

INTERIM DEVELOPMENT ORDER NO. 81 – CITY OF PENRITH

**Government Gazette No. 171 of 8 December 1978.
As amended**

LOCAL GOVERNMENT ACT, 1919

NOTIFICATION OF SUSPENSION OF THE PENRITH PLANNING SCHEME, RESCISSION OR PARTIAL RESCISSION OF CERTAIN INTERIM DEVELOPMENT ORDERS AFFECTING LAND WITHIN THE CITY OF PENRITH, AND MAKING OF INTERIM DEVELOPMENT ORDER NO. 81 – CITY OF PENRITH.

I, the Minister for Planning and Environment, having considered a report furnished by the New South Wales Planning and Environment Commission, do by this my notification –

- (a) in pursuance of section 342Y of the Local Government Act, 1919, notify that the provisions of the City of Penrith Planning Scheme are suspended as respects such part of the land to which such scheme applies as is described in Schedule “A” hereto;
- (b) in pursuance of section 342U (5) of that Act rescind the Interim Development Order specified in Schedule “B” hereto to the extent specified in that Schedule and not further or otherwise;
- (c) in pursuance of section 342U (5) rescind the Interim Development Order specified in Schedule “C” hereto; and
- (d) in pursuance of those sections, make an Interim Development Order as set out in Schedule “E” hereto in relation to the land described in Schedule “D” hereto. (M. 7-3-1-5)

PAUL LANDA,
Minister for Planning and Environment.

Sydney, 8th December, 1978.

SCHEDULE “A”

All that land within the City of Penrith shown by red edging on plan catalogued No. 245:3357 in the office of the New South Wales Planning and Environment Commission.

SCHEDULE “B”

Interim Development Order No. 73 – City of Penrith, only in so far as it relates to lands shown edged blue on Internal Plan No. 10404 in the office of the New South Wales Planning and Environment Commission.

SCHEDULE “C”

Interim Development Order No. 59 – City of Penrith as published in Government Gazette No. 110 of 22nd August, 1975.

SCHEDULE “D”

All that piece or parcel of land situate in the City of Penrith as shown by red edging on plan catalogued number 245:3357 and 245:2602 and as shown by blue edging on Internal Plan No. 10404 in the office of the New South Wales Planning and Environment Commission.

SCHEDULE “E”

INTERIM DEVELOPMENT ORDER NO. 81 – CITY OF PENRITH

Citation and Interpretation

1. This Order may be cited as “Interim Development Order No. 81 – City of Penrith”.

Relationship to Penrith Local Environmental Plan 1991
(Environmental Heritage Conservation)

1A. In the event of an inconsistency between this Order and Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation), that plan shall prevail to the extent of the inconsistency.

Clause 1A added G.G. No. 180 of 20/12/91 (LEP 1991 (Environmental Heritage Conservation))

Land to which this Order does not apply

1B. This Order does not apply to the land to which the following instruments apply:

Penrith Local Environmental Plan 1998 (Urban Land).

Clause 1B added G.G. No. 4 of 8/1/99 (LEP 1998 (Urban Land))

2. (1) In this Order -

“Act” means Local Government Act, 1919;

“advertising structure” has the meaning ascribed to it in Ordinance No. 55 under the Act, but does not include “temporary advertising structure” referred to in the said Ordinance or “advertising structure displaying a commercial sign” referred to in the said Ordinance;

“airline terminal” means a building or place used for the assembly of passengers and goods prior to the transport of those passengers and goods either to or from an aerodrome;

“appointed day” means the day upon which this Order takes effect;

“boarding-house” includes a house let in lodgings or a hostel but does not include a motel;

“bus depot” means a building or place used for the servicing, repair and garaging of buses and other vehicles used for the purposes of a bus transport undertaking;

“bus station” means a building or place used as a terminal for the assembly and dispersal of passengers travelling by bus;

“bulk store” means a building or place used for the storage of goods in bulk, but does not include –

