



New South Wales

Penrith City Centre Local Environmental Plan 2008

under the

Environmental Planning and Assessment Act 1979

I, the Minister for Planning, make the following local environmental plan under the
Environmental Planning and Assessment Act 1979. (S06/00902/PC)

FRANK SARTOR, M.P.,
Minister for Planning

Contents

	Page
Part 1 Preliminary	
1 Name of Plan	4
2 Aims of Plan	4
3 Land to which Plan applies	5
4 Definitions	5
5 Notes	5
6 Consent authority	5
7 Maps	5
8 Repeal of other local planning instruments applying to land	6
9 Suspension of covenants, agreements and instruments	6
10 Application of SEPPs and REPs	7
Part 2 Permitted or prohibited development	
11 Land use zones	8
12 Zoning of land to which Plan applies	8
13 Zone objectives and land use table	8
14 Unzoned land	9
15 Additional permitted uses for particular land	9
16 Subdivision—consent requirements	9
17 Temporary use of land	10
Land Use Table	
Part 3 Exempt and complying development	
18 Exempt development	16
19 Complying development	17
20 Environmentally sensitive areas excluded	18
Part 4 Principal development standards	
21 Height of buildings	20
22 Architectural roof features	20
23 Sun access	21
24 Floor space ratio	21
25 Minimum building street frontage	21
26 Design excellence	22
27 Car parking	23
28 Ground floor development within Zones B3 and B4	24
29 Building separation	25

Penrith City Centre Local Environmental Plan 2008

Contents

		Page
	30 Ecologically sustainable development	25
	31 Serviced apartments	26
	32 Exceptions to development standards	26
Part 5	Miscellaneous provisions	
	33 Land acquisition within certain zones	28
	34 Development on proposed classified road	28
	35 Classification and reclassification of public land	29
	36 Community use of educational establishments	30
	37 Classified roads	30
	38 Development in proximity to a rail corridor	31
	39 Preservation of trees or vegetation	31
	40 Heritage conservation	32
	41 Bush fire hazard reduction	36
	42 Development for group homes	36
	43 Crown development and public utilities	37
Part 6	Local provisions	
	44 Location of sex services premises and restricted premises	41
Schedule 1	Additional permitted uses	42
Schedule 2	Exempt development	43
Schedule 3	Complying development	53
Schedule 4	Classification and reclassification of public land	58
Schedule 5	Environmental Heritage	65
Dictionary		67

2008 No 25

Clause 1 Penrith City Centre Local Environmental Plan 2008

Part 1 Preliminary

Penrith City Centre Local Environmental Plan 2008

under the

Environmental Planning and Assessment Act 1979

Part 1 Preliminary

1 Name of Plan

This Plan is *Penrith City Centre Local Environmental Plan 2008*.

2 Aims of Plan

The aims of this Plan are as follows:

- (a) to strengthen the regional position of the Penrith city centre as a multifunctional and innovative centre that encourages employment and economic growth,
- (b) to provide a planning framework for Penrith to fulfil its role as a regional city in the Sydney Metropolitan Region,
- (c) to promote employment, residential, recreational and leisure, cultural, social and tourism opportunities within the Penrith city centre,
- (d) to respond to the economic and social needs of the region by providing centrally located services and facilities,
- (e) to facilitate new commercial and residential development in the Penrith city centre that is consistent with the desired future character of the area as described in the *Penrith City Centre Development Control Plan 2007*,
- (f) to protect and enhance the cultural identity and diversity of the Penrith city centre,
- (g) to encourage development that contributes to the provision of alternative and sustainable access to the city centre,
- (h) to enhance access to the city centre, particularly by public transport, walking and cycling,
- (i) to facilitate the development of building design excellence appropriate for a regional city and improve the quality of urban design and ensure the public domain is safe and attractive,

- (j) to encourage responsible management, development and conservation of resources and to ensure that the Penrith city centre achieves sustainable social, economic and environmental outcomes,
- (k) to protect and enhance environmentally sensitive areas, and the natural and cultural heritage, of Penrith city centre for the benefit of present and future generations.

3 Land to which Plan applies

This Plan applies to the land identified on the Land Application Map.

4 Definitions

The Dictionary at the end of this Plan defines words and expressions for the purposes of this Plan.

5 Notes

Notes in this Plan are provided for guidance and do not form part of this Plan.

6 Consent authority

The consent authority for the purposes of this Plan is (subject to the Act) the Council.

7 Maps

- (1) A reference in this Plan to a named map adopted by this Plan is a reference to a map by that name:
 - (a) approved by the Minister when the map is adopted, and
 - (b) as amended from time to time by maps declared by environmental planning instruments to amend that map, and approved by the Minister when the instruments are made.
- (2) Any 2 or more named maps may be combined into a single map. In that case, a reference in this Plan to any such named map is a reference to the relevant part or aspect of the single map.
- (3) Any such maps are to be kept and made available for public access in accordance with arrangements approved by the Minister.

Note. The maps adopted under this Plan are the Land Application Map, the Land Zoning Map, the Height of Buildings Map, the Floor Space Ratio Map, the Key Sites Map, the Land Reservation Acquisition Map and the Heritage Map.

2008 No 25

Clause 8 Penrith City Centre Local Environmental Plan 2008

Part 1 Preliminary

8 Repeal of other local planning instruments applying to land

- (1) All local environmental plans and deemed environmental planning instruments applying only to the land to which this Plan applies are repealed.
- (2) All local environmental plans and deemed environmental planning instruments applying to the land to which this Plan applies and to other land cease to apply to the land to which this Plan applies.
- (3) If a development application has been made before the commencement of this Plan in relation to land to which this Plan applies and the application has not been finally determined before that commencement, the application is to be determined as if this Plan had been exhibited but had not commenced.

9 Suspension of covenants, agreements and instruments

- (1) For the purpose of enabling development on land within 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 heritage agreement within the meaning of the *Heritage Act 1977*.
- (3) This clause does not affect the rights or interests of any public authority under any registered instrument.
- (4) Pursuant to section 28 of the Act, before the making of this clause, the Governor approved of subclauses (1)–(3).

10 Application of SEPPs and REPs

- (1) This Plan is subject to the provisions of any State environmental planning policy and any regional environmental plan that prevail over this Plan as provided by section 36 of the Act.

Note. Section 36 of the Act generally provides that SEPPs prevail over REPs and LEPs and that REPs prevail over LEPs. However, a LEP may (by an additional provision included in the Plan) displace or amend a SEPP or REP to deal specifically with the relationship between this Plan and the SEPP or REP.

- (2) The following State environmental planning policies and regional environmental plans (or provisions) do not apply to the land to which this Plan applies:

State Environmental Planning Policy No 1—Development Standards

State Environmental Planning Policy No 4—Development Without Consent and Miscellaneous Exempt and Complying Development (clause 6)

State Environmental Planning Policy No 9—Group Homes

State Environmental Planning Policy No 60—Exempt and Complying Development

2008 No 25

Clause 11 Penrith City Centre Local Environmental Plan 2008

Part 2 Permitted or prohibited development

Part 2 Permitted or prohibited development

11 Land use zones

The land use zones under this Plan are as follows:

Residential Zones

R4 High Density Residential

Business Zones

B3 Commercial Core

B4 Mixed Use

Special Purpose Zones

SP2 Infrastructure

SP3 Tourist

Recreation Zones

RE1 Public Recreation

12 Zoning of land to which Plan applies

For the purposes of this Plan, land is within the zones shown on the Land Zoning Map.

13 Zone objectives and land use table

- (1) The Table at the end of this Part 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 Part:
 - (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.

Note.

- 1 Schedule 1 sets out additional permitted uses for particular land.
- 2 Clause 16 requires consent for subdivision of land.

14 Unzoned land

- (1) Development may be carried out on unzoned land only with consent.
- (2) Before granting consent, the consent authority:
 - (a) must consider whether the development will impact on adjoining zoned land and, if so, consider the objectives for development in the zones of the adjoining land, and
 - (b) must be satisfied that the development is appropriate and is compatible with permissible land uses in any such adjoining land.

15 Additional permitted uses for particular land

- (1) Development on particular land that is described or referred to in Schedule 1 may be carried out:
 - (a) with consent, or
 - (b) if the Schedule so provides—without consent, in accordance with the conditions (if any) specified in that Schedule in relation to that development.
- (2) This clause has effect despite anything to the contrary in the Land Use Table or other provision of this Plan.

16 Subdivision—consent requirements

- (1) Land to which this Plan applies may be subdivided, but only with consent.
- (2) However, consent is not required for a subdivision for the purpose only of any one or more of the following:
 - (a) widening a public road,
 - (b) making an adjustment to a boundary between lots, being an adjustment that does not involve the creation of a greater number of lots,
 - (c) a minor realignment of boundaries that does not create additional lots or the opportunity for additional dwellings,
 - (d) a consolidation of lots that does not create additional lots or the opportunity for additional dwellings,
 - (e) rectifying an encroachment on a lot,

2008 No 25

Clause 17 Penrith City Centre Local Environmental Plan 2008

Part 2 Land Use Table

- (f) creating a public reserve,
- (g) excising from a lot land that is, or is intended to be, used for public purposes, including drainage purposes, rural fire brigade or other emergency service purposes or public conveniences.

Note. If a subdivision is exempt development, the Act enables the subdivision to be carried out without consent.

17 Temporary use of land

- (1) The objective of this clause is to provide for the temporary use of land if the use does not compromise future development of the land, or have detrimental economic, social, amenity or environmental impacts.
- (2) Despite any other provision of this Plan, consent may be granted to development on land within any zone for any temporary purpose for a maximum period of 28 days (whether or not consecutive days) in any period of 12 months.
- (3) Any such consent must not be granted unless the consent authority is satisfied that:
 - (a) the temporary use is necessary and reasonable for the economic use of the land pending its subsequent development in accordance with this Plan and other relevant environmental planning instruments, and
 - (b) the temporary use will not prejudice the subsequent carrying out of development on the land in accordance with this Plan and any such other instrument, and
 - (c) the temporary use does not adversely impact on any adjoining land or the amenity of the neighbourhood, and
 - (d) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land, or increase the risk of natural hazards that may affect the land, and
 - (e) at the end of the temporary use period, the use and any associated structures will be removed and the site appropriately restored.

Land Use Table

Zone R4 High Density Residential

1 Objectives of zone

- To provide for the housing needs of the community within a high density residential environment.

- To provide a variety of housing types within a high density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To encourage the provision of affordable housing.

2 Permitted without consent

Exempt development

3 Permitted with consent

Boarding houses; Building identification signs; Business identification signs; Car parks (but only as required by this Plan or public car parking provided by or on behalf of the Council); Child care centres; Clearing native vegetation; Community facilities; Demolition; Drainage; Earthworks; Environmental protection works; Flood mitigation works; Group homes; Home-based child care or family day care homes; Home businesses; Hostels; Medical centres; Neighbourhood shops (with a gross floor area not exceeding 100m²); Places of public worship; Public utility undertakings; Pubs; Rainwater tanks; Recreation areas; Recreation facilities (indoor); Residential care facilities; Residential flat buildings; Restaurants; Roads; Seniors housing; Serviced apartments; Swimming pools; Telecommunications facilities; Temporary structures; Utility installations

4 Prohibited

Retail premises (except retail premises of a kind specified in item 3);
Any other development not otherwise specified in item 2 or 3

Zone B3 Commercial Core**1 Objectives of zone**

- To provide a wide range of retail, business, office, entertainment, community and other suitable land uses which serve the needs of the local and wider community.
- To encourage appropriate employment opportunities in accessible locations.
- To maximise public transport patronage and encourage walking and cycling.
- To strengthen the role of the Penrith city centre as the business, retail and cultural centre for the region.

2008 No 25

Clause 17 Penrith City Centre Local Environmental Plan 2008

Part 2 Land Use Table

2 Permitted without consent

Exempt development; Roads

3 Permitted with consent

Advertising structures; Amusement centres; Backpackers' accommodation; Building identification signs; Business identification signs; Business premises; Car parks (but only as required by this Plan or public car parking provided by or on behalf of the Council); Child care centres; Clearing native vegetation; Community facilities; Demolition; Drainage; Earthworks; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Funeral chapels; Funeral homes; Helipads; Hotel accommodation; Information and education facilities; Markets; Medical centres; Mortuaries; Office premises; Passenger transport facilities; Places of public worship; Pubs; Public administration buildings; Public utility undertakings; Rainwater tanks; Recreation areas; Recreation facilities (indoor); Registered clubs; Restaurants; Restricted premises; Retail premises; Serviced apartments; Sex services premises; Take away food or drink premises; Telecommunications facilities; Temporary structures; Tourist and visitor accommodation; Utility installations

4 Prohibited

Any other development not otherwise specified in item 2 or 3

Zone B4 Mixed Use

1 Objectives of zone

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To provide a wide range of retail, business, office, residential, community and other suitable land uses.
- To create opportunities to improve the public domain.
- To provide for the retention and creation of view corridors.

2 Permitted without consent

Exempt development; Roads

3 Permitted with consent

Advertising structures; Amusement centres; Boarding houses; Building identification signs; Business premises; Car parks (but only as required by this Plan or public car parking provided by or on behalf of the Council); Child care centres; Clearing native vegetation; Community facilities; Demolition; Drainage; Dwellings; Earthworks; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Funeral chapels; Group homes; Health consulting rooms; Home-based child care or family day care homes; Home businesses; Hostels; Hotel accommodation; Information and education facilities; Markets; Medical centres; Multi dwelling housing; Office premises; Passenger transport facilities; Places of public worship; Pubs; Public administration buildings; Public utility installations; Rainwater tanks; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Residential care facilities; Residential flat buildings; Restaurants; Restricted care premises; Retail premises; Seniors housing; Serviced apartments; Sex services premises; Shop top housing; Take away food or drink premises; Telecommunication facilities; Temporary structures; Utility installations

4 Prohibited

Any other development not otherwise specified in item 2 or 3

Zone SP2 Infrastructure**1 Objectives of zone**

- To provide for infrastructure and related uses.
- To prevent development that is not compatible with or that may detract from the provision of infrastructure.

2 Permitted without consent

Nil

3 Permitted with consent

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose; Drainage; Environmental protection works; Flood mitigation works; Rainwater tanks; Roads; Telecommunications facilities

2008 No 25

Clause 17 Penrith City Centre Local Environmental Plan 2008

Part 2 Land Use Table

4 Prohibited

Any other development not otherwise specified in item 2 or 3

Zone SP3 Tourist

1 Objectives of zone

- To provide for a variety of tourist-oriented development and related uses.
- To provide for a diversity of visitor accommodation and activities compatible with the promotion of tourism within Penrith and the region.
- To maintain important views to and from the Nepean River as well as to surrounding escarpments, including the Blue Mountains.

