

**INTERIM DEVELOPMENT ORDER NO. 26 –  
CITY OF PENRITH**

**Government Gazette No. 9 of 29<sup>th</sup> January, 1971.  
As amended.**

## **LOCAL GOVERNMENT ACT, 1919**

### **SUSPENSION OF THE PROVISIONS OF THE PENRITH PLANNING SCHEME IN RESPECT OF CERTAIN LAND WITHIN THE CITY OF PENRITH, AND NOTIFICATION OF INTERIM DEVELOPMENT ORDER No. 26 – PENRITH MADE IN RESPECT THEREOF.**

WHEREAS a resolution of the Penrith City Council for the preparation of a Town and Country Planning Scheme (hereinafter called the Varying Scheme) to vary the Penrith Planning Scheme (hereinafter called the Prescribed Scheme) under Part XIA of the Local Government Act, 1919, was passed by the Council on 10<sup>th</sup> November, 1970; and whereas, after consideration of a report of The State Planning Authority of New South Wales, it appeared to me as Minister, expedient so to do for securing that development may be carried out notwithstanding the provisions of the Prescribed Scheme: Now, I, the Minister aforesaid, in pursuance of the provisions of section 342Y of the Local Government Act, 1919, hereby notify the suspension of the provisions of the Prescribed Scheme as respects all development on the land described in Schedule "A" hereto and do, by this my notification, make an interim development order as set out in Schedule "B" hereto regulating, restricting, or prohibiting, or conferring on the Penrith City Council powers, authorities, duties, and functions with respect to regulating, restricting, or prohibiting interim development on the said land in the manner and to the extent set out in the said Order pending the coming into operation of the Varying Scheme.  
(M. 7/3/1/1 Plan No. 245:1520)

P. H. MORTON, Minister for Local Government.

Department of Local Government,  
Sydney, 29<sup>th</sup> January, 1971.

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### **SCHEDULE "A"**

All those pieces or parcels of land, situate in the City of Penrith, Parish of Londonderry, County of Cumberland commencing at a point being the southeastern corner of lot 28 Deposited Plan 29822 and bounded thence on the east successively by the easternmost boundaries of lots 28 to 31 inclusive and lot 13 Deposited Plan 29822 and lot 12 Deposited Plan 26843 and thence on the north by the southern alignment of Boundary Road and thence on part of the west by part of the eastern alignment of Londonderry Road and thence on part of the south by part of the northern alignment of Lewis Road to its intersection with the northerly prolongation of the western boundary of lot 26 Deposited Plan 29822 and thence again on part of the west by that northerly prolongation and the western boundary of lot 26 Deposited Plan 29822 and

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thence again on part of the south by the southern boundaries of lots 26-28 inclusive Deposited Plan 29822 to the point of commencement.

## **SCHEDULE “B”**

1. This Order may be cited as “Interim Development Order No. 26 – City of Penrith”.

### **Relationship to Penrith Local Environmental Plan 1991 (Environment 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. In this Order, unless inconsistent with the context or subject matter.

“Appointed day” means the day upon which this Order is gazetted.

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

“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).*

“I.D.C. map” means the map which is marked “Map referred to in Interim Development Order No. 26 – City of Penrith” deposited in the office of the Council and as amended by the map marked “Penrith Local Environmental Plan No 297, or a duplicate of the said map similarly identified deposited in the office of the Authority, as amended by the map marked “Penrith Local Environmental Plan No. 97” deposited in the office of the council.

*“I.D.C. map” definition amended G.G. No. 53 of 6/4/84 (LEP 97) and G.G. No. 182 of 26/11/01 (LEP 297).*

“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).*

“The Act” means the Local Government Act, 1919, as amended.

“Units for aged persons” means a residential flat building used or intended to be 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.

“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.

### **3 Model provisions**

(1) The *Environmental Planning and Assessment Model Provisions 1970 (the Model Provisions)* are adopted for the purposes of this Order, except:

- (a) any definition in clause 1 of the Model Provisions for which there is a definition in clause 2 of this Order, and
- (b) as provided by subclause (2).

