

41-47 Jolly Street, Castlereagh

Proposed Earthworks (Part Retrospective), Construction of a Shed and
Parking of 2 Trucks

STATEMENT OF ENVIRONMENTAL EFFECTS

ADVICE | APPLICATIONS | APPEALS



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Document Control

Document: 41-47 Jolly Street, Castlereagh
Statement of Environmental Effects

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General Disclaimer

This report is based on one site inspection and a desktop assessment only. Details contained in this report only address issues of significance relevant to the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000 as well as the Environmental Planning Instruments applicable at the date of the assessment.

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1.0 INTRODUCTION

This report constitutes a Statement of Environment Effects and accompanies the submission of a Development Application to Penrith City Council, seeking approval for proposed earthworks (Part Retrospective), construction of a Shed and Parking of 2 x Trucks at 41-47 Jolly St, Castlereagh.

The proposed development is the same development that was previously approved by Council (DA14/0622).

1.1 Scope

The purpose of this submission is to indicate the following matters:

1. The environmental impacts of the development as amended,
2. How the environmental impacts of the development have been identified,
3. The steps to be taken to protect the environment or to lessen the expected harm to the environment,
4. Outline the changes to the development to address the reasons for refusal.

To discuss the relevant issues pertaining to the proposed amended development, the following matters will be raised.

1. The subject site and existing development
2. Describe the locality in which the proposed development is to be located,
3. Discuss Statutory Controls such as the Environmental Planning & Assessment Act 1979 and Regulation 2000, Environmental Planning Instruments (EPI's) and or Development Control Plans (DCP's)

1.2 Background

The Council on the 20 February 2013 issued a Notice of Intention To Serve an Order in respect to earthworks and the construction of a second driveway that have been partly undertaken without approval.

DA13/0354 was refused by Council on the 3 October 2013.

Application under S82A of the EPA Act to review the decision of Council was lodged on the 23 December 2013 but was unable to be determined as period to determine the application has lapsed.

DA14/0622 was approved on the 30 October 2014 for the Earthworks (Part Retrospective), Construction of a Shed and Parking of 2 x Trucks.

A modification to development consent (DA14/0622.02) was lodged with council. The modification was approved by the Land and Environment Court on 12 July 2016.

No works associated with the modified approval have been undertaken and this consent has now lapsed.

2.0 DESCRIPTION

2.1 Legal Description

The site is legally described as Lot 122 in Deposited Plan 709303, known as No. 41-47 Jolly Street Castlereagh.

2.2 Site Location

The site has a frontage to Jolly Street and is located on the northern side of Jolly Street to the east of the intersection with Sherendan Rd and to the west of Church St.

The location of the site is shown on the map photo below.



2.3 Zoning

The subject property is zoned E4 Environmental Living under Penrith Local Environmental Plan 2010 as amended.

2.4 Physical Description

The site is regular in shape and has a road frontage of 88.49m to Jolly Street.

The topography of the site is flat. The site has an area of 2.3ha

The site contains a number of scatted trees and native vegetated areas generally located towards the rear of the site.

The aerial photo and photos below show the sites features.



Subject Site



Existing dwelling and front area of the site.



Front fence and main access driveway



Access driveway along the eastern boundary to the rear of the site



Existing small garage and turning area at the rear of the site

3.0 EXISTING DEVELOPMENT

3.1 On the site.

The site currently contains a dwelling, pool, and small garage.
(Refer to photos above)

3.2 Neighborhood Character

The surrounding neighborhood character is predominately rural and rural residential uses.

A reserve adjoins the site to the east.

Aerial photo below shows the neighborhood character



Subject Site



Looking east along Jolly Street



Looking west along Jolly Street

4.0 PROPOSED DEVELOPMENT

4.1 Details of the Proposed Development

The development proposed is the same that was previously approved by Council (DA 14/0662).

The proposed development involves the following:

- **Retrospective approval for the driveway and rear truck turning area.**

The earthworks undertaken on site involved excavating the area on site that will be used for the second driveway and rear turning area for the owner's truck.

