

Notice of Modification

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

As delegate of the Minister for Planning under delegation, I modify the Project Approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Anthea Sargeant
Executive Director
Key Sites and Industry Assessments

Sydney 6 November, 2017

SCHEDULE 1

Development Approval:	DA 4 granted by the Minister for Urban Affairs and Planning on 9 September 1998
For the following:	Development for the purposes of implementing the Penrith Lakes Scheme
Applicant:	Penrith Lakes Development Corporation
Consent Authority:	Minister for Planning
The Land:	Penrith Lakes Scheme
Modification:	DA 4 MOD 10: the modification is for the extension of the hours of operation for the importation of fill to the site

SCHEDULE 2

The above approval (DA 4) is modified as follows:

- (a) Schedule 1 – Proposed Development is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

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.
- Modification Application DA4 MOD 7 and accompanying Environmental Assessment titled *Modification to DA4 Penrith Lakes Scheme* dated 28 November 2011
- Penrith Lakes Development Corporation – Importation of VENM Modification Section 75W Application: Environmental Assessment (ARUP, 30 August 2012).
- Modification Application DA 4 MOD 9 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 DA4 MOD 10 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.**

- (b) Condition 29 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck out~~ words/numbers as follows:

NOISE LIMITS

29 The Applicant shall not exceed the following maximum noise levels in those areas designated.

- (a) Dwellings inside and outside the Scheme area (but not on the Castlereagh Escarpment):

- (i) Maximum Noise Levels

Noise levels as measured at any one dwelling 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 30 months
Less than	55dB(A) for remainder of the time

The above absolute maximum may be exceeded as a result of the construction of noise control works eg noise bunds.

- (ii) The Applicant shall construct up to 5m high noise bunds to ensure that the noise limit criteria indicated in (i) above can be met at occupied residential properties in the locality, provided that the residents affected agree to the construction of the bunds. These bunds shall be removed when they cease to mitigate against the adverse noise, dust and visual impacts of the proposal.
- (iii) The Applicant shall:
- (a) not undertake any works within 98.5m of the eastern boundary of Lot 2 DP617921; and
 - (b) ~~construct and maintain a 2 metre high noise bund along the eastern~~ boundary of the limit of works on Lot 2 DP 617921 for the duration of works on Lot 2 DP 617921.

- (b) Dwellings on the Castlereagh Escarpment

Maximum Noise Levels

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

Maximum Noise Limits (L10)

Absolute maximum	70dB(A)
Greater than	65dB(A) for 3 month
Greater than	55dB(A) for 30 months
Less than	55dB(A) for remainder of the time

- (c) Except as may be expressly provided by an EPL, noise generated from **importation of fill**, extraction and transport operations must not exceed the noise limits in the table below.

Noise Limits dB(A)

Location	5.00am- 6.00am <u>7.00</u> <u>am</u>	<u>6.00 pm</u> - 7.00pm- 8.00pm	8.00pm- 9.00pm
	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)
Dixons Residence	55	55	55
Smith Street	38	43	43
Camenzuli Residence	41	50	47

Notes:

- (i) If the Applicant has a written noise agreement with any landowner, and a copy of this agreement has been forwarded to the Department and the OEH, then the applicant may exceed the noise limits in the table for the landowner's land in accordance with the terms of the noise agreement.
 - (ii) Noise from the development is to be measured at the most affected point or within the residential boundary, or at the most affected point within 30 metres of a dwelling (rural situations) where the dwelling is more than 30 metres from the boundary.
 - (iii) To determine compliance with the L_{Aeq}(15 minute) noise limits in the above table, where it can be demonstrated that direct measurement of noise from the development is impractical, the OEH may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy). The modification factors in section 4 of the NSW Industrial Noise Policy shall be applied to the measured noise levels where applicable.
 - (iv) The noise emission limits in the above table do not apply under meteorological
 - i wind speeds in excess of 3m/s at 10 metres above ground level; and/or
 - ii temperature inversion conditions in excess of 3°C/100m, and wind speeds in excess of 2m/s at 10 metres above ground level.
- (d) The Applicant shall ensure that all extraction and transport operations carried out between 5.00am and 7.00am comply with the OEH's intrusive and sleep disturbance criteria set out in the Industrial Noise Policy.
- (c) Condition 32 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

