

Our Ref: M190009

13 September 2019

NSW Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Attention: Michelle Niles

**REVISED STATEMENT OF ENVIRONMENTAL EFFECTS
SECTION 4.55(2) MODIFICATION OF DEVELOPMENT CONSENT
DA2 (REF 86/2720) - PENRITH LAKES SCHEME**

1. INTRODUCTION

We act on behalf of Great River NSW Pty Ltd, the applicant for this modification application for land at 14-278 Old Castlereagh Road, known as Lot 308, 309 and 310 of DP 752021 ("the site") which is located within the Penrith Lakes Scheme and is subject to Development Consent DA2 (Ref 86/2720). DA2 was granted to Penrith Lakes Development Corporation (PLDC) in 1987 for the purpose of implementing the Penrith Lakes Scheme, and has been subsequently modified several times. DA2 covers a large area of land which includes the site and other land. The site forms part of what was previously land within a mining area and was previously used for tailings disposal.

The current consent allows for the importation of 13 million tonnes of virgin excavated natural material (VENM) at a maximum rate of 3 million tonnes per year.

This Statement of Environmental Effects accompanies a modification application pursuant to Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) for modification of the approved development to enable the rehabilitation of the subject site to a final landform capable of future development. As such, approval is sought for the proposed final landform and levels of the site, the volume of fill required to achieve that landform and amendment of the hours of operation.

This report provides a revised Statement of Environmental Effects and should replace the earlier submitted version. The purpose of this Statement is to address the planning considerations associated with the modification and specifically to assess the likely impact of the development on the environment in accordance with the requirements of Sections 4.55 and 4.15 of the EP&A Act.

2. 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.

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



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Quarrying activities in the Penrith Lakes area finished in September 2015 and PLDC has been progressively rehabilitating the site.

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* (Penrith Lakes SEPP) and in January 2017 the SEPP was amended.

Under the 2017 amendment to the SEPP, the Penrith Lakes Scheme allows for approximately 80HA of waterways, 110HA of parklands, 118HA of environmental area, 33HA of employment area and 52HA of tourism area. The amendment rezoned the area in the south-eastern corner of the Penrith Lakes Scheme area to employment land, which is the location of the subject site, as shown in **Figure 1**.



