

State Environmental Planning Policy (Penrith Lakes Scheme) 1989 (1986 EPI 18)

[1986-18]



New South Wales

Status Information

Currency of version

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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.

Notes—

- **Previously named**
Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme
- **Deemed SEPP**
From 1 July 2009 this plan is taken to be a State environmental planning policy (see clause 120 of Schedule 6 to the *Environmental Planning and Assessment Act 1979*).

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

Part 1 Preliminary

1 Name of Policy

This Policy is *State Environmental Planning Policy (Penrith Lakes Scheme) 1989*.

2 Aims, objectives etc

- (1) The aims and objectives of this Policy are to permit the implementation of the Penrith Lakes Scheme.
- (2) Without limiting the generality of subclause (1), the particular aims of this Policy are:
 - (a) to provide a development control process establishing environmental and technical matters which must be taken into account in implementing the Penrith Lakes Scheme in order to protect the environment,
 - (b) to identify and protect items of the environmental heritage,
 - (c) to identify land which may be rezoned for urban purposes, and
 - (d) to permit interim development in order to prevent the sterilization of land to which this Policy applies during implementation of the Penrith Lakes Scheme.

3 Clause 3 Land to which Policy applies

This Policy applies to the land shown edged heavy black on the structure plan.

4 Inconsistency between environmental planning instruments

In the event of an inconsistency between this Policy and any other environmental planning instrument (whether made before, on or after the day on which this Policy is made), this Policy shall prevail to the extent of the inconsistency.

5 Definitions

In this Policy, except in so far as the context or subject-matter otherwise indicates or

requires:

agriculture has the meaning ascribed to it in section 514A of the [Local Government Act 1919](#).

community facility means a building, place or any other facility, whether or not provided by a local government council, provided for use by groups having similar physical, cultural, social, recreational, ethnic or other interests or beliefs, but does not include a club that is registered under the [Registered Clubs Act 1976](#).

extractive industry means:

(a) the winning of extractive material, not being:

(i) coal,

(ii) petroleum, or

(iii) any mineral within the meaning of the *Mining Act 1973*, or

(b) an industry or undertaking not being a mine, which depends for its operations on the winning of any such extractive material from land to which this Policy applies.

Penrith Lakes Scheme means the scheme described in Schedule 1.

the Act means the [Environmental Planning and Assessment Act 1979](#).

the structure plan means the map marked “*Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme (Amendment No 4)*” deposited in the Parramatta office of the Department, as amended by any map prepared by the Minister under clause 12 and so deposited.

6 Consent authority

The consent authority for the purposes of this Policy is the council of the area in which the development is carried out, except as provided by the Act.

Part 2 Development control

7 Development generally

A person shall not carry out development on land to which this Policy applies except development authorised by or under this Policy.

8 Development for the purposes of implementing the Penrith Lakes Scheme

(1) Development for the purposes of implementing the Penrith Lakes Scheme may, with development consent, be carried out on land to which this Policy applies.

(2) The consent authority shall grant consent to development to which this clause applies

unless:

- (a) the consent authority is of the opinion that the development the subject of the application:
 - (i) does not fully implement the Penrith Lakes Scheme on the land to which the application for development relates,
 - (ii) will not ensure the satisfactory implementation of the Penrith Lakes Scheme, or
 - (iii) is not generally in accordance with the structure plan, and
- (b) in the case of an application to carry out development which includes an extractive industry, the consent authority is of the opinion that:
 - (i) development should not be carried out until other land to which this Policy applies is developed for purposes which include an extractive industry,
 - (ii) the land, the subject of the application, will not be rehabilitated and reconstructed:
 - (A) generally in accordance with the structure plan, or
 - (B) to ensure the satisfactory implementation of the Penrith Lakes Scheme, or
 - (iii) the person (including any person related, connected or otherwise associated to or with that person) proposing to carry out that development has not complied with the conditions of a consent previously granted to carry out development which included an extractive industry in respect of other land to which this Policy applies.
- (3) The consent authority shall not consent to the carrying out of development for the purposes of implementing the Penrith Lakes Scheme unless the person making the application has submitted a statement of the environmental effects of the proposed development containing the matters specified in clause 1 of Schedule 2 and addressing the matters specified in clause 2 of that Schedule.
- (4) In determining an application to carry out development to implement the Penrith Lakes Scheme, the consent authority shall take into consideration the following matters:
 - (a) the Penrith Lakes Scheme Regional Environmental Study,
 - (b) the recommendations, if any, of such technical working parties as may be established from time to time by the consent authority,
 - (c) the statement of environmental effects accompanying the application,

