

PENRITH CITY COUNCIL

MAJOR ASSESSMENT REPORT

Application number:	DA14/0622
Proposed development:	Residential - Earthworks (Part Retrospective), Construction of a Shed and Parking of 2 x Trucks
Property address:	41 - 47 Jolly Street, CASTLEREAGH NSW 2749
Property description:	Lot 122 DP 709303
Date received:	11 June 2014
Assessing officer	Donna Clarke
Zoning:	ZONE NO 1(B)(RURAL B ZONE - SMLHLDGS) (LEP 201)
Class of building:	Class 10a
Recommendations:	Approve

Executive Summary

Executive Summary

Council is in receipt of a Development Application for the retrospective approval for earthworks, construction of a shed and parking of two truck vehicles (rigid truck and semi trailer) at the subject property. The proposed use is defined as the "garaging of plant and trucks" and the proposed shed and earthworks remain as ancillary components of the dwelling. The proposal is permitted in Zone 1B (Rural B - Smallholdings) under the provisions of the Penrith Local Environmental Plan 201 (Rural Lands).

Council cannot grant retrospective approval for works undertaken without consent. However consent can be granted for new works to complete the commenced excavation and driveway construction and use of the proposed shed. Granting development consent also provides the opportunity to impose conditions of consent with respect to the operation of the site and removal of unauthorised items from the site, such as the site office.

The application was exhibited and notified from 23 June 2014 to 7 July 2014. Council received submissions objecting to the proposal. A Section 82A Review of Determination (DA13/0354.01) was lodged with Council seeking a review of the previously refused application (DA13/0354) but was unable to be determined by Council due to the expiration of the Land and Environment Court appeal timeframe. The current application (DA14/0622) was then lodged due to the timeframe lapsing. The issues raised in the submissions to both the preceding Section 82A review application and the current application are addressed in the table within this report. The main issues raised in these submissions are outlined below:

- Suitability of the use for storage of trucks and impact on rural lifestyle.
- Amenity impacts from unrestricted use, including number of trucks, noise, traffic and lights.
- Loss of bushland from unauthorised clearing.
- Changes to overland flow and runoff due to new shed and fill.

This proposal for the completion of earthworks, construction of a shed and parking of two truck vehicles at the subject property is not considered to result in unreasonable adverse impact on the amenity of the surrounding developments and the natural and built environment subject to conditions of consent. Therefore this application is recommended for approval subject to conditions, including a trial period for the use of the shed for the storage of two truck vehicles (semi trailer and rigid vehicle).

A reference to two (2) truck vehicles throughout this report refers to the truck and semi trailer as indicated on the proposed floor plan.

It is also noted that a separate report addressing ongoing compliance investigations with respect to the subject site is reported to tonight's meeting.

Background

In October 2012 Council received a complaint regarding clearing of vegetation on the subject property. Council inspected the property and noted that vegetation had been cleared and there had been excavation works and site works around the property undertaken for the construction of a driveway along the eastern boundary along with a hardstand area to the rear of the allotment. The investigation resulted in a Notice of Intention to Serve Order (NISO) dated 20 February 2013 being issued to the owners of the property.

In response to the NISO, the owners of the property lodged Development Application No. 13/0354 for the following:

- construction of a new driveway and truck turning area;
- construction of a shed and site office;
- construction of a front fence; and
- earthworks – cut and fill.

This application was refused by Council on 3 October 2013 on the grounds of the proposed development not being permissible, not complying with Penrith Development Control Plan 2006, not integrating with neighbouring properties nor being compatible with the character of the surrounding area.

Subsequent to the refusal of the development, the applicant met with Council Officers to discuss the following:

- Information on how to review the refusal to DA 13/0354 under S82A of the EP&A Act; and
- The lodgement of a separate Development Application for the front fencing and earthworks.

The applicant lodged Development Application No. 13/1432 for the construction of a front fence including a featured entry and earthworks on 9 December 2013.

Pursuant to Section 82A of the Environmental Planning and Assessment Act 1979, the applicant lodged an application to review the refusal of the development (DA13/0354.01). The 82A Review was limited to the shed, the driveway and truck turning area. The applicant made the following amendments to the proposal as part of the review:

- increased the western side setback of the shed from 7.5m to 9.5m;
- provided a landscape mound in the vicinity of the truck turning area; and
- nominated the species for landscape screen planting and re-vegetation at the rear of the property to compensate for the vegetation that had been cleared

The Review could not be determined within the statutory timeframe and as such has lapsed. The current application was lodged in response to the Review being unable to be determined.

DA13/1432 for construction of a front fence, entry feature and filling works on the subject site was deferred by Council on 23 June 2014 to arrange for a site inspection, which was undertaken on 28 July 2014. The site inspection was attended by the applicant, property owners, Council officers and Councillors. Discussion was undertaken concerning previous vegetation clearing, clarification on the scope of works, screen planting, intended use of the land and compliance with potential conditions of consent. At the conclusion of the site inspection it was resolved that both DA13/1432 and DA14/0622 be reported back to Council at the same time for determination.

The applicant has since amended DA13/1432 to delete the front fence entry feature for the second eastern driveway and incorporate it into the subject application (DA14/0622) so that the fence entry feature and associated driveway can be considered and determined concurrently.

Site and Surrounds

The site is located on the northern side of Jolly Street which is bounded by Sheredan Road to the west and Church Street to the east. Refer to Locality Plan Attachment No. 1. Developments in the area are primarily rural

residential in nature.

The site has a total area of approximately 2.3 hectares. The site falls around 2 metres from the southwest to the northeast. Existing improvements on the site include a dwelling house, a garage/shed and an in ground swimming pool.

The site has numerous unauthorised works including a secondary access driveway along the eastern boundary and a relocatable site shed. Unauthorised tree removal and excavation and fill to form the driveway and turning area have also been undertaken. Mounds of soil exist on the site from the excavation which has been undertaken to date.

Council's information has identified the site as Bush Fire Prone Land. As the site contains remnants of Castlereagh Scribbly Gum Woodland, Council has also identified the property as Cumberland Plain Priority Conservation Land.

The Proposed Development

This Development Application seeks approval for the following:

- Construction of a shed being 288m² in size (24m x 12m x 6.6m high) for the storage of two truck vehicles (rigid truck and semi trailer) and other personal equipment such as classic cars, caravan, boat and tractor.
- Completion of earthworks associated with the existing second driveway and turning area (50m x 30m).
- Construction of a sealed vehicular crossing and sealing of the first 20m of the driveway.
- Existing unauthorised driveway and turning area to be filled with 200mm hardstand material (e.g. crushed sandstone or road base).
- New native planting around the perimeter of turning area.
- 120,000L underground water tank to catch water from roof and overflow from existing smaller water tanks
- Inclusion of a front fence entry feature to the second driveway, which has been removed from DA13/1432 and incorporated into this application as outlined above.

The site plan also indicates five (5) trees to be removed however as the Statement of Environmental Effects specifically confirms that no trees are to be removed, the site plan is recommended to be amended in red to delete any reference to tree removal.

Planning Assessment

The development has been assessed in accordance with the matters for consideration under Section 79C of the Environmental Planning and Assessment Act, 1979 (as amended) (EP&A Act), and having regard to those matters; the following issues have been identified for further consideration.

1. Section 79C(1)(a)(i) – Any Environmental Planning Instrument

Environmental Planning and Assessment Act 1979 (EP&A Act)

DA13/0354 was refused by Council on 3 October 2013 for the following reasons:

1. *The application has not adequately demonstrated that the shed will be used to store materials and equipment associated with the residential use of the property which are permissible in the 1B (Rural B Zone-Smallholdings) under the provision of LEP 201.*
2. *The scale and cumulative building footprint of the shed and manoeuvring area is excessive and cannot be categorised as being ordinarily incidental and ancillary to the existing dwelling on the property.*
3. *The proposed development is inconsistent with the general aims and objectives of LEP 201.*
4. *The proposed development is inconsistent with the objectives of 1B (Rural B) zone.*
5. *The proposal is inconsistent with the objectives of the draft E4 - Environmental Living zone under the provisions of the exhibited Draft Local Environmental Plan in relation to the preservation and complement of natural resources through appropriate land management practices.*
6. *The proposed development is inconsistent with the objectives outlined in Part 4.2, Part 4.9 and Part 4.10 of Penrith Development Control Plan 2006, in respect to the promotion rural residential character.*
7. *The proposed development is unsightly and its construction and use would undermine the rural residential context of the area.*
8. *The proposed development would have an adverse impact upon the existing area, having regard to the submissions made.*

9. *The proposed development will cause significant impact to the amenity of the rural residential area and is not be in the public interest.*

In accordance with Section 82A(1) of the EP&A Act, the applicant lodged DA13/0354.01 requesting Council to review the determination of the application. In requesting the review, the applicant has amended the proposal under the provisions of S82A(3A) of the Act to reduce the size of the shed and nominated the items to be stored in the shed. The review was further amended to increase the western side setback of the shed, provided a landscape mound in the vicinity of the truck turning area and nominated the species for the landscape mound.