2 Permitted without consent

Exempt development

3 Permitted with consent

Advertising structures; Amusement centres; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Car parks; Charter and tourism boating facilities; Clearing native vegetation; Community facilities; Demolition; Drainage; Earthworks; Educational establishments; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Food and drink premises; Function centres; Helipads; Information and education facilities; Jetties; Markets; Medical centres; Neighbourhood shops (with a gross floor area not exceeding 100m²); Places of public worship; Public utility undertakings; Pubs; Rainwater tanks; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Restricted premises; Roads; Service stations; Sex services premises; Telecommunications facilities; Temporary structures; Tourist and visitor accommodation; Utility installations; Water recreation structures

4 Prohibited

Retail premises (except retail premises of a kind specified in item 3);
Any other development not otherwise 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.
- To ensure development is consistent with any plan of management adopted for land in the zone.

2 Permitted without consent

Exempt development

3 Permitted with consent

Boat launching ramps; Boat sheds; Building identification signs; Car parks (but only as required by this Plan or public car parking provided by or on behalf of the Council); Charter and tourism boating facilities; Clearing native vegetation; Community facilities; Demolition; Drainage; Earthworks; Environmental facilities; Environmental protection works; Excavation; Flood mitigation works; Jetties; Kiosks; Markets; Public utility undertakings; Rainwater tanks; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Roads; Telecommunications facilities; Temporary structures; Utility installations; Water recreation structures

4 Prohibited

Retail premises (except retail premises of a kind specified in item 3);
Any other development not otherwise specified in item 2 or 3

2008 No 25

Clause 18 Penrith City Centre Local Environmental Plan 2008

Part 3 Exempt and complying development

Part 3 Exempt and complying development

18 Exempt development

Note. Under section 76 of the Act, exempt development may be carried out without the need for development consent under Part 4 of the Act or for assessment under Part 5 of the Act.

The section states that exempt development:

- (a) must be of minimal environmental impact, and
 - (b) cannot be carried out in critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), and
 - (c) cannot be carried out in a wilderness area (identified under the *Wilderness Act 1987*).
- (1) The objective of this clause is to identify development of minimal environmental impact as exempt development.
 - (2) Development specified in Schedule 2 that meets the standards for the development contained in that Schedule and that complies with the requirements of this Part is exempt development.
 - (3) To be exempt development:
 - (a) the development must:
 - (i) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (ii) if it relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2–9, the building must have a current fire safety certificate or fire safety statement or the building must be a building for which no fire safety measures are currently implemented, required or proposed, and
 - (b) the development must not:
 - (i) if it relates to an existing building, cause the building to contravene the *Building Code of Australia*, or
 - (ii) create interference with the neighbourhood because it is noisy, causes vibrations, creates smells, fumes, smoke, vapour, steam, soot, ash, dust, waste water, grit or oil, or
 - (iii) be designated development, or
 - (iv) be development on land that comprises, or on which there is, an item of environmental heritage that is listed on the State Heritage Register under the *Heritage Act 1977* or in Schedule 5 to this Plan or that is subject to an interim heritage order under the *Heritage Act 1977*, or

- (v) require assessment under Part 5 of the *Environmental Planning and Assessment Act 1979*, or
- (vi) be located on Lot 12, DP 234581, 164 Station Street, Penrith.

19 Complying development

Note. Under section 76A of the Act, development consent for the carrying out of complying development may be obtained by the issue of a complying development certificate.

The section states that development cannot be complying development if:

- (a) it is on land that is critical habitat of an endangered species, population or ecological community (identified under the *Threatened Species Conservation Act 1995* or the *Fisheries Management Act 1994*), or
 - (b) it is on land within a wilderness area (identified under the *Wilderness Act 1987*), or
 - (c) the development is designated development, or
 - (d) the development is on land that comprises, or on which there is, an item of environmental heritage (that is listed on the State Heritage Register or in Schedule 5 to this Plan or that is subject to an interim heritage order under the *Heritage Act 1977*), or
 - (e) the development requires concurrence (except a concurrence of the Director-General of the Department of Environment and Conservation in respect of development that is likely to significantly affect a threatened species, population, or ecological community, or its habitat (identified under the *Threatened Species Conservation Act 1995*).
- (1) The objective of this clause is to identify development as complying development.
 - (2) Development specified in Schedule 3 that is carried out in compliance with the applicable development standards listed in that Schedule and that complies with the requirements of section 76A (6) of the Act and the requirements of this Part is complying development.
 - (3) To be complying development, the development:
 - (a) must be permissible, with consent, in the zone in which it is carried out, and
 - (b) must meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia*, and
 - (c) must have an approval, if required by the *Local Government Act 1993*, from the Council for an on-site effluent disposal system if the development is undertaken on unsewered land, and
 - (d) must not be carried out on land:
 - (i) identified as flood liable or contaminated land, or
 - (ii) subject to subsidence, slip or erosion, or
 - (iii) containing potential acid sulfate soils, or

2008 No 25

Clause 20 Penrith City Centre Local Environmental Plan 2008

Part 3 Exempt and complying development

- (iv) located at Lot 12, DP 234581, 164 Station Street, Penrith.
- (4) A complying development certificate issued for any such development must be subject to the conditions for the development specified in Part 2 of Schedule 3.

20 Environmentally sensitive areas excluded

- (1) Exempt or complying development must not be carried out on any environmentally sensitive area for exempt or complying development.
- (2) For the purposes of this clause:
environmentally sensitive area for exempt or complying development means:
 - (a) a sensitive coastal location, or
 - (b) coastal waters of the State, or
 - (c) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* or *State Environmental Planning Policy No 26—Littoral Rainforests* applies, or
 - (d) land reserved as an aquatic reserve under the *Fisheries Management Act 1994* or as a marine park under the *Marine Parks Act 1997*, or
 - (e) land within a wetland of international significance declared under the Ramsar Convention on Wetlands or within a World heritage area declared under the World Heritage Convention, or
 - (f) land identified in this or any other environmental planning instrument as being of high Aboriginal cultural significance or high biodiversity significance, or
 - (g) land reserved as a state conservation area under the *National Parks and Wildlife Act 1974*, or
 - (h) land reserved or dedicated under the *Crown Lands Act 1989* for the preservation of flora, fauna, geological formations or for other environmental protection purposes, or
 - (i) land identified as being critical habitat under the *Threatened Species Conservation Act 1995* or Part 7A of the *Fisheries Management Act 1994*, or
 - (j) land containing a threatened or endangered species, population or ecological community identified in the *Threatened Species Conservation Act 1995*, or
 - (k) land dedicated as an Aboriginal area under the *National Parks and Wildlife Act 1974*, or

-
- (1) land that is, or is near, the Hawkesbury-Nepean River (as identified on the map marked “Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997)” and deposited in the offices of the Department.

2008 No 25

Clause 21 Penrith City Centre Local Environmental Plan 2008

Part 4 Principal development standards

Part 4 Principal development standards

21 Height of buildings

- (1) The objectives of this Plan for the control of the height of buildings are as follows:
 - (a) to allow sunlight access to key areas of the public domain by ensuring that further overshadowing of certain parks and community places is avoided or limited during nominated times,
 - (b) to provide high quality urban form for all buildings,
 - (c) to maintain satisfactory sky exposure and daylight to existing buildings, to the sides and rear of higher buildings and to public areas, including parks, streets and lanes,
 - (d) to ensure that taller development occurs on sites capable of providing appropriate urban form and amenity,
 - (e) to nominate heights that will provide a transition in built form and land use intensity within the area covered by this Plan,
 - (f) to ensure an appropriate height transition between new buildings and heritage items.
- (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.

22 Architectural roof features

- (1) A person may, with development consent, carry out development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 21.
- (2) 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 have minimal overshadowing impact, 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.

23 Sun access

- (1) The objective of this clause is to protect specified public space from overshadowing.
- (2) This clause applies to land in the vicinity of Allen Place, Memory Park, Judges Park and to High Street between Station Street and Lawson Street, as shown edged heavy black on the Height of Buildings Map.
- (3) Despite clauses 21, 22 and 26, development on land adjacent to land to which this clause applies is prohibited if the development would result in overshadowing to a greater degree than would result from adherence to the controls indicated for the land on the Height of Buildings Map.
- (4) This clause does not prohibit development that does not alter the exterior of any existing building.

24 Floor space ratio

- (1) The objectives of this Plan for the control of floor space ratios are as follows:
 - (a) to ensure that proposals for new buildings are assessed with due regard to the design excellence and built form provisions of this Plan,
 - (b) to provide sufficient floor space for high quality development,
 - (c) to regulate density of development and generation of vehicular and pedestrian traffic.
- (2) The floor space ratio of a building on any land is not to exceed the maximum floor space ratio shown for the land on the Floor Space Ratio Map.

25 Minimum building street frontage

- (1) Development consent must not be granted to the erection of a building on land zoned B3 Commercial Core or B4 Mixed Use that does not have at least one street frontage of 20 metres or more.
- (2) Despite subclause (1), the consent authority may grant consent to the erection of a building on land referred to in that subclause if it is of the opinion that:
 - (a) due to the physical constraints of the site or an adjoining site or sites, it is not possible for the building to be erected with at least one street frontage of 20 metres or more, and
 - (b) the development is consistent with the aims and objectives of this Plan.

2008 No 25

Clause 26 Penrith City Centre Local Environmental Plan 2008

Part 4 Principal development standards

26 Design excellence

- (1) This clause applies to development involving the construction of a new building or external alterations to an existing building.
- (2) Consent must not be granted to development to which this clause applies unless, in the opinion of the consent authority, the proposed development exhibits design excellence.
- (3) In considering whether development to which this clause applies exhibits design excellence, the consent authority must have regard to the following matters:
 - (a) whether a high standard of architectural design, materials and detailing appropriate to the building type and location will be achieved,
 - (b) whether the form and external appearance of the proposed development will improve the quality and amenity of the public domain,
 - (c) whether the proposed development detrimentally impacts on view corridors,
 - (d) whether the proposed development detrimentally impacts on any land referred to in clause 23,
 - (e) the requirements of the City Centre Development Control Plan,
 - (f) how the proposed development addresses the following matters:
 - (i) the suitability of the land for development,
 - (ii) existing and proposed uses and use mix,
 - (iii) heritage issues and streetscape constraints,
 - (iv) the relationship of the proposed building with other buildings (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form,
 - (v) bulk, massing and modulation of buildings,
 - (vi) street frontage heights,
 - (vii) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,
 - (viii) the achievement of the principles of ecologically sustainable development,
 - (ix) pedestrian, cycle, vehicular and service access, circulation and requirements,
 - (x) the impact on, and any proposed improvements to, the public domain.

- (4) Consent must not be granted to the following development to which this Plan applies unless an architectural design competition that is consistent with the City Centre Development Control Plan has been held in relation to the proposed development:
- (a) development for which an architectural design competition is required as part of a concept plan approved by the Minister under Division 3 of Part 3A of the Act,
 - (b) development in respect of a building that is, or will be, greater than 24 metres or 6 storeys (or both) in height,
 - (c) development having a capital value of more than \$1,000,000 on a key site, being a site shown edged heavy black and distinctively coloured on the Key Sites Map,
 - (d) development for which the applicant has chosen to have such a competition.
- (5) Subclause (4) does not apply if the Director-General certifies in writing that the development is one for which an architectural design competition is not required.
- (6) The consent authority may grant consent to the erection or alteration of a building to which this clause applies that has a floor space ratio of up to 10% greater than that allowed by clause 24 or a height of up to 10% greater than that allowed by clause 21, but only if:
- (a) the design of the building or alteration is the result of an architectural design competition, and
 - (b) the concurrence of the Director-General has been obtained to the development application.
- (7) In determining whether to provide his or her concurrence to the development application, the Director-General is to take into account the matters set out in subclause (3) and the results of the architectural design competition.
- (8) In this clause:
architectural design competition means a competitive process conducted in accordance with procedures approved by the Director-General from time to time.

27 Car parking

- (1) The object of this clause is to ensure that adequate car parking is provided for a development that is commensurate with the traffic likely to be generated by the development and is appropriate for the road network capacity and proposed mix of transport modes for the Penrith city centre.

2008 No 25

Clause 28 Penrith City Centre Local Environmental Plan 2008

Part 4 Principal development standards

- (2) Except as otherwise provided by this Plan, development for the purpose of car parking is to be provided in accordance with the City Centre Development Control Plan.
- (3) Consent must not be granted for development on land zoned B3 Commercial Core or B4 Mixed Use that involves the erection of a new building or an alteration to an existing building that increases the floor area of the building unless:
 - (a) at least one car parking space is provided for every 60 square metres of the floor area of the building that is to be used for commercial activities, and
 - (b) at least one car parking space is provided for every 30 square metres of the floor area of the building that is to be used for retail activities.
- (4) Car parking required by this Plan must be provided for on site unless the consent authority is satisfied that adequate car parking is provided elsewhere.
- (5) For the purposes of this clause, the following are to be included as part of a building's gross floor area:
 - (a) any area of the building that is used for car parking and is at or above existing ground level, except to the extent permitted by the City Centre Development Control Plan,
 - (b) any area of the building that is used for car parking below ground level, except where the car parking is provided as required by this clause.
- (6) Council owned public car parking is not to be included as part of a building's gross floor area.
- (7) In this clause:

commercial activities, in relation to the use of a building, means using the building for the purposes of office premises, business premises, hotel accommodation (but not hotel accommodation that is subdivided under a strata scheme) or other like uses or a combination of such uses.

retail activities, in relation to the use of a building, means using the building for the purposes of retail premises, amusement centres, function centres, medical centres, registered clubs, service stations or other like uses or a combination of such uses.

28 Ground floor development within Zones B3 and B4

- (1) The ground floor of any development that is a building on land zoned B3 Commercial Core or B4 Mixed Use must have an active street frontage consistent with the City Centre Development Control Plan, and

be used for commercial activities or retail activities (within the meaning of clause 27) other than any parts of that floor used for:

- (a) lobbies for any commercial, residential, serviced apartment or hotel component of the development, or
 - (b) access for fire services, or
 - (c) vehicle access.
- (2) Despite subclause (1), an active street frontage is not required in respect of any part of a building:
- (a) facing a back lane, unless the lane is identified as a pedestrian link in the City Centre Development Control Plan, or
 - (b) facing another street, unless the street is identified as requiring an active street frontage in the City Centre Development Control Plan.

29 Building separation

Buildings on land to which this Plan applies must be erected so that the separation distance:

- (a) from neighbouring buildings, and
- (b) between separate parts or other separate raised parts of the same building,

is not less than that provided for in the City Centre Development Control Plan.

30 Ecologically sustainable development

Before granting consent to development the consent authority must have regard to the principles of ecologically sustainable development as they relate to the proposed development based on a “whole of building” approach by considering each of the following:

- (a) conserving energy and reducing carbon dioxide emissions,
- (b) embodied energy in materials and building processes,
- (c) building design and orientation,
- (d) passive solar design and day lighting,
- (e) natural ventilation,
- (f) energy efficiency and conservation,
- (g) water conservation and water reuse,
- (h) waste minimisation and recycling,
- (i) reduction of car dependence,
- (j) potential for adaptive reuse.

