



## SUBMISSIONS REPORT

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Nepean Business Park – Modification 11 to DA2

14-278 Old Castlereagh Road  
CASTLEREAGH

Prepared for: Great River NSW Pty Ltd

REF: M190009  
DATE: 21 August 2020





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## ATTACHMENTS

**Attachment A.** Statement from RAPT Consulting (Acoustic Consultant)

**Attachment B.** Statement from TTPA (Traffic Consultant)

**Attachment C.** Updated Traffic Impact Assessment (Issue C, February 2020)

**Attachment D.** Statement from GCA regarding fill volume

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# 1. Introduction

## 1.1 THE SITE

The subject site is located at 14-278 Old Castlereagh Road and is formally known as Lot 308, 309 and 310 of DP 752021. The subject site was previously used as a tailings pond associated with nearby quarrying activities. The site has a total area of approximately 46.89HA and is identified in the aerial image provided at Figure 1.



Figure 1. Aerial image indicating subject site (outlined in red)

## 1.2 THE PROPOSAL

The site is the location of the proposed Nepean Business Park which will include the following benefits:

- 18,450 jobs (direct and indirect);
- \$1.95 billion of economic activity during construction;
- \$500 million per annum in gross value to the Penrith economy;
- Extension to the Great River Walk; and
- A focus on small business and local jobs.

The modification application is an integral part of allowing the development of the Nepean Business Park to proceed.

The existing DA2 consent was granted on 24 February 1987 for extraction and rehabilitation on land and has been modified several times.



The subject modification application was lodged with the Department of Planning, Industry & Environment on 10 July 2019, and amended on 13 September 2019. The modification seeks to modify DA2 to enable the rehabilitation of the subject site to a final landform capable of future use.

### **1.3 PURPOSE OF THIS REPORT**

The purpose of this report is to respond to the submissions received during the public exhibition of the modification application.





## 2. Response to Submissions

### 2.1 SUBMISSIONS SUMMARY

Forty-four (44) submissions were received in response to the public exhibition of the proposed modification. Overall the submissions were positive and supporting the project with a total of thirty-one (31) supporting submissions received. A further seven (7) neutral submissions were received and six (6) objecting submissions.

Seven (7) submissions were received from Government agencies; and thirty-seven (37) from non-Government organisations, businesses and members of the public.

The following Government agencies provided a submission:

- NSW Environment Protection Agency (EPA)
- Environment, Energy and Science Group (EES) in the Department of Planning, Industry and Environment
- Crown Lands
- WaterNSW
- NSW Environment Protection Agency (EPA)
- Sydney Water
- Penrith City Council

### 2.2 RESPONSE TO SUBMISSIONS FROM NON-GOVERNMENT ORGANISATIONS, BUSINESSES AND MEMBERS OF THE PUBLIC

Of the 37 submissions received from non-Government organisations, businesses and members of the public, 31 were in support of the proposal and 6 raised issues or concerns.

The submissions are outlined in Table 1, and a response provided.

**Table 1. Response to Submissions from Non-Government Organisations, Businesses & Members of the Public**

Organisation / Business / Individual	Support / Object	Comment	Response
Penrith CBD Corporation	Support	<p>The Penrith CBD Corporation supports local initiatives, particularly those that generate local employment and economic activity. There is a critical shortage of employment, due in part to the shortage of industrial land in Western Sydney and particularly in the Penrith area. The Nepean Business Park will be a significant contributor to the local economy as well as delivering Community Benefits including the Great River Walk.</p> <p>As the proposed DA Modification will allow the site rehabilitation of a former quarry site to commence immediately, we would like to see the project progressed as quickly as possible.</p>	<p>The modification application, which will allow for rehabilitation of the site, is an integral part of allowing for the future development of the Nepean Business Park which will provide much needed employment land. The Nepean Business Park is anticipated to create 18,450 jobs (direct and indirect), provide \$1.95 billion of economic activity during construction, and \$500 million per annum in gross value to the Penrith economy.</p>