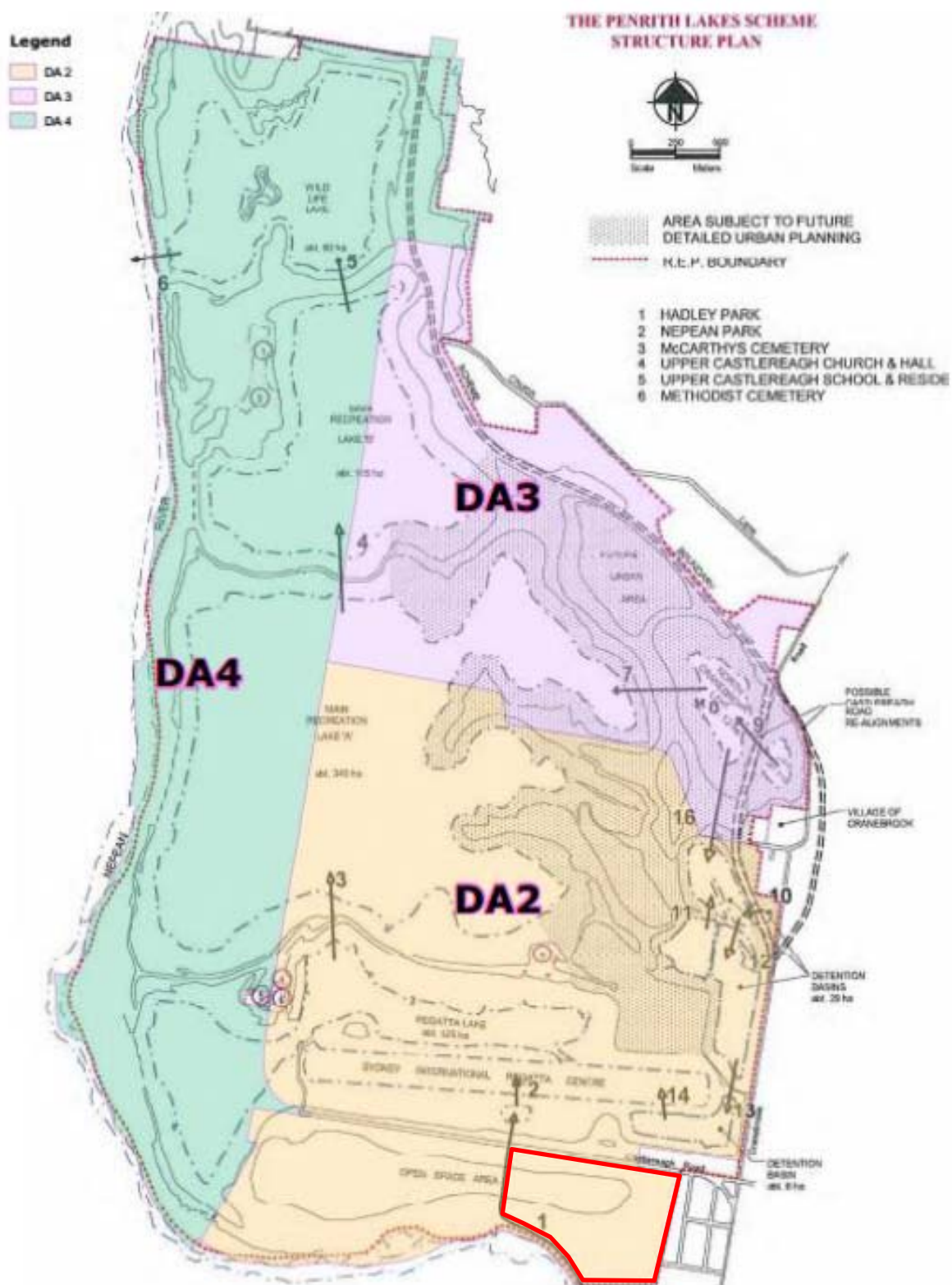
Figure 1 Employment zoned land under the Penrith Lakes SEPP (site outlined in red)

3. APPLICATION HISTORY

Several development applications (DAs) have been approved to implement the Penrith Lakes Scheme, with provision under the *Sydney Regional Environmental Plan No. 11 – Penrith Lakes Scheme* for the submission of sequential DAs for the progressive release of extraction areas. DA1 was approved in July 1982 for interim extraction while detailed planning schemes for the Scheme were completed. DA2 was granted to PLDC on 24 February 1987 for extraction in the central area of the scheme and for the continued extraction and rehabilitation on land included in the DA1 consent. The subject site is within the area covered by the DA1 consent and is subsequently covered by DA2. There is no expiry date on the DA2 consent.

DA3 was approved in June 1995 and allows for extraction in the north east area of the Scheme (not relevant to the subject site). DA4 was approved in September 1998 and allows for extraction within the Scheme area to the west of Castlereagh Road (not relevant to the subject site).

The areas subject to the various consents are shown in **Figure 2**.



The DA2 consent, which is proposed to be modified by this application, has been subject to eight previous modification applications. The modifications which are of relevance to the current modification are summarised below:

- DA2 MOD 4 / DA3 MOD 3 – approved 5 Feb 2014 – additional fill with up to 3 million tonnes of VENM to be imported to the Scheme at a rate of 1 million tonnes each year for a period of 3 years (late 2012 – late 2015). The modification also amended the areas requiring VENM, the source of VENM and other minor changes.
- DA2 MOD 5 / DA3 MOD 4 – approved 30 Apr 2015 – increase amount of VENM / ENM imported to 8 million tonnes, expand the source of VENM / ENM to include sites anywhere in Sydney and change timing of importation of VENM / ENM.
- DA2 MOD 6 / DA3 MOD 5 – approved 6 Nov 2017 – extend operating hours for the approved importation of 8 million tonnes VENM.
- DA2 MOD 7 – approved 8 Jan 2019 – increase amount of VENM imported to 13 million tonnes at a maximum rate of 3 million tonnes per year. Approved by Land and Environment Court (Appeal No. 18/31892).
- DA2 MOD 8 – approved 28 Aug 2018 – allowing for the importation of an additional 300,000 tonnes of VENM/ENM as an interim measure while Modification 7 was being determined. Modification 7 was approved prior to this modification and explicitly incorporates this modification.