32. The Applicant shall ensure that the development described in DA4 MOD9 **and MOD10** complies with the hours of operation set out in Table 2:

Monday to Friday	Saturdays	Sundays and Public Holidays
7.00 am to 6.00 pm <u>6:00 am to 9:00 pm</u>	7.00 am to 1.00 pm <u>6:00am to 3:00pm</u>	No work

Table 2 – Hours of Operation

- (d) Condition 65(c) is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struck-out~~ words/numbers as follows:

65 Noise

- a) The Applicant shall, on a six monthly basis or at other periods determined by the Department's Regional Manager of the Sydney Region West Office, measure noise emanating from the overall quarry and reconstitution operations at four residential sites within proximity to the operations. One

such site shall be the closest residential site to the operations. These measurements will be carried out using 20 minute spot checks.

- (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.

- b) The noise levels of all quarry and reconstitution machinery shall be tested in accordance with AS2012-1977 on an annual basis as evidence that the noise level of individual items of machinery has not increased through improper maintenance or neglect. These tests will be commenced by April 1999. Any new equipment will be tested within three months from the date of its arrival on site.
- (c) Prior to the commencement of importation of VENM the Applicant shall submit a Project Traffic and VENM Management Plan to the Department. This plan is to incorporate both a Construction Traffic Management Plan and a Traffic Noise Management Plan (TNMP) to be prepared in consultation with the Environment Protection Authority (EPA), and to the satisfaction of the Director General.

The CTMP shall:

- Cover the period of transporting VENM to the site;
- Outline the construction vehicle routes (once PLDC has determined the VENM sources);
- Outline other proposed traffic management measures for all proposed access points; and
- Describe the number of trucks per route, hours of operation, access arrangements and traffic control (including how PLDC intends to ensure only approximately 70 truck movements per day along Old Castlereagh Road).

The TNMP must include (but not be limited to):

- An investigation and description of all reasonable and feasible measures to reduce traffic noise;
- Noise compliance/monitoring assessment provisions (especially with regards to Old Castlereagh Road);
- Mitigation measures to be implemented should monitoring indicate exceedances of EPA criteria;
- Measures to regulate traffic volumes on the haulage routes into the site (as described in the EA);
- Vibration limits;
- Auditing provisions;
- Commitment to implement all feasible and reasonable noise mitigation measures;
- A program to monitor traffic noise and respond to complaints.

Prior to the commencement of the extended hours of operation, as approved by DA2 MOD6, the Applicant shall prepare and submit for the

Department's approval an updated TNMP. The Updated TNMP shall include (but not be limited to):

- updated information ensuring the TNMP assessment reflects the extended hours of operation;
 - detailed consideration of the impact of the extended hours of operation on nearby sensitive receivers (and any relevant new sensitive receivers since the preparation of the original TNMP), including any additional mitigation/management measures that may be required;
 - confirmation the truck movements to the site will be split between each of the vehicular entrances to the site;
 - confirmation of a maximum number of truck movements to the site per hour;
 - confirmation of a maximum number of trucks per vehicle entrance per hour;
 - confirmation of the maximum number of truck movements during peak periods; and
 - confirmation of the method(s) for the appropriate monitoring of truck movements to/from the site.
- (d) Prior to the commencement of importation of VENM the Applicant shall submit a Traffic Noise Management Plan prepared in consultation with OEH, and to the satisfaction of the Director-General. The plan must include:
- an investigation and description of all reasonable and feasible measures to reduce traffic noise; and
 - a program to monitor traffic noise and respond to complaints.

**End of Modification
(DA4 MOD10)**