Under Section 82A, however a determination cannot be reviewed after the time limit for the making of an appeal under Section 97 expires, if no such appeal is made against the determination. Section 97 of the Act provides that an applicant who is dissatisfied with the determination of a consent authority may appeal to the Court within six (6) months after:

(a) the date on which the applicant received notice, given in accordance with the regulations, of the determination of that application or review, or

b) the date on which that application is taken to have been determined under section 82(1).

The original application was refused under delegated authority on 3 October 2013 and therefore the six-month appeal period lapsed on 3 April 2014. The applicant did not lodge an appeal to the Land and Environment Court and as the date had passed, Council could no longer proceed to determine the Section 82A review. As a result this application was then lodged to enable consideration of the amended proposal.

The new application has had regard to the reasons for refusal and has reduced the size of the shed, shown a layout for goods being stored in the shed (including indications of the rigid truck and semi trailer) and provided embellished landscaping.

Clause 109A of the Environmental Planning & Assessment Act 1979 also allows uses that were unlawfully commenced to be rendered lawful upon the granting of development consent. As such, this application would make lawful the use of the site for the garaging of plant and trucks.

Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (SREP 20)

To ensure sediments generated by the development will not be deposited in the Hawkesbury-Nepean River via the stormwater drainage system and to ensure compliance with Clause 5 of SREP 20 and the relevant planning policies and strategies relating to water quality and quantity, the standard condition for the provision and maintenance of erosion and sediment control measures is recommended (see Standard Condition D001).

Penrith Local Environmental Plan No. 201 (Rural Lands) (LEP 201)

Permissibility

The site is identified as a Deferred Matter under Penrith Local Environmental Plan 2010 and as such Penrith Local Environmental Plan 201 (Rural Lands) (LEP 201) is still applicable. It is currently zoned 1(b) (Rural 'B' zone - Smallholdings) under the provisions of LEP 201. The proposed featured earthworks and shed are ancillary components to the existing dwelling and as such are permitted in the zone subject to development consent.

With respect to the proposed use of the shed for storage of trucks, the following definition is applicable:

garaging of plant and trucks means storage and maintenance of up to 2 pieces of plant or trucks on a property where the plant or trucks are operated only by the occupier or occupiers of the property.

This definition is considered the most appropriate and it is necessary to impose conditions of consent to ensure the requirements of the definition are complied with on an ongoing basis.

The applicant has indicated that a semi trailer and a rigid truck will be stored on site and that he (the owner and occupant of the dwelling) only drives one vehicle at a time. Concern has been raised that the occupier of the dwelling is operating a truck company with employees and that he may have occasion for the trucks stored on this site to be used by one of the employees and how this would occur whilst maintaining compliance with the definition. Any driving of the trucks by others needs to occur off site and concern is raised regarding this occurring on the street and the associated impacts on neighbours if it occurs regularly.

LEP 201 adopts the Model Provisions, which contains the following definitions:

transport terminal means a building or place used as an airline terminal, a road transport terminal, a bus station or a bus depot.

road transport terminal means a building or place used for the principal purpose of the bulk handling of goods for transport by road, including facilities for the loading and unloading of vehicles used to transport those goods and for the parking, servicing and repair of those vehicles.

The application does not indicate that it will operate as a transport terminal. The original application did however include a separate demountable building as a site office and a condition is recommended to be imposed that no consent is granted for the demountable building to ensure it is not functioning as a transport terminal and that it be removed within 30 days of the date of consent. The removal of the demountable building is now proposed by the applicant (refer to Special Condition 2.6).

General Aims & Objectives

The general aims and objectives of PLEP 201 seeks to achieve a balance between protecting and enhancing the rural character of the area, landscape features and rural uses, whilst acknowledging the need to accommodate Sydney's future growth. It also seeks to promote rural/residential development, not create demands on public amenities or services and locate traffic generating development to ensure efficiency of roads is not affected.

The proposal meets the general aims and objectives of the LEP subject to appropriate conditions of consent regulating the use of the shed, vehicle access to and from the site and other land use restrictions as outlined within Special Conditions 2.2 to 2.5.

The storage of a rigid truck and semi trailer within a shed has merit to provide a safe environment for these items but also to preserve the rural character of the area. It is not uncommon on rural properties to store trucks within a shed. This is a more desirable outcome than trucks being stored out in the open which currently occurs and is permissible. The application also incorporates new planting for screening which will aid in reducing the visual impact of the turning area and shed.

Employees of the business should not be driving to the site to collect the truck as it is restricted to the occupiers of the dwelling only. As the proposal is not for a transport terminal, there should be no collection or drop off of goods to the site or a significant increase in traffic. It can be compared to an occupier of any dwelling bringing their work vehicle home at the end of the day and leaving in it the next morning. Accordingly, with stringent conditions and a temporary 12 month period, the impact of the storage of trucks on site can be controlled and the associated impact on surrounding properties and the road network limited.

Zone Objectives

The following objectives of the Rural "B" Zone—Smallholdings zone are applicable for consideration:

- *protect and enhance the scenic quality and rural character.*
- *assist in meeting demand for rural/residential development where consistent with the conservation of the rural, agricultural, heritage and natural landscape qualities.*
- *ensure development does not create unreasonable demands for public amenities or services.*
- *ensure traffic generating developments are suitably located so as not to adversely affect the safety and efficiency of roads.*
- *ensure the form, siting and colours of buildings, building materials and landscaping complement the natural scenic quality of these localities.*
- *ensure views from main roads and rural character of the area will not be adversely affected.*
- *ensure development will not lead to excessive soil erosion or run-off.*

The site is generally flat and adjoins heavily vegetated land owned by the Department of Lands to the east and two access handles to the west. The surrounding area is rural-residential in nature.

The proposed shed is to be sited centrally on the property, behind the existing dwelling. The shed and turning area are set away from the western boundary.

The previous unauthorised works that were undertaken including clearing of trees and earthworks to accommodate the new driveway and turning area have altered the appearance of this portion of the site. The proposal provides the opportunity for Council to ensure that the site is rehabilitated by way of replacement planting and completion of earthworks, to ensure the rural-residential character of the area is retained and to control runoff and erosion on site.

There should not be significant increases in traffic movements as the two truck vehicles are only to be operated by the occupier of the dwelling. Conditions have been recommended to ensure this occurs and to restrict the number of movements per day.

The proposed materials of the shed are typical of that found on a rural property. Screen planting is proposed around the northern, western and southern portion of the shed and turning area to aid in reducing its visibility from adjoining dwellings.

The issue of stormwater runoff is discussed below under the heading of Flooding.

Clause 17 Tree Preservation

This application is an opportunity to require significant planting to compensate for the previous unauthorised removal of trees on this portion of the site to accommodate the earthworks already undertaken, and to providing screening of the turning area.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Certain works including filling and driveway construction are permitted as exempt development, however the works undertaken exceed the exempt development requirements. Consent cannot be retrospectively granted for this unauthorised excavation and filling, however the completion of the works can be controlled and granted consent.

Draft Penrith LEP

Stage 2 of the City Wide Penrith Local Environmental Plan (draft LEP) applies to the site. The property will be zoned E4 Environmental Living under the provisions of the draft LEP. The shed being ancillary to the dwelling is permitted with consent. Schedule 2 Exempt Development of the draft LEP further outlines relevant criteria for truck parking areas including the ability to park up to two trucks or pieces of plant on a site if the parking area provides a connection to sealed driveways, is screened from adjoining properties, there is no adverse impact on drainage and flow paths and no removal of trees or vegetation is pursued without consent. One of the criteria is also that the development must not include the construction of a shed or earthworks to create the parking area.

To ensure the development is consistent with the objectives of E4 zone in relation to protecting the rural character and residential amenity of the residential neighbourhood, it is considered appropriate in this case to store the trucks in the shed.

2. Section 79C(1)(a)(iii) – Any Development Control Plan

As stated above, the site is zoned 1(b) (Rural 'B' zone - Smallholdings) under the provisions of LEP 201 and hence Penrith Development Control Plan 2006 (DCP) is applicable to the proposal. Section 2.8 Significant Trees and Gardens, Sections 4.9 Rural Development and 4.10 Rural Sheds of the DCP are relevant to the assessment of the proposal.