- (a) such a building or place if it is also a retail store or being adjoining thereto is used in connection therewith; or
- (b) a warehouse;

“car repair station” means a building or place used for the purpose of carrying out repairs to motor vehicles or agricultural machinery, not being –

- (a) body building;
- (b) panel beating which involves dismantling;
- (c) spray painting other than of a touching-up nature;

“child care centre” means a building or place used for the purpose of educating, minding or caring (without provision for residential care) for two or more children under the age of six years not related to the person so using such building or place, but does not include an educational establishment;

“club” means a building used by persons associated, or by a body incorporated, for social, literary, political, sporting, athletic, or other lawful purpose of the same or another kind and whether or not the whole or a part of such building is the premises of a club registered under Part X of the Liquor Act, 1912;

“commercial premises” means a building or place used as an office or for other business or commercial purposes, but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause or for a roadside stall;

“Commission” means the New South Wales Planning and Environment Commission;

“council” means the Council of the City of Penrith;

“county road” means a county road within the meaning of the Penrith Planning Scheme Ordinance;

“designated frontage” means the frontage of any land to any land within Zone No. 5 (b);

“development” has the meaning ascribed to it in section 342r of the Act;

“Development Control Plan” means the plan marked “Development Control Plan as referred to in clause 30 of Interim Development Order No. 81 – City of Penrith” deposited in the office of the Council or a duplicate of the said plan deposited in the office of the Commission;

“dwelling” means a suite of rooms occupied or used, or so constructed, designed or adapted as to be capable of being occupied or used as a separate domicile;

“dwelling-house” means a building on its own site designed or constructed or adapted for use as a single dwelling;

“educational establishment” means a building used as a school, college, technical college or academy, lecture hall, gallery or museum, but does not include a building used wholly or principally as an institution;

“extractive industry” means an industry or undertaking, not being a mine, which depends for its operations on the winning of extractive material from the land upon which it is carried on;

“extractive material” means sand, gravel, clay, turf, soil, rock, stone and similar substances;

“generating works” means a building or place used for the purposes of making or generating gas, electricity, or other forms of energy;

“health care professional” means a person who renders professional health services to members of the public, and includes –

- (a) a chiropodist registered under the Chiropodists Registration Act, 1962;
- (b) a chiropractor or an osteopath or a chiropractor and an osteopath registered under the Chiropractic Act, 1978;
- (c) a physiotherapist registered under the Physiotherapists Registration Act, 1945;
- (d) an optometrist registered under the Optometrists Act, 1930;

“health care professional” definition added G.G. No. 111 of 12/8/83 (LEP 84).

“home industry” means industry carried on in a building, not being a dwelling, under the following circumstances –

- (a) the building does not occupy a floor space exceeding 30 square metres and is erected within the curtilage of the dwelling-house or residential flat building occupied by the person carrying on the industry or on adjoining land owned by such person;
- (b) the industry does not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise;
- (c) the industry does not involve exposure to view from any adjacent premises or from any public place of any unsightly matter; and
- (d) the industry does not require the provision of any essential service main of a greater capacity than that available in the locality;

“home occupation” means an occupation carried on in a dwelling by the permanent residents of the dwelling which does not involve any of the following:

- (a) the registration of the building under the Factories, Shops and Industries Act, 1962;
- (b) the employment of persons other than such residents;
- (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, oil or otherwise;
- (d) the display of goods, whether in a window or otherwise; or
- (e) the exhibition of any notice, advertisement or sign other than a notice or sign exhibited on such dwelling to indicate the name and occupation of the resident;

“hospital” means a building used as a hospital, sanatorium, health centre or dispensary, nursing home or home for aged, infirm, incurable or convalescent persons, whether public or private, and includes a shop or dispensary used in conjunction therewith, but does not include an institution;

“hotel” means any premises specified in a publican’s licence issued under the Liquor Act, 1912;

“industry” means -

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

“institution” means a building used wholly or principally for any of the following purposes, namely, as –

