

Statement of Environment Effects

Retrospective Approval & Continued Use for Farm Building and Workers Amenities

931-947 Mamre Road, Kemps Creek
Lot 36, DP 258414

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Contents Page

Description of the Proposed Development	3
Relevant Environmental Planning Instruments	4
Proposed Environmental Planning Instruments	7
Relevant Development Control Plan	8
Planning Agreements	13
The Regulations	14
Impacts of the Proposed Development	15
Suitability of the Site	16
Submissions	17
The Public's Interest	18

Description of Proposed Development

This Statement of Environmental Effects has been prepared in accordance with the Environmental Planning and Assessment Act 1979/ Environmental Planning and Assessment Regulations 2000 and assesses the proposed development against the relevant criteria as detailed in the relevant SEPPs, LEP and DCP.

The Proposed Development is for the retrospective approval/continued use of a Farm Building and Workers Amenities at 931-947 Mamre Road, Kemps Creek, formally known as Lot 36 of Deposited Plan 258414. Approval is sought for the recently constructed Farm Building, with Workers Amenities, namely the shed Blue in colour, constructed without prior approval (identified in the I.D Survey Report provided).

The Farm Building has been constructed to assist in the daily functions of the market garden which is currently operating from the land holding. The shed consists of a large storage area, multiple rooms and amenities all of which are necessary for the daily operations of the farm. The large storage area is required for the storage of farm equipment, packing equipment and machinery to ensure they are stored indoors to protect them from the elements. A large storage has been constructed to ensure all materials and equipment effectively fit within the shed and it also allows for a cool room to be constructed at a future date if required. There are a few rooms in the Farm Building, the first is an office to assist in the daily operation of the market garden and will consist of a desk, filing cabinets and chairs. The second room will have a day bed in it as the tenants who run the market garden do not live at the property and a day bed is necessary for the farm. The farmer goes to the markets early in the morning 5 days of the week, the day bed will allow the farmer to have a nap when needed at the Farm to ensure the safety of the public when driving to his place of residence from the farm or when returned from the markets. There is also a toilet, shower, washing machine and kitchenette present in the Farm Building. The toilet is required so that when the urge arises the farmers can use the bathroom, the Shower and washing machine has been installed for the sole purpose of Farm Biosecurity(to stop pesticides, insecticides, and noxious weeds transferring from farm to farm or from farm to market/consumer) and general cleanliness, while the kitchenette will allow the farmers to have meals at the farm if they are working there for the entirety of the day.

Relevant Environmental Planning Instruments

SEPP No. 20 – Hawkesbury-Nepean River

The proposal is consistent with the aims and objectives of this policy and will not cause any detrimental effect to Sydney's waterways, drinking water quality or impact upon any downstream properties.

SEPP – Western Sydney Employment Area 2009

The lot and the proposed development falls within Precinct 11 as outlined in Clause 4 of the Western Sydney Employment Area SEPP and accordingly this SEPP must be considered. It is noted that the subject property has not been rezoned or a Development Control Plan released for the property through the SEPP, and it is considered to be unzoned land under the SEPP. Clause 12 of the SEPP states that development may be carried out on unzoned land with consent. As the land is unzoned under the SEPP, the RU2 Rural Landscapes and E2 Environmental Conservation zoning under the Penrith LEP 2010 is deemed to be the prevailing zoning and the proposed development has been assessed for compliance against those objectives and controls.

The proposed Farm Building will have minimal impact upon future development through this SEPP and as the potential rezoning is not forthcoming, the Farm Building should be granted consent.

Penrith Local Environmental Plan 2010

Definitions

The Penrith LEP defines a farm building as “a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.”

The proposal is for a farm building which will be used for the storage of agricultural tools, machinery and agricultural produce. The farm building will also have workers amenities, being a shower, kitchenette, bathroom and day bed to assist in the daily operations of the farm.

Land Use Table

The subject property is zoned RU2 Rural Landscapes and partly zoned E2 Environmental living. The proposal is located within the RU2 zoning portion of the lot and has subsequently been assessed against the objectives and controls of that zoning. The objectives of the RU2 Rural Landscape zone is;

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To preserve and improve natural resources through appropriate land management practices.
- To ensure development is compatible with the environmental capabilities of the land and does not unreasonably increase the demand for public services or public facilities.

