

Penrith Local Environmental Plan 1996 (Industrial Land) (1997 EPI 89)

[1997-89]



New South Wales

Status Information

Currency of version

Historical version for 21 December 2007 to 14 December 2008 (accessed 29 November 2024 at 20:11)

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

Provisions in force

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

Authorisation

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

File last modified 21 December 2007

Penrith Local Environmental Plan 1996 (Industrial Land) (1997 EPI 89)



New South Wales

Contents

| | |
|--|----|
| Part 1 Introduction | 4 |
| 1 Name of this plan | 4 |
| 2 Aims and objectives of this plan | 4 |
| 3 Land to which this plan applies | 5 |
| 4 Relationship to other plans | 6 |
| 5 Model Provisions | 6 |
| 6 Definitions | 6 |
| 7 Consent authority | 6 |
| 7A Suspension of certain covenants etc | 6 |
| Part 2 Land use zones | 7 |
| 8 Zones indicated on the map | 7 |
| 9 Zone objectives and development control Table | 7 |
| Part 3 Special provisions | 12 |
| Division 1 Provisions applying generally | 12 |
| 10 Environmental considerations | 12 |
| 11 Drainage | 13 |
| 12 Development for the purpose of advertisements | 13 |
| 13 Tree preservation | 15 |
| 14 Subdivision of land | 16 |
| 14A Temporary use of land | 16 |

| | |
|--|----|
| Division 2 Provisions applying to particular land | 16 |
| 15 Acquisition of land reserved for roads | 16 |
| 16 Development of land reserved for roads | 17 |
| 17 Flood liable land | 17 |
| 18 Convenience stores | 18 |
| 19 Community use of school and other sites..... | 18 |
| 20 Development along particular roads | 18 |
| 21 Development for additional purposes..... | 19 |
| 22 Development of land at Wolseley Street and Gibbes Street, Penrith | 19 |
| 23 Bulky goods retailing within Zone No 4 (b) | 20 |
| 23A Development of land at Nos 13–23 Pattys Place, Jamisontown | 20 |
| 24 Development of land at North Penrith | 20 |
| 25 Development of land at Wolseley Street, Jamisontown | 21 |
| Schedule 1 Definitions | 21 |
| Schedule 2 Prohibited advertisements | 29 |
| Schedule 3 Prohibited industries | 29 |
| Schedule 4 Development for additional purposes | 30 |

Penrith Local Environmental Plan 1996 (Industrial Land) (1997 EPI 89)



New South Wales

Part 1 Introduction

1 Name of this plan

This plan is called *Penrith Local Environmental Plan 1996 (Industrial Land)*.

2 Aims and objectives of this plan

(1) The aims of this plan are:

- (a) to encourage a broad range of industrial land uses which will promote both the economic and employment growth of the City of Penrith, and
- (b) to promote development which is consistent with the council's vision for the City of Penrith contained in its strategic management plan, namely one of a harmony of urban and rural qualities with a strong commitment to environmental protection and enhancement, and
- (c) to promote development which observes responsible and environmentally sound management practices to minimise any adverse environmental impact of that development on surrounding localities.

(2) The objectives of this plan are:

- (a) to consolidate and rationalise planning controls relating to industrial land, into a single plan, and
- (b) to present the planning controls in a clear manner, and
- (c) to provide a planning framework which allows development control plans to supplement the controls embodied in this plan, and
- (d) to require development to be assessed in accordance with and observe sound environmental planning principles, and
- (e) to preserve the amenity of any adjacent residential communities, and

- (f) to ensure that development of land to which this plan applies does not significantly affect the function, efficiency and safety of the road network, particularly Castlereagh Road, the Great Western Highway, Mulgoa Road and Parker Street, and
 - (g) to promote the efficient development of industrial land, and
 - (h) to ensure the orderly provision of services and infrastructure to meet the needs of development, and
 - (i) to promote the development of an attractive and safe work place environment, and
 - (j) to restrict certain development to particular locations, where the development is likely to have an adverse environmental effect on adjoining land, and
 - (k) to ensure that outdoor advertising:
 - (i) conveys advertisers' messages and images while complementing and conforming to both the building on which it is displayed and the character of the locality, and
 - (ii) does not adversely affect the locality in terms of appearance, size, illumination or overshadowing or in any other way, and
 - (iii) does not lead to visual clutter through the proliferation of signs, and
 - (l) to ensure that land considered by the council as likely to have been contaminated, or with a known history of contamination, is fully assessed and the need or otherwise for its remediation established, and
 - (m) to rationalise industry zone boundaries by zoning certain small areas of adjacent residential, rural, open space and special uses zoned land to industry.
- (3) The council must consider the aims and objectives of this plan in determining development applications. This plan also includes objectives for each zone, the importance of which is explained in Part 2.

3 Land to which this plan applies

- (1) This plan applies to the land within the City of Penrith which is shown edged by a heavy black line on the map.
- (2) This plan does not apply to the land to which the following instruments apply:

Penrith Local Environmental Plan 1998 (Urban Land).