The driveway is located adjacent to the eastern property boundary and will be 4m wide.

The turning area is located to the rear of the site and has dimensions of approximately 50m x 30m.

The plan that accompanies the application shows the location of the driveway and turning area,

A letter that was previously provided to Council by the property owner accompanies the application that identifies the material used on the site and where it was sourced. Council in approving the previous DA accepted the material as being suitable and was not contaminated.

Photos below shows the works undertaken in respect to the driveway and turning area.



Access driveway to the proposed shed and truck turning area



Access driveway to the proposed shed and truck turning area



Rear turning area

- **Completion of earth and construction works associated with the second driveway and turning area**

The earth and construction work associated with the second driveway and turning area involve the following:

- Filling of the excavated area of the driveway and turning area with minimum of 200m of suitable hardstand material such as crushed sandstone, road base or equivalent. The finished level of the driveway and turning area will not exceed the current level of the surface.
- Construction of a sealed pavement to the second driveway for the first 20m.
- Construction of a new sealed footpath crossing to Council requirements.
- Implementation of additional native planting around the rear turning area

The second driveway and turning area is to allow the owner to park 2 trucks on the property at the rear and allow adequate area for the vehicles to enter and leave the site in a forward direction.

Photos below shows the location of the proposed and existing plantings



Rear turning area and location of the proposed native plantings



Rear turning area and area of proposed plantings



Showing the existing vegetation along the western boundary



Showing the existing vegetation along the western boundary

The plan that accompanies the application shows the truck turning path on site.

- **Construction of a shed.**

The proposed shed will be located adjacent to the turning area in the same location that was previously approved by Council.

The shed will have dimensions of 24m x 14m with a wall height of 5.4m and ridge height of 6.634m.

The shed will be used to park the owner's two trucks being a semi-trailer and rigid truck and other personal items such as boat, caravan and equipment used to maintain the property.

Plans of the proposed shed including the floor plan accompany the application that shows the parking and storage of the vehicles and equipment in the shed.

The shed size and the location is the same as previously approved by Council (DA14/0622).

- **Concrete water tank**

The proposed 120,000 litre water tank will collect the roof water from the proposed shed.

The tank is located on the adjacent to the shed.

Condition 11 of the previous approved consent (DA14/662) stated as follows:

11 A trial consent period of twelve (12) months is granted for the storage and basic maintenance of two (2)

pieces of plant or truck vehicles operated only by the occupier or occupiers of the property this consent lapses upon expiry of 12 months from the date of consent. This consent is effective from the issue of an Occupation Certificate for the shed. Prior to expiry of the date of the trial consent period, the applicant may submit a new Application for any continuance of the use.

The owner has continued to parked trucks on the property since the development consent DA 14/0622 as amended was issued.

During this time, the owner is unaware of any complaints received or action taken by Council about the truck parking on the site.

It is considered that the imposition of this conditions on any new consent issued would be unreasonable given the time that the trucks have been parking on the site without any complaints being received by Council from the surrounding property owners.

5.0 ENVIRONMENTAL CONSIDERATIONS

5.1 Penrith Local Environmental Plan 2010

The property is zoned E4 Environmental Living under Penrith LEP 2010.

The proposed development is shed and works associated with the use of the property for residential purposes

The subject application for a Shed, and earthworks are permissible under the zone.

The following clauses are relevant to the proposed amended development.

2.3 Zone objectives and Land Use Table

(2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.

