

ASSESSMENT REPORT

Penrith Lakes Scheme
DA2 MOD 8 and DA3 MOD 7

1. INTRODUCTION

This report is an assessment of an application seeking to modify two Development Applications (DAs) (DA2 MOD 8 and DA3 MOD 7) for extractive operations and rehabilitation activities at Penrith Lakes (the Penrith Lakes Scheme) in the Penrith local government area.

The application has been lodged by the Penrith Lakes Development Corporation (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act* 1979 (EP&A Act). It seeks approval to import an additional 300,000 tonnes of virgin excavated natural material (VENM) and/or Excavated Natural Material (ENM) for each DA (DA2 and DA3).

2. SUBJECT SITE

The Penrith Lakes Scheme is located approximately 50 kilometres (km) north-west of Sydney Central Business District (CBD), 30 km north-west of Parramatta CBD and 3 km north of Penrith CBD. The site is bound by the Nepean River to the west and south and Castlereagh Road to the east and north. Residential development in Cranebrook is located beyond Castlereagh Road to the west of the site. The site adjoins industrial lands to the south-west and rural allotments to the north (**Figures 1** and **2**).

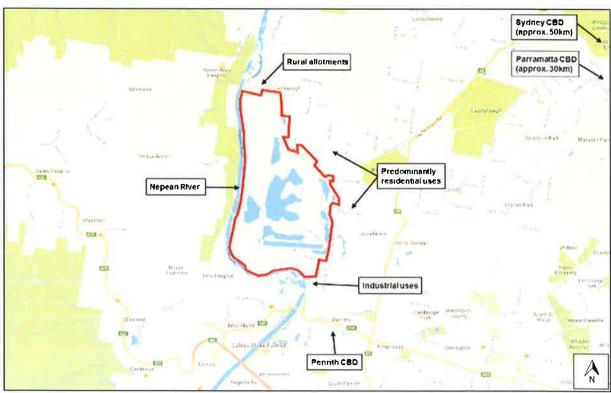


Figure 1: Location of the Penrith Lakes Scheme, the site outlined red (Base Source: Nearmap)

3. PENRITH LAKES SCHEME

The Penrith Lakes Scheme is a 30 year quarrying and rehabilitation project being undertaken by a joint-venture company, the Penrith Lakes Development Corporation Limited (PLDC). The Scheme is located on a 1,940 hectare site within the Nepean River floodplain that is being progressively transformed from a sand and gravel quarry into a water-oriented recreation park and other lands suitable for rural tourism or employment uses. Quarrying activities on the site finished in September 2015 and PLDC has been progressively rehabilitating the site.

In 1987, the Government entered into a Deed of Agreement with the proponent in relation to the Penrith Lakes Scheme. The Deed outlines the rights and responsibilities of each party in the implementation of the Penrith Lakes Scheme. The 1987 Deed provided for the dedication of land by PLDC to Government following the end of extraction activities and the completion of site rehabilitation works.

Extraction and rehabilitation activities at Penrith Lakes have historically been governed by the Sydney Regional Environmental Plan No.11 – Penrith Lakes Scheme (SREP 11). In 2012, SREP 11 was renamed State Environmental Planning Policy (Penrith Lakes Scheme) 1989 (SEPP PLS) and in January 2017 the SEPP was amended.

Under the amended SEPP, the Penrith Lakes Scheme allows for approximately 80 ha of waterways, 110 ha of parklands, 118 ha of environmental area, 33 ha of employment area and 52 ha of tourism area. Another 1,330 ha of unzoned land is likely be the subject of future land use planning following the completion of flood investigations and consultation with the community.

4. APPROVAL HISTORY

4.1 Development Consents

There are a number of development consents that govern the activities on the site, including the quarrying activities and rehabilitation works.

Under SREP 11, provision was made for the submission of sequential DAs for the progressive release and rehabilitation of resource-bearing land within the Penrith Lakes Scheme. Four consents (DA1 to DA4) have subsequently been approved by the Minister (the Original DAs), summarised in **Table 1**.

