



New South Wales

## **Penrith Local Environmental Plan 1998 (Urban Land)—Amendment No 11**

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (P02/00408/S69)

DIANE BEAMER, M.P.,

Minister Assisting the Minister for Infrastructure  
and Planning (Planning Administration)

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Clause 1 Penrith Local Environmental Plan 1998 (Urban Land)—Amendment No 11

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# Penrith Local Environmental Plan 1998 (Urban Land)—Amendment No 11

under the

Environmental Planning and Assessment Act 1979

### 1 Name of plan

This plan is *Penrith Local Environmental Plan 1998 (Urban Land)—Amendment No 11*.

### 2 Aim of plan

This plan aims to amend *Penrith Local Environmental Plan 1998 (Urban Land)*:

- (a) to add new aims and objectives to the plan, and
- (b) to add provisions regarding requirements for masterplans, and
- (c) to update several existing definitions and add several new definitions, and
- (d) to permit, with the consent of the Council of the City of Penrith, a shop at 14–20 Great Western Highway, Colyton, and
- (e) to correct various mapping anomalies.

### 3 Land to which plan applies

This plan applies to land within the City of Penrith to which *Penrith Local Environmental Plan 1998 (Urban Land)* applies.

### 4 Amendment of Penrith Local Environmental Plan 1998 (Urban Land)

*Penrith Local Environmental Plan 1998 (Urban Land)* is amended as set out in Schedule 1.

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## **Schedule 1 Amendments**

(Clause 4)

### **[1] Clause 7 Aims and objectives of this plan**

Omit clause 7 (1) (c)–(e). Insert instead:

- (c) **Housing need**
  - (i) to encourage and guide private sector development in order to satisfy a wide range of recognised local demands for housing, and
  - (ii) to satisfy city-wide housing needs by promoting housing choice within each neighbourhood through a variety of housing types, and
  - (iii) to facilitate development of special needs housing in areas where appropriate levels of services are available, or can be readily provided, and
  - (iv) to provide for visitor accommodation,
- (d) **Density**
  - (i) to enable the development of land for residential purposes, and
  - (ii) to make a reasonable contribution to State Government objectives for urban consolidation within the metropolitan region, and
  - (iii) to locate higher densities of development either in proximity to established networks of urban services, or in areas which may be serviced readily, particularly by public transport, shopping centres, educational facilities, community and child care facilities, water, sewerage and drainage, and
  - (iv) to determine residential densities that are compatible with the environmental character of established urban areas, and
  - (v) to ensure that future development reflects desired character as well as achieving strategic consolidation objectives,

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(e) **Residential character**

- (i) to promote the community's desired character by ensuring that future development in all residential localities reflects features or qualities of traditional detached houses that are surrounded by private gardens, and
- (ii) to enhance the essential character and identity of established residential areas, and
- (iii) to protect items of environmental value, particularly mature vegetation and significant watercourses, significant buildings and gardens, or scenic landscapes and views, and
- (iv) to encourage development that will ensure that a variety of housing forms address the street frontage and open spaces and that multiple dwellings within each site address each other, where possible.

### [2] Clause 9 Zone objectives and development control table

Omit clause 9 (2)–(6). Insert instead:

- (2) Except as otherwise provided by this plan, the council must not grant consent to development of land to which this plan applies unless the council:
  - (a) is satisfied that the carrying out of such development is consistent with
    - (i) the aims of this plan, and
    - (ii) the objectives of the zone within which the development is to be carried out, and
    - (iii) the objectives of the development controls contained within this plan, and
  - (b) has considered the objectives of any development control plans applying to the land.

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### [3] Clause 9, Development Control Table

Omit paragraph (a) of the matter relating to Zone No 2 (a1). Insert instead:

**(a) Objectives of the zone**

- (i) to reinforce the importance of natural landscape settings and areas with heritage conservation value, and
- (ii) to protect the landscape and urban area identified on the map by ensuring that new development complies with minimum landscaping, rear setback and subdivision requirements, and
- (iii) to allow a limited range of compatible non-residential uses.

