

**INTERIM DEVELOPMENT ORDER NO. 93 -
PENRITH**

**Government Gazette No. 105 of 8th August, 1980.
As amended.**

LOCAL GOVERNMENT ACT, 1919

NOTIFICATION OF -

Suspension of the Penrith Planning Scheme, Rescission of Interim Development Order No. 73 - City of Penrith, and making of Interim Development Order No. 93 - 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, suspend the provisions of the Penrith Planning Scheme 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 Interim Development Order No. 73 - City of Penrith; and
- (c) in pursuance of those sections make an Interim Development Order as set out in Schedule "C" hereto in relation to the land described in Schedule "B" hereto being the land referred to in paragraph (a) and the land to which Interim Development Order No. 73 - City of Penrith referred to in paragraph (b), applied. (76-15017 (z) 2)

ERIC BEDFORD,
Minister for Planning and Environment.

Sydney, 8th August, 1980

SCHEDULE "A"

All that piece or parcel of land situate in the City of Penrith as shown by heavy black edging on plan catalogued number 245:3919 in the office of the New South Wales Planning and Environment Commission.

SCHEDULE "B"

All the land shown by red edging on plan catalogued numbers 245:741, 245:843, 245:1060, 245:1695, 245:2413, 245:2800 and 245:2975, all the land shown by heavy black edging on plan catalogued number 245:3919, and all land shown by blue edging on plan catalogued number 9597 in the office of the New South Wales Planning and Environment Commission.

SCHEDULE "C"

Citation and interpretation

1. This order may be cited as "Interim Development Order No. 93 - Penrith".

1A. Nothing in this order applies to the following land:

Clause 1A. *added G.G. No. 50 of 8/4/82 (LEP 37) and amended G.G. No. 52 of 25/3/83 (LEP 69).*

Land in the vicinity of Bringelly Road, South Kingswood, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 37" deposited in the office of the council;

Added G.G. No. 50 of 8/4/82 (LEP 37) and amended G.G. No. 52 of 25/3/83 (LEP 69).

Land having frontage to Mulgoa Road and Jamison Street, Penrith, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 43" deposited in the office of the council;

Added G.G. No. 52 of 25/3/83 (LEP 69).

So much of lot 2, D.P. 11977, Mulgoa Road, Mulgoa, as is shown on the map marked "Penrith Local Environmental Plan No. 69" as being within Zone No. 2 (c) under the Penrith Planning Scheme Ordinance.

Added G.G. No. 52 of 25/3/83.

Land in the vicinity of Mulgoa Road, Penrith, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 70" deposited in the office of the council.

Added G.G. No. 52 of 25/3/83.

Land having frontage to Buring Avenue, Emu Plains, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 86" deposited in the office of the council.

Added G.G. No. 122 of 2/9/83.

Land in the vicinity of Erskine Park Road, South St Marys, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 85" deposited in the office of the council.

Added G.G. No. 147 of 28/10/83.

Land in the vicinity of Gipps Street, South Werrington, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 96" deposited in the office of the council.

Added G.G. No. 15 of 3/2/84.

Land in the vicinity of Wilson Street and Mamre Road, St Marys, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 105" deposited in the office of the council.

Added G.G. No. 139 of 28/9/84.

Land to which Sydney Regional Environmental Plan No. 13 - Mulgoa Valley applies.

Added G.G. No. 190 of 11/12/87.

Land in the vicinity of The Northern Road, Boundary Road and Vincent Road, Cranebrook, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 176" deposited in the office of the council.

Added G.G. No. 77 of 22/4/88.

Land in the vicinity of Cranebrook Road, Boundary Road and Vincent Road, Cranebrook, as shown edged heavy black on Sheet 1 of the map marked "Penrith Local Environmental Plan No. 179" deposited in the office of the council.

Added G.G. No. 172 of 18/11/88.

Land to which Penrith Local Environmental Plan No 188 applies.

Added G.G. No. 2 of 13/1/89, amended G.G. No. 119 of 23/8/91 and G.G. No. 102 of 21/6/02.

Land shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 201 (Rural Lands)" deposited in the office of the council.

Added G.G. No. 106 of 12/7/91.