**Table 1. Response to Submissions from Non-Government Organisations, Businesses & Members of the Public**

Apex Building Systems Pty Ltd	Support	<p>I own and manage a specialist industrial construction company based in Western Sydney, adjacent to the Penrith LGA. I have numerous customers and clients who are local business operators looking to grow their operations and have been disadvantaged by the critical shortage of employment/industrial land in Western Sydney, and in particular the Penrith area. Customers and myself are seeking to acquire industrial land for development and the Nepean Business Park would suit our needs very well. Accordingly, we would like to see this project progressed as soon as possible.</p> <p>In addition, the proposed DA modification will provide an improved local environment by rehabilitating a degraded quarry site, enhance local business activity and create thousands of much needed jobs in Western Sydney.</p>	<p>The modification application, which will allow for rehabilitation of the site, is an integral part of allowing for the future development of the Nepean Business Park which will provide much needed employment land. The Nepean Business Park is anticipated to create 18,450 jobs (direct and indirect), provide \$1.95 billion of economic activity during construction, and \$500 million per annum in gross value to the Penrith economy.</p>
Hilary Nathan Media	Support	<p>Hilary Nathan Media supports local initiatives, particularly those that generate local employment and economic activity. The Nepean Business Park will be a significant contributor to both, as well as delivering Community Benefits by providing land and extending the Great River Walk.</p> <p>As there is a critical shortage of employment/industrial land in Western Sydney and in particular the Penrith area, we would like to see the project progressed as soon as possible.</p> <p>As the proposed DA Modification will allow the site rehabilitation of the former quarry site to commence immediately, we write to you in SUPPORT of the DA Modification.</p>	<p>The modification application, which will allow for rehabilitation of the site, is an integral part of allowing for the future development of the Nepean Business Park which will provide much needed employment land. The Nepean Business Park is anticipated to create 18,450 jobs (direct and indirect), provide \$1.95 billion of economic activity during construction, and \$500 million per annum in gross value to the Penrith economy.</p> <p>As noted, an extension of the Great River Walk on the southern boundary of the site is proposed (subject to a separate approval process), that will improve this important resource and provide community benefit.</p>
<p>Green Group Henk van den Hewel Corey Bancks Eric McCall Gail McCook Gary Sweeney Joseph Sukkar Mitchell Green Paul Newton Peter McCook</p>	Support	<p>Local business operators looking to expand, frustrated by critical shortage of employment/industrial land in Western Sydney and in particular the Penrith area.</p> <p>Proposed modification will provide an improved local environment by rehabilitating a degraded quarry site, enhance local business activity and create thousands of much-needed jobs in Western Sydney.</p>	<p>The modification application, which will allow for rehabilitation of the site, is an integral part of allowing for the future development of the Nepean Business Park which will provide much needed employment land. The Nepean Business Park is anticipated to create 18,450 jobs (direct and indirect), provide \$1.95 billion of economic activity during construction, and \$500 million per annum in gross value to the Penrith economy.</p>

**Table 1. Response to Submissions from Non-Government Organisations, Businesses & Members of the Public**

Rex Andrews			
Spiro Gouriotis			
Name withheld			
Name withheld			
Elizabeth Cuthill Ann Willmington Brenden Purcell Christine Morey Emily Belotti Hayden Fryer Jacinda Boyd Joseph Azzi Karen Sukkar Lee Kitcheman Luke Belotti Marnie Fawns Malcolm Small Name withheld	Support	The proposed DA modification will enable the rehabilitation of a degraded quarry site and create thousands of much-needed jobs in Western Sydney.	The modification application, which will allow for rehabilitation of the site, is an integral part of allowing for the future development of the Nepean Business Park which will provide much needed employment land. The Nepean Business Park is anticipated to create 18,450 jobs (direct and indirect), provide \$1.95 billion of economic activity during construction, and \$500 million per annum in gross value to the Penrith economy.
Beth Smith	Objects	I wish to object to the proposal of this modification. I have lived in the Nepean/Hawksbury region and watched with interest the original development of the lakes scheme. To have this now changed to an industrial site saddens me to think we are going to further pollute the area with more noise and industrial waste. As the landfill implies this will be for commercial use and not for domestic use once the landfill is completed.	The subject modification is for rehabilitation only and not for a particular land use.  The 2017 and 2020 amendment of the <i>State Environmental Planning Policy (Penrith Lakes Scheme) 1989</i> rezoned certain areas of the Penrith Lakes area and rezoned the subject site to 'Employment' and 'Environment', thus allowing for particular land use on the site including environment, light industry, business premises and other commercial uses.
Neil Reeves	Objects	I am concerned again with the noise from the volume of trucks entering and leaving the site, the safety for motorists on Castlereagh Road and the routes used by the trucks delivering and fill. The dust and dirt that is in the atmosphere may be bad for my health, but certainly contributes to how dirty the inside and outside of my home becomes. Our pool needs to be vacuumed every day because of the dust. The windows and fly screens are always dirty. Will there be any financial compensation for the residents who live opposite the site for cleaning and maintenance of their properties? Will there	The application includes supporting technical studies including an assessment of potential traffic, dust and noise impacts, which conclude that the proposed rehabilitation will not have any significant adverse impact on neighbouring properties with the implementation of the proposed mitigation measures.  Mitigation measures proposed to manage dust include minimising exposed surfaces and operation of a watercart, as well as the necessary actions to be implemented in the event of adverse weather conditions such as

**Table 1. Response to Submissions from Non-Government Organisations, Businesses & Members of the Public**

		be any provision for future claims if our health is affected? It is a bad decision to fill the site in.	“Modifying work during periods of adverse weather (hot, dry and windy conditions) and when dust is seen leaving the site (i.e. limiting clearing and material handling)”.
Susanne Brennan	Objects	<p>I object to any proposal The Penrith Lake Scheme puts forward as in my opinion they conduct their business with little or no regard for the affect their operations has on any person or property in their wake. I can pin point the day operations started over the road at the Penrith Lake Scheme because my property such been covered in dust from that day. I have lived in a 3km radius for a period of 37 years my father was employed at the quarries for a period of 20 years before that, I am very familiar with the area, so yes I am aware of the increased dust admissions. And for a period of over 4years I have been told that the Penrith Lake Scheme is meeting all requirements but still I spend every day cleaning my property. We have been very limited on how we use our tank water as water collected is of very dusty roof tops and can't be used even for toilet flush as it turns the toilets black. The last approval court requirements stated the Penrith Lake Scheme must return complaint phone calls, they did return my call (the only time in 4years) however it was a waste of time the manager was only interested in fobbing me off and not looking for a solution. I request an independent hygienist be engaged at my property to monitor the dust. I believe the Penrith Lake Scheme should also compensate me for extensive cleaning of windows and screens, hard surface and vehicles garages at my address. The road in front of Waterside Estate is often disgusting and a left turn into white water stadium should be forbidden it is so dangerous the increased traffic is horrendous. These are the SAME concerns I have submitted each application however nothing seems to improve. But I feel The Penrith Lake Scheme monitoring any of my concerns is putting the monkeys in charge of the bananas. I ask the Land and Environment Court to please start addressing my concerns.</p>	<p>The site is privately owned (having been divested by the Penrith Lakes Development Corporation) and the applicant is not responsible for the historic mining and fill operations in the area.</p> <p>The application includes an Air Quality Impact Assessment report which includes mitigation measures to manage dust include minimising exposed surfaces and operation of a watercart, as well as the necessary actions to be implemented in the event of adverse weather conditions such as “Modifying work during periods of adverse weather (hot, dry and windy conditions) and when dust is seen leaving the site (i.e. limiting clearing and material handling)”.</p>