- (a) a home or other institution for mental defectives;
- (b) a mental hospital; or
- (c) a penal or reformatory institution;

“I.D.C. Map” means the map marked “Interim Development Control Map referred to in Interim Development Order No. 81 – City of Penrith” deposited in the office of the Council or a duplicate of the said map similarly identified deposited in the office of the Commission;

“junk yard” means land used for the collection, storage, abandonment or sale of scrap metals, or goods or used for the collecting, dismantling, storage, salvaging or abandonment of automobiles or other vehicles or machinery and for the sale of parts thereof;

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

“main road” means a main road within the meaning of the Main Roads Act, 1924;

“mine” means any place, open cut, shaft, tunnel, pit, drive, level or other excavation, drift, gutter, lead, vein, lode or reef whereon wherein or whereby any operation is carried on for or in connection with the purpose of obtaining any metal or mineral by any mode or method, and any place adjoining on which any product of the mine is stacked, stored, crushed or otherwise treated, but does not include a quarry;

“motel” means a building, not being an hotel, a boarding-house or a residential flat building, substantially used for the overnight accommodation of travellers and their vehicles whether or not meals are provided therein for such travellers or the general public;

“motor, caravan or boat 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 therein or thereon;

“offensive or hazardous industry” means an industry which, by reason of the processes involved or the method of manufacture of the nature of the materials used or produced, requires isolation from other buildings;

“parking space” includes any garage or court available for use by vehicles;

“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 (for gain or not) but does not include a place of public worship, an institution or an educational establishment;

“place of public worship” means a church, chapel or other place of public worship or religious instruction or place used for the purpose of religious training;

“professional consulting rooms” means a room or a number of rooms forming either the whole of or part of, attached to or within the curtilage of, a dwelling-house and used by not more than 3 legally qualified medical practitioners or by not more than 3 dentists within the meaning of the Dentists Act, 1934, or by not more than 3 health care professionals, who practise therein the profession of medicine, dentistry or health care respectively, and if more than one, practise in partnership, and who employ not more than 3 employees in connection with that practice;

“professional consulting rooms” definition added G.G. No. 111 of 12/8/83 (LEP 84).

“public building” means a building used as offices or for administrative or other like purposes by the Crown, a statutory body, a council or by an organization established for public purposes;

“public utility undertaking” means any of the following undertakings carried on or permitted or suffered to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act, that is to say –

- (a) railway, road transport, water transport, air transport, wharf or river undertakings;
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services;

any reference to a person carrying on any public utility undertaking shall be deemed to include a reference to Council, county council, Government Department, corporation, firm or authority carrying on such undertaking;

“refreshment room” means a restaurant, café, tea room, eating house or the like;

“residential flat building” means one or more buildings on one allotment containing two or more dwellings altogether;

“roadside stall” means a building or place not exceeding 20 square metres in floor space or area respectively where only primary products produced on the property on which the building or place is situated are exposed or offered for sale or sold by retail;

“road transport terminal” means a building or place used for the principal purpose of the bulk handling of goods for transport by road, including facilities for

the loading and unloading of vehicles used to transport those goods and for the parking, servicing and repair of those vehicles;

“Service station” means a building or place used for the fuelling of motor vehicles involving the sale by retail of petrol, oils and other petroleum products whether or not the building or place is also used for any one or more of the following purposes –

- (a) the sale by retail of spare parts and accessories for motor vehicles;
- (b) washing and greasing of motor vehicles;
- (c) installation of accessories; or
- (d) repairing and servicing of motor vehicles involving the use of hand tools provided that such repairing and servicing shall not include top overhaul of motors, body building, panel beating, spray painting, or suspension, transmission, or chassis restoration;

“Statutory Authority” includes a statutory body, a Government Department, the Police Department Traffic Branch, the Totalizator Agency Board and the Traffic Authority of New South Wales;

“shop” means a building or place used for the purpose of selling, exposing or offering for sale by retail goods, merchandise or materials but does not include a building or place elsewhere specifically defined in this clause or a building or place used for a purpose elsewhere specifically defined in this clause or for a roadside stall;