4 Relationship to other plans

- (1) With the exception of *Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)*, this plan repeals all other local environmental plans and deemed environmental planning instruments in so far as they relate to land to which this plan applies.
- (2) Nothing in this plan affects the application, to land to which this plan applies, of *Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)*.
- (3) Development consent must not be granted unless the council is satisfied that the proposed development is consistent with the provisions and the objectives of any development control plan prepared in respect of the land to which the development application relates.

5 Model Provisions

Clause 35 of, and Schedule 1 to, the *Environmental Planning and Assessment Model Provisions 1980* are adopted for the purposes of this plan.

6 Definitions

- (1) Terms used in this plan which are defined in Schedule 1 have the meanings set out in that schedule.
- (2) In this plan:
 - (a) a reference to a map is a reference to a map deposited in the office of the council, and
 - (b) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose.

7 Consent authority

The council is the consent authority for all development applications made in relation to land to which this plan applies.

7A Suspension of certain covenants etc

- (1) Any agreement, covenant or similar instrument which would otherwise prohibit or restrict development permitted by this plan does not apply to the extent necessary to permit that development.
- (2) Nothing in subclause (1) affects the rights or interests of any public authority under any registered instrument.
- (3) In accordance with section 28 of the Act, the Governor approved of subclauses (1) and (2) before this clause was made.

Part 2 Land use zones

8 Zones indicated on the map

The land to which this plan applies is divided into three zones and land in each zone is identified on the map in the following manner:

| | | |
|---|---|---|
| Zone No 4 (a) General Industry Zone | — | coloured purple and lettered 4 (a) |
| Zone No 4 (b) Special Industry Zone | — | coloured purple and lettered 4 (b) |
| Zone No 5 (c) State Roads and State Road Widening Zone | — | broken black band between firm black lines and lettered 5 (c) |

9 Zone objectives and development control Table

(1) The development control Table which follows indicates for each zone:

- (a) the objectives of the zone, and
- (b) the land uses for the purposes of which:
 - (i) development may be carried out without development consent, and
 - (ii) development may be carried out only with development consent, and
 - (iii) development is prohibited.

(2) Except as otherwise provided by this plan, the council must not grant consent to development of land to which this plan applies unless the council:

- (a) is satisfied that the carrying out of such development is consistent with:
 - (i) the aims of this plan, and
 - (ii) the objectives of the zone within which the development is to be carried out, and
- (b) has considered the objectives of any development control plans applying to the land.

(3) (Repealed)

Development control table

Zone No 4 (a) General Industry Zone

(a) Objectives of the zone:

- (i) to encourage a diversity of industrial employment generating activities,

and

- (ii) to promote development which observes responsible, and environmentally sound, management practices, and
- (iii) to promote development which makes efficient use of industrial land, and
- (iv) to permit development which serves the daily convenience needs of persons working within industrial areas, and
- (v) to permit development for the purpose of recreational facilities, child care centres or community facilities to serve the needs of the workforce of the industrial areas and adjacent residential communities, and
- (vi) to promote development of land with frontage to Castlereagh Road, Old Bathurst Road and Christie Street which, by its architectural and landscape design, will enhance their gateway entry roles to the City of Penrith, and
- (vii) to prohibit development of land for any purpose if the development will:
 - (A) have direct vehicular access between that land and Castlereagh Road or Parker Street, and
 - (B) significantly affect the function, efficiency and safety of Castlereagh Road or Parker Street.

(b) (i) Without development consent

Nil.

(b) (ii) Only with development consent

Any land use other than those included in Item (b) (iii).

(b) (iii) Prohibited

- advertisements of a type, form or size listed in Schedule 2 visible outside the site on or from which they are displayed or controlled
- amusement parks
- boarding houses
- camp or caravan sites

- dwellings (other than those used in conjunction with another land use that is not prohibited in this zone and situated on the land on which the other use is conducted)
- extractive industries
- general stores
- offensive or hazardous industries
- offensive or hazardous storage establishments
- office premises (other than those ancillary to, and used in conjunction with, another land use that is not prohibited in this zone)
- restaurants
- shops (other than convenience stores, corner shops, fast food take-away restaurants and take-away food shops)
- shops trading principally in bulky goods or those trading in motor vehicle parts and accessories, including marine vessel parts and accessories
- waste disposal

Zone No 4 (b) Special Industry Zone

(a) Objectives of the zone:

- (i) to encourage a diversity of industrial and other employment generating activities, and
- (ii) to promote development which observes responsible, and environmentally sound, management practices, and
- (iii) to promote development which makes efficient use of industrial land, and
- (iv) to permit development which serves the daily convenience needs of persons working within industrial areas, and
- (v) to permit development for the purposes of recreational facilities, child care centres or community facilities to serve the needs of the workforce of the industrial areas and adjacent residential communities, and
- (vi) to promote development of land with frontage to the M4 Motorway and

Mulgoa Road which, by its architectural and landscape design, will enhance their gateway entry roles to the City of Penrith, and

(vii) to prohibit the development of land for any purpose if the development will:

(A) have direct vehicular access between that land and the Great Western Highway or Mulgoa Road, and

(B) significantly affect the function, efficiency and safety of the Great Western Highway or Mulgoa Road.