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Name withheld	Objects	<p>I can only see this will increase the general problems we have with the existing fill operations. The traffic involving large trucks with trailers is at times extremely bad and this is made worse by the attitude of many of the truck drivers.</p> <p>Also the dust that penetrates our sub-division (Waterside) makes life unpleasant.</p> <p>If you had a substantial increase in trucks and works the position must deteriorate.</p>	<p>The site is privately owned (having been divested by the Penrith Lakes Development Corporation) and the applicant is not responsible for the historic mining and fill operations in the area.</p> <p>The application includes supporting technical studies including an assessment of potential traffic, dust and noise impacts, which conclude that the proposed rehabilitation will not have any significant adverse impact on neighbouring properties with the implementation of the proposed mitigation measures.</p>
Name withheld	Objects	<p>My Wife and I's main concerns are that trucks have been exiting and entering the site via Gate:1 in a dangerous manner - not stopping to wait for oncoming traffic. There have been near misses that we have observed personally and residents of our Waterside Estate have reported many similar incidents.</p> <p>Our previous submission was that Gate 1 not be used at all, and that future truck movements be restricted only to Lugard St Gate and existing site gates along Castlereigh Rd located 3 and 4 km North of McCarthys Lane. We are most disappointed that this simple option has not been undertaken.</p> <p>We note that the Traffic Assessment Report - May 2019 - does not address dangerous driving. I have not been able to find where this safety issue or our submission has been addressed.</p> <p>I note that CCTV has been considered in order to monitor hours of operation of trucks - but rejected. Perhaps CCTV should be installed at the McCarthy Ln intersection as a deterrent for, and record of dangerous truck movements?</p> <p>If trucks are to use McCarthys Lane then our submission is that they not be allowed turn across oncoming lanes. By this we mean that when approaching McCarthys Ln along Castlereigh Rd from the North, that they continue 400m past the site and double back at roundabout at Andrews Rd and return to enter McCarthys Ln via a left hand turn. When leaving via McCarthys Ln they turn left and travel North and take</p>	<p>The submitter's concerns appear to be related to access to the Penrith Lakes site via McCarthys Lane, which is not an access point for the subject site (being located further to the north along Castlereagh Road).</p> <p>It is noted that the site has been divested from the ownership of the Penrith Lakes Development Corporation. Any sub-contractors employed by the applicant would be expected to follow road rules and act in a responsible manner in terms of traffic safety.</p> <p>Access points for the site have already been approved under DA2 and include the use of the entry on Old Castlereagh Road and Lugard Street. The subject modification application seeks to access the site only via Lugard Street and Old Castlereagh Road.</p>

**Table 1. Response to Submissions from Non-Government Organisations, Businesses & Members of the Public**

		Cranebrook Rd and then head South (if needed) at the roundabout at Londonderry Rd.	
Peter Morson	Objects	<p>I am a part owner of the residential property at 39-45 Old Castlereagh Road, Castlereagh. This is a residential property which is directly across the road from the proposed development. The proposed 24 hour / 7 days per week hours of operation is unacceptable as it will impact on the peaceful and quiet enjoyment of the residential property. The noise generated by the works will cause sleep disturbance to the tenant and impact on the ability to retain the tenant and further source new tenants. Our land will essentially be worthless during this period of construction which is proposed to be undertaken over a number of years.</p> <p>The acoustic report makes recommendations which are unlikely to be enforceable as they relate to after hours deliveries through Lugard Street and statements in the report acknowledge that noise criteria will be unable to be met.</p> <p>The Acoustic Report does not guarantee that the construction noise will not exceed construction goals. The acoustic report loosely makes the statement which allows the site to exceed the noise goals during 'certain situations'.</p> <p>There is far too much risk to the health and sleep disturbance of the residents of 39-45 Old Castlereagh Road to accept any form of extended hours of operation &amp; construction.</p>	<p>The noise assessment submitted with the application 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.</p> <p>The noise assessment recommends that night time truck movements are via the Lugard Street entrance to minimise any risk of impacts to the residences on Old Castlereagh Road.</p> <p>To address this concern, the applicant commits to using only the Lugard Street entrance to access or egress the site outside of the existing approved hours of operation (6am to 9pm Monday to Friday and 6am to 3pm Saturday).</p>

### 2.3 RESPONSE TO GOVERNMENT AGENCY SUBMISSIONS

Submissions from seven (7) Government agencies were received.