Section 2.8 Significant Trees and Gardens

The site contains remnants of Castlereagh Scribbly Gum Woodland, a Vulnerable Ecological Community under the NSW *Threatened Species Conservation Act 1995*. As stated earlier in the report, clearing of this endangered vegetation without approval has been undertaken and while the plan submitted indicates five (5) trees for removal, the statement of environmental effects submitted in support of the application confirms that no tree removal is proposed as the shed was relocated to retain the trees at the rear of the site and no works are proposed along the front boundary as part of this application. As a result a seven (7) part test of significance is not required as no vegetation removal is actually proposed as part of this application which is addressed by way of conditions of consent and recommended amendments to the site plan in red deleting reference to tree removal.

To address the issue of unauthorised removal and to screen the proposed shed, a landscape plan has been provided to Council however the species proposed in the landscape plan are not considered to be suitable. As a result conditions are recommended for the provision of landscape screen planting containing suitable species to screen the shed and appropriately revegetate that part of the site (refer to Special Nos. 2.18, 2.19 and 2.20).

Section 4.9 Rural Development

(a) Truck and Plant Storage

This section of the DCP provides guidelines for residential, agricultural and non-agricultural developments in rural areas to ensure developments would not detract from the scenic quality, nature conservation significance or agricultural productivity of rural areas.

It is stated that Council will allow storage of up to two (2) trucks or similar equipment not intended for use on a rural property provided the vehicles are stored and not visible from public places. The DCP further states that the

vehicle movement times shall not impact on the amenity of the neighbourhood.

The applicant has submitted the following information demonstrating compliance with the DCP:

- Two (2) trucks (being a semi-trailer and a rigid truck) will be stored on the premises.
- The vehicles are associated with the business owned and operated by the property owners.
- The vehicles will be stored in the shed and would not be visible from surrounding developments and public places.

To protect the amenity of the residential neighbourhood, the following is recommended:

- a trial consent period of 12 months be granted (Special Condition No. 2.1)
- truck movements be restricted to four trips per day from 6:00am to 8:00pm Mondays to Fridays (Special Condition No. 2.3).

(b) Access

The proposed 4m wide second driveway is adequate in facilitating access to the shed and truck turning area. Considering the number of movements to be generated by the semi-trailer and rigid truck would be limited, the width of the driveway is not required to be widened to accommodate two-way traffic. A standard condition (K202) is recommended requiring the submission of a Roads Act Application for the provision of a heavy-duty crossing.

(c) Tree Preservation/Landscaping

Council's records show that the site contains remnants of Castlereagh Scribbly Gum Woodland, a vulnerable ecological community. It was noted during investigation of a complaint that vegetation on the site has been cleared. To maintain the landscape amenity and biodiversity of the area, conditions are recommended to reinforce that all trees are under Council's Tree Preservation Order and appropriate tree protection measures be implemented during construction. In addition, replanting is required as outlined below.

Although the applicant has amended the proposal for the provision of landscape screen planting in the vicinity of the truck turning area, the nominated species are not appropriate. To further improve the landscape quality of the property and to maintain the rural setting, the following is recommended:

- A 3 metre landscape buffer be provided to the truck turning area and extended to the shed. The landscape buffer area is approximately 500m².
- Landscape planting containing a mix of ground and mid/under storey cover to be selected from a list nominated by Council.
- 20 replacement trees are to be planted on the property and the species to be selected from a list nominated by Council.
- Maintenance of the landscape planting for a period of 36 months.

Refer Special Conditions Nos. 2.18, 2.19 and 2.20.

(d) Flooding

The proposed development includes the filling of the existing unauthorised driveway and turning area to be filled with 200mm hardstand material (e.g. crushed sandstone or road base).

In considering the subject application and DA13/1432 for fill and fencing at the front of the site, the flooding impacts from the change in levels has been reviewed in detail. It is necessary for the proposed front fence to include amendments in red for the fencing to be open style with no masonry portion at the bottom to allow for overland flow and the amount of fill is restricted.

The proposed filling of the second driveway and turning area to be filled with 200mm hardstand material will not alter the sheet flow and will not adversely impact on the existing overland flow behaviour across the site. As a result the proposed development satisfies the flooding considerations within Section 2.10 – Flood Liable Development of DCP 2006.

(e) Fencing

Clause 1 - Dwellings and Outbuildings of DCP 2006 Part 4, Section 4.9 - Rural Development requires the following for fencing:-

Only rural style fencing will be allowed i.e. of an open rural nature in character with that normally found in rural areas. No objections are raised to internal courtyard fencing, or entry fencing, provided such fencing is sensitive to the rural environment.

The proposed front fence which is subject of DA13/1432 is predominantly open and is sympathetic to the rural character of the locality. The proposed entry feature is masonry construction and is consistent with the existing entry feature on the site. No objection is raised as there are similar fencing outcomes in the broader locality and the proposal will not have an adverse impact on the streetscape.

As a result the proposed development is considered to have satisfied the considerations within Clause 1 – Dwellings and Outbuildings of DCP 2006, Part 4 Section 4.9 - Rural Development.

(f) Filling

Clause 8 - Filling - Agricultural Developments of DCP 2006 Part 4, Section 4.9 - Rural Development provides the following aims:-

- *Allow filling only where it enhances the use of rural properties.*
- *Ensure that no adverse impact on local drainage characteristics occurs.*
- *Ensure filling will not increase flood hazard or risk to other properties.*
- *Ensure that material used is satisfactory in terms of potential impact on local soil and water quality.*

The legitimisation of minor top soil spreading is considered to satisfy the aims of the DCP in that the fill does not impact on local drainage risk as detailed above, the fill does not increase flood hazard as outlined above, the fill material was sourced from the site (excavation for second driveway) and there is no adverse impact in terms of water quality or stormwater diversion. The driveway will also be topped with road base from a reputable supplier and evidence will be supplied of its purchase.

As a result the proposed development is considered to have satisfied the considerations in relation to filling within DCP 2006, Part 4, Section 4.9 - Rural Development.

Section - 4.10 (Rural Sheds)

The proposal has been assessed against the provisions of this section of DCP 2006 as shown in the following compliance table. It is acknowledged that the normal requirements for rural sheds are hard to satisfy in this instance due to the size of the trucks being housed. The permissibility of the storage of trucks is under a separate definition and is not an ancillary component to the dwelling as a shed would normally be.

The following table identifies where the proposal does not meet the DCP numerical controls.

	Guideline	Proposed	Compliance
Maximum cumulative building footprint of all sheds	150m ²	288m ² + existing garage (approximately 42m ²) = 330m ²	No
Overall height	5m or no higher than the ridgeline of the dwelling house, whichever is less	6.634m and below the ridgeline of the dwelling	No
Maximum external wall height	3.6m	5.4m	No
Maximum length	15m	24m	No
Roof pitch	15° to 20°	10°	No
Narrow Elevation	To face the road	Longest elevation faces the road but is obscured by the large dwelling.	No

The applicant has provided the following justification for the variations:

- The shed is required for the garaging of two (2) truck vehicles and personal items hence the size.

- The shed would have minimal visual impact considering its setback from all boundaries and being screened by the existing dwelling and landscaping.
- The proposed 6.634m ridge height is below the dwelling and would not dominate the rural landscape given the setbacks and the shed being screened by the existing dwelling and landscaping'.
- The design of the shed is typical for a rural shed and similar to other sheds in the locality.
- The use of the shed complies with the definition of garaging of plant and trucks.
- The 5.4m external wall height and 6.634m ridge height is required to facilitate minor maintenance of the trucks by the owner.
- The 24m wall length would facilitate the garaging of the two (2) trucks.
- The reduced roof pitch would reduce the overall height and visual impact.

Maximum cumulative building footprint and Narrowest Elevation

The proposed variation from the maximum building footprint and narrowest elevation siting can be supported for the following reasons:

- (a) The proposed shed will be used for the garaging of a semi-trailer, a rigid truck and other personal items.
- (b) The applicant has reduced the size of the shed from the original proposal of 396m² to 288m² to minimise its visual bulk and scale.
- (c) The proposed shed is responsive to the size and rural-residential use of the property.
- (d) The shed is adequately setback from the front and side boundaries and together with existing vegetation and appropriate landscape screen planting, its visual impact will be minimised.
- (e) The orientation of the shed is ideal as the shed itself aids in screening the turning area. The existing dwelling partially obscures the shed, as well as existing vegetation and proposed landscaping and mounding.

