



New South Wales

State Environmental Planning Policy Amendment (North Penrith) 2011

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

BRAD HAZZARD, MP
Minister for Planning and Infrastructure

2011 No 599

Clause 1 State Environmental Planning Policy Amendment (North Penrith) 2011

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under the

Environmental Planning and Assessment Act 1979

1 Name of Policy

This Policy is *State Environmental Planning Policy Amendment (North Penrith) 2011*.

2 Commencement

This Policy commences on the day on which it is published on the NSW legislation website.

3 Repeal of Policy

- (1) This Policy is repealed on the day following the day on which this Policy commences.
- (2) The repeal of this Policy does not, because of the operation of sections 5 (6) and 30 of the *Interpretation Act 1987*, affect any amendment made by this Policy.

4 Maps

Each map adopted by *Penrith City Centre Local Environmental Plan 2008* that is specified in Column 1 of the following Table is declared by this Plan to be amended or replaced, as the case requires, by the map specified opposite in Column 2 of the Table as approved by the Minister on the making of this Plan:

Column 1	Column 2
Name of map being amended or replaced	Name of amending or replacement map
Penrith City Centre Local Environmental Plan 2008—North Penrith—Height of Buildings Map	Penrith City Centre Local Environmental Plan 2008—North Penrith—Height of Buildings Map (6350_NP_HOB_001_20110922)

Column 1	Column 2
Name of map being amended or replaced	Name of amending or replacement map
Penrith City Centre Local Environmental Plan 2008—North Penrith—Heritage Map	Penrith City Centre Local Environmental Plan 2008—North Penrith—Heritage Map (6350_NP_HER_001_20110921)
Penrith City Centre Local Environmental Plan 2008—North Penrith—Land Application Map	Penrith City Centre Local Environmental Plan 2008—North Penrith—Land Application Map (6350_NP_LAP_001_20110921)
Penrith City Centre Local Environmental Plan 2008—North Penrith—Land Zoning Map	Penrith City Centre Local Environmental Plan 2008—North Penrith—Land Zoning Map (6350_NP_LZN_001_20110921)

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[1] **Clause 7 Maps**

Omit the note at the end of the clause.

[2] **Part 7**

Insert after Part 6:

Part 7 North Penrith site

Division 1 Preliminary

45 Application of Part

- (1) This Part applies to the land identified on the Land Application Map, referred to in this Part as the *North Penrith site*.
- (2) All other provisions of this Plan (except clauses 3, 4, 9, 11–13 (including the Land Use Table), 21–29, 40 and the Dictionary) apply to the land to which this Part applies.

46 Interpretation

- (1) In this Part:
 - Height of Buildings Map* means the Penrith City Centre Local Environmental Plan 2008—North Penrith—Height of Buildings Map.
 - heritage item* means a building, work, place, relic, tree, object or archaeological site the location and nature of which is described in the table to clause 54.
 - Heritage Map* means the Penrith City Centre Local Environmental Plan 2008—North Penrith—Heritage Map.
 - Land Application Map* means the Penrith City Centre Local Environmental Plan 2008—North Penrith—Land Application Map.
 - Land Zoning Map* means the Penrith City Centre Local Environmental Plan 2008—North Penrith—Land Zoning Map.
- (2) A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*, unless it is otherwise defined in this Part.

47 Certain planning instruments cease to apply to land

All local environmental plans and deemed environmental planning instruments applying to the land to which this Part applies and to other land cease to apply to the land to which this Part applies.

Note. The following local environmental plans cease to apply to the land to which this Part applies under this provision:

City of Penrith Planning Scheme Ordinance 1960

Penrith Local Environmental Plan 2010

Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)

Penrith Local Environmental Plan 1998 (Urban Land)

48 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land in any zone to be carried out in accordance with this Plan or with a consent granted under the Act, any agreement, covenant or other similar instrument that restricts the carrying out of that development does not apply to the extent necessary to serve that purpose.
- (2) This clause does not apply:
 - (a) to a covenant imposed by the Council or that the Council requires to be imposed, or
 - (b) to any prescribed instrument within the meaning of section 183A of the *Crown Lands Act 1989*, or
 - (c) to any conservation agreement within the meaning of the *National Parks and Wildlife Act 1974*, or
 - (d) to any Trust agreement within the meaning of the *Nature Conservation Trust Act 2001*, or
 - (e) to any property vegetation plan within the meaning of the *Native Vegetation Act 2003*, or
 - (f) to any biobanking agreement within the meaning of Part 7A of the *Threatened Species Conservation Act 1995*, or
 - (g) to any planning agreement within the meaning of Division 6 of Part 4 of the Act.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Under section 28 of the Act, the Governor, before the making of this clause, approved of subclauses (1)–(3).