E4 Environmental Living

Primary Matters	Comment
<ul style="list-style-type: none"> <i>To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.</i> 	<p>The proposed development does not involve residential development but the works are associated and ancillary with the existing residential use of the property.</p> <p>The shed location involves minor disturbance to the existing vegetation at the rear of the site.</p>
<ul style="list-style-type: none"> <i>To ensure that residential development does not have an adverse effect on those values.</i> 	<p>The proposed shed has been located in a cleared portion of the site to avoid any significant removal of trees.</p> <p>Additional native plantings are proposed to further assist in reducing any potential impact on the locality.</p>
<ul style="list-style-type: none"> <i>To restrict development on land that is inappropriate for development because of its physical characteristics or bushfire risk.</i> 	<p>The proposed development will not have an impact on the current bushfire risk.</p> <p>The development is now more appropriate for the site and the physical characteristics of the land.</p>
<ul style="list-style-type: none"> <i>To ensure that land uses are compatible with existing infrastructure, services and facilities and with the environmental capabilities of the land.</i> 	<p>The proposed development does not involve any extensions to the existing infrastructure services currently used by the dwelling.</p>

Primary Matters	Comment
<ul style="list-style-type: none"> • <i>To encourage existing sustainable agricultural activities.</i> • <i>To ensure that development does not create or contribute to rural land use conflicts.</i> • <i>To promote the conservation and enhancement of local native vegetation, including the habitat of threatened species, populations and ecological communities by encouraging development to occur in areas already cleared of vegetation.</i> • <i>To ensure that development occurs in a way that does not have a significant adverse effect on water catchments, including surface and groundwater quality and flows, land surface conditions and important ecosystems such as waterways.</i> 	<p>The use is compatible with the environmental capabilities of the land.</p> <p>Not applicable.</p> <p>The development will not lead to any conflict and the shed has been located further away from the adjoining residence.</p> <p>The development as proposed involves the removal of some vegetation on site which is less than the previous approved location of the shed on site. Additional native plantings are proposed as part of the development.</p> <p>The development will have no impact on any water catchment or ground water quality.</p> <p>The water generation is from the roof of the shed and the truck turning area will be managed on the site.</p>

5.2 Regional Environmental Plan 20

The aim of the SREP 20 is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of the future land uses are considered in a regional context.

The proposed development as amended will have no impact on the Hawkesbury Nepean River system and the proposal is consistent the plan.

5.3 Penrith Development Control Plan 2014

The following sections are applicable to the proposed development:

- Part C Controls applying to all Land Uses
- Part D Specific Land Uses / Activities (Rural land uses)

Part C

DCP Requirements	Comments
<i>Erosion and Sediment Control</i>	Erosion and sediment control measures will be in place during construction of the shed.
<i>Waste Planning</i>	A waste management plan accompanies the application.
<i>Carparking and Traffic</i>	The shed is ancillary to the residential use of the land and will utilise the existing access driveway. The proposed development will not generate any significant additional traffic.

Part D Specific Landuse

DCP Requirements-Farm buildings	Comments
<i>Colours of external finishes should be in keeping with the natural surroundings, be non-reflective and utilise earthy tones, unless it can be demonstrated that the proposed colours and finishes will have no visual impact or will complement the rural character.</i>	Complies. See details of materials and finishes submitted.
<i>Farm buildings should have complementary colours and finishes to the dwelling house and surrounding environment.</i>	Complies. See above
<i>Farm buildings should not be erected on land having a slope in excess of 15%. Cut and fill for farm buildings should be limited to 1m of cut and 1m of fill as shown in Figure D1.12.</i>	The shed will be located on a flat section of the site with minimum cut and fill required.

<p><i>The narrowest elevation of the building should face the road.</i></p>	<p>The building will not be visible from the road and is setback over 190m from the front property boundary.</p> <p>The longer side of the shed that contains the roller doors faces the turning area at the rear of the site.</p>
<p><i>Farm buildings should be setback behind the building line of the existing dwelling house on the property.</i></p>	<p>Complies.</p>
<p><i>Farm buildings should be a minimum distance of 10m from a dwelling located on the same allotment as the farm building.</i></p>	<p>The building is separation distance of greater than 10m .</p>
<p><i>Farm buildings should be a minimum distance of 20m from a dwelling located on an adjacent allotment to the farm building.</i></p>	<p>Complies. The shed is located more than 20m to dwelling to the west of the site.</p>
<p><i>Farm buildings should be a minimum distance of 5m from the side boundaries.</i></p>	<p>The shed has a side setback of greater than 5m for the eastern and western property boundaries.</p>
<p>For allotments 3 hectares in size or less, the maximum accumulative building footprint of all farm buildings on an allotment shall not exceed 200m²</p>	<p>The shed has an enclosed floor area of 336smq.</p> <p><i>See Justification under and request for variation below.</i></p>
<p><i>A farm building should not be more than 8m high.</i></p>	<p>Complies the height of the shed at the ridge is 6.634m.</p>
<p><i>The maximum external wall height of a farm building shall be 5.0m.</i></p>	<p>The wall height proposed is 5.4m</p> <p><i>See Justification under and request for variation below.</i></p>

