strategy.

4.7 Deemed Environmental Planning Instruments

The Sydney Regional Environmental Plan No. 20 – Hawkesbury Nepean River (SREP20) applies to the site by reference to SREP20 map 26.

SREP20 seeks to *'...protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context'.*

The relevant provisions of SREP20 are addressed in **Table 3**.

Table 3 – SREP20 Planning Considerations

SREP Clause	Assessment
5 General planning considerations The general planning considerations relevant for this Part are: (a) the aim of this plan, and (b) the strategies listed in the Action Plan of the Hawkesbury-Nepean Environmental Planning Strategy, and (c) whether there are any feasible alternatives to the development or other proposal concerned, and (d) the relationship between the different impacts of the development or other proposal and the environment, and how those impacts will be addressed and monitored.	The site is an existing substation and the proposal entails the installation of additional electricity infrastructure within the compound area. The development would not lead to any greater impacts to the locality than currently exist and provides improved local peak demand management in the power grid, particularly in relation to renewable energy generation.
6 Specific planning policies and recommended strategies	
(1) Total catchment management Policy: Total catchment management is to be integrated with environmental planning for the catchment. Strategies: (a) Refer the application or other proposal for comment to the councils of each adjacent or downstream local government area which is likely to suffer a significant adverse environmental effect from the proposal. (b) Consider the impact of the development concerned on the catchment. (c) Consider the cumulative environmental impact of development proposals on the catchment.	The application proposes the installation of a BESS. No significant adverse environmental effects to downstream or to adjacent Council's is anticipated. The development would not result in any greater environmental impact than the current arrangement.
(2) Environmentally sensitive areas Policy: The environmental quality of environmentally sensitive areas must be protected and enhanced through careful control of future land use changes and through management and (where necessary) remediation of existing uses. Note. Environmentally sensitive areas in the Hawkesbury-Nepean catchment are: the river, riparian land, escarpments and other scenic areas, conservation area sub-catchments, national	The site does not contain any specific environmentally sensitive areas requiring protection beyond some sensitivity with respect to scenic values. The overall impact of the proposal would not be significantly different from the current arrangement.

SREP Clause	Assessment
parks and nature reserves, wetlands, other significant floral and faunal habitats and corridors, and known and potential acid sulphate soils. Strategies: (a) Rehabilitate parts of the riverine corridor from which sand, gravel or soil are extracted so that attached aquatic plant beds are replaced and water quality and faunal habitats improved. (b) Minimise adverse impacts on water quality, aquatic habitats, riverine vegetation and bank stability. (c) Minimise direct and indirect adverse impacts on land reserved or dedicated under the National Parks and Wildlife Act 1974 or the Forestry Act 1916 and conservation area sub-catchments in order to protect water quality and biodiversity. (d) Protect wetlands (including upland wetlands) from future development and from the impacts of land use within their catchments. (e) Consider the need to include buffer zones (such as adequate fire radiation zones) for proposals on land adjacent to land reserved or dedicated under the National Parks and Wildlife Act 1974 or the Forestry Act 1916. (f) Consider the views of the Director-General of National Parks and Wildlife about proposals for land adjacent to land reserved or dedicated under the National Parks and Wildlife Act 1974. (g) Consideration should be given to the impact of the development concerned on the water table and the formation of acid sulphate soils. (h) New development in conservation area sub-catchments should be located in areas that are already cleared	
(3) Water quality Policy: Future development must not prejudice the achievement of the goals of use of the river for primary contact recreation (being recreational activities involving direct water contact, such as swimming) and aquatic ecosystem protection in the river system. If the quality of the receiving waters does not currently allow these uses, the current water quality must be maintained, or improved, so as not to jeopardise the achievement of the goals in the future. When water quality goals are set by the Government these are to be the goals to be achieved under this policy.	Water quality measures in place to address stormwater from the use of the site as a substation would continue to apply to the subject development. No significant changes to water quality are anticipated as a result of the proposal.

SREP Clause	Assessment
Note. Aquatic ecosystems and primary contact recreation have the same meanings as in the document entitled Australian Water Quality Guidelines for Fresh and Marine Waters, published in 1992 by the Australian and New Zealand Environment and Conservation Council. Strategies: (a) Quantify, and assess the likely impact of, any predicted increase in pollutant loads on receiving waters. (b) Consider the need to ensure that water quality goals for primary contact recreation and aquatic ecosystem protection are achieved and monitored. (c) Approve development involving primary contact recreation or the withdrawal of water from the river for human contact (not involving water treatment), such as showers, only in locations where water quality is suitable (regardless of water temperature). (d) Do not carry out development involving on-site disposal of sewage effluent if it will adversely affect the water quality of the river or groundwater. Have due regard to the nature and size of the site. (e) Develop in accordance with the land capability of the site and do not cause land degradation. (f) Consider the need for an Erosion and Sediment Control Plan (to be in place at the commencement of development) where the development concerned involves the disturbance of soil. (g) Minimise or eliminate point source and diffuse source pollution by the use of best management practices. (h) Site and orientate development appropriately to ensure bank stability. Plant appropriate native vegetation along banks of the river and tributaries of the river, but not so as to prevent or inhibit the growth of aquatic plants in the river, and consider the need for a buffer of native vegetation. (i) Consider the impact of the removal of water from the river or from groundwater sources associated with the development concerned. (j) Protect the habitat of native aquatic plants.	
(4) Water quantity	

SREP Clause	Assessment
Policy: Aquatic ecosystems must not be adversely affected by development which changes the flow characteristics of surface or groundwater in the catchment. Strategies: (a) Future development must be consistent with the interim or final river flow objectives that are set for the time being by the Government. (b) Ensure the amount of stormwater run-off from a site and the rate at which it leaves the site does not significantly increase as a result of development. Encourage on-site stormwater retention, infiltration and (if appropriate) reuse. (c) Consider the need for restricting or controlling development requiring the withdrawal or impoundment of water because of the effect on the total water budget of the river. (d) Consider the impact of development on the level and quality of the water table.	Off-site stormwater flows would be managed consistent with the existing use of the site and would not result in any significant changes to the current arrangement.
(5) Cultural heritage Policy: The importance of the river in contributing to the significance of items and places of cultural heritage significance should be recognised, and these items and places should be protected and sensitively managed and, if appropriate, enhanced. Strategies: (a) Encourage development which facilitates the conservation of heritage items if it does not detract from the significance of the items. (b) Protect Aboriginal sites and places of significance. (c) Consider an Aboriginal site survey where predictive models or current knowledge indicate the potential for Aboriginal sites and the development concerned would involve significant site disturbance. (d) Consider the extent to which heritage items (either identified in other environmental planning instruments affecting the subject land or listed in Schedule 2) derive their heritage significance from the river.	The development would not involve any greater impact upon any matters of cultural heritage by reference to the existing use of the land.
(6) Flora and fauna Policy: Manage flora and fauna communities so that the diversity of species and genetics within the catchment is conserved and enhanced.	The land is highly disturbed as a result of the ongoing use of the site as a substation. The portion of the site to be

SREP Clause	Assessment
Strategies, generally: (a) Conserve and, where appropriate, enhance flora and fauna communities, particularly threatened species, populations and ecological communities, aquatic habitats, wetland flora, rare flora and fauna, riverine flora, flora with heritage value, habitats for indigenous and migratory species of fauna, and existing or potential fauna corridors. (b) Locate structures where possible in areas which are already cleared or disturbed instead of clearing or disturbing further land. (c) Minimise adverse environmental impacts, protect existing habitat and, where appropriate, restore habitat values by the use of management practices. (d) Consider the impact on ecological processes, such as waste assimilation and nutrient cycling. (e) Consider the range of flora and fauna inhabiting the site of the development concerned and the surrounding land, including threatened species and migratory species, and the impact of the proposal on the survival of threatened species, populations and ecological communities, both in the short and longer terms. (f) Consider the need to provide and manage buffers, adequate fire radiation zones and building setbacks from significant flora and fauna habitat areas. (g) Consider the need to control access to flora and fauna habitat areas. (h) Consider the need to maintain corridors for fish passage and protect spawning grounds and gravel beds. Strategies for wetlands: (i) Maintain the ability of wetlands to improve the quality of water entering the river through the filtering of sediments and the absorption of nutrients. (j) Maintain the ability of wetlands to stabilise soils and reduce bank erosion. (k) Maintain the ability of wetlands to reduce the impact of flooding downstream through the retention of floodwaters. (l) Maintain a variety of wetland flora and fauna species in the region and consider the scarcity of particular species on a national basis. (m) Encourage the appropriate management of wetlands, including monitoring and weed control.	developed does not contain any remnant or protected species that would be impacted.

SREP Clause	Assessment
(n) Provide opportunities for recreation, scientific research and education where they are compatible with the conservation of wetlands. (o) Consider the need to protect and improve the quality and quantity of surface water and groundwater entering wetlands by controlling development in the catchment of wetlands. (p) Consider the desirability of protecting any wetlands of local significance which are not included on the map. (q) Consider the desirability of protecting or, if necessary, actively managing, constructed wetlands if they have significant conservation values or make a significant contribution to improvements in water quality.	
(7) Riverine scenic quality Policy: The scenic quality of the riverine corridor must be protected. Strategies: (a) Maintain areas of extensive, prominent or significant vegetation to protect the character of the river. (b) Ensure proposed development is consistent with the landscape character as described in the Scenic Quality Study. (c) Consider the siting, setback, orientation, size, bulk and scale of and the use of unobtrusive, non-reflective material on any proposed building or work, the need to retain existing vegetation, especially along river banks, slopes visible from the river and its banks and along the skyline, and the need to carry out new planting of trees, and shrubs, particularly locally indigenous plants. (d) Consider the need for a buffer between new development and scenic areas of the riverine corridor shown on the map as being of significance beyond the region (which are also scenic areas of significance for the region) or so shown as being of regional significance only. (e) Consider the need for controls or conditions to protect those scenic areas. (f) Consider opportunities to improve riverine scenic quality.	The development site is well setback from the river and would not result in any greater impact to the riverine scenic quality.
(8) Agriculture/aquaculture and fishing Policy: Agriculture must be planned and managed to minimise adverse environmental impacts and be protected from adverse impacts of other forms of development.	The project site is situated within a zoned and developed industrial area. No greater impact to agriculture/aquaculture or fishing is anticipated.

SREP Clause	Assessment
Note. Refer also to items (1)–(7) and (12) for relevant strategies. Strategies: (a) Give priority to agricultural production in rural zones. (b) Ensure zone objectives and minimum lot sizes support the continued agricultural use of Class 1, 2 and 3 Agricultural Land (as defined in the Department of Agriculture's Agricultural Land Classification Atlas) and of any other rural land that is currently sustaining agricultural production. (c) Incorporate effective separation between intensive agriculture and adjoining uses to mitigate noise, odour and visual impacts. (d) Protect agricultural sustainability from the adverse impacts of other forms of proposed development. (e) Consider the ability of the site to sustain over the long term the development concerned. (f) Consider the likely effect of the development concerned on fish breeding grounds, nursery areas, commercial and recreational fishing areas and oyster farming.	
(9) Rural residential development Policy: Rural residential development should not reduce agricultural sustainability, contribute to urban sprawl, or have adverse environmental impacts (particularly on the water cycle or on flora or fauna). Note. Refer also to items (1)–(7) and (12) for relevant strategies. Strategies: (a) Give priority to agricultural production in rural zones. (b) When considering a proposal for the rezoning or subdivision of land which will increase the intensity of development of rural land (for example, by increasing cleared or hard surface areas) so that effluent equivalent to that produced by more than 20 people will be generated, consider requiring the preparation of a Total Water Cycle Management Study or Plan. (c) Maintain or introduce appropriate separation between rural residential use and agricultural use on the land that is proposed for development.	N/A – development is not rural residential in nature

SREP Clause	Assessment
(d) Do not locate development in areas identified for future urban purposes in the Metropolitan Strategy. (e) Consider the suitability of the land for keeping livestock, whether or not for commercial purposes, and appropriate mitigating measures to prevent land degradation. (f) Consider the ability of the land to accommodate on-site effluent disposal in the long term. (g) Consider any adverse environmental impacts of infrastructure associated with the development concerned.	
(10) Urban development Policy: All potential adverse environmental impacts of urban development must be assessed and controlled. Note. Refer also to items (1)–(7) and (12) for relevant strategies. Strategies: (a) When considering a proposal for the rezoning or subdivision of land which will increase the intensity of development of that land (for example, by increasing cleared or hard surface areas) so that effluent equivalent to that produced by more than 2,500 people will be generated, consider requiring the preparation of a Total Water Cycle Management Study or Plan. (b) Consider urban design options to reduce environmental impacts (such as variable lot sizes and shapes, and the clustering of development).	Given the minor scale of the development it is not considered necessary to prepare a TWCMS. The development is a minor intensification of an existing approved development and thereby clusters development in line with the policy recommendation.
(11) Recreation and tourism Policy: The value of the riverine corridor as a significant recreational and tourist asset must be protected. Note. Refer also to items (1)–(7) and (12) for relevant strategies. Strategies: (a) Provide a wide range of recreational opportunities along the river which are consistent with conserving the river's natural values and character. (b) Plan and manage recreational and tourist developments, and associated access points, cycleways and footpaths, so as to minimise any adverse environmental impacts on the river. Locate them where river banks are stable, away from river shallows, major beds of attached	N/A – no recreation or tourism aspect to the development.