### [4] Clause 9, Development Control Table

Omit paragraph (a) of the matter relating to Zone No 2 (a). Insert instead:

**(a) Objectives of the zone**

- (i) to reinforce the importance of natural landscape settings and areas with heritage conservation value, and
- (ii) to protect landscapes and urban areas with identified conservation value by limiting the range of permissible uses and requiring larger residential allotments, and
- (iii) to allow a limited range of compatible non-residential uses.

### [5] Clause 9, Development Control Table

Omit paragraph (a) of the matter relating to Zone No 2 (b). Insert instead:

**(a) Objectives of the zone**

- (i) to reinforce the importance of natural landscape settings and areas with heritage conservation values, and
- (ii) to promote the established urban and landscape character of traditional residential subdivisions by limiting the range of permissible uses, and
- (iii) to allow a limited range of compatible non-residential uses.

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### [6] Clause 9, Development Control Table

Omit paragraph (a) of the matter relating to Zone No 2 (c). Insert instead:

(a) **Objectives of the zone**

- (i) to reinforce the importance of the natural landscape settings and areas with heritage conservation value, and
- (ii) to protect the character of traditional cottage development and streetscapes, and
- (iii) to consolidate population and housing densities, and
- (iv) to expand housing choices by allowing multi-unit housing with a single storey appearance, and
- (v) to promote a variety of housing types or forms upon the site of each proposed development, and
- (vi) to allow a range of compatible non-residential uses.

### [7] Clause 9, Development Control Table

Omit paragraph (a) of the matter relating to Zone No 2 (d). Insert instead:

(a) **Objectives of the zone**

- (i) to reinforce the importance of natural landscape settings and areas with heritage conservation value, and
- (ii) to protect the character of traditional cottage development and streetscapes, and
- (iii) to consolidate population and housing densities, and
- (iv) to expand housing choices by allowing multi-unit housing up to a two storey appearance, and
- (v) to promote a variety of housing types or forms upon each site, and
- (vi) to allow a range of compatible non-residential uses.

### [8] Clause 9, Development Control Table

Omit paragraph (a) of the matter relating to Zone No 2 (e). Insert instead:

(a) **Objectives of the zone**

- (i) to reinforce the importance of natural landscape settings and areas with heritage conservation value, and
- (ii) to provide a wider range of housing choices in proximity to the established town centres and railway stations, and
- (iii) to reinforce established flat zones, and
- (iv) to allow multi-unit housing up to a three storey appearance, and
- (v) to allow a range of non-compatible non-residential uses.

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**[9] Clause 10 Subdivision controls generally**

Insert “in the case of Glenmore Park,” before “vehicular access” where first occurring in clause 10 (8) (d).

**[10] Clause 12 Building envelopes, heights, landscaped areas and rear boundary setbacks for development that requires consent**

Insert “and on-site stormwater detention” after “effective landscaping” in clause 12 (1) (d).

**[11] Clause 12 (2)**

Omit the definition of *landscaped area*. Insert instead:

*landscaped area*, of a site, means that part of the site not occupied by a building and which is predominantly landscaped with gardens, lawns, shrubs and trees and is available for the use and enjoyment of the occupants of the site. It does not include areas used for driveways, parking areas, garbage storage areas or any area less than 2 metres wide, except a verge at least 1 metre wide that is located next to a driveway and landscaped with trees and shrubs, but may include a verandah associated with a landscaped area.

*verandah associated with a landscaped area* means a verandah that:

- (a) is attached to a dwelling, and
- (b) is associated with a landscaped area that is designated open space for that dwelling and which is not greater than 15m<sup>2</sup> in area.

**[12] Clause 12 (7)**

Insert after clause 12 (6):

- (7) Despite any other provision of this clause, the council may consent to the erection of a non-habitable building or structure ordinarily associated with a dwelling-house that does not comply with the requirements of this clause if, in the council’s opinion, the proposed building or structure will have a minimal adverse impact on the subject site and any adjoining site.