As outlined above, the current consent, as modified, allows for the importation of 13 million tonnes of virgin excavated natural material (VENM) at a maximum rate of 3 million tonnes per year across the area covered by DA2.

4. SITE DESCRIPTION

The subject site is located at 14-278 Old Castlereagh Road in the south-eastern corner of the Penrith Lakes Scheme area, and is formally known as Lot 308, 309 and 310 of DP 752021. The site has a total area of approximately 46.89HA. The site is identified in the aerial image provided at **Figure 3**.



Figure 3 Aerial image indicating subject site (outlined in red)



The site is bounded to the north by Old Castlereagh Road, with rural residential properties located on the northern side of Old Castlereagh Road. To the east and south-east is an area of industrial development. The Nepean River is located to the south-west of the site. The section of riverfront land immediately adjoining the Nepean River is currently being subdivided and dedicated to the NSW Government and is not part of the application. To the west of the site is other land within the Penrith Lakes Scheme.

The subject site was previously used as a tailings pond for the Scheme. The site has an unsealed haulage road which runs across the southern part of the site and connects to Lugard Street.

5. APPLICATION OF EXISTING CONSENT TO THE SITE

The existing DA2 consent allows for the import of 13 million tonnes into the Penrith Lakes Scheme at a maximum of three (3) tonnes per year. The approved hours of operation (as set out in MOD 6) are 6am to 9pm Monday to Friday and 6am to 3pm Saturday (Condition 36BB).

The subject site is identified within the consent as a potential fill area (refer to DA2 MOD 4 Environmental Assessment titled 'Penrith Lakes Development Corporation, VENM Importation Modification Assessment', dated August 2012).

The fill and rehabilitation proposed on the subject site is entirely consistent with the type of works already assessed and approved under the DA2 consent. This modification application seeks only to amend the details of the fill and rehabilitation, as outlined in **Section 7**.

6. PROPOSED REHABILITATION

The proposed rehabilitation of the site involves the following key components:

- **A cap of structural fill to be formed across the site to a depth of approximately 2m.**

The capping will comprise a combination of site won materials and imported VENM/ENM, placed and compacted in accordance with AS3798-2007 *'Guidelines on earthworks for commercial and residential developments'*

- **Areas of deep tailings from historical quarrying activities to be treated using wick drains and preloading. A period of 1 to 3 years is expected to allow for settlement and to deliver a landform capable of development.**

This is a common approach for ground treatment of soils which are compressible and saturated, like the tailings, as it addresses the short and long term settlement of the tailings and future overlying development.

This approach is expected to significantly shorten the period of primary settlement to a period of 1 to 3 years.

Wick drains are to be placed at a spacing of 2-4m and a preload (surcharge) thickness of 2-3m of fill is to be placed.

- **Monitoring to verify ground treatment and settlement**

A monitoring schedule will include the installation and monitoring of:

- Settlement plates to measure settlement during placement of structural fill and surcharge;
- Surface monitoring to measure settlement of the surface post filling during the primary consolidation stage; and
- Vibrating wire piezometers installed within the tailings unit to monitor the dissipation of excess water pressure over time.

The results of monitoring will determine the height and duration of surcharge required and the ground treatment will be varied accordingly.

- **Landscape treatment**

Following completion of the rehabilitation, a minimum 100mm topsoil and native seed mix is to be applied across the entire site.

A staged approach is proposed to allow the preload material to progressively treat the underlying tailings.