Maximum height, external wall height, wall length and roof pitch

The variation to the overall design of the shed can be supported for the following reasons:

- (a) This inconsistency is mainly a function of garaging a semi-trailer and a rigid truck.
- (b) A lower roof pitch is proposed to minimise the visual bulk of the shed and reduce its overall height.
- (c) The proposed shed will be provided with landscape screen planting to further minimise its dominance of the rural landscape.
- (d) The colorbond construction of the shed in earthy tones is sympathetic to the rural setting and surrounding built environment.

In view of the above, it is considered that further amendments to the shed to achieve compliance with the DCP are not necessary.

The numerical requirements for sheds relate to an ancillary component to the principle dwelling on the site. Given that the proposed use for storage of truck vehicles is separately defined and the size of trucks being greater than normal farm machinery or personal vehicles, it is considered reasonable that the shed would be larger than the DCP requirements. The visual and amenity impacts have been considered and appropriate conditions imposed to reinforce what has been proposed by the applicant in terms of materials and landscaping.

3. Section 79C(1)(b) – The Likely Impacts of the Development

The development complies with the objectives of the planning controls and the impacts of the development are expected to be minimal. The likely impacts of the proposed development upon the surrounding area are discussed as follows:

Context and Setting

Developments in the area are predominantly rural-residential in nature. It is considered that legitimising unauthorised tree removal and earthworks as well as the construction of the proposed shed will have minimal impact on the streetscape subject to conditions of consent. The existing dwelling aids in screening from the street, in conjunction with proposed mounding and landscaping. The proposed front fence is open in design and is consistent with the rural-residential area.

The proposal to construct a shed for the garaging of a rigid truck and semi trailer, the associated truck turning area and driveway are ancillary and incidental to the primary use of the site which is for rural-residential purposes. Issues related to variations to the overall design of the shed have been addressed above. It is

considered that the shed, the associated truck turning area and driveway would have minimal impact on the rural setting of the locality provided the conditions of consent recommended as part of this report are imposed and complied with.

Site Design and Internal Design

The height and materials of the shed are proposed to be earthy tones, which are sympathetic to the existing built environment. The depth and width of the proposed earthworks will be restricted to minimise any likely impact on the neighbouring properties with respect to stormwater surface runoff as outlined in detail above.

To ensure the development is responsive to the characteristics of the site and the surrounding built environment, the application has adopted the following measures:

- reduce the size of the shed from originally proposed 396m² to 288m².
- increase the western side setback of the shed from 7.5m to 9.5m.
- provide landscape screen planting in the vicinity of the shed and truck turning area.
- provide appropriate landscape screen planting to ensure compatibility with the existing vegetation.

Access, Transport and Traffic

The proposed second driveway and truck turning area will facilitate access to the shed for the garaging of the semi-trailer and rigid truck. The driveway width is adequate having considered the amount of traffic to be generated by the rigid truck and semi trailer.

Water Soil Air and Microclimate

The applicant has confirmed that no fill will be imported and study of aerial photos has also indicated that the stockpile and the excavated materials are of a similar soil type, to ensure the quality of the soil, the standard condition stating no filling without Council's prior approval is recommended (refer Standard Condition D005).

The applicant seeks approval for the completion of earthworks and construction of the driveway and truck turning area. This requires filling of the excavated area with 200mm of crushed sandstone, road base and equivalent. Road base will be imported to top the driveway, however evidence will be submitted to ensure it is clean, by way of a condition of consent. The standard condition stating no fill shall be imported to the site until a validation certificate for fill to be brought onto the site has been recommended. Special Condition No.2.12 requires any aggregate materials to be used for the construction of the driveway shall comply with the EPA Recovered Aggregate Exemption 2010.

Flora and Fauna

The site contains remnants of Castlereagh Scribbly Gum. Special Conditions Nos. 2.10, 2.18, 2.19 and 2.20 have been recommended to ensure:

- provision of 500m² of landscape buffer area surrounding the truck turning area and shed to offset the impact of previous vegetation removal and to help manage erosion and runoff and ensure the species to be planted are compatible with the existing Castlereagh Scribbly Gum vegetation community;
- the replacement vegetation will be maintained until establishment; and
- the remaining native vegetation will not be removed.

Noise and Vibration

The standard condition restricting the construction hours has been recommended to protect the amenity of surrounding developments (Refer to Standard Condition H041).

Further, operational hours have been restricted, as well as the number of trucks or plant being stored on site and the employees only to be permanent residents of the site (refer to Special Condition Nos. 2.2, 2.3, 2.4, 2.5 and 2.9). Special Condition No.2.3 has been specifically recommended restricting the vehicle movement times to 6:00am to 8:00pm Mondays to Fridays. The Statement of Environmental Effects indicates that the movements can easily occur within these times.

Natural Hazards

The site falls from the southwest to the northeast and is not affected by overland flow. The standard condition for

the discharge of stormwater from the site to a level spreader system has been recommended. Special Condition No. 2.8 is imposed to ensure the driveway and hardstand area are flush with the natural surface and there shall be no adverse impact on the neighbouring properties caused by diversion or concentration of surface flows.

Socio-economic impacts

To minimise any adverse impact in the locality, it is recommended that a 12-month consent be granted to the use of the shed for storage of the rigid truck and semi trailer. The applicant can apply to modify and/or delete the time-limited condition after 12 months subject to strict compliance with the development consent.

4. Section 79C(1)(c) – The Suitability of the Site for the Development

The site is rural-residential in nature. The site allows for the storage of up to two trucks for use by residents of the dwelling. This can occur on a small scale and conditions have been recommended to ensure that the operation occurs in this manner to ensure that the impact upon the amenity of the surrounding residents, the visual impact and the impact upon the surrounding infrastructure is appropriate within the context of the broader locality.

In view of the assessment, Council can be satisfied that the site is suitable for the proposed development for the following reasons:

- The proposed shed for the storage and maintenance of two (2) pieces of plant or trucks operated by the occupier(s) of the property is permitted in 1(b) Rural “B” – Smallholdings zone under LEP 201.
- The proposal, subject to compliance with the recommended conditions and a 12 month period for use, will be compatible with the rural character of the locality.
- The development will have minimal impact on the amenity of the neighbourhood.

5. Section 79C(1)(d) – Any Submissions made in relation to the Development

In accordance with the Act and Regulations, consideration has been given to any necessary referrals and any submissions made.

Community Consultation

In accordance with Chapter 2.7 of the Penrith Development Control Plan 2006 – Notification and Advertising, the proposed development was notified to ten (10) residences in the area. The exhibition period was between 23 June 2014 to 7 July 2014. Council received submissions from two (2) households. The issues raised in the submissions are summarised below:

Issues	Comments
Applicant should provide registration numbers of the two trucks that will be stored on site.	The consent will allow the restricted storage of a rigid truck and semi trailer as indicated on the proposed floor plan.
The applicant stores trucks associated with this company on another property on the corner of Church Lane and Church Street. The truck movements between the properties must be considered. Up to 4 trucks seen on site and up to 5 on Church St site. Company advertises as a 24 hour truck transport company.	The applicant does not seek to operate a transport company from the premises. Refusal of this application based on advertising and using the property as the trading address of a transport company cannot be relied upon. Conditions imposed which restricts the use to the storage of a rigid truck and semi trailer only, with no unloading on site are considered sufficient to regulate the proposal.
The applicant expects the unauthorised works and breaches of regulation to be ignored.	Determination of this application provides the opportunity for conditions to be imposed, which can be enforced by Council’s Compliance Section and fines and notices issued for breaches.
No development application should proceed on unauthorised works and cannot be retrospectively approved.	Consent cannot be granted retrospectively. This consent relates to the new shed, use of the shed and new earthworks to rectify the current situation.