“site” means the area of land to which an application for consent under this order relates;

“stock and saleyards” means a building or place used for the purpose of offering animals for sale and includes a public cattle market;

“tavern” means any premises specified in a publican’s licence issued under the Liquor Act, 1912, which licence has been endorsed as a Tavern in accordance with section 26B or section 153A (2) of the Act;

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

“units for aged persons” means a residential flat building used to house aged persons as defined in the Aged Persons Homes Act, 1954, as amended, of the Parliament of the Commonwealth, erected or to be erected by an eligible

organization as defined in that Act, the Housing Commission of New South Wales, or any other Department or instrumentality of the Crown;

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

“warehouse” means a building or place used for the storage of goods, merchandise or materials pending their sale and distribution to persons engaged in the retail trade, but does not include a bulk store;

“zone” means land shown in the I.D.C. Map by distinctive colouring or edging or in some distinctive manner for the purpose of indicating the restrictions imposed by this Order on development;

(2) The provisions of clauses 2, 3, 4 and 8 of the set of standard or model provisions adopted by the Minister for Local Government and published in Government Gazette No. 88 of the 17th July, 1970, are adopted by reference for the purposes of this Order.

General Development Control

3. Subject to this Order, on any land within a zone specified in Column I of the Table to this clause, interim development for the purposes -

- (a) specified in Column II of the Table may be carried out only with the consent of the Council;
- (b) specified in Column III of the Table may be carried out only with the consent of the Council and the concurrence of the Commission; and
- (c) specified in Column IV of the Table is prohibited.

TABLE

Column I	Column II	Column III	Column IV
Zone and colour on I.D.C. Map	Purposes for which development may be carried out <i>only with</i> the consent of the Council	Purposes for which development may be carried out <i>only with</i> the consent of the Council and the concurrence of the Commission	Purposes for which development is prohibited
1. RURAL: (c) Rural "C". Light brown with red edging and lettered 1 (c).	Advertising structures, agriculture (other than pig keeping or poultry farming establishments); amusement parks; child care centres; clubs; dwelling-houses; home industries; home occupations; open space; places of assembly; recreation establishments; roads; utility installations (other than gas holders or generating works).	_____	Purposes other than those referred to in Column II.
2. RESIDENTIAL: (a) Residential "A". Light scarlet.	Drainage; dwelling-houses; educational establishments; home industries; home occupations; open space; places of public worship; professional consulting rooms; roads; units (not exceeding 2 storeys) for aged persons; utility installations (other than gas holders or generating works).	Purposes other than those permitted by Column 11 or prohibited by Column IV.	Advertising structures; bulk stores; caravan parks; car repair stations; clubs; commercial premises; forestry; gas holders; generating works; hotels; industries (other than home industries); institutions; junk yards; liquid fuel depots; mines; motels; motor, caravan or boat showrooms; places of assembly; refreshment rooms; residential flat buildings (other than units not exceeding 2 storeys for aged persons); roadside stalls; sawmills; service stations; shops; stables; stock and sale yards; transport terminals; warehouses.

Column I	Column II	Column III	Column IV
Zone and colour on I.D.C. Map	Purposes for which development may be carried out <i>only with</i> the consent of the Council	Purposes for which development may be carried out <i>only with</i> the consent of the Council and the concurrence of the Commission	Purposes for which development is prohibited
3. BUSINESS: (d1) Special Business. Light blue with dark red edging and lettered 3(d1).	Hotels; motels; open space; parking; roads; Totalizator Agency Board agencies or branches; utility installations (other than gas holders or generating works).	_____	Purposes other than those referred to in Column II.
4. INDUSTRIAL: (a) General Industrial. Purple.	Industries (other than those referred to in Column IV); open space; parking; roads; shops referred to in Schedule 1; sport and recreation; utility installations (other than gas holders or generating works).	Purposes other than those permitted by Column II or prohibited by Column IV.	Amusement parks; boarding-houses; caravan parks; clubs; commercial premises (other than banks, buildings for sport, or recreation or timber yards); dwelling-houses or residential flat buildings (other than those used in conjunction with industry and situated on the same land as that industry); educational establishments; extractive industries; hospitals; hotels; institutions; mines; motels; motor, caravan or boat showrooms; offensive or hazardous industries; places of assembly; places of public worship; roadside stalls; service stations; shops (other than those referred to in Schedule 1).