2008 No 25

Clause 31 Penrith City Centre Local Environmental Plan 2008

Part 4 Principal development standards

31 Serviced apartments

Development consent must not be granted to development for the purpose of the strata subdivision of a building or part of a building that is or has been used for serviced apartments, unless the consent authority is satisfied that the design quality principles set out in Part 2 of *State Environmental Planning Policy No 65—Design Quality of Residential Flat Development* and the design principles of the *Residential Flat Design Code* (a publication of the Department of Planning, September 2002) are achieved for the development as if it were a residential flat development.

32 Exceptions to development standards

- (1) The objectives of this clause are:
 - (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development, and
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause or of *State Environmental Planning Policy No 1—Development Standards*.
- (3) Consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:
 - (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
 - (b) that there are sufficient environmental planning grounds to justify contravening the development standard.
- (4) Consent must not be granted for development that contravenes a development standard unless:
 - (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the

zone in which the development is proposed to be carried out, and

- (b) the concurrence of the Director-General has been obtained.
- (5) In deciding whether to grant concurrence, the Director-General must consider:
- (a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and
 - (b) the public benefit of maintaining the development standard, and
 - (c) any other matters required to be taken into consideration by the Director-General before granting concurrence.
- (6) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).
- (7) This clause does not allow consent to be granted for development that would contravene a development standard for complying development.

2008 No 25

Clause 33 Penrith City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

Part 5 Miscellaneous provisions

33 Land acquisition within certain zones

- (1) The objective of this clause is to identify, for the purposes of section 27 of the Act, the authority of the State that will be the relevant authority to acquire land reserved for certain public purposes if the land is required to be acquired under Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991* (**the owner-initiated acquisition provisions**).

Note. If the landholder will suffer hardship if there is any delay in the land being acquired by the relevant authority, section 23 of the *Land Acquisition (Just Terms Compensation) Act 1991* requires the authority to acquire the land.

- (2) The authority of the State that will be the relevant authority to acquire land within a zone referred to below, if the land is required to be acquired under the owner-initiated acquisition provisions, is the authority of the State specified below in relation to the land shown on the Land Reservation Acquisition Map (or, if an authority of the State is not specified in relation to land required to be so acquired, the authority designated or determined under those provisions).

Type of land shown on Map	Authority of the State
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Zone RE1 Public Recreation and marked "Local open space"	Council
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Zone RE1 Public Recreation and marked "Regional open space"	The corporation constituted by section 8 of the Act
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Zone SP2 Infrastructure and marked "Classified road"	Roads and Traffic Authority
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- (3) Development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.

34 Development on proposed classified road

- (1) Consent for development on land reserved for the purposes of a classified road may, before the land becomes a classified road, be granted only if:
- (a) the development is carried out with the concurrence of the Roads and Traffic Authority (**the RTA**), and
 - (b) the development is of a kind, or is compatible with development of a kind, that may be carried out on land in an adjoining zone.

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- (2) In deciding whether to grant concurrence to proposed development under this clause, the RTA must take the following matters into consideration:
- (a) the need to carry out development on the land for the purposes of a classified road or a proposed classified road,
 - (b) the imminence of acquisition of the land by the RTA,
 - (c) the likely additional cost to the RTA resulting from the carrying out of the proposed development.

35 Classification and reclassification of public land

- (1) The objective of this clause is to enable the Council, by means of this Plan, to classify or reclassify public land as “operational land” or “community land” in accordance with Part 2 of Chapter 6 of the *Local Government Act 1993*.
- Note.** Under the *Local Government Act 1993*, “public land” is generally land vested in or under the control of a council (other than roads, Crown reserves and commons). The classification or reclassification of public land may also be made by a resolution of the Council under section 31, 32 or 33 of the *Local Government Act 1993*. Section 30 of that Act enables this Plan to discharge trusts on which public reserves are held if the land is reclassified under this Plan as operational land.
- (2) The public land described in Part 1 or Part 2 of Schedule 4 is classified, or reclassified, as operational land for the purposes of the *Local Government Act 1993*.
- (3) The public land described in Part 3 of Schedule 4 is classified, or reclassified, as community land for the purposes of the *Local Government Act 1993*.
- (4) The public land described in Part 1 of Schedule 4:
- (a) does not cease to be a public reserve to the extent (if any) that it is a public reserve, and
 - (b) continues to be affected by any trusts, estates, interests, dedications, conditions, restrictions or covenants that affected the land before its classification, or reclassification, as operational land.
- (5) The public land described in Part 2 of Schedule 4, to the extent (if any) that it is a public reserve, ceases to be a public reserve on the commencement of the relevant classification Plan and, by the operation of that Plan, is discharged from all trusts, estates, interests, dedications, conditions, restrictions and covenants affecting the land or any part of the land, except:
- (a) those (if any) specified for the land in Column 3 of Part 2 of Schedule 4, and

2008 No 25

Clause 36 Penrith City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

- (b) any reservations that except land out of the Crown grant relating to the land, and
 - (c) reservations of minerals (within the meaning of the *Crown Lands Act 1989*).
- (6) In this clause, the ***relevant classification Plan***, in relation to land described in Part 2 of Schedule 4, means this Plan or, if the description of the land is inserted into that Part by another environmental planning instrument, that instrument.
- (7) Before the relevant classification Plan inserted a description of land into Part 2 of Schedule 4, the Governor approved of subclause (5) applying to the land.

36 Community use of educational establishments

- (1) The objective of this clause is to allow the use of educational establishments, including their site and facilities, for other community purposes.
- (2) An educational establishment (including the site and facilities) may, with consent, be used for any other community purpose, whether or not any such use is a commercial use of the land.
- (3) Nothing in this clause requires consent to carry out development on any land if that development could, but for this clause, be carried out on that land without consent.

37 Classified roads

- (1) The objectives of this clause are:
 - (a) to ensure that new development does not compromise the effective and ongoing operation and function of classified roads (within the meaning of the *Roads Act 1993*), and
 - (b) to prevent or reduce the potential impact of traffic noise and vehicle emission on development adjacent to classified roads.
- (2) Consent must not be granted to the development of land that has a frontage to a classified road unless the consent authority is satisfied that:
 - (a) where practicable, vehicular access to the land is provided by a road other than the classified road, and
 - (b) the safety, efficiency and ongoing operation of the classified road will not be adversely affected by the proposed development as a result of:
 - (i) the design of the vehicular access to the land, or
 - (ii) the emission of smoke or dust from the proposed development, or

- (iii) the nature, volume or frequency of vehicles using the classified road to gain access to the land, and
- (c) the development is of a type that is not sensitive to traffic noise or vehicle emissions, or is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the proposed development.

38 Development in proximity to a rail corridor

- (1) The objective of this clause is to ensure that development for the purpose of residential accommodation, places of public worship, hospitals, educational establishments or other noise sensitive buildings in the proximity of operating or proposed railways is not adversely affected by rail noise or vibration.
- (2) This clause applies to land comprising, or within 60 metres of, an operating railway line or land reserved for the construction of a railway line (referred to in this clause as a *rail corridor*).
- (3) Development consent must not be granted to development:
 - (a) that is within a rail corridor, and
 - (b) that the consent authority considers is, or is likely to be, adversely affected by rail noise or vibration,
 unless the consent authority is satisfied that the proposed development incorporates all practical mitigation measures for rail noise or vibration recommended by Rail Corporation New South Wales for development of that kind.

39 Preservation of trees or vegetation

- (1) The objective of this clause is to preserve the amenity of the area through the preservation of trees and other vegetation.
- (2) This clause applies to species or kinds of trees or other vegetation that are prescribed for the purposes of this clause by a development control plan made by the Council.

Note. A development control plan may prescribe the trees or other vegetation to which this clause applies by reference to species, size, location or other manner.
- (3) A person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by:
 - (a) a development consent, or
 - (b) a permit granted by the Council.
- (4) The refusal by the Council to grant a permit to a person who has duly applied for the grant of the permit is taken for the purposes of the Act to

2008 No 25

Clause 40 Penrith City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

be a refusal by the Council to grant consent for the carrying out of the activity for which a permit was sought.

- (5) This clause does not apply to a tree or other vegetation that the Council is satisfied is dying or dead and is not required as the habitat of native fauna.
- (6) This clause does not apply to a tree or other vegetation that the Council is satisfied is a risk to human life or property.
- (7) A permit under this clause cannot allow any ringbarking, cutting down, topping, lopping, removal, injuring or destruction of a tree or other vegetation:
 - (a) that is or forms part of a heritage item, or
 - (b) that is within a heritage conservation area.

Note. As a consequence of this subclause, the activities concerned will require development consent.
- (8) This clause does not apply to or in respect of:
 - (a) the clearing of native vegetation that is authorised by a development consent or property vegetation plan under the *Native Vegetation Act 2003* or that is otherwise permitted under Division 2 or 3 of Part 3 of that Act, or
 - (b) the clearing of vegetation on State protected land (within the meaning of clause 4 of Schedule 3 to the *Native Vegetation Act 2003*) that is authorised by a development consent under the provisions of the *Native Vegetation Conservation Act 1997* as continued in force by that clause, or
 - (c) trees or other vegetation within a State forest, or land reserved from sale as a timber or forest reserve under the *Forestry Act 1916*, or
 - (d) action required or authorised to be done by or under the *Electricity Supply Act 1995*, the *Roads Act 1993* or the *Surveying Act 2002*, or
 - (e) plants declared to be noxious weeds under the *Noxious Weeds Act 1993*.

40 Heritage conservation

(1) Objectives

The objectives of this clause are:

- (a) to conserve the environmental heritage of the Penrith city centre, and

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- (b) to conserve the heritage significance of heritage items and heritage conservation areas including associated fabric, settings and views, and
 - (c) to conserve archaeological sites, and
 - (d) to conserve places of Aboriginal heritage significance.

(2) Requirement for consent

Development consent is required for any of the following:

- (a) demolishing or moving a heritage item or a building, work, relic or tree within a heritage conservation area,
- (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area, including (in the case of a building) making changes to the detail, fabric, finish or appearance of its exterior,
- (c) altering a heritage item that is a building, by making structural changes to its interior,
- (d) disturbing or excavating an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
- (e) disturbing or excavating a heritage conservation area that is a place of Aboriginal heritage significance,
- (f) erecting a building on land on which a heritage item is located or that is within a heritage conservation area,
- (g) subdividing land on which a heritage item is located or that is within a heritage conservation area.

(3) When consent not required

However, 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, archaeological site, or a building, work, relic, tree or place within a heritage conservation area, and
 - (ii) would not adversely affect the significance of the heritage item, archaeological site or heritage conservation area, or

2008 No 25

Clause 40 Penrith City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

- (b) the development is in a cemetery or burial ground and the proposed development:
 - (i) is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and
 - (ii) would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to a place of Aboriginal heritage significance, or
- (c) 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
- (d) the development is exempt development.

(4) **Heritage impact assessment**

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

- (a) on which a heritage item is situated, or
- (b) within a heritage conservation area, or
- (c) within the vicinity of land referred to in paragraph (a) or (b),

require a heritage impact statement 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 or heritage conservation area concerned.

(5) **Heritage conservation management plans**

The consent authority may require, after considering the 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.

(6) **Archaeological sites**

The consent authority must, before granting consent under this clause to the carrying out of development on an archaeological site (other than land listed on the State Heritage Register or to which an interim heritage order applies):

- (a) notify the Heritage Council of its intention to grant consent, and
- (b) take into consideration any response received from the Heritage Council within 28 days after the notice is sent.

(7) **Places of Aboriginal heritage significance**

The consent authority must, before granting consent under this clause to the carrying out of development in a place of Aboriginal heritage significance:

- (a) consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place, and
- (b) notify the local Aboriginal communities (in such way as it thinks appropriate) about the application and take into consideration any response received within 28 days after the notice is sent.

(8) **Demolition of item of State significance**

The consent authority must, before granting consent for the demolition of a heritage item identified in Schedule 5 as being of State heritage significance (other than an item listed on the State Heritage Register or to which an interim heritage order under the *Heritage Act 1977* applies):

- (a) notify the Heritage Council about the application, and
- (b) take into consideration any response received within 28 days after the notice is sent.

(9) **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 conservation management plan 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 conservation management plan 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.

2008 No 25

Clause 41 Penrith City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

41 Bush fire hazard reduction

Bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without consent.

Note. The *Rural Fires Act 1997* also makes provision relating to the carrying out of development on bush fire prone land.

42 Development for group homes

- (1) The objective of this clause is to facilitate the establishment of:
 - (a) permanent group homes in which persons with a disability or socially disadvantaged persons may live in an ordinary residential household environment instead of an institutional environment, and
 - (b) transitional group homes which provide temporary accommodation for persons with a disability or socially disadvantaged persons in an ordinary residential household environment instead of an institutional environment for such purposes as alcohol or drug rehabilitation and half-way rehabilitation for persons formerly living in institutions and refuges for men, women or young persons.
- (2) If development for the purpose of a dwelling house or a dwelling in a residential flat building may lawfully be carried out in accordance with this Plan, development for the purposes of a group home may, subject to this clause, be carried out.
- (3) Consent is required to carry out development for the purposes of a transitional group home.
- (4) Consent is required to carry out development for the purposes of a permanent group home that contains more than 5 bedrooms.
- (5) Consent is required to carry out development for the purposes of a permanent group home that contains 5 or less bedrooms and that is occupied by more residents (including any resident staff) than the number equal to the number calculated by multiplying the number of bedrooms in that home by 2.
- (6) Consent may not be refused under this clause unless an assessment has been made of the need for the group home concerned.
- (7) Nothing in this clause requires consent to be obtained by the Department of Housing (or by a person acting jointly with the Department of Housing) to carry out development for the purposes of a transitional group home.

43 Crown development and public utilities

- (1) Nothing in this Plan is to be construed as restricting or prohibiting or enabling the consent authority to restrict or prohibit:
 - (a) the carrying out of development of any description specified in subclauses (2)–(12), or
 - (b) the use of existing buildings of the Crown by the Crown.
- (2) The carrying out by persons carrying on railway undertakings on land comprised in their undertakings of:
 - (a) any development required in connection with the movement of traffic by rail, including the construction, reconstruction, alteration, maintenance and repair of ways, works and plant, and
 - (b) the erection within the limits of a railway station of buildings for any purpose,
but excluding:
 - (c) the construction of new railways, railway stations and bridges over roads, and
 - (d) the erection, reconstruction and alteration of buildings for purposes other than railway undertaking purposes outside the limits of a railway station and the reconstruction or alteration, so as materially to affect their design, of railway stations or bridges, and
 - (e) the formation or alteration of any means of access to a road, and
 - (f) the erection, reconstruction and alteration of buildings for purposes other than railway purposes where such buildings have direct access to a public place.
- (3) The carrying out by persons carrying on public utility undertakings, being water, sewerage, drainage, electricity or gas undertakings, of any of the following development, being development required for the purpose of their undertakings:
 - (a) development of any description at or below the surface of the ground,
 - (b) the installation of any plant inside a building or the installation or erection within the premises of a generating station or substation established before the commencement of this Plan of any plant or other structures or erections required in connection with the station or substation,
 - (c) the installation or erection of any plant or other structures or erections by way of addition to or replacement or extension of plant or structures or erections already installed or erected, including the installation in an electrical transmission line of

2008 No 25

Clause 43 Penrith City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

- substations, feeder-pillars or transformer housing, but not including the erection of overhead lines for the supply of electricity or pipes above the surface of the ground for the supply of water, or the installation of substations, feeder-pillars or transformer housing of stone, concrete or brickworks,
- (d) the provision of overhead service lines in pursuance of any statutory power to provide a supply of electricity,
 - (e) the erection of service reservoirs on land acquired or in the process of being acquired for the purpose before the commencement of this Plan, provided reasonable notice of the proposed erection is given to the consent authority,
 - (f) any other development, except:
 - (i) the erection of buildings, the installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (ii) the formation or alteration of any means of access to a road.
- (4) The carrying out by persons carrying on public utility undertakings, being water transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by water, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (5) The carrying out by persons carrying on public utility undertakings, being wharf or river undertakings, on land comprised in their undertakings, of any development required for the purposes of shipping or in connection with the embarking, loading, discharging or transport of passengers, livestock or goods at a wharf or the movement of traffic by a railway forming part of the undertaking, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant for those purposes, except:
- (a) the construction of bridges, the erection of any other buildings, and the reconstruction or alteration of bridges or of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.