Issues	Comments
Applicant is progressively bringing their entire business to the subject site.	The storage of trucks is limited to two pieces of trucking equipment being the rigid truck and semi trailer and will be enforced by conditions of consent. The application does not seek consent for the operation of a commercial business from the site.
Lighting installed on site is unnecessary for garaging of two trucks and is consistent with depot in industrial estate.	There are no restrictions in terms of the design and type of lighting to be installed in a rural-residential property and the hours of illumination. However, Special Condition No. 2.13 has been recommended to ensure outdoor lighting is compliant with AS 4282 in relation to control of obtrusive effects of outdoor lighting and that it is directed away from adjoining dwellings.
The site office remains on site.	A condition is imposed to remove the site office as its retention is not supported.
LEP definition allows 2 pieces of plant or trucks. The applicant has a forklift and bobcat at premises recently.	Conditions of consent are recommended ensuring compliance with the LEP definition of no more than two trucks or pieces of plant or plant equipment to be stored at any one time. The application indicates a rigid truck and semi trailer and no bobcats or forklifts to be accommodated within the shed. This can be altered, provided the cumulative total of plant or trucks is two at any one time.
Scale and bulk of shed resembles a large industrial size shed. Owning a large semi trailer does not warrant a large shed and vast hard stand area.	The shed is of a size to accommodate the rigid truck and semi trailer, as well as personal items. The size of the shed is not uncommon in the area.
The height of the shed is three times the height allowed by Council.	The shed is 6.634m height, which exceeds the 5m requirement within the DCP but is satisfactory as outlined within this report.
Consideration of issues in a submitted report regarding size of the shed, positioning of the shed and unauthorised land fill with potential flooding and disruption to natural flow of water.	The impact of the proposed fill and fence on potential flooding and overland flow had been considered in detailed and addressed in Section 2 above. The location of the shed does not affect overland flow and the size of the shed is considered to be acceptable and not uncommon within the area.
Statement of Environmental Effects contains inconsistencies and proposal non-compliances.	The proposal has been clarified and is as set out in this report. Any non-compliances are addressed in the assessment above.
There is no mention of site office or flood lighting which are on the site.	The portable site office is to be removed, as conditioned and lighting is restricted by conditions of consent.
Questions if additional business "EvFam Haulage" is operating from the site.	Council is concerned with the number of trucks being stored on site, not the name of the business and the number is recommended to be conditioned.

The S82A review (DA13/0354.01) was exhibited and owners and occupiers of surrounding developments were notified from 9 January to 24 January 2014 in accordance with Section 2.7 Notification and Advertising of the Penrith Development Control Plan 2006. The following is a discussion of all the issues raised in the submissions received by Council for this previous application:

Issues	Comments
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<p>There are more than two (2) trucks parked on the property, with up to 5 sighted. Therefore the proposal does not comply with the definition of “garaging of plants and trucks” and is prohibited in the 1(b) Rural “B” Smallholdings zone under LEP 201</p>	<p>This application seeks approval for the garaging of a semi-trailer and a rigid truck, to be operated by the occupiers of the property, in the shed. The proposal satisfies the definition of “garaging of plants and trucks” under the provisions of LEP 201 that is “the storage and maintenance of up to 2 pieces of plant or trucks operated by the occupier(s) of the property”. This will be conditioned to ensure compliance can be monitored and enforced.</p>
<p>The nature of the use changes the rural character of the area and results in a loss of enjoyment of the rural lifestyle.</p>	<p>Special conditions have been imposed to restrict the operations to ensure the rural character and lifestyle of the surrounding properties can be maintained.</p>
<p>The proposed shed and truck turning area is excessive and indicates a usage beyond a rural shed. It is likely that the property will develop into a trucking business and/or warehousing and distribution business which is inconsistent with LEP 201</p>	<p>The shed and truck turning area are required for:</p> <ul style="list-style-type: none"> · The storage of two pieces of plant/trucks and personal items including a boat, caravan and equipment. · To facilitate manoeuvring of trucks so that vehicles can enter and leave the property in a forward direction. <p>Usage of the shed will be conditioned to ensure strict compliance with the definition of ‘garaging of plants and trucks’ under LEP 201.</p> <p>Refusal of the application based on speculation that the property will develop into a trucking business cannot be substantiated.</p> <p>Given that the proposed use for storage of a rigid truck and semi trailer is separately defined and the size of trucks being greater than normal farm machinery or personal vehicles, it is considered reasonable that the shed would be larger than the DCP requirements. The visual impact of the proposed shed has been considered in the assessment of the application and is considered satisfactory.</p>
<p>Noise impact associated with the operation of a truck depot/commercial enterprise from the property</p>	<p>To protect the residential amenity of the locality, a trial consent period of twelve (12) months is recommended for the storage of trucks (Special Condition No. 2.1). In addition, conditions will be recommended restricting the number of trucks to be stored on the site, the number of vehicle trips and hours of vehicle movements on the property as outlined within Special Conditions No.2.2 and 2.3.</p>
<p>The earthworks have changed the topography of the area. This may have flooding impact on the surrounding properties</p>	<p>The property is not affected by local overland flows and mainstream flooding. The applicant has also submitted a survey which contains information that is consistent with Council’s information showing the site falls from southwest to northeast. In this case, the proposal would have minimal flooding impact on the surrounding properties.</p>

Issues	Comments
<p>The proposal is not compatible with the rural character of the locality and neighbouring properties will experience loss of enjoyment of their properties</p>	<p>The storage of two (2) pieces of plant or trucks operated by the occupiers of the property is a permissible land use in 1B (Rural B zone – Smallholdings) under LEP 201. To ensure the development is compatible with the rural character of the locality it is recommended that a trial consent period of twelve (12) months be granted for the storage of trucks on the premises.</p> <p>Together with the conditions restricting the number of vehicles to be stored on the site, the hours of vehicle movement and provision of landscape screen planting, it is considered that the amenity of the surrounding developments will be protected.</p>
<p>Clearance of vegetation is inconsistent with the zone objectives of the proposed E4 – Environment Living zone under the draft Stage 2 of the Penrith Local Environmental Plan 2010.</p>	<p>The proposal incorporates landscape screen planting. Special conditions have also been recommended for:</p> <ul style="list-style-type: none"> · The provision of a 3m wide landscape buffer zone to the truck turning area and the shed. · Planting of appropriate native species. · Maintenance of the landscape planting for a period of 36 months. <p>Subject to compliance with the recommended conditions, the proposal will comply with the objectives of E4 Environmental Living zone of the draft Stage 2 of LEP 2010 particularly in relation to preservation and improvement of natural resources.</p>
<p>The information that supports the development application is inaccurate and contradictory including usage of the shed, ownership of land to the east, clearance of vegetation, flooding at the intersection of Jolly Street and Sheredan Street and runoff from Hinxman Road, existence of an unapproved driveway, visibility of the shed.</p>	<p>The applicant proposes to use the shed for the garaging and minor maintenance of a semi-trailer and rigid truck owned and operated by the owners of the property. Other trucks associated with the owner's business will be stored and maintained off site. This will be conditioned accordingly.</p> <p>Council's records show that the property to the east at No.11-39 Jolly Street is owned by the Department of Lands and there are no improvements on the site except for existing vegetation and a dam.</p> <p>As stated earlier in the report, clearance of existing vegetation has been undertaken. The recommendation for the provision of a landscape buffer with appropriate native species will offset the impact of previous vegetation removal.</p> <p>Issues related to flooding have been addressed above.</p> <p>The completion of the unapproved driveway is the subject of the application.</p> <p>The landscape screen planting will minimise the visual impact of the shed.</p>
<p>Trees removed & land cleared behind the dwelling and office shed placed on site already. Unauthorised works still being undertaken.</p>	<p>Council's Compliance Section has been monitoring the site to ensure the applicant has ceased unauthorised works which has been substantiated. This application considers the completion of unauthorised works.</p>

Issues	Comments
A dam has been constructed recently but does not form part of the application.	There are no dams on the site.
The local road network is not designed for heavy vehicles and it cannot cater for the increased transport activity (e.g. in terms of width, flooding, surface, lighting).	With the restriction to be imposed on the number of vehicles to be parked on site and that the premises shall not be used as a truck depot, the proposal would have minimal impact on local traffic conditions and the road network.
The unsealed surface of the truck turning area and driveway will result in dust and noise.	The applicant proposes to seal the first 20m of the driveway. This is considered satisfactory in terms of minimising dust and erosion. The special conditions restricting the number of trucks to be stored on the site, the hours of vehicle movements and number of trips would minimise any likely noise impact.
The site is bush fire prone land and the storage of fuel on the site is not suitable.	The property will not be used as a truck depot and mechanical workshop, the amount of fuel to be stored on the site would be limited and similar to other households' usage for their lawn mowers, quad bikes and the like.
The proximity of the shed to the western boundary will result impact on the visual and acoustic privacy of the neighbouring property.	<p>To minimise the visual and acoustic impact on the surrounding developments, the applicants have increased the western side setback of the shed to 9.5m. The side setback well exceeds the 5m requirement of DCP 2006.</p> <p>Together with the restriction on the number of trucks to be stored on the site, hours of vehicle movement and number of trips and provision of landscape screen planting in the vicinity of the truck turning area and shed, it is considered that the amenity of the neighbouring property will be protected.</p>
A demountable site office has been placed on the site and trucks have been parked behind this site office	The demountable building will be removed by way of a condition of consent (Special Condition No. 2.6).
The applicant advertises a transport company and trucks associated with this company are parked on the subject site and another property in Church Lane.	The applicant does not seek to operate a transport company from the premises. Refusal of this application based on advertising and using the property as the trading address of a transport company cannot be substantiated.
Clearing of vegetation, excavation of the truck turning area and driveway have commenced prior to lodgement of the original development application.	<p>The application is the outcome of Council's investigation regarding a complaint for vegetation clearance, excavation and earthworks.</p> <p>In response to the Notice of Intention to Serve Order 12, the applicant lodged the application seeking retrospective approval for works that have been carried out as well as the construction of a shed and completion of fill.</p>
It seems unfair and unjust requesting residents to prepare a submission when the applicants continue to breach Council's regulations.	The S82A Review and new applications are required to be notified in accordance with DCP 2006.
Council has been unable to monitor the continued use of the property.	Council has undertaken compliance action against identified unauthorised activities including numerous inspections and will continue to do so.
The presence of employees on the subject site at different times is security concern and increases traffic.	With the restriction on the number of vehicles garaged on the site and hours of vehicle movements, the issue related to employees attending the site will be addressed.