SREP Clause	Assessment
aquatic plants or fish breeding areas, where the proposed activities do not conflict with surrounding recreational activities and where significant flora and fauna habitats will not be adversely affected. The upgrading of existing public access to the river is to be preferred over the creation of new access points. (c) Minimise conflicts between recreational uses. (d) Consider the availability of, or need to provide, land for vehicle parking and for suitable access (including access for cars and buses), for boat service areas and for water, electricity and sewage disposal. (e) Consider the environmental impact of ancillary services for recreation and tourist developments, such as amenities blocks and vehicle parking. (f) Consider the visual impact of development on the surrounding area.	
(7) Riverine scenic quality Policy: The scenic quality of the riverine corridor must be protected. Strategies: (a) Maintain areas of extensive, prominent or significant vegetation to protect the character of the river. (b) Ensure proposed development is consistent with the landscape character as described in the Scenic Quality Study. (c) Consider the siting, setback, orientation, size, bulk and scale of and the use of unobtrusive, non-reflective material on any proposed building or work, the need to retain existing vegetation, especially along river banks, slopes visible from the river and its banks and along the skyline, and the need to carry out new planting of trees, and shrubs, particularly locally indigenous plants. (d) Consider the need for a buffer between new development and scenic areas of the riverine corridor shown on the map as being of significance beyond the region (which are also scenic areas of significance for the region) or so shown as being of regional significance only. (e) Consider the need for controls or conditions to protect those scenic areas. (f) Consider opportunities to improve riverine scenic quality.	The development site is well setback from the river and would not result in any greater impact to the riverine scenic quality.

4.8 Draft Environmental planning Instruments

A review of the NSW Government LEP tracking website at the time of writing this SEE identifies 11 draft planning instruments currently under assessment in the Penrith LGA.

A review of these draft instruments confirms that none apply to the subject site, and none contain provisions that would impact the proposed development.

4.9 Development Control Plans

4.9.1 PENRITH DEVELOPMENT CONTROL PLAN 2014

The Penrith Development Control Plan 2014 (DCP) applies to the site. The purpose of the DCP is:

a) To provide guidance to people wishing to carry out development within the City of Penrith

b) To promote development which is consistent with Council's vision for the City of Penrith, namely, one of a sustainable and prosperous region with a harmony of urban and rural qualities with a strong commitment to environmental protection and enhancement.

c) To ensure development incorporates the principles of sustainable development through the delivery of balanced social, economic and environmental outcomes.

d) To encourage development which 'lifts the bar' in terms of delivering sustainable and healthy communities in the long term.

e) To foster development that responds appropriately to the natural and built environment, in particular, vegetation, biodiversity corridors, significant waterways, riparian land, significant buildings and gardens, and scenic landscapes and views.

f) To provide for an urban environment that is active, attractive and safe for residents and visitors.

g) To ensure the quality of development in the City of Penrith is of a high standard.

A review of the DCP identifies a range of relevant considerations. These are discussed in detail in **Table 5**.

The core principles of the plan are outlined and discussed in the context of the proposal in

Table 4 – Development Control Plan Principles

Principle	Assessment
Provide a long term vision for cities, based on sustainability; intergenerational, social, economic and political equity; and their individuality.	The principles of ESD are discussed in **Section 4.1.1**. The project provides improved peak demand management and supports the delivery of renewable energy, both of which are in the public interest – refer **Section 5.23**
Achieve long term economic and social security	By providing improved peak demand management and supporting renewable energy, the project assists with achieving long term economic and social security

Principle	Assessment
Recognise the intrinsic value of biodiversity and natural ecosystems, and protect and restore them.	By developing adjacent to existing infrastructure in favour of using a greenfield site, this principle is achieved.
Enable communities to minimise their ecological footprint	By providing improvement in peak demand management and supporting the delivery of renewable energy projects, long term impacts to the ecological environment are minimised and this principle is achieved. The development also co-locates with existing infrastructure in favour of developing a greenfield site, therefore minimising ecological footprint.
Build on the characteristics of ecosystems in the development and nurturing of healthy and sustainable cities.	No detrimental impacts to ecosystems would occur. Utilising an existing site and expanding in the context of existing infrastructure is preferred to utilising a greenfield site.
Recognise and build on the distinctive characteristics of cities, including their human and cultural values, history and natural systems.	The proposal provides essential power supply infrastructure to support the growth of the city and the introduction of renewable forms of energy supply. The project would have no detrimental impacts to the human and cultural values, and the history and natural systems
Empower people and foster participation.	The extent of participation would be determined by Council in the context of public DA notification.
Expand and enable cooperative networks to work towards a common, sustainable future.	The development of a project that provides improved peak demand management and supports renewable energy systems is both a sustainable and effective, and ensure impacts to the environment are minimised.
Promote sustainable production and consumption, through appropriate use of environmentally sound technologies and effective demand management.	
Enable continual improvement, based on accountability, transparency and good governance.	The project supports improved peak demand management and the adoption of renewable energy systems that support continual improvement. The project would be completed in line with Council requirements with respect to notification and would be determined in a transparent fashion.

Table 5 – Penrith Development Control Plan 2014

Development Control Plan Standard	Assessment	Compliance achieved?
C1 Site planning and design principles	The proposal involves the utilisation of existing surplus land within the substation site for the purposes of accommodating a BESS. Installation of this system would provide improvement in peak demand management and support the adoption of renewable forms of energy generation and is considered to be acceptable in the context of social, economic and environmental opportunities and constraints as discussed throughout **Section 5**.	Yes
	The project ensures protection of the scenic values of the city as discussed in **Section 4.5.2.6**	Yes
	The project adopts consistent height and massing by reference to the existing infrastructure within the substation	Yes
	The design of the BESS adopts a safer by design approach and limits risks from technological hazards, as discussed in **Section 5.17**	Yes
	Crime Prevention matters are discussed in **Section 5.18**	Yes
	Proposed access arrangements are consistent with current levels of access at the site	Yes
C2 Vegetation management	No impact to vegetation as a result of the application	N/A
C3 Water management	The proposal is consistent with the current use of the site and will integrate with on-site water management measures. Flood impacts are discussed in **Section 5.8**. No impacts to water quality would be expected as a result of the proposal, given the contained nature of the proposed BESS. Erosion and sediment control measures would be implemented during construction as set out in **Section 5.9**. Stormwater control would be implemented to integrate with existing system of management.	Yes

Development Control Plan Standard	Assessment	Compliance achieved?
	No impacts to surface or ground waters are anticipated as a result of this application due to the contained nature of the proposed BESS.	
C4 Land management	Only very minor earthworks are required to provide a bench for the proposed BESS. Standard ESCP measures would be implemented during construction. An assessment with respect to contamination is provided in **Section 4.5.1.1**.	Yes
C5 Waste management	Waste management measures during construction are discussed in **Section 5.12**.	Yes
C6 landscape design	The site features a range of existing landscaping and this would be augmented as required to provide appropriate visual shielding to managed residual visual impacts	Yes
C7 Culture and heritage	The site is highly disturbed and unlikely to result in any impacts to known heritage items in the locality – refer **Section 5.6** for further assessment.	Yes
C8 Public domain	Refer **Sections 5.2 and 5.4**	Yes
C9 Advertising and signage	N/A	N/A
C10 Transport, access and parking	Refer **Section 5.3**. A Transport Management and Accessibility Plan is not considered to be warranted.	Yes
C11 Subdivision	a) To address site planning principles in the design of the subdivision layout; b) To preserve and retain significant environmental and cultural features of the site, such as waterways, riparian corridors and heritage items. c) To address environmental constraints, including flooding, drainage, slope, erosion and land within, or adjacent to, natural resource sensitive land and to ensure that any future	The site has been planned to accommodate the proposed use in an efficient and reasonable manner There would be no significant impacts to significant environmental and cultural features Site constraints are addressed throughout **Section 5** of this report and no significant impacts are expected No significant vegetation would be impacted

Development Control Plan Standard	Assessment	Compliance achieved?
	development will not be subject to an unacceptable level of risk from natural hazards; d) To encourage the retention of significant existing vegetation; e) To adequately provide services to, and mechanisms for, the effluent disposal from any proposed allotment(s); and f) To address any access and traffic constraints and maximise vehicle and pedestrian safety	No effluent disposal methods are required due to the nature of the land use Traffic impacts are assessed in **Section 5.3**
11.4 Industrial Subdivision	a) To ensure that access for all industrial lots will not significantly affect the function, efficiency and safety of all classified roads in Penrith; and b) To rationalise and consolidate landholdings where appropriate.	Access is from a low volume, local road. Operational usage is low volume and intermittent. No significant impacts anticipated. A rational arrangement of the land is provided. No consolidation is proposed or required.
11.4.1	1) Lot width	Proposed Lot 51 achieves the 20m requirement. Proposed Lot 51 has a proposed frontage of 6 metres, being the width of the access driveway. This meets the needs of the proposed land use and is therefore consistent with the overarching objective 11.4.1a). The design of proposed Lot 52 meets the needs of the use that it is proposed to accommodate.
	2) Allotment shape	Proposed Lot 52 is a battleaxe lot, although noting that the handle length is very short (9 m). Adequate width is provided in the width of the handle to ensure access is available to the proposed Lot. A reciprocal right of carriageway is supplied over Lot 51 to assist with access – refer **Drawing TP02**.
	3) Lot consolidation	Not proposed
11.4.2 Subdivision Access Roads		Not proposed

Development Control Plan Standard	Assessment	Compliance achieved?
11.4.3 Subdivision other requirements	a) To implement measures to promote high quality of discharge to the sewer and drainage system that will result in improving the water quality of the Hawkesbury-Nepean River system and tributaries; and b) To preserve Aboriginal archaeological resources located in the industrial areas of the City.	No negative impacts to water quality anticipated – refer **Section 4.7** No negative impacts to Aboriginal heritage anticipated – refer **Section 5.6**
C12 Noise and vibration	Refer **Section 5.15**	Yes
C13 Infrastructure and services	No easements are required Servicing is discussed in **Section 5.5** On-site sewage management not proposed The proposal would be designed to ensure compliance is achieved with the applicable Endeavour Energy and Penrith City Council engineering standards	Yes
E Key Precincts: E11 Penrith City Centre	Part A: Not applicable	N/A
	Part B: Not applicable – access to the North Penrith is directly adjacent to the north of the subject site. The subject substation serves this area.	N/A
11.8.6 Industrial development	Seeks to ensure appropriate integration of industrial land uses and ensure impacts to residential land uses are not significant or unreasonable. Maximum building height of 12 m applies	Yes

5. IMPACTS, SITE SUITABILITY & THE PUBLIC INTEREST

Pursuant to Schedule 1 of the EP&A Regulation, this section of the report outlines the environmental impacts of the proposed development and any measures required to protect the environment or lessen the harm to the environment.

The impacts have been identified through an assessment of the proposed development against the provisions of section 4.15(1)(b) and the former NSW Department of Urban Affairs and Planning's (nd) Guide to Section 79C.

This section also addresses the consideration at Section 4.15(c) and Section 4.15(e) of the Act that relate to the suitability of the site for the development and the public interest.

5.1 Context and Setting

The subject site is located in an area zoned for general industrial purposes and characterised by a broad range of industrial and commercial land uses. The subject site is the Penrith substation, providing power supply services to surrounding land uses.

The site is well integrated with the locality through the effective use of landscaping and is a well-established feature of the existing, highly urbanised landscape.

The proposed BESS is permissible within the IN1 zone and has minimal ongoing impacts associated with it. The proposed electricity storage works would be generally low scale and would be in keeping with the industrial nature of the character of the locality and the electrical infrastructure use of the subject site.

5.2 Visual impacts

The landscape character in the locality is characterised by the range of commercial and industrial land uses, local, arterial and collector roads and a range of infrastructure, including above ground electricity transmission lines and the extant substation.

