

Annexure A

Penrith Lakes Development Corporation Ltd
v
Independent Planning Commission

Conditions of Consent

The Land and Environment Court of New South Wales modifies the consent referred to in Schedule 1, subject to the conditions in Schedule 2.

SCHEDULE 1

Development consent:	DA 2 granted by the Minister for Urban Affairs and Planning on 24 February 1987
For the following:	Development for the purposes of implementing the Penrith Lakes Scheme
Applicant:	Penrith Lakes Development Corporation (PLDC)
Consent Authority:	Land and Environment Court of New South Wales
The Land:	Penrith Lakes Scheme
Modification:	DA 2 MOD 7: the modification is for the importation of an additional 4.7 million tonnes of Virgin Excavated Natural Material and/or Excavated Natural Material to the site.

SCHEDULE 2

The consent is modified as follows:

- (a) Proposed Development is amended by the insertion of the **bold and underlined** words / numbers as follows:

DEVELOPMENT APPLICATION: Development for the purposes of implementing the Penrith Lakes Scheme as described:

- (a) in Schedule 1 of *Sydney Regional Environmental Plan No. 11 - Penrith Lakes Scheme*;
- (b) on land described on the attached plan – B/1-40015 and described in the Schedule;
- (c) Development Application (DA) 86/2720 and accompanying information lodged on the 1 December 1986 with the Department of Planning and Environment; and
- (d) Modification Application MOD 87-6-2005 lodged with the Department of Planning on 26 June 2005, and accompanying information:
 - Statement of Environmental Effects titled “*Penrith Lakes Development Corporation, Penrith Lakes Scheme, Statement of Environmental Effects – Dynamic Compaction Prototype Trial*” dated June 2005; and
 - Supplementary assessment titled “*Penrith Lakes Development Corporation, Dynamic Compaction Prototype Trial Supplementary Assessment*” dated 21 September 2005; and
- (e) Modification Application MOD 123-10-2006 lodged with the Department of Planning on 9 October 2006 and accompanying Statement of Environmental Effects titled “*Penrith Lakes Development Corporation, Penrith Lakes Scheme, Statement of Environmental Effects – Dynamic Compaction*”, dated October 2006.
- (f) Modification Application DA2 MOD 3 and accompanying SEE titled *Penrith Lakes Development Corporation, Importation of VENM* dated 22 December 2008, including the response to submissions dated 12 May 2009.
- (g) Modification Application DA2 MOD 4 and accompanying Environmental Assessment titled *Penrith Lakes Development Corporation, VENM Importation Modification Assessment* dated August 2012, including response to submissions dated November 2012.
- (h) Modification Application DA2 MOD 5 and accompanying Environmental Assessment titled *Penrith Lakes Development Corporation, Importation of VENM and ENM Modification*, dated 25 September 2014, including response to submissions dated 13 January 2015.
- (i) Modification Application DA2 MOD 6 and accompanying Environmental Assessment titled *Penrith Lakes Development Corporation, Section 75W Amendment Application - Importation ENM/VENM Summary Report*, dated 1 December 2015, including Submissions Report dated 1 March 2017 updated on 12 April 2017.
- (j) Modification Application DA2 MOD 8 and accompanying Environmental Assessment titled *Penrith Lakes Development Corporation, S4.55(1A) – Modification Application*, dated 10 May 2018, including Submissions Report dated 20 June 2018 and additional information dated 12 July 2018.
- (k) Modification Application DA2 MOD 7 and accompanying Environmental Assessment titled Statement of Support for Section 4.55(2) Modification Application to DA 02, DA 03 and DA 04, dated May 2018, including response to submissions dated 28 September 2018 and the following plans:**

<u>Plan Number</u>	<u>Plan Name</u>	<u>Revision</u>	<u>Date</u>
<u>110088/CC200</u>	<u>Cover Sheet, Index and Notes</u>	<u>C</u>	<u>n.d</u>
<u>110088/CC201</u>	<u>Setout Plan</u>	<u>C</u>	<u>29/10/18</u>
<u>110088/CC202</u>	<u>Engineering Plan</u>	<u>C</u>	<u>29/10/18</u>
<u>110088/CC203</u>	<u>Channel Long Section</u>	<u>C</u>	<u>29/10/18</u>

