

Notice of Modification

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

Under the Minister for Planning's delegation of 25 January 2010, and the Minister for Planning & Infrastructure's delegation of 28 May 2011, I modify the development consent referred to in Schedule 1 as set out in Schedule 2.



David Kitto
Director Mining & Industry

Sydney, 12 AUGUST

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;
- 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; and
- Modification Application DA4 MOD 6 and accompanying Environmental Assessment titled *Modification to DA4 Penrith Lakes Scheme* dated 30 June 2011

2. Delete condition 26A of schedule A, and replace with:

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 property to the north, to the satisfaction of the Director-General. The Landscape Plan must be prepared in consultation with the neighbouring landowner adjacent the northern boundary, and be submitted to the Director-General for approval by the end of December 2011.

Following approval, the Applicant shall implement the plan prior to the completion of construction of the Wildlife Lake Weir.

3. Delete conditions 27 and 27A of schedule A, and replace with:

Controlled Activity Approval

27. The Applicant shall obtain all necessary controlled activity approvals for the development under the *Water Management Act 2000* and/or *Water Act 1912*.

Water Management Plan

27A. By 31 March 2012, or as otherwise agreed by the Director-General, the Applicant shall review and update the existing Water Management Plan for the scheme to the satisfaction of the Director-General. The review and update of this plan must be prepared in consultation with OEH, DPI and Council; and cover the relevant aspects outlined in the Deed of Agreement for the Penrith Lakes Scheme, the proposed development in this consent, and the proposed development of the other development consents for the Penrith Lakes Scheme.

Following approval, the Applicant shall implement the updated plan to the satisfaction of the Director-General.

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

Erosion & Sediment Control – Wildlife Lake Weir and Flood Outlet & Water Discharge Locations 14-16

27B. The Applicant shall implement the Erosion and Sediment Control Plans (ESCPs) for the Wildlife Lake Weir, Wildlife Lake Flood Outlet Pipe, and Water Discharge Locations 14-16 included in DA 4 MOD 6.

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

ABORIGINAL HERITAGE

39. Management of Conservation Areas

- (a) By the end of December 2012 (unless otherwise agreed by the Director-General), 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 cultural and 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. The plan shall also provide for ongoing consultation and involvement of the Aboriginal communities in the conservation and management of Aboriginal cultural heritage on the site.

Geomorphic Unit D1

- (b) Excavation shall not occur within 20 m of Smith's Lane to ensure that portion of geomorphic unit D I (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.

Wildlife Lake Weir, Flood Outlet Pipe and Water Discharge Locations 14-16

- (c) The Applicant shall not commence any construction works on the Wildlife Lake Weir, Flood Outlet Pipe and Water Discharge Locations 14-16, until it has obtained an Aboriginal Heritage Impact Permit(s) under the *National Parks and Wildlife Act 1974*, unless otherwise agreed by the OEH.

Note: The Wildlife Lake Weir, Flood Outlet Pipe and Water Discharge Locations 14-16 are detailed in MODs 4 to 6.

- 6. Delete condition 65(a1) of schedule A, and replace with:

- (a1) Prior to the construction of the Wildlife Lake Weir, the Applicant shall prepare a Noise Monitoring Program to the satisfaction of the Director-General. This program is to ensure that the development on site, including the construction works for the weir, complies with the relevant noise limits in this consent and any associated EPL at the residences adjacent to the northern boundary of the site. Following approval, the Applicant shall implement this 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.