The final landform will be at the levels identified in the civil plans submitted with this application. The anticipated volume of fill required to create the proposed final site levels is based on a “best estimate” of settlement rates during the rehabilitation process. As highlighted above, the settlement estimates will be updated as monitoring results are received. Monitoring may identify that additional measures are required in localised areas to achieve the required consolidation within the preload period. These measures may include additional surcharge, additional wick drains or extension of the preload period.

7. DESCRIPTION OF PROPOSED MODIFICATION

It is proposed to modify DA2 to enable the rehabilitation of the subject site to a final landform capable of future development. As such, approval is sought for the proposed final landform and levels of the site, the volume of fill required to achieve that landform and amendment of the hours of operation. The components of the proposed modification are detailed in **Table 1** below.

Table 1 Proposed Modification

Landform and site levels	<p>Approval is sought for the landform and site levels for the subject site as shown in the civil plans submitted with this application.</p> <p>The proposed levels allow for the subject site to be a form that is capable of future development.</p>
Volume of fill	<p>Approval is sought for the importation of a maximum of 3.35 million tonnes of VENM, ENM and/or material subject to a site specific resource recovery order and exemption as issued by the EPA from time to time.</p> <p>It is anticipated that a total of approximately 3 million tonnes of fill will be required to achieve a suitable landform on the site. However, the actual volume depends on settlement rates (as outlined in Section 6 above). Therefore, approval is sought for a maximum of 3.35 million tonnes which covers the estimated upper level of fill of 3.2 million tonnes with a contingency of 150,000 tonnes.</p>
Hours of operation	<p>Approval is sought for fill and rehabilitation works on the subject site to operate on a 24 hour basis, 7 days a week.</p> <p>It is proposed to source the required fill from public infrastructure projects in the Sydney region, principally the WestConnex project. The subject site is one of the few locations in Sydney that is suitable for disposal of tunnel spoil arising from such projects which require suitable disposal sites with large tipping areas and all weather access.</p>

Table 1 Proposed Modification

Approval for the WestConnex project allows for tunnelling to be undertaken 24 hours, 7 days a week, as well as associated activities including spoil haulage (provided it does not result in exceedance of specified noise criteria).

Therefore, the proposed modification seeks the extension of the approved hours of operation (6am to 9pm Monday to Friday and 6am to 3pm Saturday) to 24 hour per day operations, 7 days a week, to allow for disposal of fill from these projects to the subject site. The proposed hours of operation would apply to the subject site only and would be in the public interest.

The modification will require changes to conditions of consent as identified below. Recommended revised text is provided where appropriate (deletions shown with strikeout and insertions with bold underline).

- Insertion into the description of the development to refer to the subject modification application, accompanying Statement of Environmental Effects and the submitted civil plans identifying the final landform.
- New Condition 49CCC:
 - **“49CCC In addition to Condition 49C, 3.35 million tonnes of VENM, ENM and material subject to a site specific resource recovery order and exemption as issued by the EPA from time to time may be imported to the land at 14-278 Old Castlereagh Road (Lot 308, 309 and 310 of DP752021).”**
- New Condition 36BBB:
 - **“36BBB Development described in DA2 MOD 11 is permitted to be carried out on a 24 hour per day basis, 7 days a week.”**

The remaining environmental management and operational conditions under DA2 will continue to apply and are capable of being complied with.

In terms of any additional conditions of consent that may be imposed, it is highlighted that as employment land, the subject site is not part of the land within the Penrith Lakes Scheme which is to be dedicated by PLDC to Government and rather is in private ownership. Therefore, any conditions of consent which are relevant to the proposed modification will need to be specific to the subject site and/or subject modification.

8. STATUTORY CONSIDERATION

8.1 MODIFICATION OF TRANSITIONAL PART 3A PROJECT

DA2 was taken to be an approval under Part 3A of the EP&A Act. Under the then Section 8J ‘Transitional provisions’ of the *Environmental Planning and Assessment Regulation 2000*, the scheme was deemed to be State Significant Development (SSD).