Land to which Sydney Regional Environmental Plan No. 25 – Orchard Hills applies.

Added G.G. No. 174 of 13/12/91.

Land at Emu Plains, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 226" deposited in the office of the council;

Added G.G. No. 19 of 14/1/94.

Land at Rance Road, Werrington, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 239" deposited in the office of the council.

Added G.G. No. 119 of 29/9/95.

Land shown edged heavy black on sheets 1-4 of the map marked "Penrith Local Environmental Plan No. 201 (Rural Lands) (Amendment No. 3)" deposited in the office of the council.

Added G.G. No. 84 of 12/7/96.

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

Added G.G. No. 4 of 8/1/99.

Land to which *Penrith Local Environmental Plan 2002 (Villages of Mulgoa and Wallacia)* applies.

Added G.G. No. 54 of 1/3/02.

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.

Original Clause 1B added G.G. No. 94 of 9/7/82 (LEP 43) and omitted G.G. No. 52 of 25/3/83 (LEP 69). New Clause 1B added G.G. No. 180 of 20/12/91.

2. (1) In this order unless the context or subject-matter otherwise indicates or requires -

"advertising structure" has the meaning ascribed to it in Ordinance No. 55 under the Act, but does not include "temporary advertising structure" or "advertising structure for the purpose only of displaying a commercial sign" within the meaning of that Ordinance;

"advertisement" has the same meaning as in section 510 of the Local Government Act 1919;

"advertisement" definition added G.G. No. 92 of 1/9/89 (LEP 191).

“appointed day” means the day upon which this order is published in the Gazette;

“child care centre” means a building or place used as a child care centre within the meaning of Part VII of the Child Welfare Act, 1939;

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

“community facility” means a building or place used to provide services relating to any one or more of the following:

- (a) a public library;
- (b) public health, welfare or information services;
- (c) rest rooms;
- (d) meeting rooms;
- (e) indoor recreation;
- (f) child minding;
- (g) other community support facilities;

“community facility” definition added G.G. No. 104 of 19/6/87 (LEP 163).

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

“designated road” means -

- (a) Bringelly Road, Castlereagh Road, Richmond Road, Elizabeth Drive, Mamre Road, Mulgoa Road, Penrith-Windsor Road, Western Freeway; or
- (b) any land within Zone No. 5 (b);

“dual occupancy” means two attached dwellings on a single allotment of land;

“dual occupancy” definition added G.G. No. 25 of 26/2/99 (LEP 250).

“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-house” means a building or group of buildings containing one but not more than one dwelling;

“existing building” and **“existing work”** means respectively a building or work lawfully erected, constructed or carried out before the appointed day;

“existing use” means -

- (a) the lawful use of a building, work or land for the purpose for which it was used immediately before the appointed day; or
- (b) a use in respect of which the council has given its consent under clause 25;

“external surface”, in relation to a building, includes external walls and any cladding thereon, doors, door and window frames (but not window panes), columns, roofs, fences, and any other surfaces of the building visible from the exterior;

“extractive industry” means -

- (a) the winning of extractive material; or
- (b) 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;

flood mitigation works means works for the purpose of eliminating, reducing or otherwise mitigating the effects of flooding.

“flood mitigation works” definition added G.G. No. 144 of 13/9/02 (LEP 261).

golf course means any area adapted for the playing of golf and includes related earthworks and drainage, and related facilities such as a club house, golf driving or practice range, refreshment room, pro shop, parking, maintenance depot, and the like.

“golf course” definition added G.G. No. 144 of 13/9/02 (LEP 261).

“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).

“Industry” means -

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

“I.D.C. Map” means the map deposited in the office of the council marked “Map referred to in Interim Development Order No. 93 - Penrith”, or a duplicate of that map, similarly identified, deposited in the office of the Commission as amended by the map marked ‘Penrith Local Environmental Plan No. 10’ deposited in the office of the Council and the Department, as amended by the map marked ‘Penrith Local Environmental Plan No. 69’ deposited in the office of the council as amended by the map marked ‘Penrith Local Environmental Plan No. 88’ deposited in the office of the council;

“I.D.C. Map” definition amended G.G. No. 41 of 13/3/81 (LEP 10), G.G. No. 52 of 25/3/83 (LEP 69) and G.G. No. 9 of 20/1/84 (LEP 88).

