

**INTERIM DEVELOPMENT ORDER NO. 2 –  
CITY OF PENRITH**

**Government Gazette No. 7 of 17 January 1964.  
As amended.**

# **LOCAL GOVERNMENT ACT, 1919**

## **INTERIM DEVELOPMENT ORDER NO. 2 – CITY OF PENRITH**

WHEREAS in pursuance of a resolution dated 17<sup>th</sup> June, 1958, the Blue Mountains City Council has commenced to prepare a town and country planning scheme in accordance with Part XIIA of the Local Government Act, 1919, in respect of all land within the City; and whereas by proclamation published in Government Gazette No. 102 of 25<sup>th</sup> October, 1963, the boundaries of the City of Blue Mountains and the City of Penrith were altered by adding to the City of Penrith the lands described in Schedule "A" hereto: and whereas in pursuance of that proclamation the Penrith City Council was ordered to continue with the preparation of the town and country planning scheme commenced by the Blue Mountains City Council in respect of the land so transferred: and whereas I have considered a report furnished by the Town and Country Planning Advisory Committee in pursuance of section 342U (1) of the said Act: Now I, the Minister for Local Government, do, by this my notification, make an interim development order as set out in Schedule "B" hereto, regulating, restricting or prohibiting or conferring upon the Penrith City Council powers, authorities, duties and functions with respect to regulating, restricting or prohibiting interim development of the lands described in Schedule "A" hereto, in the manner and to the extent set out in the said order pending the coming into operation of a planning scheme in respect of the said lands. (M. 63-11).

P. D. HILLS, Minister for Local Government.

Department of Local Government,  
Sydney, 17<sup>th</sup> January, 1964.

### **SCHEDULE "A"**

#### **Part of City of Blue Mountains transferred to City of Penrith**

Area about 3,600 acres: Commencing on the generally eastern boundary of the City of Blue Mountains at its intersection with the easterly prolongation of the northern boundary of portion 35, parish of Strathdon, county of Cook; and bounded thence by that prolongation and by the northern and western boundaries of that portion westerly and southerly to the northern boundary of portion 34; by part of that boundary westerly to the north-eastern corner of the land comprised in Real Property Application 32,084; by the eastern boundary of that land southerly to the generally southern boundary of the said portion 34; by part of that boundary easterly to the western boundary of portion 65; by part of that boundary southerly to the north-eastern corner of portion 48; by the northern and western boundaries of that portion westerly and southerly to Old Bathurst road; by that road north-westerly to the north-western corner of the 51 acres 3 roods 10½ perches parcel of land shown in Real Property Application 36,811; by the generally western and southern boundaries of that land generally southerly and easterly to the Main Western

Railway; by the Main Western Railway generally southerly to the southernmost north-western boundary of the land comprised in Real Property Application 20,085; by that boundary south-westerly to Glenbrook Creek; by that creek downwards to its confluence with the Nepean River; by a line due east to the said generally eastern boundary of the City of Blue Mountains; and by part of that boundary generally northerly to the point of commencement.

## SCHEDULE "B"

1. This Order may be cited as "Interim Development Order No. 2 – City of Penrith."

1A. This order does not apply to the land to which the following instruments apply:

Penrith Local Environmental Plan No. 157.  
Penrith Local Environmental Plan 1998 (Urban Land).

*Clause 1A added G.G. No.180 of 15/5/87 (LEP 157) and amended G. G. No. 4 of 8/1/99 (LEP 1998 (Urban Land)).*

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

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

2. The provisions of Division 7 of Part XIA of the Local Government Act, 1919, in force immediately before the commencement of the Local Government (Town and Country Planning) Amendment Act, 1962, are hereby suspended.

3. (1) In this Order, unless inconsistent with the context or subject matter-

**"Agriculture"** has the meaning ascribed to it in section 514A of the Act.

**"Appointed day"** means the day upon which this Order takes effect.

**"Attached dwelling"** means a dwelling sharing a common wall with another dwelling and generally known as a town house or villa house.

*"Attached dwelling" definition added G.G. No. 6 of 14/1/83 (LEP 63).*

**“Commission”** means the New South Wales Planning and Environment Commission constituted under the New South Wales Planning and Environment Commission Act, 1974.

*“Commission” definition added G.G. No. 102 of 1/8/80.*

**“Community building”** means a building used or intended to be used as a neighbourhood centre or for general public purposes such as meetings, entertainments, exhibitions, social and community activities, child care or the like.

*“Community building” definition added G.G. No. 167 of 30/11/84 (LEP 113).*

**“Convenience store”** means a shop having a gross floor area not exceeding 200 square metres and which trades principally in groceries, smallgoods and associated small items.

*“Convenience store” definition added G.G. No. 151 of 26/9/86 (LEP 145).*

**“Country dwelling”** means a dwelling-house occupied in conjunction with land within Zone No. 1, such land having an area of not less than 25 acres on which there are no other buildings or on which the only other buildings are rural dwellings or buildings ordinarily incidental to the use and enjoyment of a country dwelling or to the use of the land for agriculture.

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

**“Dwelling”** means a room or suite of rooms occupied or used or so constructed or adapted as to be capable of being occupied or used as a separate domicile.

*“Dwelling” definition added G.G. No. 6 of 14/1/83 (LEP 63).*

**“Existing building” and “existing work”** mean respectively a building or work erected, constructed or carried out before the appointed day.

**“Existing use”** means a use of a building, work or land for the purpose for which it was used immediately before the appointed day.

**“General store”** means a building used or designed for use for the sale by retail of general merchandise whether or not it includes facilities of a post office.