The physical characteristics of the existing substation is best described as utilitarian, featuring a range of infrastructure supporting the function of the site for the distribution of electricity to the surrounding urban land uses, including infrastructure with heights of 6-8 metres.

Visual impacts are considered in the context of the following matters:

- Sensitivity of identified viewing locations;
- Magnitude of change;
- Extent of impact (being a function of the above two factors).

There are a range of potential sites/locations visual receivers to the development – refer **Figure 5**. Assessment of impacts to viewing locations are provided in **Table 6**.

Figure 5 – Viewing locations

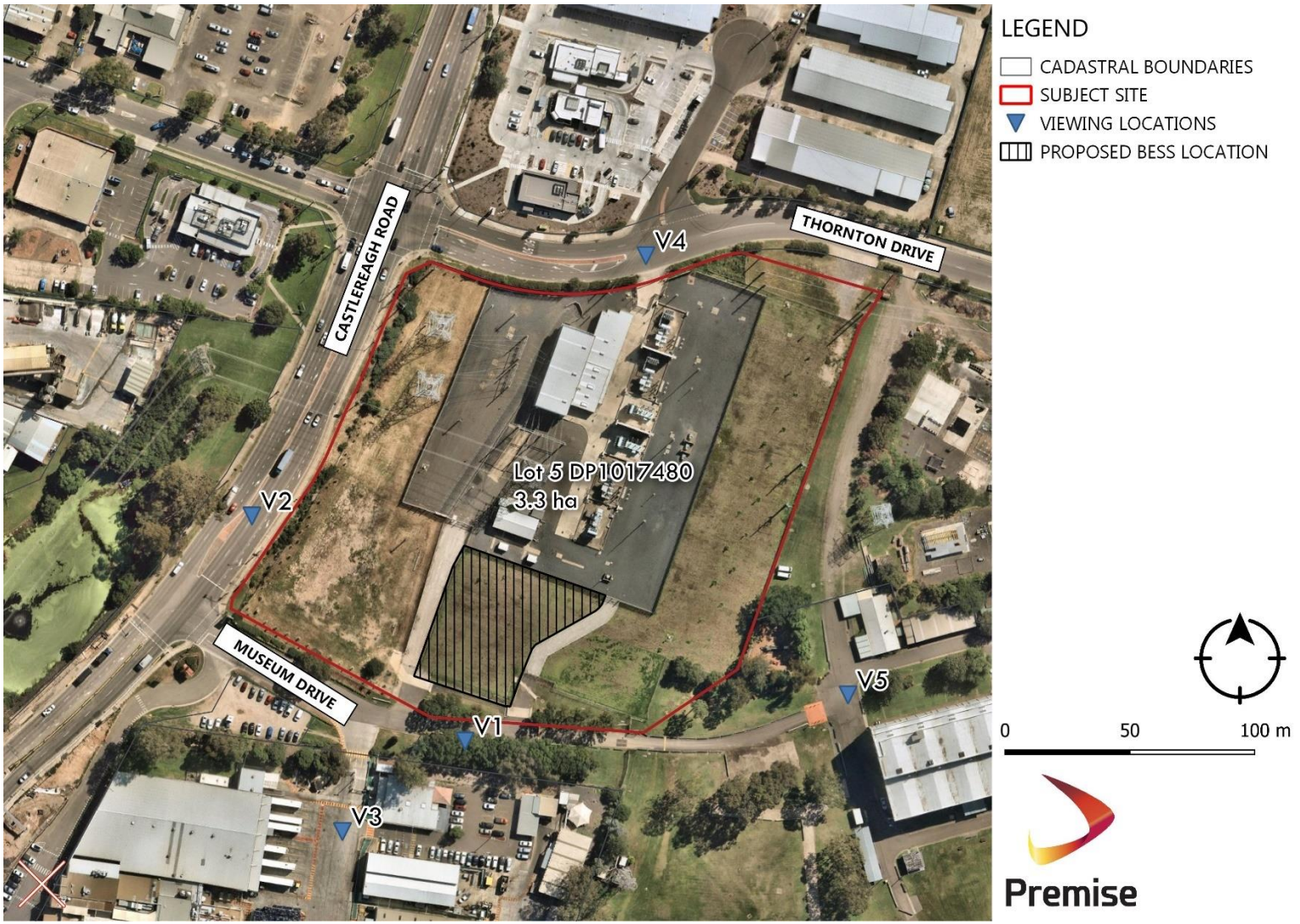


Table 6 – Visual receptors

Viewing location	Sensitivity	Magnitude of change	Impact	Comment
1. Road (car and pedestrian) users on Museum Drive	Low	Medium	Minor adverse	Minor change in appearance of the land compared to the current situation; however proposed infrastructure is consistent with existing power infrastructure land use. Extent of existing landscaping mitigates minor impacts.
2. Road users on Castlereagh Road	Low	Low	Negligible	Limited visibility and existing landscaping mitigates residual impacts.
3. Commercial land users to the south	Low	Low	Negligible	Limited visibility and existing landscaping mitigates residual impacts.
4. Road users on Thornton Road	Low	Negligible	Negligible	No visibility to road users from this viewpoint.
5. Museum visitors	Low	Low	Negligible	Limited visibility and existing landscaping mitigates residual impacts.

On the basis of the above, significant or demonstrable visual impacts associated with the development are not anticipated.

Augmentation of landscaping on site would assist to further ameliorate any perceived residual impacts.

5.3 Access, Transport and Traffic

The locality is characterised by a range of busy local and collector roads. Thornton Drive to the north is a local road, providing access to a cluster of attached, terrace style residential housing to the east. Museum Drive to the south of the site, provides access to the Museum of Fire, a local museum devoted to firefighting and fire safety displays. Castlereagh Road is a collector road linking from the A44, Great Western Highway in the south to the B59 Kurrajong Road in the north.

Visibility of the site from these roads is limited by existing landscaping.

Access to the site is via Museum Drive in the south and this would be used for all construction traffic. Construction traffic would be limited to a 8-16 week period and a total of between 90 – 150 heavy vehicles during that time, associated with the supporting bench and the transfer of the BESS components to the site. Light vehicles transporting construction workers would be limited to no more than 5-10 per day. Across the construction period, average daily heavy vehicle movements are expected to be an average of 2-3 per day, with an no more than 5-8 vehicles per day expected during periods of significant activity. This equates to less than one per hour over the course of any given day. Given the adoption of Museum Drive as the primary access, and the very low levels of vehicle movements per day, even during high activity periods, limited impact to the local traffic environment is anticipated. The period of construction is short lived and impacts are manageable.

Heavy vehicles attending the site would be limited to a maximum size of 19 metres. The current site access is capable of accommodating these vehicles.

Once construction has completed, access to the site would be limited to light vehicles associated with maintenance and operational staff. This is expected to be limited to 3-4 staff per day at a maximum.

Parking would be provided on site to accommodate up to two (2) light vehicles and there is sufficient room on site to accommodate this in the area allocated.

5.4 Public Domain

The public domain associated with the application is primarily limited to users of the local road network and members of the public and staff accessing the Museum of Fire.

The proposed development is consistent with scale, appearance and function to existing substation infrastructure and, by reference to the visual assessment at **Section 5.2**, would not result in any significant public domain impacts.

Minor impacts during construction would be short lived and manageable.

5.5 Servicing

Servicing associated with the proposal would be limited to augmentation and provision of sufficient electrical connections to the site.

These are to be provided by the applicant and are not a barrier to the development proceeding.

5.6 Heritage

A review of Schedule 5 of the Penrith LEP confirms that the site does not contain any sites of local or state heritage significance.

The nearest site of local significant is the land to the south-east, being the Museum of Fire. The Museum of Fire also contains a number of state significant heritage items, including a switchboard, mobile canteen, heritage vehicles, number plates and a range of other items. These items are all internal to the heritage building.

The proposed BESS unit is consistent in scale and function to the electrical infrastructure and would not result in any significant change to the character or appearance of the site, such that a detrimental impact to the heritage significance of the adjacent items would be anticipated.

The site is highly disturbed and the likelihood of encountering items of Aboriginal heritage significance is low. A search of the Aboriginal Heritage Information Management System (AHIMS) database confirms the site does not contain any known or mapped sites of Aboriginal heritage significance.

Standard construction mitigation measures are provided **Section 5.24**.

5.7 Other Land Resources

The site is currently in use for the provision of electrical supply infrastructure and the proposed use is consistent with this. No greater impacts to land resources than currently exists is anticipated.

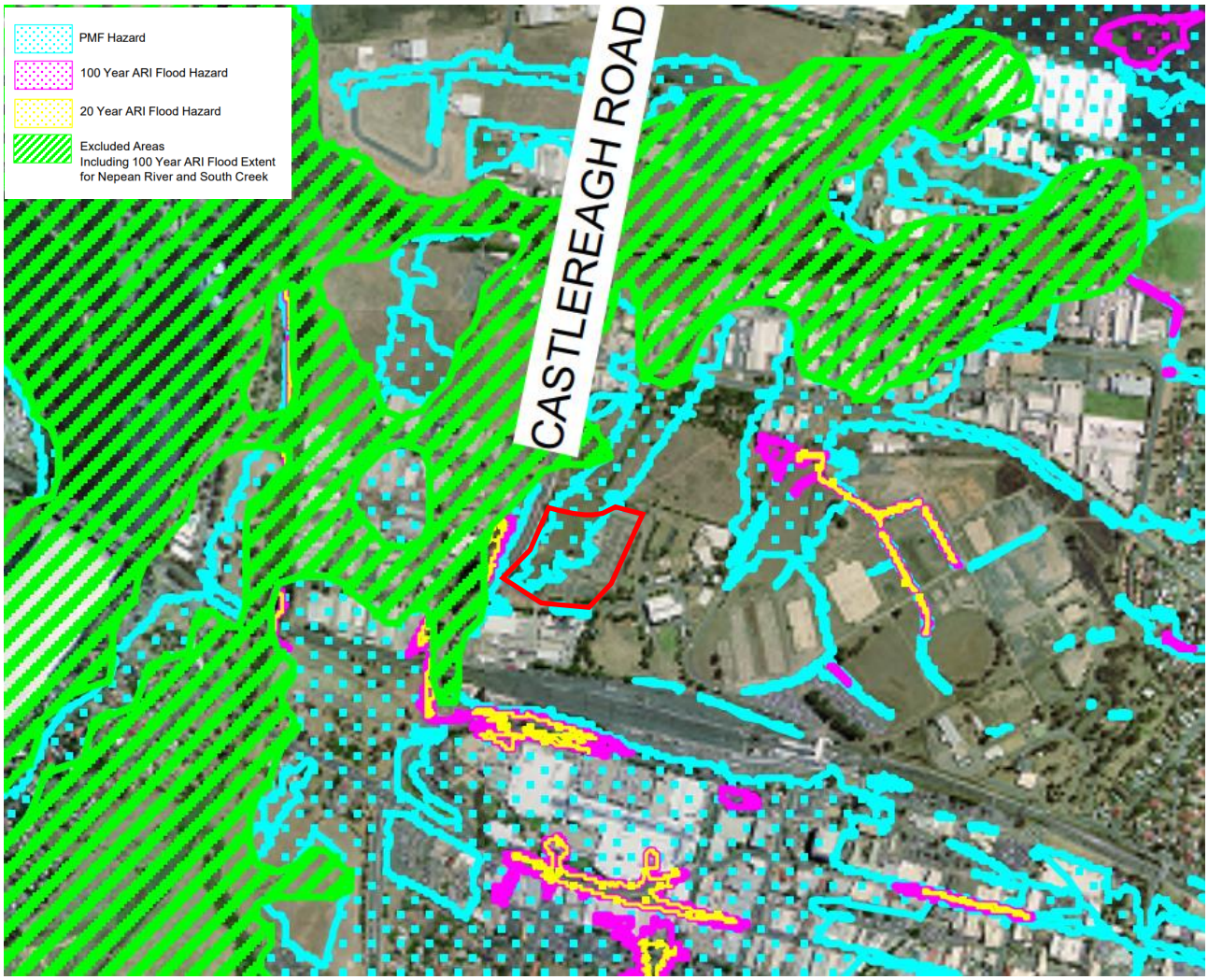
5.8 Water

There are no surface water features located within the confines of the site. The closest surface water features are a number of stormwater management basins, one to the west and another to the north-east. The Nepean

River is located approximately 650 metres to the west of the site. A review of the potential impacts of the development in the context of SREP20 is provided in **Section 4.7**.

From a review of the Penrith Overland Flow Study 2006, the site is outside of the extent of the 100 year ARI flood level for the Nepean River and South Creek. The western and northern extent of the site is within the Probably Maximum Flood (PMF) extent – refer **Figure 6**.

