

# Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I modify the consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Brendon Roberts  
**A/Director**  
**Regional Assessments**

Sydney 10 February 2020

## SCHEDULE 1

<b>Development consent:</b>	<b>DA 2</b> granted by the Minister for Urban Affairs and Planning on 24 February 1987
<b>For the following:</b>	Development for the purposes of implementing the Penrith Lakes Scheme
<b>Applicant:</b>	Penrith Lakes Development Corporation
<b>Consent Authority:</b>	Minister for Planning
<b>The Land:</b>	Penrith Lakes Scheme (as it relates to DA2)
<b>Modification:</b>	<b>DA 2 MOD 10:</b> modification to allow the importation of spoil from the M4-M5 Link and Sydney Metro tunnels onto the site.

## SCHEDULE 2

The consent is modified as follows:

- (a) APPLICATION is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~stuck-out~~ 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:

Plan Number	Plan Name	Revision	Date
110088/CC200	Cover Sheet, Index and Notes	C	n.d
110088/CC201	Setout Plan	C	29/10/18
110088/CC202	Engineering Plan	C	29/10/18
110088/CC203	Channel Long Section	C	29/10/18
110088/CC204	Channel Cross Sections Sheet 1	C	29/10/18
110088/CC205	Channel Cross Sections Sheet 2	C	29/10/18



110088/CC206	Scour Protection Plan	C	29/10/18
110088/CC207	Cut and Fill Plan	C	29/10/18
110088/CC208	Stormwater Management Plan & Notes	C	29/10/18

**(I) Modification Application DA2 MOD 10 and accompanying documentation titled Penrith Lakes Scheme S4.55(1A) Modification Application, dated 4 July 2019, including additional information dated 13 December 2019 and the Importation Protocol, Version 9.3, revision 04, dated 30 January 2020.**

*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) After Condition 17C insert the new Condition 17CC shown in **bold and underlined** as follows:

**17CC Prior to the commencement of fill importation pursuant to MOD 10, the EPA and Department shall be notified confirming the sources of the fill, including documentation prepared by an appropriately qualified environmental consultant, and that the material complies with the requirements of the relevant:**

- (a) **The Sydney Metro tunnel spoil order November 2018**
- (b) **The Sydney Metro tunnel exemption November 2018**
- (c) **The M4-M5 Link tunnel spoil order 2019**
- (d) **The M4-M5 Link tunnel spoil exemption 2019.**

- (c) Condition 36BB is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~stuck-out~~ words/numbers as follows:

36BB ~~The Applicant shall ensure that the development described in DA2 MOD4, DA2 MOD5, DA2 MOD6, DA2 MOD 8, and DA2 MOD7~~ **and DA2 MOD10 shall** comply 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*

- (d) Condition 37A is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~stuck-out~~ words/numbers as follows:

**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 9.5Mt of VENM and ENM.

PLDC must carry out the The development, **including all fill importation, must be undertaken** in accordance with any NMP and DMP approved by the Secretary under this condition.

- (e) Condition 46A is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~stuck-out~~ words/numbers as follows:

46A All ~~VENM and ENM~~ **fill** transported ~~ed~~ 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)**. No trucks shall use Castlereagh Road south of Old Castlereagh Road or Mulgoa Road to access or egress the site.



Figure 2 – Approved VENM Transport Route from the North



Figure 2a – Approved VENM Transport Route from the South

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

**49C The importation of fill shall be limited to 13 million tonnes at a maximum rate of 3 million tonnes per year and comprise of only:**  
**(a) VENM;**  
**(b) ENM;**  
**(c) M4-M5 Link tunnel spoil order 2019 and exemption 2019; and/or**  
**(d) Sydney Metro tunnel spoil order November 2018 and exemption November 2018.**

- (g) Condition 49E is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~stuck-out~~ words/numbers as follows:

#### Monitoring of Fill

49E PLDC shall:

- 1) keep accurate records of the amount of ~~VENM and ENM~~ **fill** imported **(in accordance with Condition 49C)** to the site (on a monthly basis); and
- 2) make these records publicly available on its website at the end of each calendar year.



(h) After Condition 49F insert the following new conditions shown in **bold and underlined**:

**Penrith Lakes Importation Protocol**

**49G All imported fill shall comply with the requirements of the Penrith Lakes Importation Protocol, prepared by ERM Consulting, Version 9.3, revision 04, dated 30 January 2020.**

**End of modification  
(DA2 MOD 10)**