- (6) The carrying out by persons carrying on public utility undertakings, being air transport undertakings, on land comprised in their undertakings within the boundaries of any aerodrome, of any development required in connection with the movement of traffic by air, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (7) The carrying out by persons carrying on public utility undertakings, being road transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by road, including the construction, reconstruction, alteration, maintenance and repair of buildings, works and plant required for that purpose, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (8) The carrying out by the owner or lessee of a mine (other than a mineral sands mine), on the mine, of any development required for the purposes of a mine, except:
- (a) the erection of buildings (not being plant or other structures or erections required for the mining, working, treatment or disposal of minerals) and the reconstruction, alteration or extension of buildings, so as materially to affect their design or external appearance, or
 - (b) the formation or alteration of any means of access to a road.
- (9) The carrying out of any development required in connection with the construction, reconstruction, improvement, maintenance or repair of any road, except the widening, realignment or relocation of such road.
- (10) The carrying out of any forestry work by the Forestry Commission or Community Forest Authorities empowered under relevant Acts to undertake afforestation, the construction of roads, protection, cutting and marketing of timber, and other forestry purposes under such Acts or upon any Crown land temporarily reserved from sale as a timber reserve under the *Forestry Act 1916*.

2008 No 25

Clause 43 Penrith City Centre Local Environmental Plan 2008

Part 5 Miscellaneous provisions

- (11) The carrying out by a rural lands protection board of any development required for the improvement and maintenance of travelling stock and water reserves, except:
- (a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect their design or purposes, and
 - (b) any development designed to change the use or purpose of any such reserve.
- (12) The carrying out or causing to be carried out by the consent authority, where engaged in flood mitigation works, or by the Department of Natural Resources, of any work for the purposes of soil conservation, irrigation, afforestation, reforestation, flood mitigation, water conservation or river improvement in pursuance of the provisions of the *Water Act 1912*, the *Water Management Act 2000*, the *Farm Water Supplies Act 1946* or the *Rivers and Foreshores Improvement Act 1948*, except:
- (a) the erection of buildings, and installation or erection of plant or other structures or erections and the reconstruction or alteration of buildings so as materially to affect their design or external appearance, and
 - (b) the formation or alteration of any means of access to a road.

Part 6 Local provisions

44 Location of sex services premises and restricted premises

- (1) The object of this clause is to ensure that sex services premises and restricted premises are not visually prominent from public spaces, or other locations, regularly frequented by children.
- (2) Despite any other provision of this Plan, consent must not be granted for development for the purpose of sex service premises or restricted premises located in a mixed use development that contains dwellings unless the consent authority is satisfied that the primary entrance of the development is not visually prominent when viewed from a dwelling or any other place regularly frequented by children, such as schools, playgrounds and the like.

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Schedule 1 Additional permitted uses

Schedule 1 Additional permitted uses

(Clause 15)

Land	Additional land use	Conditions
Lots 101–104, DP 1031340; Lot 1, DP 198953; Lots A and B, DP 161052; Lot 1, DP 198962; Lot 1, DP 198323; Lot 1, DP 198446; Parts 4 and 5, Lot 90, DP 752044	Child care centre	
Lot 12, DP 234581 (No 164 Station Street, Penrith)	Business premises (excluding restricted premises) Entertainment facility Function centre Hotel accommodation Office premises Retail premises (excluding restricted premises)	Development must be located in the northern portion of the site, identified as Area A on the Design Principles Map applying to Precinct 2–Panasonic, contained in the City Centre Development Control Plan. Development must be consistent with the design principles applying to that Precinct contained in that Plan. The gross floor area of development for the purpose of business premises or office premises, or a combination of those uses, must not exceed 20,000m ² . The gross floor area of development for the purpose of entertainment facilities, hotel accommodation, a function centre, or a combination of those uses, must not exceed 20,000m ² . The gross floor area of development for the purpose of retail premises must not exceed 3,000m ² .

Schedule 2 Exempt development

(Clause 18)

Access ramps for people with disabilities

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Maximum ramp height—0.5m.
- (3) Must comply with Australian Standard AS 1428.1—2001: *Design for access and mobility—General requirements for access—New building work*.

Advertisements and signs

- (1) Advertisement displaying a message relating to an activity lawfully carried out on the premises changed from a previously approved advertisement, but not on a building that is subject to existing use rights.
- (2) Advertisement not visible from outside the site on which it is displayed:
 - (a) relating to an activity that is permissible and, where required, approved on the property,
 - (b) must be structurally stable, be positioned so as not to impede pedestrian access or result in a traffic hazard, and not significantly affect adjoining properties,
 - (c) must not be carried out on a building that is subject to existing use rights.
- (3) Advisory or directional sign (such as a traffic directional sign or street signs):
 - (a) must comply with Australian Standards AS 1742.2—1994: *Manual of uniform traffic control devices—Traffic control devices for general use*,
 - (b) must comply with section 2.3 of Penrith Development Control Plan, as adopted 21 August 2006.
- (4) Business identification sign relating to an activity lawfully carried out on the property on which it is displayed (other than an activity that is an existing use):
 - (a) suspended under awning signs:
 - (i) must be erected at right angles to the face of the building,
 - (ii) must not extend beyond 0.6m from the kerb,
 - (iii) must not be an illuminated flashing sign,
 - (iv) 1 per premises,

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

- (b) top hamper signs:
 - (i) must not extend below the level of the head of the window or above the wall to which it is attached,
 - (ii) 1 per premises,
- (c) fascia signs:
 - (i) must be structurally stable,
 - (ii) must not impede pedestrian access or cause a traffic hazard,
 - (iii) must not significantly affect adjoining properties,
 - (iv) 1 per premises.
- (5) Public notice:
 - (a) must be structurally stable,
 - (b) must not impede pedestrian access or result in a traffic hazard,
 - (c) must not significantly affect adjoining properties.
- (6) Real estate sign:
 - (a) maximum 2 per premises,
 - (b) must be structurally stable,
 - (c) must be located within the property boundaries,
 - (d) must not impede pedestrian access or result in a traffic hazard,
 - (e) if double sided or 'V' sign—must not exceed 4.5m² in area per sign face,
 - (f) must be removed within 14 days of the property advertised on the sign being sold or let.
- (7) Temporary sign (such as a banner, bunting, poster, inflatable structure or the like) advertising an event:
 - (a) must not be displayed earlier than 28 days before the event to which it relates is to take place and must be removed within 14 days after the event,
 - (b) must be structurally stable,
 - (c) must not significantly affect adjoining property,
 - (d) must not impede pedestrian access or result in a traffic hazard,
 - (e) must not be on or above public property.

Bollards erected for security purposes to business premises, office premises, or retail premises

- (1) Must not be carried out on a building that is subject to existing use rights.

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- (2) Installation must not affect the existing means of egress from the building or site, as determined under the *Building Code of Australia*.
 - (3) Maximum height—1.2m.
 - (4) Maximum diameter—0.5m.
 - (5) Must be installed wholly within the property.
 - (6) Design and finish must complement the existing building or site.

Bridges and staircases constructed by or on behalf of the Council on land owned, controlled or managed by the Council as a public park or recreation area

- (1) Maximum bridge span—5m.
- (2) Design, fabrication and installation must comply with applicable requirements of the following:
 - (a) AS 4100—1998: *Steel structures*,
 - (b) AS 1720.1—1997: *Timber structures—Design methods*,
 - (c) AS 3600—2001—*Concrete structures*,
 - (d) Australian National Parks and Wildlife Service Walking Track Management Manual Standards,
 - (e) any applicable Plan of Management or Landscape Plan.

Change of use of existing business premises or office premises to another business premises or office premises (excluding a public administration building and restricted premises)

- (1) Must not be carried out on land:
 - (a) subject to, or on which there is a building subject to, existing use rights, or
 - (b) within a heritage conservation area.
- (2) Must not generate an increase in vehicular movement to and from the site or require the creation of additional parking spaces on site.

Note. See *Penrith City Council's Parking Code*, adopted 6 September 1971 (as amended).
- (3) Must not require structural work, a change in building classification under the *Building Code of Australia*, an extension of hours outside the approved hours of operation, or any external building works (other than an advertisement that is an exempt development).

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

Change of use of existing retail premises to another retail premises (excluding food or drink premises and restricted premises)

- (1) Not on land within a heritage conservation area.
- (2) Must not be carried out on a building that is subject to existing use rights.
- (3) Must not generate an increase in vehicular movement to and from the site or require the creation of additional parking spaces on site.
Note. See *Penrith City Council's Parking Code*, adopted 6 September 1971 (as amended).
- (4) Must not require structural work, a change in building classification under the *Building Code of Australia*, an extension of hours outside the approved hours of operation, or any external building works (other than an advertisement that is an exempt development).

Clothes lines or hoists for domestic purposes

- (1) Must be located behind the front setback.
- (2) Must be installed to manufacturer's specifications.

Enclosures for dangerous dogs or restricted dogs required under section 51 or 56 of the Companion Animals Act 1998

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) 1 per property.

Fencing constructed by or on behalf of the Council on land owned, controlled or managed by the Council as a public park or recreation area in Zone RE1 Public Recreation

- (1) Must not be carried out on a building or land that is subject to existing use rights.
- (2) Must not impede the natural flow of stormwater drainage.
- (3) Must not encroach on public land.
Note. See separate section on Retaining Walls.
Note. See also the *Dividing Fences Act 1991*.

Goal posts, sightcreens and similar minor ancillary structures relating to sporting facilities constructed by or on behalf of the Council on land that is a public park or recreation area (excluding grandstands, dressing sheds and the like)

Must be installed in accordance with any relevant Australian Standards.
Note. Development approval is required for structures that accommodate people, for example grandstands, dressing sheds and the like.

Home occupation

- (1) Must be in an existing dwelling or multi dwelling housing.
- (2) Must not consist of home industry.

Lighting installed by or on behalf of the Council in sporting or playing fields

- (1) Construction and design must comply with the relevant requirements of:
 - (a) AS 2560.1-2002: *Sports lighting—General principles*, and
 - (b) the applicable Part of AS 2560.2: *Sports lighting—Specific applications*.
- (2) Must not cause a nuisance to adjoining properties.

Note. Consideration should be given to the selection of floodlights and their aiming to ensure that direct view of lamps is minimised for viewing positions outside the property boundaries. In special cases, screening hoods or louvres may be required to achieve a satisfactory control.
- (3) Adjoining neighbours must be consulted 14 days before the installation of lighting.
- (4) Must be structurally stable.

Minor internal (non-structural) alterations to existing business, office or retail premises (excluding a public administration building, food or drink premises and restricted premises)

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Must not result in a change in building classification.
- (3) Existing floor area of the unit or tenancy must not exceed 200m².
- (4) Must not compromise fire safety or affect accessibility to an exit.
- (5) Must not involve changes to the configuration of rooms by removal of structural walls or other means of structural support.
- (6) If within a heritage conservation area, the alterations must not be visible from a public place.

Outdoor eating area ancillary to a restaurant

Note. The applicant or operator is to have and keep current a policy of insurance that covers the public liability of the person for an amount of not less than \$10,000,000. The policy is to indemnify Penrith City Council against liability for any civil action arising out of the use of the area as an outdoor eating area between the front property boundary of the shop and the kerb line of the street for the full frontage of the shop premises. A copy of the policy is to be provided to the Council before commencing any development to which this clause applies.

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

- (1) Only on a footpath wider than 3.5m.
- (2) An area not less than 2m wide of the footpath must be kept clear of obstructions to enable pedestrian traffic.
- (3) Must comply with the provisions of section 3.6 of *Penrith Development Control Plan 2006*.
- (4) Minimum distance of tables and seating from:
 - (a) doorway of the premises—0.5m,
 - (b) any post box—1.5m,
 - (c) any phone box—1.5m,
 - (d) any pedestrian crossing—3.0m,
 - (e) any bus stop (including associated seating)—3.0m,
 - (f) any taxi stand—3.0m,
 - (g) any other utilities—sufficient to provide access for maintenance and repair.
- (5) A physical and visual barrier not less than 60cm high must surround the outdoor eating area.
- (6) Must be defined by a barrier of sturdy construction and a minimum of 60cm high, with no sharp edges or protruding feet that may cause a trip hazard.
- (7) Must operate no more than the hours specified in the consent for the restaurant.
- (8) Any associated menu board must have a maximum area of 0.9m x 0.6m and must be fixed to a wall or window.

Park and street furniture for public use (including seats, bins, picnic tables, minor shelters and bus shelters) installed by or on behalf of the Council on land owned, controlled or managed by the Council

- (1) Design, fabrication and installation must comply with relevant SAA standards.
- (2) Maximum gross floor area of bus shelter—25m².

Pergola (no roof covering)

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Not on multi dwelling housing.
- (3) Maximum gross floor area—25m².
- (4) Maximum height—2.7m.

- (5) Must not be enclosed.
- (6) Must be located in line with or behind the front setback and secondary street setback (if any).

Playground equipment installed by or on behalf of the Council on land owned, controlled or managed by the Council and classified as community land under the Local Government Act 1993

- (1) Design, fabrication and installation must comply with the applicable requirements of the following:
 - (a) AS 4685—2004: *Playground equipment safety set*,
 - (b) AS/NZS 4422:1996: *Playground surfacing—Specifications, requirements and test method*,
 - (c) AS/NZS 4486.1:1997: *Playgrounds and playground equipment—Development, installation, inspection, maintenance and operation*.
- (2) Must comply with any plan of management or landscape plan applying to the land.

Privacy screen on a residential property

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Maximum height—2.2m.
- (3) Maximum length—10m.
- (4) Must be located in rear yard.
- (5) Must be constructed from translucent materials or in a style that is translucent (such as lattice).
- (6) Must be free-standing.
- (7) Must not be attached to a boundary fence without the consent of the adjoining owner.

Retaining walls required as a result of excavations associated with the construction of a building

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Maximum height—1m.
- (3) Construction must comply with the deemed-to-satisfy provisions of the *Building Code of Australia* and the relevant Australian Standards.