With the coming into force of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017* (Transitional Provisions Regulation), modifications under the former Section 75W no longer apply. Under Schedule 2, Clause 3BA (6) of this regulation, modifications of a development that was previously a transitional Part 3A project requires the consent authority only to be satisfied that the development as proposed to be modified is substantially the same development as last modified under Section 75W.

8.2 SECTION 4.55(2) OF THE EP&A ACT 1979

Section 4.55 of the EP&A Act contains provisions relating to the modification of a development consent. Sub-clause (2) states the following:

(2) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the 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), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

As outlined above, Clause 3BA(6) of the Transitional Provisions Regulation stipulates that for modifications under s4.55(2), the consent authority must only be satisfied that the development is substantially the same development as last modified under Section 75W. This is addressed below.

8.2.1 SUBSTANTIALLY THE SAME DEVELOPMENT

The proposed modification described at **Section 7** of this Statement will result in a development that is substantially the same as the development as last modified under Section 75W and the consent authority can therefore consider the application pursuant to Section 4.55(2) of the EP&A Act.

In reaching this conclusion, we have been guided by the judgment handed down in *Moto Projects (No 2) Pty Ltd V North Sydney C [1999] NSWLEC 280* (17 December 1999), which outlines principles for determining whether a Section 4.55 application is 'substantially the same' as an originally issued development consent. The assessment of 'substantially the same' needs to consider qualitative and quantitative matters.

In terms of qualitative assessment, the type of works proposed are entirely consistent with those already assessed and approved under the DA2 consent, comprising fill and rehabilitation works. The subject site is identified within the consent as a potential fill area (refer to DA2 MOD 4 Environmental Assessment titled 'Penrith Lakes Development Corporation, VENM Importation Modification Assessment', dated August 2012). With the exception of the conditions of consent proposed to be modified by this application, the works are capable of complying with all existing environmental and operational conditions of consent imposed under DA2 which ensure the management and mitigation all potential environmental impacts.



In terms of quantitative assessment, the development as modified will be substantially the same to that which has been granted approval (as last modified under Section 75W). The proposal seeks a comparatively minor volume of fill when compared to the current approval for 13 million tonnes.

As such, the modification proposed by this application is considered to result in a development that is substantially the same as the development for which consent was originally granted.

8.3 PROTECTION OF THE ENVIRONMENT OPERATIONS ACT 1997

The *Protection of the Environment Operations Act 1997* (POEO Act 1997) regulates emissions to air, water, and land. It offers an integrated system to regulate specific types of activities and installations that have the potential to cause environmental harm as a result of their operations. The NSW Environmental Protection Authority (EPA) is the regulatory authority that administers the POEO Act 1997, and has the power under the Act to issue clean up notices if it reasonably suspects that a pollution incident has occurred, or is occurring. Council also has certain authority under the POEO Act 1997 in relation to pollution incidents.

The proposed fill and rehabilitation works on the subject site do not require a licence under the POEO Act 1997.

The proposed fill to be imported will be virgin excavated natural material (VENM), excavated natural material (ENM) or material which is subject to a site specific resource recovery order and exemption as issued by the EPA from time to time under Clause 93 of the *Protection of the Environment Operations (PoEO) (Waste) Regulation 2014* and is able to be applied to land as engineering fill or for use in earthworks.

8.4 SECTION 4.15 OF THE EP&A ACT 1979

Section 4.55(3) of the EP&A Act states that in determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 4.15(1) as are of relevance to the development the subject of the application.

An assessment of the proposed modification against the relevant provisions of Section 4.15(1) is provided in the following sections of this Statement.

8.4.1 SEPP (PENRITH LAKES SCHEME) [SECTION 4.15(1)(A)]

State Environmental Planning Policy (Penrith Lakes Scheme) 1998 (Penrith Lakes SEPP) aims to permit the implementation of the Penrith Lakes Scheme through development controls to protect heritage, identify land for future land uses, and ensure the ongoing operation of Olympic legacy infrastructure.

Section 6 of the SEPP provides that the Minister is the consent authority for the proposed modification as it relates to unzoned land and land zoned employment.