The following Government agencies had no specific queries or concerns regarding the modification and therefore do not require any specific response:

- NSW Department of Primary Industries
- Environment, Energy and Science Group (EES) in the Department of Planning, Industry and Environment
- Crown Lands
- WaterNSW

Agencies that raised concerns or made more extensive comments regarding the proposed modification are as follows, and are addressed in Table 1 below.

- NSW Environment Protection Agency (EPA)
- Sydney Water
- Penrith City Council

**Table 1: Response to Government Agency Submissions**

Agency	Issue	Response
NSW Environment Protection Authority (EPA)	Recommends a condition is included on the consent that all material imported to the site, must either be Virgin Excavated Natural Material (VENM) or material that meet the requirements of the relevant resource recovery orders and exemptions, in accordance with the <i>Protection of the Environment Operations (Waste) Regulation 2014</i> .	DA 2 Mod 9 approved the use of material subject to EPA resource recovery orders and exemptions. This application has therefore removed the need for the requested condition.
Sydney Water	<p>Early advice that confirmation of capacity availability for the Penrith Lakes Scheme cannot be provided at this time and requires further investigations.</p> <p>Sydney Water is currently in the process of finalising the Penrith CBD (and surrounds) precinct options planning study which is scheduled for completion by March 2020. Due to the variation in projected growth numbers across the wider Penrith Lakes Schemes at the outset of the options study, Sydney Water has incorporated potential growth range for the Penrith Lakes Scheme. The asset requirements to directly service the Penrith Lakes Scheme have not been identified at this stage as a result of the unknowns regarding ultimate yields and staging projections.</p> <p>The current options planning study will identify capacity constraints within local assets and system networks. These investigations will take place in conjunction with other related planning projects related to the sub-regionals plans for the Greater Penrith to Eastern Creek (GPEC) and the Western Parkland City studies.</p> <p>To assist with scoping future planning investigations, Sydney Water offers the following comments on potential servicing options:</p> <p><b>Water</b></p> <p>There may be potential to direct water from the Penrith North system subject to capacity confirmation and the completion of further detailed options planning work. Please note, this servicing route is only speculative at this time and would require the initiation and completion of a full planning investigation.</p> <p><b>Wastewater</b></p> <p>There may be potential to direct wastewater flows to Penrith Wastewater Treatment Plant subject to</p>	<p>The servicing of the site, and consultation with Sydney Water, is relevant to future development stages i.e. when particular land uses are proposed. The subject application is for rehabilitation works, and therefore these comments are not relevant at this stage.</p> <p>The applicant intends to consult with Sydney Water for future development stages.</p>

**Table 1: Response to Government Agency Submissions**

capacity confirmation and the completion of detailed options planning. As above, this option is only speculative at this time and requires the initiation and completion of a full planning investigation.

**Recycled water**

Due to the nature and size of the development and the capacity constraints within the catchment, Sydney Water are of the view that investigations into recycled water options for this site would be beneficial.

**Servicing the site – Next steps**

Sydney Water requests that the developer contacts the City Growth and Development team to arrange a meeting to discuss how to progress servicing options for the site. To facilitate discussions, Sydney Water requires at a minimum:

- A masterplan with land use zones
- Revised detailed staging plans showing yearly water demand and wastewater projections
- Expected first water use timescales
- Details regarding the potential industrial/commercial uses (where known) and if this would have a Recycled Water benefit

The Penrith Lakes Scheme has been included within our growth data. If any changes in growth projections should arise due to timescales and employment numbers, Sydney Water requests notification of this as soon as practicable.

Penrith City Council

**Relationship to Other Applications and Development Proposals**

It is understood that the intention of this modification application is to enable “rehabilitation of the subject site to a final land form capable of future development”. The application specifically seeks consent for additional fill volumes to be imported into this part of the site and establishment of a finished landform to enable future development capability.

It is however noted that Council has been separately advised of a request for the issue of SEAR’s which also relates to this specific part of the site, and also seeks “rehabilitation to a final land form”. It also appears that the documentation submitted in support of this separate request is substantially the same as that subject of this modification application.

It is therefore requested that the Applicant or Department provide verification on the relationship

The application under consideration is for rehabilitation of the subject site. Due to the historic use of the site for tailings disposal, there is a particular need to rehabilitate the land to allow for any future use of the site. Rehabilitation of the land is not specific to any particular future land use.

The application is not dependent on any other applications and must be assessed on its own merits.

Part of the site was previously “unzoned” under the *State Environmental Planning Policy (Penrith Lakes Scheme) 1989*, noting that the zoning has recently changed via an amendment to the SEPP such that the site is now predominantly zoned ‘Employment’ with ‘Environment’ zones to the north and south-western peripheries. However, the zoning is not directly relevant to the subject application. The DA2 consent, which is proposed to be modified, allows for

**Table 1: Response to Government Agency Submissions**

of this application, with respect to the separate application for SEAR's and advise if a proposal has been submitted, or made known, for the broader development of this part of the site that would then inform what land form would be suitable. In particular, the application currently proposes filling the site well beyond the existing area zoned employment into unzoned land.

The suitability of any final landform should be informed by details of the intended use of that land and as yet, Council has not been formally notified of any development proposal for the development and use of that land. The suitability of additional fill, the arrangement of that fill on the site and the intended development responding to that fill should be considered holistically and ideally within a single development application rather than a further modification to the existing consent under DA2.