- (d) the proposed sequence of extraction and rehabilitation,
- (e) whether the land is to be dedicated to the Crown and, if not, the proposed control and management of the land,
- (f) the management and control of water resources including:
 - (i) the source of water in order to fill any lake (including the quality and quantity of water from that source),
 - (ii) water reticulation systems from the Nepean River to any lake, from lake to lake and from any lake to the Nepean River,
 - (iii) the water quality of any lake (including the aquatic ecosystem),
 - (iv) water treatment facilities,
 - (v) water depth of any lake,
 - (vi) flood control,
 - (vii) storm water control,
 - (viii) the effect that development would have upon the quantity and quality of the existing groundwater, the level of the existing water table and groundwater movement,
 - (ix) lake usage,
 - (x) staged development of the lakes and their usage during stage development,
 - (xi) the need to monitor the water quality of the lakes having regard to their intended use, and
 - (xii) the effect upon the Hawkesbury/Nepean River system,
- (g) the rehabilitation and reconstruction of the land including:
 - (i) landscape design,
 - (ii) the structural stability and soil compaction of landforms (including, where appropriate, the land shown on the structure plan as future urban),
 - (iii) the stability and impermeability of the Nepean River embankment,
 - (iv) soil conservation, and
 - (v) revegetation,
- (h) access to, the supply of water from any existing source to, and the supply of and

access to municipal and utility services to, land to which this Policy applies, other than that part of that land the subject of the application,

- (i) any item of the environmental heritage listed in Schedule 3,
- (j) the effect upon a locality, place or building not listed in Schedule 3 having aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations, and
- (k) the need and frequency to monitor the implementation of the subject development.

(5) The provisions of sections 84, 85, 86, 87 (1) and 90 of the Act apply to and in respect of development for the purposes of implementing the Penrith Lakes Scheme in the same way as they apply to and in respect of designated development.

9 Interim development

Development may be carried out on any part of the land to which this Policy applies:

- (a) for the purpose of agriculture, without the necessity for development consent, or
- (b) for any other purpose, with development consent, if the consent authority is satisfied that the carrying out of development for that purpose will not adversely affect the implementation of the Penrith Lakes Scheme,

pending the completion of the Penrith Lakes Scheme in, and the use as a public recreational lake system of, that part of the land.

10 Development for the purposes of roads

- (1) Development for the purposes of the construction or widening of roads may, with development consent, be carried out on land to which this Policy applies.
- (2) Notwithstanding subclause (1), Roads and Maritime Service may, without the necessity for development consent, carry out development:
 - (a) for the purpose of constructing a main road to replace the Castlereagh Road, generally in conformity with the proposed route shown on the structure plan, or
 - (b) for the purpose of widening the Castlereagh Road.
- (3) The consent authority shall, in determining an application to carry out development for the purposes of the construction or widening of roads, take into consideration the implementation of the Penrith Lakes Scheme and the structure plan.

11 Development for the purposes of recreation

- (1) Development for the purposes of recreation (whether that development is commercial or not) may, with development consent, be carried out on land to which this Policy applies.
- (2) The consent authority shall, in determining an application to carry out development for the purposes of recreation, take into consideration the implementation of the Penrith Lakes Scheme and the structure plan.

11A Development for the purposes of a community facility

- (1) Nothing in this Policy prevents a person, with the Minister's consent, from carrying out subdivision and other development, for the purposes of a community facility, on Lots 2 and 4 DP 579006 Cranebrook Road, Cranebrook, as shown edged heavy black on the map marked "*Sydney Regional Environmental Plan No 11—Penrith Lakes Scheme (Amendment No 5)*".
- (2) When determining an application to carry out subdivision or other development for the purposes of a community facility, the consent authority must take into consideration the implementation of the Penrith Lakes Scheme and the structure plan.

12 Amendment of the structure plan

- (1) The Minister may from time to time amend the structure plan, but only in relation to:
 - (a) the size and shape of a lake or lakes, or
 - (b) the proposed route of the road to replace Castlereagh Road.
- (2) The Minister may only amend the structure plan in accordance with subclause (1) (a) if:
 - (a) the proposed size and shape of the lake or lakes is generally in accordance with the structure plan before its amendment, or
 - (b) the Minister is of the opinion that the proposed size and shape is in the public interest and will not significantly reduce the public enjoyment or use of the Penrith Lakes Scheme on completion.
- (3) An amendment of the structure plan may not extend the land to which this Policy applies.

Part 3 Protection of the environmental heritage

13 Definitions

In this Part, except in so far as the context or subject-matter otherwise indicates or requires:

demolition, in relation to a building or work, means the damaging, defacing, destruction, pulling down or removal of the building or work, in whole or in part.

item of the environmental heritage means a building, work, relic or place that is identified or described in Schedule 3.

renovation, in relation to a building or work, means:

- (a) the making of structural changes to the inside or outside of the building or work, or
- (b) the making of non-structural changes to the fabric or appearance of the outside of the building or work, including changes that involve the repair, or the painting, plastering or other decoration, of the building or work.

14 Items of the environmental heritage

- (1) A person shall not, in respect of a building, work, relic or place that is an item of the environmental heritage:
 - (a) demolish, renovate or extend the building or work,
 - (b) damage or despoil the relic or place, or any part of the relic or place,
 - (c) excavate any land for the purpose of exposing or removing the relic, or
 - (d) erect a building on the land on which the building, work or relic is situated, or the land that comprises that place,except with development consent.
- (2) The consent authority shall not grant consent as referred to in subclause (1) unless an assessment has been made of:
 - (a) the significance of the item as an item of the environmental heritage,
 - (b) the extent to which the carrying out of development in accordance with the consent would affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the item and its site,
 - (c) whether the setting of the item, and in particular whether any stylistic, horticultural or architectural features of the setting, should be retained, and
 - (d) whether the item constitutes a danger to the users or occupiers of the item or to the public.