Figure 6 – Penrith Overland Flood Study extract (Cardno, 2006)



The Nepean River Flood Study (NRFS) was completed in 2018 to develop the initial findings of the overland flood study. The NRFS reflects that the eastern extent of the site is affected by the 100 year ARI flood level as reflected in **Figure 7** and **Figure 8**. Parts of the subject site have a mapped hazard level of H1, with a smaller area of H2 and the remainder having no hazard mapping. H1 designation means that the mapped area is '*Generally safe for vehicles, people and buildings'* and H2 means *unsafe for small vehicles*. By reference to Figure 41 of the NRFS, the H1 hazard category is reflective of velocity of no more than 2 metres per second and depths of no more than 300 mm and the H2 hazard category also has a velocity of less than 2 m/s and a depth of less than 500 mm.

It is possible to locate the proposed BESS unit outside of the H1 and H2 mapped areas. If any part of the BESS development were to encroach into the mapped hazard areas, the finished level of the BESS bench would achieve an appropriate level of freeboard, to ensure the protection of the proposed infrastructure.

Given this has been achieved for the incumbent sub-station, it is considered achievable for the proposed BESS.

Given the low hazard level, the above recommendation and the consistency with the existing land use, the proposed site is considered suitable in the context of the mapped flood hazard.

Figure 7 – Nepean River Flood Study extract (Advisan, 2018)

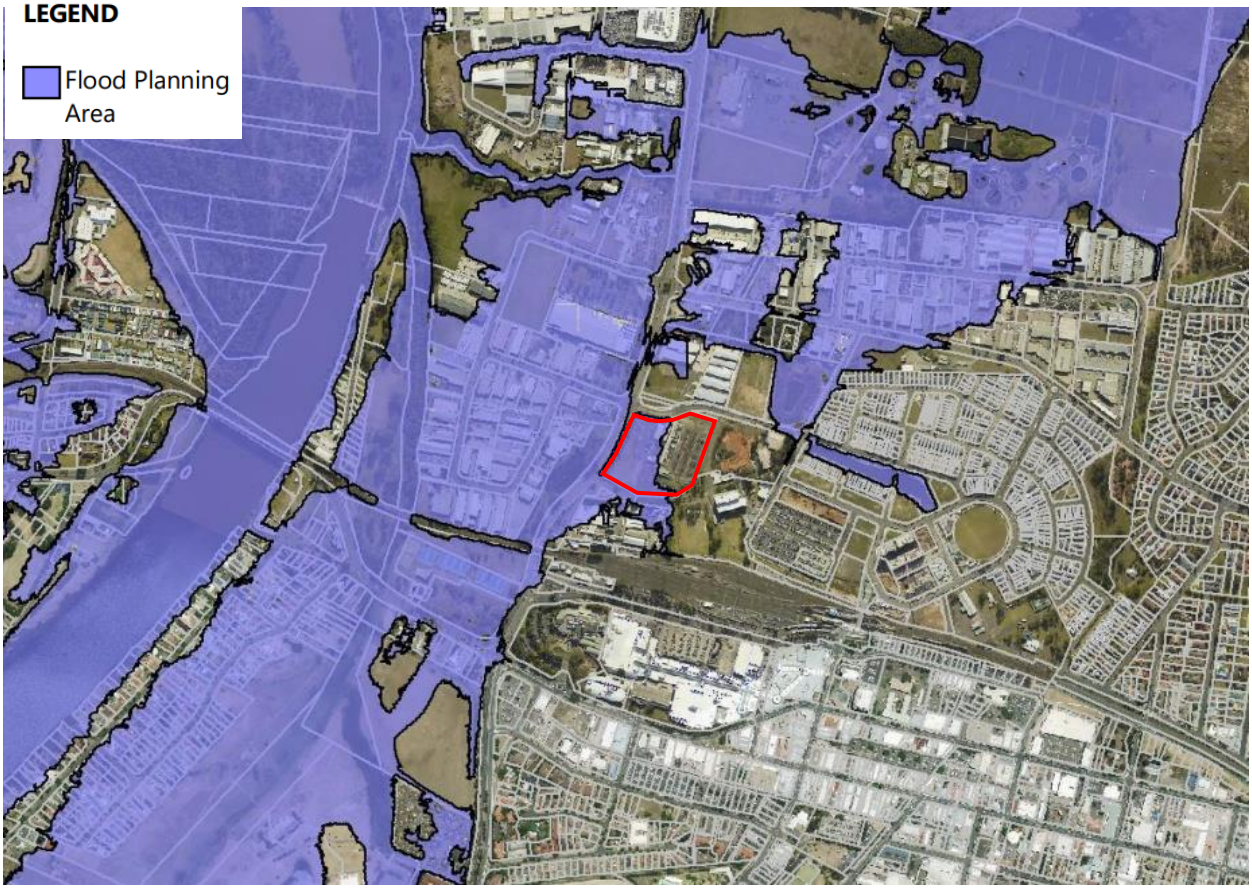
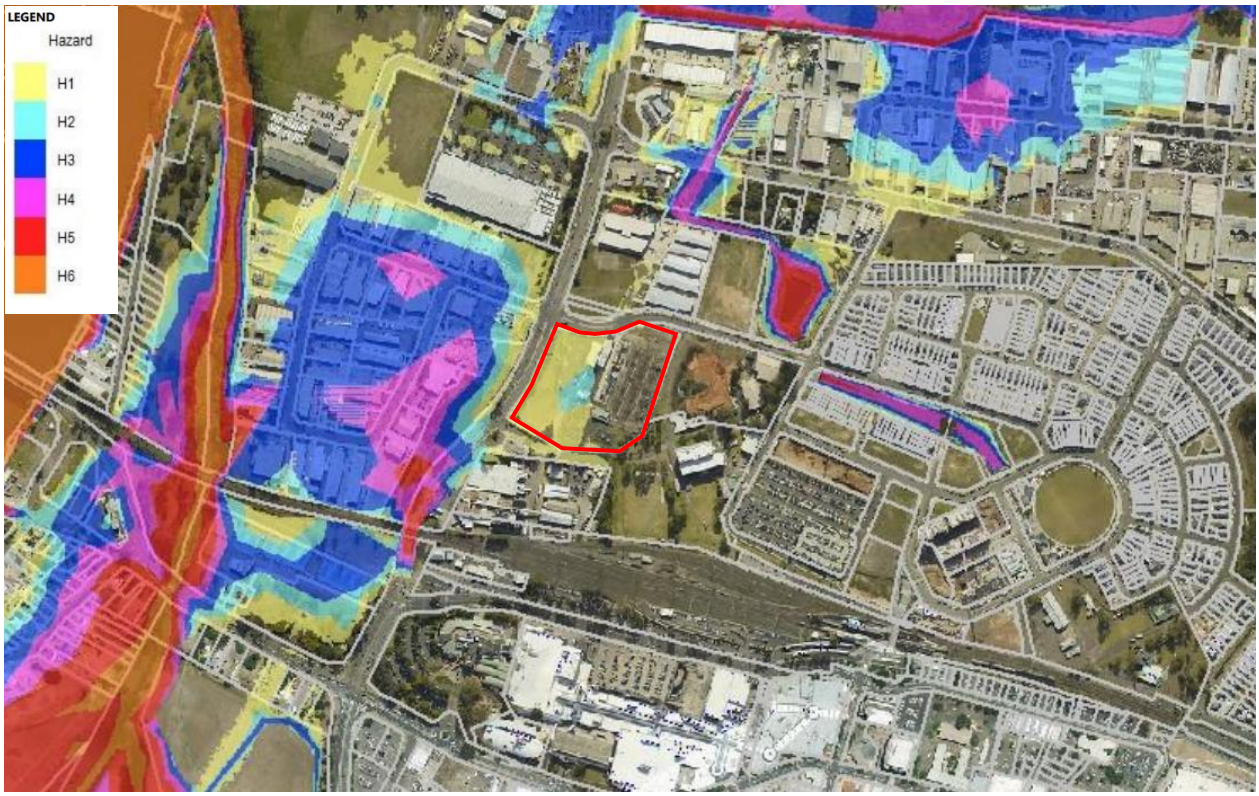


Figure 8 – Nepean River Flood Study extract – hazard level (Advisan, 2018)



Surface water features in the locality would not be impacted by the development. Stormwater flows from the site would be managed via discharge to the existing system of stormwater management in the locality. Only very minor increase in impermeable surfaces would occur as a result of the proposed development, and significant impacts to the local surface water environment is not predicted.

5.9 Soils

Minor excavation is required to prepare the bench for installation of the BESS unit, with the potential for minor changes to access treatments and internal roads/driveways.

There are no sensitive surface water features in the immediate locality would that or could be impacted by the short construction works.

Subject to the implementation of the mitigation measures outlined in **Section 5.24**, it is not anticipated that the project would lead to any unreasonable impacts to the local soil and water environment.

5.10 Air and Microclimate

The primary impact to air and microclimate as a result of the development would be temporary emissions (such as dust and exhaust emissions from vehicles) during the construction phase.

There are no sensitive land uses in close proximity to the project that would be detrimentally impacted by the short term construction impacts.

The implementation of standard measures, as outlined in **Section 5.24** would be sufficient to manage impacts.

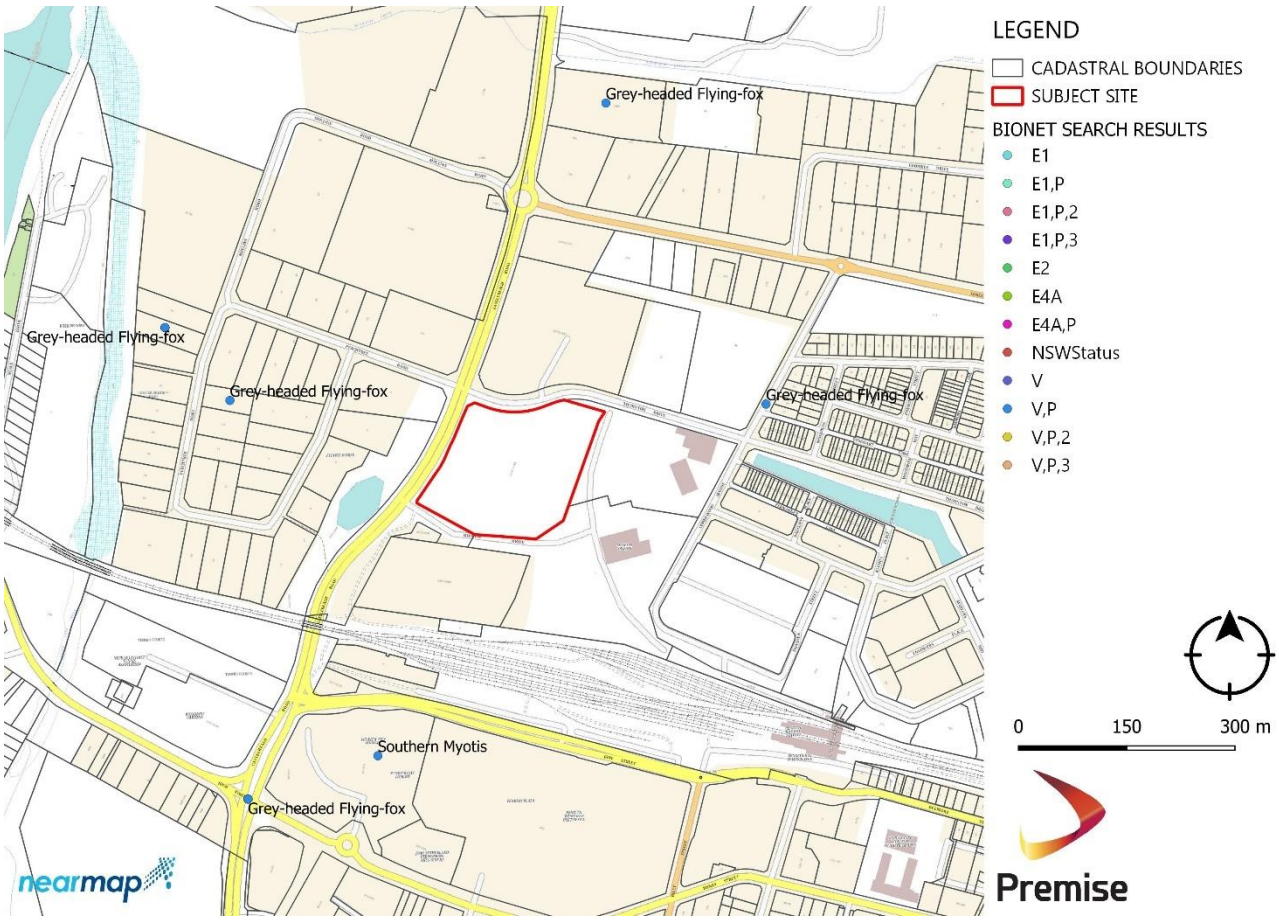
The operation of the BESS unit would not lead to any air quality impacts.

