

Notice of Modification

Section 96(1A) of the *Environmental Planning & Assessment Act 1979*

I, the Executive Director, Major Project Assessments, as delegate for the Minister for Planning, modify the development consent referred to in Schedule 1 as set out in Schedule 2.



Chris Wilson
Executive Director
Major Project Assessments

Sydney 18 DECEMBER 2006

File No: P91/01218

SCHEDULE 1

The development consent (DA 86/2720) granted by the Minister for Planning and Environment for the Penrith Lakes Scheme, on 24 February 1987.

SCHEDULE 2

1. Delete APPLICATION and the text immediately thereunder and replace with the following:

APPLICATION

APPLICANT: Penrith Lakes Development Corporation

DEVELOPMENT APPLICATION: Development for the purposes of implementing the Penrith Lakes Scheme as described:

- (a) in Schedule 1 of *Sydney Regional Environmental Plan No. 11 – Penrith Lakes Scheme*;
- (b) on land described in the attached plan B/1-40015 and described in the Schedule;
- (c) Development Application DA 86/2720 and accompanying information lodged on 1 December 1986 with the Department of Planning and Environment; and
- (d) Modification Application MOD 87-6-2005 lodged with the Department of Planning on 26 June 2005, and accompanying information:
 - Statement of Environmental Effects titled "*Penrith Lakes Development Corporation, Penrith Lakes Scheme, Statement of Environmental Effects - Dynamic Compaction Prototype Trial*" dated June 2005;
 - supplementary assessment titled "*Penrith Lakes Development Corporation, Dynamic Compaction Prototype Trial Supplementary Assessment*" dated 21 September 2005; and
- (e) Modification Application MOD 123-10-2006 lodged with the Department of Planning on 9 October 2006 and accompanying Statement of Environmental Effects titled "*Penrith Lakes Development Corporation, Penrith Lakes Scheme, Statement of Environmental Effects - Dynamic Compaction*", dated October 2006.

2. After condition 1, insert conditions 1A & 1B, as follows:

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- 1A. The Applicant shall implement all practicable measures to prevent or minimise any harm to the environment that may result from the construction or operation of the development.

TERMS OF APPROVAL

- 1B. The Applicant shall carry out the development generally in accordance with the development application (as described under "Application" above) and conditions of this consent. If there is any inconsistency between the documents listed under "Application", the latter document shall prevail over the former to the extent of the inconsistency. However, the conditions of this consent shall prevail over all other documents to the extent of any inconsistency.

3. Insert the words "and the development described in MOD 123-10-2006" after the words "described MOD 87-6-2005" in condition 17A.

4. After condition 36A, insert the following:

- 36AA. Prior the commencement of the development described in MOD 123-10-2006, the Applicant shall revise and implement the Dynamic Compaction Noise and Vibration Management Plan to the satisfaction of the Director-General.

5. Delete condition 36B and replace with the following:

- 36B. The Applicant shall ensure the development described in MOD 87-6-2005 and MOD 123-10-2006 complies with the hours of operation set out in Table 1:

Monday to Saturday	Sundays and Public Holidays
7.00 am to 7.00 pm	No work

Table 1 Hours of Operation

6. Delete condition 36C and replace with the following:

- 36C. The Applicant shall ensure that the development described in MOD 87-6-2005 and in MOD 123-10-2006 complies with the noise limits set out in Table 2, unless it has secured a written agreement from the affected landowner to exceed these limits.

Sensitive Receivers	Noise Limits dB(A), L _{Aeq} 15 minutes, daytime
Poplars Heritage Complex (at occupied residence only)	43
Cranebrook Village	45
South Cranebrook residences	39
Upper Castlereagh Uniting Church residence	51
Whitewater Stadium (when in use)	48

Table 2 Noise Limits

Notes:

- (a) Noise from the development is to be measured at the most affected point within the residential boundary, or at the most affected point within 30 metres of the dwelling

where the dwelling is more than 30 metres from the boundary, to determine compliance with the noise level limits in condition 36C.

- (b) Where it can be demonstrated that direct measurement of noise from the premises is impractical, the Department of Environment and Conservation may accept alternative means of determining compliance. See Chapter 11 of the *NSW Industrial Noise Policy*.
- (c) The modification factors presented in Section 4 of the *NSW Industrial Noise Policy* shall also be applied to the measured noise levels where applicable.
- (d) The noise emission limits identified in condition 36C apply under meteorological conditions of wind speed up to 3 metres per second at 10 metres above ground level.

- 36D. The Applicant shall ensure that the development described in MOD 87-6-2005 and in MOD 123-10-2006 complies with the vibration limits set out in Table 3, unless it has secured a written agreement from the affected landowner to exceed these limits.

Sensitive Receivers	Ground Vibration Limits	
	Building Damage (peak particle velocity)	Human Comfort (vibration dose value)
Residences at Cranebrook Village, South Cranebrook, and Upper Castlereagh Uniting Church	5 mm/s	0.20 m/s ^{1.75}
Poplars Heritage Complex	3 mm/s	0.40 m/s ^{1.75}
McCarthy's Cemetery	3 mm/s	N/A
Whitewater Stadium	10 mm/s	N/A

Table 3 Ground Vibration Limits

Note:

Vibration dose values sourced from Table 2.4 in "Assessing Vibration: a technical guideline" (DEC 2006).

- 36E. Within 1 month of commencing dynamic compaction operations described in MOD 123-10-2006, the Applicant shall prepare a noise compliance assessment to the satisfaction of the DEC. The assessment shall be prepared by a suitably qualified and experienced acoustic consultant and shall assess compliance with the noise and the human comfort vibration limits in Tables 2 and 3 of condition 36C. The report should provide details of offset distances determined from monitoring in order to satisfy these limits at all off site sensitive receivers where a written agreement from the affected landowner has not been secured.
7. Delete the words "Table 5" with "Table 6" from condition 37 and replace with the words "Table 4" and "Table 5", respectively.
8. Insert after condition 43, the following:
- 43A. Prior to undertaking any dynamic compaction works within 95 metres of "McCarthy's Cemetery" or the "Poplars Heritage Complex", the Applicant must commission a suitably qualified person(s), approved by the NSW Heritage Office, to undertake works to protect the heritage significance of these items from potential damage arising from dynamic compaction activities, to the satisfaction of the NSW Heritage Office.
- 43B. The Applicant shall not construct any trench for the purpose of surface vibration mitigation on land not previously excavated for quarrying purposes except to the satisfaction of the NSW Heritage Office.

- 43C. The Applicant shall rectify any damage caused by its activities to "*McCarthy's Cemetery*" or the "*Poplars Heritage Complex*", to the satisfaction of the NSW Heritage Office.