(viii) to prohibit certain industries which are likely to have an adverse effect on the use and enjoyment of adjoining localities, and

(ix) to permit the retailing of bulky goods from shops having a gross floor area of not more than 1,000m².

(b) (i) Without development consent

Nil.

(b) (ii) Only with development consent

- shops trading principally in bulky goods which shops:
 - (a) have a gross floor area of not more than 1,000 square metres, and
 - (b) do not have frontage to a road referred to in clause 20
- and any land use other than those included in Item (b) (iii).

(b) (iii) Prohibited

- advertisements of a type, form or size listed in Schedule 2 visible outside the site on or from which they are displayed or controlled
- amusement parks
- boarding houses
- camp or caravan sites
- dwellings (other than those used in conjunction with another land use that is not prohibited in this zone and situated on the land on which the other land use is conducted)

- extractive industries
- general stores
- generating works
- industries listed in Schedule 3
- materials recycling facilities
- motor vehicle and machinery wrecking facilities
- offensive or hazardous industries
- offensive or hazardous storage establishments
- office premises (other than those ancillary to, and used in conjunction with, another land use that is not prohibited in this zone)
- restaurants
- shops (other than convenience stores, corner shops, fast food take-away restaurants, take-away food shops, shops trading principally in bulky goods included in paragraph (b) (ii) and shops trading principally in motor vehicle parts and accessories, including marine vessel parts and accessories)
- vehicle body repair workshops
- waste disposal

Zone No 5 (c) Classified Roads and Classified Road Widening Purposes

(a) Objective of the zone:

To reserve land which will be required for State roads and State road widening purposes.

(b) (i) Without development consent

- road widening
- roads

(b) (ii) Only with development consent

- classified roads

- drains
- landscaping
- parking areas
- site filling
- utility installations

(b) (iii) Prohibited

Any land use other than those included in Item (b) (ii).

Part 3 Special provisions

Division 1 Provisions applying generally

10 Environmental considerations

In determining a development application, the council must consider such of the following matters as are of relevance to the proposed development:

- (a) any adverse impact on the existing or likely future amenity of any adjoining residential or rural land likely to be caused by air, water, noise or any other pollution,
- (b) the effect on the visual amenity of any adjoining residential land,
- (c) the effect on water quality through particulate or chemical emissions or sedimentation and the measures proposed to control any such effect,
- (d) the extent of likely air emissions and the measures proposed to control those emissions,
- (e) the energy efficiency of the proposal in terms of building design, solar access, site layout, technology and the like,
- (f) waste management needs and the adequacy of proposed waste management measures, including opportunities for recycling,
- (g) the hazardous nature and quantities of any materials or substances to be used or stored,
- (h) proposed ongoing monitoring procedures and management plans to mitigate any adverse environment effects,
- (i) the need for, and adequacy of, any site restoration, rehabilitation or remediation measures for the land.

11 Drainage

The council must not grant consent to development unless the council has taken into consideration whether:

- (a) satisfactory arrangements have been made with the council for the implementation of that part of any council trunk drainage and water quality management scheme to which the land drains, and
- (b) the development conforms with the provisions of any council trunk drainage and water quality management scheme applicable to the area, and
- (c) the development conforms with the provisions of any council water quality and quantity policy.

12 Development for the purpose of advertisements

Despite any other provision of this plan, development for the purpose of an advertisement, described in the Table to this clause, but not being an advertisement of a form, type or size as listed in Schedule 2, may be carried out without development consent, but only in accordance with the conditions (if any) specified in the Table.

Table Advertisements allowed without consent

| Description of advertisement | Conditions to be met |
|--|---|
| <i>Advertisement within a site</i> being an advertisement which is not visible from outside the site on which it is displayed. | Advertisement must not be displayed on an item of environmental heritage or on a site within a conservation area. |

Business identification sign being an advertisement that displays any or all of the following information relating to the place or premises to which it is fixed:

- the identity or a description of the place or premises,
- the identity or a description of any person residing or carrying on an occupation at the place or premises,
- particulars of any occupation carried on at the place or premises,
- such directions or cautions as are usual or necessary relating to the place or premises or any occupation carried on there,
- particulars or notifications required or permitted to be displayed by or under any State or Commonwealth Act,
- particulars relating to the goods, commodities or services dealt with or provided at the place or premises,
- particulars of any activities held or to be held at the place or premises,
- a reference to an affiliation with a trade, professional or other association relevant to the business conducted at the place or premises.

Sign must not exceed 5.0 square metres in area, and

Sign must be flush mounted to a wall or fascia.

Advertisement displaying a message changed from that displayed by a previously lawful advertisement Nil.

Public Notice being a notice for public information displayed by a public authority giving information or directions about services provided Nil.

Real estate sign being an advertisement that contains only a notice that the place or premises to which it is fixed is or are for sale or letting (together with particulars of the sale or letting) and that is not displayed for more than 14 days after the letting or completion of the sale

Sign must not exceed 4.5 square metres in area.

