

# Penrith Local Environmental Plan 1998 (Lakes Environs) (1998 EPI 139)

[1998-139]



New South Wales

## Status Information

### Currency of version

Repealed version for 15 December 2006 to 24 February 2015 (accessed 6 October 2024 at 20:17)

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

### Provisions in force

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

### Notes—

- **Repeal**

The plan was repealed by cl 1.8 (1) of the [Penrith Local Environmental Plan 2010 \(540\)](#) (amended by [Penrith Local Environmental Plan 2010 \(Amendment No 4\) \(2015-21\)](#)) with effect from 25.2.2015.

### Authorisation

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

File last modified 25 February 2015

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New South Wales

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New South Wales

## Part 1 Preliminary

### 1 Name of plan

This plan may be cited as *Penrith Local Environmental Plan 1998 (Lakes Environs)*.

### 2 Aims, objectives etc

(1) The aims of this plan are:

- (a) to allow a diversity of housing forms, a waterway system, open space and tourist accommodation,
- (b) to promote development which is consistent with the Council's vision for the City of Penrith contained in its Strategic Management Plan, namely, one of a region having a harmony of urban and rural qualities with a strong commitment to environmental protection and enhancement,
- (c) to introduce a planning framework for the development of the land to which this plan applies (the Penrith Lakes Environs) having regard to its special characteristics and potential for a unique residential environment,
- (d) to promote development which observes and maintains responsible and environmentally sound water management practices and which minimises any adverse environmental impact on surrounding localities, and
- (e) to protect the environmental heritage of the area, whether it is of historic, aesthetic, architectural, archaeological, natural, cultural, Aboriginal or other significance.

(2) The objectives of this plan are:

- (a) to utilise and enhance the natural characteristics of the land to provide opportunities for a unique residential environment,
- (b) to create a high quality and different living environment that focuses on water

design elements,

- (c) to encourage development which satisfies ecologically sustainable design principles,
  - (d) to encourage development which enhances the land's gateway location in relation to Penrith and the Penrith Lakes,
  - (e) to provide a planning framework which allows development control plans to supplement the controls contained in this plan,
  - (f) to preserve and enhance designated natural wetland areas so as to provide a variety of wildlife habitats capable of supporting a variety of species,
  - (g) to ensure that the waterway system mitigates the impact, on the natural wetland areas, of land uses within the catchment, and contributes to the viability of those wetlands,
  - (h) to promote development which is efficient in terms of transportation, energy and land utilisation,
  - (i) to facilitate the appropriate provision of, or of funding for, special land uses and major infrastructure works,
  - (j) to permit residential development which incorporates features necessary to protect occupiers against adverse noise impacts arising from industrial and traffic noise,
  - (k) to limit the potential risk to life and property from flood events, and
  - (l) to prohibit development of land for any purpose other than opening a public road if, as a result of carrying out the development, there will be direct vehicular access between that land and either Cranebrook Road or Andrews Road.
- (3) The Council must consider the aims and objectives of this plan, including the objectives in this plan for each zone, in determining development applications.

### **3 Land to which plan applies**

This plan applies to the land within the City of Penrith which is shown edged by a heavy black line on the map.

### **4 Relationship to other plans**

- (1) This plan repeals all other local environmental plans and deemed local environmental planning instruments in so far as they relate to land to which this plan applies, with the exception of [Penrith Local Environmental Plan 1991 \(Environmental Heritage Conservation\)](#).

- (2) Except as provided by subclause (3), this plan does not affect the operation of any state environmental planning policy or regional environmental plan.
- (3) *State Environmental Planning Policy No 50—Canal Estate Development* is amended by inserting in clause 4 after the word “except” the words “the land to which *Penrith Local Environmental Plan 1998 (Lakes Environs)* applies and”.
- (4) The Council must not consent to any development on land to which this plan applies unless the Council is satisfied that the type, location and form of development is consistent with the objectives of any development control plan applying to the land.