Column I	Column II	Column III	Column IV
Zone and colour on I.D.C. Map	Purposes for which development may be carried out <i>only with</i> the consent of the Council	Purposes for which development may be carried out <i>only with</i> the consent of the Council and the concurrence of the Commission	Purposes for which development is prohibited
5. SPECIAL USES: (a) Special Uses "A". Yellow with scarlet lettering.	Development for the particular purpose indicated by scarlet lettering on the I.D.C. Map; any development ordinarily incidental or ancillary thereto; drainage; open space; roads; utility installations (other than gas holders or generating works).	-----	Purposes other than those referred to in Column II.
(b) Special Uses "B". (Roads) Grey.	Drainage; roads; utility installations; any purpose authorised by Part IX of the Act.	-----	Purposes other than those referred to in Column II.
6. OPEN SPACE: (a) Open Space (Existing Recreation). Dark green.	Development authorised by Division 2 or 3 of Part XIII of the Act; drainage; roads; showgrounds; sports-grounds; utility installations (other than gas holders or generating works).	-----	Purposes other than those referred to in Column II.
(b) Open Space (Proposed Recreation) Light green with dark green edging.	Development authorised by Division 2 or 3 of Part XIII of the Act; drainage; roads; showgrounds; sportsgrounds; utility installations (other than gas holders or generating works).	-----	Purposes other than those referred to in Column II.

Zone 1(c) amended G.G. No. 151 of 26/9/86 (LEP 147)

Zone 2(a) amended G.G. No. 111 of 12/8/83 (LEP 84)

Advertising Structures

4. Subject to clause 5, an advertising structure may be erected on land only if it is to display advertisements relating to the use of the land on which it is erected.

5. (1) Not more than one advertising sign may be erected on each frontage of any land within Zone No. 4 (a).

(2) A sign referred to in subclause (1) shall -

(a) indicate only the occupants of the land and the nature of their business;

(b) be situated not less than –

(i) 10 metres from a designated frontage;

(ii) 6 metres from any other frontage; and

(c) not have a vertical cross sectional area (excluding supports) in excess of 3 square metres.

Dwelling-houses

6. (1) This clause applies to land within Zone No. 2 (a).

(2) A person shall not erect a dwelling-house on any land which has -

(a) an area of less than 550 square metres; or

(b) a width of less than 15 metres at the front alignment of the building.

(3) For the purposes of this clause, in assessing the area of a hatchet-shaped allotment, the area of the access corridor shall be excluded.

7. (1) This clause applies to land within Zone No. 1 (c).

(2) A person shall not erect a dwelling-house on any land which has an area of less than 2 hectares.

Dwelling-houses – Dual Occupancy.

Clause 7A added G.G. No. 193 of 18/12/81 and omitted G.G. No. 104 of 19/6/87.

Erection of Buildings

8. A building shall not be erected within 20 metres of the proposed new alignment of any road or road widening shown by grey colouring on the I.D.C. Map.

Filling of Land

9. Development shall not take place on any land until it has been filled to a level satisfactory to the Council.

Floor space ratios

10. (1) This clause applies to land within Zone No. 3 (d1) or 4 (a).

(2) In this clause -

“floor space” includes all wall thicknesses, ducts, vents, staircases and lift wells, but does not include –

- (a) any car parking space in the building provided to meet the standards required by the Council or this Order (but not such space provided in excess of such standards) or any internal access thereto;
- (b) space used for the loading or unloading of goods; and
- (c) lift towers, cooling towers, machinery and plant rooms and any storage space related thereto;

(3) The ratio of the total floor space of any building or building erected or proposed to be erected on any land to the area of the site shall not exceed 1:1.