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

- (4) Must not obstruct or interfere with any overland flowpaths, or result in the natural flow of water being impeded or redirected.
- (5) Must be constructed to manufacturer's details or to a structural engineer's design.
- (6) The filled area must not provide a line of sight into an adjoining property.

Replacement of windows, glazed areas and external doors in multi dwelling housing

- (1) Materials must comply with applicable requirements of AS 1288—2006: *Glass in buildings—Selection and installation* and AS 2047—1999: *Windows in buildings—Selection and installation*.
- (2) Must not result in increase or reduction of area provided for light and ventilation.
- (3) Must not involve removal of structural members.
- (4) Must not involve removal of doorways.
- (5) Must not involve enclosure of open areas.

Satellite dishes for domestic purposes

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Must not be on a dual occupancy or multi dwelling housing.
- (3) Maximum diameter—1m.
- (4) 1 per dwelling.
- (5) Must be located behind the front setback of dwelling and at least 900mm from side and rear property boundary.
- (6) If not attached to dwelling, maximum height—2.4m above ground level.
- (7) Must be structurally stable.
- (8) Must not encroach over any property boundary.

Shade structure constructed by or on behalf of the Council on land owned, controlled or managed by the Council

- (1) Maximum gross floor area—50m².
- (2) Must not be constructed from second hand materials.
- (3) All stormwater runoff is to be directed to the existing stormwater system.

- (4) If attached to an existing building or structure, the shade structure will not cause the building to contravene the *Building Code of Australia*.

Note. The shade structure should be constructed in accordance with Penrith City Council's Policy "Minimum Shade Protection in Public Places", adopted 6 October 1992.

Skylights or roof lights in multi dwelling housing

- (1) Maximum area—1m².
- (2) Must be installed in accordance with manufacturer's specifications.
- (3) Any opening created by the installation is to be adequately weatherproofed.
- (4) Must not reduce the structural integrity of the building or involve structural alterations.

Solar water heaters, solar panels and solar lighting

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Must not reduce the structural integrity of the building or involve structural alterations.
- (3) Any opening created by the installation is to be adequately weatherproofed.
- (4) Must be installed by a licensed tradesperson and in accordance with manufacturer's specifications.

Temporary use of existing building as a place of public entertainment

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Maximum duration—72 hours.
- (3) Maximum height of any associated structure—25m.

Note. See also section 68 of the *Local Government Act 1993*.

Use of Class 9b building (within the meaning of the Building Code of Australia) for the purpose of public meetings

Must not be carried out on a building that is subject to existing use rights.

Waste storage container (such as a skip bin) temporarily placed in a public place

- (1) Must be supplied by a supplier accredited by the Council.

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Schedule 2 Exempt development

- (2) Must comply with all conditions of Penrith City Council's *Skip Waste Bin Operator Code of Practice*, adopted 24 May 1999.

Note. A copy of Council's Skip Waste Bin Operator Code of Practice may be obtained from Council's offices.

Water heaters (excluding solar hot water systems)

- (1) Must not be carried out on a building that is subject to existing use rights.
- (2) Must not reduce the structural integrity of the building or involve structural alterations.
- (3) Must be installed by a licensed tradesperson and in accordance with manufacturer's specifications.

Water storage tanks at or above ground level installed by or on behalf of the Council on land owned, controlled or managed by the Council

- (1) Maximum capacity—30,000L.
- (2) If on land in a residential zone, must be located:
 - (a) behind the front setback or secondary street setback (where applicable), and
 - (b) not less than 900mm from any property boundary.
- (3) Minimum setback—5m.
- (4) Underground tanks must not be located in an area that may result in an effect on any adjoining structure (such as footing systems).
- (5) Maximum height of stands for tanks—1.8m above ground level.
- (6) The overflow of the tank must be connected to the existing stormwater system and not cause a nuisance to neighbouring properties.
- (7) Must be structurally sound.
- (8) Tanks and stands must be installed in accordance with the manufacturer's specifications.
- (9) Must be protected against mosquito infestation.
- (10) Where reticulated water is available, must not be interconnected with any system supplying drinking water unless fitted with mechanical backflow prevention devices in accordance with AS/NZS 2845.1: 1998: *Water supply—Backflow prevention devices—Materials, design and performance requirements*.
- (11) Any pump noise to adjoining properties must be minimised.

Schedule 3 Complying development

(Clause 19)

Part 1 Excluded land

Excluded land

Nothing in this Schedule applies to development on land known as Lot 12, DB 234581, No 164 Station Street, Penrith.

Part 2 Development standards for complying development

Note. Development standards for complying development are also prescribed by the *Environmental Planning and Assessment Regulation 2000*.

Strata subdivision of development completed after 1994

- (1) The development to be subdivided must have been constructed in accordance with the deemed-to-satisfy provisions of the *Building Code of Australia*.
- (2) The subdivision layout must comply with the development consent for the completed development.

Internal alterations to business, office or retail premises (other than public administration buildings, restaurants, pubs and take away food or drink premises)

- (1) Must not result in a change of building classification.
- (2) Must not result in an increase in gross floor area.
- (3) Must not involve external building works (other than works relating to an advertisement that is exempt development).
- (4) Must be consistent with any conditions of the existing consent for the use.
- (5) If within a heritage conservation area, must not be visible from a public place.
- (6) Must not result in an increase in vehicular movement to and from the site, and must not generate an increase in parking demand or parking spaces required on the site.

Note. See *Penrith City Council's Parking Code*, adopted 6 September 1971 (as amended).

- (7) Must not compromise fire safety or impede access to an exit.

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Schedule 3 Complying development

Change of use of an existing commercial tenancy to take away food or drink premises (other than premises licensed under the Liquor Act 1982), including internal alterations

- (1) Must not result in a change of use to a restaurant or pub.
- (2) Must not be carried out on a building that is subject to existing use rights.
- (3) Must not generate an increase in vehicular movement to and from the site or require the creation of additional off-street parking spaces.
Note. See *Penrith City Council's Parking Code*, adopted 6 September 1971 (as amended).
- (4) Must not involve external building works (other than works relating to an advertisement that is exempt development).
- (5) Must not involve extension of hours outside the approved hours of operation.
- (6) Must not involve the installation of a mechanical exhaust ventilation system.
- (7) Must not generate offensive smoke or odours.
- (8) Must not involve the cooking of food by barbecue or charcoal methods.
- (9) If within a heritage conservation area, must not be visible from a public place.
- (10) All waste generated by the development must be disposed of by a private waste contractor. Suitable provision must be made for the storage of all waste generated by the development before its disposal, with consideration being given to the type and size of waste receptacles used and the service frequency for disposal of waste.
- (11) No nuisance to adjoining properties is to be caused by the storage and disposal of waste.
- (12) Waste minimisation initiatives are to be carried out as part of the day to day operations.
- (13) The premises are to be registered with the Council as required by the Council before the commencement of the use.

Part 3 Complying development certificate conditions

Note. Conditions standards for complying development are also prescribed by the *Environmental Planning and Assessment Regulation 2000*. See also section 86 of the Act, which requires certain steps to be taken before erection of a building in accordance with a complying development certificate begins.

General conditions applicable to all development

- (1) The development must be implemented in accordance with the plans numbered _____ and dated _____, the application form and any supporting information submitted with the application.
- (2) A complying development certificate is valid for a period of 5 years from the date of the certificate, and will lapse unless the development to which it relates has been physically commenced within that time.
- (3) Before any work is carried out on land owned by the Council, including a road reserve, consent must be obtained from Penrith City Council as the property owner as well as any other consents or approvals required under other relevant legislation.
- (4) Before work is commenced, all fees associated with development on land and infrastructure owned by the Council must be paid to Penrith City Council. These fees may include road opening fees and infrastructure restoration fees.
- (5) No sign, other than a sign of a kind identified as exempt development in Schedule 2, may be erected on the premises without consent.
- (6) Works must comply with the fire safety schedule for the development attached to the complying development certificate.
- (7) The principal certifying authority must notify all adjoining property owners and occupiers (if the occupier is not the property owner) of the intended commencement of a complying development activity at least 5 working days prior to the intended commencement date.
- (8) Stamped plans, specifications and a copy of the complying development certificate must be available on site at all times during construction.
- (9) Building materials must not be stored at any time on the footpath or roadway.

Conditions applicable to strata subdivision

- (1) Strata subdivision must not encroach on any statutory boundary clearances or setbacks. A survey plan prepared by a registered surveyor, showing the relative position of all buildings to the proposed boundaries must be submitted to the principal certifying authority.

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Schedule 3 Complying development

- (2) A compliance certificate under section 73 of the *Sydney Water Act 1994* must be obtained and a copy submitted to the principal certifying authority.
- (3) An application must be submitted to Penrith City Council for the issue of a strata certificate. The application is to be accompanied by the original subdivision plan and 10 copies of the plan. The following information is to be shown on each copy of the plan:
 - (a) location of all buildings and/or other permanent improvements, and
 - (b) statutory boundary clearances or setbacks as defined by the *Building Code of Australia* or as approved as part of the completed development in accordance with the development consent, and
 - (c) all existing services wholly contained within the lot served and/or covered by an appropriate easement(s).
- (4) A compliance certificate (within the meaning of section 109C (1) (a) of the *Environmental Planning and Assessment Act 1979*) to the effect that all conditions of the complying development certificate have been satisfied or met is to be obtained in relation to the development prior to the issue of a strata certificate. A copy of the compliance certificate must be submitted to Penrith City Council as part of the application for the strata certificate.

Conditions applicable to take away food or drink premises

- (1) All take away food or drink premises construction and works must comply with the applicable requirements of the *National Code for the Construction and Fitout of Food Premises* (1993) published by the Australian Institute of Environmental Health, the *Food Act 2003* and the *Food Regulation 2004*.
- (2) Prior to the take away food or drinks premises commencing, the proprietor must ensure that:
 - (a) an inspection has been carried out by Penrith City Council, in regard to the food premises, and
 - (b) the business is registered with Council by submitting a "Registration of Premises" form (available from Council) to the Council.

Conditions applicable to development for which Penrith City Council is the principal certifying authority

- (1) A compliance certificate (within the meaning of section 109C (1) (a) of the *Environmental Planning and Assessment Act 1979*) to the effect that all conditions of the complying development certificate have been

satisfied or met is to be obtained in relation to the development prior to the issue of a strata certificate.

- (2) Use of the building or part of the building must not commence before an occupation certificate (within the meaning of section 109C (1) (c) of the *Environmental Planning and Assessment Act 1979*) has been issued by the principal certifying authority. Such a certificate cannot be issued unless a final fire safety certificate has been issued for the building (clause 153 of the *Environmental Planning and Assessment Regulation 2000*). A fire safety certificate is a certificate to the effect that each essential fire safety measure specified in the current fire safety schedule (within the meaning of Part 9 of the *Environmental Planning and Assessment Regulation 2000*) for the building to which the certificate relates:
 - (a) has been assessed by a properly qualified person, and
 - (b) was found, when it was assessed, to be capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.
- (3) All requirements of Part 9 of the *Environmental Planning and Assessment Regulation 2000* relating to fire safety schedules, fire safety statements and fire safety certificates must be complied with.
- (4) All materials and goods associated with the ongoing operation of the development must be contained within the building or unit at all times.
- (5) Existing landscaping on the site must be retained and maintained.
- (6) The finishes of all structures and buildings on the site must be maintained and any graffiti or vandalism removed or repaired as soon as practicable.

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Schedule 4 Classification and reclassification of public land

Schedule 4 Classification and reclassification of public land

(Clause 35)

Part 1 Land classified as operational land—no interests changed

Column 1	Column 2
Locality	Description
Penrith	Lot 3A, DP 175 Belmore Street
Penrith	Lot 34, DP 175 Belmore Street
Penrith	Lot 35, DP 175 Belmore Street
Penrith	Lot 36, DP 175 36 Belmore Street
Penrith	Lot 38, DP 175 31 Belmore Street
Penrith	Lot 39, DP 175 31 Belmore Street
Penrith	Lot 40, DP 175 31 Belmore Street
Penrith	Lot 41, DP 175 31 Belmore Street
Penrith	Lot 42, DP 175 31 Belmore Street
Penrith	Lot 43, DP 175 31 Belmore Street
Penrith	Lot 44, DP 175 31 Belmore Street
Penrith	Lot 50, DP 175 23 Belmore Street
Penrith	Lot 51, DP 175 21 Belmore Street
Penrith	Lot 52, DP 175 13 Belmore Street
Penrith	Lot 1, DP 198630 3 Belmore Street
Penrith	Lot 1, DP 198915 5 Belmore Street
Penrith	Lot 1, DP 198960 Belmore Street
Penrith	Lot 1, DP 204877 13 Belmore Street
Penrith	Lot 2, DP 204877 11 Belmore Street
Penrith	Lot B, DP 315775 23 Belmore Street
Penrith	Lot A, DP 315775 27 Belmore Street
Penrith	Lot 1, DP 339467 31 Belmore Street
Penrith	Lot A, DP 349351 13 Belmore Street

Column 1	Column 2
Locality	Description
Penrith	Lot B, DP 349351 13 Belmore Street
Penrith	Lot B, DP 419408 29 Belmore Street
Penrith	Lot A, DP 419408 31 Belmore Street
Penrith	Lot 1, DP 659573 9 Belmore Street
Penrith	Lot 1, DP 724427 13 Belmore Street
Penrith	Lot 2, DP 724427 13 Belmore Street
Penrith	Lot 113, DP 1028320 CT 2013 32 Belmore Street
Penrith	Lot 9, Sec 1, DP 1582 7 Castlereagh Street
Penrith	Lot 10, Sec 1, DP 1582 7 Castlereagh Street
Penrith	Lot 11, Sec 1, DP 1582 7 Castlereagh Street
Penrith	Lot 15, DP 236062 5 Castlereagh Street
Penrith	Lot F, DP 30935 5 Castlereagh Street
Penrith	Lot 1, DP 198234 Commercial Street
Penrith	Lot 2, DP 198234 Commercial Street
Penrith	Lot 1, DP 198475 Commercial Street
Penrith	Lot 10, DP 859371 Commercial Street
Penrith	Lot C, DP 154478 230 Derby Street
Penrith	Lot D, DP 154478 228 Derby Street
Penrith	Lot 21, DP 979866 226 Derby Street
Penrith	Lot 22, DP 979866 226 Derby Street
Penrith	Lot 23, DP 979866 222 Derby Street
Penrith	Lot 24, DP 979866 222 Derby Street
Penrith	Lot 1, DP 113118 118–120 Henry Street
Penrith	Lot 1, DP 164798, CT 2014 134–138 Henry Street
Penrith	Lot 1, DP 254763 122–132 Henry Street
Penrith	Lot 1, DP 252457, CT 2015 134–138 Henry Street
Penrith	Lot 10, DP 553665 142 Henry Street
Penrith	Lot 11, DP 553665 140 Henry Street
Penrith	Lot 2, DP 556075 144 Henry Street

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Schedule 4 Classification and reclassification of public land