## 5 Model provisions and definitions

- (1) Clause 35 (paragraph (c) excepted) of, and Schedule 1 to, the *Environmental Planning and Assessment Model Provisions 1980* are adopted for the purposes of this plan.
- (2) Terms used in this plan which are defined in Schedule 1 have the meanings set out in that Schedule.
- (3) 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 a reference to a map deposited in the office of the Council.
- (4) The list of contents of this plan is not part of this plan.

## 6 Consent authority

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

## Part 2 Land use zones

### 7 Zones indicated on the map

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

<b>Zone No 2 (g) Residential (Waterways)</b>	— coloured light scarlet and lettered 2 (g)
<b>Zone No 2 (h) Residential (Services)</b>	— coloured light scarlet and lettered 2 (h)
<b>Zone No 5 (c) State Road and State Road Widening</b>	— broken black band between firm black lines and lettered 5 (c)
<b>Zone No 7 (w) Environment Protection (Wetlands)</b>	— coloured orange and lettered 7 (w)

## **8 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) The Council must consider the zone objectives in determining development applications relating to land within the zone.
- (3) Except as otherwise provided by this plan, the Council must not grant consent to an application to carry out development on land to which this plan applies that, in the opinion of the Council, is contrary to any of the aims or objectives of this plan, or any of the objectives of the zone within which the development is proposed to be carried out.

### **Zone No 2 (g) Residential (Waterways)**

#### **(a) Objectives of zone**

- (i) to enable the development of land for residential, waterway and open space purposes, and
- (ii) to provide for a variety and mix of housing forms, and
- (iii) to encourage development which satisfies ecologically sustainable design principles, and
- (iv) to promote development which safeguards the natural, cultural and historic environment of the area and preserves the residential amenity of surrounding areas, and
- (v) to encourage the development of an aquatic ecosystem that provides a habitat for a diversity of flora and fauna, and protects the quality of the downstream wetlands, and
- (vi) to allow for the provision of community services and urban infrastructure, and
- (vii) to promote visitor accommodation compatible with residential development.

**(b) (i) Without development consent**

- bed and breakfast establishments
- family day care
- business identification signs
- home activities

**(b) (ii) Only with development consent**

Any land use other than those included in Items (b) (i) and (b) (iii).

**(b) (iii) Prohibited**

- amusement parks
- animal establishments
- business premises
- camp or caravan sites
- clubs
- fast food take-away restaurants
- high technology industries
- hospitals
- hotels
- industries
- institutions
- junkyards
- light industries
- medical centres
- motels
- motor showrooms
- office premises
- places of assembly
- places of worship
- service stations
- shops
- storage facilities
- traffic-generating land uses
- transport terminals
- vehicle body repair workshops
- vehicle repair stations
- warehouse or distribution centres

**Zone No 2 (h) Residential (Services)**

**(a) Objectives of zone**

- (i) to provide an acoustic, physical and visual buffer between industrial and residential development, and
- (ii) to enable the development of land for visitor accommodation and



associated services and facilities, and business service activities compatible with residential development, and

- (iii) to promote development which safeguards the natural, cultural and historic environment of the area and preserves the residential amenity of surrounding areas, and
- (iv) to encourage the development of an aquatic ecosystem that provides a habitat for a diversity of flora and fauna, and protects the quality of the downstream wetlands, and
- (v) to encourage development which satisfies ecologically sustainable design principles, and
- (vi) to require a built form which protects the amenity (particularly with respect to noise) of residential development on land within Zones Nos 2 (g) and 2 (h).

**(b) (i) Without development consent**

- business identification signs

**(b) (ii) Only with development consent**

Any land use other than those included in Items (b) (i) and (b) (iii).

