

# PENRITH CITY COUNCIL

## MAJOR ASSESSMENT REPORT

<b>Application number:</b>	DA20/0487
<b>Proposed development:</b>	Demolition of Existing Structures & Torrens Title Subdivision x 2 Lots
<b>Property address:</b>	30 Mitchell Street, ST MARYS NSW 2760
<b>Property description:</b>	Lot 1 DP 38178
<b>Date received:</b>	12 August 2020
<b>Assessing officer</b>	Jacqueline Klincke
<b>Zoning:</b>	SEPP WSA - Affected by Obstacle Limitation SEPP WSA - Affected by Wildlife Buffer Zone Zone R3 Medium Density Residential - LEP 2010
<b>Class of building:</b>	N/A
<b>Recommendations:</b>	Deferred Commencement

### Executive Summary

Council is in receipt of a development application for the demolition of existing structures and a two (2) lot Torrens Title Subdivision to create a rear battle-axe lot at 30 Mitchell Street, St Marys. The proposed subdivision is permissible with consent under the provisions of Clause 2.6 of the *Penrith Local Environmental Plan 2010* (PLEP).

The key issues identified during the assessment of the application include:

- Stormwater drainage,
- Provision of a sealed driveway and vehicle crossover within the access handle for Lot 2,
- Surrender of development consent DA18/0809, and
- Indicative building envelope.

The applicant was advised of these issues and subsequently, additional information and amended plans were submitted that adequately address the issues raised above.

In accordance with Council's adopted *Community Engagement Strategy and Community Participation Plan 2019* and Appendix F4 of the *Penrith Development Control Plan 2014*, the application was notified to nearby and adjoining property owners and exhibited between 24 August and 7 September 2020. No submissions were received in response.

An assessment under Section 4.15 of the *Environmental Planning and Assessment Act 1979* has been undertaken and the application is recommended for deferred commencement approval, subject to the establishment of an easement for stormwater drainage along the southern boundary of 52 Mamre Road.

## Site & Surrounds

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The subject site is legally described as Lot 1 DP 38178 and is commonly known as 30 Mitchell Street, St Marys. The property is rectangular in shape, contains a total land area of 1359m<sup>2</sup>, and is a north facing lot with a frontage width of 16.916m. The property is currently occupied by a dwelling and associated outbuildings extensively covering much of the site.

The site is located within an established residential area and is situated in close proximity to the St Marys City Centre. The surrounding area is currently undergoing transition to medium density and is characterised by a mix of single dwellings and multi-unit house developments.

## Proposal

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The application seeks consent for the demolition of existing structures and a two (2) lot Torrens Title subdivision to create a rear battle-axe lot. The proposed subdivision results in the following:

- Lot 1 (fronting Mitchell Street) will have a total area of 565.72m<sup>2</sup> (measuring 12.50m wide x 45.312m long),
- Lot 2 (rear battle-axe) will have a total area of 598.32m<sup>2</sup> (measuring 16.91m wide x 35.312m long), and
- An access handle to Lot 2 measuring 4.416m wide x 45.312m long (approx 199.51m<sup>2</sup> in total size).

The proposal also includes stormwater drainage works within Mamre Road via a new kerb inlet pit, including the establishment of an easement for drainage along the southern boundary of 52 Mamre Road.

## Plans that apply

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- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Western Sydney Aerotropolis) 2020
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

## Planning Assessment

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### • Section 4.15 - Evaluation

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

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

#### **State Environmental Planning Policy (Western Sydney Aerotropolis) 2020**

The *State Environmental Planning Policy (Western Sydney Aerotropolis) 2020* (Aerotropolis SEPP) applies to the site and commenced on 1 October 2020. The subject site is identified to be within a 'wildlife buffer zone' of the Western Sydney Airport site, however, the under Clause 21, the development does not trigger the requirement for further consideration with regard to wildlife and the operation of the airport. In addition, the site is identified as being located within the Obstacle Limitation Surface Map area. The approved development does not penetrate the prescribed air space identified under Clause 24, and due to the nature of the proposal (i.e. subdivision), no further concerns are warranted.

