

Penrith Local Environmental Plan 1998 (Urban Land) (1999 EPI 9)

[1999-9]



New South Wales

Status Information

Currency of version

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Provisions in force

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

Notes—

- **Does not include amendments by**
[State Environmental Planning Policy Amendment \(Exceptions to Development Standards\) 2023 \(524\)](#)
(not commenced — to commence on 1.11.2023)

Authorisation

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

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New South Wales

Part 1 Introduction

1 Name of plan

This plan is *Penrith Local Environmental Plan 1998 (Urban Land)*.

2 Area covered by this plan

- (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) Despite subclause (1), this plan does not apply to land referred to on the map as “DEFERRED MATTER”.

3 Relationship to other environmental planning instruments

- (1) This plan affects the provisions of *Penrith Planning Scheme Ordinance*, local environmental plans and deemed environmental planning instruments in the manner set out in Schedule 1.
- (2) Nothing in this plan affects the application of *Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation)* to land to which this plan applies.

4 Interpretation

- (1) Terms used in this plan which are defined in Schedule 2 have the meanings set out in that Schedule.
- (2) In this plan—
 - (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose, and
 - (b) a reference to a map is to a map kept in the office of the council.
- (3) Clause 29 of the *Environmental Planning and Assessment (Savings and Transitional) Regulation 1998* applies to this plan as if this plan had commenced before 1 July 1998,

despite any other provision of this plan.

(4) Notes included in this plan do not form part of this plan.

5 Consent authority

The council is the consent authority for the purposes of this plan.

6 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 plan was made.

Part 2 Aims and objectives

7 Aims and objectives of this plan

(1) In accordance with the objects of the Act, the aims of this plan are as follows—

(a) **Vision for the City**

to promote development which is consistent with the council's vision for Penrith City, namely a harmony of urban and rural qualities with a strong commitment to environmental protection and enhancement,

(b) **Development control**

to replace existing environmental planning instruments by a single comprehensive plan to ensure a consistent approach to control of residential development in urban zones, and a high level of certainty for both the local community and the development industry,

(c) **Housing need**

- (i) to encourage and guide private sector development in order to satisfy a wide range of recognised local demands for housing, and
- (ii) to satisfy city-wide housing needs by promoting housing choice within each neighbourhood through a variety of housing types, and
- (iii) to facilitate development of special needs housing in areas where appropriate levels of services are available, or can be readily provided, and

(iv) to provide for visitor accommodation,

(d) Density

(i) to enable the development of land for residential purposes, and

(ii) to make a reasonable contribution to State Government objectives for urban consolidation within the metropolitan region, and

(iii) to locate higher densities of development either in proximity to established networks of urban services, or in areas which may be serviced readily, particularly by public transport, shopping centres, educational facilities, community and child care facilities, water, sewerage and drainage, and

(iv) to determine residential densities that are compatible with the environmental character of established urban areas, and

(v) to ensure that future development reflects desired character as well as achieving strategic consolidation objectives,

(e) Residential character

(i) to promote the community's desired character by ensuring that future development in all residential localities reflects features or qualities of traditional detached houses that are surrounded by private gardens, and

(ii) to enhance the essential character and identity of established residential areas, and

(iii) to protect items of environmental value, particularly mature vegetation and significant watercourses, significant buildings and gardens, or scenic landscapes and views, and

(iv) to encourage development that will ensure that a variety of housing forms address the street frontage and open spaces and that multiple dwellings within each site address each other, where possible,

(f) Residential amenity

(i) to promote development which safeguards the residential amenity of the area,

(ii) to provide for high levels of residential amenity, particularly acoustic and visual privacy, accessibility to services, climatic comfort of the indoor environment, and safety and security, and

(iii) to ensure that development makes a reasonable contribution to provision of the relevant community facilities,

(g) Employment

to permit small-scale business activities within residential areas which do not significantly adversely affect residential amenity,

(h) Environmental performance

(i) to promote development which safeguards the environment,

(ii) to improve the effective performance of residential development with regard to reduced demand for mechanical heating or cooling of dwellings through effective solar access and landscaping, reduced discharge of contaminated stormwater run-off to the Nepean-Hawkesbury River through suitable design and management, and protection of vegetation endemic to Penrith City together with habitat for native species of fauna, and

(iii) to ensure appropriate consideration of environmental threats to life and property, particularly flooding or bushfire events,

(i) Community Services and Infrastructure

to allow for the provision of community services and infrastructure,

(j) Arts and Cultural Activity

to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts.

(2) The objectives of each zone are set out in Part 3.

(3) The particular objectives of the development controls are set out in Parts 4 and 5.

Part 3 Land use zones

8 Zones indicated on the map

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

Zone No 2 (a1) Residential (Urban and Landscape Protection—Emu Plains)

Zone No 2 (a) Residential (Urban and Landscape Protection)

Zone No 2 (b) Residential (Low Density)

Zone No 2 (c) Residential (Low-Medium Density)

Zone No 2 (d) Residential (Medium Density)

Zone No 2 (e) Residential (Medium-High Density)

Zone No 2 (r) Rural-Residential (1 Dwelling/Hectare)

Zone No 2 (r1) Rural-Residential

Zone No 3 (f) Mixed Uses

Zone No 5 (a) Special Uses

Zone No 5 (b) Local Road and Local Road Widening

Zone No 5 (c) State Road and State Road Widening

Zone No 6 (a) Public Recreation and Community Uses

Zone No 6 (b) Proposed Public Recreation and Community Uses

Zone No 6 (c) Private Recreation

Zone No 6 (d) Regional Open Space

Zone No 7 (a) Flora and Fauna Conservation

Zone No 10 (a) Mixed-Use—Residential

Zone No 10 (b) Mixed-Use—Employment

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 purpose 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
 - (iii) the objectives of the development controls contained within this plan, and
 - (b) has considered the objectives of any development control plans applying to the land.

(3)-(6) (Repealed)

Development Control Table

Zone No 2 (a1) Residential (Urban and Landscape Protection—Emu Plains)

(a) Objectives of the zone

- (i) to reinforce the importance of natural landscape settings and areas with heritage conservation value, and
- (ii) to protect the landscape and urban area identified on the map by ensuring that new development complies with minimum landscaping, rear setback and subdivision requirements, and
- (iii) to allow a limited range of compatible non-residential uses.

(b) (i) Without development consent

- bed and breakfast establishments
- bushfire hazard reduction
- home activities

(b) (ii) Only with development consent

- buildings or other structures ordinarily associated with dwelling houses
- changes of building use (as defined in the Act)
- child care centres
- community facilities
- demolition of buildings or other structures
- drains
- dual occupancies
- dwelling houses
- general stores
- health care consulting rooms
- home businesses
- internal structural work in bed and breakfast establishments
- recreation areas
- roads
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 2 (a) Residential (Urban and Landscape Protection)

(a) Objectives of the zone

- (i) to reinforce the importance of natural landscape settings and areas with heritage conservation value, and
- (ii) to protect landscapes and urban areas with identified conservation value by limiting the range of permissible uses and requiring larger residential allotments, and
- (iii) to allow a limited range of compatible non-residential uses.

(b) (i) Without development consent

- bed and breakfast establishments
- bushfire hazard reduction
- home activities

(b) (ii) Only with development consent

- buildings or other structures ordinarily associated with dwelling houses
- changes of building use (as defined in the Act)
- child care centres
- community facilities
- demolition of buildings or other structures
- drains
- dual occupancies
- dwelling houses
- general stores
- health care consulting rooms
- home businesses
- internal structural work in bed and breakfast establishments
- recreation areas
- roads
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 2 (b) Residential (Low Density)

(a) Objectives of the zone

- (i) to reinforce the importance of natural landscape settings and areas with heritage conservation values, and
- (ii) to promote the established urban and landscape character of traditional residential subdivisions by limiting the range of permissible uses, and
- (iii) to allow a limited range of compatible non-residential uses.

(b) (i) Without development consent

- bed and breakfast establishments
- bushfire hazard reduction
- home activities

(b) (ii) Only with development consent

- buildings or other structures ordinarily associated with dwelling houses
- changes of building use (as defined in the Act)
- child care centres
- community facilities
- demolition of buildings or other structures
- drains
- dual occupancies
- dwelling houses
- educational establishments
- general stores
- health care consulting rooms
- home businesses
- hospitals
- internal structural work in bed and breakfast establishments
- places of worship
- recreation areas
- roads
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 2 (c) Residential (Low-Medium Density)

(a) Objectives of the zone

- (i) to reinforce the importance of the natural landscape settings and areas with heritage conservation value, and
- (ii) to protect the character of traditional cottage development and streetscapes, and

- (iii) to consolidate population and housing densities, and
- (iv) to expand housing choices by allowing multi-unit housing with a single storey appearance, and
- (v) to promote a variety of housing types or forms upon the site of each proposed development, and
- (vi) to allow a range of compatible non-residential uses.

(b) (i) Without development consent

- bed and breakfast establishments
- bushfire hazard reduction
- home activities

(b) (ii) Only with development consent

- buildings or other structures ordinarily associated with dwelling houses
- changes of building use (as defined in the Act)
- child care centres
- community facilities
- demolition of buildings or other structures
- drains
- dual occupancies
- dwelling houses
- educational establishments
- general stores
- guesthouses
- health care consulting rooms
- home businesses
- hospitals
- internal structural work in bed and breakfast establishments
- multi-unit housing
- places of worship
- recreation areas
- roads
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 2 (d) Residential (Medium Density)

(a) Objectives of the zone

- (i) to reinforce the importance of natural landscape settings and areas with heritage conservation value, and
- (ii) to protect the character of traditional cottage development and streetscapes, and
- (iii) to consolidate population and housing densities, and
- (iv) to expand housing choices by allowing multi-unit housing up to a two storey appearance, and
- (v) to promote a variety of housing types or forms upon each site, and
- (vi) to allow a range of compatible non-residential uses.

(b) (i) Without development consent

- bed and breakfast establishments
- bushfire hazard reduction
- home activities

(b) (ii) Only with development consent

- backpackers' hostels
- buildings or other structures ordinarily associated with dwelling houses
- changes of building use (as defined in the Act)
- child care centres
- community facilities
- demolition of buildings or other structures
- drains
- dual occupancies
- dwelling houses
- educational establishments
- general stores
- guesthouses
- health care consulting rooms
- home businesses
- hospitals
- internal structural work in bed and breakfast establishments
- motels
- multi-unit housing
- places of worship
- recreation areas
- roads
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 2 (e) Residential (Medium-High Density)

(a) Objectives of the zone

- (i) to reinforce the importance of natural landscape settings and areas with heritage conservation value, and
- (ii) to provide a wider range of housing choices in proximity to the established town centres and railway stations, and
- (iii) to reinforce established flat zones, and

(iv) to allow multi-unit housing up to a three storey appearance, and

(v) to allow a range of non-compatible non-residential uses.