INDUSTRIAL LAND

General

11. Clauses 12 to 21 inclusive apply to land within Zone No. 4 (a).

Area

12. (1) No development shall be carried out on any land which has an area of less than 1.2 hectares.

(2) No development shall be carried out on any land with a designated frontage the length of which is less than 60 metres.

Construction

13. The façade of any main building and the exterior of all minor buildings between the main building and any designated frontage shall be constructed of masonry block or similarly durable material.

Height

14. (1) In this clause, “storey” has the meaning ascribed to it by section 304 of the Act, and includes a mezzanine floor.

(2) A person shall not erect a building containing more than 2 storeys.

Landscaping

15. (1) In this clause -

“landscaping plan” means a plan showing -

- (a) the proposed landscaping of the site;
- (b) details of earth shaping;
- (c) the
 - (i) number, location and extent;
 - (ii) height at time of planting; and
 - (iii) estimated height at maturity,of any trees and shrubs which are to be planted;
and
- (d) the location of any signs.

(2) The Council shall impose, as a condition of its consent to any development the following requirements: -

- (a) a requirement that the site be landscaped in accordance with the landscaping plan;
- (b) if land adjoining that referred to in clause 19 is not to be used for car parking, a requirement that that land be screened to its satisfaction; and

- (c) a requirement that any open storage space be screened to its satisfaction.

16. (1) This clause applies to all land required by the Council to be landscaped.

(2) Development (other than, with the consent of the Council, for access, erection of fences, advertising signs, or landscaping) shall not be carried out.

Parking

17. (1) A parking space required under this clause shall not be less than 5.5 metres long or 2.6 metres wide (excluding all columns or other obstructions).

(2) A person shall not erect a building or use land for industrial purposes unless off-street parking is provided on the site at the ratio of not less than -

- (a) one parking space for each 2 employees; or
- (b) one parking space for each 50 square metres of floor space, whichever is the greater.

(3) Vehicular access to parking spaces provided under this clause shall not be less than 6.5 metres wide (exclusive of all obstructions).

(4) Parking spaces provided under this clause shall not be situated between the main building and any designated frontage of the site.

(5) For the purposes of calculating the number of car spaces required by subclause 2 (a) an industry employing an uneven number of persons shall be taken to have that number of persons less one.

Sport and Recreation

18. The Council shall impose as conditions of any consent for interim development for the purposes of sport and recreation that:

- (a) subject to subclause (b) so many off-street parking spaces and proper vehicular access to each such space be provided as the Traffic Authority of New South Wales may require;

- (b) no less than 3 parking spaces for each squash or tennis court on the land shall be provided.

Storage

19. A person shall not use land between the main building and the designated frontage for open storage areas, truck turning areas or open workshop areas.

Vehicle movement and loading

20. A person shall not erect a building or use land unless -

- (a) vehicular access to any rear yard is provided to the satisfaction of the Council;
- (b) loading docks or loading areas are not located fronting on to or visible from any street;
- (c) vehicles entering or leaving the site do so in a forward direction only.

Liquid fuel depots

21. A person shall not establish, enlarge or commence to use a liquid fuel depot having an above ground storage of 500 kilolitres or more of inflammable liquid without the prior consent of the Council and the concurrence of the Department for the time being administering the Inflammable Liquid Act, 1915.

Main Roads

22. A road which forms a junction or intersection with any main road or land within Zone No. 5 (b) shall not be opened without the concurrence of the Commission.

23. The Council shall not grant consent to any application (other than an application for the alteration or enlargement of any existing building) to carry out development on land having a designated frontage involving direct access from the land the subject of the application to the land adjoining that land at the designated frontage except with the concurrence of the Commission.

