

# 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 27/02/2020

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## 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 9:</b> modification by Great River NSW to allow the importation of material subject to site specific Resource Recovery Order and Exemptions issued by the NSW Environmental Protection Authority.

## 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

- (l) 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.
- (j) **Modification Application DA2 MOD 9 and accompanying documentation titled Statement of Environmental Effects Section 4.55(1A) Modification Application to DA2, DA3 and DA4 14-278 Old Castlereagh Road Penrith, dated 13 August 2019, including Response to Submissions dated 12 September 2019 and additional information dated 19 December 2019.**

*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 17CC is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~stuck-out~~ words/numbers as follows:
- 17CC Prior to the commencement of fill importation pursuant to **MOD 9 and** MOD 10, the EPA and Department shall be notified confirming the sources of the fill ~~including~~ **and provided with** documentation, prepared by an appropriately qualified environmental consultant, **confirming** ~~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-
  - (e) **any other site-specific Resource Recovery Order and Exemption issued by the EPA.**
- (c) Condition 32 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~stuck-out~~ words/numbers as follows:
32. The Applicant **Works and/or development carried out pursuant to this approval, as modified,** shall not exceed the following maximum noise levels in those areas designated.
- (a) **Cranebrook Village and Other Dwellings outside the Scheme area** (but not on the Escarpment) - see figure 2

(i) Maximum Noise Levels

Noise levels as measured at any one dwelling in Cranebrook or any other dwelling outside the Scheme area (but not including residences along Castlereagh Escarpment) are not to exceed the following criteria.

Maximum Noise Limits (L10)

Absolute maximum - 70dB( a ) \*  
 Greater than - 65dB(A) for 1 month  
 Greater than - 60dB(A) for 3 months  
 Greater than - 55dB(A) for 24 months  
 Less than - 55dB(A) for remainder of time

- (ii) The above absolute maximum may be exceeded as a result of the construction of noise control works e.g. noise bunds.
- (iii) In the area south of Cranebrook village all rehabilitation works shall be setback 20 metres from the residential area.
- (iv) In the area north of Cranebrook village all rehabilitation works shall be set back 50 metres from the residential area.

(b) Noise Reduction Measures

The Applicant, **or, where relevant, anyone else acting on this consent, as modified,** shall:

- (i) complete within a 3 month period the rehabilitation works for the area south of Cranebrook Village
- (ii) construct noise bunds around Cranebrook Village in accordance with drawing B10-10008 prior to the commencement of extraction or rehabilitation operations on land described in Schedule 4.

(c) Dwellings on the Castlereagh Escarpment - see figure 2

(i) Maximum Noise Levels

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

Maximum Noise Limit (L10)

Absolute maximum - 70dB(A)  
 Greater than - 65dB(A) for 3 months  
 Greater than - 55dB(A) for 24 months  
 Less than - 55dB(A) for remainder of time

- (ii) All extraction and rehabilitation to take place a minimum of 200 m from dwellings on the escarpment.

- (d) 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 development described in DA2 MOD4, DA2 MOD5, DA2 MOD6, DA2 MOD 8, DA2 MOD7, **DA2 MOD 9** 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

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

36D **Works and/or development carried out pursuant to this approval, as modified, must comply** ~~The Applicant shall ensure that the development described complies with the vibration limits set out in Table 3, unless~~ **written agreement** ~~it has been secured a written agreement from the affected landowner to exceed these limits.~~

Sensitive Receiver	Ground Vibration Limits	
	Building Damage (peak particle velocity)	Human Comfort (vibration dose value)
Residences at Cranebrook Village, South Cranebrook, and Upper Castlereagh Uniting Church	5 mm/s	0.20 m/s <sup>1.75</sup>
Poplars Heritage Complex	3 mm/s	0.40 m/s <sup>1.75</sup>
McCarthy's Cemetery	3 mm/s	N/A
Whitewater Stadium	10 mm/s	N/A

Table 3 Ground Vibration Limits

Note: Vibration dose values sourced from Table 2.4 in "Assessing Vibration: a technical guideline" (DEC, 2006).

- (f) 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 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, 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 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

**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.**

- (g) 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;  
and/or
- (e) other material which meets the requirements of a site-specific resource recovery Order and Exemption issued by the EPA in accordance with the Protection of the Environment Operations (Waste) Regulation 2014.
- (h) 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, **in consultation with anyone else acting on this consent (as modified)**, shall:
- 1) keep accurate records of the amount of 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.
- (i) Condition 49G is deleted and replaced as follows:

**Penrith Lakes Importation Protocol**

- 49G (a) All imported fill pursuant to Condition 49C(a to d), shall comply with the requirements of the Penrith Lakes Importation Protocol (PLIP), prepared by ERM Consulting, Version 9.3, revision 04, dated 30 January 2020;**
- (b) Prior to importation of fill pursuant to Condition 49C(e), an importation protocol must be prepared to reflect the fill approved by DA2 MOD9. This importation protocol must:**
- (i) be prepared to apply to the entire DA2 site area;**
- (ii) be prepared in consultation with the EPA, DPIE – Water, Council and PLDC;**
- (iii) have a similar structure to the PLIP approved by Condition 49G(a) and include sections related to material definitions, information required prior to accepting the material on the site, importation approvals (including an unexpected finds protocol) and import soil quality assurance/control measures, as relevant; and**
- (iv) be submitted to the Secretary for approval.**
- The importation of fill pursuant to Condition 49C(e) must be undertaken in accordance with the importation protocol approved by the Secretary under this condition**

End of modification  
(DA2 MOD 9)