**(b) (iii) Prohibited**

- amusement parks
- animal establishments
- bed and breakfast establishments
- camp or caravan sites
- dwelling houses
- fast food take-away restaurants
- guesthouses
- home activities
- home businesses
- hospitals
- hotels
- housing for older people or people with disabilities
- industries
- institutions
- integrated development
- junkyards
- light industries
- motor showrooms
- multi-unit housing
- office premises
- places of assembly
- service stations
- shops
- traffic-generating land uses
- transport terminals
- vehicle body repair workshops
- vehicle repair stations

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

**(a) Objective of zone**

To identify land which is required for State roads and State road widening purposes.

**(b) (i) Without development consent**

Nil.

**(b) (ii) Only with development consent**

- drainage
- landscaping
- parking areas
- roads
- recreation areas
- site filling
- utility undertakings

**(b) (iii) Prohibited**

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

**Zone No 7 (w) Environmental Protection (Wetlands)**

**(a) Objectives of zone**

- (i) to preserve and enhance designated natural wetland areas so as to provide a variety of wildlife habitats capable of supporting a variety of species, including birds, mammals, fish, invertebrates, reptiles and insects, and
- (ii) to maintain or improve the viability and landscape quality of the wetland areas, and
- (iii) to facilitate development which will enhance the existing quality of water draining from those areas, and
- (iv) to protect wetlands from the impacts of land use and stormwater management within the catchment, and
- (v) to provide opportunities for informal social and recreational activities, and
- (vi) to protect any identified Aboriginal sites.

**(b) (i) Without development consent**

Nil.

**(b) (ii) Only with development consent**

- bushfire hazard reduction
- drainage
- flood mitigation works
- landscaping
- parking areas
- recreation areas
- roads
- utility undertakings
- waterways
- works for the purpose of restoring or rehabilitating a wetland

**(b) (iii) Prohibited**

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

**Part 3 General provisions**

**9 Development of land**

Notwithstanding any other provision of this plan, the Council must not consent to the carrying out of any development on land to which this plan applies unless arrangements, which are satisfactory to the Council and in accordance with any development control plan adopted by the Council for the land, have been made with respect to the following matters:

- (a) the provision of integrated waterway, floodway and drainage systems,
- (b) the establishment and implementation of a water management system to maintain the integrated waterway, floodway and drainage systems to appropriate standards of water quality and water quantity (supported by documentation which provides evidence of any relevant agreements),
- (c) the protection of archaeological relics, based on an archaeological survey (undertaking in consultation with the Deerubbin Local Aboriginal Land Council or finalised only after the Land Council has been given the opportunity to comment on the proposed findings of the survey) which identifies and assesses the significance, if any, of the land and the existence, or otherwise, of sites and areas of Aboriginal heritage significance,
- (d) the implementation of a flood management system that is aimed at excluding or otherwise managing the 1% AEP flood flows (from the Nepean River) from or through land to which this plan applies.

## **9A Residential development**

Notwithstanding any other provision of this plan, development for the purpose of a dwelling is prohibited on any allotment of land that is less than 450 m<sup>2</sup>, unless the dwelling:

- (a) is erected on a lot created before the appointed day, or
- (b) forms part of an integrated development, or
- (c) forms part of multi-unit housing, or
- (d) is housing for older people or people with disabilities.

## **10 Matters for consideration in determining development applications**

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

- (a) any development control plan, and any guidelines approved by the Council, applying to the land to which the application relates,
- (b) whether the development will comply with the relevant noise level criteria specified in clause 20,
- (c) the effect of the development on sites, areas or buildings of environmental heritage, whether they are of historic, aesthetic, architectural, archaeological, natural, cultural, Aboriginal or other significance,
- (d) the effect of the development on drainage patterns and wetlands viability,
- (e) the effect of the development on the natural environment, including flora and fauna and the habitats of the species identified in international agreements for the protection of migratory birds,
- (f) the appearance of the development from a waterway, surrounding residential areas or any public place,
- (g) any system for the continuing maintenance of water quality and quantity.

