

Penrith Local Environmental Plan No 188 (1989 EPI 2)

[1989-2]



New South Wales

Status Information

Currency of version

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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New South Wales

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1 Name of plan

This plan may be cited as *Penrith Local Environmental Plan No 188*.

1A Relationship to **Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)**

In the event of an inconsistency between this plan and *Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)*, that plan shall prevail to the extent of the inconsistency.

2 Aims, objectives etc

The aims of this plan are:

- (a) to introduce a flexible planning framework for the staged development of the South Penrith Release Area, having regard to its special characteristics and potential for the evolution of a self-contained community with its own identity,
- (b) to assist the process of management of the establishment of a new urban community,
- (c) to enable the council to prepare development control plans to introduce more detailed provisions relating to:
 - (i) development, conservation and community objectives,
 - (ii) urban form, structure and functioning, and land use arrangement,
 - (iii) staging of development and infrastructure provision,
 - (iv) the equitable distribution of costs of infrastructure required for the total area, and
 - (v) the overall management of urban development in a manner which assists community development, and
- (d) to promote the managed production of residential allotments and support services in relation to local and metropolitan markets, while retaining the flexibility to adapt to

changing market preferences.

3 Land to which plan applies

- (1) Except as provided by subclause (2), this plan applies to the land within the City of Penrith as shown edged heavy black on the map.
- (2) This plan does not apply to that land, marked “Deferred Matter” on the map referred to in subclause (1), which has been excluded from the application of this plan pursuant to section 70 (4) of the *Environmental Planning and Assessment Act 1979*.

4 Relationship to other environmental planning instruments

- (1) *Interim Development Order No 93—Penrith* is amended in the manner set out in subclause (2).
- (2) *Interim Development Order No 93—Penrith* is amended by inserting at the end of clause 1A the following words:

Land shown edged heavy black on the map marked “*Penrith Local Environmental Plan No 188*” deposited in the office of the council.

5 Adoption of Model Provisions

The *Environmental Planning and Assessment Model Provisions 1980* except for:

- (a) the definition of **map** in clause 4 (1), and
- (b) clauses 15, 17, 19, 20, 21, 22, 26, 27, 28, 29, 32 and 33,

are adopted for the purposes of this plan.

6 Definitions

- (1) In this plan:

appointed day means the day on and from which this plan takes effect.

council means the Council of the City of Penrith.

intensive livestock keeping means a building or place in which or on which cattle, sheep, goats, poultry or other livestock are held for the purposes of nurturing by a feeding method other than natural grazing and, without limiting the generality of the foregoing, includes:

- (a) feed lots,
- (b) piggeries,
- (c) poultry farms,

(d) animal boarding or training establishments, and

(e) any similar purposes,

but does not include the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the building or place.

recreation area means:

(a) a children's playground,

(b) an area used for sporting activities or sporting facilities, or

(c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by:

(i) the council, or

(ii) a body of persons associated for the purposes of the physical, cultural or intellectual welfare of persons within the community,

but does not include a racecourse or showground.

the map means the map marked "*Penrith Local Environmental Plan No 188*", as amended by the maps marked as follows:

Editorial note—

The amending maps are not necessarily listed in the order of gazettal. Information about the order of gazettal can be determined by referring to the Historical notes at the end of the plan.

Penrith Local Environmental Plan No 188 (Amendment No 1)

(2) In this plan:

(a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose,

(b) a reference to a map is a reference to a map deposited in the office of the council, and

(c) a reference to land within a zone specified in the Table to clause 9 is a reference to land shown on the map in the manner indicated in clause 8 as the means of identifying land of the zone so specified.

7 Consent authority

The council shall be the consent authority for the purposes of this plan.

Part 2 General restrictions on development of land

8 Zones indicated on the map

For the purposes of this plan, land to which this plan applies shall be within a zone specified hereunder if the land is shown on the map in the manner specified below in relation to that zone:

Zone No 2 (Urban Zone)—edged black and lettered “2”

9 Zone objectives and development control table

- (1) The objectives of a zone are set out in the Table to this clause under the heading “Objectives of zone” appearing in the matter relating to the zone.
- (2) Except as otherwise provided by this plan, in relation to land within a zone specified in the Table to this clause, the purposes (if any) for which:
 - (a) development may be carried out without development consent,
 - (b) development may be carried out only with development consent, and
 - (c) development is prohibited,are specified under the headings “Without development consent”, “Only with development consent” and “Prohibited”, respectively, appearing in the matter relating to the zone.
- (3) Except as otherwise provided by this plan, the council shall not grant consent to the carrying out of development on land to which this plan applies unless the council is of the opinion that the carrying out of the development is consistent with the objectives of the zone within which the development is proposed to be carried out.