“natural ground level”, in relation to any land, means the actual physical level of the land at the appointed day;

“plant nursery” means a building or place used for the principal purpose of growing plants, and includes the ancillary retailing of plants and garden accessories;

“prescribed materials” means materials of a low reflective quality that blend with the landscape of the site and its surroundings;

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

“recreation establishment” means health farms, religious retreat houses, rest homes, youth camps, any other recreation or sporting activity and the like, but does not include a building or place elsewhere specifically defined in this clause or a building or place used or intended for use for a purpose elsewhere specifically defined in this clause;

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

“refreshment room” definition added G.G. No. 144 of 11/9/87 (LEP 172).

“rural exhibition ground” includes a building or place used for exhibition, educational and promotional purposes associated with agricultural, live-stock and rural related activities, and for minor ancillary retailing and manufacture of agricultural and rural products;

“rural exhibition ground” definition added G.G. No. 72 of 9/6/89 (LEP 169).

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

“site area” means the area of land to which an application for consent under this order relates; excluding therefrom any land upon which the development to which the application relates is not permitted by or under this order;

“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; and

“tourist facilities” means an establishment providing for holiday accommodation or recreation and may include a boat shed, boat landing facilities, camping ground, caravan park, holiday cabin, hotel, house boat, marina, motel, playground, refreshment room, water sport facilities or a club used in conjunction with any such activities;

“tourist facilities” definition added G.G. No. 92 of 1/9/89 (LEP 191).

“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 any restrictions imposed by this order on the development of land.

(2) The set of standard or model provisions (other than the definitions of “dwelling-house”, “extractive industry”, “general advertising structure”, “health care professional”, “industry”, “professional consulting rooms” and “rural industry” in clause 1 thereof, and clause 5 thereof) adopted under section 342U (3) of the Act and published in Government Gazette No. 88 of the 17th July, 1970, are adopted, by reference for the purposes of this order.

Clause 2(2) amended G.G. No. 111 of 12/8/83 (LEP 84) and G.G. No. 22 of 11/2/00 (LEP 252).

General development control

3. (1) Except as provided in subclause (2) and the following clauses, all interim development is prohibited.

(2) Subject to the following clauses, the purposes -

(a) for which interim development may be carried out without the consent of the council; and

(b) for which interim development may be carried out only with the consent of the council,

on land within each of the Zones specified in Column I of the Table to this clause are respectively shown opposite in Columns II and III of that Table.

TABLE

Column I	Column II	Column III
Zone and colour or indication on I.D.C. Map	Purposes for which interim development may be carried out without the consent of the council	Purposes for which interim development may be carried out only with the consent of the council
<p>1. RURAL: (a1) Rural "A1". Light brown</p> <p>(a2) Rural "A2". Light brown with dark red edging and lettered 1 (a2).</p> <p>(d) Rural "D". (Future Urban). Light brown with dark red edging and lettered 1 (d).</p>	<p>Agriculture (other than pig keeping or poultry farming establishments); forestry.</p> <p>Agriculture (other than pig keeping or poultry farming establishments).</p> <p>-----</p>	<p>Advertising structures; amusement parks; animal boarding, breeding and training establishments; car repair stations; caravan parks; cemeteries; clubs; development referred to in Schedule 3; drive-in theatres; dwelling-houses; educational establishments; extractive industries; home industries; home occupations; institutions; offensive or hazardous industries; open space; places of assembly; places of public worship; pig keeping establishments; plant nurseries; poultry farming establishments; recreation establishments; research establishments; roads; rural industries; stables; stock and saleyards; utility installations; veterinary establishments; waste disposal.</p> <p>Advertising structures; dwelling-houses; educational establishments; extractive industries; home occupations; open space; roads; sand and gravel processing; utility installations.</p> <p>Agriculture (other than pig keeping or poultry farming establishments); advertising structures; dwelling-houses; educational establishments; home occupations; open space; roads; utility installations.</p>