(b) (i) Without development consent

- bed and breakfast establishments
- bushfire hazard reduction
- home activities

(b) (ii) Only with development consent

- backpackers' hostels
- buildings or other structures ordinarily associated with dwelling houses
- changes of building use (as defined in the Act)
- child care centres
- community facilities
- demolition of buildings or other structures
- drains
- dual occupancies
- dwelling houses
- educational establishments
- general stores
- guesthouses
- health care consulting rooms
- home businesses
- hospitals
- internal structural work in bed and breakfast establishments
- motels
- multi-unit housing
- places of worship
- recreation areas
- roads
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 2 (r) Rural-Residential (1 Dwelling/Hectare)

(a) Objectives of the zone

- (i) to conserve the open, semi-rural character of the M4 Motorway, The Northern Road and Mulgoa Road frontages of Glenmore Park and that part of the Cranebrook escarpment between Nepean Street and Laycock Street, and
- (ii) to protect and promote a low density settlement pattern which—
 - (A) recognises the importance of conserving the semi-rural land use pattern and the appearance of the approaches to the urban areas of the City of Penrith when viewed from major roads and adjoining and nearby areas, and
 - (B) provides sufficient flexibility for dwelling siting and orientation of allotments to minimise the visual impact of development and overcome noise constraints, and
- (iii) to prohibit the establishment of activities of a retail or commercial nature along the M4 Motorway, The Northern Road and Mulgoa Road frontages of Glenmore Park.

(b) (i) Without development consent

- bed and breakfast establishments
- bushfire hazard reduction
- home activities

(b) (ii) Only with development consent

- agriculture
- buildings or other structures ordinarily associated with dwelling houses
- changes of building use (as defined in the Act)
- demolition of buildings or other structures
- drains
- dual occupancies
- dwelling houses
- home businesses
- roads
- structural or internal alterations to bed and breakfast establishments
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 2 (r1) Rural-Residential

(a) Objectives of the zone

- (i) to provide a transition between the open, semi-rural character of the Northern Road frontage and urban areas of Glenmore Park, and
- (ii) to protect and promote a low density settlement pattern which—
 - (A) recognises the importance of conserving the semi-rural land use pattern and image of the gateways into the urban areas of the City of Penrith located within the vicinity of the Northern Road, and
 - (B) provides sufficient flexibility for dwelling siting and orientation of allotments to minimise the visual impact of development and overcome noise constraints.

(b) (i) Without development consent

- bed and breakfast establishments
- bushfire hazard reduction
- home activities

(b) (ii) Only with development consent

- agriculture
- buildings or other structures ordinarily associated with dwelling houses
- changes of building use (as defined in the Act)
- demolition of buildings or other structures
- drains
- dual occupancies
- dwelling houses
- home businesses
- roads
- structural or internal alterations to bed and breakfast establishments
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 3 (f) Mixed Uses

(a) Objectives of the zone

- (i) to provide employment generating land uses in the immediate vicinity of a railway station, and
- (ii) to allow a range of compatible ground level commercial, entertainment, leisure, community and cultural land uses, in conjunction with multi-unit housing above, and
- (iii) to maximise densities of multi-unit housing around a railway station, and

- (iv) to provide a high quality forecourt to a railway station, including pedestrian and vehicle access, that integrates existing trees into a landscaped urban space, and
- (v) to permit development up to four storeys in height, and
- (vi) to minimise any adverse impacts on residential amenity caused by operating hours, noise, lack of privacy, vehicular or other actors so as to preserve quality of life for residents in the area.

(b) (i) Without development consent

- bed and breakfast establishments
- business identification signs
- home activities

(b) (ii) Only with development consent

- advertising structures
- backpackers hostels
- changes of building use (as defined in the Act)
- demolition of buildings or other structures
- drains
- carparking
- child care centres
- commercial premises
- community centres
- general stores
- educational establishments
- external building work associated with an existing land use carried out with consent
- guesthouses
- home businesses
- multi-unit housing
- places of worship
- places of assembly
- public parks and gardens
- recreation facilities
- recreation areas
- restaurants
- roads
- shops
- structural or internal alterations to a building or other structure erected with consent or building approval
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 5 (a) Special Uses

(a) Objectives of the zone

To facilitate certain development on land which is, or is proposed to be, used by public authorities, institutions, organisations or the council to provide and protect services, utilities or transport facilities and associated activities.

(b) (i) Without development consent

Nil

(b) (ii) Only with development consent

- the particular purpose indicated by lettering on the map and any purpose ordinarily incidental or ancillary to that purpose
- drains
- landscaping
- public parks and gardens
- roads
- utility installations
- utility undertakings

(b) (iii) Prohibited

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

Zone No 5 (b) Local Road and Local Road Widening

(a) Objectives of the zone

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

(b) (i) Without development consent

- road widening
- roads

(b) (ii) Only with development consent

- drains
- landscaping
- parking areas
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 5 (c) State Road and State Road Widening

(a) Objectives of the zone

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

(b) (i) Without development consent

- road widening
- roads

(b) (ii) Only with development consent

- drains
- landscaping
- parking areas
- pedestrian bridges
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 6 (a) Public Recreation and Community Uses

(a) Objectives of the zone

- (i) to provide for a range of open space, recreational, drainage and community uses, and
- (ii) to ensure that development—
 - (A) is for a purpose that promotes or is related to the use and enjoyment of open space, and
 - (B) does not substantially diminish public use of or access to open space, and
 - (C) does not adversely affect the natural environment, any items or areas of heritage significance or the existing amenity of the area, and
 - (D) does not adversely affect the public infrastructure located on the land.

(b) (i) Without development consent

- bushfire hazard reduction
- drains
- works for the purpose of gardening and landscaping

(b) (ii) Only with development consent

- buildings for the purpose of gardening and landscaping
- child care centres
- community facilities
- flood mitigation works
- kiosks
- public buildings
- recreation areas
- recreation facilities
- restaurants
- roads
- uses or buildings specifically permitted by an adopted plan of management for the land prepared pursuant to the [Local Government Act 1993](#) and which are under the care, control and management of the council
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 6 (b) Proposed Public Recreation and Community Uses

(a) Objectives of the zone

To reserve land for a variety of open space, recreational and community pursuits.

(b) (i) Without development consent

- bushfire hazard reduction
- works for the purpose of gardening and landscaping

(b) (ii) Only with development consent

- buildings for the purpose of gardening and landscaping
- child care centres
- community facilities
- drains
- flood mitigation works
- recreation areas
- recreation facilities
- roads
- uses or buildings specifically permitted by an adopted plan of management for the land prepared pursuant to the [Local Government Act 1993](#) and which are under the care, control and management of the council
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 6 (c) Private Recreation

(a) Objectives of the zone

To provide and maintain land for a variety of recreational and community pursuits.

(b) (i) Without development consent

- bushfire hazard reduction
- works for the purpose of gardening and landscaping

(b) (ii) Only with development consent

- buildings for the purpose of gardening and landscaping
- child care centres
- clubs
- community facilities
- drains
- flood mitigation works
- motels
- recreation areas
- recreation facilities
- restaurants
- roads
- uses or buildings specifically permitted by an adopted plan of management for the land prepared pursuant to the [Local Government Act 1993](#) and which are under the care, control and management of the council
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 6 (d) Regional Open Space

(a) Objectives of the zone

- (i) to reserve land for regional open space, and
- (ii) to ensure that development—
 - (A) is for a purpose that promotes or is related to the use and enjoyment of open space, and
 - (B) does not substantially diminish public use of or access to open space, and
 - (C) does not adversely affect the natural environment, any items or areas of heritage significance or the existing amenity of the area.

(b) (i) Without development consent

- bushfire hazard reduction
- drains
- works for the purpose of gardening and landscaping

(b) (ii) Only with development consent

- buildings for the purpose of gardening and landscaping
- child care centres
- flood mitigation works
- kiosks
- recreation areas
- recreation facilities
- restaurants
- roads
- uses or buildings specifically permitted by an adopted plan of management for the land prepared pursuant to the [Local Government Act 1993](#) and which are under the care, control and management of the council
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 7 (a) Flora and Fauna Conservation

(a) Objectives of the zone

- (i) to reserve land for the purpose of biodiversity protection, and
- (ii) to conserve, restore and enhance native fauna and flora habitat and the ecological viability of the land identified for biodiversity protection purposes, and
- (iii) to conserve any Aboriginal heritage values of the land, and
- (iv) to enable development of the land only where it can be demonstrated that the development will not destroy, damage or compromise the extent, quality or integrity of the ecological or Aboriginal heritage

attributes of the land.

(b) (i) Without development consent

Nil

(b) (ii) Only with development consent

- bushfire hazard reduction (not in accordance with a plan of management)
- drains
- environmental protection works
- fencing
- pedestrian pathways
- any other works or structures, only where compatible with the zone objectives.

(b) (iii) Prohibited

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

Zone No 10 (a) Mixed-Use—Residential

(a) Objectives of the zone

- (i) to provide for a residential environment that is vibrant, attractive and safe for residents and visitors, and
- (ii) to provide a safe and efficient pedestrian access that directly links people with public transport facilities, housing and employment areas and the surrounding education precinct, and
- (iii) to create a public transport node that provides opportunity for a range of transport services and access to the proposed university railway station, and
- (iv) to promote opportunities for a range of housing types, including affordable housing, and
- (v) to promote residential development at a density which maximises the benefits of proximity to public transport, and
- (vi) to integrate recreational, community and educational activities, and

(vii) to permit retail or commercial activities that do not undermine the regional, district and local commercial centre hierarchy, and

(viii) to conserve areas of biological diversity, heritage significance and environmental sensitivity.

(b) (i) Without development consent

- bushfire hazard reduction
- home activities

(b) (ii) Only with development consent

- backpacker's hostels
- bed and breakfast establishments
- child care centres
- commercial premises
- community facilities
- drains
- dual occupancies
- dwelling houses
- general stores
- guesthouses
- health care consulting rooms
- home businesses
- motels
- multi-unit housing
- parking areas
- pedestrian bridges
- places of assembly
- places of worship
- public parks and gardens
- recreation areas
- restaurants
- roads
- serviced apartments
- shops
- transport interchanges
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Zone No 10 (b) Mixed-Use—Employment

(a) Objectives of the zone

- (i) to provide for an employment environment that is prosperous, vibrant, attractive and safe, and
- (ii) to promote opportunities for a range of businesses capable of generating employment in high technology developments, and
- (iii) to provide a safe and efficient access that directly links employment generating activities with the local and regional marketplace and the surrounding education precinct, and
- (iv) to promote the use of public transport, and
- (v) to ensure compatibility of development with the surrounding built form, and
- (vi) to ensure employment uses integrate with surrounding residential, recreational and educational activities, and
- (vii) to conserve areas of biological diversity, heritage significance and environmental sensitivity, and
- (viii) to ensure development recognises existing prominent landscape features and vistas, and
- (ix) to promote development that provides a high density of employment to take advantage of the proximity to the proposed railway station.