<p><i>Where a farm building is higher than the dwelling on the land, the building must be located behind the dwelling and screened from view by vegetation (or similar).</i></p>	<p>The farm building is not visible from the road due to the location of the existing dwelling and the terraced area of the proposed shed location on the site.</p> <p>The height of the shed is below the ridge height of the 2-storey dwelling.</p>
<p><i>Farm buildings should have a maximum external wall length of 15.0 m between distinct corners or significant features such as awnings.</i></p>	<p>Non-compliant. See Justification and request for variation below.</p>
<p><i>Farm buildings shall have a minimum roof pitch of 15° and a maximum roof pitch of 25°.</i></p>	<p>Complies</p>
<p><i>The colour of farm buildings shall complement the colours of the natural vegetation and background of the property, such as grey, brown, beige and green.</i></p> <p><i>Farm buildings shall be constructed of non-reflective materials. Where traditional materials, such as unpainted corrugated iron, are used, the building must be screened by landscaping to minimise its visual impact.</i></p>	<p>Complies. See details of materials and finishes submitted</p> <p>Complies.</p>

Request for Variation of Controls

Size

The size of the shed is required to enable the owner to park and store the following vehicles and equipment that are used to maintain the property.

- 2 trucks.
- Boat.
- Caravan.
- Tractor and slasher and implements other used to maintain the property.
- Classic restored car

Photos of the various vehicles and equipment accompany the application as well as a floor plan showing the parking and storage of the above vehicles and equipment.

The Council has previously approved a shed that exceeded the size controls.
The proposed shed is the same size that was previously approved by Council (DA 14/662).

The General Objective for Rural shed are as follows:

- a) To establish the rationale and controls for environmentally appropriate development;*
- b) To ensure the siting, size, design, external appearance and uses of farm buildings do not detract significantly from the rural and environmental qualities of the locality;*
- c) To ensure that farm buildings promote and support sustainable agriculture and other permissible rural land uses in the rural areas of the City; and*
- d) To ensure farm buildings are sited with regard to good site planning principles.*

The specific controls for the size of the shed are:

- a) To control the size and height of farm buildings to minimise their visual impact on the landscape;*
- b) To ensure that the size of farm buildings is consistent with the intended use and the size of the property;*
- c) To encourage improved design of farm buildings so they enhance the rural landscape and character of an area; and*
- d) To ensure that farm buildings use a range of design measures to suit individual circumstances.*

The proposed shed while exceeding the numeric control of the size meets the objectives of the size control as the shed location will not have a visual impact on the locality due to the setbacks provided; the existing dwelling and landscaping that will screen the proposed shed.

The Council has already approved a shed that exceeds the size controls on the property and the proposed shed is the same as approved previously by Council. (DA14/662)

The shed location involves less tree removal compared to the previous approved shed layout. Additional plantings are proposed in the vicinity of the shed.

The use of the shed has been discussed and justified above and relates to the garaging of 2 trucks and storage of other equipment and personal items associated with the residential use of the property.

Height

The height is needed so the owner can undertake minor maintenance (checking fluids and oils) to the trucks which need to extent the trailers up in the air using the hydraulic lift to access the engines.