The proposal will uphold these objectives as the farm building and workers amenities is ancillary to the primary production that is currently occurring at the premises. It satisfies the objectives of the zoning by;

- The Farm building and associated workers amenities is ancillary to the primary production that is occurring on the farm, the building has been sited to be located next to existing outbuildings to maintain the natural resource base.
- The rural landscape has been maintained as the farm building has been sited so to be not seen from the street and located near existing outbuildings to minimise the visual effects of the outbuilding.
- There is minimal conflict between land uses as the site is being used for primary production.
- The proposed farm building will not increase the demand for public services or public facilities as it is ancillary to the primary production of the farm, and the Farm Building will be non-habitable.

Existing Agricultural Use

The Farm Building with workers Amenities is ancillary to the existing agricultural use already occurring on the landholding. There are multiple planning pathways that details how the usage does not require prior Council Consent and why the agricultural usage is legal on this landholding and pre-existing.

1. The agricultural use on this property predates the Environmental Planning and Assessment Act 1979, as such the usage carries through all the relevant legislation and policy changes.
2. Council approved a Rural Workers Dwelling on the landholding in 1985, Rural Workers Dwellings are only approved when there is an associated agricultural use, meaning Council accepted that there was an agricultural use occurring on the landholding in 1985.
3. Council approved a Packing Shed on the landholding in 1985, Packing Sheds in that capacity are only approved when there is an associated agricultural use, meaning Council accepted that there was an agricultural use occurring on the landholding in 1985.
4. The subject agricultural use satisfies both part a and b of Clause 4.56 of the Environmental Planning and Assessment Act 1979 and subsequently existing use rights has been established for the agricultural use on the landholding.
5. Extensive agriculture is permitted without consent in the RU2 zoning under the Penrith LEP 2010, the agricultural use occurring satisfies part a of the extensive agricultural definition as stated in the Dictionary Schedule of the Penrith LEP 2010.

Due to the five reasons stated above, it is trusted that Council would concur that there is a lawful agricultural use occurring on the landholding, with the proposed Farm Building being ancillary to this legal usage.

Clause 4.2 – Rural Subdivision

Clause 4.2 of the Penrith LEP is irrelevant to this application as a legal dwelling already exists on the lot and the proposal is not for a dwelling or any habitable rooms

Clause 4.3 – Height of Buildings

Clause 4.3 of the Penrith LEP states that a Building must not exceed the height as stipulated by the Height of Buildings map, it is noted that in the Penrith LEP 2010, there is no HOB map for this property. The Farm Building is 5.4m high above Natural Ground Level which is consistent with the existing structures on the land, which in the circumstances is deemed reasonable and to not cause any unreasonable environmental effects.

Clause 4.4 – Floor Space Ratio

Clause 4.4 of the Penrith LEP is irrelevant to this application as it is for a rural property and subject to site coverage controls and not Floor Space Ratio.

Clause 4.5 – Calculation of Floor Space ratio and Site Area

Clause 4.5 of the Penrith LEP is irrelevant to this application as it is for a rural property and subject to site coverage controls and not Floor Space Ratio.

Clause 4.6 – Exceptions to Development Standards

Clause 4.6 of the Penrith LEP is irrelevant to this application as no development standards specified by an Environmental Planning Instrument is being contravened.

Clause 7.2 Flood Planning

The subject lot is partially Flood Prone Land, however, only a small portion of the lot is flood prone and the Farm building is located wholly outside of the Flood Planning Level as per the Penrith LEP 2010. Further comment and assessment is provided against the DCP below.

Proposed Environmental Planning Instruments

The Draft Environment SEPP has finished exhibition. The purpose of the SEPP is to consolidate seven (7) existing SEPP's into a consolidated document to simplify the rules for a number of water catchments, waterways, urban bushland and the Willandra Lakes World Heritage Property. Within this SEPP, the only relevant SEPP is Deemed State Environmental Planning Policy No. 20 Hawkesbury – Nepean River.

As it is still in draft the Draft Environment SEPP is considered not imminent or certain and accordingly, no significant weight to this proposed planning instrument has been given in this instance.

Relevant Development Control Plan

The proposed development has been assessed for compliance against the Penrith Development Control Plan 2014, with the relevant Part's being used for compliance.

Part D1 – Rural Lands

1.3 Farm Buildings

1.3.1 Siting and Orientation

1) Farm buildings and outbuildings should be clustered in one location on properties. Where possible, this should be close to dwellings, but not where this will result in land use conflict.

The Farm Building has been located so that it is clustered with the other existing farm buildings on the lot, which is close in location to the dwelling. This has also meant that there is no land use conflict as there is a distinction between farmland for primary production and dwelling houses / farm buildings and ancillary structures.

2) Farm buildings should have complementary colours and finishes to the dwelling house and surrounding environment

The Farm Building has a complimentary colour to the dwelling house and the surrounding environment as it blends into the rural setting.