Table 1: Summary of the Original DAs

Consent / Date	Description
DA 1	Interim extraction while detailed planning studies and preparation
Dated July 1982	of SREP 11 undertaken.
DA 2	Applies to land east of the former alignment of Castlereagh Road
Dated 24	(southern part) and includes Lake A, the Southern Wetlands and
February 1987	Quarantine Lake
DA 3	Applies to land east of the former alignment of Castlereagh Road
Dated 27 June	(northern part)
1995	
DA 4	Applies to land west of the former alignment of Castlereagh Road
Dated 9	and includes the Wildlife Lake, Quarantine Lake, Lake A, Lake B
September 1998	and the Southern Wetlands.

The land associated with the four original DAs is shown at Figure 2.

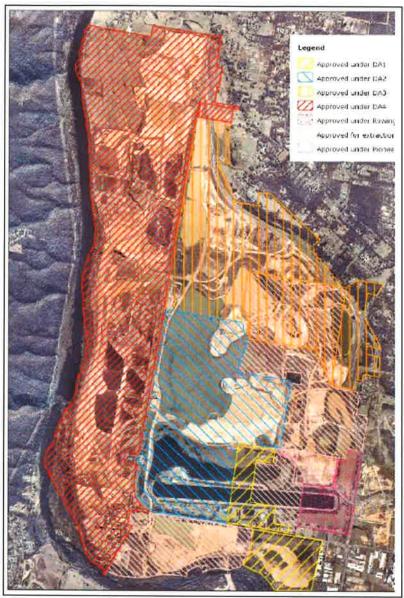


Figure 2: The land associated with the different DAs (Source: Applicant's documentation)

All of the Original DAs have been modified. However, there are three modifications to DA2 and DA3 which are considered relevant to the current modification applications, which are summarised below:

Table 2: Summary of relevant modifications to the consents

MOD Number	Summary of Modifications	Approval Date
DA2 MOD 4 DA3 MOD 3	Change to the timing of works to 2014-2016, amendment of the area for Virgin Excavated Natural Material (VENM), expand the source of VENM (including North-West Rail construction site), change to haulage routes, removal of one access point and updated noise monitoring	5 February 2014
DA2 MOD 5 DA3 MOD 4	Increasing the amount of VENM and Excavated Natural Material (ENM) imported to eight million tonnes, expand the source of VENM and ENM to include sites anywhere in Sydney, change to the timing of importation of VENM and ENM to mid-2015.	30 April 2015
DA2 MOD 6 DA3 MOD 5	Extend the operating hours for the approved importation of eight million tonnes of VENM to 6 am to 9 pm Monday to Friday and 6 am to 3pm on Saturday. No work is to be undertaken on Sunday.	6 November 2017

The Department is also currently assessing additional modifications to DA2 and DA3 for the importation of additional fill to the site.

4.2 Water Management Plans

PLDC has undertaken a detailed review of the Scheme's water management plan (WMP) which provides a holistic approach to water management across the whole site. The updated WMP was approved in 2013 by the Department and is titled '2012 Water Management Plan: Stage 1' (2012 WMP). The 2012 WMP includes detailed prescriptions for flood infrastructure and landform design to manage water levels during both typical flow conditions and flood events. The flood management system includes a series of weirs and flow paths between the interconnected lakes to control flood waters within and outside the site for flood events.

4.3 Two Year Plans

The conditions of consent under DA2 and DA3 include the requirement for preparation of "detailed consents" every two years (referred to as two year plans). These form the detailed consent for landform rehabilitation works associated with the Scheme. PLDC is required to submit two year plans providing the detailed plans for works to be carried out in the subsequent two years in accordance with the Structure Plan and Deed.

A two year plan known as the Northern Lot 4 Precinct Two Year Plan (2016 Landform Plan) was approved by the then Minister for Planning in 2016. The 2016 Landform Plan provides an extension and update to previous two year plans and applies to the remainder of the Lot 4 precinct. **Figure 3** identifies the land subject to the 2016 Landform Plan.