(2) In this Order as it applies to land within Zone No 3 (d) Special Business (Highway Service Area) shown edged by a heavy black line on the map marked "Penrith Local Environmental Plan No 297" deposited in the office of the Council, the definitions of "general store" and "shop" are not adopted from the Model Provisions and the following definitions apply:

**convenience store** means a building or place:

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

**general store** means a shop:

- (a) used for the sale by retail of general merchandise and which may include the facilities of a post office, and
- (b) which does not exceed 200 square metres in gross floor area.

**shop** means a building or place used for the purpose of selling, exposing or offering goods for sale by retail, goods, merchandise or materials, but does not include a building or place specifically defined elsewhere in clause 2, this clause or the Model Provisions, or a building or place used for a purpose specifically defined elsewhere in clause 2, this clause or the Model Provisions.

*Clause 3 amended G.G. No. 111 of 12/8/83 (LEP 84) and replaced G.G. No. 182 of 26/11/01 (LEP 297).*

4. Subject to the provisions of this Order, 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;
  - (c) may be carried out only with the consent of the Council and the concurrence of the Authority; and
  - (d) 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 II, III, IV and V of the Table.

## TABLE

Column I	Column II	Column III	Column IV	Column V
Zone and 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 be carried out only with the consent of the Council and the concurrence of the Authority	Development which may not be carried out
2. (a) Residential "A". Light scarlet.	_____	Drainage; dwelling-houses; educational establishments; home industries; home occupations; open space; places of public worship; professional consulting rooms; roads; subdivision; units for aged persons; utility installations other than gas holders or generating works.	Development other than that permitted by Column III or prohibited by Column V.	Bulk stores; caravan parks; car repair stations; commercial premises; forestry; gas holders; general advertising structures; generating works; hotels; industries other than home industries; institutions; junk yards; liquid fuel depots; mines; motels; motor showrooms; refreshment rooms; residential buildings other than units for aged persons; roadside stalls; sawmills; service stations; shops; stables; stock and sale yards; transport terminals; warehouses.
3. (d) Special Business (Highway Service Area). Light blue with dark red edging and lettered 3(d).	_____	_____	Car-washing stations; clubs; drive-in restaurants; hotels; motels; motor showrooms; open space; refreshment rooms; roads; service stations; subdivision; utility installations.	Development other than that 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 and 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 be carried out only with the consent of the Council and the concurrence of the Authority	Development which may not be carried out
5. (a) Special Uses "A". Yellow with scarlet lettering.	_____	Development for the particular purpose indicated by scarlet lettering on the I.D.C. map; any purpose ordinarily incidental or subsidiary to the special use; drainage; open space; roads; subdivision; utility installations other than gas holders or generating works.	_____	Development other than that permitted by Column III.
(b) Special Uses "B" (Roads). Grey.	_____	Roads; utility installations; drainage; any purpose authorized by Part IX of the Act.	_____	Development other than that permitted by Column III.
6. (b) Open Space (Proposed Recreation). Light green with dark green edging.	_____	Drainage; roads; utility installations other than gas holders or generating works; development authorized by Division 2 or 3 of Part XIII of the Act; showgrounds;	_____	Development other than that permitted by Column III.

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

5. 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 and, where the applicant for development consent is not the owner, by such applicant also, for the amplification and reticulation of water supply and sewerage services to such land.

6. 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 and, where the applicant for development consent is not the owner, by such applicant also for the provision of underground low voltage electricity reticulation.

Provided that neither the owner nor the applicant shall be required in any case to contribute more than the difference between the cost of overhead reticulation to each block and the cost of underground reticulation thereto.

7. *Clause 7 omitted G.G. No. 139 of 26/9/80.*

8. In respect of any interim development application for the consent of the Council –

- (a) to the erection of a building or 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 aesthetic appearance of such development or work when used for the proposed purpose and viewed from such road, public reserve or proposed reserve;
- (b) to the erection or use of an hotel, motel, service station, club or place of assembly or to the carrying out of any other development likely to cause increased vehicular traffic on any road in the vicinity thereof, the Council shall take into consideration whether, having regard to the proposed use of any such building or development –
  - (i) adequate vehicular exits and entrances to the site have been provided so that vehicles using such entrances and exits will not endanger persons and vehicles using any such road;
  - (ii) space, sufficient to provide for the parking or standing of such number of 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 Police Department (Traffic Branch) and by the Department of Main Roads 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;

9. A road which forms a junction or intersection with Londonderry Road or any road or road widening shown by grey colouring on the I.D.C. map shall not be opened without the consent of the Authority.