3) Farm buildings should not be erected on land having a slope in excess of 15%. Cut and fill for farm buildings should be limited to 1m of cut and 1m of fill as shown in Figure D1.11.

The Farm building is located in a position that was already pre benched, accordingly minimal site scraping was required to construct the slab of the Farm Building, meaning the cut and fill is within the requirements of the DCP.

4) Farm buildings should be sited on the land so any disturbance to native vegetation is minimal.

No significant trees or vegetation was removed or disturbed to construct the Farm Building.

5) The narrowest elevation of farm buildings should face the road.

The narrow elevation of the Farm Building faces Mamre Road, however, this control is irrelevant as the building has been sited in a way that it is not visible from the street.

6) Farm buildings shall be set back a minimum of 40m from any watercourse.

The Farm building is located over 40m away from the banks of any watercourse.

7) Farm buildings should be setback behind the building line of the existing dwelling house on the property.

The Farm Building has been located behind the existing dwelling on the property.

8) Farm buildings should be a minimum distance of 10m from a dwelling located on the same allotment as the farm building.

Over 10 metres of separation has been provided between the Farm Building and the existing Dwelling House.

9) Farm buildings should be a minimum distance of 20m from a dwelling located on an adjacent allotment to the farm building.

There is no dwelling located within the vicinity of the Farm Building in the adjoining properties.

10) Landscape buffers should be provided, where possible, between farm buildings and nearby dwellings to minimise the visual impact of the farm building.

Landscape buffers would be impractical for this property and there is sufficient separation between the dwelling and Farm Building. The Farm Building is also located near existing Farm Buildings, which have no landscape/vegetation buffer.

11) Farm buildings should be a minimum distance of 5m from the side boundaries.

The Farm Building has a side setback of 2.6m, see variation request below.

1.3.2. Floor Space, Height and Design

3) For allotments more than 10 hectares in size, the maximum accumulative building footprint of all farm buildings on an allotment shall not exceed 600m².

The Accumulative Building Footprint for the property is approximately 1000m², see variation request below.

4) Intensive agricultural uses may require larger accumulated building footprints than those specified above. Variation will be considered but must be justified in the application.

It is noted that the agricultural usage occurring on the landholding satisfies both Part (a) of Intensive Plant Agriculture and Part (a) of Extensive Agriculture as found in the Penrith LEP 2010 definition. Subsequently, under this control there is scope for a potential variation to the control above, namely Control 3 of 1.3.2.

The Accumulative Building Footprint for the property is approximately 1000m², see variation request below.

5) A farm building should not be more than 8m high.

The maximum ridge height of the Farm Building is 5.4m above Natural ground Level.

6) The maximum external wall height of a farm building shall be 5m. External wall height means the distance from the natural ground level to the underside of the eaves.

The maximum height of a wall is only 4.2m above Natural Ground Level.

7) Where a farm building is higher than the dwelling on the land, the building must be located behind the dwelling and screened from view by vegetation (or similar).

The Farm Building is lower than the existing dwelling on the property, therefore no vegetation is required and it is located behind the dwelling.

8) The design of farm buildings should comprise traditional roof shapes to provide visual relief to the building, reduce the buildings dominance over its setting and to provide interest and character to the locality.

A Gable Roof Form has been selected for this Farm building which is sympathetic to the existing character of the land and typical of traditional roof forms, which is also found on the principal dwelling on the Land.

9) Farm buildings should have a maximum external wall length of 15m between distinct corners or significant features such as awnings.

The external wall length of the Farm Building is 18m, however this is deemed to not have any detrimental impacts upon significant views or landscapes.

10) Farm buildings shall have a minimum roof pitch of 15° and a maximum roof pitch of 25°.

The roof pitch of the Farm Building is 11°, this is also deemed insignificant as 11° was the standard for the roof, with changing the pitch an added expense that had no environmental or visual benefit over 11°.

11) All elevations of farm buildings that face the street are to present a suitable level of detailing to minimize their visual bulk. Features which can be used include windows, awnings and verandahs.

The front elevation of the Farm Building has a roller door which provides a focal point within the Building and minimises the visual bulk of the Farm Building. Further, the Farm Building is not visible from the street as it is hidden by the existing Farm Buildings and Dwelling and additional features will serve no purpose.

1.3.3 Materials and Colours

1) The colour of farm buildings shall complement the colours of the natural vegetation and background of the property, such as grey, brown, beige and green.

The Farm Building is a Mountain Blue colour, which is a deep tone of blue, this colour does not dominate the rural setting, but rather compliments the existing setting, rural landscape and structures.