(b) (i) Without development consent

- bushfire hazard reduction

(b) (ii) Only with development consent

- advertising structures
- child care centres
- commercial premises
- drains
- education establishments
- high technology development
- hospitals
- motels
- parking areas
- pedestrian bridges
- public parks and gardens
- recreational facilities
- roads
- utility installations
- utility undertakings

(b) (iii) Prohibited

Any land use other than those included in items (b) (i) and (b) (ii).

Part 4 Development controls for residential and rural-residential zones

10 Subdivision controls generally

- (1) The objectives of this clause are to prescribe minimum lot areas and minimum lot widths for land within a residential or rural-residential zone that will—
 - (a) provide for development that promotes housing choice,
 - (b) encourage lot dimensions and lot areas appropriate for development permissible in each zone,
 - (c) maintain the prevailing settlement patterns in each of the residential and rural-residential zones, and
 - (d) permit “strata” subdivision of dual occupancy and multi-unit housing development.
- (2) This clause does not apply to common property or lots (within the meaning of the *Strata Schemes (Freehold Development) Act 1973*), or community property, neighbourhood property or precinct property (within the meaning of the *Community Land Development Act 1989*).
- (3) A person shall not subdivide land (whether or not occupied by buildings) or open a road without the consent of the council.

- (4) For the purposes of this clause, the area of a lot does not include the area of any access corridor or right-of-carriageway.
- (5) The council must not grant consent to subdivision of land within Zone No 2 (a1), 2 (a), 2 (b), 2 (c), 2 (d) or 2 (e) unless the area and width of each of the resultant lots will be in accordance with the controls for the zone set out in Table 1 below—

Table 1 General Subdivision Controls

Zone No	Standard lot		Internal lot	
	minimum area	minimum width	minimum area	minimum width
2 (a1)	600 m ²	20 m	700 m ²	20 m
2 (a)	600 m ²	15 m	700 m ²	20 m
2 (b)	550 m ²	15 m	650 m ²	15 m
2 (c)	475 m ²	12 m	525 m ²	15 m
2 (d)	400 m ²	12 m	450 m ²	15 m
2 (e)	400 m ²	10 m	450 m ²	12 m

- (6) Despite the provisions of subclause (5), the council may consent to development that involves a subdivision of land in Zone No 2 (c), 2 (d) or 2 (e) that creates lots with smaller areas or narrower widths than the minimum areas or widths specified in Table 1, but only if—
- (a) the development proposed includes the erection of at least one dwelling on each lot in the site area, or
 - (b) the development proposed is the subdivision of an existing or consented to dual occupancy or multi-unit housing.
- (7) The council must not consent to the subdivision of land (whether or not occupied by buildings) within Zone No 2 (r1) unless—
- (a) each allotment to be created has an area of not less than 4,000 square metres, and
 - (b) it is satisfied that the size of each of those allotments is adequate, after having regard to the requirements of the Department of Health and to any development control plan relating to stormwater and waste water management.
- (8) The council must not grant consent to a subdivision of land (whether or not occupied by buildings) within Zone No 2 (r) unless—
- (a) each allotment to be created will have an area of not less than 4,000 square metres and the total number of allotments will not exceed one for each hectare of

land being subdivided, and

- (b) it is satisfied that the size of each of those allotments is adequate, after having regard to the requirements of the Department of Health and to any development control plan relating to stormwater and waste water management, and
- (c) the subdivision maintains the semi-rural character of the locality.
- (d) (Repealed)

10A Subdivision of certain rural residential land at Glenmore Park

- (1) This clause applies to the land shown edged heavy black on the map marked "*Penrith Local Environmental Plan 1998 (Urban Land) (Amendment No 19)—The Northern Road, Glenmore Park*" that is within Zone No 2 (r).
- (2) Despite any other provision of this plan but subject to subclause (5), the council may consent to the subdivision of land to which this clause applies for the purposes of creating allotments, with each allotment to be of an area not less than one hectare.
- (3) The council must not consent to the subdivision of land to which this clause applies (whether or not occupied by buildings) unless—
 - (a) the subdivision maintains the semi-rural character of the locality, and
 - (b) it is satisfied that adequate arrangements have been made for stormwater and waste water management, and
 - (c) new vehicular access to allotments created is provided by a road other than Bradley Street and The Northern Road.
- (4) Despite subclause (3) (c), the council may allow permanent vehicular access to Bradley Street or The Northern Road if the council is satisfied that—
 - (a) alternative access to the development is neither practicable nor provided by another road or proposed road identified in a development control plan, or
 - (b) in the case of properties with existing vehicular access and frontage to Bradley Street or The Northern Road, the vehicular access is restricted to one driveway only.
- (5) This clause does not apply in relation to Development Application No 02/1186 (which proposes a 20-lot rural/residential subdivision of land at The Northern Road, Glenmore Park, being Lots 3-6, DP 26658, Lot 3, DP 1067073, Lot 101, DP 597243, Lot 103, DP 1050042, Lot 1, DP 551558 and Lots 1 and 2, DP 1067082).

11 Site controls for dual occupancy and multi-unit housing development

- (1) The objectives of this clause are to—

- (a) prescribe minimum lot areas and lot widths for certain development in Zones Nos 2 (a1), 2 (a), 2 (b), 2 (c), 2 (d) and 2 (e) that will—
- (i) allow development that promotes housing choice, and
 - (ii) preserve available development potential for multi-unit housing, and
 - (iii) achieve an appropriate separation between buildings and site boundaries, and
- (b) preserve the amenity of internal residential lots by limiting dual occupancy development to standard lots only.
- (2) Despite any other provision of this plan, the council must not consent to dual occupancy on an internal lot in Zone No 2 (a1), 2 (a) or 2 (b).

- (3) The council must not grant consent to the erection of a building in a residential zone for the purpose of a dual occupancy unless that building will be located on a lot with an area that is in accordance with the controls for the zone set out in Table 2 below—

Table 2 Site Controls for Dual Occupancy

Zone No	Attached: minimum area		Detached: minimum area	
	standard lot	internal lot	standard lot	internal lot
2 (a1)	750 m ²	not permissible	850 m ²	not permissible
2 (a)	750 m ²	not permissible	850 m ²	not permissible
2 (b)	650 m ²	not permissible	750 m ²	not permissible
2 (c)	550 m ²	600 m ²	650 m ²	700 m ²
2 (d)	550 m ²	600 m ²	650 m ²	700 m ²
2 (e)	550 m ²	600 m ²	650 m ²	700 m ²

- (4) The council must not grant consent for the erection of multi-unit housing within Zone No 2 (c), 2 (d) or 2 (e) unless that housing will be located on a lot with an area and a width that is in accordance with the controls for the zone set out in Table 3 below—

Table 3 Site Controls for Multi-unit Housing

Zone No	Standard lot minimum area	Internal lot minimum area	Minimum lot width
2 (c)	800 m ²	900 m ²	15 m
2 (d)	800 m ²	900 m ²	18 m
2 (e)	800 m ²	900 m ²	20 m

- (5) For the purposes of this clause, the area of a lot does not include the area of any access corridor or right-of-carriageway.

12 Building envelopes, heights, landscaped areas and rear boundary setbacks for development that requires consent

- (1) The objective of this clause is to prescribe building envelopes, external wall heights, landscaped areas and rear boundary setbacks which—
 - (a) achieve site-responsive development at a scale which is compatible with existing housing in the locality by controlling visual impacts relating to height and bulk, and
 - (b) minimise the impact of loss of privacy, overshadowing and loss of views, and
 - (c) achieve an appropriate separation between buildings and site boundaries and preserve private open space corridors along rear fence lines, and
 - (d) protect and enhance the environmental features, which are characteristic of each of the residential zones, by requiring sufficient space on-site for effective landscaping and on-site stormwater detention.
- (2) For the purposes of this clause—

building envelope for a site means a height plane over the site at 45 degrees from a specified height above natural ground level at the side boundaries of the site, as described in Diagram 1.

external wall height of a building means the vertical distance measured between natural ground level at any point at which the building is sited and the topmost point of any external or enclosing wall within the development site, but excluding the sides and faces of any dormer windows, as described in Diagram 1.

landscaped area, of a site, means that part of the site not occupied by a building and which is predominantly landscaped with gardens, lawns, shrubs and trees and is available for the use and enjoyment of the occupants of the site. It does not include areas used for driveways, parking areas, garbage storage areas or any area less than 2 metres wide, except a verge at least 1 metre wide that is located next to a driveway and landscaped with trees and shrubs, but may include a verandah associated with a landscaped area.

verandah associated with a landscaped area means a verandah that—

- (a) is attached to a dwelling, and
 - (b) is associated with a landscaped area that is designated open space for that dwelling and which is not greater than 15m² in area.
- (3) The council must not grant consent to development that involves the erection of a building in Zone No 2 (a1), 2 (a), 2 (b), 2 (c), 2 (d) or 2 (e) unless the building is wholly within the building envelope, and does not contravene the maximum external wall

height or minimum landscaped area, for the zone calculated in accordance with Table 4 below—

Table 4

Zone No	Building envelope specified height at side boundary	Maximum external wall height	Minimum landscaped area
2 (a1)	1.8 m	6.5 m	60%
2 (a)	1.8 m	6.5 m	50%
2 (b)	1.8 m	6.5 m	50%
2 (c)	1.8 m	3.5 m	40%
2 (d)	1.8 m	6.5 m	40%
2 (e)	6.5 m	10.5 m	35%

- (4) The council must not grant consent to development that involves the erection of a building unless—
- (a) that building is set back at least 6 metres from the rear boundary of the site or, in the case of a single storey building in Zone No 2 (a), 2 (b), 2 (c), 2 (d) or 2 (e), at least 4 metres from the rear boundary of the site, and
 - (b) the land within the rear boundary setback is used for the purposes of landscaped area only.
- (5) Despite any other provision of this plan, the council must not grant consent to development which involves—
- (a) the erection of a second dwelling on an allotment in Zone No 2 (a) or 2 (b) on which there is an existing dwelling house if the external wall height of the second dwelling will exceed 3.5 metres, or
 - (b) the erection of two detached dwellings on a vacant allotment in Zone No 2 (a) or 2 (b) if the external wall height of the dwelling furthest from the street exceeds 3.5 metres, or
 - (c) a dual occupancy on an allotment in Zone No 2 (r) or 2 (r1) unless the dwellings are attached, or
 - (d) the erection of a building for the purpose of a dual occupancy on an allotment in Zone No 2 (a1) if that building exceeds one storey.
- (6) Despite any other provisions of this clause, the council may consent to a building which is not wholly within the relevant building envelope or contravenes the maximum wall height control if, in the opinion of the council, the application demonstrates that a

variation to those controls is necessary to improve the design, external appearance or utility of the proposed building.

- (7) Despite any other provision of this clause, the council may consent to the erection of a non-habitable building or structure ordinarily associated with a dwelling-house that does not comply with the requirements of this clause if, in the council's opinion, the proposed building or structure will have a minimal adverse impact on the subject site and any adjoining site.

