

Notice of Modification

Section 75W of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure, I modify the development consent referred to in Schedule 1 as set out in Schedule 2.

Sam Haddad

Sam Haddad
Director-General

Sydney,

6th May

2011

SCHEDULE 1

The development consent (DA 4) granted by the Minister for Urban Affairs and Planning on 9 September 1998, for the Penrith Lakes Scheme.

SCHEDULE 2

1. Delete "**proposed development**" and replace with:

proposed development:

Development as described in the development application identified as DA 4 and its supporting papers for the purposes of implementing the Penrith Lakes Scheme as defined in Schedule 1 of *Sydney Regional Environmental Plan No. 11 – Penrith Lakes Scheme* on land described in, and identified on the plan, attached at Schedule B, and subsequently modified by:

- Modification Application and accompanying noise assessment dated June 2004, and prepared by Wilkinson Murray Pty Ltd;
- Modification Application and accompanying SEE dated March 2005, and prepared by Arup Pty Ltd (which was subsequently modified by the supplementary noise information prepared by Arup Pty Ltd, and dated 22 August 2005);
- Modification Application DA4 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;
- Modification Application DA4 MOD 4 and accompanying Environmental Assessment titled *Section 75W Application – Flood Discharge Pipe Construction at Penrith Lakes* dated November 2010, including the Supplementary Report titled *Wildlife Lake Section 75W – Weir and Flood Outlet Pipe Supplementary Report* dated 6 December 2010, and the response to submissions dated 21 January 2011; and
- Modification Application DA4 MOD 5 and accompanying Environmental Assessment titled *Section 75W Application – Wildlife Lake Weir at Penrith Lake* dated November 2010, including the response to submissions dated 21 January 2011.

2. Delete the definition for "DECC" in the definitions table, and amend the definitions table to include the following:

- c) the OEHL means the Office of Environment and Heritage
- l) the DPI means the Department of Primary Industries

3. Delete all references to "DECC", and replace with "OEH".
4. Delete all references to "Department of Planning" and replace with "Department of Planning and Infrastructure".
5. Delete all references to "Minister for Planning" and replace with "Minister for Planning and Infrastructure".
5. Insert the following after condition 26 of schedule A:

Tree Screen

- 26A. The Applicant shall prepare (and subsequently implement) a Landscape Plan to provide a vegetative screen between the Wildlife Lake Weir and the properties to the north, to the satisfaction of the Director-General. The Landscape Plan must be prepared in consultation with neighbouring landowners adjacent the northern boundary, and be submitted to the Director-General for approval by the end of July 2011.
6. Delete condition 27 of schedule A, and replace with:

Water Supply

27. The Applicant shall ensure that it has sufficient water for all stages of the development, and if necessary, adjust the scale of quarrying operations to match its available water supply, to the satisfaction of the Director-General.

Note: The Applicant is required to obtain all necessary water licences and approvals for the development under the Water Act 1912 and/or Water Management Act 2000.

Water Management Plan

- 27A. The Applicant shall prepare and implement a Water Management Plan for the development to the satisfaction of the Director-General. This plan must be prepared in consultation with OEH, DPI and Council, and be submitted to the Director-General for approval by the end of October 2011, and prior to the construction of any flood infrastructure for the Wildlife Lake. The plan must include:
 - (a) a Site Water Balance, which must:
 - include details of:
 - sources and security of water supply;
 - water use on site;
 - water management on site;
 - any off-site water transfers; and
 - investigate and implement all reasonable and feasible measures to minimise water use by the development;
 - (b) an Erosion and Sediment Control Plan, which must:
 - identify activities that could cause soil erosion, generate sediment or affect flooding;
 - describe measures to minimise soil erosion and the potential for the transport of sediment to downstream waters;
 - describe the location, function, and capacity of erosion and sediment control structures; and
 - describe what measures would be implemented to maintain the structures over time;
 - (c) a Flood Management Plan, which must include:
 - detailed baseline data and flood modelling for the Penrith Lakes Scheme;
 - a description of the measures to minimise flood risk associated with the development and in the surrounding area;
 - describe the location, function and capacity of flood management structures;
 - describe what measures would be implemented to maintain the structures over time; and
 - a flood emergency response plan to effectively respond to flood events;
 - (d) a Surface Water Management Plan, which must include:
 - baseline data on surface water flows and quality in the lakes and other waterbodies that are potentially affected by the development;

- surface water flows and quality;
 - impacts on water users;
 - stream health; and
 - channel stability;
- (e) a Groundwater Management Plan, which must include:
- baseline data of groundwater levels, yield and quality in the region;
 - measures to minimise interaction with the Hawkesbury Alluvials Groundwater Source;
 - groundwater impact assessment criteria including trigger levels for investigating any potentially adverse groundwater impacts;
 - a program to monitor and assess:
 - groundwater inflows to the quarrying operations;
 - impacts on regional aquifers and the Hawkesbury Alluvials Groundwater Source;
 - (any) impacts on the groundwater supply of other groundwater users;
 - impacts on groundwater dependent ecosystems and riparian vegetation; and
- (f) a Surface and Ground Water Response Plan, which must include:
- a response protocol for any exceedances of the surface water and groundwater assessment criteria;
 - measures to prevent, minimise or offset groundwater leakage from alluvial aquifers caused by the development; and
 - measures to mitigate and/or offset any adverse impacts on groundwater dependent ecosystems or riparian vegetation.

Note: Prior to approval of this Water Management Plan, the pre-existing Water Management Plan for the Penrith Lakes Scheme shall continue to apply to the development.

7. Delete condition 39 of Schedule A, and replace with:

ABORIGINAL HERITAGE

39. Destruction of Aboriginal Objects

- (a) If any new or unknown Aboriginal objects are uncovered during the development, work affecting those objects is to cease immediately and the Applicant must seek the appropriate approvals under the *National Parks and Wildlife Act 1974*.
- (b) The Applicant shall further consult with the OEH regarding appropriate Aboriginal community participation in monitoring, surveying, and any salvaging requirements during the Aboriginal cultural heritage component of the development process. The Applicant shall also consult with the OEH regarding Aboriginal participation in management of the heritage values of the site in the interim period before the proposed regional park is established.

Management of Conservation Areas

- (c) By the end of October 2011, the Applicant shall develop a conservation management plan that addresses the interim day-to-day management of all areas set aside for heritage conservation for the intervening period before the proposed regional park is established, to the satisfaction of the Director-General. The plan is to ensure that the natural values of the land are not diminished and shall be prepared in consultation with relevant stakeholders, including the OEH, the Aboriginal community and the park advisory committee.

Geomorphic Unit D1

- (d) Excavation shall not occur within 20 m of Smith's Lane to ensure that portion of geomorphic unit D 1 (as identified in the *Supplementary Notes to Archaeological Investigations in the DA 4 area, Penrith Lakes Scheme, prepared by Dr J Kohen, May 1998*) is retained.

8. Insert the following after condition 65(a) of schedule A:

- (a1) Prior to quarrying within 300 metres of any residence to the north of the Wildlife Lake, the Applicant shall prepare (and subsequently implement) a noise compliance monitoring program, to the satisfaction of the Director-General.

Note: The purpose of the monitoring program is to ensure that the noise limits in condition 29 are complied with during the works in proximity to these receivers.