

# 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 Services, I modify the consent referred to in Schedule 1, subject to the conditions in Schedule 2.



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

Sydney

1 May 2020

## SCHEDULE 1

<b>Development consent:</b>	<b>DA 3</b> granted by the Minister for Urban Affairs and Planning on 27 June 1995
<b>For the following:</b>	Development for the purposes of implementing the Penrith Lakes Scheme
<b>Applicant:</b>	Penrith Lakes Development Corporation ( <b>PLDC</b> )
<b>Consent Authority:</b>	Minister for Planning
<b>The Land:</b>	Penrith Lakes Scheme (as it relates to DA3)
<b>Modification:</b>	<b>DA 3 MOD 8:</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) Development 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 defined in Schedule 1 of the State Environmental Planning Policy (Penrith Lakes Scheme) 1989, as described in Development Application 3 and the Stage Environmental Effects (SEE) dated 1994, and subsequently modified by:

- Modification Application and associated documents dated 18 April 1995; and
- Modification Application DA3 Mod 3 and accompanying Environmental Assessment titled Importation of VENM dated August 2012, including the response to submissions dated November 2012.
- Modification Application DA 3 MOD 4 and accompanying Environmental Assessment titled Penrith Lakes Development Corporation, Importation of VENM and ENM Modification, dated 25 September 2014 including the response to submissions dated 13 January 2015.
- Modification Application DA3 MOD 5 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.
- Modification Application DA3 MOD 7 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.
- Modification Application DA3 MOD 6 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

- **Modification Application DA3 MOD 8 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).**

- (b) After Condition 15B insert the new Condition 15BB shown in **bold and underlined** as follows:

**15BB Prior to the commencement of fill importation pursuant to MOD 8, 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 31A is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~stuck-out~~ words/numbers as follows:

- 31A The ~~Applicant shall ensure that the~~ development described in DA2 **DA3** MOD3 and DA3 MOD4 and DA3 MOD5 and DA3 MOD 7 and DA3 MOD 6 **and DA3 MOD 8 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 33A 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

- 33A PLDC shall prepare and implement a Noise Management Plan (NMP) and a Dust Management Plan (DMP) for VENM and ENM importation approved under DA3 MOD 6. The NMP and DMP must:
- (a) be submitted to the Secretary within three months of commencement of works associated with DA3 MOD 6;
  - (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 40A is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~stuck-out~~ words/numbers as follows:

- 40A 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 DA3 MOD 4)**. 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 41C is deleted and replaced as follows:

**41C 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 41D 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

41D PLDC shall:

- 1) keep accurate records of the amount of ~~VENM and ENM~~ **fill** imported **(in accordance with Condition 41C)** 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 41E insert the following new conditions shown in **bold and underlined**:

#### **Penrith Lakes Importation Protocol**

**41F 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  
(DA3 MOD 8)