## **11 Subdivision**

The Council must not grant consent to a subdivision that creates allotments of land of less than 450 m<sup>2</sup>, except where subdivision involves only:

- (a) opening a public road,
- (b) creating allotments for drainage or open space,
- (c) an integrated development consistent with the provisions of this plan and any

development control plan applying to this land,

- (d) the subdivision of multi-unit housing or housing for older people or people with disabilities into separate dwellings,
- (e) the creation of separate allotments for community facilities, a general store, a child care centre, or a community hall, or
- (f) the creation of separate allotments for buildings, which have been approved by the Council, on land within Zone No 2 (h).

## **12 Subdivision works**

In determining an application to subdivide land to which this plan applies the Council must consider such of the following matters as are relevant to the proposed development:

- (a) the likely impact of any associated road works and, in particular:
  - (i) the character and method of construction of any proposed, existing or temporary roads,
  - (ii) the surface material of any footway or roadway forming part of the road and the base material on which the surface material is to be laid, and
  - (iii) the landscaping to be carried out along the road,
- (b) the likely impact of any associated drainage works and, in particular:
  - (i) the drainage of the land, the drains proposed to be constructed and the drainage reserves and easements proposed to be provided,
  - (ii) the impact of the development on the drainage of upstream and downstream land and the means by which such impacts may be mitigated, and
  - (iii) the increase in stormwater run-off and stormwater pollution likely as the result of the proposed development, and the means by which such effects might be mitigated,
- (c) the likely impact of any associated filling of land and, in particular, if proposed lots are to be filled, the type of material to be used and the proposed method of filling,
- (d) the size and shape of each proposed lot,
- (e) the provisions that exist, or are proposed, with respect to the drainage of the land, the dedication of drainage reserves and the provision of drainage easements,
- (f) the likely impact of roads, drainage or other works (such as filling or excavation of land) on any items, sites or areas of Aboriginal or other heritage significance,
- (g) the likely impact of roads, drainage or other works (such as filling or excavation of

land) on any acoustic barriers or other noise attenuation measures.

### **13 Flood liable land**

In relation to flood liable land within Zone No 2 (g) or 2 (h), the Council must not grant consent to the carrying out of development unless it is satisfied that:

- (a) the development will not have a significant adverse effect on the characteristics of floods in the area,
- (b) the development is not likely to result in any significant risk to life or property as a result of a standard flood, and
- (c) the floor level of any building or outdoor storage area that will result from the proposed development (except for development for the purpose of structures used for drainage, flood mitigation or water quality management) will be located 0.5 metres above the 1% probability flood within the meaning of Appendix C to the Floodplain Manual published by the Government of NSW and available to the public at the office of the Council.

#### **13A Land affected by the 0.5% AEP (1 in 200 year) Nepean River flood event**

- (1) This clause applies to land within Zone No 2 (g) or 2 (h).
- (2) The Council must not grant consent to the carrying out of development on land to which this clause applies unless it is satisfied that modelling and mapping of the 0.5% AEP (1 in 200 year) Nepean River flood event has been undertaken for the land using final landform and development characteristics.
- (3) In relation to any land demonstrated to be affected by the 0.5% AEP (1 in 200 year) Nepean River flood event, the Council must not grant consent to the carrying out of development unless it is satisfied that:
  - (a) the development will not have a significant adverse effect on the characteristics of floods in the area, and
  - (b) the development is not likely to result in any significant risk to the structural integrity of buildings as a result of the flood event, and
  - (c) advice has been received from the State Emergency Service that satisfactory arrangements have been made for a flood evacuation plan for the land, and
  - (d) satisfactory arrangements have been made for any increased hazard associated with any incomplete development of the land.

### **14 Tree preservation**

- (1) A person must not ringbark, cut down, poison, dig up, top, lop, remove, injure or wilfully destroy any tree except with the consent of the Council.

- (2) The consent of the Council is not required where:
- (a) the tree is dead,
  - (b) the tree is a declared noxious weed under the *Noxious Weeds Act 1993*,
  - (c) the tree is less than 5 metres from a building or work approved by the Council,
  - (d) the tree is a fruit tree which requires 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 in such a plan.