Figure 3: The land associated with the 2016 Landform Plan (Source: Applicant's documentation)

5. PROPOSED MODIFICATION

On 10 May 2018, the Applicant lodged three modifications applications, being DA2 MOD 8, DA3 MOD 7 and DA4 MOD 12, seeking to import an additional 300,000 tonnes of VENM and/or ENM for each DA and increasing the maximum amount of imported fill permitted for each DA from 8 million tonnes to 8.3 million tonnes. The modifications will extend the duration of works by 6 to 8 weeks.

The Applicant has stated that the additional fill is required as:

- the Northern Lot 4 Landform Two Year Plan approved in October 2016 (2016 Landform Plan) is one metre higher than the Deed requirements and the previous landform approved in 2014 (2014 Landform Plan)
- geotechnical pre-load requirements for completed landform areas requires additional fill be imported.

The modification does not seek to amend other components of the DAs including the maximum rate of fill permitted per year, source of fill, hours of works, haulage routes and access points.

The Applicant subsequently withdrew the modification request for DA4 as it is not located within the land associated with the 2016 Landform Plan (refer to **Figure 2** and **3**).

5. STATUTORY CONSIDERATION

5.1 Modification of Approval

Section 4.55(1A) of the EP&A Act requires the consent authority to be satisfied that the following matters are addressed in respect of all applications that seek modification approvals:

Table 3: Matters for consideration

Section 4.55(1A) matters for consideration	Comment	
That the proposed modification is of minimal environmental impact.	Section 7 of this report provides an assessment of the impacts associated with the proposal. The Department is satisfied that the proposed modifications will have minimal environmental impacts.	
That the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all).	The proposed modification seeks approval for minor changes and does not result in any additional adverse impacts on the surrounding area. On this basis, the	
The application has been notified in accordance with the regulations.	The modification application is not required to be notified by the regulations however the Department undertook consultation with public authorities. Details of the consultation are provided in Section 6 of this report.	
Any submission made concerning the proposed modification has been considered.	The Department received submissions from Penrith City Council, Roads and Maritime Services and the Environment Protection Authority. No other submissions were received.	

5.2 State Environmental Planning Policy (Penrith Lakes Scheme) 1989

Clause 8 of the SEPP PLS relates to development for the purposes of implementing the Penrith Lakes Scheme and sets out the matters for consideration before granting consent. The Department has considered the applicable provisions of clause 8 in **Table 4**:

Table 4: Clause 8 Development for the purposes of implementing the Penrith Lakes Scheme

Requirement	Departments Comment	Complies		
Clause 8 – Development for the purposes of implementing the Penrith Lakes Scheme				
(2) The consent authority shall grant consent to development to which this clause applies unless:	The proposed importation of additional fill:	Yes		
(a) the consent authority is of the opinion that the development the subject of the application:	satisfactorily implements the Penrith Lakes Scheme,			