Column 1	Column 2
Locality	Description
Penrith	Lot 101, DP 749088 54–60 Henry Street
Penrith	Lot 100, DP 872220 154 Henry Street
Penrith	Lot1, DP1070959 99a Henry Street
Penrith	Lot 1, DP 198305 121 High Street
Penrith	Lot 1033, DP 849297 597–599 High Street
Penrith	Lot 1033, DP1102232 601–611 High Street
Penrith	Lot 1, DP 198599 1 Lawson Street
Penrith	Lot 1, DP 199271 3 Lawson Street
Penrith	Lot 101, DP 572474 33a Lawson Street
Penrith	Lot 10, DP 849474 5–17 Lawson Street
Penrith	Lot 3, Sec 6, DP 192127 3 North Street
Penrith	Lot 2, DP 112677 4 North Street
Penrith	Lot 1, DP 115384 14 North Street
Penrith	Lot B, DP 160112 12 North Street
Penrith	Lot A, DP 160112 13 North Street
Penrith	Lot B, DP 164794 6 North Street
Penrith	Lot A, DP 164794 7 North Street
Penrith	Lot 1, DP 198625 9 North Street
Penrith	Lot 1, DP 711683 5 North Street
Penrith	Lot 1, DP 794511 15 North Street
Penrith	Lot 1, DP 794510 10 North Street
Penrith	Lot 1, DP 986707 8 North Street
Penrith	Lot 2, DP 156110 11 Reserve Street
Penrith	Lot 1, DP 156110 15 Reserve Street
Penrith	Lot B, DP 160027 3 Reserve Street
Penrith	Lot A, DP 160027 5 Reserve Street
Penrith	Lot 1, DP 198621 9 Reserve Street
Penrith	Lot 2, DP 198621 7 Reserve Street
Penrith	Lot 1, DP 198672 17 Reserve Street

Column 1	Column 2
Locality	Description
Penrith	Lot 2, DP 198672 17 Reserve Street
Penrith	Lot 25, DP 526159 105 Station Street
Penrith	Lot 26, DP 529693 107 Station Street
Penrith	Lot 24, DP 60124 103 Station Street
Penrith	Lot 23, Sec 2, DP 976320 101 Station Street
Penrith	Lot 1, DP 236062 Tindale Street
Penrith	Lot 4, DP 236062 Tindale Street
Penrith	Lot 10, DP 236062 Tindale Street
Penrith	Lot 11, DP 236062 Tindale Street
Penrith	Lot 12, DP 236062 Tindale Street
Penrith	Lot 13, DP 236062 Tindale Street
Penrith	Lot 2, DP 530675 3a Tindale Street
Penrith	Lot 13, DP 656874 5 Tindale Street
Penrith	Lot 15, DP 540945 7 Tindale Street
Penrith	Lot 18, DP 540945 Tindale Street
Penrith	Lot 102, DP 1031340 CT 2018 Union Lane
Penrith	Lot 7A, DP 160749 27 Union Road
Penrith	Lot 8A, DP 160749 29 Union Road
Penrith	Lot 1, DP 198589 59 Union Road
Penrith	Lot 1, DP 198591 19 Union Road
Penrith	Lot 1, DP 198650 61 Union Road
Penrith	Lot 1, DP 198656 17 Union Road
Penrith	Lot 1, DP 198659 23 Union Road
Penrith	Lot 1, DP 198661 25 Union Road
Penrith	Lot 1, DP 563349 33 Union Road
Penrith	Lot 1, Sec 2, DP 976320 15 Union Road
Penrith	Lot 4, Sec 2, DP 976320 21 Union Road
Penrith	Part Lot 10, Sec 2, DP 976320 37 Union Road
Penrith	Lot 11, Sec 2, DP 976320 37 Union Road

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Schedule 4 Classification and reclassification of public land

Column 1	Column 2
Locality	Description
Penrith	Lot 12, Sec 2, DP 976320 39 Union Road
Penrith	Lot 13, Sec 2, DP 976320 47 Union Road
Penrith	Lot 14, Sec 2, DP 976320 49 Union Road
Penrith	Lot 15, Sec 2, DP 976320 51 Union Road
Penrith	Lot 18, Sec 2, DP 976320 57 Union Road
Penrith	Lot 1, DP 198253 Woodriff Street
Penrith	Lot 2, DP 198253 Woodriff Street
Penrith	Lot 1, DP 198453 Woodriff Street
Penrith	Lot 2, DP 236062 18a Woodriff Street
Penrith	Lot 3, DP 236062 18a Woodriff Street
Penrith	Lot 5, DP 236062 Woodriff Street
Penrith	Lot 6, DP 236062 Woodriff Street
Penrith	Lot 7, DP 236062 Woodriff Street
Penrith	Lot 8, DP 236062 Woodriff Street
Penrith	Lot 9, DP 236062 Woodriff Street
Penrith	Lot 2, DP 546822 6a Woodriff Street
Penrith	Lot 3, DP 546822 6a Woodriff Street
Penrith	Lot 1, DP 859369 Woodriff Street
Penrith	Lot 10, DP 976320 Woodriff Street
Penrith	Lot 11, DP 976320 Woodriff Street
Penrith	Lot 16, DP 976320 Woodriff Street
Penrith	Lot 17, DP 976320 Woodriff Street
Penrith	Lot 1, DP 995047 Woodriff Street
Penrith	Lot 101, DP 1031340, CT 2018 21–25 Woodriff Street
Penrith	Lot 104, DP 1031340, CT 2018 27–33 Woodriff Street

Part 2 Land classified, or reclassified, as operational land—interests changed

Column 1	Column 2	Column 3
Locality	Description	Any trusts etc not discharged

Part 3 Land classified, or reclassified, as community land

Column 1	Column 2
Locality	Description
Penrith	Lot 903, DP 739989 2260–2266 Castlereagh Road
Penrith	Lot 3, DP 1051278 2260–2266 Castlereagh Road
Penrith	Lot 4, DP 1051278 2268–2270 Castlereagh Road
Penrith	Lot 5, DP 1051278 2272–2280 Castlereagh Road
Penrith	Lot 1, DP 198446 Derby Street
Penrith	Part Lot 90, DP 752044 Derby Street
Penrith	Lot 91, DP 752021 2 Henry Street
Penrith	Lot 432, DP 808043 13–23 Henry Street
Penrith	Part Lot 1, DP 1043486 2 Henry Street
Penrith	Lot 1, DP 198339 400–424 High Street
Penrith	Part Lot 90, DP 752021 641 High Street
Penrith	Lot 2, DP 1051278 631 High Street
Penrith	Lot 2, DP 580256 2 Memorial Avenue
Penrith	Lot B, DP 161052 108 Station Street
Penrith	Lot A, DP 161053 110 Station Street
Penrith	Lot 1, DP 198953 106 Station Street
Penrith	Lot 1, DP 198962 112 Station Street
Penrith	Lot 103, DP 1031340 CT 2018 86–96 Station Street
Penrith	Lot 16 Sec 2, DP 976320 53 Union Road

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Schedule 4 Classification and reclassification of public land

Column 1	Column 2
Locality	Description
Penrith	Lot 17 Sec 2, DP 976320 55 Union Road
Penrith	Part Lot 90, DP 752044 35–39 Woodriff Street

Schedule 5 Environmental Heritage

(Clause 40)

Suburb	Item name	Lot and DP	Address	Significance	Item No
Penrith	Ferry Crossing		Nepean River— Between Ferry and Punt Roads	Local	1
Penrith	Penrith Infants Department (1884 Building)	Lot 1, DP 724160 and School Site	57 Henry Street	Local	2
Penrith	Former Methodist Church	Lot 22, DP 586469	74 Henry Street	Local	3
Penrith	Two Storey Brick Cottage (Building burnt down 12/12/92)	Part Lot 10, DP 849474	Part 5–17 Lawson Street	Local	4
Penrith	Former Station Master's House	Lot 31, DP 1086586	Jane Street	Local	5
Penrith	Former Penrith Council Chambers	Lot 112, DP 1028320	129–133 Henry Street	Local	6
Penrith	Memorial Park	Lot 1, DP 198339	Corner High and Woodriff Streets	Local	7
Penrith	Cram Place	Lot 11, DP 1013730	338–340 High Street	State	8
Penrith	St Stephens Church of England, Church Hall and Cemetery	Lots 101 and 102, DP 597910	258–280 High Street	State	9
Penrith	St Aubin's Terrace	Part Lot 3, DP 955837 and Part Lot 4, DP 972	255–265 High Street	Local	10
Penrith	Victorian Terrace	Lot 2, DP 224062	219–221 High Street	Local	11
Penrith	"Broadville"	Lot 910, DP 717451	98 Station Street	Local	12
Penrith	"Kentucky"	Lot 11, DP 715161	146 Station Street	Local	13

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Schedule 5 Environmental Heritage

Suburb	Item name	Lot and DP	Address	Significance	Item No
Penrith	Victorian House	Lot 80, DP 709313	148 Station Street	Local	14
Penrith	Explorers Memorial		Memorial Avenue	Local	15
Penrith	Former Pumping Station	Lot 1, DP 233967	20 Memorial Avenue	Local	16

Dictionary

(Clause 4)

Aboriginal object means any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.

advertisement has the same meaning as in the Act.

Note. The term is defined as a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

advertising structure has the same meaning as in the Act.

Note. The term is defined as a structure used or to be used principally for the display of an advertisement.

amusement centre means a building or place (not being part of a hotel or pub) used principally for playing:

- (a) billiards, pool or other like games, or
- (b) electronic or mechanical amusement devices, such as pinball machines, computer or video games and the like.

archaeological site means the site (as shown on the Heritage Map or listed in Schedule 5) of one or more relics.

attic means any habitable space, but not a separate dwelling, contained wholly within a roof above the ceiling line of the storey immediately below, except for minor elements such as dormer windows and the like.

backpackers' accommodation means tourist and visitor accommodation:

- (a) that has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (b) that will generally provide accommodation on a bed basis (rather than by room).

basement means the space of a building where the floor level of that space is predominantly below ground level (existing) and where the floor level of the storey immediately above is less than 1 metre above ground level (existing).

bed and breakfast accommodation means tourist and visitor accommodation comprising a dwelling (and any ancillary buildings and parking) where the accommodation is provided by the permanent residents of the dwelling for a maximum of 6 guests and:

- (a) meals are provided for guests only, and
- (b) cooking facilities for the preparation of meals are not provided within guests' rooms, and
- (c) dormitory-style accommodation is not provided.

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Dictionary

biodiversity means biological diversity.

biological diversity has the same meaning as in the *Threatened Species Conservation Act 1995*.

Note. The term is defined as follows:

biological diversity means the diversity of life and is made up of the following 3 components:

- (a) genetic diversity—the variety of genes (or units of heredity) in any population,
- (b) species diversity—the variety of species,
- (c) ecosystem diversity—the variety of communities or ecosystems.

boarding house means a building:

- (a) that is wholly or partly let in lodgings, and
- (b) that provides lodgers with a principal place of residence for 3 months or more, and
- (c) that generally has shared facilities, such as a communal bathroom, kitchen or laundry, and
- (d) that has rooms that accommodate one or more lodgers,

but does not include backpackers' accommodation, a serviced apartment, seniors housing or hotel accommodation.

boat launching ramp means a structure designed primarily for the launching of trailer borne recreational vessels, and includes associated car parking facilities.

boat shed means a building or other structure used for the storage and routine maintenance of a boat or boats and which is associated with a private dwelling or non-profit organisation, and includes any skid used in connection with the building or other structure.

brothel has the same meaning as in the Act.

building has the same meaning as in the Act.

Note. The term is defined to include part of a building and any structure or part of a structure, but not including a manufactured home, a moveable dwelling or associated structure (or part of a manufactured home, moveable dwelling or associated structure) or a temporary structure within the meaning of the *Local Government Act 1993*.

building height (or **height of building**) means the vertical distance between ground level (existing) at any point to highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

building identification sign means a sign that identifies or names a building and that may include the name of a building, the street name and number of a building, and a logo or other symbol, but that does not include general advertising of products, goods or services.

bush fire hazard reduction work has the same meaning as in the *Rural Fires Act 1997*.

Note. The term is defined as follows:

bush fire hazard reduction work means:

- (a) the establishment or maintenance of fire breaks on land, and
- (b) the controlled application of appropriate fire regimes or other means for the reduction or modification of available fuels within a predetermined area to mitigate against the spread of a bush fire,

but does not include construction of a track, trail or road.

business identification sign means a sign:

- (a) that indicates:
 - (i) the name of the person or business, and
 - (ii) the nature of the business carried on by the person at the premises or place at which the sign is displayed, and
- (b) that may include the address of the premises or place and a logo or other symbol that identifies the business,

but that does not include any advertising relating to a person that does not carry on business at the premises or place.

business premises means a building or place at or on which:

- (a) an occupation, profession or trade (other than an industry) is carried on for the provision of services directly to members of the public on a regular basis, or
 - (b) a service is provided directly to members of the public on a regular basis,
- and may include, without limitation, premises such as banks, post offices, hairdressers, dry cleaners, travel agencies, internet access facilities, medical centres, betting agencies and the like, but does not include sex services premises.

car park means a building or place primarily used for the purpose of parking motor vehicles, including any manoeuvring space and access thereto, whether operated for gain or not.

cemetery means a building or place for the interment of deceased persons or pets or their ashes, and includes a funeral chapel or crematorium.

charter and tourism boating facility means any facility (including a building or other structure) used for charter boating or tourism boating purposes, being a facility that is used only by the operators of the facility and that has a direct structural connection between the foreshore and the waterway, but does not include a marina.

child care centre means a building or place used for the supervision and care of children that:

- (a) provides long day care, pre-school care, occasional child care or out-of-school-hours care, and

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Dictionary

(b) does not provide overnight accommodation for children other than those related to the owner or operator of the centre,

but does not include:

- (c) a family day care home or home-based child care home, or
- (d) an out-of-home care service provided by an agency or organisation accredited by the NSW Office of the Children's Guardian, or
- (e) a baby-sitting, playgroup or child-minding service that is organised informally by the parents of the children concerned, or
- (f) a service provided for fewer than 5 children (disregarding any children who are related to the person providing the service) at the premises at which at least one of the children resides, being a service that is not advertised, or
- (g) a regular child-minding service that is provided in connection with a recreational or commercial facility (such as a gymnasium), by or on behalf of the person conducting the facility, to care for children while the children's parents are using the facility, or
- (h) a service that is concerned primarily with the provision of:
 - (i) lessons or coaching in, or providing for participation in, a cultural, recreational, religious or sporting activity, or
 - (ii) private tutoring, or
- (i) a school, or
- (j) a service provided at exempt premises (within the meaning of section 200 of the *Children and Young Persons (Care and Protection) Act 1998*), such as hospitals, but only if the service is established, registered or licensed as part of the institution operating on those premises.

City Centre Development Control Plan means the *Penrith City Centre Development Control Plan*, as in force on the commencement of this Plan.

classified road has the same meaning as in the *Roads Act 1993*.

