



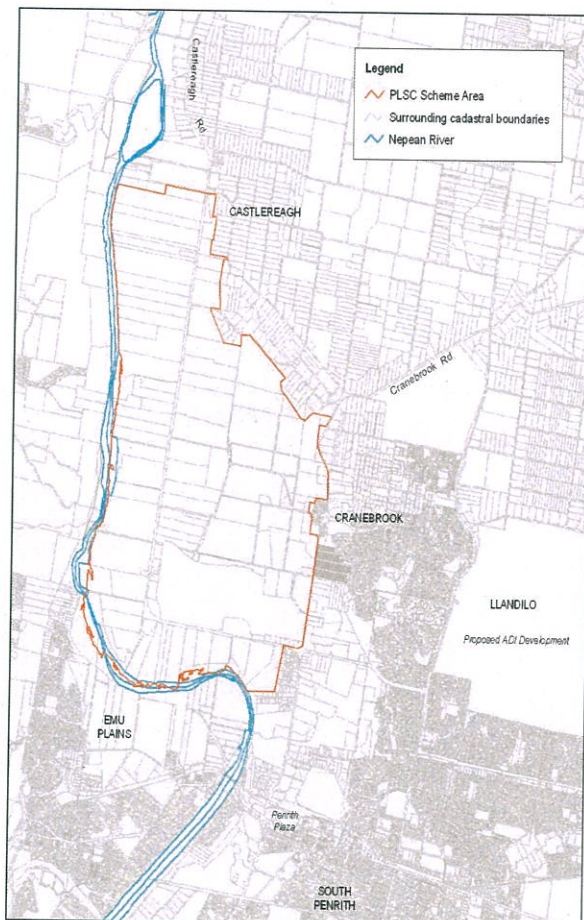
ASSESSMENT REPORT

Proposed Sand Extraction – Camenzuli Property Penrith Lakes Scheme

1. BACKGROUND

The Penrith Lakes Scheme currently supplies 55% of Sydney's sand and gravel requirements, and covers an area of approximately 2,000 hectares of the Penrith Castlereagh floodplain in the Penrith LGA (see Figure 1).

The Scheme's extraction and rehabilitation operations are governed by the *Sydney Regional Environmental Plan No. 11 – Penrith Lakes Scheme* (SREP 11), and co-ordinated by the Penrith Lakes Development Corporation (the Applicant).



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Figure 1 Penrith Lakes Scheme

Extraction operations are scheduled to be completed around 2011, and the subsequent rehabilitation of the site for residential and recreational use is expected to be completed by 2020.

Operations within the Scheme are covered by a range of development consents that were granted by the Minister (see Figure 2).

Operations to the west of Castlereagh Road are covered by Development Consent 4 (DA4), while operations to the east of Castlereagh Road are generally covered by Development Consents 2 & 3 (DA2 & DA3).

The Camenzuli property, which covers an area of about 7.6 hectares, is wedged between the areas covered by DA3 & DA4 (see Figure 2).

The Applicant is seeking to modify DA4 under section 96(2) of the *Environmental Planning & Assessment Act 1979* (EP&A Act) to allow sand and gravel extraction on this property.

2. PROPOSED MODIFICATION

The proposal involves extending the operations that are currently being carried out under DA4 onto the Camenzuli property.

This includes:

- preparing the site (removing vegetation, draining the dam, etc.);
- removing overburden and trucking it to other parts of the Scheme for rehabilitation work;
- extracting up to 460,000 tonnes of sand and gravel and trucking it along private haul roads to the Boral processing plant which is located adjacent to the Scheme; and
- rehabilitating the site for recreational use.

These works would occur during the day, and take about 6 months.