Development within Zone No. 5(b)

23A. (1) Development of land within Zone No. 5 (b) may be carried out with the consent of the council and the concurrence of The Commissioner for Main Roads where it appears to the council that the purposes for which the land is

zoned cannot be carried out within a reasonable time after the date on which this clause takes effect.

(2) A consent referred to in subclause (1) shall not be granted unless the council is satisfied that proper arrangements have been made (whether by the imposition of conditions under section 91 of the Act or otherwise) with respect to 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;
- (b) the reinstatement of the land;
- (c) the removal of any waste material or refuse from the land; or
- (d) the effect of the proposed development on the costs of acquisition of the land.

(3) The Commissioner for Main Roads, in considering whether to grant concurrence referred to in subclause (1), shall take into consideration whether the arrangements referred to in subclause (2) are adequate having regard to the purposes for which the land is zoned.

Clause 23A added G.G. No. 151 of 26/9/86 (LEP 147)

Units for Aged Persons

24. (1) A parking space required under this clause is not to be less than 5.5 metres long and 2.6 metres wide.

(2) Development for the purposes of units for aged persons shall not be carried out unless there is provided within the site so many vehicular parking spaces as the Council may require, having regard to the location of the building in regard to public transport and the availability of alternative car parking facilities but there shall not be provided less than 1 such space for each 10 dwellings within the building and the Council may not require that more than 1 such space for each 5 dwellings within the building be provided.

Services

25. In clauses 26 and 28 a reference to the owner of any land includes a reference, if the applicant for development consent is not the owner, to the applicant also.

26. The Council shall not grant consent to the carrying out of development on any land the subject of this order unless and until arrangements satisfactory to the Metropolitan Water Sewerage and Drainage Board or the Council have been made with the Board or the Council by the owner of such land, for the amplification and reticulation of water and sewerage services to such land.

27. Development shall not take place on land the subject of this Order unless and until arrangements satisfactory to the Council have been made with the Council for the carrying out of drainage works on all land the subject of this Order.

28. (1) Subject to subclause (2) the Council may require as a condition of its consent to the carrying out of development on any land the subject of this Order that arrangements satisfactory to the Prospect County Council be made with the County Council by the owner of such land, for the provision of underground low voltage electricity reticulation.

(2) The owner shall be not required in any case to contribute more than the difference between the cost of over head reticulation to each lot and the cost of underground reticulation thereto.

Rural Lands

29. (1) This clause applies to land within Zone No. 1 (c).

(2) The Council shall not grant consent to any subdivision of land, unless that subdivision is for the purpose of -

- (a) creating an allotment or allotments intended for open space or other public purposes;
 - (b) making minor adjustments to common property boundaries;
 - (c) enlarging the area of any existing allotment without reducing the area of any existing allotment;
 - (d) rectifying any encroachment upon an existing allotment;
- or
- (e) amalgamating allotments.

29A. (1) Nothing in clause 3 prevents a person, with the consent of the Council, from carrying out development on the land referred to in Column I of the Table to this clause for the purposes specified in Column II of that Table shown opposite that land.

(2) Where under subclause (1) land specified in Column I of the Table to this clause may be developed for the purposes for which land reserved for a purpose or included within a zone specified in Column II may be developed, the provisions of this Order relating to land reserved for this Order relating to land reserved for a purpose or included within a zone specified in Column I of the Table shall, on and from the date of inclusion of that land in the Table, cease to apply to that land and the provisions of this Order relating to land reserved for a purpose or included within a zone specified in Column II of the Table shall thereupon apply to that land.

TABLE.

Column I	Column II
That part of lot 221, D.P. 606545, Forrester Road, St Marys, shown edged heavy black on map marked "Penrith Local Environmental Plan No. 8" and that part of lot 2, D.P. 541967, Forrester Road, St Marys as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 34" deposited in the office of the Council.	Licensed sports club, and associated playing fields.
Part of lot 1, D.P. 541967, Forrester Road, St Marys, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 121" deposited in the office of the Council.	Motor showroom.
So much of lot 31, D.P. 536384 as is within Zone No. 3(d1), at Forrester Road, St Marys, and is shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 242" deposited in the office of the Council of the City of Penrith.	Refreshment rooms.