## State Environmental Planning Policy No 55—Remediation of Land

An assessment has been undertaken of the proposed development against the relevant criteria within the *State Environmental Planning Policy No. 55 - Remediation of Land* (SEPP 55) and the proposal is considered satisfactory. The application was referred to Council's Environmental Management Officer who reviewed historic aerial photographs and Council records which revealed that the subject site has been utilised historically for residential purposes only. No evidence of potentially contaminating activities have occurred on the subject site or adjacent land was identified. In this regard, the requirements of SEPP 55 are considered satisfied.

## Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the proposal against the relevant criteria within the *Sydney Regional Environmental Plan No. 20—Hawkesbury-Nepean River* (No. 2—1997) and the application is satisfactory subject to recommended conditions of consent.

## Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 1.2 Aims of the plan	Complies
Clause 2.3 Zone objectives	Complies
Clause 2.6 Subdivision - consent requirements	Complies
Clause 2.7 Demolition requires development consent	Complies
Clause 4.1 - Minimum subdivision lot size	Complies - See discussion
Clause 4.3 Height of buildings	N/A
Clause 4.4 Floor Space Ratio	N/A
Clause 7.4 Sustainable development	Complies
Clause 7.7 Servicing	Complies

### Clause 4.1 - Minimum subdivision lot size

Clause 4.1 and the associated Lot Size Map of the *Penrith Local Environmental Plan 2010* specifies the applicable minimum lot size for the subject site is 400m<sup>2</sup> for standard lots, whilst battle-axe lots located in the R3 Medium Density Residential zone are to contain a minimum area of 450m<sup>2</sup> (excluding access handle). The proposed subdivision results in:

- Lot 1 (standard lot) being 565.72m<sup>2</sup> in total size, and
- Lot 2 (battle-axe lot) being 598.32m<sup>2</sup> (excluding access handle) in total size.

In this regard, the resultant subdivided lot sizes comply with the prescribed minimum lot size standard.

In addition, Clause 4.1 requires subdivided lots within the R3 zone to have a minimum width of 12m for standard lots, and a minimum width of 15m for battle-axe lots. Lot 1 contains a minimum width of 12.5m whilst Lot 2 contains a width of 16.91m and in this regard, the proposed dimensions of each subdivided lot complies with the prescribed minimum lot widths.

## Section 4.15(1)(a)(ii) The provisions of any draft environmental planning instrument

It is noted both the *Draft Environment SEPP* and *Draft Remediation of Land SEPP* apply to the subject site but while so, do not affect the recommendation of this report.

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

### Development Control Plan 2014

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

## Section 4.15(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to the proposal.

## Section 4.15(1)(a)(iv) The provisions of the regulations

The proposal is assessed as being capable of complying with the applicable provisions of the Building Code of Australia and as required by the Regulations, subject to conditions of consent.

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

The proposed development is unlikely to result in any significant adverse impacts to the surrounding natural, built and socioeconomic environment. The subdivision pattern is designed in a manner that is consistent with the existing and future residential character of the locality and are of appropriate sizes and dimensions to have the capacity to accommodate future residential development. Subject to conditions of consent, the each lot provides acceptable stormwater drainage systems, the local road system is capable of accommodating the minor additional traffic generated by the development, and each proposed lot is provided with individual vehicular access. Furthermore, a review of historic aerial photographs and Council records indicates no evidence of potentially contaminating activities have occurred on the subject site.

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

The subject site is of a suitable size to cater for the proposed subdivision given the resulting lot sizes and is designed in a manner consistent with the character of the locality. In addition, it is considered there are no land contamination issues evident on the site and will therefore not impact any potential future development. In this regard, the site is suitable for the proposed subdivision.

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

### Community Consultation

In accordance with Council's adopted *Community Engagement Strategy and Community Participation Plan 2019* and Appendix F4 of the *Penrith Development Control Plan 2014*, the application was notified to nearby and adjoining property owners and exhibited between 24 August and 7 September 2020. No submissions were received in response.

## Referrals

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

Referral Body	Comments Received
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions

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

There are no issues relating to the public interest envisioned as a result of the proposed development.

