

Penrith Local Environmental Plan No 258—Consent for Dwelling Houses and Other Development (2001 EPI 516)

[2001-516]



New South Wales

Status Information

Currency of version

Historical version for 1 January 2008 to 23 February 2012 (accessed 19 November 2024 at 9:21)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

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

Authorisation

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File last modified 1 January 2008

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New South Wales

1 Name of plan

This plan is *Penrith Local Environmental Plan No 258—Consent for Dwelling Houses and Other Development*.

2 Aims of plan

This plan aims to:

- (a) require development consent for dwelling houses on residentially zoned land within the City of Penrith, and
- (b) require development consent for dwelling houses on land within the Non-urban zone under the *Penrith Planning Scheme Ordinance* and on land within the Special Business zone under *Penrith Local Environmental Plan 1997 (Penrith City Centre)*, and
- (c) require development consent for dwelling houses attached to and used in conjunction with shops on land within the Neighbourhood Business zone under the *Penrith Planning Scheme Ordinance*, and
- (d) require development consent for the following:
 - (i) the erection of a building or structure ordinarily associated with a dwelling house,
 - (ii) a change of building use,

Note—

At the commencement of this plan, a **change of building use** meant a change of use of a building from a use that the *Building Code of Australia* recognises as appropriate to one class of building to a use that the *Building Code of Australia* recognises as appropriate to a different class of building.

- (iii) demolition of a building or structure,
- (iv) carrying out structural alterations to a building, internal alterations to a building,

or external building work in association with business premises, a bed and breakfast establishment, office premises, commercial premises or take away food shops,

(v) the subdivision of land,

to the extent to which such development does not already require development consent because of another environmental planning instrument in order to be carried out.

3 Land to which plan applies

This plan applies to all land within the City of Penrith.

4 Relationship to other environmental planning instruments

- (1) In the event of an inconsistency between this plan and any other local environmental planning instrument or deemed environmental planning instrument, this plan shall prevail to the extent of the inconsistency, subject to section 36 (4) of the Act.
- (2) This plan amends:
 - (a) *Penrith Planning Scheme Ordinance* in the manner set out in Schedule 1,
 - (b) *Penrith Local Environmental Plan 1997 (Penrith City Centre)* in the manner set out in Schedule 2, and
 - (c) *Penrith Local Environmental Plan 1998 (Urban Land)* in the manner set out in Schedule 3.
- (3) This plan does not affect the application of:
 - (a) *State Environmental Planning Policy (Infrastructure) 2007*,
 - (b) (Repealed)
 - (c) *Sydney Regional Environmental Plan No 9—Extractive Industry*,
 - (d) *Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme*,
 - (e) *Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997)*,
 - (f) *Sydney Regional Environmental Plan No 30—St Marys*, or
 - (g) *Penrith Local Environmental Plan No 255—Exempt and Complying Development*,to land to which this plan applies.

5 Definitions

(1) In this plan:

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

change of building use has the same meaning as in the Act.

Note—

At the commencement of this plan, a **change of building use** meant a change of use of a building from a use that the *Building Code of Australia* recognises as appropriate to one class of building to a use that the *Building Code of Australia* recognises as appropriate to a different class of building.

dwelling means a room or number of rooms occupied or used, or so constructed or adapted as to be capable of being occupied or used, as a separate domicile.

dwelling house means a dwelling which is the only dwelling erected on an allotment of land.

subdivision of land has the same meaning as in the Act.

the Act means the *Environmental Planning and Assessment Act 1979*.

(2) The list of contents and notes in this plan are not part of this plan.

6 Dwelling houses require development consent

(1) The erection of a dwelling house must not be carried out without development consent.

(2) This clause applies to residentially zoned land within the City of Penrith.

(3) This clause applies if the development:

(a) does not require development consent because of another environmental planning instrument, and

(b) is not prohibited by another environmental planning instrument.

7 Miscellaneous development that requires development consent

(1) The following development must not be carried out without development consent:

(a) erection of a building or structure ordinarily associated with a dwelling house, or

(b) development that results in a change of building use, or

(c) demolition of a building or structure, or

(d) structural, internal or external building work in association with business premises,

a bed and breakfast establishment, office premises, commercial premises or take away food shops.

(2) This clause applies if the development:

- (a) does not require development consent because of another environmental planning instrument, and
- (b) is not prohibited by another environmental planning instrument, and
- (c) is not identified in *Penrith Local Environmental Plan No 255—Exempt and Complying Development* as exempt development, and
- (d) does not involve Crown building work as defined in section 116G of the Act.