15 Development in the vicinity of an item of the environmental heritage

The consent authority shall not consent to the carrying out of development in the vicinity of an item of the environmental heritage unless an assessment has been made of the effect that the development will have on the historic, scientific, cultural, social,

archaeological, architectural, natural or aesthetic significance of the item and its setting.

Part 4

16, 17 (Repealed)

Schedule 1 Penrith Lakes Scheme

(Clause 5)

The Penrith Lakes Scheme is the creation of a regional recreational lake system as shown on the structure plan for the benefit of the public as a result of:

- (a) the staged optimum extraction of sand and gravel reserves,
- (b) the staged rehabilitation, reconstruction and landscaping of the land, and
- (c) the staged formation of a series of interconnected lakes,

and includes the identification of land for possible future urban purposes as a result of the work referred to in paragraphs (a) and (b).

Schedule 2 Matters to be included in the statement of environmental effects

(Clause 8)

1 The following matters:

- (a) justification of the proposed development in the context of *State Environmental Planning Policy (Penrith Lakes Scheme) 1989*,
- (b) a full description of the proposed development,
- (c) a statement of the objectives of the proposed development,
- (d) a full description of the existing environment likely to be affected by the proposed development if carried out,
- (e) identification and analysis of the likely environmental interactions between the proposed development and the environment,
- (f) analysis of the likely environmental impacts or consequences of carrying out the proposed development (including implications for use and conservation of energy),
- (g) justification of the proposed development in terms of environmental, economic and social considerations,
- (h) measures to be taken in conjunction with the proposed development to protect the environment and an assessment of the likely effectiveness of those measures,
- (i) energy requirements of the proposed development,

- (j) any feasible alternatives to the carrying out of the proposed development and the reasons for choosing the latter, and
- (k) the consequences of not carrying out the proposed development.

2 In addition to the matters listed in clause 1, particular regard must be given to the following matters:

- (a) relationship and extent of the proposed development to the completed scheme,
- (b) where appropriate, the integration of the proposed development with development previously carried out,
- (c) the sequence of extraction and rehabilitation where the proposed development is for or includes an extractive industry,
- (d) unless the land is to be dedicated to the Crown, the proposed control and management of the land,
- (e) the management and control of water resources including:
 - (i) the source of water in order to fill any lake (including the quality and quantity of water from that source),
 - (ii) water reticulation systems from the Nepean River to any lake, from lake to lake and from any lake to the Nepean River,
 - (iii) the water quality of any lake (including the aquatic ecosystem),
 - (iv) water treatment facilities,
 - (v) water depth of any lake,
 - (vi) flood control,
 - (vii) storm water control,
 - (viii) the effect that development would have upon the quantity and quality of the existing groundwater as well as the level of the existing groundwater table,
 - (ix) lake usage,
 - (x) staged development of the lakes and their usage during staged development,
 - (xi) the need to monitor the water quality of the lakes having regard to their intended use, and
 - (xii) the effect upon the Hawkesbury/Nepean River system,
- (f) the rehabilitation and reconstruction of the land including:
 - (i) landscape design,
 - (ii) the structural stability and soil compaction of landforms (including, where appropriate, the land shown on the structure plan as future urban),

- (iii) the stability and impermeability of the Nepean River embankment,
- (iv) soil conservation, and
- (v) revegetation,
- (g) any effect upon a locality, place or building not listed in Schedule 3 having aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations,
- (h) measures to be taken to conserve and preserve items of environmental heritage listed in Schedule 3 including, where appropriate, a conservation plan, and
- (i) access to, the supply of water from any existing service to, and the supply of and access to municipal and utility services to, land to which this Policy applies other than that part of that land the subject of the application.

Schedule 3 Items of the environmental heritage

(Clause 13)

Hadley Park, lots 1 and 2, MPS (OS) 8807, Parish of Castlereagh, County of Cumberland (shown as Heritage Item No 1 on the structure plan).

Nepean Park, part portion 48, Parish of Castlereagh, County of Cumberland (shown as Heritage Item No 2 on the structure plan).

McCarthy's Cemetery, part portion 82, Parish of Castlereagh, County of Cumberland (shown as Heritage Item No 3 on the structure plan).

Upper Castlereagh Methodist Church and Hall, part portion 71, Parish of Castlereagh, County of Cumberland (shown as Heritage Item No 4 on the structure plan).

Upper Castlereagh School and Residence, part portion 54, Parish of Castlereagh, County of Cumberland (shown as Heritage Item No 5 on the structure plan). *Permanent Conservation Order No 339* under the [Heritage Act 1977](#), applies to Upper Castlereagh School.

Methodist Cemetery, part portion 71, Parish of Castlereagh, County of Cumberland (shown as Heritage Item No 6 on the structure plan).