Division 2 Permitted or prohibited development

49 Land use zones

For the purposes of this Part, land within the North Penrith site is in a zone as follows if the land is shown on the Land Zoning Map as being in that zone:

- (a) Zone R1 General Residential,
- (b) Zone R2 Low Density Residential,
- (c) Zone B2 Local Centre,
- (d) Zone IN2 Light Industrial,
- (e) Zone RE1 Public Recreation.

50 Zone objectives and land use table

- (1) The Table at the end of this Division specifies for each zone:
 - (a) the objectives for development, and
 - (b) development that may be carried out without consent, and
 - (c) development that may be carried out only with consent, and
 - (d) development that is prohibited.
- (2) The consent authority must have regard to the objectives for development in a zone when determining a development application in respect of land within the zone.
- (3) In the Table at the end of this Division:
 - (a) a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and
 - (b) a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Table in relation to the same zone.
- (4) This clause is subject to the other provisions of this Plan.

Land Use Table

Zone R1 General Residential

1 Objectives of zone

- To provide for the housing needs of the community.
- To provide for a variety of housing types and densities.

- To enable other land uses that provide facilities or services to meet the day to day needs of residents.

2 Permitted without consent

Home businesses; Home industries; Home occupations

3 Permitted with consent

Building identification signs; Business identification signs; Child care centres; Community facilities; Exhibition homes; Exhibition villages; Food and drink premises; Neighbourhood shops; Places of public worship; Recreation areas; Recreational facilities (indoor); Recreational facilities (outdoor); Residential accommodation; Residential care facilities; Respite day care centres; Roads

4 Prohibited

Any development not specified in item 2 or 3

Zone R2 Low Density Residential

1 Objectives of zone

- to provide for the housing needs of the community within a low density residential environment,
- to enable other land uses that provide facilities or services to meet the day to day needs of residents.

2 Permitted without consent

Home occupations

3 Permitted with consent

Boarding houses; Community facilities; Dwelling houses; Educational establishments; Environmental protection works; Group homes; Health consulting rooms; Home businesses; Home industries; Information and education facilities; Places of public worship; Recreation areas; Roads

4 Prohibited

Any development not specified in item 2 or 3

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Zone B2 Local Centre

1 Objectives of zone

- to provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area,
- to encourage employment opportunities in accessible locations,
- to maximise public transport patronage and encourage walking and cycling.

2 Permitted without consent

Home businesses; Home industries; Home occupations

3 Permitted with consent

Boarding houses; Building identification signs; Business identification signs; Child care centres; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Exhibition villages; Function centres; High technology industries; Information and education facilities; Medical centres; Multi dwelling housing; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Registered clubs; Residential flat buildings; Respite day care centres; Restricted premises; Roads; Seniors housing; Service stations; Shop top housing; Tourist and visitor accommodation

4 Prohibited

Any development not specified in item 2 or 3

Zone IN2 Light Industrial

1 Objectives of zone

- to provide a wide range of light industrial, warehouse and related land uses,
- to encourage employment opportunities and to support the viability of centres,
- to minimise any adverse effect of industry on other land uses,
- to enable other land uses that provide facilities or services to meet the day to day needs of workers in the area,
- to support and protect industrial land for industrial uses.

2 Permitted without consent

Nil

3 Permitted with consent

Building identification signs; Business identification signs; Car parks; Child care centres; Community facilities; Crematoria; Depots; Educational establishments; Environmental facilities; Environmental protection works; Flood mitigation works; Food and drink premises; Function centres; Hardware and building supplies; Hotel or motel accommodation; Industrial retail outlets; Industrial training facilities; Landscaping material supplies; Light industries; Medical centres; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Roads; Self-storage units; Service stations; Timber yards; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres

4 Prohibited

Any development not specified in item 2 or 3

Zone RE1 Public Recreation

1 Objectives of zone

- to enable land to be used for public open space or recreational purposes,
- to provide a range of recreational settings and activities and compatible land uses,
- to protect and enhance the natural environment for recreational purposes.

2 Permitted without consent

Nil

3 Permitted with consent

Boat launching ramps; Boat sheds; Building identification signs; Car parks; Charter and tourism boating facilities; Community facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Information and education facilities; Jetties; Kiosks; Markets; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Roads; Water recreation structures, Water reticulation systems; Water storage facilities

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4 Prohibited

Any development not specified in item 2 or 3

Division 3 Miscellaneous provisions

51 Height of buildings

- (1) The objectives of this clause are as follows:
 - (a) to ensure that buildings are compatible with the height, bulk and scale of the existing and desired future character of the locality,
 - (b) to minimise visual impact, disruption of views, loss of privacy and loss of solar access to existing development,
 - (c) to minimise the adverse impact of development on heritage conservation areas and heritage items,
 - (d) to nominate heights that will provide a transition in built form and land use intensity.
- (2) The height of a building on any land is not to exceed the maximum height shown for the land on the Height of Buildings Map.