Temporary sign being an advertisement of a temporary nature that:

(a) announces any local event of a religious, educational, cultural, political, social or recreational character or relates to any temporary matter in connection with such an event, and

Sign must not be displayed earlier than 28 days before the event to which it relates is to take place, and

(b) does not include advertising of a commercial nature.

Sign must be removed within 14 days after that event.

Temporary signs may consist of advertisements in the form of banners, bunting, posters, inflatable structures and similar things.

13 Tree preservation

- (1) A person must not ringbark, cut down, poison, dig up, top, lop, remove, injure or wilfully destroy any tree (including by the addition of soil or drainage works around the base of a tree), except with the consent of the council.
- (2) Despite subclause (1), consent is not required if:
 - (a) the tree is dead, or
 - (b) the tree is declared a noxious weed under the [Noxious Weeds Act 1993](#), or
 - (c) the tree is less than 5 metres from a building or work for which consent has been granted, or which has been approved, by the council, or
 - (d) the tree is a fruit tree that requires an annual pruning, or is a tree within a timber plantation, or
 - (e) the tree is of a species identified in a development control plan applying to land to which this plan applies as having potential to cause damage to foundations and sewer lines, or is of a species that is identified in a development control plan as undesirable.
- (3) This clause does not apply to tree trimming, tree removal or other similar measures carried out by an electricity supply authority, which is in accordance with any tree

management agreement approved by the council.

14 Subdivision of land

- (1) Land to which this plan applies must not be subdivided without the consent of the council.
- (2) A road on land to which this plan applies must not be opened without the consent of the council.
- (3) The council must not grant consent to a subdivision of land to which this plan applies which creates an allotment containing land in more than one zone.

14A Temporary use of land

Despite any other provision of this plan, a person may carry out development of land to which this plan applies with the consent of the council for any purpose for a maximum of 28 days, whether consecutive or non-consecutive, in any one year, but only if, in the council's opinion, the use of the land for that purpose contributes to the cultural well-being of the community.

Division 2 Provisions applying to particular land

15 Acquisition of land reserved for roads

- (1) In this clause and clause 16:

the corporation means the corporation constituted by section 8 (1) of the Act.

the RTA means the Roads and Traffic Authority constituted under the [Transport Administration Act 1988](#).

vacant land means land on which, immediately before the day on which a notice under subclause (2) is given, or an application for development consent pursuant to clause 16 (1) is lodged, there were no buildings other than fences, greenhouses, conservatories, garages, summer houses, private boat houses, fuel sheds, tool houses, cycle sheds, aviaries, milking bails, hay sheds, stables, fowl houses, pig sties, barns or the like.

- (2) The owner of any vacant land within Zone No 5 (c) may, by notice in writing, require:
 - (a) the RTA in the case of land that is included in the 5 year works programme of the RTA current at the time of receipt of the notice, or
 - (b) the corporation in any other case,to acquire the land.
- (3) The owner of any land within Zone No 5 (c) that is not vacant may, by notice in

writing, require the RTA to acquire the land if:

- (a) the land is included in the 5 year works programme of the RTA current at the time of the receipt of the notice, or
 - (b) the RTA has decided not to give concurrence pursuant to clause 16 (1) to an application for consent to the carrying out of development on the land, or
 - (c) the RTA is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable time.
- (4) On receipt of a notice under this clause, the RTA or the corporation, as the case may be, must acquire the land unless the land might reasonably be required to be dedicated for public roads.

16 Development of land reserved for roads

- (1) Despite clause 9, a person may, with the council's consent and:
- (a) in the case of vacant land, with the concurrence of the RTA and the corporation, or
 - (b) in the case of the land that is not vacant, with the concurrence of the RTA,
- carry out development on land within Zone No 5 (c) if the development may be carried out on land within an adjoining zone under this plan.
- (2) In deciding whether to grant concurrence to proposed development pursuant to this clause, the RTA and the corporation must take the following matters into consideration:
- (a) the need to carry out development on the land for the purpose of classified roads or proposed classified roads within the meaning of the [State Roads Act 1986](#),
 - (b) the imminence of the acquisition of the land by the RTA or the corporation, and
 - (c) the likely additional cost to the RTA or the corporation resulting from the carrying out of the proposed development.
- (3) Land acquired under this section may be developed, with the council's consent for the purpose of any land use permitted on land within an adjoining zone under this plan, until such time as it is required for the land use for which it was acquired.

17 Flood liable land

The council must not grant consent for development of flood liable land, unless the council has taken into consideration whether the proposed development complies with any policy of the council for the development of flood liable land.

18 Convenience stores

The gross floor area of a convenience store used for retailing, must not exceed 200 square metres.

19 Community use of school and other sites

Despite any other provision of this plan, a person may, with the consent of the council, carry out development on land to which this plan applies involving:

- (a) the community use of the facilities and sites of schools, colleges and other educational establishments, or
- (b) the commercial operation of those facilities and sites for community purposes, or
- (c) the carrying out of development for community uses on land used for the purposes of schools, colleges or other educational institutions, whether or not the development is ancillary to those purposes.