Issues	Comments
Maintenance, service and repairs of trucks could be carried out on the premises and have noise and environmental impacts.	The application indicates that the trucks will be stored on site, with minimal day-to-day servicing of the trucks occurring on site, within the shed, which should not cause excessive noise impacts. All regular servicing or maintenance of the trucks is to occur off site. Special Condition No. 2.4 prohibits the property from being used for vehicle repair.
The proposal will make the area less desirable to live and impact on the property value.	To maintain the amenity of the surrounding developments and protect the rural character of the locality, a trial consent period of twelve (12) months for the use of the shed to store plant/truck(s) is recommended together with other appropriate conditions. It is not evident that the storage of two (2) pieces of plant/trucks on the site will have an adverse impact on property values.
Additional traffic associated with the transport company and the likely impact on other road users.	It is considered that the storage of two (2) pieces of plant/trucks on the site would have minimal impact on local traffic conditions. Appropriate speed limit has been in place to ensure safety of other road users. Requests to consider the imposition of load limits along Jolly Street has to be submitted for Council's consideration and approval from Local Traffic Committee has to be sought.
Inaccurate description of the development proposal for the featured entry, front fence and earthworks	The description of development proposal for DA13/1432 has been amended to correctly reflect the proposed works.
Permissibility of street type lighting on residential properties and restrictions on hours of illumination and lights shining into nearby properties.	There are no restrictions in terms of the design and type of lighting to be installed in a residential property and the hours of illumination. However, Special Condition No. 2.13 has been recommended to ensure outdoor lighting is compliant with AS 4282 in relation to control of obtrusive effects of outdoor lighting.
Restricted conditions required to control the use.	A number of special conditions have been recommended to control the storage of trucks. Refer to Special Conditions 2.2, 2.3, 2.4 and 2.7.
Restrictions needed on truck numbers, hours of operation and employees.	A number of special conditions have been recommended to control the storage of trucks. Refer to Special Conditions 2.2, 2.3, 2.4 and 2.7.
Safety issues from trucks on rural streets (e.g. in terms of no footpaths, children walking from nearby school).	The proposal in its limited form should not result in an unsafe road environment.
Light from trucks shining into nearby houses.	The hours of operation of the trucks has been restricted by special conditions to limit the noise and light impacts from the trucks. Refer to Special Condition 2.3.
Stormwater runoff needs to be managed and checked by Council.	Subject to compliance with these recommended conditions, the unauthorised earthworks, the proposed additional fill and proposed front fence will maintain the existing sheet flow and will not adversely impact on the existing overland flow behaviour across the site. The amount of fill is being limited.
Incorrect reference to 81 Church Lane, Cranebrook on the plans.	This application relates to Nos. 41 - 47 Jolly Street only.

Issues	Comments
Top dressing of soil will affect natural flow of water on adjoining properties.	The overland flow of water has been considered in detail in the current application and DA13/1432 to ensure that there are no resulting impacts on adjoining properties in terms of flooding.
Support a building to allow hobbies and storage of equipment to maintain the property, but object to use as a transport terminal.	The site will not be used as a transport terminal and conditions have been imposed to ensure this.
Concern about potential advertising and signage which could generate traffic to the site.	No signage is proposed as part of this application. Signage may be permitted as Exempt & Complying Development or as part of a separate development application.

Conclusion

In assessing this application against the relevant environmental planning policies, the proposal satisfies the aims, objectives and provisions of these policies subject to recommended conditions of consent.

The above assessment concluded that the proposal can be approved for the following reasons:

- The proposal for garaging of two (2) truck vehicles (rigid truck and semi trailer) in the shed is a permissible land use in the zone.
- The second driveway and turning area along the eastern boundary is supported as it is keeping the trucks away from the adjoining dwellings.
- The amended proposal has demonstrated that the aims and objectives of LEP 201 and the zone objectives can be achieved particularly in relation to conservation of the rural character and the scenic and landscape quality of the locality and ensure the development complements these character and qualities.
- The proposal has demonstrated that the aim and objectives of the DCP and the relevant provisions for rural developments and rural sheds can be achieved in relation to allowing storage of trucks owned and operated by the occupier of the property in a shed that would not detract from the rural qualities of the locality.
- The restriction to store two (2) truck vehicles in a shed with landscape screen planting would minimise its impact on the natural and built environment and the amenity of the neighbourhood.
- Given that the LEP allows for consent to be granted for garaging of plant and trucks which are larger than normal rural equipment, it is reasonable to expect that a shed larger than that generally required for rural living would be required. There are no specific requirements for sheds for this particular use.

The recommendation further requires Council's Compliance Section to ensure that regular monitoring of the site, at various times, occurs to ensure compliance rather than relying on complaints from neighbours.

In view of the complaints received by Council in relation to the number of trucks parked on the premises, it is considered that strict compliance with the definition for garaging of plant and trucks under LEP 201 is essential in terms of permissibility and the property will not be used as a truck depot. Therefore it is recommended the consent for use of the shed for storage of two trucks be time limited to twelve (12) months to monitor compliance with this definition and review the impacts of the development on the surrounding area.

The site is suitable for the proposed development and there is not considered to be any adverse impacts arising as a result of a temporary period being granted for the use and stringent conditions regarding the operation of the use, as well as requirements relating to landscaping and water runoff. Therefore, on balance the application is worthy of support, subject to recommended conditions.

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RECOMMENDATION

That:

1. The information contained in the report on Development Application DA14/0622 Retrospective approval for earthworks, construction of a shed and parking of 2 x truck vehicles (rigid truck and semi trailer) at Lot 122 DP 709303 (No.s 41-47) Jolly Street, Castlereagh be received.
2. Development Application No DA14/0622 be approved subject to the following proposed conditions:

Special Conditions

- 2.1 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. Prior to expiry of the date of the trial consent period, the applicant may submit a new Application for any continuance of the use.
- 2.2 The shed shall only be used for the storage and basic maintenance of two (2) pieces of plant or truck vehicles, where the plant or truck vehicles are operated only by the occupier or occupiers of the property. The shed may also be used to store personal items ancillary to the dwelling or rural use of the land, but is not to be habitable or for commercial purposes.
- 2.3 Truck movements are restricted to four (4) vehicle trips per day and restricted to between 6:00am and 8:00pm Monday to Fridays. No trucks movements are permitted on Saturdays, Sundays and public holidays.
- 2.4 The property must not be used as a truck/transport depot and/or vehicle repair workshop or vehicle repair station for:
 - i) the parking or servicing of motor vehicles used in connection with a business, industry or freight transport undertaking garaging or storage or maintenance or servicing of any other trucks; or
 - ii) repair of vehiclesother than the two (2) pieces of plant or trucks approved herein.
- 2.5 Storage of additional trucks or employee's vehicles must occur at a site which is subject to development consent for such use. Employees of the business are not to leave their vehicles on site and drive one of the two trucks stored on site, unless they are a permanent occupier of the property.
- 2.6 The demountable office building must be lawfully removed from the property within 30 days of the issue of this consent.
- 2.7 All minor truck maintenance work is to be undertaken only by the owner of the property and must be undertaken inside the shed on the site. Minor truck maintenance work is to be restricted to between 6:00am and 8:00pm Monday to Fridays, 9:00am and 1:00pm Saturdays. No minor truck maintenance work is permitted on Sundays and Public Holidays.
- 2.8 Any driveway works and hard stand area are not to have an adverse impact upon stormwater surface flows on or from adjoining properties. All works are to be flush with the natural surface. Any works, including mounding, are not to dam, concentrate, or divert surface flows onto adjoining properties.
- 2.9 The two trucks must be stored inside the shed at all times and no loading or unloading of goods to or from the trucks is permitted on the site.
- 2.10 No native trees or other vegetation (including shrubs and other understory vegetation) are to be removed, ringbarked, cut, topped, lopped, slashed or wilfully destroyed without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

2.11 No fill, machinery, or materials are to be placed or stored within the drip line of any tree.

2.12 Any aggregate material used for the construction of the driveway is to comply with the requirements of the EPA Recovered Aggregate Exemption 2010.