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### [13] Clause 13 Provisions for environmental performance in development generally

Omit clause 13 (2) (c). Insert instead:

- (c) will not include roof and top floor ceiling insulation to an equivalent thermal rating of at least R3.0 and wall insulation to an equivalent thermal rating of at least R1.5, or

### [14] Clauses 14 and 14A

Omit clause 14. Insert instead:

#### 14 Provision for design principles in development generally

The council must not consent to development unless the council is of the opinion that the proposed development has taken into account the following:

- (a) reinforcement and protection of local topography and setting,
- (b) reflection of the forms, features or qualities of traditional residential neighbourhoods across Penrith local government area,
- (c) consistency or compatibility with the scale, design and amenity of neighbouring development,
- (d) contribution to attractive streetscapes through the diversity of building forms and landscaped areas that can be seen from any public place nearby,
- (e) provision for contemporary standards of amenity within each dwelling and the associated private open space,
- (f) preservation and enhancement of any significant vista that currently might be available from a public place nearby.

#### 14A Provision for master plans

- (1) In this clause, ***master plan*** means a document consisting of written information, maps and diagrams that:
  - (a) establishes provisions for the development of land zoned residential in greater detail than the provisions of this plan, and

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- (b) explains how the objectives and provisions of this plan are addressed, and
- (c) addresses matters from the range specified in subclause (4) that are relevant to the future development of the land.

(2) Despite any other provision of this plan, the council must not grant consent to residential development on land within Zone No 2 (a1), (a), (b), (c), (d) or (e) where that land exceeds 3,000m<sup>2</sup> unless:

- (a) the council is satisfied that the development is of a minor nature and ancillary to the current use of the land, or
- (b) the development is for public infrastructure, a utility installation or housing under *State Environmental Planning Policy No 5—Housing for Older People or People with a Disability*, or
- (c) the council has adopted a master plan for the land and has taken the master plan into consideration, or
- (d) the land is identified as an urban release area under the Government's Metropolitan Development Program or is within a release area known as North Penrith Urban Area, Werrington Mixed Use Area or Claremont Meadows Stage 2.

(3) A draft master plan for land may be prepared by, or on behalf of, the owner or lessees of the land following consultation with the council.

(4) A master plan is to address, illustrate and explain the matters that the council determines are relevant to the future residential development of the land, and must include the following:

- (a) urban design principles derived from analysis of the property and the character of its surroundings,
- (b) conservation of cultural heritage and compatibility with the character of established neighbourhoods in Penrith City,
- (c) conservation of natural features and biodiversity,
- (d) protection of natural hazards, including flooding, bushfire and ground salinity,

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- (e) distribution of land uses and open space,
- (f) provision of access for pedestrians, cyclists, road vehicles and public transport,
- (g) controls for private landscapes and built form,
- (h) safety and amenity of residential areas and the public domain,
- (i) provision of on-site carparking,
- (j) provision of service infrastructure,
- (k) provision of public facilities,
- (l) landscaping and improvements to the public domain,
- (m) management of stormwater drainage and minimisation of water quality impacts,
- (n) contribution to energy efficiency,
- (o) staging of future development,
- (p) proposed patterns of subdivision.

(5) After receiving a draft master plan, the council must:

- (a) advertise the draft masterplan in a newspaper circulating in the locality and exhibit it for public comment at the council's office for not less than 21 days, and
- (b) consider any written submissions about the draft master plan made during the exhibition period.

(6) After considering a draft master plan and any written submission made about the plan, the council may:

- (a) adopt the master plan without variation, or
- (b) adopt the master plan with such variations as it considers appropriate, or
- (c) reject the master plan.

(7) If a draft master plan for land:

- (a) has not been adopted (whether with or without variation) by the council within 90 days after it was received by the council, or
- (b) has been rejected by the council,

then subclause (2) does not apply to the land.