5.11 Flora and Fauna

The site is currently in use as a substation. It has been cleared of any remnant native vegetation and the site of the proposed BESS is currently occupied by mown grass.

A review of the Bionet atlas confirms that the site shows no records of sightings of any endangered or vulnerable species – refer **Figure 9**.

Figure 9 – Bionet search results



The nearest records relate to typically nocturnal, transitory species. As the site is cleared of any remnant vegetation, no habitat function is located on site that would attract these species.

The proposed development is not anticipated to result in any significantly affect threatened species or ecological communities, or their habitats, according to the test in section 7.3 of the BC Act. Clearing of native vegetation in excess of the applicable clearing threshold is not proposed. The works do not affect land mapped via the biodiversity values map.

On the basis of the above, a biodiversity assessment report is not required.

5.12 Waste

Minor levels of waste would be generated via the construction program, predominantly associated with creating a bench for installation of the BESS.

Materials would be reused on site or recycled where possible, and where not possible, disposed of at a lawful waste management facility.

Details would be outlined in a construction management plan prior to works commencing.

5.13 Stormwater

The site is currently connected to Council's reticulated stormwater management system.

The project would result in only minor increases in the extent of impermeable areas on site. Any changes to the site would be carried out in accordance with Council's engineering standards and would not result in any significant impacts to Council's stormwater management systems. Given the very minor extent of change, the proposal is considered to be within the capacity of the system to accommodate.

5.14 Energy

The proposal facilitates improved peak demand management, which is in the public interest and to the benefit of the local and broader power market. This has the potential to lead to reduced end user electrical costs.

Projects of this nature are in line with the various strategy documents applying to the site, as discussed in **Section 4.6** and in line with the principles of ESD, outlined in **Section 4.1.1**. On this basis it is considered to be acceptable from ay energy perspective.

5.15 Noise & Vibration

The locality is characterised by busy roads and industrial/commercial land uses. The nearest residential zoned land is located approximately 200 metres to the east. There are a range of industrial land uses in the immediate vicinity of the subject site that provide a degree of shielding between the site and these residential land uses. These industrial operations, including the existing substation and the adjacent brewery, are noise generating uses in their own right, contribute to background noise levels.

Short lived impacts from construction noise, primarily associated with construction traffic and earthworks for benching, would be manageable through adoption of standard construction mitigation measures, as outlined in **Section 5.24**. Subject to implementation of these measures, impacts during construction would not be expected to be significant.

The BESS unit would operate 24 hours a day, 7 days per week, but would only cycle 1-2 times per day. The equipment will be arranged such that the centrally located items are generally behind other equipment which is installed closer to the boundary extents to provide noise shielding.

By reference to the proposed placement of infrastructure, the separation distance to residential land uses and the shielding from surrounding land uses, it is not expected that the nearest residential receivers would experience reduced levels of amenity.

5.16 Natural Hazards

The site is not mapped as being bushfire prone land.

As discussed in **Section 5.8**, the site is partly affected by the mapped 1% ARI flood planning area, with hazard levels of H1 and H2. Buildings are acceptable in this hazard level. However a significant portion of the proposed BESS site is outside of the H1 and H2 mapped areas.

The proposed BESS unit would be sited where possible to avoid the H1 and H2 mapped areas. If encroachment into these areas cannot be avoided, detailed design would ensure that the final bench height would achieve an appropriate level of freeboard to ensure the safety of the infrastructure. Given this has been possible for the adjacent substation, this is not expected to be a significant issue.

5.17 Technological Hazards

The existing substation site features a range of existing electrical infrastructure.

The portion of the site on which the BESS is proposed to be installed is currently vacant and maintained as a grassed area; comments with respect to contamination are provided in **Section 4.5.1.1**.

Electric and magnetic fields (EMF) are produced naturally as well as by human activity. The earth has both a magnetic field, produced in the earth's core, and an electric field, produced by electrical activity like storms in the atmosphere. Electrical equipment of all sizes and voltages produces EMF. Both fields drop away rapidly with distance from the source, or due to shielding by insulation or earth (in the case of buried installations).

The International Commission on Non-Ionizing Radiation Protection (ICNIRP) has issued *Guidelines for Limiting Exposure to Time-Varying Electric and Magnetic Fields*. The relevant authority in Australia is the Australian Radiation Protection and Nuclear Safety Agency (ARPNSA) and they refer to the ICNIRP guidelines. These supersede earlier guidelines published by National Health and Medical Research Council (NHMRC).

The ICNIRP EMF guidelines provide relevant limits for the general public for 50 Hz sources as follows:

- Electrical Field Strength (E): 5 kilo Volts per metre (kV/m)
- Magnetic Flux Density (B): 200 micro Teslas (μT)

EMF increases with voltage and proximity to the apparatus producing, transmitting or consuming electricity. EMF varies according to specific design and construction parameters such as conductor height, electrical load and phasing, and most importantly, whether the conductors are overhead or buried.

The BESS is located within a secure substation site and it is not be open to the general public. The closest unrelated house is located in excess of 200 m distant from the BESS, and at that distance EMF emission levels will be no higher than what currently exist.

5.18 Safety, Security and Crime Prevention

The guidelines prepared by the NSW Department of Urban Affairs and Planning (DUAP 2001) identify four (4) Crime Prevention Through Environmental Design (CPTED) principles to be considered in a Development Application to ensure developments do not create or exacerbate crime risk. These principles are discussed below in relation to the proposed development and include: surveillance, access control, territorial reinforcement, and space management.

5.18.1 SURVEILLANCE

The site would be largely passive with minimal on-going operational works necessary. The site would be monitored from a security perspective via regular site visits and maintenance undertaken as required.

5.18.2 ACCESS CONTROL

The proposed BESS would be installed within the existing fenced substation site, which include existing locked gates to limit access. Access to the site is able to be controlled via these current measures.

5.18.3 TERRITORIAL REINFORCEMENT

The use of the space is currently telegraphed via on site signage and its purpose is readily apparent to the public. The proposed BESS installation is consistent with this current use and would not present any confusion to the public as to the site use.

5.18.4 SPACE MANAGEMENT

The site would be regularly inspected and maintained to ensure that any degradation of facilities is corrected in a timely fashion.

5.19 Social Impact

As defined by the NSW Government Office on Social Policy, social impacts are significant events experienced by people as changes in one or more of the following are experienced:

- peoples' way of life (how they live, work or play and interact with one another on a day-to-day basis);
- their culture (shared beliefs, customs and values); or
- their community (its cohesion, stability, character, services and facilities).

The proposed unit provides for improved peak demand management and the effective integration of renewable forms of energy production into the local electrical reticulation environment. The nearest residential zoned land is approximately 200 metres from the BESS site. The social impacts associated with the project would be largely positive and no significant or demonstrable social impacts are predicted by the application.

5.20 Economic Impact

Economic benefits associated with the development would be the generally positive through encouraging development in the locality, including supporting the development of local renewable energy projects.

The project has the potential to be included in the Planning System Acceleration Program, as it can be quickly brought to a shovel ready state, would involve the creation of both construction and operations jobs and delivers public benefits through improvements to the efficiency and effectiveness of the reticulated electrical network.

5.21 Site Design and Internal Design

The design and layout of the site has been carefully considered taking account of existing site constraints, site attributes and opportunities offered by the existing infrastructure.

The co-location of the proposed infrastructure with existing infrastructure together with the industrial nature of the locality ensures that visual impacts would be minimal.

5.22 Cumulative Impacts

Cumulative impacts associated with the project could include the following types of impacts:

- individual impacts so close in time that the effects of one are not dissipated before the next (time crowded effects);
- individual impacts so close in space that the effects overlap (space crowded effects);
- repetitive, often minor impacts eroding environmental conditions (nibbling effects); or

- different types of disturbances interacting to produce an effect which is greater or different than the sum of the separate effects (synergistic effects).

The primary potential causes of cumulative impact include cumulative visual and noise impacts associated with the expansion of operations at the substation.

The proposed BESS is consistent in appearance, bulk and scale to the host electrical infrastructure and is unlikely to lead to any cumulative visual impacts as a result of the proposal.

The site is well separated from residential land uses, and subject to implementation of the mitigation measures outlined via this document, is not expected to result in any cumulative noise impacts to residential or nearby industrial receivers.

5.23 The Public Interest

The public interest may be determined by consideration of relevant national, state and local government goals, as well as community priorities, which are expressed through a range of documentation.

Relevant strategic documents are considered in **Section 4.6**

It also requires the consideration of the principles of ecologically sustainable development, discussed in **Section 4.1.1** of this SEE. It has been consistent held through a range of determinations in the NSW Land and Environment Court that the ESD precautionary intergenerational equity principles include considerations associated with climate change (impact of the development on climate change and impacts of climate change on development).

Mostly recently, the LEC held that the downstream impacts of mining projects, including the burning of fossil fuels for energy production, is a public interest consideration. Namely, in *Gloucester Resources Limited v Minister for Planning [2019] NSWLEC 7*, Preston J stated at 499:

> *Many courts have held that indirect, downstream GHG (greenhouse gas) emissions are a relevant consideration to take into account in determining applications for activities involving fossil fuel extraction or combustion or electricity generated by fossil fuel combustion.*

In summing up, Preston noted that the impacts associated with climate change, among others, were sufficient to justify refusal of the project.

It follows that a project that seeks to provide for sustainable electricity generation through the use of renewable forms of energy and through improved peak demand management is in the public interest as it reduces the reliance on forms of electricity generation that rely on the consumption and burning of fossil fuels and that negatively contribute to the impacts of climate change as a result. An increase in dispatchable energy sources like this BESS means that the system has greater contingency to deal with isolated peaks of high demand without needing expensive and potentially harmful expansions of traditional fossil fuel forms of energy generating infrastructure and additional network costs.

Adoption of forms of development that counter the need for these high impact uses is therefore positive in the context of the ESD principles and is in the public interest.

The proposed development is considered to be in the public interest on the basis that it:

- Offers an opportunity for productive and sustainable economic activity within the area;
- Presents an excellent opportunity to the local region to provide local employment opportunities;

- Has been designed with appropriate to the consideration to social, environmental and sustainability interests of the community;
- Aims to minimises impacts to natural resources through development of a sustainable form of energy production;
- Assists to achieve Australia's targets with respect to provision of renewable energy resources; and
- Assists to reduce reliance on traditional, fossil fuel burning forms of electricity generation, thereby assisting in curbing the long term impacts of climate change.

It reduces the reliance of other forms of electricity generation that are reliant on the burning of fossil fuels and that negatively contribute to climate change among others.

5.24 Summary of mitigation measures

Construction activities associated with the proposed development are not perceived to have any adverse impact on the environmental quality of the land by way of land degradation, soil quality or natural water bodies. Other negative externalities such as noise, traffic and material impacts on adjoining land are minor in the context of the industrial use of surrounding land and the current and continued use of the site as a substation, supporting the local area.

A summary of controls and mitigation measures outlined throughout **Section 5** are provided in **Table 7**. These measures would be incorporated into a CEMP.

Table 7 – Summary of construction impacts and mitigation measures

Section/Impacts	Mitigation Measures
5.2 Visual impacts	Visual impacts are in line with the existing land use and the proposal would therefore have negligible visual impacts. No mitigation measures proposed.
5.3 Access, transport and traffic	Implementation of a traffic management plan during construction to control access by any oversize vehicles Traffic controls to be used as required throughout construction All construction vehicles to be contained within the site at all times No building materials to be stored in the public road reserve
5.4 Public domain	As per Section 5.2
5.5 Servicing	Complete a DBYD search prior to any works commencing. Liaise with the land owner to determine the location of any services.
5.6 Heritage	Should any 'objects', 'relics' or other European or Aboriginal heritage features be identified during the course of constructions, work in that area should cease and be cordoned off and the Office of Environment and Heritage and/or a suitably qualified heritage specialist be contacted to discuss how to proceed.
5.7 Other land resources	None required
5.8 Water	Implementation of an erosion and sediment control plan as outlined below
5.9 Soils	Dust suppression of roads and stockpiles where required.