## Section 94 - Developer Contributions Plans

The following Section 7.11 plans apply to the site:

- Cultural Facilities
- District Open Space
- Local Open Space

The following Section 7.11 calculations apply to the proposed development:

Calculation for 2 x Lot Torrens Title Subdivision					
<i>Open Space</i>					
No. of lots	x	Rate	-	Credit for existing dwelling/s	Contribution rate
2	x	3.1	-	3.1	3.1
<i>City wide</i>					
No. of lots	x	Rate	-	Credit for existing dwelling/s	Contribution rate
2	x	3.0	-	3.0	3.0
AMOUNT					
S.94 Contribution Plan	Contribution Rate x Calculation rate				Total
Cultural Facilities	3 X 187.00				\$561.00
District Open Space	3.1 X 2,042.00				\$6,330.00
Local Open Space	3.1 X 738.00				\$2,287.00
	NET TOTAL				<b>\$9,178.00</b>

## Conclusion

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In assessing the proposed development against the relevant environmental planning policies, being the *State Environmental Planning Policy No. 55 - Remediation of Land*, *State Environmental Planning Policy (Western Sydney Aerotropolis) 2020*, *Penrith Local Environmental Plan 2010* and *Penrith Development Control Plan 2014*, the proposal satisfies the aims, objectives and provisions of these policies. The site is suitable for the proposal and there are no negative impacts envisioned as a result of the proposal. Therefore, the application is worthy of support, subject to recommended conditions of consent.

## Recommendation

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That DA20/0487 for the demolition of existing structures and 2 x Lot Torrens Title Subdivision at 30 Mitchell Street, St Marys, be approved via a deferred commencement approval and subject to the attached conditions of consent.

## General

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

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

Drawing Title	Drawing Number	Revision	Prepared By	Dated
Subdivision Plan	20192-2 m.w	C	Devine Drafting Design	28/09/2020
Stormwater Drainage Plan and Details	SW01	C	AE Consulting Engineers	27/10/2020
Stormwater Drainage Longsection	SW02	C	AE Consulting Engineers	27/10/2020

- Waste Management Plan

### 2 [A013 - SURRENDER OF PREVIOUS CONSENT](#)

**Prior to the issue of a Subdivision Certificate**, development consent no. DA18/0809 shall be formally surrendered to Penrith City Council in accordance with the provisions of the *Environmental Planning and Assessment Act 1979*.

## Demolition

### 3 [B001 - Demolition of existing structures](#)

**Prior to the issue of a Subdivision Certificate**, all buildings and structures approved for demolition shall satisfactorily be completed.

### 4 [B002 - AS FOR DEMOLITION AND DISPOSAL TO APPROVED LANDFILL SITE](#)

All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

### 5 [B003 - ASBESTOS](#)

You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site**.

**Prior to commencement of demolition works on site**, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

### 6 [B004 - Dust](#)

Dust suppression techniques are to be employed during demolition to reduce any potential nuisances to surrounding properties.

### 7 [B005 - Mud/Soil](#)

Mud and soil from vehicular movements to and from the site must not be deposited on the road.

## 8 B006 - Hours of work

Demolition works shall be restricted to the following hours in accordance with the NSW Environment Protection Authority Noise Control Guidelines:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm if inaudible on neighbouring residential premises, otherwise 8am to 1pm
- No demolition work is permitted on Sundays and Public Holidays.

In the event that the demolition relates to works inside the building and does not involve external walls or the roof, and does not involve the use of equipment that emits noise, then the demolition works are not restricted to the hours stated above.

The provisions of the *Protection of the Environment Operations Act 1997* in regulating offensive noise also apply to all construction works.

## Heritage/Archaeological relics

### 9 C003 - Uncovering relics

If any archaeological relics are uncovered during the course of the work no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the *Heritage Act 1977* may be required before any further work can be recommenced in that area of the site.

## Environmental Matters

### 10 D001 - Implement approved sediment& erosion control measures

Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

### 11 D006 - No filling without prior approval (Use always, except for bulk earthworks/ major fill operations)

No fill material shall be imported to the site until such time as a Validation Certificate (with a copy of any report forming the basis for the validation) for the fill material has been submitted to, considered and approved by Council. The Validation Certificate shall:

- state the legal property description of the fill material source site,
- be prepared by an appropriately qualified person (as defined in Penrith Development Control Plan) with consideration of all relevant guidelines (e.g. EPA, ANZECC, NH&MRC), standards, planning instruments and legislation,
- clearly indicate the legal property description of the fill material source site,
- provide details of the volume of fill material to be used in the filling operations,
- provide a classification of the fill material to be imported to the site in accordance with the Environment Protection Authority's "Environmental Guidelines: Assessment, Classification & Management of Non-Liquid Wastes" 1997, and
- (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.