10. In granting consent to any application to carry out development on land having frontage to Londonderry Road or any road or road widening shown by grey colouring on the I.D.C. map, other than the alteration or enlargement of an existing building, the Council shall impose a condition that there shall be no direct access from the land subject of such development application to such road except with the concurrence of the Authority.

11. Notwithstanding the provisions of clause 4 of this order, no development shall be carried out within Zone No. 2 (a) or 3 (d) except in accordance with a development control plan approved by the Authority.

11A. *Clause 11A added G.G. No. 193 of 18/12/81 and omitted G.G. No. 104 of 19/6/87.*

12. The Council shall not grant consent to the subdivision of any land on which a proposed road pattern is indicated on the I.D.C map by broken black lines unless such subdivision is substantially in accordance with such road pattern.

13. (1) Within Zone No. 3 (d), the ratio of the total floor space of any building to the area of the land on which the building is or is proposed to be erected shall be not greater than 1:1.

(2) For the purposes of this clause:

“Area of land” means the net area of the land excluding the area of any adjoining public road or adjoining public place.

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

- (a) any car parking space in the building provided to meet the standards required by the Council (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;
- (c) lift towers, cooling towers, machinery and plant rooms and any storage space related thereto.

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

15. *Clause 15 omitted G.G. No. 139 of 26/9/80.*

15A. Nothing in this Order prevents a person, with the consent of the council, from carrying out development on the land referred to in Schedule 1 to this order for the purposes specified in that Schedule in relation to that land.

*Clause 15(a) added G.G. No. 66 of 4/4/85 (LEP 116).*

16. (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 16 added G.G. No. 108 of 1/10/71.*

### **Payment towards provision or improvement of amenities or services**

17. (1) This clause applies to the following land:  
The land shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 97" deposited in the office of the council.

(2) As a consequence of the carrying out of development on land to which this clause applies in accordance with this Order (as in force at the time the development is carried out), this Order identifies a likely increased demand for public amenities and public services as specified in the Schedule to this clause and stipulates that dedication or a contribution under section 94 (1) of the Environmental Planning and Assessment Act, 1979, or both, may be required as a condition of any consent to that development.

#### Schedule

1. Drainage reserves and construction of drains.
2. Electricity services.
3. Pedestrian facilities.
4. Roads and roadworks, including construction of intersections of new roads with existing roads which provide access to the land to which this clause applies.
5. Water and sewer mains.
6. Public reserve.

*Clause 17 added G.G. No. 53 of 6/4/84 (LEP 97).*

### **General store and take-away food shop – Zone No. 5 (a)**

18. (1) This clause applies to land which is within Zone No. 5 (a) and which is indicated on the I.D.C. Map as being for Community Uses.

(2) In this clause, “gross floor area” has the same meaning as in clause 4(1) of the Environmental Planning and Assessment Model Provisions 1980.

(3) Notwithstanding clause 4, a person may, with the consent of the Council, carry out development on land to which this clause applies for the purposes of a general store or take-away food shop where the gross floor area of any building or part of any building used or intended to be used for those purposes does not exceed 200 square metres.

*Clause 18 added G.G. No. 165 of 17/10/86 (LEP 148).*

### **19 Restrictions on development on land within Zone No 3 (d)**

The Council must not consent to any development on land to which *Penrith Local Environmental Plan No 297* applies unless the Council is satisfied that:

- (a) the type, location and form of development is consistent with the objectives of any development control plan applying to the land, and
- (b) any development will not generate large volumes of traffic.

*Clause 19 added G.G. No. 182 of 26/11/01 (LEP 297).*

### Schedule 1

(Cl.15A)

Lot 7, D.P. 616045, Star Court, Cambridge Park, as shown edged heavy black on the map marked “Penrith Local Environmental Plan No. 116” deposited in the office of the council – advertising structures; bulk stores; bus depots; car repair stations; child care centres; convenience stores; educational establishments; electrical, plumbing, hardware or timber supply outlets; estate agencies; general stores; hospital and medical centres; places of assembly; places of public worship; practices carried on by health care professionals; professional consulting rooms; public buildings; recreation facilities; retail plant nurseries; taverns; tourist facilities; units for aged persons; warehouses.

*Schedule 1 added G.G. No. 66 of 4/5/85 (LEP 116).*