**“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 consulting rooms” definition added G.G. No. 22 of 11/2/00 (LEP 252).*

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

*“Health care professional” definition added G.G. No. 111 of 12/8/83 (LEP 84) and amended G.G. No. 22 of 11/2/00 (LEP 252).*

**“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.

*“Health care services” definition added G.G. No. 22 of 11/2/00 (LEP 252).*

**“I.D.C. Map”** means the map deposited in the office of the Council, marked “Interim Development Control Map referred to in Interim Development Order No. 2 – City of Penrith” and signed by the Minister for Local Government, or a duplicate of the said map similarly identified and deposited in the Commission as amended by the map marked “Amendment No. 1 of I.D.C. Map referred to in Interim Development Order No. 2 – City of Penrith” copies of which map are deposited in the office of the Council and of the State Planning Authority of New South Wales as further amended by the map marked “Amendment No. 7 of I.D.C. map referred to in Interim Development Order No. 2 – City of Penrith” copies of which map are deposited in the office of the Council and of the Authority as further amended by the map marked “Amendment No. 6 of I.D.C. map referred to in Interim Development Order No. 2 – City of Penrith” copies of which map are deposited in the office of the Council and of the Authority as further amended by the map marked “Amendment No. 5 of I.D.C. map referred to in Interim Development Order No. 2 – City of Penrith” copies of which map are deposited in the office of the Council and of the Authority as further amended by the map marked “Amendment No. 2 of I.D.C. map referred to in Interim Development Order No. 2 – City of Penrith” copies of which map are deposited in the office of the Council and of the Authority as further amended by the map marked “Amendment No. 3 of I.D.C. Map referred to in Interim Development Order No. 2 – City of Penrith” copies of which map are deposited in the office of the Council and of the Authority as further amended by the map marked “Amendment No. 4 of I.D.C. Map referred to in Interim Development Order No. 2 – City of Penrith” copies of which map are deposited in the office of the Council and of the Authority as further amended by the map marked “Amendment No. 8 of I.D.C. Map referred to in Interim Development Order No. 2 – City of Penrith” copies of which map are deposited in the office of the Council and of the Authority as further amended by map marked “Amendment

No. 9 of I.D.C. Map referred to in Interim Development Order No. 2 – City of Penrith”, copies of which map are deposited in the office of the Council and of the Authority as amended by map marked “Amendment No. 10 of the map referred to in Interim Development Order No. 2 – City of Penrith”, a copy of which map is deposited in the office of the Council and of the Authority as amended by the map marked “Amendment No. 11 of map referred to in Interim Development Order No. 2 – City of Penrith” copies of which are deposited in the office of the Council and of the Authority as amended by map marked “Amendment No. 13 of the map referred to in Interim Development Order No. 2 – City of Penrith”, a copy of which map is deposited in the office of the Council and of the Authority as amended by map marked “Amendment No. 12 of the map referred to in Interim Development Order No. 2 – City of Penrith”, a copy of which map is deposited in the office of the Council and of the Authority as amended by the map marked “Amendment No. 15 of map referred to in Interim Development Order No. 2 – City of Penrith” copies of which are deposited in the office of the Council and of the New South Wales Planning and Environment Commission as amended by the map marked “Amendment No. 16 of map referred to in Interim Development Order No. 2 – City of Penrith”, copies of which are deposited in the office of the Council and of the New South Wales Planning and Environment Commission as amended by the map marked “Amendment No. 14 of map referred to in Interim Development Order No. 2 – City of Penrith”, copies of which are deposited in the office of the Council and of the New South Wales Planning and Environment Commission as amended by map marked “Amendment No. 17 of map referred to in Interim Development Order No. 2 – City of Penrith”, copies of which are deposited in the offices of the Council and of the Commission as amended by the map marked “Amendment No. 19 of map referred to in Interim Development Order No. 2 – City of Penrith” copies of which are deposited in the office of the Council and of the New South Wales Planning and Environment Commission as amended by the map marked “Amendment No. 20 of map referred to in Interim Development Order No. 2 – City of Penrith” copies of which are deposited in the office of the council and of the Commission, as amended by the map marked “Penrith Local Environmental Plan No. 65” deposited in the office of the council, as amended by the map marked “Penrith Local Environmental Plan No. 86” deposited in the office of the council, as amended by the map marked “Penrith Local Environmental Plan No. 106” deposited in the office of the council, and as amended by the map marked “Penrith Local Environmental Plan No. 177” deposited in the office of the council, as amended by the map marked “Penrith Local Environmental Plan No. 189” deposited in the office of the council, as amended by the map marked “Penrith Local Environmental Plan No. 221” deposited in the office of the Council.

*“I.D.C. Map” definition amended G.G. No. 135 of 9/12/66; G.G. No. 38 of 22/3/68; G.G. No. 55 of 9/5/69; G.G. No. 106 of 5/9/69; G.G. No. 131 of 7/11/69; G.G. No. 3 of 9/1/70; G.G. No. 9 of 23/1/70; G.G. No. 153 of 27/11/70; G.G. No. 5 of 15/1/71; G.G. No. 49 of 13/4/73; G.G. No. 83 of 22/6/73; G.G. No. 70 of 14/6/74; G.G. No. 126 of 18/10/74; G.G. No. 129 of 25/10/74; G.G. No. 97 of 26/8/77; G.G. No. 102 of 9/9/77; G.G. No. 104 of*

16/9/77, G.G. No. 58 of 26/5/78; G.G. No. 4 of 11/1/80; G.G. No. 102 of 1/8/80; G.G. No. 6 of 14/1/83; G.G. No. 122 of 2/9/83; G.G. No. 150 of 26/10/84; G.G. No. 22 of 5/2/88; G.G. No. 18 of 3/2/89; and G.G. No. 11 of 5/2/93.

**“Professional consulting room”** definition added G.G. No. 111 of 12/8/83 (LEP 84) and omitted G.G. No. 22 of 11/2/00 (LEP 252).

**“Rural dwelling”** means a dwelling-house which is on land upon which there is already erected a country dwelling and which is occupied by persons engaged in rural occupation on such land.