**Relationship of Proposal with Respect to Conditioned 2 Year Plans**

Council has provided comments in the past with questions relating to the location of proposed fill in preceding modifications to DA1, DA2, DA3 and DA4 and the resulting finished land forms that were not expressly detailed within preceding modification applications.

This was understood to be due to separately conditioned 2 – year plan requirements that Council is not party to.

While it is appreciated that this application includes specific details on the depth of proposed fill (approximately 2m), Council has not been party to the preceding 2 year plans submitted direct to the Department which establish the approved fill and landform details and as such, an assessment of the implications of this proposed fill, having regard to the nature and implications of preceding approvals, cannot be undertaken.

It is therefore requested that the assessment of this application outline the relationship of this proposal to the preceding approvals issued by the Department and outline how the proposed 2m of fill provides a consistent land form to that supported by the Department in preceding applications.

**Filling and Contextual Integration**

The north-eastern corner of the site will result in a fill platform that is approximately 5.0m above the natural surface level at the rear of adjoining industrial properties in Leland Street. At Section 1 the fill platform will be approximately 4.7m above existing surface levels, with Sections 2 & 3

rehabilitation works across the Penrith Lakes Scheme, including the subject site.

The provision of "Two Year Plans" is a condition of consent of DA2 which requires the submission of detailed plans of works to be carried out within the subsequent two years.

The application has been amended to remove the landform components. The application now relates to importation volumes to achieve the approved landform levels and access hours. Please refer to section 3.

The subject modification is a separate matter to the Two Year Plan (which is only a requirement to satisfy a condition of consent of the existing DA2 approval) and can be assessed on its own merits.

The landform components have been removed from the application. The application now relates to the volume of material required to achieve the approved Two Year Plan.

**Table 1: Response to Government Agency Submissions**

approximately 2.6m above existing natural surface levels.

The south-east corner will result in a fill platform that is approximately 2.7m above the natural surface levels. This is not a suitable or reasonable interface and the rationale and necessity for this extent of level difference has not been sufficiently addressed.

The visual impact of the fill platform and the ultimate built form of future industrial buildings has not been addressed. This is of concern and as suggested above, the provision of this quantum of fill and the resulting finished ground levels should not be considered in the absence of details of the intended future development outcome of the land and amelioration measures.

Further, existing ground levels of the fill platform site are above the 1% AEP (1 in 100 year) flood level with the majority of the fill platform site being above the 0.5% AEP (1 in 200 year) flood level. The geotechnical advice from PSM dated 15 March 2019 states that a capping of structural fill 2 to 4m thick is to be placed and compacted. It is not clear why the existing material cannot be removed to a depth to accommodate a structural capping layer so as final land form levels match with existing natural surface levels of the surrounding development. It is not adequate to fill the site with the proposed interface arrangements without exploration of all other measures to achieve more sympathetic level transitions. As such, the proposed finished ground levels as depicted within the submitted plans and reports is not currently considered to be supportable or contextually sympathetic to the existing local industrial character of this precinct.

**Land Contamination Considerations**

A Site Audit Statement has been included with the application. This Statement confirms that the site is currently suitable for residential and other sensitive land uses, subject to the implementation of an Unexpected Finds Protocol. However, the Statement of Environmental Effects does not outline the current mechanisms put in place to ensure that the quality of the material accepted on site is appropriate and in line with the consent. Fill importation protocols should continue to be applied on site to ensure that only VENM, ENM or materials subject to a site-specific recovery order and exemption are accepted. It is requested that the Department ensure that any agreed mechanisms remain relevant and suitable to this proposed amendment.

Since lodgement of this application, DPIE has approved an updated importation protocol. All works will take place in accordance with the approved importation protocol.

A Site Audit Report was lodged with the application. The site audit was undertaken in accordance with the requirements of the *Contaminated Land Management Act 1997*, to determine the nature and extent of any contamination within the 'Southern Wetlands' area (including the subject site) and whether the land is suitable for particular uses.

The site audit report concludes that the site is suitable for residential land use with access to soil, including less sensitive land uses such as recreational, park and open space.

## Table 1: Response to Government Agency Submissions

Further to the above, it is not clear from the information submitted whether the water that was associated with the tailings has been tested, and whether there is any concern regarding the associated sediments. The Site Audit Statement does not include the associated Site Audit Report so it cannot be established whether these aspects have been assessed. It is requested that this be addressed by the applicant.

### Noise Impacts

The Noise Assessment submitted in support of the application gives consideration to works being carried out 24 hours a day across the site. For the purposes of the assessment, the site was divided into four areas, based around works in the east, west, central and north quadrants. However, these quadrants were not clearly identified in the report. The assessment found that whilst the works will not exceed the 'highly affected' noise criteria, works will have the potential to impact residential receivers when carried out during the night in all areas except for the western quadrant. For the works in the eastern quadrant, the criteria will be exceeded by up to 15dB at night, meaning that noise levels will be 20dB above background levels. Further, works in the central and eastern quadrants during the evening will also have the potential to impact these receivers.