Column I	Column II	Column III
Zone and colour or indication on I.D.C. Map	Purposes for which interim development may be carried out without the consent of the council	Purposes for which interim development may be carried out only with the consent of the council
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 and any purpose ordinarily incidental or subsidiary thereto; drainage; open space; roads; utility installations (other than gas holders or generating works).
(b) Special Uses "B". (Roads). Grey.	-----	Any purpose authorized by Part IX of the Act; drainage; roads; utility installations.
6. OPEN SPACE: (a) Existing Recreation. Dark green and lettered 6 (a).	Children's playgrounds; drill grounds; gardens; parks; public baths; public reserves, sports-grounds; uses or buildings associated with those purposes which are under the care, control and management of the council.	Drainage; parking incidental to recreation; roads, sportsgrounds; utility installations (other than gas holders or generating works).
(b) Private Recreation. Dark green with yellow edging.	-----	Agriculture; any development ordinarily incidental to sports clubs, golf courses or recreation areas; drainage; golf courses; recreation areas; roads; sports clubs; utility installations (other than gas holders or generating works).

Column I	Column II	Column III
Zone and colour or indication on I.D.C. Map	Purposes for which interim development may be carried out without the consent of the council	Purposes for which interim development may be carried out only with the consent of the council
7. RURAL ENVIRONMENT PROTECTION: (d) Rural Environment Protection "D". (Scenic).	-----	Agriculture (other than pig keeping or poultry farming establishments); advertising structures; dwelling-houses; home occupations; open space; recreation establishments; roads; utility installations (other than gas holders or generating works).

*Zone Rural "A1" amended G.G. No. 167 of 30/11/84 (LEP 110).
Zone Open Space 6(a) added G.G. No. 9 of 20/1/84 (LEP 88).
Zone Open Space 6(b) amended G.G. No. 9 of 20/1/84 (LEP 88).*

Advertising structures

4. A person shall not erect an advertising structure on land within Zone No. 1 (a1), 1 (a2), 1 (d), or 7 (d) unless -
- (a) the structure is designed only -
 - (i) to indicate the purpose for which the land on which it is erected is used;
 - (ii) to direct the travelling public to tourist areas or to display private advertisements of tourist facilities; or
 - (iii) to indicate the location of public amenities; and
 - (b) the council is satisfied that the structure is not likely to interfere with the amenity of the locality.

Subdivision

5. (1) Except as provided in subclause (3), a person shall not subdivide land within Zone Nos 1 (a1), 1 (a2), 1 (d) or 7 (d) without the consent of the council.
- (2) The council may consent to the subdivision of land -
- (a) within Zone No. 1 (a1) or 7 (d) where each separate allotment created in the subdivision has -
 - (i) an area of not less than 40 hectares;
 - (ii) in the case of land included in Schedule 1, has an area of not less than 2 hectares; or
 - (iii) in the case of land included in Schedule 2, has an area of not less than 10 hectares; or
 - (b) within Zone No. 1 (a2) or 1 (d), where each separate allotment has an area of not less than 2 hectares.
- (3) The consent of the council to the subdivision of land to which this clause applies is not required if the subdivision is for any one or more of the following purposes:
- (a) to open a public road or to widen a public road;
 - (b) to make minor adjustments to common property boundaries;
 - (c) to enlarge the area of an existing holding by amalgamating that existing holding with one or more existing holdings; or
 - (d) to rectify an encroachment upon an existing holding.

Clause 5 amended G.G. No. 176 of 21/11/80 (LEP 4).

6. (1) A dwelling-house may, with the consent of the council, be erected on an allotment of land -
- (a) within Zone No. 1 (a1) or 7 (d), where -

- (i) the area of the allotment is not less than 40 hectares;
 - (ii) in the case of land not included in Schedule 1 or Schedule 2, the allotment was in existence as a separate allotment, lot or portion of land as at the appointed day;
 - (iii) in the case of land included in Schedule 1, the area of the allotment is not less than 2 hectares; or
 - (iv) in the case of land included in Schedule 2, the area of the allotment is not less than 10 hectares;
- (b) within Zone No. 1 (a2) or 1 (d), where the area of the allotment is not less than 2 hectares.
- (2) The council shall not grant consent to the erection of a dwelling-house on land included in Schedule 1 or Schedule 2 unless it imposes as a condition of its consent a requirement that the allotment of land upon which the dwelling-house is to be erected is a single allotment or shall be amalgamated into a single allotment.
- (3) A second dwelling-house may be erected and used on any land within Zone No. 1 (a1) or 7 (d) where -
- (a) the area of that land is not less than 10 hectares; and
 - (b) that dwelling-house will only be used to accommodate a person employed or engaged by the owner of that land in the use of that land or adjacent or adjoining land for the purposes of agriculture.