**“Rural industry”** means the handling, treating, processing or packing of primary products, and includes the servicing in a workshop of plant or equipment used for rural purposes in the locality.

**“The Act”** means the Local Government Act, 1919, as amended by subsequent Acts.

**“Zone”** means land shown on 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 set of standard or model provisions adopted by the Minister for Local Government and published in Government Gazette No. 108 of 2<sup>nd</sup> November, 1962, shall be adopted for the purposes of this Order.

4. (1) Development shall not be carried out except in accordance with this Order.

(2) Development which -

- (a) may be carried out without the consent of the Council;
- (b) may be carried out only with the consent of the Council; and
- (c) may not be carried out;

in each of the zones specified in Column I of the Table to this clause is shown opposite the respective zones in Columns III, IV, and V of the Table.

(3) For the purposes of this clause, “parking space”, “recreation establishment”, “recreation facilities” and “tourist facilities” have the meanings ascribed to those expressions in clause 4 (1) of the Environmental Planning and Assessment Model Provisions 1980.

*Clause 4 amended G.G. No. 20 of 30/1/87 (LEP 154).*

**TABLE**

<b>Column I</b>	<b>Column II</b>	<b>Column III</b>	<b>Column IV</b>	<b>Column V</b>
Zone	Colour or indication on I.D.C. Map	Development which may be carried out without the consent of the Council	Development which may be carried out only with the consent of the Council	Development which may not be carried out
1. NON-URBAN	Light brown	Agriculture	Country dwellings; forestry and any purpose other than those prohibited by Column V.	Caravan parks; car repair stations; commercial premises; dwelling-houses other than country dwellings and rural dwellings; health care consulting rooms; industries other than rural industries and home industries; junk yards within 300 feet of a State highway or a main road reservation; liquid fuel depots; mines; motor show rooms; quarries; refreshment rooms; residential buildings; roadside stalls; service stations; shops; timber yards; transport terminals; warehouses.
2. RESIDENTIAL  (a) Residential "A".	Light scarlet	_____	Dwelling-houses; health care consulting rooms; any purpose other than those prohibited by Column V.	Bulk stores; caravan parks; car repair stations; commercial premises (other than health care consulting rooms); general stores; generating works; hotels; industries including home industries; institutions; junk yards; liquid fuel depots; mines; motels; motor show rooms; places of assembly; quarries; refreshment rooms; residential buildings; roadside stalls; saw mills; service stations; shops; stock and sale yards; timber yards; transport terminals; warehouses.
(b) Residential "B".	Light scarlet with dark scarlet edging and lettered 2(b).	_____	Dwelling-houses; health care consulting rooms; any purpose other than those prohibited by Column V.	Caravan parks; car repair stations; commercial premises (other than health care consulting rooms); generating works; hotels; industries other than home industries; institutions; junk yards; liquid fuel depots; mines; motels; motor showrooms; places of assembly; quarries; residential buildings; roadside stalls; saw mills; service stations; shops other than those specified in Schedule 1; stock and sale yards; timber yards.



<b>Column I</b>	<b>Column II</b>	<b>Column III</b>	<b>Column IV</b>	<b>Column V</b>
Zone	Colour or indication on I.D.C. Map	Development which may be carried out without the consent of the Council	Development which may be carried out only with the consent of the Council	Development which may not be carried out
3. BUSINESS (a) General Business.	Light blue	_____	Commercial premises; health care consulting rooms; shops; any other purpose not prohibited by Column V.	Caravan parks; dwelling-houses other than those used in conjunction with shops and commercial premises; gas holders; generating works; hospitals; industries other than those specified or carried on in places specified in Schedule 2; institutions; junk yards; liquid fuel depots; mines; stock and sale yards; transport terminals.
4. Industrial: (a) General Industrial:	Purple.	_____	Industries (other than offensive or hazardous and extractive industries); parking space; recreation establishments; recreation facilities; tourist facilities; utility installations; development for any other purpose not prohibited by Column V.	Commercial premises (other than those used in conjunction with development carried out for a purpose permitted by Column IV); dwelling-houses and residential buildings (other than those used in conjunction with industry and situated on the land on which the industry is conducted; extractive industries; general stores; health care consulting rooms; hospitals; mines; motels; offensive or hazardous industries; roadside stalls; shops (other than retail plant nurseries and convenience stores); stock and sale yards.

<b>Column I</b>	<b>Column II</b>	<b>Column III</b>	<b>Column IV</b>	<b>Column V</b>
Zone	Colour or indication on I.D.C. Map	Development which may be carried out without the consent of the Council	Development which may be carried out only with the consent of the Council	Development which may not be carried out
(b) Extractive Industrial.	Purple with dark scarlet edging and lettered 4(b).	_____	Extractive industries and industries directly associated with extractive industries; any purpose other than those prohibited by Column V.	Caravan parks; commercial premises; dwelling-houses and residential buildings other than those used in conjunction with industry and situated on the land on which such industry is conducted; educational establishments; health care consulting rooms; hospitals; hotels; industries other than those permitted by Column IV; institutions; motels; places of assembly; public buildings; roadside stalls; sawmills; shops other than general stores; stock and sale yards; warehouses.
(c) Offensive or hazardous Industrial.	Purple with dark scarlet edging and lettered 4(c).	_____	Offensive or hazardous industries; liquid fuel depots; any purpose other than those prohibited by Column V.	Caravan parks; car repair stations; commercial premises; dwelling-houses and residential buildings other than those used in conjunction with industry and situated on the land on which such industry is conducted; educational establishments; health care consulting rooms; hospitals; hotels; industries other than those permitted by Column IV; institutions; mines; motels; motor showrooms; places of assembly; places of public worship; roadside stalls; service stations; shops; transport terminals.
(d) Special Industrial.	Purple with dark scarlet edging and lettered 4(d).	_____	Industries other than those specified in Schedule 2; any purpose other than those prohibited by Column V.	Caravan parks; commercial premises; dwelling-houses and residential buildings other than those used in conjunction with industry and situated on the land on which such industry is conducted; educational establishments; health care consulting rooms; hospitals; hotels; industries specified in Schedule 2; institutions; mines; motels; motor showrooms; roadside stalls; service stations; shops; stock and sale yards; transport terminals.