Clause 29A added G.G. No. 38 of 6/3/81 (LEP 8) and amended G.G. No. 50 of 8/4/82 (LEP 34), G.G. No. 105 of 19/7/85 (LEP 121) and G.G. No. 35 of 22/3/96 (LEP 242).

Consents

30. *Omitted G.G. No. 139 of 26.9.80.*

31. In respect of any interim development application for the consent of the Council -

- (a) to the erection of a building (including a fence), to the carrying out of work or to the use of land within view of or

adjacent to any road, public reserve or proposed reserve, the Council shall take into consideration the probable appearance of that development or work when used for the proposed purpose and viewed from that road, public reserve or proposed reserve;

- (b) to the carrying out of any development likely to cause increased vehicular traffic on any road in the vicinity thereof (including the use of a hotel, motel, service station, car repair station, place of assembly or industrial premises), the Council shall take into consideration whether having regard to the proposed use of any such development -
 - (i) adequate vehicular exists and entrances to the site have been provided so that vehicles using the entrances and exits will not endanger persons and vehicles using any road;
 - (ii) space, sufficient to provide for the parking or standing of so many vehicles as the Council may determine, is provided on the site or on land adjoining the site not being a public road.
 - (iii) any representations made by the Traffic Authority of New South Wales have been met; and
 - (iv) adequate space has been provided within the site of the building or development for the loading, unloading and fuelling of vehicles and for the picking up and setting down of passengers.

Crown Land

32. The Council shall not refuse to grant any application for consent to carry out development made to it under this Order by the Crown, a public utility undertaking, a statutory body or the Totalizator Agency Board nor attach conditions to its consent to any such application, except with the concurrence of the Minister.

Exceptions

33. If any application under this Order could but for the provisions of clauses 6 (2), 7 (2) or 12 be granted by the Council that application may be granted if the requirements of those clauses are departed from only to a minor extent.

Consent to be Void in Certain Circumstances

34. *Omitted G.G. No. 139 of 26/9/80.*

Duties of Council - information

35. The Council shall retain and catalogue a copy of every plan of subdivision approved by it and, upon registration of each such plan in the office of the Registrar – General, shall clearly mark on a copy of a map of its area the location of the land to which that plan relates with a reference to the catalogued copy.

36. *Omitted G.G. No. 139 of 26/9/80.*

Tree Preservation

37. (1) Where it appears to the Council that it is expedient for the purpose of securing amenity or of preserving existing amenities, it may for that purpose by resolution make an order (hereinafter referred to as a tree preservation order) and may by like resolution rescind or vary any such order.

(2) A tree preservation order may prohibit the ringbarking, cutting down, topping, lopping, removing, injuring or wilful destruction of any tree or trees specified in such order except with the consent of the Council and any such consent may be given subject to such conditions as the Council may think fit.

(3) A tree preservation order may relate to any tree or trees or to any specified class, type, or description of trees on land described in such order and such land may be described particularly or generally by reference to the land the subject of this Order or any particularity.

(4) The Council shall forthwith, upon the making of a tree preservation order cause notice of the making of such order to be published in the Gazette and in a newspaper circulating in the area in which the land described in the order is situated.

(5) Any person who contravenes or causes or permits to be contravened the provisions of a tree preservation order shall be guilty of an offence.

(6) In any proceedings under this clause it shall be sufficient defence to prove that the tree or trees ringbarked, cut down, topped, lopped, removed, injured or wilfully destroyed was or were dying or dead or had become dangerous.

SCHEDULE 1

Chemist's shop.
Confectionery shop and milk bar.
Fish and chip shop.
Fruit shop.
Newsagent's shop.
Smallgoods and sandwich shop.
Tobacconist's and hairdresser's shop.

(7228)