The objectives of the height control are as follows:

- a) To control the size and height of farm buildings to minimise their visual impact on the landscape;*
- b) To ensure that the size of farm buildings is consistent with the intended use and the size of the property;*
- c) To encourage improved design of farm buildings so they enhance the rural landscape and character of an area; and*
- d) To ensure that farm buildings use a range of design measures to suit individual circumstances.*

The proposed shed while exceeding the numeric control meets the objectives of the eaves height control the shed location will not have a visual impact and minimised the shed dominance and bulk on the locality and rural landscape due to the setbacks provided, the existing dwelling and landscaping that will screen and reduce the dominance of the proposed shed.

The proposed shed is sympathetic to setting of the locality.

The height of the shed has not changed from the height Council previously approved.

Wall Length

The objectives of the wall length are the same as those associated with height.

The shed wall length while not meeting the numeric requirement still meets the objectives as discussed above.

The longer wall length that contains the roller doors needs to align with the rear turning area so the vehicles can park within the shed.

5.4 Environmental Planning & Assessment Act. 1979

The likely impacts of the development as per Section 4 of the Act are considered here.

Primary Matters	Comment
Context & Setting	<p>The impact of the proposal development on the surrounding natural and built environment will be minimal. The proposal does not adversely affect the natural topography of the site as the development involves the use of a flat portion of the site that will require minimal disturbance.</p> <p>There will be minor removal of the existing vegetation.</p> <p>The proposed development is consistent with the existing context and setting in the locality which is rural and rural/residential in nature.</p>
Character, location, siting, bulk, scale, shape, size, height, density, design or external appearance of the development	<p>The proposed shed building's size, height and scale are consistent with other similar structures in the locality.</p> <p>The retention of the existing native vegetation on the site will assist in reducing any potential impact on the rural character of the location.</p> <p>The setbacks provided to the front and side property boundaries also assist in reducing any potential impacts.</p>

Access, Transport and Traffic	The proposal will not adversely affect the surrounding road network and existing traffic conditions. The proposed shed will not generate any significant additional traffic volumes.
Landscaping	The retention of all other vegetation on site will not have a significant impact on the existing vegetation community on the site. Additional landscape planting is proposed to be undertaken on site
Acoustic Impacts	The proposed use is consistent with surrounding rural/residential uses. Acoustic impact of the development as amended will be minor and can be regulated by existing noise control regulations if there are any problems in the future. The trucks have been parking on the site for only 5 years without any complaints being received by the Council.
Other amenity impacts	There will be no loss of privacy to local properties due to the existing vegetation and setbacks from the side property boundaries to the nearest dwelling. Overall the impact of the proposal on the amenity of adjoining properties will be minimal if any at all.
Storm water, drainage, construction, and utilities	The shed will be drained into the proposed water tank

The suitability of the site for the development is considered here:

Primary Matters	Comment
Does the proposal fit into the locality?	The proposed shed is considered to be of a rural and rural residential character. There will be little or no significant increase to the number of vehicles parking at the site at

Primary Matters	Comment
	any one time. In the locality there are several other sheds that are similar in size and height and used for similar purposes as proposed by this application.
Are the site attributes conducive to development?	The site has no constraints that would impact on the proposed development. The shed location is located clear of the overland flow path from water from Jolly Street road reserve.

6.0 Conclusion

The aim of this statement has been:

- To describe the proposal
- To discuss compliance of the proposed development as amended with relevant statutory considerations; and
- To provide an assessment of the likely environmental effects of the proposal as amended

The proposed development is consistent with the aims and objectives of the Penrith LEP 2010 and the Penrith DCP 2014.

The shed complies with the DCP requirements except for the size, height and length of the wall which have been discussed and justified in section 5.

While the shed does not meet the numeric requirements of these controls it does meet the objectives of each control as discussed in the section 5 of the submission.

Council has previously in approving the previous DA14/0622 supported the variation in this case for the reasons outlined in the application.

The proposed development including the shed size and location is identical to the development that Council has previously approved on the site (DA 14/0622)

Having regard to the analysis & assessment within this statement the proposed development should be given a favorable determination.