Whilst the assessment suggests some mitigation measures that can be implemented, it does not clearly document the anticipated level of reduction to predicted noise levels that may result from their implementation. Also, it is not clear from the assessment the extent and frequency of the potential impacts to the residential receivers (ie. such as a discussion of the amount of works required in the eastern quadrant). The assessment does not make any specific recommendations that seem to address the exceedance of the noise criteria, such as restricting works to reduce the level of impact. For example, work could be prevented from occurring in the eastern quadrant during the night period.

Given this application seeks approval for an increase to operating hours, specifically operating during the night time period, it is considered necessary that further assessment be carried out to delineate the level of impact during this period and additional information submitted to demonstrated that no adverse impact will result from the increased activities.

Given the potential impacts to residential receivers resulting from work in certain areas of the site

RAPT Consulting, who prepared the submitted Noise Assessment report, have considered Council's comments and have provided advice (**Attachment A** to this report) which is outlined below.

The quadrants referred to in the Noise Assessment are illustrated in Figure 2 below.



Figure 2. Quadrants referred to in the noise assessment

The modelled results outlined in the Noise Assessment represent a worst case scenario where all assessed plant were operating at the nominated sound power levels. This is very seldom, if ever, the case when it comes to construction noise. Section 4 of the report outlines this and actual received noise levels can be expected to be much lower.

Actual anticipated noise level reduction will vary from plant item to plant item however the actual sound power level from plant operations from experience would rarely if ever be operating at their maximum sound power levels. Section 4.2 of the report provides a recommended set of noise mitigation measures including monitoring if necessary, to achieve project noise levels.

The noise assessment detailed operations with all provided nominated plant for the proposal for standard and out of hours operations. The assessment outlined the unlikely event of a worst-case scenario for standard and out of hours operations, provided commentary

**Table 1: Response to Government Agency Submissions**

(areas which are unclear from the information provided), it may be appropriate to restrict the work areas during the night time period and this would be recommended where the above concerns cannot be sufficiently addressed and resolved.

**Air Quality Impacts**

The application was supported by an air quality assessment, however, this assessment was only a qualitative assessment and included generic recommendations to manage impacts to local air quality. Given the scope of the works proposed, and the proximity to residential receivers, it is considered necessary that the applicant be required to prepare a quantitative air quality assessment and the current assessment submitted is not considered to be sufficient in its current form.

The above additional assessment should also outline specific mechanisms to be put in place to ensure that works can be effectively managed so as not to adversely impact nearby residential properties.

For example, it may be appropriate to restrict certain works in specific areas of the site during periods of high winds.

regarding the unlikelihood of this ever occurring and provided a set of recommended mitigation and management measures to achieve project noise levels.

As such, it is considered that the Noise Assessment report provides an appropriate level of consideration of potential noise impacts and provision of mitigation measures.

Ramboll, who prepared the submitted Air Quality Assessment Report, have considered Council's comments and have provided the below advice.

Undertaking a quantitative air quality assessment is of limited value to improving environmental outcomes. The qualitative assessment provided acknowledges that the development is potentially a dust generating activity (if controls are not in place) and addresses the environmental conditions which could potentially generate dust (hot, dry and/or windy). Accordingly, the qualitative assessment provides both appropriate mitigation practices for standard site conditions, such as minimising exposed surfaces and operation of a watercart, as well as the necessary actions to be implemented in the event of adverse weather conditions such as "Modifying work during periods of adverse weather (hot, dry and windy conditions) and when dust is seen leaving the site (i.e. limiting clearing and material handling)".

There are inherent uncertainties associated with particulate modelling, particularly in relation to the development of a representative emissions inventory. The use of default emission factors (in the absence of site-specific emission estimates) is considered conservative and may not be representative of actual emissions from the site. Given these limitations, dispersion modelling can still be useful to determine the potential magnitude of individual source impacts at nominated receptors, which in turn can be used to inform the most efficient allocation of resources to reduce fugitive particulate emissions. However, the outcomes of dispersion modelling are not likely to result in any additional or more stringent controls.

In consideration of the above, it is unlikely that the undertaking of a quantitative assessment would result in additional environmental or social benefits, and therefore is not considered warranted.

It is recognised that the scope of works and proximity to the Nepean River and the Penrith

**Water Quality Management**

**Table 1: Response to Government Agency Submissions**

It is noted that there is also the potential for the proposed development to have a significant impact on local water quality should appropriate sediment and erosion control measures not be put in place. It is put forward in the Statement of Environmental Effects that the relevant conditions currently in the consent will continue to apply, however the suitability of these conditions and their relevance to the current proposal should be addressed in the assessment of the application.

**Traffic Management Considerations**

The Modification Application indicates the proponent is seeking further expansion beyond the approved landform and have submitted the application to import additional fill as the previously approved fill limits are not going to be enough to meet their objectives. The consequence of continuous modifications for additional fill represents a series of incremental traffic volume increases, each of which mean more truck movements as well as increased wear and tear on Penrith’s local road network infrastructure.

The Traffic Report states that different access arrangements are being considered including Option 1 off Old Castlereagh Road and Option 2 off Lugard Street. The report also states (page 13) that in a scaled up operating parameter, approximately 29 trucks per hour would be delivering fill material to the site. This figure is for one-way movements into the site by fully laden vehicles and has not considered the return journey of empty trucks which equates to a total 58 truck movements per hour (two way) – approximately 1 truck every minute. The proposal is to receive, place and compact fill 24 hours per day, 7 days per week.