Diagram 1 Building Envelopes and Maximum Wall Heights for each of the Residential Zones

(Clause 12 (2))

13 Provisions for environmental performance in development generally

- (1) The objectives of this clause are to—
 - (a) achieve effective environmental performance of development generally, and
 - (b) reduce the consumption of energy used in the habitation of multi-unit housing by ensuring that solar design principles are followed in the development.
- (2) The council must not grant consent to development that involves the erection of multi-unit housing if, in the opinion of the council, that development—
 - (a) will not allow for at least 3 hours of direct sun to the windows of living areas of the housing between 9am and 3pm on June 21, or
 - (b) will reduce direct sun to the windows of neighbouring living areas to less than 3 hours between 9am and 3pm on June 21, or
 - (c) will not include roof and top floor ceiling insulation to an equivalent thermal rating of at least R3.0 and wall insulation to an equivalent thermal rating of at least R1.5, or
 - (d) will not include protection from the entry of summer sunlight by shading devices on external openings to habitable rooms.
- (3) The council must not consent to development unless the council is of the opinion that the proposed development has taken into account the following—
 - (a) the provisions of any development control plan relating to environmental noise, including impacts on both generators and receivers of noise, and
 - (b) the reduction of contaminated stormwater discharge from the site.

14 Provision for design principles in development generally

The council must not consent to development unless the council is of the opinion that the proposed development has taken into account the following—

- (a) reinforcement and protection of local topography and setting,
- (b) reflection of the forms, features or qualities of traditional residential neighbourhoods across Penrith local government area,
- (c) consistency or compatibility with the scale, design and amenity of neighbouring development,
- (d) contribution to attractive streetscapes through the diversity of building forms and landscaped areas that can be seen from any public place nearby,
- (e) provision for contemporary standards of amenity within each dwelling and the

associated private open space,

- (f) preservation and enhancement of any significant vista that currently might be available from a public place nearby.

14A Provision for master plans

- (1) In this clause, **master plan** means a document consisting of written information, maps and diagrams that—
 - (a) establishes provisions for the development of land zoned residential in greater detail than the provisions of this plan, and
 - (b) explains how the objectives and provisions of this plan are addressed, and
 - (c) addresses matters from the range specified in subclause (4) that are relevant to the future development of the land.
- (2) Despite any other provision of this plan, the council must not grant consent to residential development on land within Zone No 2 (a1), (a), (b), (c), (d) or (e) where that land exceeds 3,000m² unless—
 - (a) the council is satisfied that the development is of a minor nature and ancillary to the current use of the land, or
 - (b) the development is for public infrastructure, a utility installation or housing under [State Environmental Planning Policy No 5—Housing for Older People or People with a Disability](#), or
 - (c) the council has adopted a master plan for the land and has taken the master plan into consideration, or
 - (d) the land is identified as an urban release area under the Government's Metropolitan Development Program or is within a release area known as North Penrith Urban Area, Werrington Mixed Use Area or Claremont Meadows Stage 2.
- (3) A draft master plan for land may be prepared by, or on behalf of, the owner or lessees of the land following consultation with the council.
- (4) A master plan is to address, illustrate and explain the matters that the council determines are relevant to the future residential development of the land, and must include the following—
 - (a) urban design principles derived from analysis of the property and the character of its surroundings,
 - (b) conservation of cultural heritage and compatibility with the character of established neighbourhoods in Penrith City,

- (c) conservation of natural features and biodiversity,
 - (d) protection of natural hazards, including flooding, bushfire and ground salinity,
 - (e) distribution of land uses and open space,
 - (f) provision of access for pedestrians, cyclists, road vehicles and public transport,
 - (g) controls for private landscapes and built form,
 - (h) safety and amenity of residential areas and the public domain,
 - (i) provision of on-site carparking,
 - (j) provision of service infrastructure,
 - (k) provision of public facilities,
 - (l) landscaping and improvements to the public domain,
 - (m) management of stormwater drainage and minimisation of water quality impacts,
 - (n) contribution to energy efficiency,
 - (o) staging of future development,
 - (p) proposed patterns of subdivision.
- (5) After receiving a draft master plan, the council must—
- (a) advertise the draft masterplan in a newspaper circulating in the locality and exhibit it for public comment at the council’s office for not less than 21 days, and
 - (b) consider any written submissions about the draft master plan made during the exhibition period.
- (6) After considering a draft master plan and any written submission made about the plan, the council may—
- (a) adopt the master plan without variation, or
 - (b) adopt the master plan with such variations as it considers appropriate, or
 - (c) reject the master plan.
- (7) If a draft master plan for land—
- (a) has not been adopted (whether with or without variation) by the council within 90 days after it was received by the council, or
 - (b) has been rejected by the council,

then subclause (2) does not apply to the land.

- (8) Where but for subclause (7) the provisions of subclause (2) would have applied to an application to carry out residential development, the applicant must submit with the application a detailed assessment of such of the matters in subclause (4) as relate to the development.
- (9) The council must not grant consent to an application to carry out residential development referred to in subclause (8) unless the council is satisfied that the applicant has satisfactorily addressed such of the matters in subclause (4) as relate to the development.
- (10) A master plan may be amended or replaced by a subsequent master plan.

Part 5 Miscellaneous

15 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 3, subject to the conditions, if any, specified in that Schedule for the development.

16 Activities unaffected by this plan

Nothing in this plan restricts, prohibits or requires development consent for—

- (a) the use of existing buildings under the control of the Crown by the Crown, or
- (b) any activity listed in Schedule 4.

17 Provision of community services and infrastructure

The council must not grant consent to development unless the council has considered whether adequate support services and utilities are or will be available to the site of the proposed development within a reasonable time.

18 Temporary use of land

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

19 Development near the boundary of adjoining zones

- (1) This clause applies to land which is within 20 metres of a boundary between any two zones.

- (2) Despite clause 9, but subject to subclause (3), the council may grant consent for development on land to which this clause applies for any purpose for which development may be carried out in the adjoining zone.
- (3) The council must not consent to development as referred to in subclause (2) unless the carrying out of the development is desirable, in the opinion of the council, due to planning, design, ownership, servicing or similar requirements relating to the development of land to which this plan applies.

19A Acquisition of land

Nothing in this plan is to be construed as requiring an authority of the State to acquire land, except as required by Division 3 of Part 2 of the *Land Acquisition (Just Terms Compensation) Act 1991*.

20 Acquisition of land reserved for roads

- (1) In this clause and clause 21—

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 21 (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, tables, 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 the receipt of the notice or that is at Gipps Street, Claremont Meadows, 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) (Repealed)
 - (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.

21 Development of land reserved for roads

- (1) Despite clause 9, a person may, with the consent of the council, carry out development on land within Zone No 5 (c) if the development may be carried out on land within an adjoining zone created by this plan.
- (2) (Repealed)
- (3) Land acquired under clause 20 may be developed, with the consent of the council, 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.

22 Acquisition of land within Zone No 5 (b), 6 (b) or 7 (a)

- (1) The owner of any land within Zone No 5 (b), 6 (b) or 7 (a), may, by notice in writing, require the council to acquire the land.
- (2) On receipt of a notice referred to in subclause (1), except during the currency of a consent granted pursuant to clause 23, the council must acquire the land.

23 Development of land within Zone No 5 (b) or 6 (b)

- (1) Despite clause 9, the council may consent to development of land within Zone No 5 (b) or 6 (b) for any purpose where, in the opinion of the council—
 - (a) the land cannot be used within a reasonable time for the purposes for which the land is zoned, or
 - (b) the land is surplus to the area of land needed for the purposes for which the land is zoned, or
 - (c) the land has been developed for the purposes for which it is zoned and the proposed development is compatible with those purposes.
- (2) A consent referred to in subclause (1) shall not be granted unless the council is satisfied that any necessary arrangements have been made (whether by the imposition of conditions on the consent or otherwise) with respect to each of the following—
 - (a) the removal or alteration of any building, work or excavation to be erected or carried out on the land pursuant to the consent, and
 - (b) the reinstatement of the land, and
 - (c) the removal of any waste material or refuse from the land.
- (3) Nothing in this plan prohibits on land referred to in subclause (1)—
 - (a) the erection of a fence without development consent, or

(b) with the consent of the council, the erection or construction of a utility installation.

24 Acquisition of land within Zone No 6 (d) by the corporation

- (1) The owner of any land within Zone No 6 (d) (the Regional Open Space zone) may, by notice in writing, require the corporation to acquire the land.
- (2) Upon receipt of the notice, the corporation shall acquire the land to which the notice relates.

25 Community use of educational establishments and tertiary institutions

Despite clause 9, the council may grant consent for—

- (a) the community use of the facilities and sites of schools, colleges, other educational establishments and tertiary institutions, 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, other educational establishments and tertiary institutions, whether or not the development is ancillary to those purposes.

26 Additional matters for consideration for development in Zone No 6 (a), 6 (b) or 6 (d)

In determining an application for consent to carry out development on land within Zone No 6 (a), 6 (b) or 6 (d), the council must take the following matters into consideration—

- (a) the need for the proposed development on the land, and
- (b) the impact of the proposed development on the existing or likely future use and character of the land, and
- (c) whether any proposed building will be secondary and complementary to the existing or proposed use of the land as public open space, and
- (d) whether the proposal will substantially diminish public use of, and access to, open space, and
- (e) whether the proposal is compatible with adjacent uses in relation to its height, bulk and noise generation and any other aspects that might conflict with surrounding land uses, and
- (f) whether the proposal is consistent with a plan of management applying to the land under Division 2 of Part 2 of Chapter 6 of the [Local Government Act 1993](#).

27 (Repealed)

28 Tree preservation

- (1) A person must not ringbark, cut down, poison, dig up, top, lop, remove, injure, or wilfully destroy any tree or vegetation by any action (including 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 where—
 - (a) the tree is dead, or
 - (b) the tree is a declared noxious weed under the *Noxious Weeds Act 1993*, or
 - (c) the tree is less than five 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 within a timber plantation, or
 - (e) the tree is of a species identified in a development control plan as having potential to cause damage to foundations and sewer lines, or is of a species that is identified as undesirable.
- (3) This clause does not apply to tree trimming, tree removal or other similar measures carried out by an electricity authority, if the work being undertaken is in accordance with a tree management plan agreement approved by the council.

29 Prohibited access

- (1) Except as provided in subclause (2), the creation of a vehicular crossing in, on or through the boundary of any land shown on the map with the notation “Vehicular access denied” and marked on the map with a series of heavy black dots is prohibited.
- (2) Despite subclause (1), the council may grant a consent for development that involves such a vehicular crossing where it is satisfied that carrying out the development would be impracticable unless direct vehicular access is provided.