52 Development near zone boundaries

- (1) The objective of this clause is to provide flexibility where the investigation of a site and its surroundings reveals that a use allowed on the other side of a zone boundary would enable a more logical and appropriate development of the site and be compatible with the planning objectives and land uses for the adjoining zones.
- (2) This clause applies to so much of any land that is within 50 metres of a boundary between any 2 zones.
- (3) This clause does not apply to land proposed to be developed for the purpose of restricted premises.
- (4) Despite the provisions of this Plan relating to the purposes for which development may be carried out, development consent may be granted to development of land to which this clause applies for any purpose that may be carried out in the adjoining zone, but only if the consent authority is satisfied that:
 - (a) the development is not inconsistent with the objectives for development in both zones, and
 - (b) the carrying out of the development is desirable due to compatible land use planning, infrastructure capacity and

other planning principles relating to the efficient and timely development of land.

- (5) This clause does not prescribe a development standard that may be varied under this Plan.

53 Architectural roof features

- (1) The objectives of this clause are as follows:
- (a) to ensure that architectural roof features to which this clause applies are decorative elements only,
 - (b) to ensure that the majority of the roof features are contained within prescribed building heights.
- (2) Development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 51 may be carried out, but only with development consent.
- (3) Development consent must not be granted to any such development unless the consent authority is satisfied that:
- (a) the architectural roof feature:
 - (i) comprises a decorative element on the uppermost portion of a building, and
 - (ii) is not an advertising structure, and
 - (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
 - (iv) will cause minimal overshadowing, and
 - (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.

54 Heritage conservation

(1) **Objectives**

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of the North Penrith site,
- (b) to conserve the heritage significance of heritage items, including associated fabric, settings and views.

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(2) **Requirement for consent**

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or altering the exterior of a heritage item (including, in the case of a building, making changes to its detail, fabric, finish or appearance),
- (b) altering a heritage item that is a building by making structural changes to its interior,
- (c) erecting a building on land on which a heritage item is located,
- (d) subdividing land on which a heritage item is located.

(3) **When consent not required**

However, development consent under this clause is not required if:

- (a) the applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:
 - (i) is of a minor nature or is for the maintenance of the heritage item, and
 - (ii) would not adversely affect the heritage significance of the heritage item, or
- (b) the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or
- (c) the development is exempt development.

(4) **Effect of proposed development on heritage significance**

The consent authority must, before granting consent under this clause in respect of a heritage item, consider the effect of the proposed development on the heritage significance of the item concerned. This subclause applies regardless of whether a heritage management document is prepared under subclause (5) or a heritage conservation management plan is submitted under subclause (6).

(5) **Heritage assessment**

The consent authority may, before granting consent to any development:

- (a) on land on which a heritage item is located, or

(b) on land that is within the vicinity of land referred to in paragraph (a),

require a heritage management document to be prepared that assesses the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item concerned.

(6) Heritage conservation management plans

The consent authority may require, after considering the heritage significance of a heritage item and the extent of change proposed to it, the submission of a heritage conservation management plan before granting consent under this clause.

(7) Conservation incentives

The consent authority may grant consent to development for any purpose of a building that is a heritage item or of the land on which such a building is erected, even though development for that purpose would otherwise not be allowed by this Plan, if the consent authority is satisfied that:

- (a) the conservation of the heritage item is facilitated by the granting of consent, and
- (b) the proposed development is in accordance with a heritage management document that has been approved by the consent authority, and
- (c) the consent to the proposed development would require that all necessary conservation work identified in the heritage management document is carried out, and
- (d) the proposed development would not adversely affect the heritage significance of the heritage item, including its setting, and
- (e) the proposed development would not have any significant adverse effect on the amenity of the surrounding area.

Table

Suburb	Item name	Lot and DP	Address	Significance	Item No
Penrith	Thornton Hall	Lot 1, DP 33753	11 The Crescent	Local	17

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55 Earthworks

- (1) The objectives of this clause are as follows:
 - (a) to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land,
 - (b) to allow earthworks of a minor nature without requiring separate development consent.
- (2) Development consent is required for earthworks unless:
 - (a) the work is exempt development under this Plan or another applicable environmental planning instrument, or
 - (b) the work is ancillary to other development for which development consent has been given.
- (3) Before granting development consent for earthworks, the consent authority must consider the following matters:
 - (a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,
 - (b) the effect of the proposed development on the likely future use or redevelopment of the land,
 - (c) the quality of the fill or the soil to be excavated, or both,
 - (d) the effect of the proposed development on the existing and likely amenity of adjoining properties,
 - (e) the source of any fill material and the destination of any excavated material,
 - (f) the likelihood of disturbing relics,
 - (g) the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.

Note. The *National Parks and Wildlife Act 1974*, particularly section 86, deals with disturbing or excavating land and Aboriginal objects.

56 Savings provision relating to pending applications

A development application that has been made but not finally determined before the commencement of this Part must be determined as if *State Environmental Planning Policy Amendment (North Penrith) 2011* had not commenced.