8 Subdivisions require development consent

(1) A subdivision of land must not be carried out without development consent.

(2) This clause applies if the subdivision of land:

- (a) does not require development consent because of another environmental planning instrument, and
- (b) is not prohibited by another environmental planning instrument, and
- (c) is not identified in *Penrith Local Environmental Plan No 255—Exempt and Complying Development* as exempt development, and
- (d) does not involve Crown building work as defined in section 116G of the Act.

Schedule 1 Amendment of Penrith Planning Scheme Ordinance

(Clause 4 (2) (a))

[1] Clause 4 Interpretation

Omit the definition of ***Country dwelling***.

[2] Clause 26 Erection or use of buildings or works

Omit “country dwellings;” from Column 3 for Zone No 1 of the Table to the clause.

[3] Clause 26, Table

Omit “dwelling-houses other than country dwellings and rural dwellings;” from Column 5 for Zone No 1.

[4] Clause 26, Table

Omit “Dwelling-houses other than semi-detached and terrace buildings.” from Column 3

for Zone No 2 (a).

[5] Clause 26, Table

Omit “Residential buildings.” from Column 3 for Zone No 2 (b).

[6] Clause 26, Table

Omit “Dwelling-houses other than semi-detached or terrace buildings.” from Column 3 for Zone No 2 (c).

[7] Clause 26, Table

Omit “; dwelling-houses attached to and used in conjunction with shops” from Column 3 for Zone No 3 (c).

[8] Clause 26, Table

Omit “Purposes” from Column 4 for Zone No 3 (c).

Insert instead “Buildings or other structures ordinarily associated with dwelling houses; changes of building use (as defined in the [Environmental Planning and Assessment Act 1979](#)); dwelling-houses attached to and used in conjunction with shops; demolition of buildings or other structures; land uses and premises”.

[9] Clause 26, Table

Insert “; structural or internal alterations to, or external building work in association with, commercial premises or refreshment rooms” after “roads” in Column 4 for Zone No 3 (c).

[10] Clause 38 Development in residential zones

Omit the clause.

[11] Clause 46 Variation of area required for country dwelling

Omit the clause.

Schedule 2 Amendment of Penrith Local Environmental Plan 1997 (Penrith City Centre)

(Clause 4 (2) (b))

[1] Clause 9 Zone objectives and development control table

Omit from item (b) (i) **Without development consent** for Zone No 2 (f) in the Development Control Table:

- dwelling-houses

[2] Clause 9, table

Insert in alphabetical order in item (b) (ii) **Only with development consent** for Zone No 2 (f):

- buildings or other structures ordinarily associated with dwelling-houses
- demolition of buildings or other structures
- dwelling-houses

[3] Clause 20 Development of land within Zone No 3 (a)

Insert “where the new use does not involve structural or internal alterations or external building works” after the words “or take away food shops”.

Schedule 3 Amendment of Penrith Local Environmental Plan 1998 (Urban Land)

(Clause 4 (2) (c))

[1] Clause 9 Zone objectives and development control table

Omit wherever occurring from item (b) (i) **Without development consent** for Zones Nos 2 (a1), 2 (a), 2 (b), 2 (c), 2 (d) and 2 (e) in the Development Control Table:

- dwelling houses

[2] Clause 9, table

Insert in alphabetical order in item (b) (ii) **Only with development consent** for Zones Nos 2 (a1), 2 (a), 2 (b), 2 (c), 2 (d) and 2 (e):

- buildings or other structures ordinarily associated with dwelling houses
- changes of building use (as defined in the Act)
- demolition of buildings or other structures
- dwelling houses
- internal structural work in bed and breakfast establishments

[3] Clause 9, table

Insert in alphabetical order in item (b) (ii) **Only with development consent** for Zones Nos 2 (r) and 2 (r1):

- buildings or other structures ordinarily associated with dwelling houses
- changes of building use (as defined in the Act)
- demolition of buildings or other structures
- structural or internal alterations to bed and breakfast establishments

[4] Clause 9, table

Insert in alphabetical order in item (b) (ii) **Only with development consent** for Zone No 3 (f):

- changes of building use (as defined in the Act)
- demolition of buildings or other structures
- external building work associated with an existing land use carried out with consent
- structural or internal alterations to a building or other structure erected with consent or building approval