<u>110088/CC204</u>	<u>Channel Cross Sections Sheet 1</u>	<u>C</u>	<u>29/10/18</u>
<u>110088/CC205</u>	<u>Channel Cross Sections Sheet 2</u>	<u>C</u>	<u>29/10/18</u>
<u>110088/CC206</u>	<u>Scour Protection Plan</u>	<u>C</u>	<u>29/10/18</u>
<u>110088/CC207</u>	<u>Cut and Fill Plan</u>	<u>C</u>	<u>29/10/18</u>
<u>110088/CC208</u>	<u>Stormwater Management Plan & Notes</u>	<u>C</u>	<u>29/10/18</u>

Note: All references to VENM in this consent mean Virgin Excavated Natural Material, as defined in the Protection of the Environment Operations Act 1997.

- (b) Condition 17A is deleted and replaced as follows:

17A. Within 1 month of commencement of VENM and ENM importation in approved under DA2 MOD 7, PLDC shall implement erosion and sediment control measures on site, in accordance with the relevant requirements in the latest version of the *Managing Urban Stormwater: Soils and Construction guideline*. These erosion and sediment control measures shall be inspected and maintained by PLDC for the duration of VENM and ENM importation on the site.

- (c) Condition 17C is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~stuck-out~~ words/numbers as follows:

17C Prior to the commencement of VENM and ENM importation in accordance with MOD 8 **7**, PLDC shall notify the EPA and the Department regarding the sources of VENM and ENM including documentation that material has been classified in accordance with the Waste Classification Guidelines, Part 1 Classifying Waste, EPA 2014 and the requirements of the EPA 2014 Excavated Natural Material Order and Excavated Natural Material Exemption.

- (d) Insert the following condition after Condition 17C of the Schedule:

17D PLDC must submit updated plans of the flowpath between Duralia Lake and Lake A. The updated plans must:

- be submitted to and approved by the Secretary prior to issue of the construction certificate or commencement of works associated with DA2 MOD 7;
- be prepared by a suitably qualified and experienced person;
- make reference to the geotechnical requirements as set out in the Northern Lot 4 Precinct Two Year Plan (dated November 2015), particularly sections 3.2.4 and 4.4.1, in relation to the western transition of the flowpath between Duralia Lake and Lake A between RL21.0m AHD to the operating level of Lake A;
- ensure the Duralia Lake and Lake A flowpath transitions are consistent with the transitions from the Lakes and flowpath up to the finished ground levels to the north and south of the flowpath, at typically RL24.m/RL24.5m;
- include on the Scour Protection Plan, plan number 110088/CC206 Rev C dated 29/10/18, a note referencing drawing PLDC – 11862 Rev B Northern Lot 4 Precinct – Two Year Plan.

PLDC must carry out the development in accordance with any updated plans approved by the Secretary under this condition.

- (e) Condition 36BB is amended by the insertion of the **bold and underlined** words / numbers as follows:

- 36BB The Applicant shall ensure that the development described in DA2 MOD4, DA2 MOD5, ~~and DA2 MOD6, and DA2 MOD 8~~ **and DA2 MOD 7** complies with the hours of operation set out in Table 2:

Monday to Friday	Saturdays	Sundays and Public Holidays
6:00 am to 9:00 pm	6:00am to 3:00pm	No work

Table 2 – Hours of Operation

- (f) Insert the following condition after Condition 37 of the Schedule:

Noise and Dust Management Plans

- 37A PLDC shall prepare and implement a Noise Management Plan (NMP) and a Dust Management Plan (DMP) for VENM and ENM importation approved under DA2 MOD 7. The NMP and DMP must:
- (a) be submitted to the Secretary within three months of commencement of works associated with DA 2 MOD 7;
 - (b) be prepared in consultation with Council and the EPA;
 - (c) verify that the project meets the relevant noise and air quality criteria in the approval and EPL;
 - (d) if any non-compliances occur, describe the measures that would be implemented to ensure compliance with the relevant conditions of this approval and the EPL;
 - (e) include provisions to ensure that the project achieves and maintains best practices in both equipment and operations to minimise dust and noise impacts in accordance with conditions of approval;
 - (f) outline procedures to manage responses to any complaints or issues raised by the owners of affected residences; and
- The NMP and DMP must be approved prior to importation of 9.5 million tonnes of VENM and ENM.
- PLDC must carry out the development in accordance with any NMP and DMP approved by the Secretary under this condition.