30 Development on contaminated land

In determining applications for consent to carry out development, the council must take into consideration the provisions of—

- (a) the requirements of any guidelines, protocols or standards published by the Australian and New Zealand Environment and Conservation Council (ANZECC), the National Health and Medical Research Council (NH&MRC), the Environment Protection Authority (EPA) and the Department of Urban Affairs and Planning relating to contaminated land, and
- (b) any development control plan relating to contaminated land.

31 Development for the purpose of advertisements

Despite any other provisions of this plan, a person may carry out development for the purpose of any one or more of the following on any land to which this plan applies without the consent of the Council—

- (a) an internal window display,
- (b) any advertisement erected on land that is not visible from outside the land (but not an advertisement on a heritage item or on a site within a heritage conservation area),
- (c) a temporary advertisement, being one which is displayed for a period not exceeding 2 months in total in any one year,
- (d) a public notice in a public place,
- (e) a road safety or advisory sign,
- (f) a specific sign directing the travelling public to buildings or places of tourist interest.

32 Flood liable land

- (1) The council must not consent to the carrying out of any development on or adjacent to flood liable land unless the provisions of any council policy for the development of flood liable land have been taken into consideration.
- (2) The council must not consent to an application to carry out any development (other than flood mitigation works or drains) which in its opinion will significantly—
 - (a) adversely affect potential flood behaviour, including the flood peak at any point upstream or downstream of the proposed development or the flow of floodwater on adjoining lands, or
 - (b) increase the potential flood hazard or flood damage to property, or
 - (c) cause erosion, siltation or destruction of riverbank vegetation in the locality, or
 - (d) affect the water table on any adjoining land, or
 - (e) affect riverbank stability, or
 - (f) affect the safety of the proposed development in time of flood, or
 - (g) restrict the capacity of the floodway, or
 - (h) increase the need for the council, the State Emergency Service or any other Government agency to provide emergency equipment, personnel, welfare facilities or other resources associated with an evacuation resulting from flooding, or
 - (i) increase the risk to life and personal safety of emergency services and rescue

personnel, or

(j) redistribute flows across the floodplain.

(3) In considering any application for consent the council shall have regard to the need for safe access to the site of the proposed development should it become flooded.

33 Development of certain land for medical centres

(1) This clause applies to land shown hatched on the map.

(2) Despite clause 9, a person may, with the consent of the council, carry out development on the land to which this clause applies for the purpose of a medical centre.

34 Consent required for subdivisions

Land to which this plan applies may be subdivided only with development consent.

35 Development of land at North Penrith

(1) This clause applies to land shown edged heavy black on Sheet 1 of the map marked *Penrith Local Environmental Plan 1998 (Urban Land) (Amendment No 3) North Penrith*.

(2) The objectives of this clause are—

- (a) to provide a planning framework which allows for sustainable development of the land,
- (b) to encourage mixed use development which enhances the gateway location of the land in relation to Penrith and, in particular, to provide for high quality development adjacent to the Penrith Railway Station,
- (c) to encourage the development of retail and office uses without adversely impacting on the economic potential of the adjacent Penrith City Centre,
- (d) to promote the principles of mixed land use development and transit orientation,
- (e) to encourage sufficient employment generating development that balances the potential supply of housing,
- (f) to provide social and cultural facilities that cater for the specific needs of the home based business industry and future residents,
- (g) to ensure that traffic issues are adequately addressed in the development of the land,
- (h) to incorporate adequate community safety and crime prevention measures in the development of the land,

- (i) to provide for the conservation, management and commemoration of the heritage and historic features of the land,
 - (j) to make provision for the appropriate use of the building known as “Thornton Hall” and its curtilage, and
 - (k) to minimise any adverse impact on residential amenity by devising appropriate assessment criteria and applying specific impact mitigation requirements in accordance with any development control plan.
- (3) The council must not grant consent to development on land to which this clause applies unless it is satisfied that the development—
- (a) complies with the objectives of this clause,
 - (b) adequately addresses the means by which services and facilities will be provided for the incoming population,
 - (c) minimises any nuisance generated by non-residential development, such as is caused by operating hours, noise, loss of privacy, vehicular and pedestrian traffic or other factors, so as to preserve the quality of life for residents both within the proposed development and in the vicinity.
- (4) The council must not grant consent to development on land to which this clause applies unless there has been submitted to and adopted by council—
- (a) a Local Area Traffic Management Plan, and
 - (b) a Heritage Management Plan, and
 - (c) a Heritage Interpretation Strategy, and
 - (d) a Community Safety and Crime Prevention Strategy,
- applying to that land, and the development is consistent with these plans and strategies.
- (5) For the purposes of this clause—
- Heritage Interpretation Strategy*** means a strategy which—
- (a) defines the land and places to which the heritage interpretation strategy relates,
 - (b) describes the cultural landscapes, history and heritage assets located on that land,
 - (c) describes the significance of the cultural landscape history and heritage assets on that land,
 - (d) provides strategies for the commemoration and communication of the heritage

significance of the land and heritage assets located thereon,

- (e) includes indicative designs and concept sketches for recommended methods of commemorating key historical site uses,
- (f) recommends appropriate construction materials, production methods and siting to be adopted in implementing heritage commemoration strategies, and
- (g) has been adopted by council (including any amendments to that plan endorsed by resolution of council).

Heritage Management Plan means a plan which—

- (a) describes the heritage assets located on the land and their significance,
- (b) specifies policies and plans for the conservation and management of those heritage assets,
- (c) has been prepared in accordance with the heritage requirements contained in Section 6.28 (North Penrith) of Part 6 (Site and Area Specific Controls) of *Penrith Development Control Plan 2006*, as adopted by the council on 21 August 2006, to the extent that those requirements apply to those heritage assets, and
- (d) has been adopted by council (including any amendments to the plan endorsed by resolution of council).

36 Thornton Hall and land in the vicinity

- (1) The council must not grant consent to development which may affect the building known as Thornton Hall or its curtilage unless a Heritage Conservation Plan applying to that building or curtilage has been submitted to and adopted by council and the development is consistent with that Plan.
- (2) Despite any other provision of this plan, the council may grant consent to car parking within Zone Nos 2 (a) and 2 (d) in conjunction with the use of the building known as “Thornton Hall”.
- (3) Despite any other provision of this plan, the council must not consent to development on land shown cross-hatched on the map if that development exceeds one storey or utilises attic space as living space.
- (4) For the purposes of this clause **Heritage Conservation Plan** means a plan which applies to all or part of Thornton Hall and its curtilage which—
 - (a) describes the significance of Thornton Hall and its curtilage,
 - (b) describes the conservation policies required to conserve the significance and values described in paragraph (a),

- (c) describes the preferred uses at the building and its curtilage and the works involved that will minimise the impact on the heritage significance of Thornton Hall and its curtilage (or any part thereof),
- (d) has been prepared in accordance with the requirements for European heritage contained in Section 6.28 (North Penrith) of Part 6 (Site and Area Specific Controls) of *Penrith Development Control Plan 2006*, as adopted by the council on 21 August 2006, to the extent that those requirements apply to Thornton Hall and its curtilage, and
- (e) has been adopted by council (including any amendments to that plan endorsed by resolution of council) whether as part of any master plan applicable to that land, or on its own.

37 Land in the vicinity of Combewood

Despite any other provision of this plan, the land shown stippled on Sheet 1 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.

37A Claremont Meadows Stage 2

- (1) This clause applies to land shown edged heavy black on the map marked "*Penrith Local Environmental Plan 1998 (Urban Land) (Amendment No 14)*".
- (2) The objectives for development on land to which this clause applies are set out in Part 1 of Schedule 5.
- (3) The controls for development on land to which this clause applies are set out in Part 2 of Schedule 5.

38 Development of the Werrington Mixed-Use Area

- (1) This clause applies to land shown edged heavy black on Sheet 1 of the map marked "*Penrith Local Environmental Plan 1998 (Urban Land) (Amendment No 13)—Werrington Mixed-Use Area*".
- (2) The objectives of this clause are as follows—
 - (a) to permit a balanced mix of land uses that optimise employment opportunities for the City of Penrith and Western Sydney by allocating an area of 8 ha for mixed uses with an employment focus and an area of 6 ha for mixed uses with a residential focus, excluding land required for drainage, bushland conservation and transport interchange purposes,
 - (b) to promote business activities involved in high technology development which facilitates links to surrounding tertiary institutions,

- (c) to enhance the environmental qualities of the site and its locality by identifying a conservation area associated with the woodland and creek,
 - (d) to establish a transport interchange to service the proposed university railway station.
- (3) The council must not grant consent to development on land to which this clause applies unless it is satisfied the development demonstrates the following—
- (a) a high degree of accessibility, that is safe and direct, both within the site and between the surrounding residential areas and educational institutions,
 - (b) extensive provision has been made for pedestrian, vehicular and public transport access to and egress from the transport interchange,
 - (c) no direct vehicular access to development fronting the Great Western Highway,
 - (d) active street frontages with a high degree of surveillance along French Street,
 - (e) a high level of pedestrian amenity, including provision of pathways and cycleways within the site, and to and from surrounding development,
 - (f) a high level of environmental performance of buildings (including water management and energy efficiency),
 - (g) substantial compliance with the structure plan.
- (4) The council must not grant consent to development on land to which this clause applies unless it has taken into account the following (to the extent that they are relevant to the proposed development)—
- (a) whether the development enhances and protects the environmental qualities of watercourses, riparian land, remnant bushland and biological corridor linkages,
 - (b) whether the development provides employment opportunities, particularly high technology developments,
 - (c) whether the development provides for the delivery of community facilities, services and recreational opportunities,
 - (d) in the case of any proposed residential or other development located in the vicinity of the Main Western Railway Line or the Great Western Highway, the impact of noise or vibration on any such development.
- (5) Nothing in this plan prevents the council from consenting to the subdivision of land to which this clause applies for the following purposes—
- (a) the extension of French Street north to the railway line,

- (b) the identification or allocation of land for the purposes of the transport interchange to be provided in conjunction with the proposed railway station,
 - (c) the creation of a road link from French Street to the western boundary of the adjoining land, between the Werrington campus of the Western Sydney University,
 - (d) the division of a single allotment of land that is within two or more zones so as to create, in relation to each of the those zones, a single allotment that is wholly within the zone.
- (6) The council must not grant consent to development on land to which this clause applies unless it is of the opinion that the proposed development has taken into account the following matters (to the extent that they are relevant to the proposed development)—
- (a) the presence of threatened species, populations and ecological communities,
 - (b) the local and regional significance of the vegetation on the land,
 - (c) the impact of the proposed development, including the effect of clearing or bushfire mitigation measures or both or any other threatening processes, on flora and fauna species existing on or likely to utilise the land,
 - (d) any measures to be taken to ameliorate any impacts,
 - (e) the significance of any flora and fauna species, population or ecological community listed under the *Threatened Species Conservation Act 1995*,
 - (f) the requirements of any threat abatement plan under the *Threatened Species Conservation Act 1995*.