20 Development along particular roads

- (1) The council must not grant consent to development of land that has direct access onto Castlereagh Road, the Great Western Highway or Parker Street unless:
 - (a) the council has taken into consideration:
 - (i) whether the development enables the safe and efficient movement into and out of the development site without adversely affecting the existing or future service and safety levels of the road, highway or street, and
 - (ii) if the development is on an allotment of land created in accordance with a subdivision approved pursuant to this plan, the council has taken into consideration whether the access to that land will be in accordance with the access arrangements approved in the consent for that land, and
 - (b) a deceleration lane is provided in accordance with RTA guidelines.
- (2) The council must not grant consent to development of land that has direct access onto Mulgoa Road unless adequate provision has been made for vehicular access to that land in accordance with the plan identifying such access depicted in any development control plan applying to that land.
- (3) Despite subclauses (1) and (2), the council may consent to a development involving alterations or additions to any existing development with direct vehicular access to Castlereagh Road, the Great Western Highway, Mulgoa Road or Parker Street, if the development after such alterations or additions will not significantly increase the number of vehicles using that access.

21 Development for additional purposes

Despite any other provision of this plan, a person may, with the consent of the council, carry out development of land described in Schedule 4 for the purpose specified in that Schedule in relation to the land.

22 Development of land at Wolseley Street and Gibbes Street, Penrith

- (1) This clause applies to land known as Lots 1 to 9 DP 779927, Lots 46 to 62 Section B DP 1687, Lots 31 to 35 DP 238821, Lots 1 to 4 DP 239799, Lots 70 to 77 Section B DP 1687, Lots 68 and 69 DP 456315, and Pt 10, 11, 12, 13 and 14 Gibbes Street, Penrith and includes the unmade portion of Dalley Street and the southern section of Gibbes Street from the southern boundary of Lot 2 DP 309868 (Gibbes Street, Penrith).
- (2) Despite any other provision of this plan, a person may, with the consent of the council, carry out development on land referred to in subclause (1), for the purpose of a homemaker centre.
- (3) For the purposes of this clause, **homemaker centre** means a building or group of buildings, which comprise a number of retail outlets not less than 1,000m² each in gross floor area, used for the purpose of retailing:
 - computer equipment,
 - electrical goods,
 - floor coverings, tiles and paving,
 - garden equipment and furniture,
 - hardware and timber supplies,
 - household appliances and equipment,
 - household fittings and furniture,
 - plants,
 - swimming pools and spas,

and may include, as an ancillary use, a restaurant aimed principally at providing a service to the clientele of the centre.

- (4) The council shall not grant consent to a development application for a homemaker centre on the land unless it is satisfied that:
 - (a) the development is generally consistent with the provisions of any guidelines approved by the Council, applying to the land to which the application relates, and
 - (b) any new building will be in a single integrated building form, and

- (c) the proposed form, architectural design, siting, building materials and colours of the new building will complement existing buildings in the surrounding locality, and will recognise and enhance the gateway significance of the site, and
 - (d) the development incorporates a covered pedestrian system linking all activities within the site.
- (5) The council must not grant consent to development on the land if the development will involve the use of direct vehicular access between that land and Mulgoa Road.

23 Bulky goods retailing within Zone No 4 (b)

The council may grant consent to the carrying out of development for the purpose of a shop trading principally in bulky goods on land within Zone No 4 (b) only if it is satisfied that:

- (a) the development would not be more suitably carried out in a business centre in the locality, and
- (b) the development is unlikely to have an adverse effect on the viability of any other business centres in the locality, and
- (c) the development is of a type which is appropriate to an industrial zone or to the general character of existing development within the locality.

23A Development of land at Nos 13-23 Pattys Place, Jamisontown

- (1) This clause applies to Lot 10, DP 1046110, Nos 13-23 Pattys Place, Jamisontown, as shown edged heavy black on the map marked "*Penrith Local Environmental Plan 1996 (Industrial Land) (Amendment No 8)*".
- (2) Despite any other provision of this plan, the council may grant consent to the carrying out of development on the land to which this clause applies for the purpose of shops principally trading in bulky goods without any restriction as to the gross floor area of any such shops.

24 Development of land at North Penrith

- (1) This clause applies to land shown on sheet 2 of the map marked *Penrith Local Environmental Plan 1998 (Urban Land) (Amendment No 3) North Penrith*.
- (2) Despite any other provision of this plan, development for the purposes listed below is prohibited on any land within 100m of an adjoining or adjacent residential zone:
 - generating works
 - industries listed in Schedule 3
 - materials recycling facilities

- motor vehicle and machinery wrecking facilities
- vehicle body repair workshops

- (3) Despite any other provision of this plan, the land shown stippled on Sheet 2 of the map marked *Penrith Local Environmental Plan 1998 (Urban Land) (Amendment No 3) North Penrith* may not be used for any purpose other than landscaping.
- (4) Despite any other provision of this plan, the land shown hatched on Sheet 2 of the map marked *Penrith Local Environmental Plan 1998 (Urban Land) (Amendment No 3) North Penrith* may not be used for any purpose other than landscaping or carparking.