Clause 8 provides for development for the purposes of implementing the Penrith Lakes Scheme to be carried out, with development consent, on land to which the Policy applies and includes matters for consideration which must be undertaken when a consent authority determines a development application. This is not relevant to the subject modification which is in reference to an existing development consent.

8.4.2 SEPP NO. 55 – REMEDIATION OF LAND [SECTION 4.15(1)(A)]

The provisions of *State Environmental Planning Policy No. 55 – Remediation of Land* (SEPP No. 55) require the consent authority to consider whether land is contaminated and if it is contaminated whether it can be made suitable for the proposed purpose.





The modification request is for the use of VENM, ENM or material which is subject to a site specific resource recovery order and exemption as issued by the EPA from time to time. The fill material is uncontaminated and, accordingly, further assessment is not required. As identified in **Section 8.4.3.4** of this Statement, the rehabilitation activities are subject to conditions to ensure that the import of fill is undertaken in compliance with geotechnical and contamination management requirements.

A site audit report and statement which covers the subject site is submitted with the application. The report confirms that the land in its present state is suitable for residential land use and other less sensitive land uses including employment.

8.4.3 LIKELY IMPACTS OF THE DEVELOPMENT [SECTION 4.15(1)(B)]

8.4.3.1 VEHICULAR ACCESS AND TRAFFIC

Vehicular Access

Access points for the site have already been approved under DA2 and include the use of the Gate 1 entry on Old Castlereagh Road and the Lugard Street gate.

Access at Old Castlereagh Road will be via a left in right out only arrangement and access at Lugard Street via a right in left out only arrangement at the intersection of Castlereagh Road and Lugard Street.

The accesses will be formalised to accommodate the necessary access manoeuvres of the largest truck (i.e. truck and dog unit) and will be constructed with appropriate pavement strength to accommodate the anticipated truck loadings and frequency of movements.

Traffic

A Traffic Impact Assessment, prepared by Transport and Traffic Planning Associates, is submitted with the application. The assessment calculates the projected truck movements to transport the fill material to site as 9-10 trucks per hour based on 35 tonne trucks with 24 hour operation, 7 days a week. However, conservative operating parameters have also been considered based on an 11 hour day and operating 70% of the year (264 days) which would equate to 29 trucks per hour.

Using the conservative parameters, traffic modelling using SIDRA indicates a satisfactory operating level of service for both access points. The access and road intersections will operate with ample reserve capacities. Particularly, it is noted that the intersection level of service is not adversely impacted even with projected conservative growth rate across the period of the project.

On this basis, it is assessed that the traffic generation and implications resulting from the proposed site rehabilitation works will be acceptable and that no addition road/intersection upgrade and/or treatment will be necessary.

The baseline data for the traffic modelling assumes concurrent rehabilitation activities by PLDC to other parts of the Penrith Lakes Scheme area, and even based on that assumption the traffic implications are minor. However, it is noted that PLDC anticipate completing importation and rehabilitation of the wider Penrith Lakes Scheme area in the first quarter of 2020. Therefore, there will be an overall reduction in total truck movements associated with the Scheme. As such, the anticipated truck movements associated with the subject modification are likely to be at a rate comparable to that envisaged by the existing consent (as modified).

There is no proposed change to the haulage route which will be in accordance with the current consent condition.



8.4.3.2 NOISE AND VIBRATION

A Noise Assessment report, prepared by RAPT Consulting, is submitted with the application and considers the potential noise and vibration impacts associated with the proposed works.

Construction Noise

Background noise levels were established via monitoring at the northern end of the site directly across Old Castlereagh Road from the nearest potentially affected residences located at 39 and 47-65 Old Castlereagh Road, and acoustic modelling was undertaken with four scenarios based on area of construction work (north, south, east and west quadrants of the site). Calculations assume a worst-case scenario with no acoustic attenuation measures in place.