39 Exceptions to development standards

- (1) The objectives of this clause are as follows—
- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
 - (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.
- (2) Development 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.
- (3) Development 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) Development 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 Planning Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Planning Secretary 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 Planning Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone No 2 (r) Rural-Residential (1 Dwelling/Hectare) or Zone No 2 (r1) Rural-Residential if—

- (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
- (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

(7) 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).

(8) This clause does not allow development consent to be granted for development that

would contravene any of the following—

- (a) a development standard for complying development,
- (b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* applies or for the land on which such a building is situated.

40 Subdivision—consent requirements

Land to which this plan applies may be subdivided, but only with development consent.

Notes—

- 1** If a subdivision is specified as **exempt development** in an applicable environmental planning instrument, such as this plan or *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, the Act enables it to be carried out without development consent.
- 2** Part 6 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* provides that the strata subdivision of a building in certain circumstances is **complying development**.

41 Conversion of fire alarms

- (1) This clause applies to a fire alarm system that can be monitored by Fire and Rescue NSW or by a private service provider.
- (2) The following development may be carried out, but only with development consent—
 - (a) converting a fire alarm system from connection with the alarm monitoring system of Fire and Rescue NSW to connection with the alarm monitoring system of a private service provider,
 - (b) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with the alarm monitoring system of another private service provider,
 - (c) converting a fire alarm system from connection with the alarm monitoring system of a private service provider to connection with a different alarm monitoring system of the same private service provider.
- (3) Development to which subclause (2) applies is complying development if it consists only of—
 - (a) internal alterations to a building, or
 - (b) internal alterations to a building together with the mounting of an antenna, and any support structure, on an external wall or roof of a building so as to occupy a space of not more than 450mm × 100mm × 100mm.
- (4) A complying development certificate for any such complying development is subject to a condition that any building work may only be carried out between 7.00 am and

6.00 pm on Monday to Friday and between 7.00 am and 5.00 pm on Saturday, and must not be carried out on a Sunday or a public holiday.

(5) In this clause—

private service provider means a person or body that has entered into an agreement that is in force with Fire and Rescue NSW to monitor fire alarm systems.

42 Standards that cannot be used to refuse consent—playing and performing music

(1) The consent authority must not refuse consent to development in relation to licensed premises on the following grounds—

(a) the playing or performance of music, including the following—

(i) the genre of music played or performed, or

(ii) whether the music played or performed is live or amplified, or

(iii) whether the music played or performed is original music, or

(iv) the number of musicians or live entertainment acts playing or performing, or

(v) the type of instruments played,

(b) whether dancing occurs,

(c) the presence or use of a dance floor or another area ordinarily used for dancing,

(d) the direction in which a stage for players or performers faces,

(e) the decoration to be used, including, for example, mirror balls, or lighting used by players or performers.

(2) The consent authority must not refuse consent to development in relation to licensed premises on the grounds of noise caused by the playing or performance of music, if the consent authority is satisfied the noise may be managed and minimised to an acceptable level.

(3) In this clause—

licensed premises has the same meaning as in the [Liquor Act 2007](#).

43 Public bushland

(1) The objective of this clause is to protect and ensure the ecological viability of bushland, including rehabilitated areas in urban areas, by—

(a) preserving biodiversity, habitat corridors and links between public bushland and other nearby bushland, and

- (b) preserving bushland as a natural stabiliser of the soil surface, and
 - (c) preserving existing hydrological landforms, processes and functions, including natural drainage lines, watercourses, wetlands and foreshores, and
 - (d) preserving the recreational, educational, scientific, aesthetic, environmental, ecological and cultural values and potential of bushland, and
 - (e) mitigating disturbance caused by development.
- (2) Development that will disturb, or is reasonably likely to disturb, public bushland is permitted with development consent.
- (3) Development consent must not be granted to development that will disturb, or is reasonably likely to disturb, public bushland unless the consent authority is satisfied of the following—
- (a) the disturbance of the bushland is essential for a purpose in the public interest,
 - (b) there is no reasonable alternative to the disturbance,
 - (c) the development minimises the amount of bushland to be disturbed,
 - (d) the development includes measures to remediate the disturbed bushland.
- (4) Despite subclause (2), development that will disturb, or is reasonably likely to disturb, public bushland is permitted without development consent if the development is for the following purposes—
- (a) the construction, operation or maintenance of pipelines to carry water, sewerage or gas or pipelines licensed under the *Pipelines Act 1967*,
 - (b) the construction, operation or maintenance of electricity or telecommunication lines,
 - (c) bush fire hazard reduction,
 - (d) the construction or maintenance of classified roads,
 - (e) facilitating the recreational use of the public bushland.
- (5) Development specified in subclause (4)(e) is permitted without development consent only if it is carried out in accordance with a plan of management for the public bushland, adopted by the Council in the same way a plan of management is required to be adopted for community land under the *Local Government Act 1993*, Chapter 6, Part 2, Division 2, that includes measures for the following—
- (a) the recreational use of the land,
 - (b) bush fire hazard reduction,

- (c) the prevention of degradation, including the alteration of drainage patterns, rubbish dumping, vehicle intrusion and infestation with weeds or non-native plants,
 - (d) the remediation of degraded public bushland.
- (6) This clause does not require development consent for clearing of native vegetation if the clearing is of a kind that is authorised under the *Local Land Services Act 2013*, section 600.
- (7) In deciding whether to grant development consent to development on land adjoining public bushland, the consent authority must consider the following—
- (a) the need to retain public bushland adjoining the site of the development,
 - (b) the likely effect of the development on public bushland, including the following—
 - (i) the erosion of soil,
 - (ii) the siltation of streams and waterways,
 - (iii) the spread of weeds and non-native plants within public bushland,
 - (c) other matters the consent authority considers relevant to the protection and preservation of public bushland.
- (8) This clause does not apply to the following land that is public bushland—
- (a) land in Zone RU1, RU2, RU3, RU4 or RU5,
 - (b) land reserved, dedicated or acquired under the *National Parks and Wildlife Act 1974*,
 - (c) land within a State forest, flora reserve or timber reserve within the meaning of the *Forestry Act 2012*,
 - (d) land to which *State Environmental Planning Policy (Precincts—Western Parkland City) 2021*, Chapter 7 applies.
- (9) In this clause—
- disturb** public bushland means—
 - (a) remove vegetation from public bushland, or
 - (b) cause a change in the natural ecology of public bushland that results in the destruction or degradation of the public bushland.

non-native plant means a plant that is not native vegetation.

public bushland means land—

- (a) on which there is vegetation that is—
 - (i) a remainder of the natural vegetation of the land, or
 - (ii) representative of the structure and floristics of the natural vegetation of the land, and
- (b) that is owned, managed or reserved for open space or environmental conservation by the Council or a public authority.

44 Canal estate development prohibited

- (1) Canal estate development is prohibited on land to which this Plan applies.
- (2) In this clause—

canal estate development has the same meaning as in the standard instrument prescribed by the *Standard Instrument (Local Environmental Plans) Order 2006*.

Schedule 1 Relationship to other environmental planning instruments

(Clause 3 (1))

1 This plan—

- (a) repeals Interim Development Orders Nos 10, 14, 15, 20, 23, 24, 29, 31, 38, 39, 40, 43, 44, 46, 48, 49, 52, 53, 60, 67, 70, 74, 78, 79, 86, 95 and 99—City of Penrith,
- (b) repeals Penrith Local Environmental Plans Nos 37, 105, 174 and 176,
- (c) amends *Penrith Planning Scheme Ordinance* in the manner set out in item 2,
- (d) amends *Interim Development Order No 2—City of Penrith* in the manner set out in item 3,
- (e) amends *Interim Development Order No 26—City of Penrith* in the manner set out in item 4,
- (f) amends *Interim Development Order No 27—City of Penrith* in the manner set out in item 5,
- (g) amends *Interim Development Order No 28—City of Penrith* in the manner set out in item 6,
- (h) amends *Interim Development Order No 47—City of Penrith* in the manner set out in item 7,
- (i) (Repealed)
- (j) amends *Interim Development Order No 81—City of Penrith* in the manner set out in item 9,
- (k) amends *Interim Development Order No 83—City of Penrith* in the manner set out in item 10,
- (l) amends *Interim Development Order No 93—Penrith* in the manner set out in item 11,
- (m) amends *Penrith Local Environmental Plan No 43* in the manner set out in item 12,
- (n) amends *Penrith Local Environmental Plan No 85* in the manner set out in item 13,

- (o) amends *Penrith Local Environmental Plan No 96* in the manner set out in item 14,
 - (p) amends *Penrith Local Environmental Plan No 188* in the manner set out in item 15,
 - (q) amends *Penrith Local Environmental Plan No 201 (Rural Lands)* in the manner set out in item 16,
 - (r) amends *Penrith Local Environmental Plan 1994 (Erskine Park Employment Area)* in the manner set out in item 17,
 - (s) amends *Penrith Local Environmental Plan 1996 (Industrial Land)* in the manner set out in item 18.
- 2** The *Penrith Planning Scheme Ordinance* is amended by inserting at the end of clause 5 (2) the following matter—

Penrith Local Environmental Plan 1998 (Urban Land).

- 3** *Interim Development Order No 2—City of Penrith* is amended by inserting at the end of clause 1A the following words—

Penrith Local Environmental Plan 1998 (Urban Land).

- 4** *Interim Development Order No 26—City of Penrith* is amended by inserting after clause 1A the following clause—

1B Land to which this Order does not apply

This Order does not apply to the land to which the following instruments apply—

Penrith Local Environmental Plan 1998 (Urban Land).

- 5** *Interim Development Order No 27—City of Penrith* is amended by inserting after clause 1A the following clause—

1B Land to which this Order does not apply

This Order does not apply to the land to which the following instruments apply—

Penrith Local Environmental Plan 1998 (Urban Land).

- 6** *Interim Development Order No 28—City of Penrith* is amended by inserting at the end of clause 1A the following words—

Land as shown edged heavy black on the map marked “*Penrith Local Environmental Plan 1998 (Urban Land)*” deposited in the office of the Council.

- 7** *Interim Development Order No 47—City of Penrith* is amended by inserting after clause 1A the following clause—

1B Land to which this Order does not apply

This Order does not apply to the land to which the following instruments apply—

Penrith Local Environmental Plan 1998 (Urban Land).

8 (Repealed)

- 9** *Interim Development Order No 81—City of Penrith* is amended by inserting after clause 1A the following clause—

1B Land to which this Order does not apply

This Order does not apply to the land to which the following instruments apply—

Penrith Local Environmental Plan 1998 (Urban Land).

- 10** *Interim Development Order No 83—City of Penrith* is amended by inserting at the end of clause 1A the following words—

Land as shown edged heavy black on the map marked “*Penrith Local Environmental Plan 1998 (Urban Land)*” deposited in the office of the Council.

- 11** *Interim Development Order No 93—Penrith* is amended by inserting at the end of clause 1A the following words—

Land as shown edged heavy black on the map marked *Penrith Local Environmental Plan 1998 (Urban Land)* deposited in the office of the council.