Note. The term is defined as follows:

classified road means any of the following:

- (a) a main road,
- (b) a highway,
- (c) a freeway,
- (d) a controlled access road,
- (e) a secondary road,
- (f) a tourist road,
- (g) a tollway,
- (h) a transitway,
- (i) a State work.

(see *Roads Act 1993* for meanings of these terms).

clearing native vegetation has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

clearing native vegetation means any one or more of the following:

- (a) cutting down, felling, thinning, logging or removing native vegetation,
- (b) killing, destroying, poisoning, ringbarking, uprooting or burning native vegetation.

(See Division 3 of Part 3 of the *Native Vegetation Act 2003* for the exclusion of routine agricultural management and other farming activities from constituting the clearing of native vegetation if the landholder can establish that any clearing was carried out for the purpose of those activities).

coastal lake means a body of water specified in Schedule 1 to the *State Environmental Planning Policy 71—Coastal Protection*.

coastal waters of the State—see section 58 of the *Interpretation Act 1987*.

coastal zone has the same meaning as in the *Coastal Protection Act 1979*.

Note. The term is defined as follows:

coastal zone means:

- (a) the area within the coastal waters of the State as defined in Part 10 of the *Interpretation Act 1987* (including any land within those waters), and
- (b) the area of land and the waters that lie between the western boundary of the coastal zone (as shown on the maps outlining the coastal zone) and the landward boundary of the coastal waters of the State, and
- (c) the seabed (if any) and the subsoil beneath, and the airspace above, the areas referred to in paragraphs (a) and (b).

The coastal zone consists of the area between the western boundary of the coastal zone shown on the maps outlining the coastal zone and the outermost boundary of the coastal waters of the State. The coastal waters of the State extend, generally, to 3 nautical miles from the coastline of the State.

community facility means a building or place owned or controlled by a public authority and used for the physical, social, cultural or intellectual development or welfare of the community.

community land has the same meaning as in the *Local Government Act 1993*.

Council means the Penrith City Council.

crematorium means a building in which deceased persons or pets are cremated, and includes a funeral chapel.

Crown reserve means:

- (a) a reserve within the meaning of Part 5 of the *Crown Lands Act 1989*, or
- (b) a common within the meaning of the *Commons Management Act 1989*, or
- (c) land within the meaning of the *Trustees of Schools of Arts Enabling Act 1902*, but does not include land that forms any part of a reserve under Part 5 of the *Crown Lands Act 1989* provided for accommodation.

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Dictionary

curtilage, in relation to a heritage item or conservation area, means the area of land (including land covered by water) surrounding a heritage item, a heritage conservation area, or building, work or place within a heritage conservation area, which contributes to its heritage significance.

demolish, in relation to a heritage item, or a building, work, relic or tree within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, relic or tree.

drainage means any activity which intentionally alters the hydrological regime of any locality by facilitating the removal of surface or ground water. It may include the construction, deepening, extending, opening, installation or laying of any canal, drain or pipe, either on the land or in such a manner as to encourage drainage of adjoining land.

dual occupancy means 2 dwellings (whether attached or detached) on one lot of land.

dwelling means a room or suite 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 building containing only one dwelling.

earthworks means excavation or filling.

ecologically sustainable development has the same meaning as in the Act.

educational establishment means a building or place used for education (including teaching), being:

- (a) a school, or
- (b) a tertiary institution, including a university or a TAFE college, that provides formal education and is constituted by or under an Act.

electricity generating works means a building or place used for the purpose of making or generating electricity.

entertainment facility means a theatre, cinema, music hall, concert hall, dance hall, amusement centre and the like.

environmental facility means a building or place which provides for the recreational use or scientific study of natural systems, and includes walking tracks, seating, shelters, board walks, observation decks, bird hides or the like, and associated display structures.

environmental protection works means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like.

estuary has the same meaning as in the *Water Management Act 2000*.

Note. The term is defined as follows:

estuary means:

- (a) any part of a river whose level is periodically or intermittently affected by coastal tides, or
- (b) any lake or other partially enclosed body of water that is periodically or intermittently open to the sea, or
- (c) anything declared by the regulations (under the *Water Management Act 2000*) to be an estuary,

but does not include anything declared by the regulations (under the *Water Management Act 2000*) not to be an estuary.

excavation means the removal of soil or rock, whether moved to another part of the same site or to another site, but does not include garden landscaping that does not significantly alter the shape, natural form or drainage of the land.

extractive industry means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

extractive material means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the *Mining Act 1992*.

fill means the depositing of soil, rock or other similar extractive material obtained from the same or another site, but does not include:

- (a) the depositing of topsoil or feature rock imported to the site that is intended for use in garden landscaping, turf or garden bed establishment or top dressing of lawns and that does significantly alter the shape, natural form or drainage of the land, or
- (b) a waste disposal landfill operation.

fish has the same meaning as in the *Fisheries Management Act 1994*.

Note. The term is defined as follows:

Definition of "fish"

- (1) **Fish** means marine, estuarine or freshwater fish or other aquatic animal life at any stage of their life history (whether alive or dead).
- (2) **Fish** includes:
 - (a) oysters and other aquatic molluscs, and
 - (b) crustaceans, and
 - (c) echinoderms, and
 - (d) beachworms and other aquatic polychaetes.
- (3) **Fish** also includes any part of a fish.
- (4) However, **fish** does not include whales, mammals, reptiles, birds, amphibians or other things excluded from the definition by the regulations under the *Fisheries Management Act 1994*.

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Dictionary

flood mitigation work means work designed and constructed for the express purpose of mitigating flood impacts. It involves changing the characteristics of flood behaviour to alter the level, location, volume, speed or timing of flood waters to mitigate flood impacts. Types of works may include excavation, construction or enlargement of any fill, wall, or levee that will alter riverine flood behaviour, local overland flooding, or tidal action so as to mitigate flood impacts.

floor space ratio means the ratio of the gross floor area of all buildings on a site to the site area.

Floor Space Ratio Map means the Penrith City Centre Local Environmental Plan 2008 Floor Space Ratio Map.

food and drink premises means retail premises used for the preparation and retail sale of food or drink for immediate consumption on or off the premises, and includes restaurants, cafes, take away food shops, milk bars and pubs.

forestry has the same meaning as ***forestry operations*** in the *Forestry and National Park Estate Act 1998*.

Note. The term is defined as follows:

forestry operations means:

- (a) logging operations, namely, the cutting and removal of timber from land for the purpose of timber production, or
- (b) forest products operations, namely, the harvesting of products of trees, shrubs and other vegetation (other than timber) that are of economic value, or
- (c) on-going forest management operations, namely, activities relating to the management of land for timber production such as thinning, bush fire hazard reduction, bee-keeping, grazing and other silvicultural activities, or
- (d) ancillary road construction, namely, the provision of roads and fire trails, and the maintenance of existing railways, to enable or assist in the above operations.

function centre means a building or place used for the holding of events, functions, conferences and the like, and includes convention centres, exhibition centres and reception centres, but does not include an entertainment facility.

funeral chapel means business premises used to arrange, conduct and cater for funerals and memorial services, and includes facilities for the short term storage, dressing and viewing of bodies of deceased persons, but does not include premises with mortuary facilities.

funeral home means business premises used to arrange and conduct funerals and memorial services, and includes facilities for the short term storage, dressing and viewing of bodies of deceased persons and premises with mortuary facilities.

gross floor area means the sum of the floor area of each storey of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

- (a) the area of a mezzanine within the storey, and
- (b) habitable rooms in a basement, and

- (c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:
- (d) any area for common vertical circulation, such as lifts and stairs, and
- (e) any basement:
 - (i) storage, and
 - (ii) vehicular access, loading areas, garbage and services, and
- (f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and
- (g) car parking to meet any requirements of the consent authority (including access to that car parking), and
- (h) any space used for the loading or unloading of goods (including access to it), and
- (i) terraces and balconies with outer walls less than 1.4 metres high, and
- (j) voids above a floor at the level of a storey or storey above.

ground level (existing) means the existing level of a site at any point.

group home means a dwelling that is a permanent group home or a transitional group home.

hazardous industry means development for the purpose of an industry that, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

hazardous storage establishment means any establishment where goods, materials or products are stored that, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), would pose a significant risk in the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment.

health care professional means any person registered under an Act for the purpose of providing health care.

health consulting rooms means one or more rooms within (or within the curtilage of) a dwelling house used by not more than 3 health care professionals who practise in partnership (if there is more than one such professional) who provide professional health care services to members of the public.

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Dictionary

Height of Buildings Map means the Penrith City Centre Local Environmental Plan 2008 Height of Buildings Map.

helipad means a place not open to the public used for the taking off and landing of helicopters.

heritage conservation area means:

- (a) an area of land that is shown as a heritage conservation area on the Heritage Map (including any heritage items situated on or within that conservation area), or
- (b) a place of Aboriginal heritage significance shown on the Heritage Map.

heritage conservation management plan means a document prepared in accordance with guidelines prepared by the Department of Planning that documents the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

heritage impact statement means a document consisting of:

- (a) a statement demonstrating the heritage significance of a heritage item, archaeological site, place of Aboriginal heritage significance or other heritage conservation area, and
- (b) an assessment of the impact that proposed development will have on that significance, and
- (c) proposals for measures to minimise that impact.

heritage item means a building, work, archaeological site, tree, place or Aboriginal object specified in an inventory of heritage items that is available at the office of the Council and the site and nature of which is described in Schedule 5.

Heritage Map means the Penrith City Centre Local Environmental Plan 2008 Heritage Map.

heritage significance means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

home-based child care or ***family day care home*** means a dwelling used by a resident of the dwelling for the supervision and care of one or more children and which satisfies the following conditions:

- (a) the service is appropriately licensed within the meaning of the *Children and Young Persons (Care and Protection) Act 1998*,
- (b) the number of children (including children related to the carer or licensee) does not at any one time exceed 7 children under the age of 12 years, including no more than 5 who do not ordinarily attend school.

home business means a business carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or

- (b) 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, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the business carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, or
- (f) the use of more than 30 square metres of floor area to carry on the business, but does not include bed and breakfast accommodation, home occupation (sex services) or sex services premises.

home industry means a light industry carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of more than 2 persons other than those residents, or
- (b) 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, traffic generation or otherwise, or
- (c) the exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or
- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the light industry carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail, except for goods produced at the dwelling or building, or
- (f) the use of more than 50 square metres of floor area to carry on the light industry,

but does not include bed and breakfast accommodation or sex services premises.

home occupation means an occupation carried on in a dwelling, or in a building ancillary to a dwelling, by one or more permanent residents of the dwelling that does not involve:

- (a) the employment of persons other than those residents, or
- (b) 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, traffic generation or otherwise, or
- (c) the display of goods, whether in a window or otherwise, or

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Dictionary

- (d) the exhibition of any notice, advertisement or sign (other than a notice, advertisement or sign exhibited on that dwelling to indicate the name of the resident and the occupation carried on in the dwelling), or
- (e) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include bed and breakfast accommodation, a brothel or home occupation (sex services).

home occupation (sex services) means the provision of sex services in a dwelling that is a brothel, or in a building that is a brothel and is ancillary to such a dwelling, by no more than 2 permanent residents of the dwelling and that does not involve:

- (a) the employment of persons other than those residents, or
- (b) interference with the amenity of the neighbourhood by reason of the emission of noise, traffic generation or otherwise, or
- (c) the exhibition of any notice, advertisement or sign, or
- (d) the sale of items (whether goods or materials), or the exposure or offer for sale of items, by retail,

but does not include a home business or sex services premises.

hospital means a building or place used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, psychiatric care or care for people with disabilities, or counselling services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and includes ancillary facilities for (or that consist of) any of the following:

- (a) day surgery, day procedures or health consulting rooms,
- (b) accommodation for nurses or other health care workers,
- (c) accommodation for persons receiving health care or for their visitors,
- (d) shops or refreshment rooms,
- (e) transport of patients, including helipads, ambulance facilities and car parking,
- (f) educational purposes or any other health-related use,
- (g) research purposes (whether or not it is carried out by hospital staff or health care workers or for commercial purposes),
- (h) chapels,
- (i) hospices,
- (j) mortuaries.

hostel means premises that are generally staffed by social workers or support providers and at which:

- (a) residential accommodation is provided in dormitories, or on a single or shared basis, or by a combination of them, and

- (b) cooking, dining, laundering, cleaning and other facilities are provided on a shared basis.

hotel accommodation means a building (whether or not a hotel within the meaning of the *Liquor Act 1982*) that provides tourist and visitor accommodation consisting of rooms or self-contained suites, but does not include backpackers' accommodation, a boarding house or bed and breakfast accommodation.

industry means the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing or adapting, or the research and development of any goods, chemical substances, food, agricultural or beverage products, or articles for commercial purposes, but does not include extractive industry or a mine.

information and education facility means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like.

jetty means a horizontal decked walkway providing access from the shore to the waterway and is generally constructed on a piered or piled foundation.

Key Sites Map means the Penrith City Centre Local Environmental Plan 2008 Key Sites Map.

kiosk means retail premises with a gross floor area not exceeding 10 square metres and that provides food, light refreshments and other small convenience items such as newspapers, films and the like.

Land Application Map means the Penrith City Centre Local Environmental Plan 2008 Land Application Map.

Land Reservation Acquisition Map means the Penrith City Centre Local Environmental Plan 2008 Land Reservation Acquisition Map.