## **Part 4 Specific provisions**

### **15 Development of land visible from Andrews Road or Cranebrook Road**

Notwithstanding any other provision of this plan, the Council must not consent to the development of any land that is visible from Andrews Road, Cranebrook Road, or any public place, unless the development, in its built form, external finishes, fencing and landscape planting, provides a high quality and standard of presentation.

### **16 Development near the boundary of adjoining zones**

- (1) This clause applies to land which is entirely within 20 metres of a boundary between any two zones under this plan.
- (2) Despite clause 8, but subject to subclause (3), development may, with the consent of the Council, be carried out on land to which this clause applies for any purpose for which development may be carried out in the adjoining zone within 20 metres of the boundary.
- (3) The Council must not consent to the carrying out of development referred to in subclause (2) unless the carrying out of the development:
  - (a) will comply with the relevant noise level criteria in clause 20, and
  - (b) 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.

### **17 Development of land in Zone No 2 (h)**

- (1) Despite clause 8, but subject to subclause (2), development for the purpose of any landuse described in Schedule 2 may, with the consent of the Council, be carried out on land within Zone No 2 (h).



- (2) The Council must not consent to the carrying out of development referred to in subclause (1) unless the carrying out of the development:
- (a) does not involve the use or processing of hazardous, potentially hazardous, offensive or potentially offensive materials,
  - (b) does not, by reason of the activities involved in the proposed development, generate any increase in the existing background noise levels,
  - (c) in the opinion of the Council does not, by reason of the scale or nature of the proposed development, adversely affect the visual quality of the surrounding development,
  - (d) in the opinion of the Council does not, by reason of the scale or nature of the proposed development, interfere with the amenity of the neighbourhood, and
  - (e) does not involve sales directly to the public from the premises.

#### **18 Development of land south of Nepean Street**

Notwithstanding any other provision of this plan, the Council must not consent to any development for residential purposes of land within Zone No 2 (g), south of Nepean Street, unless arrangements satisfactory to the Council have been made in respect of the following matters:

- (a) construction of the major floodway and lake system,
- (b) construction of any part of the waterway system relevant to the land subject to the application,
- (c) implementation of noise control measures relevant to the land subject to the application, being measures which are:
  - (i) permanent buildings and structures which, in the Council's opinion, comply with clause 15,
  - (ii) certified, by a qualified acoustic specialist, as complying with the criteria specified in clause 20, and
  - (iii) approved by the Council.

#### **19 Development of land north of Nepean Street**

A person must not erect a dwelling house on land within Zone No 2 (g), north of Nepean Street, unless the allotment on which the dwelling house is to be erected has an area of at least 2000 square metres and the dwelling house can be connected to the sewer.

#### **20 Development of land—noise requirements**

- (1) In this clause:

**10% of  $L_1$**  means the noise level which is exceeded by 10% of all the valid  $L_{A1\ 15\ min}$  noise levels within the specified time period.

**10% of  $L_{A90}$**  means the noise level which is exceeded by 10% of all of the valid  $L_{A90\ 15\ min}$  noise levels.

**50% of  $L_{A90}$**  means the noise level which is exceeded by 50% of all the valid  $L_{A90\ 15\ min}$  noise levels.

**$L_{eq}$**  means the energy average of the valid 15 minutes noise levels in any specified time period.

**non-valid noise level data** means data recorded when:

- (a) wind gusts exceed 15 metres per second,
- (b) average wind speed exceeds 3 metres per second, or
- (c) it is raining.

**outdoor noise level** means the noise level measured at any point outside a building (including on balconies, in courtyards, terraces and garden areas) which does not include any correction for facade reflection.