<b>Column I</b>	<b>Column II</b>	<b>Column III</b>	<b>Column IV</b>	<b>Column V</b>
Zone	Colour or indication on I.D.C. Map	Development which may be carried out without the consent of the Council	Development which may be carried out only with the consent of the Council	Development which may not be carried out
5. SPECIAL USES (a) Special Uses "A".	Yellow	_____	The particular purpose indicated by scarlet lettering on the I.D.C. Map and any purpose ordinarily incidental to or subsidiary thereto; roads; drainage.	Any purpose other than those permitted by Column IV.
(b) Special Uses "B" (railways).	Blue purple	_____	Railway purposes including any purpose authorised under the Government Railways Act, 1912, as amended; roads; drainage.	Any purpose other than those permitted by Column IV.
(a) Special Uses – Expressway.	All land shown by a broken red band between a firm black line and a broken black line or by a broken red band between broken black lines.	_____	Expressway	Any purpose other than that permitted by Column IV.
6. OPEN SPACE (a) Recreation	Dark green	_____	Any purpose authorised by Part XIII of the Act; agriculture; caravan parks; drainage; forestry; racecourses; roads; showgrounds; sportsgrounds.	Any purpose other than those permitted by Column IV.

<b>Column I</b>	<b>Column II</b>	<b>Column III</b>	<b>Column IV</b>	<b>Column V</b>
Zone	Colour or indication on I.D.C. Map	Development which may be carried out without the consent of the Council	Development which may be carried out only with the consent of the Council	Development which may not be carried out
6. OPEN SPACE: (d) Regional.	Light green with red edging and lettered "R".		Agriculture; drainage; forestry; roads; utility installations other than gas holders or generating works.	Any purpose other than those permitted by Column IV.

*Zone No. 1 amended G.G. No. 22 of 11/2/00 (LEP 252).*

*Zone No. 2 (a) amended G.G. No. 152 of 7/12/73, G.G. No. 111 of 12/8/83 (LEP 84) and G.G. No. 22 of 11/2/00 (LEP 252).*

*Zone No. 2 (b) amended G.G. No. 152 of 7/12/73, G.G. No. 111 of 12/8/83 (LEP 84) and G.G. No. 22 of 11/2/00 (LEP 252).*

*Zone No. 3 (a) amended G.G. No. 22 of 11/2/00 (LEP 252).*

*Zone No. 4 (a) amended G.G. No. 151 of 26/9/86 (LEP 145), G.G. No. 20 of 30/1/87 (LEP 154), G.G. No. 133 of 21/8/87 (LEP 168), G.G. No. 132 of 20/9/91 (LEP 212) and G.G. No. 22 of 11/2/00 (LEP 252).*

*Zone No. 4 (b) amended G.G. No. 22 of 11/2/00 (LEP 252).*

*Zone No. 4 (c) amended G.G. No. 22 of 11/2/00 (LEP 252).*

*Zone No. 4 (d) amended G.G. No. 22 of 11/2/00 (LEP 252).*

*Zone No. 5 (c) amended G.G. No. 85 of 23/5/86 (LEP 125).*

*Zone No. 6 (d) added G.G. No. 129 of 25/10/74.*

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

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

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

8. Where application is made to the Council for consent or approval -

(a) to carry out development within view of any waterway or adjacent to any arterial road reservation, main road, railway, public reserve or land zoned for open space, the Council shall take into consideration the probable aesthetic appearance of development when used for the proposed purpose and viewed from such waterway, arterial road reservation, main road, railway, public reserve or any land zoned open space – recreational.

(b) to carry out development for the purposes of any extractive industry or mine, the Council shall take into consideration the

advisability of imposing conditions to secure the reinstatement of the land, the removal of waste material or refuse and the securing of public safety and the amenity of the neighbourhood;

*(c) – (e) omitted G.G. No. 20 of 30/1/87 (LEP 154).*

9. In respect of any application for approval to erect a dwelling-house or a residential building, the Council shall take into consideration the likelihood of flood-waters entering any such building and may attach conditions to any such approval, requiring the floor to be erected at a height sufficient, in its opinion, to obviate the frequent flooding of the building.

10. (1) A dwelling-house shall not be erected in Zone No. 2 (a) or 2 (b) on any land which has an area of less than six thousand square feet and a frontage of less than fifty feet to a road: Provided that the Council may consent to the erection of a dwelling-house on any parcel of land in such zones of not less than six thousand square feet and a minimum allotment width of not less than fifty feet at the front alignment of the dwelling-house.

(2) A residential building shall not be erected in Zone No. 2(a) or 2(b) on any parcel of land which has an area of less than nine thousand square feet and a frontage to a road of less than sixty feet: Provided that the Council may consent to the erection of a residential building on any parcel of land in such zones of not less than eight thousand square feet and a minimum allotment width of not less than sixty feet at the front alignment of the building.

(2A) (1) Notwithstanding the provisions of subclauses (1) and (2) of this clause, a dwelling-house or a residential building shall not be erected on a hatchet-shaped allotment within Zone No. 2 (a) or 2 (b), unless -

- (a) the length of the access corridor of such allotment is not more than 150 feet;
- (b) the width of such corridor is not less than 20 feet;
- (c) the area of such allotment exclusive of the area of the access corridor is not less than 10,000 square feet; and
- (d) the mean width of such allotment exclusive of the access corridor is not less than 50 feet.

(2) Notwithstanding the provisions of paragraph (c) of subclause (1) of this clause, where a hatchet-shaped allotment has a common boundary, of not less than 60 feet, with a public open space, road or waterway, the area of such allotment upon which a dwelling-house or a residential building may be erected shall be respectively not less than 6,000 square feet and 9,000 square feet.