- 12** *Penrith Local Environmental Plan No 43* is amended by inserting at the end of clause 3 the following subclause—

(2) This plan does not apply to the land to which the following instruments apply—

Penrith Local Environmental Plan 1998 (Urban Land).

- 13** *Penrith Local Environmental Plan No 85* is amended by inserting at the end of clause 3 the following subclause—

(2) This plan does not apply to the land to which the following instruments apply—

Penrith Local Environmental Plan 1998 (Urban Land).

- 14** *Penrith Local Environmental Plan No 96* is amended by inserting at the end of clause 3 the following subclause—

(2) This plan does not apply to the land to which the following instruments apply—

Penrith Local Environmental Plan 1998 (Urban Land).

15 *Penrith Local Environmental Plan No 188* is amended by inserting after clause 3 (2) the following subclause—

(3) This plan does not apply to the land to which the following instruments apply—

Penrith Local Environmental Plan 1998 (Urban Land).

16 *Penrith Local Environmental Plan No 201 (Rural Lands)* is amended by inserting at the end of clause 3 the following words—

This plan also does not apply to the land to which the following instruments apply—

Penrith Local Environmental Plan 1998 (Urban Land).

17 *Penrith Local Environmental Plan 1994 (Erskine Park Employment Area)* is amended by inserting after clause 3 (2) the following subclause—

(3) This plan does not apply to the land to which the following instruments apply—

Penrith Local Environmental Plan 1998 (Urban Land).

18 *Penrith Local Environmental Plan 1996 (Industrial Land)* is amended by inserting at the end of clause 3 the following subclause—

(2) This plan does not apply to the land to which the following instruments apply—

Penrith Local Environmental Plan 1998 (Urban Land).

19 *Interim Development Order No 75—City of Penrith* is amended by inserting after clause 1A the following clause—

1B Land to which this Order does not apply

This Order does not apply to the land to which the following instruments apply—

Penrith Local Environmental Plan 1998 (Urban Land).

20 *Penrith Local Environmental Plan No 52* is amended by inserting after clause 1A the following clause—

1B Land to which this plan does not apply

This plan does not apply to the land to which the following instruments apply—

Penrith Local Environmental Plan 1998 (Urban Land).

Schedule 2 Definitions

(Clause 4 (1))

advertisement means the display 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.

agriculture means—

- (a) cultivating fruit, vegetable or flower crops, or
- (b) keeping or breeding livestock, bees or poultry and other birds, or
- (c) cultivating plants in a wholesale plant nursery,

for commercial purposes, but does not include use of an intensive livestock keeping establishment.

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

backpackers' hostel means a building having an average of two or more beds in each room and providing temporary shared accommodation for travellers and tourists who have their principal place of residence elsewhere, but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

bed and breakfast establishment means a dwelling house used by its permanent residents to provide short term paid accommodation (which may include meals) for visitors on a room basis and includes homestay accommodation but which does not—

- (a) accommodate more than six visitors at any one time, or
- (b) involve the employment of persons other than those residents, or
- (c) interfere with the amenity of the neighbourhood due to the generation of vehicular traffic, the attraction of customers, or the reduction of car parking in the vicinity of the site, or
- (d) involve the sale of liquor or sale of goods from the site, or
- (e) involve the provision of a reception centre or a recreation facility.

building has the same meaning as in the Act.

building area means the floor area of a building as measured to the external face of each floor, including all enclosed floor space and enclosed garages.

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

bushfire hazard reduction means a reduction or modification (by controlled burning or mechanical, chemical or manual means) of material that constitutes a bushfire hazard.

business identification sign means an advertisement that displays any or all of the following information relating to the place or premises to which it is fixed—

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

child care centre means a building or place used for the purpose of supervising or providing care for children which—

- (a) caters for 6 or more children, whether or not those children are related to the owner or operator of the building or place, and
- (b) may include an educational function, and
- (c) may operate for the purpose of gain, and
- (d) may include a dwelling house which is attached to, part of, or associated with, the building or place,

but does not include a building or place providing residential care for those children.

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

club means a building used by persons associated, or by a body incorporated, for social, literary, political, sporting, athletic or other lawful purposes whether of the same or a different kind and whether or not the whole or part of such building is the premises of a club registered under the [Registered Clubs Act 1976](#).

commercial premises means a building or place used as an office or for other business or commercial purposes but does not include a brothel or a building or place specifically defined elsewhere in this Schedule, or a building or place used for a purpose specifically defined elsewhere in this Schedule.

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 which is registered under the [Registered Clubs Act 1976](#) or a building or place specifically defined elsewhere in this Schedule.

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

council means the Council of the City of Penrith.

development has the same meaning as in the Act.

drain means any channel, conduit or pipe used for removing water other than sewage, and includes stormwater detention basins.

dual occupancy means development that results in two dwellings (whether attached or detached) on a single allotment of land (or which would have that result were it not for the fact that the allotment is to be subdivided as part of the development), however that development is described or provided for in an environmental planning instrument.

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, 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 purpose of gain.

fast food take-away restaurant means a building or place (including a take-away restaurant, drive-in take-away restaurant or the like) 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 a place specifically defined elsewhere in this Schedule.

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

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

general store means a shop which operates primarily to serve the surrounding residential area and does not exceed 100 square metres in gross floor area, and which may include the facilities of a post office, newsagency or dry cleaning agency.

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, but 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 to that parking, 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.

guesthouse means a building or buildings used for paid accommodation for visitors, but only where—

- (a) the building or buildings are of a domestic scale of architecture, and
- (b) the building or buildings incorporate common facilities for the provision of meals, either to persons temporarily resident or to the public, and whether or not those facilities are licensed, and
- (c) the use of the land does not interfere with the amenity of the neighbourhood due to the generation of vehicular traffic, the attraction of customers or the reduction of car parking in the vicinity of the site.

health care consulting rooms means a dwelling house used by not more than 3 health care professionals for the purpose of providing health care services only to outpatients of those health care consulting rooms, and who employ not more than 3 employees in connection with such health care services.

health care professional means a person who provides traditional or complementary professional health care services to members of the public.

health care services means services ordinarily provided by a health care professional to members of the public, but does not include any procedures such as x-rays, ultrasounds, cat scans, radiography or pathology tests or the like.

high technology development means an enterprise that—

- (a) has, as a primary function, research into or the manufacture, development, production, processing, distribution or assembly of—
 - (i) computer software or hardware, or
 - (ii) electronics or micro electronic systems or goods, or
 - (iii) communications or telecommunications systems, goods or components, or
 - (iv) other information based technology, and

- (b) may include ancillary office and storage accommodation, and
- (c) does not present a hazard or potential hazard to the neighbourhood and does not involve the use of potentially offensive or offensive materials, and
- (d) does not, by reason of the scale and nature of its manufacturing, development, production or assembly, interfere with the amenity of the neighbourhood, and
- (e) does not involve sales directly to the public from the premises other than online sales.

home activity means a business carried out in a dwelling house or dwelling, or within the site area of a dwelling house or dwelling, by the permanent residents of the dwelling house or dwelling, and which does not involve—

- (a) the employment of persons other than those residents, or
- (b) customers or clients visiting the premises at any time, or
- (c) the display of goods, whether in a window or otherwise, or
- (d) the sale of goods by retail from the site, or
- (e) the exhibition of an advertisement (other than an advertisement exhibited on that dwelling house or dwelling to indicate the name or occupation of the resident), or
- (f) interference with the amenity of the neighbourhood by the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or the like, or
- (g) interference with the amenity of the neighbourhood due to the generation of vehicular traffic, the reduction of parking in the vicinity of the site, or the like, or
- (h) exposure to view, from any adjacent premises or from any public place, of any unsightly matter.

home business means a business carried out, or partly carried out, in a dwelling house or dwelling, or within the site area of a dwelling house or dwelling, by the permanent residents of the dwelling house or dwelling, and which is ancillary to the dwelling house or dwelling and does not involve—

- (a) the employment of more than 2 persons, at any one time, in addition to the permanent residents, or
- (b) the exhibition of an advertisement (other than an advertisement exhibited on that dwelling house or dwelling to indicate the name or occupation of the resident), or
- (c) 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, or the like, or
- (d) interference with the amenity of the neighbourhood due to the generation of vehicular traffic, the reduction of car parking in the vicinity of the site, visits by customers or clients, or the like, or
- (e) exposure to view, from any adjacent premises or from any public place, of any unsightly matter, or

(f) the provision of any essential service main of a greater capacity than that available in the locality,
or

(g) a brothel,

but does not include commercial premises as defined elsewhere in this Schedule.

hospital means a building or place (other than an institution) used for the purpose of providing professional health care services (such as preventative or convalescent care, diagnosis, medical or surgical treatment, care for people with developmental disabilities, psychiatric care or counselling) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and may include—

- (a) ancillary facilities for the accommodation of nurses or other health care workers, and
- (b) ancillary shops or restaurants, and
- (c) ancillary accommodation for persons receiving health care or for their visitors, and
- (d) facilities situated in the building or at the place and used for educational or research purposes, whether or not they are used only by hospital staff or health care workers, and whether or not any such use is a commercial use.

hotel means premises specified in a hotelier's license granted under the [Liquor Act 1982](#).

housing for older people or people with disabilities has the same meaning as in *State Environmental Planning Policy No 5—Housing For Older People or People with a Disability*.

industry means an undertaking involving the manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, processing or adapting of any goods or articles for commercial purposes, but does not include any form of industry defined elsewhere in this Schedule.

institution means a penal or reformative establishment.

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

- (a) feedlots, and
- (b) piggeries, and
- (c) poultry farms, and
- (d) fish farms (including farms for crustaceans),

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

internal lot means a lot the only means of access to which is an access corridor (a hatchet shaped lot) or a right-of-carriageway over another lot.

kiosk means a building or place having a gross floor area not exceeding 75 square metres which provides food and drink to people for consumption elsewhere, but (in the development control table) does not include a building or place elsewhere specifically defined in this Schedule.

medical centre means a building or place used for the purpose of providing professional health services (including preventative care, diagnosis, medical or surgical treatment and counselling) to outpatients only.

motel means a building (other than a backpackers' hostel, bed and breakfast establishment, guesthouse, hotel or multi-unit housing) 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.

multi-unit housing means a residential development that contains 3 or more dwellings.

natural ground level is the ground surface level prior to any development, including any cutting, filling and grading, and, where the existing ground level differs from the natural ground level, the natural ground level shall be as determined by the council after taking into account any information concerning its location.

online sales means sales that have all of the following characteristics—

- (a) the vendor and purchaser communicate only by telephone, fax or the Internet or similar communications systems,
- (b) the purchaser does not attend the premises,
- (c) the purchaser does not collect the required goods from the premises. (The required goods are delivered to the purchaser via the telecommunications system or collected by or delivered to the purchaser from premises remote from the site of the premises from which the sale was made.)

parking area means a building or place, including ground level parking areas or deck parking structures, 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.

place of assembly means a public hall, theatre, cinema, music hall, concert hall, dance hall, open-air theatre, drive in theatre, music bowl or any other building of a like character used as such and whether used for the purposes of gain or not, but does not include a place of worship, an institution or educational establishment.