Land Zoning Map means the Penrith City Centre Local Environmental Plan 2008 Land Zoning Map.

light industry means an industry, not being a hazardous or offensive industry or involving use of a hazardous or offensive storage establishment, in which the processes carried on, the transportation involved or the machinery or materials used do not interfere with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.

local heritage significance, in relation to a place, building, work, archaeological site, tree or precinct, means its heritage significance to an area.

maintenance in relation to a heritage item or a building, work, archaeological site, tree or place within a heritage conservation area, means ongoing protective care. It does not include the removal or disturbance of existing fabric, alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Dictionary

marina means a permanent boat storage facility (whether located wholly on land, wholly on the waterway or partly on land and partly on the waterway) together with any associated facilities, including:

- (a) any facility for the construction, repair, maintenance, storage, sale or hire of boats, and
- (b) any facility for providing fuelling, sewage pump-out or other services for boats, and
- (c) any facility for launching or landing boats, such as slipways or hoists, and
- (d) any associated car parking, commercial, tourist or recreational or club facility that is ancillary to a boat storage facility, and
- (e) any associated single mooring.

market means retail premises comprising an open-air area or an existing building used for the purpose of selling, exposing or offering goods, merchandise or materials for sale by independent stall holders, and includes temporary structures and existing permanent structures used for that purpose on an intermittent or occasional basis.

mean high water mark means the position where the plane of the mean high water level of all ordinary local high tides intersects the foreshore, being 1.44m above the zero of Fort Denison Tide Gauge and 0.515m Australian Height Datum.

medical centre means business premises used for the purpose of providing health services (including preventative care, diagnosis, medical or surgical treatment, counselling or alternative therapies) to out-patients only, where such services are principally provided by health care professionals, and may include the ancillary provision of other health services.

mezzanine means an intermediate floor within a room.

mine means any place (including any excavation) where an operation is carried on for mining of any mineral by any method and any place on which any mining related work is carried out, but does not include a place used only for extractive industry.

mining means mining carried out under the *Mining Act 1992* or the recovery of minerals under the *Offshore Minerals Act 1999*, and includes:

- (a) the construction, operation and decommissioning of associated works, and
- (b) the rehabilitation of land affected by mining.

mixed use development means a building or place comprising 2 or more different land uses.

mooring means a detached or freestanding apparatus located on or in a waterway and that is capable of securing a vessel.

mortuary means premises that are used, or intended to be used, for the receiving, preparation, embalming and storage of bodies of deceased persons pending their interment or cremation.

moveable dwelling has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

moveable dwelling means:

- (a) any tent, or any caravan or other van or other portable device (whether on wheels or not), used for human habitation, or
- (b) a manufactured home, or
- (c) any conveyance, structure or thing of a class or description prescribed by the regulations (under the *Local Government Act 1993*) for the purposes of this definition.

multi dwelling housing means 3 or more dwellings (whether attached or detached) on one lot of land.

native fauna means any animal-life that is indigenous to New South Wales or is known to periodically or occasionally migrate to New South Wales, whether vertebrate (including fish) or invertebrate and in any stage of biological development, but does not include humans.

native vegetation has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

Meaning of “native vegetation”

- (1) ***Native vegetation*** means any of the following types of indigenous vegetation:
 - (a) trees (including any sapling or shrub, or any scrub),
 - (b) understorey plants,
 - (c) groundcover (being any type of herbaceous vegetation),
 - (d) plants occurring in a wetland.
- (2) Vegetation is ***indigenous*** if it is of a species of vegetation, or if it comprises species of vegetation, that existed in the State before European settlement.
- (3) ***Native vegetation*** does not include any mangroves, seagrasses or any other type of marine vegetation to which section 205 of the *Fisheries Management Act 1994* applies.

neighbourhood shop means retail premises used for the purposes of selling small daily convenience goods such as foodstuffs, personal care products, newspapers and the like to provide for the day-to-day needs of people who live or work in the local area, and may include ancillary services such as a post office, bank or dry cleaning, but does not include restricted premises.

offensive industry means any development for the purpose of an industry that would, when the development is in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the development from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise) in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

offensive storage establishment means any establishment where goods, materials or products are stored and that would, when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate the establishment from existing or likely future development on other land in the locality), emit a polluting discharge (including, for example, noise)

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Dictionary

in a manner that would have a significant adverse impact in the locality or on the existing or likely future development on other land in the locality.

office premises means a building or place used for the purpose of administrative, clerical, technical, professional or similar activities that do not include dealing with members of the public at the building or place on a direct and regular basis, except where such dealing is a minor activity (by appointment) that is ancillary to the main purpose for which the building or place is used.

operational land has the same meaning as in the *Local Government Act 1993*.

parking space means a space dedicated for the parking of a motor vehicle, including any manoeuvring space and access to it, but does not include a car park.

passenger transport facility means a building or place used for the assembly or dispersal of passengers by any form of transport, including facilities required for parking, manoeuvring, storage or routine servicing of any vehicle that uses the building or place.

permanent group home means a dwelling:

- (a) used to provide a household environment for disabled persons or socially disadvantaged persons, whether those persons are related or not, and
- (b) occupied by the persons referred to in paragraph (a) as a single household, with or without paid or unpaid supervision or care and either with or without payment for board and lodging being required,

but does not include a building to which *State Environmental Planning Policy (Seniors Living) 2004* applies or a transitional group home.

place of Aboriginal heritage significance means an area of land shown on the Heritage Map that is:

- (a) the site of one or more Aboriginal objects or a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

place of public worship means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

property vegetation plan has the same meaning as in the *Native Vegetation Act 2003*.

Note. The term is defined as follows:

property vegetation plan means a property vegetation plan that has been approved under Part 4 of the *Native Vegetation Act 2003*.

pub means licensed premises under the *Liquor Act 1982* the principal purpose of which is the sale of liquor for consumption on the premises, whether or not the premises include hotel accommodation and whether or not food is sold on the premises.

public administration building means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or an organisation established for public purposes.

public authority has the same meaning as in the Act.

public entertainment has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

public entertainment:

- (a) means entertainment to which admission may ordinarily be gained by members of the public on payment of money, or other consideration, as the price or condition of admission and an entertainment does not cease to be a public entertainment merely because:
 - (i) some (but not all) persons may be admitted to the entertainment otherwise than on payment of money, or other consideration, as the price or condition of admission, or
 - (ii) such payment, or other consideration, is demanded as the charge for a meal or other refreshment, or for any other service or thing, before admission to the entertainment is granted or as the charge for the entertainment after admission to the entertainment has been granted, and
- (b) includes a public meeting.

public land has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

public land means any land (including a public reserve) vested in or under the control of the council, but does not include:

- (a) a public road, or
- (b) land to which the *Crown Lands Act 1989* applies, or
- (c) a common, or
- (d) land subject to the *Trustees of Schools of Arts Enabling Act 1902*, or
- (e) a regional park under the *National Parks and Wildlife Act 1974*.

public meeting has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

public meeting means an assembly held for a public purpose to which admission may ordinarily be gained by members of the public (whether or not on payment of money, or other consideration, as the price or condition of admission), but does not include an assembly held for the purpose of religious worship only.

public reserve has the same meaning as in the *Local Government Act 1993*.

public utility undertaking means any of the following undertakings carried on or permitted to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act:

- (a) railway, road transport, water transport, air transport, wharf or river undertakings,

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Dictionary

(b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services,

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

rainwater tank means a tank designed for the storage of rainwater gathered on the land on which the tank is situated.

recreation area means a place used for outdoor recreation that is normally open to the public, and includes:

- (a) a children's playground, or
- (b) an area used for community sporting activities, or
- (c) a public park, reserve or garden or the like,

and any ancillary buildings, but does not include a recreation facility (indoor), recreation facility (major) or recreation facility (outdoor).

recreation facility (indoor) means a building or place used predominantly for indoor recreation, whether or not operated for the purposes of gain, including a squash court, indoor swimming pool, gymnasium, table tennis centre, health studio, bowling alley, ice rink or any other building or place of a like character used for indoor recreation, but does not include an entertainment facility, a recreation facility (major) or a registered club.

recreation facility (major) means a building or place used for large-scale sporting or recreation activities that are attended by large numbers of people whether regularly or periodically, and include sports stadiums, showgrounds, racecourses and motor racing tracks.

recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

registered club means a club in respect of which a certificate of registration under the *Registered Clubs Act 1976* is in force.

relic means any deposit, object or other material evidence of human habitation:

- (a) that relates to the settlement of the area of Penrith, not being Aboriginal settlement, and
- (b) that is more than 50 years old, and
- (c) that is a fixture or is wholly or partly within the ground.

residential accommodation means a building or place used predominantly as a place of residence, but does not include tourist and visitor accommodation.

residential care facility means accommodation for seniors (people aged 55 years or more) or people with a disability that includes:

- (a) meals and cleaning services, and
- (b) personal care or nursing care, or both, and
- (c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care,

not being a dwelling, hospital or psychiatric facility.

residential flat building means a building containing 3 or more dwellings.

restaurant means a building or place the principal purpose of which is the provision of food or beverages to people for consumption on the premises and that may also provide takeaway meals and beverages.

restricted premises means business premises or retail premises that, due to their nature, restrict access to patrons or customers over 18 years of age, and includes sex shops and similar premises but does not include hotel accommodation, a pub, home occupation (sex services) or sex services premises.

retail premises means a building or place used for the purpose of selling items by retail, or for hiring or displaying items for the purpose of selling them by retail or hiring them out, whether the items are goods or materials (or whether also sold by wholesale).

school means a government school or non-government school within the meaning of the *Education Act 1990*.

seniors housing means residential accommodation that consists of:

- (a) a residential care facility, or
- (b) a hostel, or
- (c) a group of self-contained dwellings, or
- (d) a combination of these,

and that is, or is intended to be, used permanently for:

- (e) seniors or people who have a disability, or
- (f) people who live in the same household with seniors or people who have a disability, or
- (g) staff employed to assist in the administration of the residential accommodation or in the provision of services to persons living in the accommodation,

but does not include a hospital.

sensitive coastal location means land in the coastal zone that is any of the following:

- (a) land within 100 metres above mean high water mark of the sea, a bay or an estuary,
- (b) a coastal lake,

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Dictionary

- (c) a declared Ramsar wetland within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth,
- (d) a declared World Heritage property within the meaning of the *Environment Protection and Biodiversity Conservation Act 1999* of the Commonwealth,
- (e) land declared as an aquatic reserve under the *Fisheries Management Act 1994*,
- (f) land declared as a marine park under the *Marine Parks Act 1997*,
- (g) land within 100 metres of any of the following:
 - (i) the water's edge of a coastal lake,
 - (ii) land to which paragraph (b), (c), (d) or (e) applies,
 - (iii) land reserved under the *National Parks and Wildlife Act 1974*,
 - (iv) land to which *State Environmental Planning Policy No 14—Coastal Wetlands* applies,
- (h) residential land (within the meaning of *State Environmental Planning Policy No 26—Littoral Rainforests*) that is within a distance of 100 metres from the outer edge of the heavy black line on the series of maps held in the Department of Planning and marked "State Environmental Planning Policy No 26—Littoral Rainforests (Amendment No 2)".

service station means a building or place used for the sale by retail of fuels and lubricants for motor vehicles, whether or not the building or place is also used for any one or more of the following:

- (a) the ancillary sale by retail of spare parts and accessories for motor vehicles,
- (b) the cleaning of motor vehicles,
- (c) installation of accessories,
- (d) inspecting, repairing and servicing of motor vehicles (other than body building, panel beating, spray painting or chassis restoration),
- (e) the ancillary retail selling or hiring of general merchandise or services or both.

serviced apartment means a building or part of a building providing self-contained tourist and visitor accommodation that is regularly serviced or cleaned by the owner or manager of the building or part of the building or the owner's or manager's agents.

setback means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and:

- (a) a building wall, or
- (b) the outside face of any balcony, deck or the like, or
- (c) the supporting posts of a carport or verandah roof,

whichever distance is the shortest.

sewage treatment works means works or land used for the collection, treatment and disposal of sewage by or for a public authority.

sex services means sexual acts or sexual services in exchange for payment.

sex services premises means a brothel, but does not include home occupation (sex services).

shop top housing means mixed use development comprising one or more dwellings located above (or otherwise attached to) ground floor retail premises or business premises.

signage means any sign, notice, device, representation or advertisement that advertises or promotes any goods, services or events and any structure or vessel that is principally designed for, or that is used for, the display of signage, and includes:

- (a) building identification signs, and
- (b) business identification signs, and
- (c) advertisements,

but does not include traffic signs or traffic control facilities.

site area means the area of any land on which development is or is to be carried out. The land may include the whole or part of one lot, or more than one lot if they are contiguous to each other.

spa pool has the same meaning as in the *Swimming Pools Act 1992*.

Note. The term is defined to include any excavation, structure or vessel in the nature of a spa pool, flotation tank, tub or the like.

storey means a space within a building that is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above, but does not include:

- (a) a space that contains only a lift shaft, stairway or meter room, or
- (b) a mezzanine, or
- (c) an attic.

swimming pool has the same meaning as in the *Swimming Pools Act 1992*.

Note. The term is defined as follows:

swimming pool means an excavation, structure or vessel:

- (a) that is capable of being filled with water to a depth of 300 millimetres or more, and
- (b) that is solely or principally used, or that is designed, manufactured or adapted to be solely or principally used, for the purpose of swimming, wading, paddling or any other human aquatic activity,

and includes a spa pool, but does not include a spa bath, anything that is situated within a bathroom or anything declared by the regulations made under the *Swimming Pools Act 1992* not to be a swimming pool for the purposes of this Act.

take away food or drink premises means food or drink premises that are predominantly used for the preparation and sale of food or drink for immediate consumption away from the premises.

telecommunications facility means:

- (a) any part of the infrastructure of a telecommunications network, or

2008 No 25

Penrith City Centre Local Environmental Plan 2008

Dictionary

- (b) any line, equipment, apparatus, tower, mast, antenna, tunnel, duct, hole, pit, pole or other structure or thing used, or to be used, in or in connection with a telecommunications network.

telecommunications network means a system, or series of systems, that carries, or is capable of carrying, communications by means of guided or unguided electromagnetic energy, or both.

temporary structure has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

temporary structure includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

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

theatre or public hall has the same meaning as in the *Local Government Act 1993*.

Note. The term is defined as follows:

theatre or public hall means any building or part of a building that is used or intended to be used for the purpose of providing public entertainment or conducting public meetings.

tourist and visitor accommodation means a building or place that provides temporary or short-term accommodation on a commercial basis, and includes hotel accommodation, serviced apartments, bed and breakfast accommodation and backpackers' accommodation.

transitional group home means a dwelling:

- (a) used to provide temporary accommodation, for the purposes of relief or rehabilitation, for disabled persons or socially disadvantaged persons, whether those persons are related or not, and
- (b) occupied by the persons referred to in paragraph (a) as a single household, either with or without paid or unpaid supervision or care and either with or without payment for board and lodging being required,

but does not include a building to which *State Environmental Planning Policy (Seniors Living) 2004* applies.

utility installation means a building, work or place used by a public utility undertaking, but does not include a building designed wholly or principally as administrative or business premises or as a showroom.

veterinary hospital means a building or place used for diagnosing or surgically or medically treating animals, whether or not animals are kept on the premises for the purpose of treatment.

water recreation structure means a structure used primarily for recreational purposes that has a direct structural connection between the shore and the waterway, and may include a pier, wharf, jetty or boat launching ramp.

waterbody means a waterbody (artificial) or waterbody (natural).

waterbody (artificial) means an artificial body of water, including any constructed waterway, canal, inlet, bay, channel, dam, pond, lake or artificial wetland, but does not include a dry detention basin or other stormwater management construction that is only intended to hold water intermittently.

waterbody (natural) means a natural body of water, whether perennial or intermittent, fresh, brackish or saline, the course of which may have been artificially modified or diverted onto a new course, and includes a river, creek, stream, lake, lagoon, natural wetland, estuary, bay, inlet or tidal waters (including the sea).

watercourse means any river, creek, stream or chain of ponds, whether artificially modified or not, in which water usually flows, either continuously or intermittently, in a defined bed or channel, but does not include a waterbody (artificial).

waterway means the whole or any part of a watercourse, wetland, waterbody (artificial) or waterbody (natural).

wetland means:

- (a) natural wetland, including marshes, mangroves, backwaters, billabongs, swamps, sedgelands, wet meadows or wet heathlands that form a shallow waterbody (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with fresh, brackish or salt water, and where the inundation determines the type and productivity of the soils and the plant and animal communities, or
- (b) artificial wetland, including marshes, swamps, wet meadows, sedgelands or wet heathlands that form a shallow water body (up to 2 metres in depth) when inundated cyclically, intermittently or permanently with water, and are constructed and vegetated with wetland plant communities.