2) Farm buildings shall be constructed of non-reflective materials. Where traditional materials, such as unpainted corrugated iron, are used, the building must be screened by landscaping to minimise its visual impact.

The building has been constructed from pre-fabricated corrugated iron sheeting in a Mountain Blue colour, which does not prominent within the rural setting and importantly is low reflective and has minimal impact upon neighbouring properties.

3) The construction of farm buildings should utilise a range of materials to aid in the articulation of the building form.

A range of materials have been used to create articulation in the Farm Building, these include windows, doors and roller doors, all of which contribute to reducing the appearance of blank excessive walls.

4) Where farm buildings are below the 1:100 ARI flood level, they are to be constructed of materials that can withstand flooding.

The Farm Building is located outside of the 1:100 year flood level, accordingly this control is irrelevant.

Section 4.15 Variation to Development Control Plan Controls

Clause 4.15 Evaluation (3A) Development Control Plans (b) of the Environmental Assessment & Planning Act 1979 states:

- if those provisions set standards with respect to an aspect of the development and the development application does not comply with those standards—is to be flexible in

applying those provisions and allow reasonable alternative solutions that achieve the objects of those standards for dealing with that aspect of the development, and

Please see variation request below, which satisfies both the requirements of the Environmental Planning and Assessment Act 1979 and the objectives as set out in the Penrith LEP and Penrith DCP.

Side Setback

The required 5m setback for Farm Buildings to side setbacks has been varied due to multiply reasons, those being;

- The 2.6m setback adopted for this Farm Building is consist with the setbacks for the existing Farm Buildings on the property, which has prior consent from Council in this location and has no detrimental impact upon the streetscape or neighbouring properties.
- Control 1 of this subsection states “that Farm Buildings shall be clustered to avoid land use conflict”, this control is contradictory to Control 11. As such, preference has been given to complying with Control 1 as it ensures a better design outcome and is more practical in the circumstances.
- The Farm Building was located in this position to comply with out key controls within the Development Control Plan, as such no major earthworks/cut/fill was undertaken to form a building platform and no significant trees or vegetation were removed to form the building platform. If the shed was relocated to the required 5m it would of resulted in extensive earthworks to create a platform.

The objectives for this relevant subsection are, with comments provided below;

- a) *To integrate farm buildings with the landscape so they complement the rural character of an area and are not visually dominant;*
The farm building has been integrated with the landscape, via no trees being removed or any alterations made to natural ground level. The Farm Building compliments the existing rural character and is not a negative design outcome. Further, the variation to the 5m side setback ensures that the Farm Buildings are clustered and subsequently not visually dominant within the Rural Setting.
- b) *To ensure that farm buildings are located to have minimum adverse impact on the environment and on the potential use of the land for agriculture;*
The Farm Building’s location has minimal impact upon the surrounding environment, with no earthworks or vegetation removed to form a building platform. Also, by being clustered with the existing outbuildings it ensures that the area of the property used for outbuildings has the smallest possible footprint and that the potential agricultural use of the property is maximised.
- c) *To provide separation between potential noise generating sources; and*
The Farm Building is ancillary to the agricultural use which is occurring on the property, as such there is no significant noise generating source which has to be considered.
- d) *To provide areas for landscaping between buildings.*
There is still sufficient areas for landscaping between the Farm Buildings.

Accumulative Building Footprint

The required Accumulative Building Footprint of 600m² has been varied to multiple reasons, those being:

- There was the need for an additional Farm Building on the Landholding and a Farm Building of this size was the most practical to the agricultural usage.

- An Accumulative Building footprint of 600m² equates to 0.58% of the total landholding beings used as Farm Buildings, this is quite minimal and reduces the potential agricultural use on the land. Alternatively, an Accumulative Building Footprint of 1000m² only equates to 1% of the landholding being used for Farm Buildings. In an environmental sense, this is quite a minimal exceedance as the majority of the landholding is still predominately used for primary production and agricultural uses.
- There is minimal impacts upon neighboring properties or adjacent land uses as a result of this variation, as such there is no reasonable grounds as to why a variation should not be supported in this instance.