Construction access off Lugard Street is not supported by Penrith City Council due to the number of truck movements that would occur within the existing smaller older industrial subdivision in Lugard Street and Leland Streets. The increase in heavy vehicle traffic volumes would place severe operational constraints to the existing industrial premises within the estate. The road pavements within the estate are not adequate to cater for the increase in laden trucks delivering fill material to the site.

Previous applications for fill importation at the Penrith Lakes stated that an additional truck access point would be provided. Previous

Lakes Scheme requires the implementation of robust sediment and erosion control measures. A site specific soil and water management plan is to be prepared for the proposed works to fully address any potential impacts are ensure that appropriate mitigation measures are implemented during the works.

It is noted that an additional condition was imposed with the approval of Modification 7 which requires the implementation of erosion and sediment measures in accordance with the *Managing Urban Stormwater: Soils and Construction guideline*, (Condition 17A).

The existing DA2 consent was approved in 1987. With the rezoning of parts of the Penrith Lakes area in 2017 and 2020, the subject site was rezoned to employment land. The subject application seeks the total volume of fill that is estimated to be required to rehabilitate the site and the traffic impacts have been assessed accordingly.

TTPA traffic consultants have considered Council’s comments and have provided advice (**Attachment B** to this report) and an updated Traffic Impact Assessment (Issue C, February 2020) (**Attachment C** to this report) which includes two-way truck movements, and clarifies that the maximum expected traffic generation is 58 trucks per hour (two-way) per access location (Old Castlereagh Road and Lugard Street) which is based on conservative ‘scaled up’ operations i.e. a ‘worst-case scenario’. The traffic modelling indicates a satisfactory operating level of service for both access locations and that the relevant access and road intersections will operate with ample reserve capacities. On this basis, it is assessed that the traffic generation and implications will be acceptable and no additional road/intersection upgrade and/or treatment is necessary.

Access points for the site have already been approved under DA2 and include the use of the entry from Old Castlereagh Road and Lugard Street. The subject modification application seeks to access the site only via Lugard Street and/or Old Castlereagh Road.

**Table 1: Response to Government Agency Submissions**

Modification Applications also stated that access truck access to the site would be (as shown in the table below which was included in initial applications) as follows:

Item	Approved Scheme	Proposed Modification	Difference
Access Points	Three access points proposed to be utilised, however upgrades required to one of the access points were never completed therefore truck entry to the site has been via Gate 1 and 2 in recent years.	Two access points proposed to be utilised. No changes to access point required.	None

The additional access point was never constructed, even though Council considered that it was a requirement of this Project. Given this modification application relates to works that extend beyond the land south of Old Castlereagh Road, it is again reiterated that the proposal inclusive of additional truck movements should be accommodated by the construction of the new intersection (mentioned in Table 2 above) at the northern end of the site

It is also noted that this was previously conditioned, as follows:

*Condition 48A – Prior to the commencement of importation of VENM or ENM using the northern most access, the road network adjacent to Gate 3 (Castlereagh Road north of Cranebrook Road intersection) shall be upgraded to provide auxiliary left turn treatment for northbound traffic turning onto the site and right turn treatment for southbound traffic in consultation with Penrith City Council and RMS.*

The additional truck movements that would be generated by additional tonnage is a matter of concern to Council which needs to be adequately addressed as it is considered to be an inseparable matter to the proposals in this application.

Furthermore and as raised in previous submissions to modifications of these consents the section of two-lane rural type road between McCarthy's Lane and Nepean Street is substandard despite adequate road reserve along the Penrith Lakes frontage. Upgrade of this section of road is overdue given existing and proposed vehicle movements. Whilst it is appreciated that provision of a new road is problematic for a new series of heavy vehicles due to potential damage, a commitment to the upgrading of this section of road to tie in with that adjoining should be made and understood for either ahead of during or upon completion of the subject proposal.

**Engineering Considerations**

**Table 1: Response to Government Agency Submissions**

Geotechnical Assessments

The Geotechnical Advice letter from PSM dated 21 December 2018, paragraph 3 states that for treatment of the industrial lots, 'Future buildings may be piled to bedrock with no ground treatment required at all.' This method of treatment is not acceptable as inadequate consideration has been given to the support of the road pavement, drainage pipelines and the civil infrastructure that is necessary to support an industrial subdivision. The geotechnical assessment must consider all civil works that are necessary to construct an industrial subdivision given the intention of the proposal is to establish a land form outcome that will likely support a future subdivision and built form proposal.

The report does not make mention of the exiting Council drainage infrastructure that previously discharged stormwater from the adjoining street network of Leland Street and Lugard Street onto the lands. No mention has been made to address how this existing infrastructure is to be accommodated in the development. This must be addressed within the application.

Drainage, Filling and Flooding Considerations

Details of the outlet of stormwater discharge from the development site have not been provided and should be included.

Stormwater flows from batters along the eastern and southern boundaries will be directed to existing industrial properties. Details of how these flows are to be managed are also required to be addressed.

Batter slopes of 1 in 2 are proposed along the interface with existing industrial properties. Details of how these batter slopes are to be maintained should be provided. A geological assessment of the stability of the 1 in 2 batter slopes is also considered necessary.

Up to approximately 3.35 million tonnes of fill is proposed to be imported to the site. Justification for the volume of fill has not been provided or explained sufficiently within the information reviewed.