2.13 Exterior lighting shall be located and directed in such a manner so as not to create a nuisance to surrounding land uses and shall be directed away from adjoining dwellings. The lighting shall be in accordance with AS 4282 'Control of the obtrusive effects of outdoor lighting (1997)'.

2.14 The earthworks approved herein must comply with AS 3798 and Council's Design Guidelines and Construction Specifications for Civil Works.

2.15 **Prior to the issue of an Occupation Certificate** for the shed, a Work-as-Executed Plan prepared by an appropriately qualified consultant is to be submitted to Penrith City Council and verifies that the finished ground levels reflected within the approved survey drawing (approved as part of this consent) have been maintained. Any changes to finished ground level beyond those approved are to be rectified prior to the issue of any Occupation Certificate.

2.16 The colour of the shed is to be earthy tones, consistent with nearby sheds and in accordance with the list on the DCP and non-reflective. Details of the colour are to be provided with the construction certificate.

2.17 All piles of fill are to be removed, either dispersed over the site as top dressing within the levels permitted by this consent or removed off site with details of the disposal location provided to Council.

2.18 **Prior to OC, a vegetated buffer 3m wide surrounding the hardstand area** to offset the impact of previous vegetation and habitat removal and to help manage erosion and runoff, and visual amenity is to be installed. This is approximately 500m². The vegetated buffer is to consist of species from the Castlereagh Scribbly Gum vegetation community and is to contain a selection of species from the mid/under storey and the ground stratum. The **species are to be selected from the following lists:**

List A – Ground stratum - At least 8 different species planted at a density of 2 plants per m².

- *Aristida ramosa*
- *Aristida warburgii*
- *Boronia polygalifolia*
- *Dianella revoluta* var. *revoluta*
- *Entolasia stricta*
- *Goodenia bellidifolia* subsp. *bellidifolia*
- *Lomandra glauca*
- *Lomandra multiflora* subsp. *multiflora*
- *Patersonia sericea*
- *Platysace ericoides*
- *Stylidium graminifolium*
- *Themeda australis*
- *Thysanotus tuberosus* subsp. *tuberosus*
- *Xanthorrhoea minor*

List B – Shrub stratum - At least 8 different species planted at a density of 1 plant per m².

- *Acacia brownii*
- *Acacia elongata*
- *Banksia oblongifolia*
- *Banksia spinulosa*
- *Bossiaea rhombifolia*
- *Callistemon pinifolius*
- *Daviesia ulicifolia*
- *Grevillea mucronulata*
- *Hakea dactyloides*
- *Hakea sericea*

- *Isopogon anemonifolius*
- *Leptospermum polygalifolium*
- *Leptospermum trinervium*
- *Lissanthe strigosa*
- *Melaleuca erubescens*
- *Melaleuca thymifolia*

NOTE: All plants are to be local provenance and are to be sourced from nurseries using local provenance seed.

- 2.19 In addition to the vegetated buffer plantings, **20 trees are to be planted on the property** (note: these are at a ratio of approximately 2:1 for the trees removed for the initial unauthorised works). At least 5 of these trees are to be located within the vegetated buffer surrounding the hardstand area and the remaining trees should be planted to the rear of the hardstand area, augmenting the cleared and degraded areas. Trees are to be of the following species only:
- *Eucalyptus sclerophylla*
 - *Eucalyptus parramattensis*;
 - *Angophora bakeri*.

Note: NO trees are to be planted within the Asset Protection Zone of the house.

NOTE: All plants are to be local provenance and are to be sourced from nurseries using local provenance seed.

- 2.20 All landscape plantings are to be maintained for a period of 36 months (3 years). This includes watering, weeding and replacement planting if plant death exceeds 15%.

Standard Conditions

- A001 – Approved plans that are architecturally drawn – amend in red
- A008 – Compliance with BCA
- A019 – Occupation Certificate
- A020 – Use of Building
- A030 – No Retail Sales
- A032 – Goods in Building
- A046 – Issue of Construction Certificate
- B004 - Dust
- B005 - Mud/Soil
- D001 – Sedimentation and Erosion Controls
- D002 - Spraygrass
- D005 – No filling without prior approval
- D006 – No Filling without prior approval
- D009 – Covering Waste Storage area
- D010 - Appropriate disposal of excavated or other waste
- D014 – Plant and Equipment Noise
- E001 - BCA compliance
- H001 - Stamped plans & erection of site notice 1 (Class 2-9)
- H002 - All forms of construction

H011 – Engineering plans & specifications

H041 – Hours of work

L007 - Tree protection measures–no TMP with DA

L008 – Tree preservation order

K202 – Section 138 Roads Act

K208 - Stormwater Discharge – Minor Development

K501 – Penrith City Council Clearance – Roads Act/Local Government Act

Q001F – Notice of Commencement & Appointment of PCA

Q005F – Occupation Certification for Class 10 Structure

3. Further compliance action be pursued in relation to identified unauthorised works on the site.

4. Council's Compliance Officers monitor the site for compliance with conditions of consent.

Site & Surrounds

Proposal

Plans that apply

Planning Assessment

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

Section 79C(1)(a)(iii) The provisions of any development control plan

Section 79C(1)(d) Any Submissions

Referrals

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

Referral Body	Comments Received
Legal	
Building Surveyor	No objections - subject to conditions
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Biodiversity	No objections - subject to conditions

Conclusion

The application is worthy of support, subject to recommended conditions as outlined within the report to Council of 25 August 2014 (as amended by further reports to 29 September 2014 and the resolution of Council on 27 October 2014).

Recommendation

CONDITIONS

General

1 A001

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

DRAWING NO.	TITLE	SHEET	REVISION	DATE
93180E1-A.DWG	Plan Showing Proposed Shed and Driveway (as amended in red)	1 of 1	A	07/08/2013
N/A	Floor Plan Showing the Parking of Vehicles and Storage of Equipment	N/A	N/A	N/A
Job. No. 214425	Elevations	N/A	N/A	N/A
Statement of Environmental Effects, prepared by Urban City Consulting dated May 2014				
Waste Management Plan (Construction of a Shed and Earthworks)				

2 A004 - Dust

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

3 A005 - Mud/Soil

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

4 A008 - Works to BCA requirements (Always apply to building works)

The work must be carried out in accordance with the requirements of the Building Code of Australia. If the work relates to a residential building and is valued in excess of \$20,000, then a contract of insurance for the residential development shall be in force in accordance with Part 6 of the Home Building Act 1989.

{Note: Residential building includes alterations and additions to a dwelling, and structures associated with a dwelling house/dwelling such as carport, garage, shed, rural shed, swimming pool and the like}.

5 A019 - OCCUPATION CERTIFICATE (ALWAYS APPLY)

The development shall not be used or occupied until an Occupation Certificate has been issued.

6 A020 - Use of building

The building shall not be used under any circumstances for any commercial, industrial or habitable residential activity.

7 A030 - No retail sales

No retail sale of goods shall be conducted from the subject premises.

8 A031 - No vehicle sales

No motor vehicles are to be displayed for sale on the subject premises.

9 A032 - Goods in buildings

All materials and goods associated with the use shall be contained within the building at all times.

10 A046 - Obtain Construction Certificate before commencement of works

A **Construction Certificate** shall be obtained prior to commencement of any building works.

11 A Special (BLANK)

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.

12 A Special (BLANK)

The shed shall only be used for the storage and basic maintenance of two (2) pieces of plant or truck vehicles, where the plant or truck vehicles are operated only by the occupier or occupiers of the property. The shed may also be used to store personal items ancillary to the dwelling or rural use of the land, but is not to be habitable or for commercial purposes.

13 **A Special (BLANK)**

Truck movements are restricted to four (4) vehicle trips per day and restricted to between 6:00am and 8:00pm Monday to Fridays. No trucks movements are permitted on Saturdays, Sundays and public holidays.

14 **A Special (BLANK)**

The property must not be used as a truck/transport depot and/or vehicle repair workshop or vehicle repair station for:

- i) the parking or servicing of motor vehicles used in connection with a business, industry or freight transport undertaking garaging or storage or maintenance or servicing of any other trucks; or
- ii) repair of vehicles other than the two (2) pieces of plant or trucks approved herein.

15 **A Special (BLANK)**

Storage of additional trucks or employee's vehicles must occur at a site which is subject to development consent for such use. Employees of the business are not to leave their vehicles on site and drive one of the two trucks stored on site, unless they are a permanent occupier of the property.