Section/Impacts	Mitigation Measures
	Stabilising techniques may be applied where required. Managing erosion and sedimentation impacts in accordance with provisions of the Urban Stormwater: Soils and Construction series.
5.10 Air and microclimate	Stockpiled topsoil and other materials that exhibit significant dust lift off would be wet down routinely and as appropriate. Stabilising techniques and/or environmentally acceptable dust palliatives will be utilised if the wetting down of surfaces prove to be ineffective. Maintain all equipment in accordance with the manufacturers specifications.
5.11 Flora and fauna	No mitigation measures required
5.12 Waste	Preparation of a waste management plan prior to works commencing
5.13 Stormwater	All stormwater to be directed to existing stormwater infrastructure, in accordance with the engineering standards of Council and Endeavour Energy
5.14 Energy	No mitigation measures required
5.15 Noise and vibration	The equipment will be arranged such that the centrally located items are generally behind other equipment which is installed closer to the boundary extents to provide noise shielding.
5.16 Natural hazards	The BESS unit should be sited outside of the mapped H1 and H2 hazard land or, if not possible, should ensure that sufficient freeboard is provided to the final bench height to ensure the safety of the proposed infrastructure.
5.17 Technological hazards	The BESS unit is to be constructed and installed in accordance with the provisions of the *Guidelines for Limiting Exposure to Time-Varying Electric and Magnetic Fields*
5.18 Safety, security and crime prevention	The site would be monitored from a security perspective via regular site visits and maintenance undertaken as required. The site would be regularly inspected and maintained to ensure that any degradation of facilities is corrected in a timely fashion.
5.19 Social impact	No mitigation measures required
5.20 Economic impact	No mitigation measures required
5.21 Site design and internal impacts	No mitigation measures required
5.23 Cumulative impacts	No mitigation measures required

6. CONCLUSION

6.1 Suitability of the site

The subject site is considered suitable for the proposed development for the following reasons:

- The proposed development is compatible with the surrounding use and character of the area for industrial purposes and is permissible within the zone by reference to the ISEPP;
- The project is strategically justified through consistency with applicable state and regional strategies;
- The site is ideally located within close proximity to existing electricity infrastructure to enable efficient project delivery;
- The site is not unduly restricted by nearby sensitive uses or natural or cultural attributes such as soil characteristics, flora and fauna or heritage items;
- The site well absorbed into the visual receiving environment without significant impact; and
- The existing external infrastructure is sufficient to accommodate the needs of the development without the need for significant upgrade.

6.2 Conclusion

This Statement of Environmental Effects identifies and assesses the environmental issues associated with the construction and operation of a proposed BESS to be located at the Endeavour Energy Penrith substation. The development has been assessed in accordance with the Part 4 of the *Environmental Planning and Assessment Act 1979*, the *State Environmental Planning Policy (Infrastructure) 2007* and the *State Environmental Planning Policy (State and Regional Development) 2011*.

The proposal would comply with relevant state and local planning requirements.

Specific controls are identified to minimise or ameliorate the potential impacts associated with the development and, subject to their successful implementation, would ensure the development operates with minimal risk of harm to the environment. The applicant confirms that these measures are both practical and achievable.

Key benefits of the proposal include:

- Improved peak demand management reduces risks to local residents and businesses and improves the reliance of the energy supply network;
- Reduction in greenhouse gas emissions through support for renewable energy sources, thereby facilitating a move toward cleaner electricity generation and thus serving the public interest;
- Development of a project that would assist the state government in achieving the targets set down in the Greater Sydney Region Plan, the Western Sydney District Plan and local strategy through facilitating delivery of a project that supports the rollout of renewable energy generation projects;
- Provision of facilities that assist with a balanced and sustainable electricity supply to the grid; and
- Benefits to the Penrith Local Government Area and the wider region through development and investment.

In view of the above, the development is considered to be acceptable.

7. REFERENCES

Table 8 – References

References
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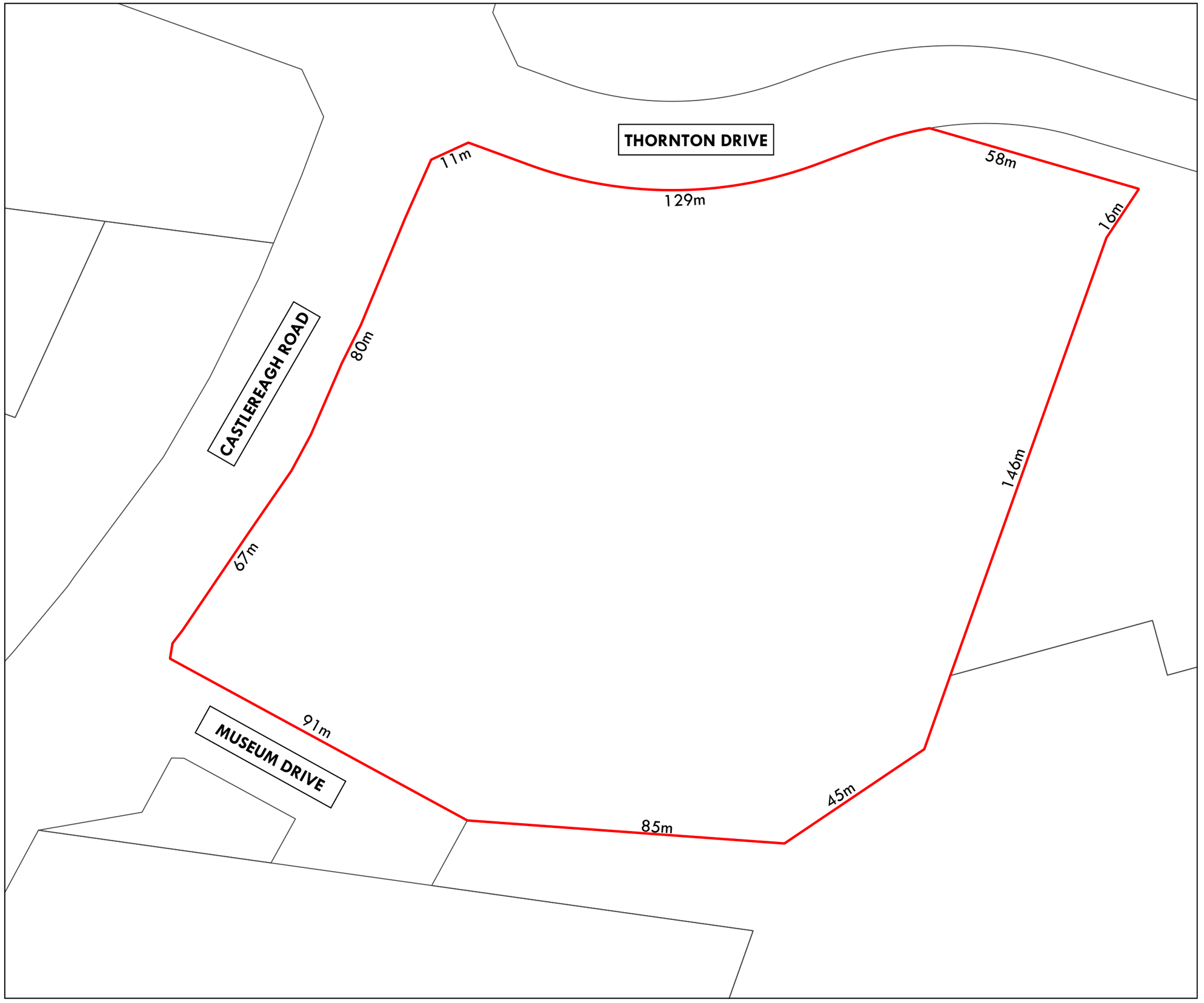
Penrith City Council, 2017. *Penrith Community Plan*
Penrith City Council, nd. *Penrith City Strategy*

DRAWING



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Datum: GDA 1994
Map Units Meter
Scale 1:1,000 at A3

LEGEND

SUBJECT SITE

CADASTRAL BOUNDARIES

220049

Development Application
Penrith Smart Battery Pty Limited
Existing lot plan

Drawing TP01 of TP02

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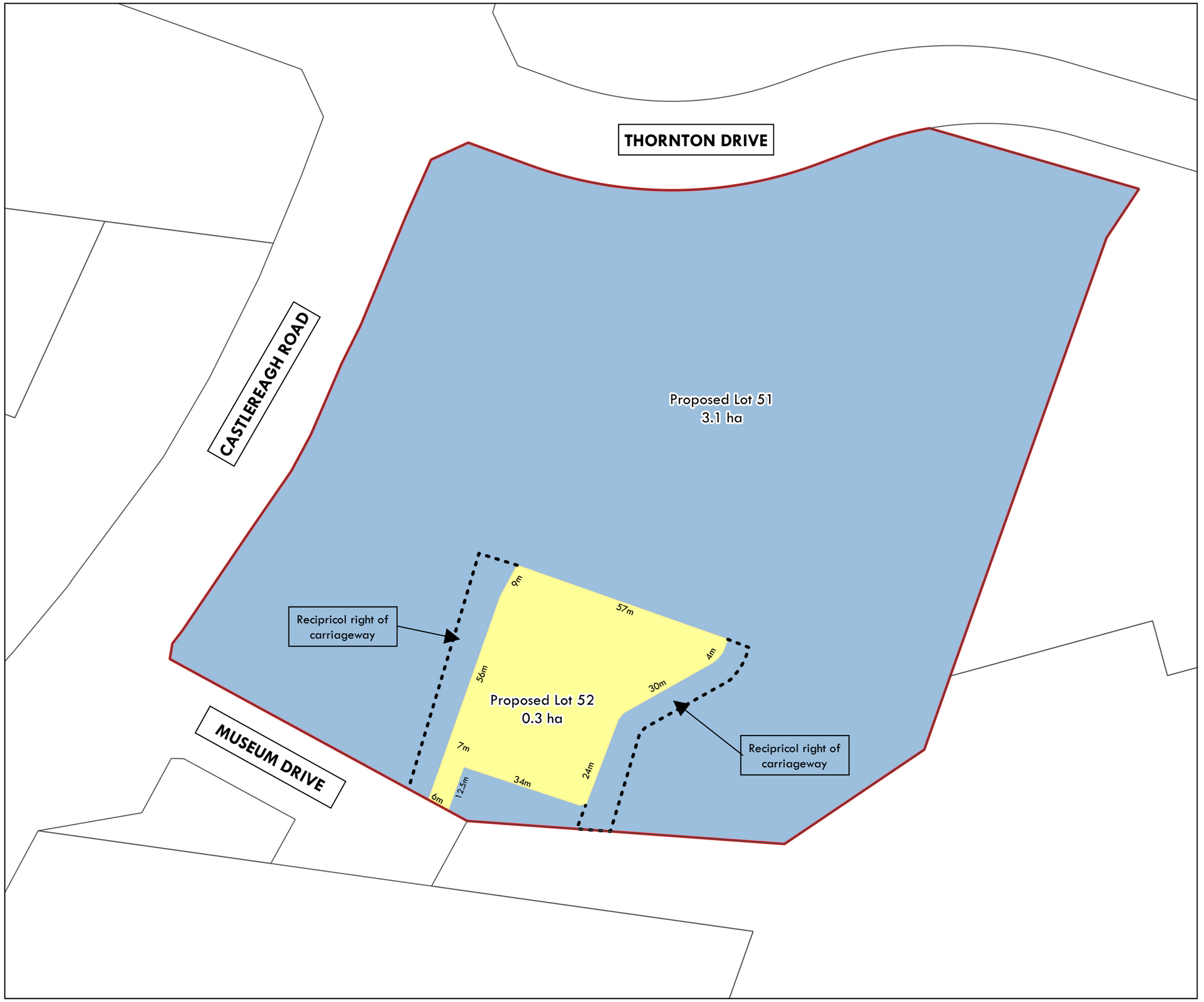

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GDA 1994 MGA Zone 55
Datum: GDA 1994
Map Units Meter
Scale 1:1,000 at A3

LEGEND

- SUBJECT SITE
- CADASTRAL BOUNDARIES

PROPOSED LOTS

- LOT 51
- LOT 52

220049

Development Application
Penrith Smart Battery Pty Limited
Proposed subdivision plan

Drawing TP02 of TP02

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FIRM POWER

DESIGNED	D. MACDONALD	17.03.2020	
DRAWN	D. MACDONALD	17.03.2020	
VERIFIED	S. INGRAM	17.03.2020	
APPROVED	S. INGRAM	17.03.2020	