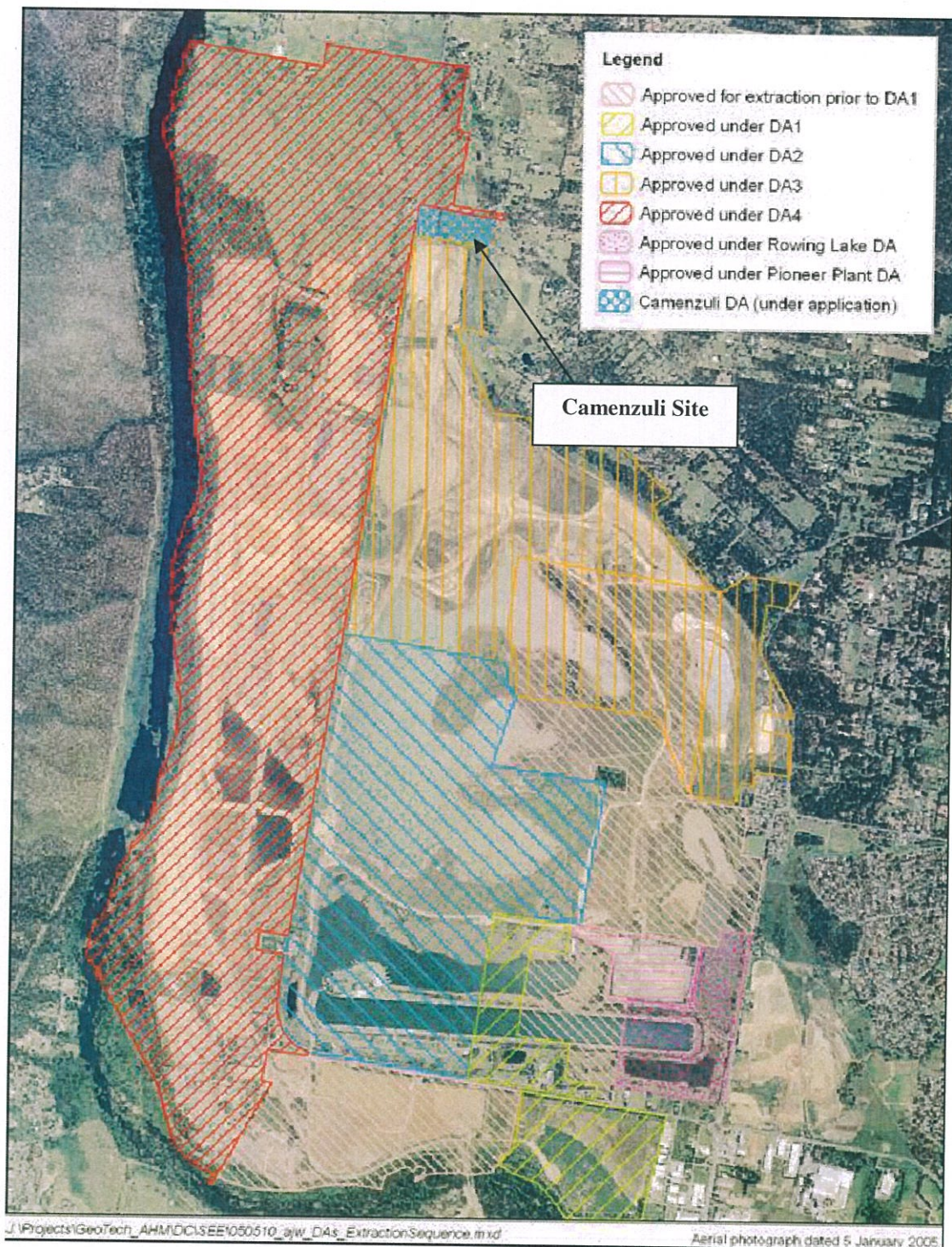


Figure 2: Proposed Site & Approved Sand and Gravel Extraction Operations

3. STATUTORY CONTEXT

3.1 Permissibility

The site is located on land to which *Sydney Regional Environmental Plan No 11 – Penrith Lakes Scheme* (SREP 11) applies. The proposal is permissible with development consent under SREP 11.

3.2 Consent Authority

The Minister was the consent authority for the original development application (DA4), and is therefore the consent authority for this modification application.

On 12 September 2005, the Minister delegated his powers and functions as a consent authority to modify development consents under section 96(2) of the EP&A Act to the Deputy Director-General, Office of Sustainable Development Assessment & Approvals, where:

- the capital investment value of the modification application is less than 50% of the capital investment value of the original development; and
- there are less than 10 public submissions in relation to the application.

The current application meets the above criteria. Therefore, the Deputy Director-General is the consent authority for this modification application.

3.3 Section 96(2)

Under section 96(2) of the EP&A Act, a consent authority may modify development consent if:

- a) *it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).*

The Department is satisfied that the proposed modification is substantially the same development for which consent was originally granted as the proposed modification represents a minor extension to the area already approved under the development consent for DA 4.

3.4 Environmental Planning Instruments

The following environmental planning instruments are relevant to the proposal:

- *Sydney Regional Environmental Plan No. 11 – Penrith Lakes Scheme;*
- *State Environmental Planning Policy No. 33 – Hazardous and Offensive Development; and*
- *State Environmental Planning Policy No. 55 – Remediation of Land.*

The Department has assessed the proposal against the requirements of the above planning instruments (see Appendix 1), and is generally satisfied that the proposal complies with and/ or is consistent with the requirements of these planning instruments.