**valid noise levels** means the measured noise level data excluding the non-valid noise level data.

- (2) The Council must not consent to development of land within Zone No 2 (h) for the purpose of a motel unless it is satisfied that the buildings involved in the development will not exceed the following noise level criterion:

**Building Interior Noise Criterion**

Noise descriptor	Time period	Criterion
sleeping areas      10% of $L_{A1\ 15min}$	10.00pm–7.00am	60dBA

- (3) The Council must not consent to any development of land within Zone No 2 (g) unless it is satisfied that the site of the development will not exceed the following noise level criteria:

**Outdoor Noise Criteria**

Noise descriptor	Time period	Criteria
		50% of $L_{A90\ 15\ min}$ 10% of $L_{A90\ 15\ min}$
industrial noise criteria $L_{90}$	7.00am–10.00pm	50dBA                      55dBA
	10.00pm–7.00am	40dBA                      45dBA

traffic noise criteria	$L_{eq, 15hr}$	7.00am–10.00pm	55dBA
	$L_{eq, 9hr}$	10.00pm–7.00am	50dBA

- (4) The Council must not consent to any development of land within Zone No 2 (g) unless it is satisfied that the buildings involved in the development will not exceed the following noise level criteria:

**Building Interior Noise Criteria**

Noise descriptor		Time period	Criteria
recreation areas	$L_{eq, 24hr}$	24 hours	40dBA
sleeping areas	$L_{eq, 8hr}$	10.00pm–6.00am	35dBA
sleeping areas	10% of $L_{A1 15min}$	10.00pm–7.00am	60dBA

**21 Integrated development**

- (1) Despite any other provision of this plan, in relation to a development consent for integrated development that involves the subdivision of land into allotments with an area greater than 300 m<sup>2</sup> but less than 450 m<sup>2</sup>, consent is not required for that part of the development that comprises the erection of a dwelling house if the dwelling house is of a design approved by the Council in relation to the development concerned.
- (2) The Council must not grant consent for integrated development that involves a subdivision of land that results in any allotment with an area of 300 m<sup>2</sup> or less, unless it is satisfied that the erection of the single dwelling house on each such allotment will take place before the registration of the relevant plan of subdivision.

**Schedule 1 Definitions**

(Clause 5)

**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.

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

**animal establishment** means a place used for the commercial boarding, breeding, keeping of, caring for or training of animals, and includes a riding school or veterinary clinic.

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

**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) allow more than six visitors at any one time,
- (b) involve the employment of persons other than those residents,
- (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,
- (d) involve the sale of liquor or goods from the site, or
- (e) involve the provision of reception facilities or recreation facilities.

**building** includes any structure or part of a structure.

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

**business identification sign** means an advertisement which does not exceed 1 square metre in area, and which in respect of any place or premises to which it is fixed contains all or any of the following:

- (a) a reference to the identity or a description of the place or premises,
- (b) particulars of any occupation or business carried on at the place or premises,
- (c) a reference to an affiliation with a trade, professional or other association relevant to the business conducted at the place or premises,
- (d) such directions or cautions as are usual or necessary relating to the place or premises or any occupation or business carried on there,
- (e) particulars or notifications required or permitted to be displayed by or under any State or Commonwealth Act.

**business premises** means a building or place where:

- (a) an occupation or trade is carried out,
- (b) ancillary offices for that occupation or trade may be provided, and
- (c) there are no direct sales to the public from the premises,

but (in Part 2) does not include a building or place specifically defined elsewhere in this Schedule.

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

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

**child care centre** means a building or place used for the purpose of supervising or caring for children which:

- (a) caters for 6 or more children, whether or not those children are related to the owner or operator of

the child care centre,

(b) may include an educational function,

(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 centre,

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 secondary road, a State highway, a tourist road, a State work, a freeway, a tollway or a controlled access road within the meaning of that Act.

**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](#).

**community facility** means a building, place or facility, whether or not provided by the Council, for use by groups having similar cultural, ethnic, physical, recreational, social, or other interests or beliefs, but (in Part 2) 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.

**Council** means the Council of the City of Penrith.

**designated road** means the Andrews Road or Cranebrook Road.

**development** has the same meaning as in the Act.

**drainage** means a system comprising of channels, conduits, pipes, stormwater detention basins, waterbodies (or similar) to remove water (other than sewage) and includes the separate elements of that system, whether or not the removal involves the extraction of material from the land.