The landform components have been removed from the application. The application now relates to the volume of material required to achieve the approved Two Year Plan and hours of access.

The landform components have been removed from the application and drainage and filling does not require assessment. The application now relates to the volume of material required to achieve the approved Two Year Plan and hours of access.

### 3. Amended Scope of Modification

Following the lodgement of the subject modification application, a “Two Year Plan” specific to the subject site has been approved by DPIE on 11 August 2020 (the “Employment Land Precinct Two Year Plan”). The provision of “Two Year Plans” is a condition of consent of DA2 which requires the submission of detailed plans of works to be carried out within the subsequent two years.

The approved Employment Land Precinct Two Year Plan details the landform and site levels related to the required rehabilitation of the site.

Given the approval of the Two Year Plan, the approval sought under the subject modification application for the landform and site levels is now removed from the application.

The amended scope of the modification is therefore detailed in **Table 1**, and revised recommended conditions of consent provided below.

The amended scope (and recommended conditions) also responds to the submissions in terms of a commitment to use only the Lugard Street entrance to access or egress the site outside of the existing approved hours of operation (6am to 9pm Monday to Friday and 6am to 3pm Saturday).

**Table 1 Proposed Modification (as Amended)**

**Volume of fill**

**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.**

Approval is sought for a maximum of 3.35 million tonnes of fill which includes allowance for settlement, survey accuracy and contingency. The volume of fill has been calculated using CAD software to compare the relevant surface levels. A statement prepared by GCA is provided at **Attachment D** which confirms the required fill volume.

**Hours of operation**

**Approval is sought for fill and rehabilitation works on the subject site to operate on a 24 hour basis, 7 days a week. However, only the Lugard Street entrance is to be used to access or egress the site outside of the existing approved hours of operation (6am to 9pm Monday to Friday and 6am to 3pm Saturday).**

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.

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

**Table 1 Proposed Modification (as Amended)**

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.

In order to minimise any potential impacts to residential properties on Old Castlereagh Road, it is proposed to use only the Lugard Street entrance to access or egress the site outside of the existing approved hours of operation.

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 Response to Submissions documents.
- Amend Condition 46A:

*“46A All fill transported to and from the site shall be via the approved routes as shown in Figures 2 and 2A below and described in the Importation of VENM and ENM Modification (as shown in DA2 MOD 5). In addition, as approved under DA2 MOD7 **and MOD11**, up to 1,000,000 tonnes of fill may be transported to the site using Lugard Street. No trucks shall use Castlereagh Road south of ~~Old Castlereagh Road~~ **Lugard Street** or Mulgoa Road to access or egress the site.*

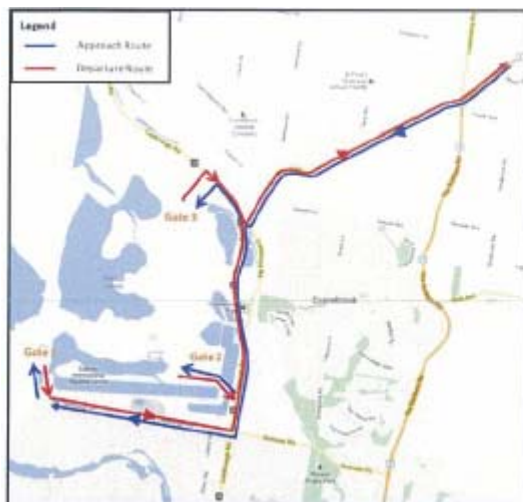


Figure 2 – Approved VENM **Fill** Transport Route from the North



Figure 2A – Approved VENM **Fill** Transport Route from the South

~~Should Lugard Street be used for transporting fill, the Applicant or anyone else acting on this consent shall advise the Secretary at the commencement of fill works and provide a monthly record of the monthly and cumulative total of fill transported to the site using this street.~~

- New Condition 49CCC:

**“49CCC In addition to Condition 49C, 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 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 Lugard Street entrance only is to be used to access or egress the site outside of the hours of operation listed in Condition 36BB.”**





## 4. Conclusion

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44 submissions were received in response to the public exhibition of the proposed modification:

- Seven (7) from Government agencies; and
- 37 from non-Government organisations, businesses and members of the public.

Of the seven (7) responses from Government agencies, the following had no specific queries or concerns regarding the modification and therefore a specific response was not required:

- NSW Department of Primary Industries
- Environment, Energy and Science Group (EES) in the Department of Planning, Industry and Environment
- Crown Lands
- WaterNSW

Agencies that raised concerns or made more extensive comments regarding the proposed modification include:

- NSW Environment Protection Agency (EPA)
- Sydney Water
- Penrith City Council

Of the 37 submissions received from non-Government organisations, businesses and members of the public, 31 were in support of the proposal and 6 raised issues or concerns.

The applicant commits to undertake the following actions as a response to the submissions:

- Only the Lugard Street entrance to be used to access or egress the site outside of the existing approved hours of operation (6am to 9pm Monday to Friday and 6am to 3pm Saturday).

The scope of the proposed modification has also been amended to reflect the approval of the Employment Land Precinct Two Year Plan which details the landform and site levels for the site related to the rehabilitation works. This change of scope addresses some of the issues raised, particularly by Penrith City Council, regarding the proposed landform and site levels.

We trust that the Department can now finalise the assessment of the modification application.