(i) does not fully implement the Penrith Lakes Scheme on is generally in accordance with the land to which the application for development relates, the Structure Plan and therefore (ii) will not ensure the satisfactory implementation of the maintains compliance, Penrith Lakes Scheme, or will not affect extractive industry (iii) is not generally in accordance with the structure plan, operations on the site which and have ceased, (b) in the case of an application to carry out development facilitates the required which includes an extractive industry, the consent rehabilitation and reconstruction authority is of the opinion that: works in accordance with the (i) development should not be carried out until other land Structure Plan and Deed for to which this Policy applies is developed for purposes Penrith Lakes Scheme. which include an extractive industry, (ii) the land, the subject of the application, will not be rehabilitated and reconstructed: (A) generally in accordance with the structure plan, or (B) to ensure the satisfactory implementation of the Penrith Lakes Scheme, or (iii) the person (including any person related, connected or otherwise associated to or with that person) proposing to carry out that development has not complied with the conditions of a consent previously granted to carry out development which included an extractive industry in respect of other land to which this Policy applies. (3) The consent authority shall not consent to the carrying applicant submitted Yes out of development for the purposes of implementing the Modification Application Penrith Lakes Scheme unless the person making the subsequent updated Submissions application has submitted a statement of the Report. The Modification Application environmental effects of the proposed development and subsequent Submission Report containing the matters specified in clause 1 of Schedule 2 adequately addresses clause 1 and clause 2 of Schedule 2 by addressing and addressing the matters specified in clause 2 of that Schedule. the (relevant) required matters to be included in the statement environmental effects. (4) In determining an application to carry out development Department has The carefully Yes to implement the Penrith Lakes Scheme, the consent considered the Modification Application and the Submissions authority shall take into consideration the following matters: Report and an assessment of the key (a) the Penrith Lakes Scheme Regional Environmental issues is provided at Section 7. Further, these matters were also (b) the recommendations, if any, of such technical considered as part of the 2016 working parties as may be established from time to time Landform Plan approval. by the consent authority, (c) the statement of environmental effects accompanying the application, (d) the proposed sequence of extraction rehabilitation, (e) whether the land is to be dedicated to the Crown and, if not, the proposed control and management of the land, (f) the management and control of water resources including: (i) the source of water in order to fill any lake (including the quality and quantity of water from that source), (ii) water reticulation systems from the Nepean River to any lake, from lake to lake and from any lake to the Nepean River, (iii) the water quality of any lake (including the aquatic ecosystem), (iv) water treatment facilities, (v) water depth of any lake, (vi) flood control, (vii) storm water control, (viii) the effect that development would have upon the quantity and quality of the existing groundwater, the level of the existing water table and groundwater movement, (ix) lake usage. (x) staged development of the lakes and their usage during stage development, (xi) the need to monitor the water quality of the lakes having regard to their intended use, and (xii) the effect upon the Hawkesbury/Nepean River

system,

(g) the rehabilitation and reconstruction of the land including: (i) landscape design, (ii) the structural stability and soil compaction of landforms (including, where appropriate, the land shown on the structure plan as future urban), (iii) the stability and impermeability of the Nepean River embankment, (iv) soil conservation, and (v) revegetation, (h) access to, the supply of water from any existing source to, and the supply of and access to municipal and utility services to, land to which this Policy applies, other than that part of that land the subject of the application, (i) any item of the environmental heritage listed in Schedule 3, (j) the effect upon a locality, place or building not listed in Schedule 3 having aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations, and (k) the need and frequency to monitor the implementation		
of the subject development.		
Clause 31 - Earthworks		
(3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters: (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development, (b) the effect of the development on the likely future use or redevelopment of the land, (c) the quality of the fill or the soil to be excavated, or both, (d) the effect of the development on the existing and likely amenity of adjoining properties, (e) the source of any fill material and the destination of any excavated material, (f) the likelihood of disturbing relics, (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area, (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development. Clause 33 – Flood Planning	Impacts associated with the importation of additional fill are managed through a suite of existing conditions related to quality of fill, dust, traffic, noise, heritage and water quality, and is generally in accordance with the Structure Plan for the Penrith Lakes Scheme.	Yes
(2) Development consent must not be granted for	A flood planning level has not	Yes
development on land to which this Policy applies that is at or below the flood planning level unless the consent authority is satisfied that the development: (a) is compatible with the flood hazard of the land, and (b) is not likely to significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and (c) incorporates appropriate measures to manage risk to life from flood, and (d) is not likely to significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.	identified for the site, however the Department notes that flooding was considered in assessment of the 2016 Landform Plan and is discussed further in Section 7 of this report.	165

5.3 Approval Authority

The Minister for Planning is the approval authority for the request. However, the Director, Regional Assessments, may determine the request under delegation as:

• the relevant local Council has not made an objection

- a political disclosure statement has not been made
- there are no public submissions in the nature of objections.