16 **A Special (BLANK)**

The demountable office building must be lawfully removed from the property within 30 days of the issue of this consent.

17 **A Special (BLANK)**

All minor truck maintenance work is to be undertaken only by the owner of the property and must be undertaken inside the shed on the site. Minor truck maintenance work is to be restricted to between 6:00am and 8:00pm Monday to Fridays, 9:00am and 1:00pm Saturdays. No minor truck maintenance work is permitted on Sundays and Public Holidays.

18 **A Special (BLANK)**

Any driveway works and hard stand area are not to have an adverse impact upon stormwater surface flows on or from adjoining properties. All works are to be flush with the natural surface. Any works, including mounding, are not to dam, concentrate, or divert surface flows onto adjoining properties.

19 **A Special (BLANK)**

The two trucks must be stored inside the shed at all times and no loading or unloading of goods to or from the trucks is permitted on the site.

20 **A Special (BLANK)**

Any aggregate material used for the construction of the driveway is to comply with the requirements of the EPA Recovered Aggregate Exemption 2010.

21 **A Special (BLANK)**

Exterior flood lighting is not permitted and any erected lighting structures are to be removed from the site prior to the issue of the Occupation Certificate.

22 **A Special (BLANK)**

The earthworks approved herein must comply with AS 3798 and Council's Design Guidelines and Construction Specifications for Civil Works.

23 **A Special (BLANK)**

The colour of the shed is to be earthy tones, consistent with nearby sheds and in accordance with the list on the DCP and non-reflective. Details of the colour are to be provided with the construction certificate.

24 **A Special (BLANK)**

All piles of fill are to be removed, either dispersed over the site as top dressing within the levels permitted by this consent or removed off site with details of the disposal location provided to Council.

25 **A Special (BLANK)**

Prior to the issue of an engineering construction certificate the plans are required to reflect minor regrading of ground levels to ensure overland flow is effectively managed and dispersed through the truck turning area with no adverse impact onto adjoining properties.

26 **A Special (BLANK)**

Prior to the issue of an Occupation Certificate for the shed, a Work-as-Executed Plan prepared by an appropriately qualified consultant is to be submitted to Penrith City Council and verifies that the finished ground levels reflected within the approved survey drawing (approved as part of this consent) have been maintained. Any changes to finished ground level beyond those approved are to be rectified prior to the issue of any Occupation Certificate.

Environmental Matters

27 **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.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

\The approved sediment and erosion control measures are to be installed **prior to and maintained throughout the construction phase of the development until the land, that was subject to the works, have been stabilised and grass cover established.**

28 **D002 - Spraygrass**

All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover.

29 **D005 – No filling without prior approval (may need to add D006)**

No fill material is to be imported to the site without the prior approval of Penrith City Council in accordance with Sydney Regional Environmental Plan No.20 (Hawkesbury- Nepean River) (No.2-1997). No recycling of material for use as fill material shall be carried out on the site without the prior approval of Council.

30 **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 Contaminated Land 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 Contaminated Land 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.

31 **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.

32 **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 Construction 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.

33 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.

34 D Special BLANK

Prior to the issue of an Occupation Certificate, a vegetated buffer 3m wide surrounding the hardstand driveway and turning area to offset the impact of previous vegetation and habitat removal and to help manage erosion and runoff, and visual amenity is to be installed. This is approximately 500m². The vegetated buffer is to consist of species from the Castlereagh Scribbly Gum vegetation community and is to contain a selection of species from the mid/under storey and the ground stratum. The species are to be selected from the following lists:

List A – Ground stratum - At least 8 different species planted at a density of 2 plants per m².

- *Aristida ramosa*
- *Aristida warburgii*
- *Boronia polygalifolia*
- *Dianella revoluta* var. *revoluta*
- *Entolasia stricta*
- *Goodenia bellidifolia* subsp. *bellidifolia*
- *Lomandra glauca*
- *Lomandra multiflora* subsp. *multiflora*
- *Patersonia sericea*
- *Platysace ericoides*
- *Stylidium graminifolium*
- *Themeda australis*
- *Thysanotus tuberosus* subsp. *tuberosus*
- *Xanthorrhoea minor*

List B – Shrub stratum - At least 8 different species planted at a density of 1 plant per m².

- *Acacia brownii*
- *Acacia elongata*
- *Banksia oblongifolia*
- *Banksia spinulosa*
- *Bossiaea rhombifolia*
- *Callistemon pinifolius*
- *Daviesia ulicifolia*
- *Grevillea mucronulata*
- *Hakea dactyloides*
- *Hakea sericea*
- *Isopogon anemonifolius*
- *Leptospermum polygalifolium*
- *Leptospermum trinervium*
- *Lissanthe strigosa*
- *Melaleuca erubescens*
- *Melaleuca thymifolia*

NOTE: All plants are to be local provenance and are to be sourced from nurseries using local provenance seed.

35 **D Special BLANK**

In addition to the vegetated buffer plantings, **20 trees are to be planted on the property** (note: these are at a ratio of approximately 2:1 for the trees removed for the initial unauthorised works). At least 5 of these trees are to be located within the vegetated buffer surrounding the hardstand area and the remaining trees should be planted to the rear of the hardstand area, augmenting the cleared and degraded areas. Trees are to be of the following species only:

- *Eucalyptus sclerophylla*
- *Eucalyptus parramattensis*;
- *Angophora bakeri*.

Note: NO trees are to be planted within the Asset Protection Zone of the house.

NOTE: All plants are to be local provenance and are to be sourced from nurseries using local provenance seed.

36 **D Special BLANK**

All landscape plantings are to be maintained for a period of 36 months (3 years). This includes watering, weeding and replacement planting if plant death exceeds 15%.

37 **D Special BLANK**

No fill, machinery, or materials are to be placed or stored within the drip line of any tree.

38 **D Special BLANK**

No native trees or other vegetation (including shrubs and other understory vegetation) are to be removed, ringbarked, cut, topped, lopped, slashed or wilfully destroyed without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

BCA Issues

39 **E001 - BCA compliance**

All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

Construction

40 H001 - Stamped plans and erection of site notice

Stamped plans, specifications, a copy of the development consent, the Construction Certificate and any other Certificates to be relied upon shall be available on site at all times during construction.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details are to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed when the Occupation Certificate has been issued for the development.

41 H002 - All forms of construction

Prior to the commencement of construction works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property

42 H011 - Engineering plans & specifications

Detailed engineering plans and specifications relating to the work shall be submitted for consideration and approval prior to the issue of a Construction Certificate.

43 H041 - Hours of work (other devt)

Construction works or subdivision works that are carried out in accordance with an approved consent that involve the use of heavy vehicles, heavy machinery and other equipment likely to cause offence to adjoining properties 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 work is permitted on Sundays and Public Holidays.

Other construction works carried out inside a building/tenancy and do not involve the use of equipment that emits noise are not restricted to the construction hours stated above.

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

Engineering

44 [K202 - Section 138 Roads Act – Minor Works in the public road](#)

Prior to the issue of a Construction Certificate, a S138 Roads Act application/s, including payment of fees shall be lodged with Penrith City Council, as the Roads Authority for any works required in a public road. These works may include but are not limited to the following:

- Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- Road opening for utilities and stormwater (including stormwater connection to Council infrastructure)
- Road occupancy or road closures

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. Contact Council's **City Works Department** on (02) 4732 7777 for further information regarding the application process.

Note:

1. Approvals may also be required from the Roads and Maritime Service for classified roads.

45 [K208 - Stormwater Discharge \(Minor Development\)](#)

Stormwater drainage from the site shall be discharged to the:

- a) Level spreader system

The proposed development and stormwater drainage system shall be designed to ensure no adverse impact on adjoining properties by the diversion, damming or concentration of stormwater flows.

The proposed method of stormwater discharge shall be detailed in the Construction Certificate issued by the Certifying Authority.

46 [K501- Penrith City Council clearance – Roads Act/ Local Government Act](#)

Prior to the issue of an Occupation Certificate, the Principal Certifying Authority shall ensure that all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

47 [K Special Condition BLANK](#)

Any driveway works and hard stand areas are not to have an adverse impact upon stormwater surface flows on or from adjoining properties. All works are to be flush with the natural surface. Any works including mounding, are not to dam, concentrate or divert surface flows onto adjoining properties.

Landscaping

48 [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 section F4 of Council's Landscape Development Control Plan.

Certification

49 [Q01F - Notice of Commencement & Appointment of PCA2 \(use for Fast Light only\)](#)

Prior to the commencement of any earthworks or construction works on site, the proponent is to:

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

50 [Q05F - Occupation Certificate for Class10](#)

An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the occupation/use of the shed.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.