4. CONSULTATION

On 26 April 2005, PLDC lodged an application with the Department to modify the development consent for DA 4 under section 96(2) of the EP&A Act.

The Department subsequently:

- notified surrounding landowners, Penrith City Council, and all the relevant State government agencies;
- advertised the exhibition of the application in the Penrith Press on 10 May 2005; and
- exhibited the application from Wednesday 11 May 2005 until Friday 27 May 2005.

This satisfies the requirements for public participation in the *Environmental Planning and Assessment Regulation 2000*.

During the exhibition period, the Department received 2 submissions on the proposal, both from Government authorities.

Penrith City Council raised concerns about the potential noise, vibration and dust impacts of the proposal on the residents living along West Wilchard Road, and suggested a number of conditions for the proposal. The Applicant has provided a detailed response to Council's concerns (see Tag B), and the Department is satisfied that potential noise, vibration, and dust impacts of the proposal can be mitigated and managed to ensure an acceptable level of environmental performance (see Section 6).

The **Department of Environment and Conservation (DEC)** initially raised concerns about the potential noise impacts of the proposal. However, in August 2005, the Applicant provided a supplementary noise assessment that adequately addresses these concerns (see section 6.1). It also noted that heritage assessment did not comply with the DEC's *Interim Aboriginal Consultation Guidelines*. The Department has assessed the potential impacts of the proposal on Aboriginal heritage in section 6.5 and concluded that the proposal is likely to have negligible impacts.

5. LOCAL MEMBER

Ms Karyn Paluzzano is the local member for Penrith. Her views on the proposal are not known.

6. KEY ISSUES

The Department has assessed the modification application, SEE and submissions on the proposal and considers the key issues to be:

6.1 Noise



The proposal would be close to several residences along West Wilchard Road (see Figure 3).

Initially, the proposal was predicted to result in significant exceedances of the project specific noise criteria under the *Industrial Noise Policy* (INP), and the existing noise limits in DA4 and on the environment protection licence (see Table 1).

However, after the Department, DEC and Council raised concerns about these predicted exceedances, the Applicant assessed the effect of implementing a range of additional noise mitigation measures (see Supplementary Noise Assessment tagged C). These measures included constructing several large bunds along the boundary of the property and leaving a greater buffer area between the extraction operations and the closest residences.

As the construction of large bunds is not feasible for such a small proposal, the Applicant has decided to increase the buffer area between the extraction operations and the eastern boundary of the site to 98.5 metres, and construct a 2 metre bund along part of the eastern boundary of the site.

These changes are predicted to significantly reduce the noise impacts of the proposal (see Table 2).

Figure 3 Nearest Sensitive Receivers

Receiver	Hours of work	Noise Levels dB(A)				
		INP Intrusive Criteria	EPL and Development Consent Criteria		Predicted Noise Level	
			Absolute Maximum	Maximum for works between 3-30 Months	Works at grade(worst case scenario)	Works 10m below grade (best case scenario)
Initial Noise Predictions						
3	7:00 - 18:00	44	70	55	62	52
4					70	60
5					59	49
Revised Noise Predictions With Additional Mitigation Measures						
3	7:00 - 18:00	44	70	55	55	27
4					58	29
5					52	24

Table 2 Results of Noise Impact Assessment

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Notwithstanding these reductions, the proposal is still predicted to exceed the project specific noise criteria under the INP at the closest receivers, and the existing noise limits at receiver 4 when the works are at grade.

However, given that the proposed works would only be at grade for short periods of time (1-2 days), would be conducted only in daylight hours (7am to 6pm on weekdays, and 7am to 1pm on Saturdays), and would occur over a relatively short period (about 6 months), the Department believes that these exceedences are warranted on this occasion, particularly given the significance of the resource for the Sydney construction materials market.

6.2 Surface and Groundwater

Although the proposal would intercept groundwater resources during extraction operations, the groundwater make is expected to be much the same as it is for existing operations and is unlikely to affect any groundwater users to the east of the site as the groundwater flows in a westerly direction down to the river.

In addition, the proposal would be incorporated in to the existing surface water management system for the Scheme, and is not expected to cause any significant surface water impacts.

6.3 Air Quality

With good dust management, the proposal is expected to comply with DEC's criteria for dust deposition, total suspended solids and PM 10 at the closest residences along West Wilchard Road. However, to check compliance with this criteria, the Department believes the Applicant should be required to install an additional dust gauge near these residences before it carries out any works on the site.

6.3 Flora and Fauna

Ecohort Pty Limited assessed the potential flora and fauna impacts of the proposal.