**{Note:** Penrith Development Control Plan defines an appropriately qualified person as "a person who, in the opinion of Council, has a demonstrated experience, or access to experience in hydrology, environmental chemistry, soil science, eco-toxicology, sampling and analytical procedures, risk evaluation and remediation technologies. In addition, the person will be required to have appropriate professional indemnity and public risk insurance."}.

If the Principal Certifying Authority or Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested. In these circumstances the works shall be carried out prior to any further approved works.



## 12 D008 - Filling compaction

Any fill material applied to the site is to be compacted in accordance with AS 3798-2007. Certification is to be submitted to the Principal Certifying Authority by a Geotechnical Engineer verifying that the work has been undertaken prior to the issue of a Subdivision Certificate.

If Penrith City Council is not the Principal Certifying Authority, a copy of the certification is to be submitted to Council for its reference.

## 13 D009 - Covering of waste storage area

All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.

## 14 D010 – Appropriate disposal of excavated or other waste

All excavated material and other wastes generated as a result of the development are to be re-used, recycled or disposed of in accordance with the approved waste management plan.

Waste materials not specified in the approved waste management plan are to be disposed of at a lawful waste management facility. Where the disposal location or waste materials have not been identified in the waste management plan, details shall be provided to the Certifying Authority as part of the waste management documentation accompanying the Subdivision Certificate application.

All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.

## 15 D014 - Plant and equipment noise

The operating noise level of plant and equipment shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the *Protection of the Environment Operations Act 1997* apply to the development, in terms of regulating offensive noise.

# Utility Services

## 16 G001 - Installation of services and Service Clearances (subdivision)

**Prior to the issue of a Subdivision Certificate**, the following service authority clearances shall be obtained and provided to the Principal Certifying Authority:

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

## 17 G006 -

**Prior to the issue of a Subdivision Certificate**, the Principal Certifying Authority shall be satisfied that telecommunications infrastructure may be installed to service the premises which complies with the following:

- The requirements of the Telecommunications Act 1997;
- For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line shall be located underground.

Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

**Prior to the issue of a Subdivision Certificate**, written certification from all relevant service providers that the telecommunications infrastructure is installed in accordance with the requirements above and the applicable legislation at the time of construction, must be submitted to the Principal Certifying Authority.

## Construction

### 18 H006 - Submission of and implement waste management plan

The approved waste management plan must be implemented on-site and adhered to throughout all stages of the development including demolition, with supporting documentation / receipts retained in order to verify the recycling and disposal of materials in accordance with the approved plan.

## Engineering

### 19 K101 - Works at No Cost to Council

All roadworks, stormwater drainage works, signage, line marking, associated civil works and dedications required to effect the consented development shall be undertaken by the applicant at no cost to Penrith City Council.

### 20 K201 - Infrastructure Bond

An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council prior to commencement of any works on site or prior to the issue of any Subdivision Works Certificate, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

### 21 K202 - S138 Roads Act - Minor Works in the Public Road

Prior to the issue of any Subdivision Works Certificate, a Section 138 Roads Act application, including payment of application and inspection fees together with any applicable bonds, shall be lodged with and approved by Penrith City Council (being the Roads Authority for any works required in a public road). These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- c) Road occupancy or road closures
- d) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- e) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's Asset Management Department on 4732 7777 or visit Penrith City Council's website for more information.

#### **Note:**

- Where Penrith City Council is the Certifier for the development, the Roads Act approval for the above works may be issued concurrently with the Subdivision Works Certificate.
- Separate approval may be required from Transport for NSW for classified roads.
- All works associated with the Roads Act approval must be completed prior to the issue of any Subdivision Certificate.

## 22 **K204 - S138 Roads Act - TfNSW**

**Prior to the issue of any Subdivision Works Certificate**, the Certifier shall ensure that any applicable application, including the payment of application and inspection fees, has been lodged with and approved by Transport for NSW (TfNSW) for any works within the Mamre Road road reserve.

A copy of TfNSW approval shall be submitted to Penrith City Council prior to Penrith City Council issuing any Roads Act approval.

## 23 **K206 - Subdivision Works Certificate for Subdivision Works**

A Subdivision Works Certificate (previously a Construction Certificate) is to be approved by the Certifier for the provision of any subdivision works (road, drainage or earth works).