(3) Nothing in this clause shall operate to prohibit the erection of a dwelling-house in Zone No. 2 (a) or 2 (b) on any parcel of land if such parcel was in existence as a separate parcel of land on the appointed day.

*Clause 10 amended G.G. No. 1 of 7/1/72 and G.G. No. 98 of 15/9/72.*

**10A. Dwelling-houses – Dual Occupancy.**

*Clause 10A added G.G. No. 193 of 18/12/81 and omitted G.G. No. 104 of 19/6/87.*

11. A hotel or a motel shall not be erected on any land in Zone No. 1 which has an area of less than five acres.

12. (1) The Council shall not approve of any plan of subdivision of land for Country dwelling purposes within Zone No. 1 unless each separate parcel of land proposed to be created thereby shall have an area of not less than twenty-five acres.

(2) In respect of any application for consent to open a public road forming a junction or intersection with a main road the Council shall take into consideration -

- (a) the treatment of the junction or the intersection and its location having regard to town and country planning principles and to the safety and convenience of the public; and
- (b) the effect of opening such road on the development of the locality.

13. (1) Notwithstanding any other provision of this Order a building shall not be erected in Zone No. 1 for a purpose specified in Column I of the Table to this Clause where the distance between such building and the existing or proposed alignment or centre line of a main road or main road reservation is less than the distance set out opposite such purpose in Column II of the Table.

**TABLE**

<b>Column I</b>	<b>Column II</b>	
Purpose	Distance (in feet)	
	Alignment	Centre Line
Hotel	150	216
Motel	150	216
Rural or Extractive Industry	60	126
Any other building	60	126

(2) A building shall not be erected in Zones No. 2 (a), 2 (b), 3 (a), or 4 (d) within a distance of 9 metres from an existing or future alignment of a main or arterial road.

*Clause 13 amended G.G. No. 95 of 9/8/74.*

14. General advertising structures shall not be erected on land within Zone No. 1: Provided that the Council may consent to the erection on premises of a general advertising structure displaying only notices related to the purposes for which the premises are used.

For the purposes of this clause “general advertising structure” shall have the meaning ascribed to it in Ordinance No. 55 under the Act.

15. A building shall not be erected or used, and land shall not be used, in Zone No. 3 (a) for the purposes of an industry where:-

- (a) the total floor space of the building or part of the building or the total area of the land used or proposed to be used for the purposes of the industry is in excess of 5,000 square feet; or
- (b) the total area of the parcel of land upon which the proposed development will be established is in excess of 10,000 square feet: Provided that this paragraph shall not apply to a service station or a car repair station.

16. Lot 9, Deposited Plan 230580, Great Western Highway, Emu Plains, shall not be subdivided nor shall any other development be carried out thereon until arrangements satisfactory to the Council have been made for adequate drainage and filling of the said land.

*Clause 16 added G.G. No. 55 of 9/5/69.*

17. Lot 23, Deposited Plan 201965, Great Western Highway, Emu Plains, shall not be subdivided nor shall any other development be carried out

thereon until arrangements satisfactory to the Council have been made for adequate drainage and filling of the said land.

*Clause 17 added G.G. No. 106 of 5/9/69.*

18. (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 City or any divisions thereof.

(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 situate.

(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.

(7) The powers conferred upon the Council by this clause shall not extend to any trees within a State Forest or land reserved from sale as a Timber or Forest Reserve under the Forestry Act, 1916.

*Clause 18 added G.G. No. 108 of 1/10/71.*

19. Interim development shall not be carried out on any land the subject of this Order unless and until arrangements satisfactory to the Metropolitan Water Sewerage and Drainage Board and the Council have been made with the Board and the Council by the applicant and, where the applicant is not the owner of the subject land, by such owner also, for the amplification and reticulation of water and sewerage services to the subject land.



*Clause 19 added G.G. No. 49 of 13/4/73.*

20. Notwithstanding the provisions of clause 4 (2) no development shall be carried out on those parts of the land comprised in lot 23, Deposited Plan 201965, and lot A, M.P.S. (R.P.) 87622, which parts are within Zone No. 3 (a), except with the consent of the Council and the concurrence of the Authority.

*Clause 20 added G.G. No. 83 of 22/6/73.*

21. Notwithstanding the provisions of the Order lot 111, Parkwood Grove, and lots 19 and 20, Trafalgar Road, Emu Plains, may, with the consent of the Council, be used for the purposes of shops, agencies, and parking.

*Clause 21 added G.G. No 89 of 26/7/74.*

22. (1) Notwithstanding the provisions of clause 4 an existing building or an existing work, the existing use of which is for a purpose for which development may not be carried out in accordance with the said clause in respect of the 6(b) zone in which such existing building or existing work is situated, may, with the consent of the Council, be altered or enlarged and new buildings or works ancillary thereto may be erected or carried out in accordance with subclause (2) or (3).

(2) Any such alteration or enlargement or erection of new buildings or works-

- (a) shall be for the existing use of such existing building or work and for no other use; and
- (b) shall only be carried out or constructed on the allotment or allotments on which the existing building or existing work was erected or carried out immediately before the appointed day.

(3) The Council shall not grant consent to the alteration or enlargement of an existing building or existing work or to the erection of a new building or works ancillary thereto where such alteration or enlargement on the erection of such buildings or works ancillary thereto would -

- (a) in the case of an existing building or existing work being a dwelling-house having a floor area of less than 83.61 square metres at the appointed day be such as to permit the total floor area of the building to exceed 101.48 square metres;
- (b) in the case of an existing building or existing work being a dwelling-house having a floor area of more than 83.61 square metres at the appointed day exceed such existing floor area by more than 27.87 square metres.