**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,

(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 purposes of gain.

**family day care** means a dwelling house used by its permanent residents to provide care for children,

and which does not involve:

- (a) the employment of persons other than those residents, or
- (b) the care of more than 5 children under the age of 12 (including any child related to, and cared for by, the carer) at any one time,

but which may operate 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 is consumed in that building or place or elsewhere, but (in Part 2) does not include a building or place specifically defined elsewhere in this Schedule.

**flood liable land** means land which would, in the opinion of the Council, be inundated as a result of a standard flood.

**flood mitigation works** means works and measures which are intended to reduce or eliminate the effects of flooding, whether or not use of the works or the measures involve the extraction of material from the land.

**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, bank, 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,
- (b) lift towers, cooling towers, machinery and plant rooms, ancillary storage space and air-conditioning ducts,
- (c) carparking needed to meet any requirements of the Council and any internal designated vehicular or pedestrian access to that parking,
- (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,
- (b) the building or buildings incorporate 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, 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 industry** means an enterprise which:

- (a) has, as a primary function, research into or the manufacture, development, production, processing or assembly of:
  - (i) computer software or hardware,
  - (ii) electronics or micro electronic systems or goods, or
  - (iii) communications or telecommunications systems, goods or components,
- (b) may include ancillary office accommodation,
- (c) does not involve the use or processing of hazardous, potentially hazardous, offensive or potentially offensive materials,
- (d) does not, by reason of the scale or nature of its manufacturing, interfere with the amenity of the neighbourhood, and
- (e) does not involve sales directly to the public from the premises.

**home activity** means 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,
- (b) customers or clients visiting the premises at any time,
- (c) the display or retail sale of goods from the premises,
- (d) the exhibition of an advertisement other than a business identification sign,
- (e) interference with the amenity of the neighbourhood by any unsightly matter, ash, dust, fumes, grit, noise, oil, smell, smoke, soot, steam, traffic, vapour, vibration, waste products, waste water, or otherwise,
- (f) the provision of any essential service main of a greater capacity than that available in the locality,
- (g) the registration of the dwelling house or dwelling under the *Factories, Shops and Industries Act 1962*, or

(h) a brothel.

**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 does not involve:

- (a) the employment of more than two persons, at any one time, in addition to the permanent residents,
- (b) the exhibition of an advertisement other than a business identification sign,
- (c) interference with the amenity of the neighbourhood by any unsightly matter, ash, dust, fumes, grit, noise, oil, smell, smoke, soot, steam, traffic, vapour, vibration, waste products, waste water, or otherwise,
- (d) the provision of any essential service main of a greater capacity than that available in the locality, or
- (e) a brothel.

**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 and services provided by health care professionals) to people admitted as in-patients (whether or not out-patients are also cared for or treated there), and may include:

- (a) ancillary facilities for the accommodation of nurses or other health care workers,
- (b) ancillary shops or restaurants,
- (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 or proposed to be specified in a hotelier's licence granted under the [Liquor Act 1982](#).

**housing for older people or people with disabilities** has the same meaning as the term "housing for older people or people with disabilities" has in [State Environmental Planning Policy No 5—Housing for Older People or People with a Disability](#).

**industry** means:

- (a) any manufacturing process within the meaning of the [Factories, Shops and Industries Act 1962](#), or
- (b) the breaking up or dismantling of any goods or any article for trade or sale or gain or as ancillary to any business,

but (in Part 2) does not include an extractive industry or other land use specifically defined elsewhere in this Schedule.



**institution** means a penal or reformatory establishment.

**integrated development** means development that consists of:

- (a) the subdivision of land into 2 or more allotments, and
- (b) the erection of a single dwelling house on each of the allotments created by that subdivision.

**junkyard** means land used for the collection, dismantling, salvaging, storage or abandonment of scrap materials, goods, vehicles or machinery, and may include the ancillary sale of their parts.