6. CONSULTATION

6.1 Notification

The modification application was made publicly available on the Department's website and referred to Penrith City Council (Council), Roads and Maritime Services (RMS) and the Environment Protection Authority (EPA) for comment. Due to the minor nature of the proposed modification, it was not exhibited by any other means.

Council did not object to the proposal and provided the following comments:

- clarification is needed regarding the relationship between the approved landform plan and flood planning level (FPL) set in SEPP (PLS),
- further explanation of the potential flooding impacts associated with the proposed land form and its compliance with the approved WMP. The proposal includes an extract of the approved landform plan which does not meet the requirements of the 2012 WMP. Council notes that it has completed a Nepean River Flood Study which adopted an assumed landform based on the 2012 WMP and any potential change to the landform is critical to flooding characteristics,
- Council notes that the Office of Environment and Heritage has not identified an appropriate FPL for the site,
- additional fill will result in increased impact to the road network and will require intersection upgrades and may require road upgrades, and
- existing conditions related to dust control, sediment/erosion control, truck routes, hours of operation, noise management, fill importation protocols and the like should be retained.

EPA does not support the proposal due to sediment and dirt tracking issues and provided the following comments:

- note that works are subject to Environment Protection Licence No. 2956,
- sediment and dirt tracking by trucks have been recurring issues on the site and the EPA
 has used a range of regulatory actions to resolve the matters,
- most recently the EPA required the Applicant to engage an independent consultant to undertake an investigation of options to reduce sediment being tracked from the site. One key recommendation of the investigation was to install jet spray wheel washes, and
- EPA notes that to date the wheel washes have not been installed and as such, does not support the proposal.

RMS advised it does not have any concerns with the proposal subject to existing traffic and transport conditions being maintained.

No **public submissions** were received.

6.2 Response to Submissions (RtS)

Following notification of the modification the Department placed copies of all submissions received on its website and requested that the applicant provide a response to the issues raised in the submissions.

The RtS contained further information regarding issues raised by the government authorities and did not include any amendments to the proposal. The Department made the RtS publicly available on its website and referred the RtS to Council and the EPA. Responses received by Council and the EPA are discussed in **Section 7**.

7. ASSESSMENT

The proposal seeks approval to increase the maximum amount of fill importation on to the Penrith Lakes site for DA2 and DA3 from 8 million tonnes to 8.3 million tonnes.

Table 5: Assessment of issues	Table	5. A	ssessment	of	issues
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Issue	Consideration	Recommendation
Flooding	 Council raised concern that the proposed landform is not compliant with the 2012 WMP, particularly in relation to a floodway between Duralia Lake and Main Lake A. The 2012 WMP requires that the floodway be 300m wide with a relative level of 22m and that any changes to the design may change the identified flood level and broader flood characteristics. Council also advised that it has recently exhibited the Nepean River Flood Study which adopted a landform based on the principles in the 2012 WMP. 	The Department has recommended a new condition requiring that fil not be placed within 100r of the Duralia Lake and Main Lake A floodway.
	 The applicant has stated that the additional fill is required to aid in complying with 2016 Landform Plan which increased the levels previously approved and which comply with the flood planning levels (FPL) required by SEPP PLS. 	
	 Council responded to the RtS advising it did not raise any objections to the modification, however requested clarification of the relationship between the 2016 Landform Plan, 2012 WMP and the proposal. 	
	 The Department notes that the assessment of 2016 Landform Plan considered that the landform plan was generally in accordance with the Deed and 2012 WMP. 	
	• The Department notes the importance of the Duralia Lake and Main Lake A floodway to mitigate and manage flooding impacts. As such, the Department has recommended that fill works do not take place within 100m of the Duralia Lake and Main Lake A floodway. The condition will ensure that the additional fill will not impact the operation of the future flood mitigation mechanisms identified in the 2012 WMP until the final landform, taking into consideration the latest flood modelling, has been considered.	
	 It is noted that the level of fill proposed as part of this modification application will not fulfil the requirements of 2016 Landform Plan and that the applicant has submitted other modifications to further increase the importation of fill to achieve the 2016 Landform Plan. 	
	 The Department's assessment concludes that the proposal is acceptable, subject to implementation of the recommended condition, as it would continue the rehabilitation works for the Penrith Lakes Scheme to provide a stable landform as approved in the 2016 Landform Plan and the Deed, and that impacts on local and regional flooding have been adequately addressed. 	
Traffic impacts	 Council raised concerns that the additional fill would result in additional vehicles on the roads and updated intersection and road capacity modelling should be undertaken. Additionally, concern was also raised that the applicant would be removing 	No additional comments or amendments necessa
	 the temporary Gate 3 access point to the site. The Applicant noted that Gate 3 was not in use as the road upgrades works were not approved by RMS. 	
	 The Department notes that the proposal does not seek to intensify the rate in which fill is brought to the site or change the approved access points onto the site. However, it would increase the duration of works by 6 – 8 weeks. 	
	 Given there are no changes proposed to the number of trucks or access points, the Department is satisfied there will be no significant traffic impacts beyond those already assessed and approved. 	
	 While the proposal would extend the duration of the trucking operations, the Department considers the extension is acceptable given the short 6 to 8 week timeframe and the temporary nature of the impact. 	
	The Department also notes there is a suite of existing conditions in place to manage traffic impacts including identification of haulage routes, traffic management plans and a maximum rate of fill importation per year.	