(c) in the case of existing buildings or existing works not referred to in paragraph (a) or (b) increase by more than 10 per centum the floor space of such existing building or existing work as it was at the appointed day.

(4) *Omitted G.G. No. 139 of 26/9/80*

(5) For the purposes of this clause -

**“Appointed day”** means the 5<sup>th</sup> July, 1974.

**“Existing building”** and **“existing work”** mean respectively a building or work erected, constructed or carried out in accordance with clause 26.

**“Existing use”** means -

(a) a use of a building, work or land for the purpose for which it was used immediately before the appointed day;

(b) in the case of a building or work erected, constructed or carried out in accordance with clause 26, the use of such building or work for the purpose for which the erection of that building or the carrying out of that work, as the case may be.

*Clause 22 added G.G. No. 129 of 25/10/74 and amended G.G. No. 139 of 26/9/80.*

23. The owner of any land within Zone No. 6 (d) may, by notice in writing, require The State Planning Authority to acquire such land and upon receipt of such notice the Authority shall acquire the land.

*Clause 23 added G.G. No. 129 of 25/10/74.*

24. (1) Notwithstanding any other provisions of the Order any subdivision of part lots 1 and 2, Deposited Plan 513304, Glen Road, Emu Plains, approved by Council shall be generally in accordance with the plan of proposed development and subdivision (Reference 10014 dated January, 1974), prepared by Exley, Smith, O’Keefe & Partners, Surveyors, as submitted to the Authority.

(2) Any approval of the Council given under subclause (1) shall be subject to a condition that no tree or trees shall be ringbarked, cut down, topped, lopped, removed or wilfully destroyed except with the consent of the Council and any such consent may be given subject to such conditions as the Council may think fit.

*Clause 24 added G.G. No. 126 of 18/10/74.*

25. Notwithstanding any other provision of this Order, a dwelling-house may with the consent of the Council be erected and used on the various parcels of land specified in Schedule 3 subject to such conditions as are specified in that Schedule in relation to those parcels.

*Clause 25 added G.G. No. 112 of 29/8/75.*

26. (1) This clause applies to that part of lot 8, section 5, Filed Plan 979366, having frontage to Bromley Road, Emu Plains, and being lot 1 on drawing by Robin McKay, Architect, submitted on 27<sup>th</sup> November, 1975, to the Council

(2) Notwithstanding any other provision of this Order, but subject to this clause, land may be used for the purposes of sport and recreation.

(3) The Council shall impose as conditions of any consent granted under subclause (2) -

(a) a requirement that the site shall be landscaped and the landscaping maintained to its satisfaction; and

(b) that, subject to subclause (4), so many off-street parking spaces, and proper vehicular access to each such space, be provided as the New South Wales Police Department (Traffic Branch) may require.

(4) No less than three parking spaces for each squash or tennis court provided on the land shall be provided.

(5) No development, other than the use of land for access or for landscaping shall be carried out within 9 metres of the frontage of the land to any road.

*Clause 26 added G.G. No. 157 of 10/12/76 and amended G.G. No. 79 of 15/7/77.*

27. (1) This clause applies to land zoned 4 (a) or 4 (b), between Old Bathurst Road and the Main Western Railway.

(2) In this clause -

“**Crossing**” means a road, bridge or ramp joining a drive to a public road.

“**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 (but not spaces provided in excess of those 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.

**“Floor space ratio”** means the ratio of the area of floor space in a building to the area of a site.

**“Site”** means a building site and includes all land within (but no land without) the physical boundaries of an allotment or parcel upon which a building is proposed to be erected.

(3) Land situated on the southern side of Old Bathurst Road shall not be subdivided into allotments having frontage to that road unless each such allotment is 1.25 hectares or more in area and has a frontage thereto of 60 metres or more, and no such allotment shall have more than two crossings.

(4) Floor space ratios shall not exceed 1:1.

(5) Omitted *G.G. No. 57 of 3/4/80*.

(6) The Council may require the provision of car parking spaces on the land.

(7) A person shall not carry out development, other than for the purpose of landscaping, on any land -

- (a) where that land is a corner allotment having frontages to main roads, within 20 metres of those frontages to a main road;
- (b) where that land is a corner allotment having frontage to a main road and frontage to a local road, within 20 metres of any frontage to a main road and within 5 metres of the frontage to the local road;
- (c) where that land is a corner allotment having frontages to local roads, within 5 metres of one local road and within 9 metres of any other local road;
- (d) where the land has frontage to Old Bathurst Road, within 20 metres of that road;

- (e) where the land is a corner allotment having frontage to Old Bathurst Road and a local road, within 20 metres of Old Bathurst Road and within 5 metres of the local road; or
- (f) where the land has frontage to a local road, within 9 metres of that road.

(8) Notwithstanding subclause (3), development may, with the consent of the Council, be carried out on land the dimensions of which do not comply with the minimum dimensions prescribed if the dimensions thereof depart from the minimum dimensions to a minor extent only.

(9) In subclause (8) “minimum dimensions” mean the area or length of frontage.

*Clause 27 added G.G. No. 92 of 19/8/77 and amended G.G. No. 57 of 3/4/80 and G.G. No. 91 of 4/7/80.*

28. (1) This clause applies to the land the subject of the map marked “Amendment No. 15 of map referred to in Interim Development Order No. 2 – City of Penrith.”

(2) Development of the land shall not be carried out otherwise than generally in accordance with the plan prepared by Bruce Taylor Architect Pty. Ltd. numbered 7321-12 submitted to the Council and the New South Wales Planning and Environment Commission.

(3) Any consent to development of the land granted by Council shall be subject to the following restrictions and conditions:

- (a) vehicular or pedestrian access shall not be permitted from the Great Western Highway; and
- (b) vehicular or pedestrian access shall not be permitted from Troy Street or Emerald Street within 22 metres of the final alignment of the Great Western Highway.