25 Development of land at Wolseley Street, Jamisontown

- (1) This clause applies to Lot 2227, DP 857962, Wolseley Street, Jamisontown, as shown coloured purple, edged heavy black and lettered “4 (b)” on the map marked “*Penrith Local Environmental Plan 1996 (Industrial Land) (Amendment No 6)*”.
- (2) Despite any other provision of this plan, the council must not grant consent to the carrying out of development on the land to which this clause applies unless it is satisfied that:
- (a) the proposed development will retain the *Eucalyptus tereticornis* (Forest Red Gum), identified as Trees 2, 3, 4, 6 (group of 4 trees), 7 and 8 on Fig 9 (Mud map of location of trees) of the Arborist Report dated 17 February 2004 and prepared by Australian Tree Consultants Pty Ltd, a copy of which is deposited in the office of the council, and
 - (b) the proposed development will be consistent with a tree management plan that has been prepared in accordance with the provisions of Section 2.6 (Landscape) of Part 2 (City Wide General Controls) of *Penrith Development Control Plan 2006* (as adopted by the council on 21 August 2006) and has been adopted by the council, and
 - (c) the proposed development will not involve direct vehicular access from the land to Mulgoa Road, and
 - (d) the proposed form, architectural design, siting, building materials and colours of the proposed new building on the land will complement existing buildings in the surrounding locality and enhance the gateway significance of the site.

Schedule 1 Definitions

(Clause 6)

abattoir means a building or place used for the slaughter of animals, whether or not animal by-products are processed or manufactured there or distributed from there, and includes a knacker.

advertisement means a display by the use of symbols, messages or other devices for promotional

purposes or for conveying information, instructions, directions or the like, whether or not the display includes the erection of a structure or the carrying out of a work.

amusement park means a place where amusements or mechanical or electronic entertainments are permanently situated.

area of an advertisement in the form of a sign means:

- (a) for a sign with only one side occupied by the matter displayed, the area within the outline of that sign, or
- (b) for a sign with two sides occupied by the matter displayed, the area within the outline of that sign or, where one side is larger than the other, the area within the outline of the larger side, or
- (c) for any other sign, one third of the total surface area of the sign.

boarding house means a building or place:

- (a) where accommodation, meals and laundry facilities are provided to the residents of the building or place, and
- (b) which is not licensed to sell liquor within the meaning of the [Liquor Act 1982](#).

building includes any structure or part of a structure.

building, hardware or garden supplies premises means a building, or a group of buildings, with a gross floor area greater than 5,000m² used for the purpose of retailing:

- (a) building materials, or
- (b) hardware items and tools, or
- (c) timber and other associated joinery, or
- (d) garden and landscape supplies,

but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

bulky goods means large goods which are, in the opinion of the council, of such a size and shape as to necessitate:

- (a) a large area for handling, storage or display, and
- (b) easy and direct vehicular access so as to allow for their collection by customers,

but does not include agricultural products, beverages, clothing, food, footwear, leisure goods, paper or stationery products, small electrical appliances, electronic goods or toys.

business premises means a building or place in which there is carried on a light industry or trade (but does not include a brothel) which provides a service directly and regularly to the public but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

camp or caravan site means a site used for the purpose of:

- (a) placing moveable dwellings (as defined in the [Local Government Act 1993](#)) for permanent accommodation or for temporary accommodation by tourists, or
- (b) the erection, assembly or placement of cabins for temporary accommodation by tourists.

child care centre means a building or place used for the purpose of supervising or providing care for children that caters for 6 or more children and:

- (a) may include an educational function, and
- (b) may operate for the purpose of gain, and
- (c) may include a dwelling house that is attached to, part of or associated with the building or place,

but does not include a building or place providing residential care for children and (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

classified road means a road or work declared under Part 5 of the [Roads Act 1993](#) to be a main road, a secondary road, a State highway, a tourist road, a State work, a freeway or a controlled access road within the meaning of that Act.

community facility means a building, place or facility, whether or not provided by the council, provided for use by groups having similar physical, cultural, social, recreational, ethnic or other interests or beliefs, but (in the development control table) does not include a club that is registered under the [Registered Clubs Act 1976](#) or a building or place specifically defined elsewhere in this Schedule.

contaminated land means land in, on or under which any substance is present at a concentration above that naturally present in, on or under the land and that poses, or is likely to pose, an immediate or long-term risk to human health or the environment.

convenience store means a building or place:

- (a) used for the purpose of selling, exposing or offering for sale by retail principally groceries, small goods and associated small items, and
- (b) used in conjunction with the sale by retail of petrol, oil and other petroleum products, and
- (c) that does not exceed 200 m² in gross floor area,

but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

corner shop means a building or place used for the purpose of selling foodstuffs, personal care products, and other small daily convenience goods (whether or not the facilities of a post office, bank, newsagency or dry cleaning agency are included) and which has a gross floor area not exceeding 100 square metres.

council means the Council of the City of Penrith.

drain means any channel, conduit or pipe used for removing water, other than sewage, and includes a

stormwater detention basin but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

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

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

educational establishment means a building or place used for education (including teaching) and includes:

- (a) a school, and
- (b) a tertiary institution, being a university, teachers' college, technical college or other tertiary college providing formal education which is constituted by or under an Act, and
- (c) an art gallery or museum that is not used to sell the items displayed in it,

whether or not accommodation for staff and students is provided and whether or not used for the purposes of gain.

existing ground level means the level of a site before development is carried out on the site in accordance with this plan.

extractive industry means:

- (a) the winning or removal of extractive material from land, or
- (b) an undertaking, not being a mine, which depends for its operation on the winning of extractive material from the land on which it is carried on, and includes any washing, crushing, grinding, milling or separating into different sizes of that extractive material on that land.

extractive material does not include coal, shale, petroleum, uranium or any mineral within the meaning of the [Mining Act 1992](#).

fast food take-away restaurant means a building or place with a drive-in take-away or drive through food retail facility where food or drink is prepared or offered for sale, whether or not the food or drink is consumed in that building or place or elsewhere, but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

flood liable land means land that would be inundated as a result of a flood having an annual exceedence probability of 1%.

flood mitigation works means works and measures that are intended to reduce or eliminate the possibility of, or the effects of, flooding.

floor means that space within a building which is situated between one floor level and the floor level next above or if there is no floor above, the ceiling or roof above.

general store means a shop:

- (a) used for the sale by retail of general merchandise and that may include the facilities of a post office, and

(b) that does not exceed 200 m² in gross floor area,

but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

generating works means a building or place used for the purpose of making or generating gas, electricity or other forms of energy.

gross floor area means the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1400 millimetres above each floor level, excluding:

- (a) columns, fin walls, sun control devices, awnings and any other elements, projections or works outside the general lines of the outer face of the external walls, and
- (b) lift towers, cooling towers, machinery and plant rooms, ancillary storage space and air-conditioning ducts, and
- (c) carparking needed to meet any requirements of the council and any internal designated vehicular or pedestrian access thereto, and
- (d) space for the loading and unloading of goods, and
- (e) internal public arcades and thoroughfares, terraces and balconies with outer walls less than 1400 millimetres high.

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

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

height in relation to a building, means the vertical distance measured between natural ground level at any point at which the building is sited and the roof of the topmost floor of the building above that point.

hotel means premises specified or proposed to be specified in a hotelier's licence granted under the [Liquor Act 1982](#).

industry means an undertaking involving the manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, processing, treating or adapting of any goods or

articles for commercial purposes, but (in the development control table) does not include any form of industry defined elsewhere in this Schedule.

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

liquid fuel depot means a depot or place used for the bulk storage for wholesale distribution of petrol, oil, petroleum or other inflammable liquid.

materials recycling facility means a building or place used for collecting, dismantling, salvaging, storing or recycling second hand or scrap materials, whether they are offered for sale or not, but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

mine means an activity which depends for its operation on the winning or removal of any material to which the [Mining Act 1992](#) or the [Petroleum \(Onshore\) Act 1991](#) applies, and includes the storage and primary processing of the material obtained.

motel means a building, other than a boarding house or hotel, used principally for the overnight accommodation of travellers and the parking of their vehicles, whether or not the building incorporates a common facility for the provision of meals, either to persons temporarily resident or to the public, and whether or not those facilities are licensed.

motor showroom means a building or place used for the display or sale of motor vehicles, caravans or boats, whether or not motor vehicle accessories, caravan accessories or boat accessories are also sold or displayed there.

motor vehicle and machinery wrecking facility means a building or place used for the accumulation, storage or dismantling of abandoned or scrap motor vehicles, car bodies, machinery and motor vehicle and machinery parts and accessories and the like, whether they are offered for sale or not, but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

offensive industry means an industry which, 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 it from existing or likely future development on other land in the locality), would emit a polluting discharge (including, for example noise) in a manner which would have a significant adverse impact in the locality or on existing or likely future development on the other land in the locality.

offensive storage establishment means any establishment where goods, materials or products are stored which, 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 it from existing or likely future development on other land in the locality), would emit a polluting discharge (including, for example, noise) in a manner which would have a significant adverse impact in the locality or on existing or likely future development on the other land in the locality.

office premises means a building or place used for the purpose of carrying out professional,

administrative, clerical or public duties but, for the purposes of the development control table, does not include an office used in conjunction with or ancillary to a landuse elsewhere specifically defined in this Schedule.

parking area means a building or place, such as a ground level parking area or deck parking structure, used for parking vehicles and includes any associated vehicle manoeuvring areas whether the building or place is used for the purpose of gain or not.

recreation facility means a building or place used for indoor recreation (such as a table tennis centre, squash court, swimming pool, gymnasium, health studio or bowling alley), whether or not used for the purpose of gain, but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

remediation of land means any one or more of the following:

- (a) removing the cause of contamination from land,
- (b) reducing contamination of land,
- (c) eliminating or reducing any danger arising from the contamination of land,
- (d) rehabilitating land.

restaurant means a building or place the purpose of which is to provide food and drink for consumption (including a cafe, tearoom or the like), but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

road means a public thoroughfare all or part of which is used for the passage of vehicles, pedestrians, bicycles or animals, or a classified road within the meaning of the [Roads Act 1993](#).