Table

Zone No 2 (Urban Zone)

1 Objectives of zone

The objectives of this zone are:

- (a) to provide a flexible framework for the promotion of growth and development in the South Penrith Urban Release Area,
- (b) to enable the council to provide more detailed guidelines about preferred land use distribution and development issues in a development control plan, and
- (c) to ensure that development is carried out in a manner which achieves appropriate provision of or funding for major infrastructure works that are a necessary prerequisite for urban development generally in the area.

2 Without development consent

Dwelling-houses on allotments of land (being allotments of not less than 400m²) created by a subdivision for that purpose, where development consent in respect of that subdivision has been given under this plan.

3 Only with development consent

Any purpose other than a purpose included in Item 2 or 4.

4 Prohibited

Extractive industries; industries other than home industries or light industries; institutions; intensive livestock keeping; junk yards; mines.

Part 3 Special provisions

10 Subdivision

A person shall not subdivide land to which this plan applies, except with the consent of the council.

11 Development that must be advertised

Pursuant to section 30 (4) of the Act, the provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of:

- (a) development for the purposes of a residential flat building,
- (b) development for any purpose other than a dwelling-house on land identified in a development control plan as being in a predominantly residential area,
- (c) development that is inconsistent with a development control plan, or
- (d) development for any purpose (other than designated development) that the council determines should require advertisement,

in the same way as those provisions apply to and in respect of designated development.

12 Land use arrangement

- (1) Subject to this clause, the council shall not consent to any development on land to which this plan applies unless the type and location of development is generally in accordance with any development control plan applying to the land.
- (2) Notwithstanding subclause (1), the council may consent to development which is not in accordance with a development control plan where it is of the opinion that the development otherwise satisfies the objectives of that plan.
- (3) Where a development application is made in respect of land to which a development

control plan having the effect of controlling the type and location of development does not apply, in determining the application the council:

- (a) shall have regard to the provisions of any general development control plan applying to the land, and
- (b) may have regard to any overall plan for development of an area, including the land, prepared by or on behalf of the applicant.

13 Suspension of certain laws etc

- (1) For the purpose of enabling development to be carried out in accordance with this plan (as in force at the time the development is carried out) or in accordance with a consent granted under the Act, any covenant, agreement or instrument imposing restrictions on the carrying out of the development, to the extent necessary to serve that purpose, shall not apply to the development.
- (2) Nothing in subclause (1) shall affect the rights or interests of any statutory authority under any registered instrument.

14 Roads, drainage, recreation areas and parking

- (1) Nothing in this plan shall prevent the council from, or require the council to obtain its own consent for, the carrying out of development on land to which this plan applies for the purposes of roads, stormwater drainage, recreation areas, landscaping, gardening, bushfire hazard reduction, parking, utility installations, flood mitigation works or amenity buildings.
- (2) The reference in subclause (1) to the carrying out of development for the purpose of roads includes a reference to the winning of extractive material by the council or a public authority for the purpose of road construction.

15 Integrated housing development

- (1) Integrated housing development may, with the consent of the council, be carried out on land to which this plan applies.
- (2) The council shall not consent to integrated housing development on land to which this plan applies unless it is satisfied that:
 - (a) each proposed allotment has an area of 232 square metres or more, and
 - (b) the development makes adequate provision with respect to the privacy of each proposed dwelling-house, and
 - (c) the development makes adequate provision with respect to access to natural light for each proposed dwelling-house, and
 - (d) the floor space ratio of each proposed dwelling-house will not exceed 0.5:1.

(3) In this clause:

floor space ratio means the ratio of the total gross floor area of a dwelling-house to the site area of land on which the dwelling-house is proposed to be erected.

integrated housing development means development that consists of:

- (a) the subdivision of land into 2 or more allotments, and
- (b) the erection of a single dwelling-house on each of the allotments created by that subdivision.