The objectives for the relevant subsection are, with comments provided below;

- a) *To control the size and height of Farm Buildings to minimise their visual impact on the landscape;*
The Farm Building has been designed in a way so that it compliments the rural landscapes, the Farm Building is only 216m² which is complimentary to the rural landscape and the height is 5.2m which also has minimal environmental impact. When viewed from the street or adjoining properties the rural landscape has been maintained and not detrimentally reduced.
- b) *To ensure that the size of farm buildings is consistent with the intended use and the size of the property;*
The Farm Building is appropriately sized for the intended use and size of the landholding and it is deemed necessary to have a Farm Building of this size in order to support the agricultural usage on the landholding. As stated before, the accumulative Building Footprint for Farm Buildings on the landholding is only 1% of the lot size, which is quite insignificant.
- c) *To encourage improved design of farm buildings so they enhance the rural landscape and character of an area; and*
The Farm Building has been appropriately designed to compliment the existing architectural style established on the landholding. The Farm Building is not a visual point in the rural landscape, nor does it detract from the visual amenity of the landscape.
- d) *To ensure that farm buildings use a range of design measures to suit individual circumstances.*
In this individual circumstance there was no prevailing need for the Farm Building to display architectural excellence as it is not visible from adjoining properties or the street. Therefore a range of design measures have not be utilised as it was not deemed necessary.

Part C3.5 Flood Planning

A Flood Information Certificate has been obtained from Council for the subject property. The Flood Information Certificate illustrates that only the rear of the property is affected by the 1:100 flood. The Flood Information Certificate details that the Farm Building in question has a Floor Level of 44.9 AHD which is over 2m above the 1% AEP Floor Level. As the Farm Building is sufficiently outside of the Flood Prone Land, it is deemed that the flooding provisions are deemed unnecessary for the Farm Building.

Planning Agreements

The proposed development is quite minor in nature and does not increase the intensity of development upon the site. Subsequently no Planning Agreement under Section 7.4 has been entered into or need to be entered into.

The Regulations

All necessary documentation has been provided in accordance with the Regulations in support of this Development Application.

It is assumed that conditions will be imposed in accordance with the Regulations.

Impacts of the Proposed Development

The Farm Building has been previously constructed and subsequently no new waste or impacts from the initial construction phase need to be considered.

The Farm Building is complementary to the rural landscape and does not detract from the visual landscape or impact negatively upon the natural environment.

The Farm Building enhances the built environment and increases the agricultural capacity on the landholding which supplements the agricultural usage on the landholding and has positive economic impacts.

The Farm Building has no significant social impact within the locality due to the rural characteristic of the landscape.

Suitability of the Site

Flood Planning

The Farm Building is located wholly outside of the 1:100 flood planning level and subsequently has no detrimental upon the floodplain or affects a possible flood event. Furthermore, the Finished Floor Level is 44.9 AHD which is 2.1m above the Flood Planning Level.

Bush Fire Prone Land

The subject property is currently mapped as Bush Fire Prone Land as per Council's mapping system, as the Bush Fire Self Assessment Report stipulates there is no significant Bushfire Threat within 140 metres of the subject Farm Building and accordingly there are no Construction Requirements for the Farm Building.

Easements

As detailed within the Deposited Plan there is a Right of Way burdening the property for a distance of 10 metres within the front boundary of the property. The Farm Building is located wholly outside of the Right of Way. There is also a provision of the expansion of Mamre Road with a corridor of the property being earmarked for this extension, the property is located wholly outside of this proposed road extension.

While not noted on the Deposited Plan there is also an easement that is present at the rear of the property for electricity lines and cables, the Farm Building is also located wholly outside of this easement that is present upon the property.

Landholding Size

The subject property is 10.3 Hectares with the Farm Building only being 216m² and there is ample space for the Farm Building on the Landholding without compromising the environment or neighbouring properties.

On Site Sewage Management

The Farm Building has a toilet, hand basin and shower for the workers while they work on the landholding. It is proposed for these services to be connected to the existing Onsite Sewage Management System that serves the Principal Dwelling, via a sewerage line powered by a pump. This structure is non habitable and therefore the usage will be minimal and the effects on the existing system will be negligible. The existing effluent area for the Principal Dwelling can be increased if required to meet Councils on Site Sewerage Management Policy. A Separate Section 68 Application will be made with Council for the alteration of an Onsite Sewerage Management System if Council is favourable to this current application. Further it is deemed acceptable for Council to condition one such application must be made once consent is issued.

Subsequently the site is deemed suitable for the proposed development and there is minimal environmental impacts from the proposed development.

Submissions

Due to the number of variations proposed to the Penrith DCP 2014, it is expected that Council may require this Development Application to be neighbour notified.

If there are submissions made against the Farm Building and Workers Amenities throughout the Neighbour Notification period, it is expected that Council will act as a mediator to ensure a workable solution is achieved for all parties involved.

The Public's Interest

The development is deemed to be within the Public Interest as the proposed development is complementary to the Rural Zoning and landscapes, as well as satisfying the objectives of the zoning.

Furthermore, the subject Farm Building and workers Amenities has been built and in use as a Workers Amenities in excess of a year, with no detrimental impacts to the public or any complaints being forthcoming.