RTA means the Roads and Traffic Authority constituted under the *Transport Administration Act 1998*.

service station means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, oil or other petroleum products, whether or not the building or place is also used for one or more of the following:

- (a) the hiring of trailers,
- (b) the retail selling or the installing of spare parts and accessories for motor vehicles,
- (c) washing and greasing of motor vehicles,
- (d) repairing or servicing of motor vehicles,
- (e) the retail selling or hiring of small consumer goods,

but does not include a building or place used for vehicle body building or the panel beating or spray painting of vehicles.

shop means a building or place used for the purpose of selling, exposing or offering for sale by retail goods, merchandise or materials but, in the development control table, does not include a building or place elsewhere specifically defined in this Schedule, or a building or place used for a land use elsewhere specifically defined in this Schedule.

site filling means the use of clean, non-putrescible material, such as soil, sand and clean building materials, to change the existing ground level of an area.

take-away food shop means a building or place principally used for the purpose of selling fast food and other foodstuffs prepared on the premises to people for consumption elsewhere, but does not include a drive through food retail facility.

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

the map means the map marked “*Penrith Local Environmental Plan 1996 (Industrial Land)*” as amended by the maps (or the specified sheets of the maps) marked as follows:

Editorial note—

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

Penrith Local Environmental Plan 1998 (Urban Land) (Amendment No 3) North Penrith

Penrith Local Environmental Plan 1996 (Industrial Land) (Amendment No 4)

Penrith Local Environmental Plan 1996 (Industrial Land) (Amendment No 6)

transport terminal means a building or place used as an airline terminal, a road transport terminal, a bus station or a bus depot.

tree means:

- (a) a living perennial plant that exceeds 5 metres in height, being the distance measured vertically between the horizontal plane of the base of the tree which is immediately above the ground and the horizontal plane of the uppermost point of the tree, or
- (b) individual trees, gardens or native vegetation listed in Section 2.8 (Significant Trees and Gardens) of Part 2 (City Wide General Controls) of *Penrith Development Control Plan 2006*, as adopted by the council on 21 August 2006.

utility installation means a building or work used for a utility undertaking.

utility undertaking means any undertaking carried on by or by authority of any Government department, or in pursuance of any Commonwealth or State Act, for the purposes of:

- (a) railway, road, water or air transport, or wharf or river undertakings, or
- (b) the provision of sewerage, sewage treatment or drainage services, or
- (c) the supply of water, hydraulic power, electricity or gas, or
- (d) telecommunications facilities, or
- (e) water quality control facilities.

vehicle body repair workshop means a building or place used for the repair of vehicles or agricultural machinery, involving body building, panel beating or spray painting.

vehicle repair station means a building or place used for the purpose of carrying out repairs or the

selling and fitting of accessories to vehicles or agricultural machinery.

warehouse or distribution centre means a building or place used mainly for storing or distribution of good or materials pending their distribution to the retail trade but does not include the retail sale of any of the goods or materials from that building or place.

waste disposal means to discharge, emit or deposit into the environment, any matter whether liquid, solid gaseous, or radioactive, in such volume, consistency or manner as to cause a significant alteration to the environment, but does not include waste water disposal carried out by the Sydney Water Corporation Limited.

Schedule 2 Prohibited advertisements

(Clause 9)

- Advertisements in the form of a roof sign
- Advertisements in the form of a sky sign controlled from land to which this plan applies
- Advertisements in the form of a flashing sign
- Advertisements in the form of a moving sign on a site of land to which this plan applies
- signs made of canvas, calico or the like (other than a temporary sign)
- signs that are displayed on an awning blind or external window blind
- hoardings
- billboards
- bulletin boards
- signs in the nature of posters attached directly onto walls or roof surfaces
- signs that exceed 7 metres in height above natural ground level

Schedule 3 Prohibited industries

- abattoir
- cement or cement products manufacture
- chemical factories or works
- crushing, grinding or milling works
- electricity generating stations
- extractive industries
- gasholders
- liquid, chemical, oil or petroleum waste works

- liquid fuel depots
- metallurgical works in which more than 100 tonnes per annum of ferrous or non-ferrous metals or their ores are processed
- mines
- oil refineries
- paper or pulp works
- petroleum product storage and processing works
- pre-mix bitumen works
- rubber or plastic works
- sawmills
- scrap recovery or drum reconditioning works

Schedule 4 Development for additional purposes

(Clause 21)

Emu Plains

No 130, Old Bathurst Road, Lot 1 DP 851389—Development for the purpose of a restaurant.

No 152, Russell Street, Lot 32 DP 1005063—Development for the purpose of a restaurant.

Penrith

Unit 55, 61 York Road, Lot 71A DP 1687—Development for the purpose of a restaurant and reception centre.

60–64 Copeland Street, Lot 1 DP 227488—Development for the purpose of a restaurant.

St Marys

Unit 1A, 81 Glossop Street, Lot 2 DP603144—Development for the purpose of the manufacture, sale and installation of mufflers.

Unit 2B, 81 Glossop Street, Lot 2 DP603144—Development for the purpose of the distribution, wholesaling and retailing of automotive spare parts and accessories.