

**NOTICE OF A MODIFICATION TO A DEVELOPMENT CONSENT  
UNDER SECTION 96(1A)  
OF THE  
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

Under Section 96(1A) of the *Environmental Planning and Assessment Act 1979*, I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), modify the development consent referred to in Schedule 1, as set out in Schedule 2.

Diane Beamer MP  
**Minister Assisting the  
Minister for Infrastructure & Planning  
(Planning Administration)**

Sydney,

2004

File No: P97/00237

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**SCHEDULE 1**

The development consent (DA 4) granted by the Minister for Urban Affairs and Planning for the Penrith Lakes Scheme, on 9 September 1998.

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**SCHEDULE 2**

1. In the table following the heading “**determination**” delete all text from the rows titled “*consent commences from*”, “*consent lapses on*” and “*right of appeal*”, and include, at the completion of the table the following “*Notes*”:

*Notes:*

1. *To find out when this consent becomes effective, see section 83 of the Environmental Planning and Assessment Act 1979 (EP&A Act); and*
  2. *To find out when this consent is liable to lapse, see section 95 of the EP&A Act.*
2. Add the following to the list of “*definitions*”:  
  
*EPL means Environment Protection Licence*  
*DEC means Department of Environment and Conservation*
3. Delete the text of condition 12 (a) and replace with the following text:  
  
the relationship to the Sequence Plan (as shown in Plan ‘SEQ’);
4. Replace the title “NOISE” with “NOISE LIMITS”
5. Delete the text of condition 29 and replace with the following text:

The Applicant shall not exceed the following maximum noise levels in those areas designated.

(a) Dwellings inside and outside the Scheme area (but not on the Castlereagh Escarpment):

(i) Maximum Noise Levels

Noise levels as measured at any one dwelling are not to exceed the following criteria:

Maximum Noise Limits (L10)

Absolute maximum	70dB(A)
Greater than	65dB(A) for 1 month
Greater than	60dB(A) for 3 months
Greater than	55dB(A) for 30 months
Less than	55dB(A) for remainder of the time

The above absolute maximum may be exceeded as a result of the construction of noise control works eg noise bunds.

- (ii) The Applicant shall construct up to 5m high noise bunds to ensure that the noise limit criteria indicated in (i) above can be met at occupied residential properties in the locality, provided that the residents affected agree to the construction of the bunds. These bunds shall be removed when they cease to mitigate against the adverse noise, dust and visual impacts of the proposal.

(b) Dwellings on the Castlereagh Escarpment

Maximum Noise Levels

Noise levels as measured at any one dwelling on the Escarpment are not to exceed the following criteria:

Maximum Noise Limits (L10)

Absolute maximum	70dB(A)
Greater than	65dB(A) for 3 month
Greater than	55dB(A) for 30 months
Less than	55dB(A) for remainder of the time

- (c) Except as may be expressly provided by an EPL, noise generated from extraction and transport operations must not exceed the noise limits in the table below.

### Noise Limits dB(A)

Location	5.00am-6.00am	7.00pm-8.00pm	8.00pm-9.00pm
	$L_{Aeq}(15 \text{ minute})$	$L_{Aeq}(15 \text{ minute})$	$L_{Aeq}(15 \text{ minute})$
Dixons Residence	55	55	55
Smith Street	38	43	43
Camenzuli Residence	41	50	47

**Notes:**

- (i) *If the Applicant has a written noise agreement with any landowner, and a copy of this agreement has been forwarded to the Department and the DEC, then the Applicant may exceed the noise limits in the table for the landowner's land in accordance with the terms of the noise agreement.*
- (ii) *Noise from the development is to be measured at the most affected point or within the residential boundary, or at the most affected point within 30 metres of a dwelling (rural situations) where the dwelling is more than 30 metres from the boundary.*
- (iii) *To determine compliance with the  $L_{Aeq}(15 \text{ minute})$  noise limits in the above table, where it can be demonstrated that direct measurement of noise from the development is impractical, the DEC may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy). The modification factors in section 4 of the NSW Industrial Noise Policy shall be applied to the measured noise levels where applicable.*
- (iv) *The noise emission limits in the above table do not apply under meteorological*
  - i wind speeds in excess of 3m/s at 10 metres above ground level; and/or*
  - ii temperature inversion conditions in excess of 3°C/100m, and wind speeds in excess of 2m/s at 10 metres above ground level.*
- (d) *The Applicant shall ensure that all extraction and transport operations carried out between 5.00am and 7.00am comply with the DEC's intrusive and sleep disturbance criteria set out in the Industrial Noise Policy.*

6. Delete the text from condition 30 and replace with:

The standard hours of operation for non-noise sensitive areas are:

Sand and gravel extraction, including	5.00am to 9.00pm, Monday to Friday;
haulage to processing plants	5.00am to 7.00pm, Saturday.

Overburden stripping and rehabilitation	7.00am to 7.00pm, Monday to Saturday;
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None of the above works must be undertaken on Sundays or public holidays.

7. Delete the text from condition 31 and replace with:

The standard hours of operation for extraction and rehabilitation in the Exclusion Zone shown by side hatching in “Figure 1 – Exclusion Zone for Additional Hours” are:

Sand and gravel extraction, including Friday;	7.00am to 6.00pm, Monday to
haulage to processing plants	7.00am to 1.00pm, Saturday.

Overburden stripping and rehabilitation Friday;	7.00am to 5.00pm, Monday to
	7.00am to 1.00pm, Saturday.

None of the above works must be undertaken on Sundays or public holidays.

8. Remove Plan ‘E’ and replace with “Figure 1 – Exclusion Zone for Additional Hours”.

*Note: If the Applicant has a written noise agreement with the owners of the Dixon or Camenzuli residence(s), then the Exclusion Zone for Additional Hours shall be removed for the respective residence(s). Notwithstanding the above, the Exclusion Zone shall be maintained for a distance of 1000 metres from Smith Street residences.*

9. Delete condition 32.