- (g) Insert the following conditions after Condition 46A of the Schedule:

- 46B (1) PLDC shall investigate the need for road upgrades on the section of Castlereagh Road between McCarthy's Lane and Nepean Street to accommodate the VENM and ENM importation approved under DA2 MOD 7. The assessment shall:
- (a) be prepared by a suitably independent and qualified expert;
 - (b) be prepared in consultation with Penrith City Council and the RMS;
 - (c) establish any road upgrades and traffic management measures required to address all road pavement and traffic safety issues associated with VENM and ENM importation in accordance with DA2 MOD 7 on this section of road.

The assessment shall be submitted to the Secretary for approval prior to importation of 9 million tonnes of VENM and ENM to the site.

- (2) If road upgrade works are required under condition 46B(1), PLDC shall provide those road upgrades on the above section of Castlereagh Road between McCarthy's Lane and Nepean Street, prior to importation of 9.5 million tonnes of VENM and ENM to the site, to the satisfaction of the RMS.

Note: these works must be provided at no cost to Penrith City Council or RMS and all required separate approvals for the road works must be obtained from the relevant authority.

46C (1) PLDC shall prepare a precondition road survey in accordance with RMS specifications for the haulage roads identified in Condition 46A. The precondition road survey must be prepared by a suitably qualified and experienced person within 1 month of commencing importation of VENM and ENM to the site approved under DA2 MOD 7. A copy of the precondition road survey shall be submitted to the Department, RMS and Council within 1 week of the date of the precondition road survey.

(2) Further dilapidation reports shall be undertaken by PLDC for haulage roads identified in Condition 46A on a four monthly basis for the duration of works approved under DA2 MOD 7, with a final post-dilapidation report prepared at the completion of works. A copy of each dilapidation report shall be submitted to the Department, RMS and Council.

(3) PLDC shall rectify any deterioration of the road pavement as a result of the VENM and ENM importation approved under DA2 MOD 7 that adversely affects the existing road users during the works. At completion of the works, a final post-dilapidation report shall be carried out. All maintenance and permanent repairs will be carried out within six months of completion of works, to a condition equivalent to that identified in the precondition road survey, and prior to the release of any occupation certificate for works approved under DA2 MOD 7, to the satisfaction of the relevant authority.

Note: these works must be provided at no cost to Penrith City Council or RMS and all required separate approvals for the road works must be obtained from the relevant authority.

(h) Condition 49C is deleted and replaced as follows:

49C The importation of VENM and ENM shall be limited to 13 million tonnes at a maximum rate of 3 million tonnes per year.

(i) Insert the following conditions after Condition 49D of the Schedule:

Monitoring of Fill

49E PLDC shall:

- 1) keep accurate records of the amount of VENM and ENM imported to the site (on a monthly basis); and
- 2) make these records publicly available on its website at the end of each calendar year.

Road Transport Protocol

49F PLDC shall prepare and implement a Road Transport Protocol, in consultation with Council and RMS. This protocol shall:

- 1) be submitted to the Secretary for approval within three months of commencement of works associated with DA 2 MOD 7;
- 2) include a Traffic Management Plan, which includes:
 - a) procedures to ensure that drivers adhere to the designated haulage routes;
 - b) details of procedures for receiving and addressing complaints from the community concerning traffic issues associated with truck movements;
 - c) measures to ensure that the provisions of the Traffic Management Plan are implemented including, but not limited to, driver training in the heavy vehicle drivers' Code of Conduct; and

- d) procedures for ensuring compliance with and enforcement of the heavy vehicle drivers' Code of Conduct; and
- 3) include a Code of Conduct for heavy vehicle drivers that addresses:
 - a) appropriate travelling speeds;
 - b) staggering of truck arrivals and departures to ensure a regular trucking schedule throughout the day;
 - c) instructions to drivers to maintain appropriate distances between vehicles;
 - d) instruction to drivers to adhere to the designated haulage routes;
 - e) instruction to drivers to be properly safety conscious and to strictly obey all traffic regulations; and
 - f) appropriate penalties for infringements of the Code.

PLDC must carry out the development in accordance with any Road Transport Protocol approved by the Secretary under this condition.

**End of modification
(DA2 MOD 7)**