LETTER	DETAILS OF AMENDMENT	APP'D	DATE
01	FOR TENDER PURPOSES	S.I.	17.03.2020

THIS DRAWING SUPERSEDES

DRAFT RELEASE

DRAFT

PENRITH BESS
INDICATIVE SITE AREA

DRAWING No. PEN-SK-E-06

REV 01 | SHEET No. 1 of 1

A1 | PROJ No. 1005 | DRAWING STATUS: PRELIMINARY

FIRM POWER 2019

APPENDIX A

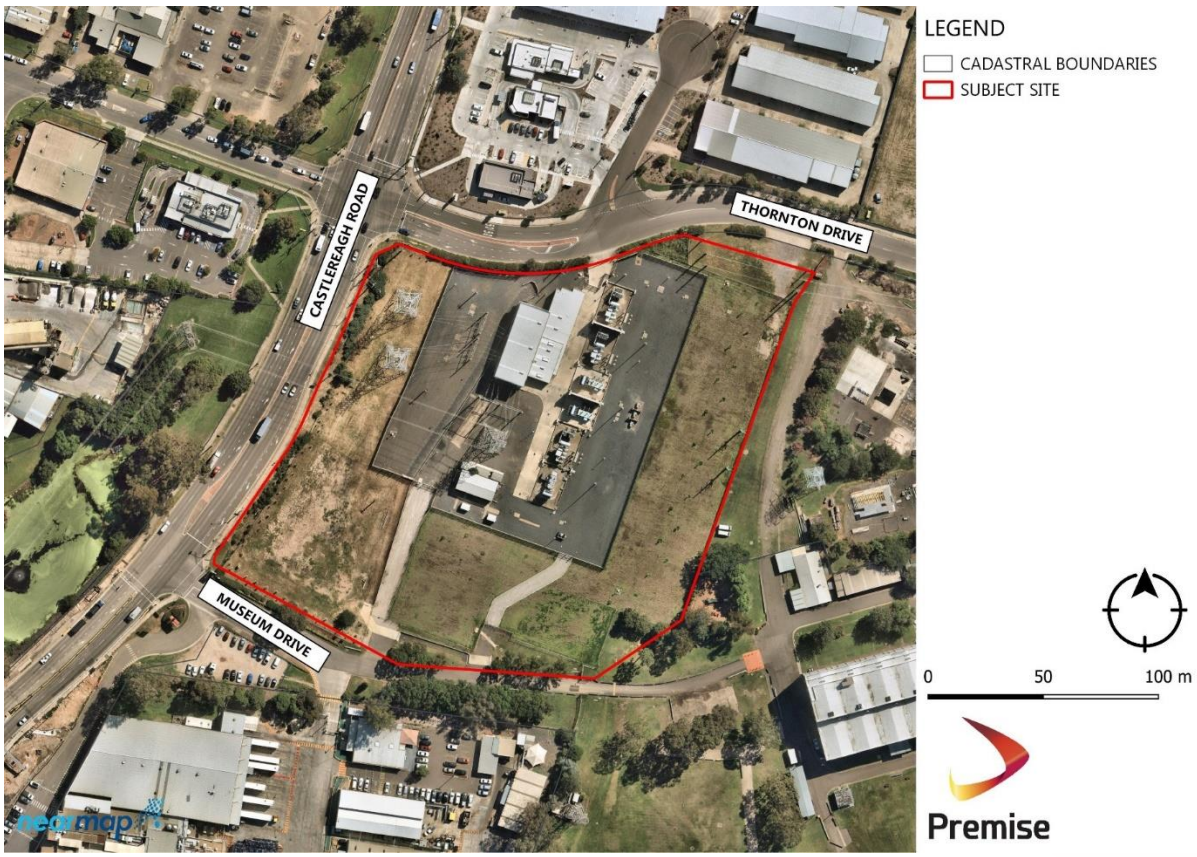
CLAUSE 4.6 VARIATION

1. CLAUSE 4.6 VARIATION

1.1 Introduction

This is an application to vary a development standard under clause 4.6 – Exceptions to Development Standards of the *Penrith Local Environmental Plan 2010* (LEP). This variation request relates to the standard outlined via clause 4.1 of the LEP, being the minimum subdivision lot size. This clause 4.6 variation supports a development application seeking consent for development of an electricity generating works (battery storage) and two lot subdivision at 2235-2249 Castlereagh Road, Penrith (Lot 5 DP1017480). The site currently hosts the Penrith Endeavour Energy Substation – refer **Figure 1**.

Figure 1 – Subject site



The objectives of Clause 4.1 are:

> *(a) to ensure that lot sizes are compatible with the environmental capabilities of the land being subdivided,*
>
> *(b) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,*
>
> *(c) to ensure that lot sizes and dimensions allow developments to be sited to protect natural or cultural features including heritage items and retain special features such as trees and views,*

(d) to regulate the density of development and ensure that there is not an unreasonable increase in the demand for public services or public facilities,

(e) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.

The subject site is zoned IN1 – General Industrial (refer **Figure 2**) and is identified via the Lot Size Map as having of Minimum Lot Size of 1.25 hectares – refer **Figure 3.**

The subject site has a total area of 3.3 ha and proposes a two lot subdivision creating a lot (proposed Lot 51) of approximately 3 hectares and a lot (proposed Lot 52) of approximately 3,000 square metres. Proposed Lot 52 is below the applicable minimum lot size. As such a clause 4.6 variation is required.

Figure 2 – Subject site zoning

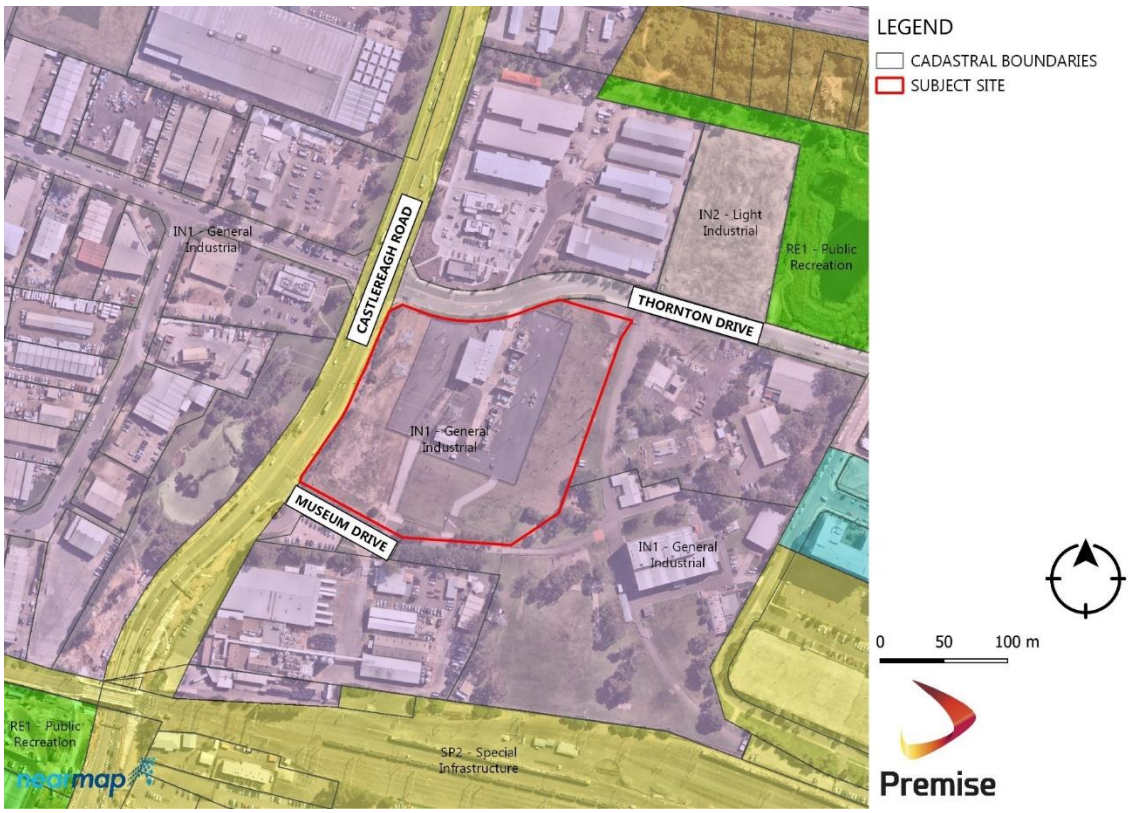


Figure 3 – Subject site mapped minimum lot size

1.2 Clause 4.6

The objectives of clause 4.6 are:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

It further provides:

> *(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.*
>
> *(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:*
>
> *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
>
> *(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*
>
> *(4) Development consent must not be granted for development that contravenes a development standard unless:*
>
> *(a) the consent authority is satisfied that:*
>
> *(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and*
>
> *(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and*
>
> *(b) the concurrence of the Secretary has been obtained.*
>
> *(5) In deciding whether to grant concurrence, the Secretary must consider:*
>
> *(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and*
>
> *(b) the public benefit of maintaining the development standard, and*
>
> *(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.*
>
> *(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:*
>
> *(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or*

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note. When this Plan was made it did not include Zone RU3 Forestry or Zone RU6 Transition.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4,

(ca) clause 6.1, 6.2, 6.6, 6.7, 6.16, 7.7, 7.17, 7.21, 7.24 or Part 9.

Clause 4.6 seeks to provide a mechanism for the legitimate variation of a development standard. It seeks to provide flexibility so as to achieve better outcomes for and from development.

Clause 4.6 variations, and SEPP1 objections before them, have been the subject of a large number of Land and Environment Court decisions and this has usefully established a clear pathway for demonstrating the methods by which the obligations of clause 4.6 are discharged.

SEPP1 was introduced in 1979 in conjunction with the *Environmental Planning and Assessment Act 1979*. SEPP1 was seen as a crucial tool in support of this new planning system, which sought to 'foster investment', 'facilitate growth' and provide 'flexibility' and 'wide discretion'. This is strongly reflected by the core aims and objectives of the SEPP1, which stated:

"This Policy provides flexibility in the application of planning controls operating by virtue of development standards in circumstances where strict compliance with those standards would, in any particular case, be unreasonable or unnecessary or tend to hinder the attainment of the objects … of the Act"

The most relevant of the cases relating to SEPP1 is *Wehbe vs Pittwater Council (2007) LEC 827* (Webhe). Whilst Webhe was concerned with a variation request pursuant to the provisions of *State Environmental Planning Policy No. 1 – Variations to a Development Standard* (SEPP1), it remains relevant in the determination of clause 4.6 variations.

In the decision of Wehbe v Pittwater Council [2007] NSWLEC 827 (Wehbe), Preston CJ summarised the five (5) different ways in which an objection under SEPP 1 could be shown to be well founded and the manner by which the approval of the objection may be consistent with the aims of the policy. The five possible ways articulated in Webhe are set out below:

- *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- *The underlying object of the purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- *The compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

In applying the tests of Wehbe, only one of the above rationales is required to be established.

In 2006 the Standard Instrument Local Environmental Plan (SILEP) was introduced, and with it Clause 4.6. Clause 4.6 replaces the provisions of SEPP1 as relating to LEP's prepared in line with the SILEP.

Following the introduction of clause 4.6, the NSW LEC found at paragraph 62 in the matter of *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009* (Four2Five) that:

> *"...the case law developed in relation to the application of SEPP 1 may be of assistance in applying Clause 4.6. While Wehbe concerned an objection under SEPP 1, in my view the analysis is equally applicable to a variation under Clause 4.6 where Clause 4.6 (3)(a) uses the same language as Clause 6 of SEPP 1."*

A number of more recent LEC decisions in relation to clause 4.6 variations also have relevance.

In *Randwick City Council v Micaul Holdings Pty Ltd [2016]* (Micaul) the Chief Judge, Preston CJ, noted (our emphasis added):

> *39. Hence, the Commissioner did not have to be satisfied directly that compliance with each development standard is unreasonable or unnecessary in the circumstances of the case, but only* ***indirectly by being satisfied that the applicant's written request has adequately addressed the matter in subclause (3)(a) that compliance with each development standard is unreasonable or unnecessary.***
>
> *40. The Commissioner's reasons for judgment need to be scrutinised with this correct inquiry in mind. The Council needed to establish that the Commissioner did not provide adequate reasons for concluding that Micaul's cl 4.6 objections adequately addressed the matter of whether compliance with the relevant development standard is unreasonable or unnecessary in the circumstances of the case. I find that the Council has not established that the Commissioner's reasons were inadequate in law in this regard.*

Also of relevance is the matter of *Moskovich v Waverley Council [2016]* (Moskovich), which related to a request to vary a maximum height limit. In favourably determining the matter, the

Commissioner cited a number of relevant factors, including the lack of environmental impact of the proposal, the environmental benefits of the proposal, the two street frontages and its context.