The site is generally comprised of cleared agricultural land, and has little or no conservation significance.

Notwithstanding this general conclusion, the existing farm dam was considered to be potential habitat for the threatened species *Litoria aurea* (Green & Gold Bell Frog). Targeted surveys for the frog during ideal weather conditions and the frog's breeding season found no evidence of frog on the site. Consequently, Ecohort concluded that the proposal is unlikely to have a significant impact on the frog.

6.5 Aboriginal Heritage

Dr James Kohen assessed the potential aboriginal heritage impacts of the proposal.

Dr Kohen found 18 flake stone artefacts on site within the eroding exposed walls of the dam, and concluded that the archaeological potential of the site was low. The Applicant is proposing to obtain 'consents to destroy' the artefacts on the site under section 90 of the *National Parks and Wildlife Act 1974* prior to carrying out any works on site.

DEC noted that heritage assessment did not comply with the *Interim Aboriginal Consultation Guidelines*. However, given the paucity of heritage material on the site, this non-compliance is not considered to be significant.

6.6 Transport

The proposal would use existing trucks for haulage purposes, and is not expected to increase the transport impacts of operations in the DA4 area.

7. RECOMMENDED CONDITIONS OF CONSENT

The Department has prepared recommended conditions of consent for the proposal. These conditions are required to:

- ensure that the Camenzuli property is added to the schedule of land covered by the DA4;
- require the Applicant to implement the proposed management and mitigation measures in the SEE and Supplementary Noise Assessment; and
- require the Applicant to install an additional dust monitor near the residences along West Wilchard Road.

The Applicant does not object to these recommended conditions of consent.

8. CONCLUSION

The proposal represents a small extension to the Penrith Lakes Scheme, which currently supplies approximately 55% of Sydney's sand and gravel requirements. It would produce about 460,000 tonnes of sand and gravel over about 6 months, and enable the extraction operations at the Scheme to be completed by 2011.

Apart from some short-term exceedances of the noise limits in DA4 at one residence, the proposal is not expected to cause any significant environmental impacts.

Following extraction, the site would be rehabilitated for recreational use in accordance with the current requirements in DA4.

After assessing the application and supplementary information, the Department is satisfied that the proposal should be approved subject to conditions.

9. RECOMMENDATION

It is RECOMMENDED that the Deputy Director-General:

- consider this report;
- determine that the development as modified would be substantially the same development to which consent was originally granted;
- approve the proposed modification under section 96(2) of the EP&A Act; and
- sign the attached notice of modification (Tag A).


David Kitto
Manager
Mining and Extractive Industries
10/10/05


Chris Wilson
A/Deputy Director-General
13.10.05

APPENDIX A

ASSESSMENT OF ENVIRONMENTAL PLANNING INSTRUMENTS

A.1 Sydney Regional Environmental Plan No. 11 – Penrith Lakes Scheme (SREP 11)

SREP 11 aims to coordinate sand and gravel extraction operations and subsequent rehabilitation operations within the Penrith-Castlereagh floodplain within the area identified in clause 3 of SREP 11 as the 'Penrith Lakes Scheme'. Development for the purposes of implementing the Penrith Lakes Scheme (including staged sand and gravel extraction, and staged rehabilitation) are permissible within the Scheme area with the Ministers consent.

Clause 8(3) of SREP 11 requires that a consent authority shall not consent to the carrying out development for the purposes of implementing the Penrith Lakes Scheme unless the Applicant has submitted a SEE of the proposed development addressing the matters specified in Schedule 2 of SREP11. The Department has reviewed the Applicant's SEE and is generally satisfied that it has met the relevant provisions and requirement of Schedule 2.

A.2 State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33)

SEPP 33 aims to define 'Hazardous' and 'Offensive' development so that consent authorities can recognise such development when determining development applications. The Department has assessed the environmental impacts of the proposal and is satisfied that the proposal includes sufficient controls and management measures so as to not constitute a development that would 'pose a significant risk to the biophysical environment or to human health, life or property', or one that would 'emit a polluting discharge which would have a significant adverse impact on the locality'.

A.3 State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

SEPP 55 aims to provide for a State-wide planning approach to the remediation of contaminated land. The proposed modification would change the land use of the Camenzuli land from a rural, residential property to a sand quarry. A preliminary investigation of the site undertaken in accordance with the *Planning Guidelines for Managing Land Contamination (1998)* indicated that limited areas around the site (including areas around the septic tank and dam) have some potential for contamination. The Applicant proposes to remediate any contaminated soil on site in accordance with the requirements of the *Contaminated Management Land Act 1997*, prior to the commencement of any works on site.