**Prior to the issue of any Subdivision Works Certificate**, the Certifier shall ensure that engineering plans are consistent with the stamped approved plans prepared by A.E Consulting Engineers, Job No. D20149, Drawing No. SW01 & SW02, revision C, dated 27/10/2020, and that all subdivision works have been designed in accordance with the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

The subdivision works may include but are not limited to the following:

- Public and private roads
- Stormwater management (quantity and quality)
- Interallotment drainage
- Private access driveways
- Sediment and erosion control measures
- Flood control measures
- Overland flow paths
- Traffic facilities
- Earthworks Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works

The Subdivision Works Certificate must be supported by engineering plans, calculations, specifications and any certification relied upon.

### **Note:**

- Council's Development Engineering Department can provide this service. Contact Penrith City Council's Development Engineering Department on 4732 7777 to obtain a formal fee proposal prior to lodgement and visit Penrith City Council's website for more information.

## 24 **K301 - Sediment & Erosion Control**

Prior to commencement of any works associated with the development, sediment and erosion control measures shall be installed in accordance with the approved Subdivision Works Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997 and Managing Urban Stormwater series from the Office of Environment and Heritage.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

## 25 **K303 - Matters to be Addressed Prior to Commencement of Subdivision Works**

Work on the subdivision shall not commence until:

- a Subdivision Works Certificate has been issued;
- a Certifier has been appointed for the project, and;
- any other matters prescribed in the development consent for the subdivision and the Environmental Planning and Assessment Act and Regulation have been complied with.

A Notice of Commencement of works is to be submitted to Penrith City Council five (5) days prior to commencement of engineering works or clearing associated with the subdivision.

26 **K404 - Soil Testing - Subdivisions**

Soil testing is to be carried out to enable each lot to be classified according to AS 2870 Residential Slabs and Footings. The results shall be submitted to Penrith City Council prior to the issue of any Subdivision Certificate.

27 **K405 - Turf to Verge**

Upon completion of all works in the road reserve, all verge areas fronting and within the development are to be turfed. The turf shall extend from the back of kerb to the property boundary, with the exception of concrete footpaths, service lids or other infrastructure which is not to be turfed over. Turf laid up to concrete footpaths, service lids or other infrastructure shall finish flush with the edge.

28 **K501 - Penrith City Council Clearance - Roads Act / Local Government Act**

**Prior to the issue of any Subdivision Certificate**, the Principal Certifier shall ensure that all works associated with any Section 138 Roads Act approval(s) have been inspected and signed off by Transport for NSW and Penrith City Council as applicable.

29 **K502 - Completion of Subdivision Works**

**Prior to the issue of any Subdivision Certificate**, the Principal Certifier shall ensure that all subdivision works required by this consent have been satisfactorily completed or that suitable arrangements have been made with Penrith City Council for any outstanding works.

30 **K516 - Subdivision Compliance Documentation**

**Prior to the issue of any Subdivision Certificate**, the following compliance documentation shall be submitted to the Principal Certifier. A copy of the following documentation shall be provided to Penrith City Council where Penrith City Council is not the Principal Certifier:

a) Works As Executed (WAE) drawings of all civil works. The WAE drawings shall be marked in red on copies of the stamped Subdivision Works Certificate drawings signed, certified and dated by a registered surveyor or the design engineer. The WAE drawings shall be prepared in accordance with Penrith City Council's Engineering Construction Specification for Civil Works.

b) Surveyor's Certificate certifying that all pipes and services are located wholly within the property or within appropriate easements and that no services encroach boundaries, private or public lands.

c) Soil testing for each lot to be classified according to AS 2870 Residential Slabs and Footings.

31 **K517 - Registration of Easements**

**Prior to the issue of any Subdivision Certificate**, the following easements shall be nominated on the final plan of subdivision:

a) 1.5m wide easement for drainage over proposed Lot 2 benefiting proposed Lot 1.

## Landscaping

32 **L007 - Tree protection measures—no TMP with DA**

All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in the *Penrith Development Control Plan 2014*.