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- (8) Where but for subclause (7) the provisions of subclause (2) would have applied to an application to carry out residential development, the applicant must submit with the application a detailed assessment of such of the matters in subclause (4) as relate to the development.
- (9) The council must not grant consent to an application to carry out residential development referred to in subclause (8) unless the council is satisfied that the applicant has satisfactorily addressed such of the matters in subclause (4) as relate to the development.
- (10) A master plan may be amended or replaced by a subsequent master plan.

**[15] Schedule 1 Relationship to other environmental planning instruments**

Omit “85, 96,” from item (1) (b).

**[16] Schedule 2 Definitions**

Omit the definitions of *commercial premises*, *home activity*, *home business*, *industry*, *multi-unit housing* and *utility undertaking*.

**[17] Schedule 2**

Insert in alphabetical order:

***building or structure ordinarily associated with a dwelling house*** means a garage, carport, pergola, swimming pool or the like, and includes alterations and additions to an existing dwelling house.

***commercial premises*** means a building or place used as an office or for other business or commercial purposes but does not include a brothel or a building or place specifically defined elsewhere in this Schedule, or a building or place used for a purpose specifically defined elsewhere in this Schedule.

***home activity*** means a business carried out in a dwelling house or dwelling, or within the site area of a dwelling house or dwelling, by the permanent residents of the dwelling house or dwelling, and which does not involve:

- (a) the employment of persons other than those residents, or
- (b) customers or clients visiting the premises at any time, or

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- (c) the display of goods, whether in a window or otherwise, or
- (d) the sale of goods by retail from the site, or
- (e) the exhibition of an advertisement (other than an advertisement exhibited on that dwelling house or dwelling to indicate the name or occupation of the resident), or
- (f) interference with the amenity of the neighbourhood by the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or the like, or
- (g) interference with the amenity of the neighbourhood due to the generation of vehicular traffic, the reduction of parking in the vicinity of the site, or the like, or
- (h) exposure to view, from any adjacent premises or from any public place, of any unsightly matter.

***home business*** means a business carried out, or partly carried out, in a dwelling house or dwelling, or within the site area of a dwelling house or dwelling, by the permanent residents of the dwelling house or dwelling, and which is ancillary to the dwelling house or dwelling and does not involve:

- (a) the employment of more than 2 persons, at any one time, in addition to the permanent residents, or
- (b) the exhibition of an advertisement (other than an advertisement exhibited on that dwelling house or dwelling to indicate the name or occupation of the resident), or
- (c) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or the like, or
- (d) interference with the amenity of the neighbourhood due to the generation of vehicular traffic, the reduction of car parking in the vicinity of the site, visits by customers or clients, or the like, or
- (e) exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (f) the provision of any essential service main of a greater capacity than that available in the locality, or

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(g) a brothel,

but does not include commercial premises as defined elsewhere in this Schedule.

***industry*** means an undertaking involving the manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or articles for commercial purposes, but does not include any form of industry defined elsewhere in this Schedule.

***multi-unit housing*** means a residential development that contains 3 or more dwellings.

***utility undertaking*** means any undertaking carried out by, or by authority of, any Government department, or in pursuance of any Commonwealth or State Act, for the purposes of:

- (a) railway, road, water or air transport, or wharf or river undertakings, or
- (b) the provision of sewerage, sewage treatment or drainage services, or
- (c) the supply of water, hydraulic power, electricity or gas, or
- (d) telecommunications facilities, or
- (e) water quality control facilities,

and a reference to a person carrying on a public utility undertaking includes a reference to a council, county council, Government department, corporation, firm or authority carrying on the undertaking.

### [18] Schedule 2, definition of “the map”

Insert in appropriate order:

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### **[19] Schedule 3 Development for additional purposes**

Omit the matter relating to No 14 Great Western Highway under the heading of “**Colyton**”.

Insert instead:

Nos 14–20 Great Western Highway, Lot 100 DP 712957.

*Development for the purposes of a fruit market, shops and commercial premises. The gross floor area of the shops and commercial premises is not to exceed 650m<sup>2</sup>.*

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BY AUTHORITY