Results of the modelling indicate the following:

- Construction noise levels are expected to comply with all noise goals in the west quadrant during day, evening and night-time.
- Construction noise levels are expected to comply during daytime in the central quadrant.
- Construction noise levels may in a worst-case scenario exceed construction noise goals by 5 dB(A) during daytime at R1 and R2 while operating in the east quadrant.
- Construction noise levels are expected to comply during day and evening situations while operating in the south quadrant.
- All construction noise levels are expected to comply with industrial and commercial receptors.
- The highly effected noise level of 75 dB(A) is expected to be complied with.
- As all sources were modelled operating at their nominated sound power levels, sleep disturbance noise goals of 47 dB(A) $L_{1(1min)}$ are expected to be complied with at all quadrants with the exception of the east quadrant.

The assessment concludes that, given the distance to nearest receptors and the nature of the works, compliance with all noise goals is expected for the proposed works. However, in the highly unlikely event of a worst-case scenario where all construction equipment is operating simultaneously at maximum sound power levels within the east quadrant, there is potential to exceed the construction noise levels by 5 dB(A) at the nearest residential receptors. It is noted however that the highly affected noise level of 75 dB(A) would not be exceeded at any stage.

Construction Vibration

Potential vibration impacts essentially focus on potential structural damage to properties in close vicinity of the study area and/or potentially affected by construction activities. The report identifies that due to the nature of the works the vibration risk is low. As there are no receptors within 10 metres of the project area, impacts to residential receivers are expected to comply.

Road Noise

Site traffic is expected to have blended in with local traffic by the time it goes past the nearest sensitive receivers. To increase noise levels by 2 dB(A) one would have to increase the cumulative traffic volume by 60% which is not expected. However, particularly during night time truck movements it is recommended that the Lugard Street entrance be utilised to minimise any risk of impacts to the residences on Old Castlereagh Road.

In accordance with the recommendations of the report, the Lugard Street entrance is to be used for night time movements in order to minimise any risk of adverse noise impact to residences on Old Castlereagh Road.

8.4.3.3 AIR QUALITY

An Air Quality Impact Assessment report, prepared by Ramboll Australia Pty Ltd, is submitted with the application.

The report identifies the principal sources of dust emissions during construction as bulk earthworks/material handling, wheel generated dust and wind erosion from exposed surfaces. The assessment concludes that the level of risk is minor and commonly applied construction dust management measures, outlined in the report, are sufficient to manage air quality impacts resulting from the project.

The proposed modification will not result in any significant additional potential for air quality issues over and above that already assessed and approved by DA2. The development as modified will continue to be subject to conditions of consent requiring compliance with dust management measures including covering of vehicle loads, vehicle cleaning and watering of unsealed roads.

8.4.3.4 SOILS, GEOLOGY AND CONTAMINATION

The proposed fill to be imported will be virgin excavated natural material (VENM), excavated natural material (ENM) or material which is subject to a site specific resource recovery order and exemption as issued by the EPA from time to time under Clause 93 of the *Protection of the Environment Operations (PoEO) (Waste) Regulation 2014* and is able to be applied to land as engineering fill or for use in earthworks.

The rehabilitation activities are subject to conditions to ensure that the import of fill is undertaken in compliance with geotechnical and contamination management requirements. These conditions include testing of material to be imported prior to it being transported from the source site to ensure that the introduction of contamination is unlikely. These management and monitoring conditions would continue under the proposed modification.

Approval of the modification as requested has the consequential benefit of providing a destination for the disposal of fill material generated by public infrastructure projects such as WestConnex which are being undertaken within the Sydney Metropolitan region.

8.4.3.5 WATER QUALITY

The proposed modification will not result in any significant additional potential for water quality issues over and above that already assessed and approved by DA2.

The development as modified will continue to be subject to conditions of consent which require numerous environmental protection measures to protect water quality including installation of erosion and sediment control measures, dust control and monitoring.

The potential environmental impacts are satisfactorily addressed with the continued operation and implementation of the existing environmental control measures.

8.4.3.6 FLORA AND FAUNA

As a result of the historic quarrying activities, the site is a highly disturbed and modified landscape. As a consequence, the site contains limited native species, with vegetation being dominated by introduced grasses and shrubs.