33 **L008 - Tree Preservation Order**

No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than those within the proposed building footprint or as shown on the approved plans) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

## Subdivision

34 **M008 - Subdivision Certificate requirements**

**Prior to the issue of a Subdivision Certificate**, the final plan of subdivision and two (2) copies of the plan shall be submitted. The plan of subdivision must indicate, where relevant:

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

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

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

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

35 **M013 - Street trees**

**Prior to the issue of a Subdivision Certificate**, one (1) street tree shall be planted in accordance with Section C6 the *Penrith Development Control Plan 2014*. The tree shall be of the same species or similar to the existing street trees along Mitchell Street.

36 **M014 - Surveyors certificate**

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

## Development Contributions

37 **N001a - Section 7.11 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Cultural Facilities. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$561.00 is to be paid to Council prior to a Subdivision Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Cultural Facilities may be inspected at Council's Civic Centre, 601 High Street, Penrith.

**Note:** The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

38 **N001b - Section 7.11 contribution (apply separate condition for each Contribution Plan)**

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for District Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$6,330.00 is to be paid to Council prior to a Subdivision Certificate being issued** for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for District Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

**Note:** The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

39 [N001c - Section 7.11 contribution \(apply separate condition for each Contribution Plan\)](#)

This condition is imposed in accordance with Penrith City Council's Section 7.11 Contributions Plan for Local Open Space. Based on the current rates detailed in the accompanying schedule attached to this Notice, **\$2,287.00 is to be paid to Council prior to a Subdivision Certificate** being issued for this development (the rates are subject to quarterly reviews). If not paid within the current quarterly period, this contribution will be reviewed at the time of payment in accordance with the adopted Section 7.11 Contributions plan. The projected rates of this contribution amount are listed in Council's Fees and Charges Schedule.

Council should be contacted prior to payment to ascertain the rate for the current quarterly period. The S7.11 invoice accompanying this consent should accompany the contribution payment. The Section 7.11 Contributions Plan for Local Open Space may be inspected at Council's Civic Centre, 601 High Street, Penrith.

**Note:** The timing of contributions payable may be otherwise affected in accordance with Planning Circular PS20-003 dated 3 July 2020 and the associated NSW Government Ministerial Direction - Infrastructure Contributions.

## Certification

40 [Q008 - Subdivision Certificate](#)

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

## Schedule 1 (Deferred Commencement)

41 [S Special \(Deferred commencement condition\)](#)

An easement for drainage minimum 1.5m wide shall be provided along the southern boundary of 52 Mamre Road, St Marys (Lot 8 DP 38171), benefitting 30 Mitchell Street, St Marys (Lot 1 DP 38171). Evidence of registration of the easement with Land Registry Services (LRS) shall be submitted to Penrith City Council.

# Appendix - Development Control Plan Compliance

## Development Control Plan 2014

### Part C - City-wide Controls

#### C3 Water Management

##### C3.6 Stormwater Management and Drainage

The proposed subdivision involves connecting to the existing road stormwater drainage system within Mamre Road via a new kerb inlet pit and the creation of an easement for drainage along the southern boundary of 52 Mamre Road, benefiting 30 Mitchell Street. The application was referred to Council's Development Engineer who deemed the proposal to be in accordance with Council's *Stormwater Drainage Specification for Building Developments* document, subject to conditions of consent. In addition, a deferred commencement condition has been provided in regards to the creation of the drainage easement at 52 Mamre Road, requiring evidence of registration of the easement with Land Registry Services to be submitted to Council.

#### C11 Subdivision

##### C11.1 General Subdivision Requirements

The proposed subdivision pattern is designed in a manner that is consistent with the existing and future residential character of the locality. The lots meet the minimum lot size and width requirements stipulated within the PLEP 2010 and have the capacity to accommodate the future development of land uses permissible in the R3 Medium Density Residential zone.

##### C11.3.3 Allotment Dimensions

As previously stated within this report, the proposed subdivision results in a acceptable lot sizes and allotment dimensions to enable the siting and construction of future residential development and vehicular access.

Furthermore, whilst generally discouraged, the Penrith DCP requires battle-axe lots be greater than 400m<sup>2</sup>, with access handles not included in this calculation. Lot 2 achieves a total land area of 598.32m<sup>2</sup> (excluding the access handle) and therefore complies with this control. The Penrith DCP also outlines access corridors are to be a minimum width of 4m. The proposed access handle is 4.416m wide and includes a 3m wide sealed driveway which complies.