Issue	Consideration	Recommendation
Operational impacts	 Council stated that existing conditions related to dust and noise management should be maintained. The Department notes that the proposal does not seek to amend any existing conditions related to management of impacts associated with the development. Given that there will be no changes to the existing conditions and as the proposal will continue works for a 6 – 8 week period in line with the existing conditions, the Department considers the proposal is acceptable. 	No additional comments or amendments necessary
Erosion and sediment	 The EPA raised concerns that adequate measures are not in place to stop sediment and dirt tracking by trucks leaving the site. In response, the applicant noted that shaker grids and a drive through wheel bath are in use to reduce dirt and sediment tracking. The applicant has committed to providing an operational wheel wash within eight weeks of determination of the proposal. The EPA recommended that the Department include a condition to this effect. An existing condition of consent requires appropriate measures be put in place to ensure all vehicles leaving the site have their wheels washed prior to entering the road network. The Department has recommended that the condition be amended to specifically require a jet spray wheel wash and associated drainage pond be installed to the satisfaction of the EPA. Subject to the recommended condition, the Department considers that adequate measures would be in place to manage sediment control for the site. 	The Department has recommended that a jet spray wheel wash be provided at Gate 9 to reduce sediment being tracked outside the site.

8. CONCLUSION

The Department has assessed the modification application and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes that the proposed modification is appropriate on the basis that:

- it would not result in any significant additional impacts on the amenity of the surrounding area, and
- the proposal facilitates the rehabilitation and reconstruction of the site in accordance with the Penrith Lakes Scheme Structure Plan and Deed.

Consequently, it is recommended that the modification be approved subject to the recommended conditions.

9. RECOMMENDATION

It is recommended that the Acting Director, Regional Assessments, as delegate for the Minister for Planning:

- considers the findings and recommendations of this report
- determines that the applications fall within the scope of section 4.55(1A) of the EP&A Act
- approves the modifications of DA 2 and DA 3 subject to the modified terms of approval
- signs the attached approval of the modification (Appendix A).

28/8/18

Recommended by:

Michelle Niles

Senior Planner

Regional Assessments

DECISION

The recommendation is: Approved by:

Ryan Pritchard

Acting Director
Regional Assessments

as delegate of the Minister for Planning

APPENDIX A: MODIFICATION CONSENT

A copy of the modified consent can be found on the Departments website at:

- DA 2
 http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9351
- DA 3
 http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9352

APPENDIX B: SUPPORTING INFORMATION

The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification Request

DA₂

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9351

DA₃

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9352

2. Submissions

DA 2

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9351

DA3

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9352

3. Response to Submissions

DA₂

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9351

DA3

http://www.majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9352