*Clause 28 added G.G. No. 97 of 26/8/77.*

29. Land shown by distinctive colouring, edging or lettering on the map marked “Amendment No. 17 of map referred to in Interim Development Order No. 2 – City of Penrith” shall not be developed unless the Council is satisfied in relation to the filling and drainage of the land.

*Clause 29 added G.G. No. 58 of 26/5/78.*

30. Notwithstanding clause 4, portion 150, Parish of Nepean, County of Cook, Old Bathurst Road, Emu Plains may be developed for the purposes of

a radio transmission tower and ancillary buildings with the consent of the Council.

*Clause 30 added G.G. No. 39 of 7/4/78.*

31. (1) This clause applies to lots 4 and 5, Deposited Plan 248339, Old Bathurst Road, Emu Plains.

(2) Notwithstanding clause 4, interim development may be carried out, only with the consent of the council, for the purposes of a tennis and squash complex.

(3) The uses provided for in subclause (2) are in addition to and not in derogation of any other uses permissible under this order in respect of the land to which this clause applies.

(4) Subject to subclause (5), land within 30 metres of Old Bathurst Road shall not be developed except for the purposes of landscaping, car parking and driveways.

(5) Land within 15 metres of Old Bathurst Road shall not be developed except for the purposes of landscaping and driveways.

*Clause 31 added G.G. No. 93 of 11/8/78 and amended G.G. No. 176 of 22/12/78.*

32. (1) This clause applies to lot 62 in Deposited Plan 563740, Bromley Road, Emu Plains.

(2) Notwithstanding clause 4, interim development may be carried out, only with the consent of the council, for the purposes of four squash courts, swimming pool and indoor ski-run in addition to any of the other uses permissible within Zone No 4 (a).

*Clause 32 added G.G. No. 134 of 28/9/79.*

33. (1) This clause applies to lot 3, Deposited Plan 248339, Old Bathurst Road, Emu Plains.

(2) Notwithstanding clause 4, interim development may, with the consent of the council, be carried out on land to which this clause applies for the purposes of a landscape nursery and garden supply centre.

*Clause 33 added G.G. No. 76 of 23/5/80.*

### **“Union Inn”**

33A (1) The Council shall not consent to the carrying out of development on lots 1 – 4, D.P. 342116, unless it has made an assessment of -

- (a) the extent to which the carrying out of the development in accordance with the consent would affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the building known as the “Union Inn” and its site;
- (b) whether the setting of the “Union Inn” and, in particular, whether any stylistic, horticultural or archaeological features of the setting should be retained;
- (c) whether the “Union Inn” constitutes a danger to users or occupiers of the “Union Inn” or to the public;
- (d) in relation to the erection or renovation of a building -
  - (i) the colour, texture, style, size and type of finish of any materials to be used on the exterior of the building and the effect which the use of those materials will have on the appearance of the exterior of the building and of any other building in the vicinity;
  - (ii) the style, size, proportion and position of openings for any windows and doors which will result from, or be affected by, the erection or renovation of the building; and
  - (iii) the pitch and form of the roof;
- (e) whether financial hardship to any person having a financial interest in the land on which the “Union Inn” is situated would be caused by a refusal of consent;
- (f) whether the “Union Inn” would be rendered incapable of reasonable or economic use by a refusal of consent; and
- (g) whether adequate access and parking for vehicles is proposed.

(2) The building known as the “Union Inn” shall not be demolished.

(3) Subject to this clause, a person may, with the consent of the Council, carry out development on the land referred to in subclause (1) for the purposes of tourist facilities.

(4) For the purposes of this clause “tourist facilities” has the meaning ascribed to it in the Environmental Planning and Assessment Model Provisions 1980.

*Clause 33A added G.G. No. 142 of 9/9/88 (LEP 178).*

34. (1) This clause applies to lot 2, Deposited Plan 248339, Old Bathurst Road, Emu Plains.

(2) Notwithstanding clause 4 (2) (c) interim development may be carried out only with the consent of the council for the purposes of a building centre and exhibition homes.

(3) *Omitted G.G. No. 20 of 30/1/87 (LEP 154).*

(4) Any consent to development of the land for the purposes of exhibition houses shall be subject to the following conditions:

- (a) *Omitted G.G. No. 20 of 30/1/87 (LEP 154).*
- (b) the use of any exhibition home as a dwelling-house is prohibited;
- (c) each exhibition home shall be constructed of material which is easily demountable or demolishable; and
- (d) no water or sewerage services shall be connected to the exhibition homes.

(5) No development other than landscaping shall take place within 20 metres of the front alignment of Old Bathurst Road.

(6) *Omitted G.G. No. 20 of 30/1/87 (LEP 154).*

*Clause 34 added G.G. No. 121 of 29/8/80 and amended G.G. No. 20 of 30/1/87 (LEP 154).*

34A. (1) In this clause, "the map" means the map marked "Penrith Local Environmental Plan No. 65" deposited in the office of the council.

(2) Notwithstanding any other provision of this order, the council shall not consent to the carrying out of development in respect of the land shown coloured light scarlet on the map unless the land shown coloured dark green on the map is dedicated free of charge to the council for the purpose of a public reserve.

*Clause 34A added G.G. No. 6 of 4/1/83 (LEP 65).*

### **Community use of school facilities or sites**

34B. (1) Where land to which this Order applies is used for the purposes of an educational establishment, the site and facilities of the establishment may, with the consent of the Council, be used for the purposes of meeting rooms, public halls, public libraries, entertainment, sport or recreation or for any other community purpose, whether or not any such use is a commercial use of the land.



(2) Nothing in this clause requires development consent to be granted for the carrying out of development on any land if that development could, but for this clause, be carried out on that land without development consent.

*Clause 34B added G.G. No. 20 of 30/1/87 (LEP 154).*

35. (1) Nothing in this order 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 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 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.