The application of fill to the site is required to rehabilitate the land and will be undertaken in accordance with the existing approvals. The DA2 consent allows for the removal of all existing plant cover on the site. However, the trees to the Old Castlereagh Road boundary and trees within the river front area (in land to be dedicated to the NSW Government) are to be retained. Refer to the Landscape Plan submitted with this application.



Following completion of the rehabilitation, a minimum 100mm topsoil and native seed mix is to be applied across the entire site as identified in the submitted Landscape Plan.

The proposed modification will allow for the timely rehabilitation of the subject land and subsequent revegetation as part of future development application(s), thus providing a positive impact.

8.4.3.7 FLOODING

The amendment made to the Penrith Lakes SEPP in January 2017 set the flood planning level at a 1:100 average recurrent interval (ARI) flood event plus one metre freeboard.

The site in its present state is above the 1:100 level of 25.5m AHD. Parts of the site drop to 23.5m AHD but the entire site is protected by a levee which would prevent the 1% AEP flood entering the site. The final landform of the site will be a minimum ground level of 26.7m AHD, providing at least 1.2m freeboard over the 1:100 level.

The proposed rehabilitation will not make any changes to the river bank nor change flood depths or velocities in or near the river. It will therefore not have any adverse environmental impacts on river bank stability or otherwise.

Other flood planning requirements under the Penrith Lakes SEPP relate to future development on the land (i.e. consideration of safe and effective evacuation of the land) and would be addressed by detailed development application(s) for proposed development of the site following rehabilitation.

8.4.3.8 VISUAL IMPACTS

The subject modification is concerned with allowing suitable fill for the purpose of land rehabilitation of the subject site. It will provide positive benefits in terms of visual impacts by remediating a large parcel of disused land to a form suitable for future redevelopment. The rehabilitation includes landscape treatment with a minimum 100mm topsoil and native seed mix to be applied across the entire site, representing an improvement over the existing state of the land.

8.4.4 SUITABILITY OF THE SITE [SECTION 4.15(1)(C)]

The site has been assessed as suitable for the proposed development by the granting of the initial consent and subsequent modifications. The proposed modification does not alter the nature of the rehabilitation activities which will continue to operate in accordance with the consent conditions to ensure that potential environmental and amenity impacts are managed and mitigated.

8.4.5 THE PUBLIC INTEREST [SECTION 4.15(1)(E)]

The proposed modification will result in a development that is substantially the same as the development that is currently approved and occurring. The application is in the public interest of continuing to rehabilitate Penrith Lakes. Approval of the modification as requested has the consequential benefit of providing a destination for the disposal of fill material generated by public infrastructure projects such as WestConnex which are being undertaken within the Sydney Metropolitan region.

Given the above and the identification that potential environmental and amenity impacts can be managed and operational conditions continue to be complied with, it is considered that the proposed modification is in the public interest.



9. CONCLUSION

It is proposed to modify DA2 to enable the rehabilitation of the subject site to a final landform capable of future development. As such, approval is sought for the proposed final landform and levels of the site, the volume of fill required to achieve that landform and amendment of the hours of operation.

In accordance with Clause 3BA(6) of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, the proposed modification will result in a development that is substantially the same as that approved under DA2 as last modified under Section 75W.

The proposed modification does not alter the nature of the rehabilitation activities which are already approved. With the exception of the conditions of consent proposed to be modified by this application, the works are capable of complying with all existing environmental and operational conditions of consent imposed under DA2 which ensure the management and mitigation all potential environmental impacts.

The proposed modification allows for rehabilitation of the site which will provide positive benefits by rehabilitating a large parcel of disused land to a form suitable for future redevelopment.

Accordingly, we respectfully request that the Minister approve the modification of the development consent, as described within this document.

ATTACHMENTS

1. Civil Plans
2. Site Audit Report and Statement
3. Traffic Impact Assessment
4. Noise Assessment
5. Air Quality Impact Assessment
6. Landscape Plan