Clause 4.6 also requires the concurrence of the Director-General to be obtained prior to the granting of consent for development that contravenes a development standard unless concurrence from the Director-General to vary the development standards have been delegated to the Council.

By virtue of Clause 64 of the *Environmental Planning and Assessment Regulations 2000* (EPA Regs) and Planning Circular 17-006, it is apparent that concurrence in matters relating to clause 4.6 variations may be assumed except in a limited number of circumstances. The proposal does not meet those limited circumstances and therefore concurrence may be assumed.

2. PURPOSE OF THIS REQUEST

Pursuant to Clause 4.6 of LEP, an exception is sought to clause 4.1 of the LEP relating to minimum lot size. The relevant considerations for the proposed non-compliance with the minimum lot size standard are assessed in the following sections.

Clause 4.6 of the LEP permits departures from development standards in certain circumstances. In the context of this variation request:

1. Strict compliance with clause 4.1 is unreasonable or unnecessary for the following reasons:
    a. The objectives of the LEP are achieved notwithstanding the technical non-compliance.
    b. The objectives of the LEP IN1 – General Industrial zone are achieved notwithstanding the technical non-compliance.
    c. The objectives of clause 4.1 are achieved notwithstanding the technical non-compliance
2. There are sufficient environmental planning grounds to support the proposed variation.

Each of these reasons is addressed in detail on the following pages.

The key matters in relation to this request are outlined in the following table.

Table 2.1 – Key matters

Item	Response
Applicable planning instrument	*Penrith Local Environmental Plan 2010*
LEP objectives	Refer **Section 3**
Land zoning	IN1 – General Industrial
Zone objectives	Refer **Section 4**
Development standard seeking variation	Clause 4.1 of the LEP – applicable minimum lot size is 1.25 hectares
Is the standard a performance based control?	No, the lot size standard is a numerical control
Objectives of standard	Refer **Section 5**

Table 2.1 – Key matters

Item	Response
Numeric value of the standard	The LEP establishes the minimum lot size for subdivision of the subject land is 1.25 ha
Extent of variation	76%

3. LEP OBJECTIVES

3.1 Consideration of LEP objectives

The proposal satisfies the applicable LEP aims, where relevant, as articulated in the table below.

Table 3.1 – LEP Objectives

Objective	Assessment
(a) to provide the mechanism and planning framework for the management, orderly and economic development, and conservation of land in Penrith,	The proposed subdivision facilitates the delivery of an effective and efficient electrical network which supports the development of the area and broader region, to the benefit of the community. The application would utilise appropriate land for the purpose and would not lead to any degradation.
(b) to promote development that is consistent with the Council's vision for Penrith, namely, one of a sustainable and prosperous region with harmony of urban and rural qualities and with a strong commitment to healthy and safe communities and environmental protection and enhancement,	The application facilitates the sustainable delivery of electrical infrastructure, supporting the vision of providing a sustainable and prosperous region
(c) to accommodate and support Penrith's future population growth by providing a diversity of housing types, in areas well located with regard to services, facilities and transport, that meet the current and emerging needs of Penrith's communities and safeguard residential amenity,	Not directly applicable as the project does not relate to delivery of housing.
(d) to foster viable employment, transport, education, agricultural production and future investment opportunities and recreational activities that are suitable for the needs and skills of residents, the workforce and visitors, allowing Penrith to fulfil its role as a regional city in the Sydney Metropolitan Region,	The delivery of an effective and efficient electrical network supports the provision of viable development within the region
(e) to reinforce Penrith's urban growth limits by allowing rural living opportunities where they will promote the intrinsic rural values and functions of Penrith's rural lands and the social well-being of its rural communities,	Not directly applicable as the project does not relate to rural living

Table 3.1 – LEP Objectives

Objective	Assessment
(f) to protect and enhance the environmental values and heritage of Penrith, including places of historical, aesthetic, architectural, natural, cultural, visual and Aboriginal significance,	The proposal would not result in any detrimental impacts to the environmental values and heritage of Penrith
(g) to minimise the risk to the community in areas subject to environmental hazards, particularly flooding and bushfire, by managing development in sensitive areas,	The site is not significantly affected by hazard. Minor flooding impacts are associated with the western portion of the site however there is sufficient capacity within the site to host the proposed battery storage unit outside of mapped flood affected land and without risk to the environment.
(h) to ensure that development incorporates the principles of sustainable development through the delivery of balanced social, economic and environmental outcomes, and that development is designed in a way that assists in reducing and adapting to the likely impacts of climate change.	The development addresses the principles of ESD at Section 4.1.1 of the SEE to which this clause 4.6 variation is attached. The development supports the delivery of an efficient and sustainable electricity network, thereby minimising the impact of climate change. An inefficient electrical network requires greater inputs, including from traditional forms of energy production such as fossil fuels, leading to a lower level of sustainability

On the basis of the above, it is contended that the proposal is consistent with the LEP aims.

4. ZONE OBJECTIVES

4.1 Consideration of zone objectives

The proposal satisfies the applicable zone objectives in relation to the IN1 – General Industrial zone, where relevant, as articulated in the table below.

Table 4.1 – IN1 zone Objectives

Objective	Assessment
• To provide a wide range of industrial and warehouse land uses.	The application facilitates the delivery of a permissible land use within the zone and is therefore acceptable in the context of the zone
• To encourage employment opportunities.	The application facilitates the delivery effective and efficient reticulated electrical infrastructure, which in turn supports the delivery of business and employment opportunities, and associated residential dwellings that support employment
• To minimise any adverse effect of industry on other land uses.	Detrimental impacts associated with the integral land use are not reasonably predicted, subject to the implementation of standard and reasonable mitigation measures as outlined throughout the SEE to which this Clause 4.6 variation is attached.
• To support and protect industrial land for industrial uses.	The proposal relates to a proposed use that is permissible in the zone, and, through provision of an effective and efficient reticulated electrical infrastructure, which in turn supports and protects the delivery of industrial land uses
• To promote development that makes efficient use of industrial land.	By co locating the proposal with the existing substation, the proposal ensures the efficient use of industrial land
• To permit facilities that serve the daily recreation and convenience needs of the people who work in the surrounding industrial area.	Not applicable.

On the basis of the above, it is contended that the proposal is not inconsistent with the zone objectives.

5. CLAUSE 4.1 OBJECTIVES

5.1 Consideration of clause 4.1 objectives

The proposal satisfies the applicable objectives in relation to clause 4.1, where relevant, as articulated in the table below.

Table 5.1 – Clause 4.1 Objectives

Objective	Assessment
(a) to ensure that lot sizes are compatible with the environmental capabilities of the land being subdivided,	The proposed lot is suitable and sufficient to accommodate the proposed purpose, which is an integral part of the overarching application. The land use proposed and which would be facilitated by the proposed subdivision can be comfortably accommodated on the land and without detrimental impacts to the local environment.
(b) to minimise any likely impact of subdivision and development on the amenity of neighbouring properties,	The nature of the land use is consistent with the adjacent and nearby land uses and would not result in unreasonable impacts to the amenity of the surrounding locality
(c) to ensure that lot sizes and dimensions allow developments to be sited to protect natural or cultural features including heritage items and retain special features such as trees and views,	There are no heritage or valuable environmental features on the land requiring protection. The proposed lot size accommodates the proposed land use and does not lead to any unreasonable impacts to special views, trees or heritage items
(d) to regulate the density of development and ensure that there is not an unreasonable increase in the demand for public services or public facilities,	The subdivision facilitates the provision of infrastructure for the benefit of the broader community and does not lead to any increased demand; it will in fact provide for the more efficient and effective delivery of reticulated electrical services.
(e) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.	Compliance with the Development Control Plan is achieved, as outlined via the SEE to which this Clause 4.6 variation request is attached.

6. JUSTIFICATION

6.1 Introduction

As outlined in **Section 1.2**, there are a number of specific tests that must be satisfied in determining a clause 4.6 variation. These are discussed in the following sections.

Compliance with the development standard must be unreasonable or unnecessary in the circumstances of the case

It is unnecessary to comply with the development standard in respect of the subject site for the following reasons:

- The nature of the land use is somewhat unique and provides a scenario that assists with the delivery of sustainable energy and an effective and efficient delivery of electrical infrastructure, to the benefit of the local area and broader region;
- The nature of the land use means that there is limited likelihood of the development creating an undesirable precedent that could be used as a justification for other developments of this nature within the LGA;
- The proposed subdivision facilitates the delivery of the project and is not objectionable in its own right.
- No further subdivision is proposed;
- The consistency with the adjacent land use (sub-station) means that there is a low likelihood of conflict occurring;
- The proposal is capable of meeting the requirements of Council's Development Control Plan as outlined in the SEE to which this clause 4.6 variation is attached;
- Strict compliance with the standard would result in an inflexible and unfair application of policy. It does not serve any purpose that is outweighed by the positive outcomes of the development.

There are sufficient environmental planning grounds to justify contravening the development standard

This test is routinely satisfied by addressing one (but it need not address all) of the matters outlined by in the Webhe LEC decision, as outlined in **Section 1.2**. These potential reasons of justification are outlined and discussed below:

- *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*

This is extensively dealt with in **Section 5.1**. For the reasons outlined in that section, it is considered that the variation is sufficiently justified.

- *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*

Given the nature of the land use is to provide a suitable parcel of land for the delivery of an electricity battery storage system, enforcing the minimum lot size in this instance would serve limited purpose. The development may still proceed without the subdivision and Endeavour Energy, as an electricity supply authority and public authority, have the capacity to complete the subdivision without regard to local policy. With this in mind, it is therefore considered that the underlying objective or purpose of the standard, which is largely to ensure the proper and effective delivery of industrial land within the area, is not relevant to the project.

- *The underlying object of the purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*

Not applicable.

- *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*

Not applicable.

- *The compliance with the development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.*

Not applicable.

The applicant's written request has adequately addressed the matters required to be demonstrated by subclause 4.6(3)

The particular requirements at clause 4.6(3) are:

> *(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and*
>
> *(b) that there are sufficient environmental planning grounds to justify contravening the development standard.*

It is notable that in the recent LEC decision, *Randwick City Council v Micaul Holdings Pty Ltd [2016]*, the Chief Judge, Preston CJ, noted (our emphasis added):

> *"the Commissioner **did not have to be satisfied directly** that compliance with each development standard is unreasonable or unnecessary in the circumstances of the case, **but only indirectly by being satisfied that the applicant's written request has adequately addressed** the matter in subclause (3)(a) that compliance with each development standard is unreasonable or unnecessary".*

The matters raised at Clause 4.6(3) are adequately addressed above.

The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out

These matters are discussed in **Sections 2, 3 and 4**. Based on that discussion, it is considered that the proposal is in the public interest through demonstrating consistency with the applicable objectives.

In addition to the above, satisfaction of those matters that must be considered by the Secretary in determining whether concurrence should be granted is required.

- Whether contravention of the development standard raises any matter of significance for State or regional environmental planning

The setting of minimum lot sizes for development is very much managed at a local level. With respect to industrial land, many Council's recognise the need for flexibility in lot design with industrial areas, and therefore do not provide minimum lot sizes of industrial development. As discussed above, the objectives of the IN1 zone are not impeded by the application proceeding.

Given the very minor nature of the proposal, there are no matters of state or regional environmental planning significance contravened by the favourable determination of this variation request.

- The public benefit of maintaining the development standard

Arguments around public benefit are limited to arguments of 'proper planning' through the making of consistent decisions that reinforce the overarching strategic framework. This can be succinctly summarised as avoided establishing undesirable precedent.

The public benefit of maintaining the development standard is of minor significance given the proposal is provided to facilitate the delivery of infrastructure that supports the efficient and effective delivery of electrical assets, for the benefit of the community and broader region. There is therefore is limited capacity for setting a precedent in this matter that would support further applications of a similar nature, either here or in the wider LGA.

Applications should be considered, firstly, on their site specific merits and, secondly, on their role in proper planning. The development is meritorious in its own right as it supports the effective delivery of electrical assets. Due to the unique scenario, precedent is unlikely and therefore the proper planning of the area is not diminished.

7. CONCLUSION

The development proposes a variation to clause 4.1 of the LEP in that it seeks to enable the creation of a lot below the minimum lot size.

The requested variation is justified in the specific circumstances of the case and compliance with the standard is unnecessary to ensure that compliance with the LEP, IN1 zone and clause 4.1 objectives are achieved.

As demonstrated throughout this request, the variation request is well founded and there are sufficient environmental grounds to justify the non-compliance with the standard given the specific characteristics of the site.

The clause 4.6 variation provides sufficient justification for the variation as sought and therefore can be supported by Council. The concurrence of DPIE may be assumed by reference to Planning Circular 17-006.

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