*Clause 35 added G.G. No. 176 of 21/11/80 (LEP 1).*

**TABLE.**

<b>Column I</b>	<b>Column II</b>
So much of the land within Zone No. 6(a) as is within the northern moiety of R 46565, Russell Street, Emu Plains.  <i>Added G.G. No. 176 of 21/11/80 (LEP 1).</i>	Purposes included in Column IV shown opposite Zone No. 4 (a) in the Table to clause 4.
Lot A (No. 281) Great Western Highway, Emu Plains.  <i>Added G.G. No. 42 of 19/3/82 (LEP 26).</i>	Real estate office and gallery in addition to uses shown in Column IV of the Table to clause 4 opposite Zone No. 2 (a) in Column I of that Table.
Lot 12, D.P. 527985, Mackellar Street, Emu Plains.  <i>Added G.G. No. 99 of 23/7/82 (LEP 38).</i>	Ice skating rink.
Lot 330, D.P. 575290, Smith Street,	Auction rooms.

<p>Emu Plains, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 54", deposited in the office of the council.</p> <p><i>Added G.G. No. 113 of 27/8/82 (LEP 54).</i></p>	
<p>Lot 62, D.P. 563740, Bromley Road, Emu Plains.</p> <p><i>Added G.G. No. 126 of 17/9/82 (LEP 55).</i></p>	<p>Bicycle moto-cross track.</p>

Column I	Column II
<p>Part portion 86, Parish of Strathdon, County of Cook, Old Bathurst Road, Emu Plains, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 60", deposited in the office of the council.</p> <p><i>Added G.G. No. 150 of 5/11/82 (LEP 60).</i></p>	<p>Commuter carpark; hotel.</p>
<p>Lot B, D.P. 160195, Mackellar Street, Emu Plains, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 57" deposited in the office of the Council of the City of Penrith.</p> <p><i>Added G.G. No. 157 of 19/11/82 (LEP 57) and amended G.G. No. 177 of 17/12/82.</i></p>	<p>Educational establishment.</p>
<p>Lot 44, D.P. 261086 and lot 370, D.P. 260415, Koloona Drive, Emu Plains, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 63" deposited in the office of the council.</p> <p><i>Added G.G. No. 6 of 14/1/83 (LEP 63).</i></p>	<p>Dwelling-houses and attached dwellings where the number of dwellings does not exceed 33.</p>
<p>Lot 8, D.P. 259145, Part lot 2, D.P. 214661 and lot 14, D.P. 222188, Gough Street, Emu Plains, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 98" deposited in the office of the council.</p> <p><i>Added G.G. No. 24 of 17/2/84 (LEP 98).</i></p>	<p>Recreational facilities.</p>

Column I	Column II
<p>Land situated near the intersection of the Great Western Highway and Brougham Street, Emu Plains, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 95" deposited in the office of the council.</p> <p><i>Added G.G. No. 42 of 16/3/84 (LEP 95).</i></p>	<p>Dwelling-houses, and residential flat buildings of the type commonly known as semi-detached houses, terrace houses, town houses or villa homes, where the ratio of the number of dwellings contained or proposed to be contained in the building or buildings erected and proposed to be erected on that land to the area of that land does not exceed 24 dwellings per hectare.</p>
<p>Part lot 44, D.P. 261086, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 100" deposited in the office of the council.</p> <p><i>Added G.G. No. 69 of 4/5/84 (LEP 100).</i></p>	<p>Shop, having a floor area of 100 square metres or less.</p>
<p>Lots 19 and 20, D.P. 16487, Trafalgar Road, Emu Plains.</p> <p><i>Added G.G. No. 154 of 2/11/84 (LEP 115).</i></p>	<p>Hairdressing salons, professional offices (being offices used only as offices for health care professionals, accountants, solicitors or the like) and refreshment rooms.</p>
<p>Lots 1 – 3, D.P. 250801, situated at the corner of Brougham and Jamieson Streets, Emu Plains.</p> <p><i>Added G.G. No. 157 of 9/11/84 (LEP 112).</i></p>	<p>The erection of a residential flat building containing not more than 6 dwellings.</p>

Column I	Column II
<p>Land in the vicinity of the Great Western Highway and Lawson Street, Emu Plains, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 113" deposited in the office of the council.</p> <p><i>Added G.G. No. 167 of 30/11/84 (LEP 113).</i></p>	<p>Community buildings; scout hall.</p>
<p>Land at the corner of Park Street and the Great Western Highway, Emu Plains, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 159" deposited in the office of the council.</p> <p><i>Added G.G. No. 93 of 5/6/87 (LEP 159).</i></p>	<p>Service station.</p>

## SCHEDULE 1

Confectionery and milk bar  
 Hairdressing salon  
 Newsagency  
 Refreshment rooms  
 Smallgoods and sandwich shop  
 Tobacconist shop

## SCHEDULE 2

Abattoirs  
 Agricultural machinery manufacture  
 Aluminium products manufacture  
 Asbestos cement manufacture  
 Bag and sack (textile) manufacture  
 Boiler works  
 Boiling down works  
 Brass foundry  
 Cement manufacturing  
 Electric machinery manufacture

Electro plating  
Engineering workshop (heavy)  
Fellmongering  
Generating works  
Glass products (other than optical glass) manufacture  
Grain milling  
Hardboard manufacturing  
Iron foundry  
Machinery manufacture (heavy)  
Motor body building  
Motor vehicle manufacturing and assembly  
Offensive or hazardous industry  
Panel beating  
Ready-mix cement works  
Sawmill  
Steel products manufacture (heavy)  
Stone cutting and crushing works  
Wire manufacture  
Wool scouring.

### **SCHEDULE 3**

- (a) Lot 6, Deposited Plan 28345, having frontage to Riverview Road, Emu Plains, provided that the building shall be erected not more than 250 metres from the alignment of the existing right of way adjacent to the eastern boundary of the lot.

*SCHEDULE 3 added G.G. No. 112 of 29/8/75.*