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

public building means a building or place used for a business or as an office by a public authority or an organisation established for public purposes.

reception centre means a building or place used for the holding of functions or occasions that involve the preparation and consumption of food in the building or at the place, including wedding receptions, celebratory functions, conferences or the like, but (in the development control table) does

not include a building or place specifically defined elsewhere in this Schedule.

recreation area means an outdoor area which provides for social, recreational and leisure activities, and includes associated structures (playground equipment, boardwalks, cycleways and the like), but (in the development control table) does not include a building or place or land use specifically defined elsewhere in this Schedule.

recreational 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.

restaurant means a building or place (such as a restaurant, cafe, tearoom or the like) the purpose of which is to provide food and drink to people for consumption only in that building or place, 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, and includes a classified or State road.

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

serviced apartment means a self-contained dwelling (in a building containing three or more self-contained dwellings) which is cleaned or serviced by the owner or manager of the building (or the agent of the owner or manager), and which provides short-term accommodation for persons who have their principal place of residence elsewhere, but does not include a backpackers' hostel, guesthouse or motel.

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) the washing and greasing of motor vehicles,
- (d) the 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 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 specifically defined elsewhere in this Schedule.

standard lot means a lot that is not an internal lot.

storey of a building means a storey, floor or level, as the case may be, of the building which may be

intersected by the same vertical line, not being a line which passes through any wall of the building.

structure plan means Sheet 2 of the map marked “*Penrith Local Environmental Plan 1998 (Urban Land) (Amendment No 13)—Werrington Mixed-Use Area*”.

subdivision has the same meaning as in the Act.

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

the map means the map marked “*Penrith Local Environmental Plan 1998 (Urban 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 2

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

Penrith Local Environmental Plan 1998 (Urban Land)—Amendment No 4—St Clair

Penrith Local Environmental Plan 1998 (Urban Land)—Amendment No 6—St Marys

Penrith Local Environmental Plan 1998 (Urban Land)—Amendment No 9—St Clair

Penrith Local Environmental Plan 1998 (Urban Land)—Amendment No 11

Penrith Local Environmental Plan 1998 (Urban Land) (Amendment No 13)—Werrington Mixed-Use Area—(Sheet 1)

Penrith Local Environmental Plan 1998 (Urban Land) (Amendment No 14)

Penrith Local Environmental Plan 1998 (Urban Land) Amendment No 15

Penrith Local Environmental Plan 1998 (Urban Land) Amendment No 20

tree means—

- (a) a living perennial plant which 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 out 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,

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

Schedule 3 Development for additional purposes

(Clause 15)

Colyton

No 97 Carpenter Street and No 46 Bennett Road, Lots 3 and 2, DP 25317.
Development for the purpose of a single storey general store.

Nos 14–20 Great Western Highway, Lot 100 DP 712957.
Development for the purposes of a fruit market, shops and commercial premises. The gross floor area of the shops and commercial premises is not to exceed 650m².

Nos 86–90 Great Western Highway, Lot 1, DP 135369 and Lot 1, DP 250213.
Development for the purpose of a service station.

Emu Plains

No 281 Great Western Highway, Lot 110, DP 802233.
Development for the purpose of a real estate office and gallery.

Nos 163–167 Great Western Highway, Lot 1, DP 707172 and Part Lot 104, DP 751662.
Development for the purpose of a service station.

Great Western Highway, corner Russell Street, Lot 114, DP 583025.
Development for the purpose of a liquor store.

No 89 Koloona Drive, Lot 22, DP 706182.
Development for the purpose of a shop, having a gross floor area of 100 square metres or less.

Kingswood

No 33 Santley Crescent, Lot 4, DP 215200.
Development for the purpose of a medical centre.

Nos 141–151 Great Western Highway, Part Lot 1, DP 316550, Lot 2, DP 656841, Part Lot C, DP 101602, Lot 1, DP 656840 and SP 50142.
Development for the purpose of commercial premises, if the council is of the opinion that arrangements have been made with Sydney Water Corporation Limited for the provision of water and sewerage services, being arrangements that are satisfactory to Sydney Water Corporation Limited.

Nos 64–70 Derby Street, Lot 300, DP 867494 and Lot 302, DP 14333.

Development for the purpose of a medical centre and hydrotherapy pool.

Nos 1-3 Morley Avenue, Lots 9 and 10, DP 814801.

Development for the purpose of motor showrooms and commercial premises, if the council is of the opinion that arrangements have been made with Sydney Water Corporation Limited for the provision of water and sewerage services, being arrangements that are satisfactory to Sydney Water Corporation Limited.

St Clair

Lot 382 in resubdivision of Lot 38, DP 239502, Lot 390, DP 830050 and Lot 102 in resubdivision of Lots 41 and 42, DP 239502, bounded by Explorers Way, Augusta Place, Erskine Park Road and M4 Motorway, St Clair.

Development that involves subdivision of land that creates lots with smaller areas or narrower widths than the minimum areas or widths specified in Table 1 to clause 10, but only if the resultant number of lots does not exceed 45.

St. Marys

Nos 26-28 Gidley Street, Lots 1 and 2, DP 157408.

Development for the purpose of office premises.

No 204 Great Western Highway, Lot 1, DP 580711.

Development for the purpose of carparking in conjunction with adjoining fruit market.

Kungala Street, corner Kalang Avenue, Lot 1, DP 217921 and Lot 1, DP 398069.

Development for the purpose of a hydrotherapy centre, being a building or place used for providing hydrotherapy, physiotherapy, rehabilitation and related professional health care services to members of the public.

South Penrith

No 70 Glenbrook Street, Lot 88, DP 703021.

Development for the purpose of shops and office premises having a total gross floor area of 650 square metres or less.

Schedule 4 Development not requiring consent

(Clause 16)

- 1** 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—
 - (i) the construction of new railways, railway stations and bridges over roads, and
 - (ii) 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

- (iii) the formation or alteration of any means of access to a road, and
 - (iv) the erection, reconstruction and alteration of buildings for purposes other than railway purposes where such buildings have direct access to a public place.
- 2** 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, that is to say—
- (a) development of any description at or below the surface of the ground, or
 - (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 appointed day of any plant or other structures or erections required in connection with the station or substation, or
 - (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 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 housings of stone, concrete or brickworks, or
 - (d) the provision of overhead service lines in pursuance of any statutory power to provide a supply of electricity, or
 - (e) the erection of service reservoirs on land acquired or in process of being acquired for the purpose before the appointed day, provided reasonable notice of the proposed erection is given to the council, or
 - (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, so as materially to affect their design or external appearance, of buildings, or
 - (ii) the formation or alteration of any means of access to a road.
- 3** 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.
- 4** 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.

5 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, alterations, 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.

6 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.

7 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.

8 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.

9 The carrying out of any forestry work by the Forestry Commission, a School Forest Trust or Community Forest Authorities empowered under relevant Acts to undertake afforestation, roading, 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](#).

10 The carrying out by a Pastures 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 the design or purposes thereof, or

(b) any development designed to change the use or purpose of any such reserve.

11 The carrying out or causing to be carried out by a council engaged in flood mitigation works or by the Department of Land and Water Conservation 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 *Irrigation Act 1912*, the *Farm Water Supplies Act 1946* or the *Rivers and Foreshores Improvement Act 1948*, except—

(a) 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 the design or external appearance thereof, or

(b) the formation or alteration of any means of access to a road.

Schedule 5 Claremont Meadows Stage 2

(Clause 37A)

Part 1 Objectives

- 1** To rezone land to ensure the protection of Cumberland Plain Woodland.
- 2** To enhance the environmental qualities of the site and its locality through the identification of the conservation areas associated with Cumberland Plain Woodland.
- 3** To ensure that environmentally sensitive land is publicly owned.
- 4** To provide for site responsive development that achieves best practice in ecologically sustainable development and enhances the conservation values of the site by protecting and enhancing waterbodies, riparian land, remnant native vegetation, corridor linkages and native fauna habitat and the level of biodiversity on the site both during and after development.
- 5** To permit a diverse housing mix that provides a wide range of dwelling types and choice.
- 6** To ensure a high level of pedestrian amenity and good pedestrian linkages within Claremont Meadows Stage 2 and between Claremont Meadows Stage 2 and the existing Claremont Meadows estate, surrounding development and natural areas.
- 7** To allow for multiple lot sizes that promote higher density around open space.
- 8** To require that the form, design and function of all dwellings have regard to the principles of ecologically sustainable development and achieve a high level of water conservation and energy conservation.
- 9** To ensure that housing located in the vicinity of a major road takes account of the constraints

imposed by noise and visual impact.

Part 2 Controls

10 Matters to be taken into consideration before granting development consent

The council must not grant consent to development on land to which clause 37A applies unless it has taken the following into consideration—

- (a) any measures that are proposed to promote pedestrian amenity, including provision of pathways and cycleways within the site, and to and from surrounding development,
- (b) any measures that are proposed to ensure an appropriate architectural presentation of development to the Gipps Street and Caddens Road frontages, avoiding high fences or walls so that dwellings have a high level of visual amenity and presentation,
- (c) any measures that are proposed to promote the environmental performance of buildings (including water management and energy efficiency),
- (d) protection of water quality in South Creek or Claremont Creek, through implementation of appropriate drainage solutions,
- (e) for development within 100 metres of the M4 Motorway road reserve, any measures that are proposed—
 - (i) to protect the viewscape into the subject land when viewed from the M4 Motorway from both the east and the west, so that residential development is not prominent, and
 - (ii) to provide a vegetated corridor on those lots that adjoin the M4 Motorway reserve, linking Claremont Creek to the South Creek Corridor, and
 - (iii) to provide a minimum setback of 20 metres from the M4 Motorway reserve to any dwelling or substantial structure.

11 Subdivision and dual occupancy

Despite any other provision of this plan, council may grant consent to subdivision of land within Zone No 2 (b) to lots with a minimum area of 250m², if—

- (a) all lots will be directly opposite an area of public open space, not including land zoned 5 (c) or 7 (a), of at least 2,500m², and
- (b) the minimum landscaped area for any such lots will be 40% of the site area, and
- (c) the subdivision will not result in any internal lots, and
- (d) the subdivision will not result in dual occupancy development other than on a corner lot.

12 Vehicle access

- (1) Subject to subclause (2), a person must not carry out development on land that adjoins the Werrington Arterial Road corridor unless vehicle access to the land from that road is made by way of another road (not being a State road).
- (2) Where, except for this clause, development may be carried out, the council may, in relation to that development, allow permanent vehicular access to the Werrington Arterial Road, if, in the opinion of the council, alternative access to that development is neither practicable nor provided by another road or a proposed road identified in the development control plan referred to in clause 10.