**landscaped area** for a site means that part of the site not occupied by any building or buildings and which is predominantly landscaped by way of planting of gardens, lawns, shrubs or trees and is available for the use and enjoyment of the occupants of the buildings erected on the site, but does not include areas used for driveways, parking areas, garbage storage areas or swimming pools.

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

**medical centre** means a building or place used for the purpose of providing professional health services (including preventative care, diagnosis, medical or surgical treatment, counselling and services provided by health care professionals) to out-patients only.

**motel** means a building (other than a 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.

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

**multi-unit housing** means a building or buildings containing or comprising 2 or more dwellings, and includes forms of residential buildings commonly known as apartments, cluster housing, dual occupancy, duplexes, integrated housing, residential flat buildings, row houses, terrace houses, town houses, and villas.

**office premises** means a building or place used for the purposes of carrying out professional, administrative, clerical or public duties but (in Part 2) does not include an office used in conjunction with, or ancillary to, a land use specifically defined elsewhere in this Schedule.

**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 it is used for the purposes 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 (in Part 2) does not include a place of worship, an institution

or an 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.

**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 Part 2) 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 Part 2) does not include a building or place or land use specifically defined elsewhere in this Schedule.

**restaurant** means a building or place which is used for the purpose of providing food and drink to people for consumption only in that building or place, and may include ancillary entertainment (such as in a 'theatre restaurant'), but (in Part 2) does not include a building or place specifically defined elsewhere in this Schedule.

**road** means a public thoroughfare used for the passage of vehicles, pedestrians, bicycles or animals, and includes a classified road and widening of, or alterations to, any such thoroughfare or road.

**service station** means a building or place used for the retail sale of petrol, oil or other petroleum products, whether or not the building or place is also used for:

- (a) the hire of trailers and small consumer goods,
- (b) the sale and installation of spare parts and accessories for vehicles,
- (c) the washing, greasing, repairing, and servicing of vehicles, or
- (d) the sale of groceries, smallgoods, and associated small items,

but (in Part 2) does not include a building or place specifically defined elsewhere in this Schedule.

**shop** means a building or place used for the purposes of selling, exposing or offering for sale by retail, goods, merchandise or materials, but (in Part 2) does not include a building or place specifically defined elsewhere in this Schedule.

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

**storage facility** means a building which:

- (a) provides domestic or commercial storage in self-contained storage units, and
- (b) does not involve the storage of hazardous, potentially hazardous, offensive or potentially offensive materials,

but (in Part 2) does not include a building or place specifically defined elsewhere in this Schedule.

**storey** means a floor or level of a building which may be intersected by the same vertical line, not being a line which passes through any wall of the building.

**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 (Lakes Environs)*”, as amended by the maps (or the specified sheets of 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.

**traffic-generating land use** means the use of land for any activity or development that will involve direct vehicular access between that land and a designated road, but does not include the opening of a public road, or subdivision which is in accordance with the provisions of any development control plan applying to the land.

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

**tree** means:

- (a) a living perennial plant 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 undertaking** means any undertaking carried on by, or by authority of, any Government department, or in pursuance of any Commonwealth or State Act, for the purposes of:

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

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

**vehicle repair station** means a building or place (other than a vehicle body repair workshop) used for the purpose of carrying out repairs or the selling and fitting of accessories to vehicles or agricultural machinery.

**warehouse or distribution centre** means a building or place used for the principal purpose of

storing, handling or displaying items (whether goods or materials) which have been produced or manufactured for sale, but does not include the retail sale of items to the public from the building or place.

**waterway** means a series of linked water-bodies or lakes.

## **Schedule 2 Specified land uses**

(Clause 17)

- badge and trophy making
- cabinet making
- film and animation production studio
- hire of small boats, canoes, kayak and bicycles
- repair of communications or telecommunications goods or components
- repair of medical equipment
- repair of electrical home goods
- repair of electronics or micro electronic systems or goods
- repair and restoration of furniture
- repair of stained glass and leadlight
- screen printing
- sign writing