Dual Occupancy

- 6A. The council may grant consent to an application to erect a dual occupancy on an allotment of land within Zone No. 1 (a1), 1(a2) or 1(d) only if:
- (a) development for the purpose of a dwelling-house may be carried out on that allotment in accordance with clause 6; and
 - (b) no more than two dwellings will be on that allotment as a result of the development being carried out.

Original Clause 6A added G.G. No. 193 of 18/12/81 and omitted G.G. No. 104 of 19/6/87. New Clause 6A added G.G. No. 25 of 26/2/99 (LEP 250).

- 6B. Nothing in this order prevents a person from carrying out development on that part of lot 6 in D.P. 242430 created as a separate allotment pursuant to a subdivision under clause 40, and having an area of approximately 2.023 hectares, so that there will exist on the land 2 dwelling-houses.

Clause 6B added G.G. No. 137 of 30/9/83 (LEP 87).

Junctions or intersections with main roads

7. *Omitted G.G. No. 201 of 17/12/04 (effective 28/02/05) (SEPP (Repeal of Conc. and Ref. Provs.) 2004).*

Land in Zone No. 7 (d) - special controls

8. (1) This clause applies to all land within Zone No. 7 (d).
- (2) No building shall be erected on land within 100 metres of the banks of the Hawkesbury - Nepean River without the concurrence of the Commission.
- (3) A building shall not be erected on land to which this clause applies the height of which (measured at any point of the building) exceeds 8 metres.
- (4) Subject to subclause (5) the external surfaces of any building shall be constructed of prescribed materials.
- (5) The council may permit -
- (a) an external surface of any existing building or work the surfaces of which are not composed of prescribed materials); or
- (b) no more than 10 per centum of the external surface of any building,
- to be constructed of materials other than prescribed materials.
- (6) The council may require as a condition of any consent granted under this clause -
- (a) the retention of any or all existing trees, shrubs, and vegetation on the site; and
- (b) the planting of additional trees and shrubs to screen the development from view from any public place.

Setbacks

9. A building shall not be erected on any land having a frontage to a designated road if the distance between that building and the nearest alignment of that road is less than 30 metres.
10. (1) This clause applies to land -
- (a) which is within 300 metres of the road alignment of a designated road, or
- (b) which has direct vehicular access to a designated road.
- (2) Land to which this clause applies shall not be developed for the purposes of amusement parks, caravan parks, clubs, drive-in theatres,

educational establishments, places of public worship, plant nurseries, places of assembly or recreation establishments.

Drive-in theatres

11. (1) This clause applies to an application for the purpose of a drive-in theatre.
- (2) The screen of a drive-in theatre shall be so located or protected that no image projected thereon shall be visible and identifiable from any main road.
- (3) A vehicular entrance to or exit from a drive-in theatre shall not be located within 90 metres of a main road.
- (4) Within the site of a drive-in theatre there shall be a vehicular driveway, at least 60 metres long and 20 metres wide leading from the entrance to the site of the ticket office.

*Clause 11 amended G.G. No. 201 of 17/12/04 (effective 28/02/05)
(SEPP (Repeal of Conc. and Ref. Provs.) 2004).*

Industries

12. (1) The council shall, upon receiving an application for development for the purpose of an offensive or hazardous industry -
- (a) refer the application to the Commission; and
- (b) give notice of the application in a newspaper circulating in the area.
- (2) The notice referred to in subclause (1) (b) shall state that any person may, within 14 days of publication of the notice, object to the granting of a consent to the development.
- (3) The council shall take into account in dealing with the application any objections made by the Commission, or made under subclause (2), and the likely effect of the proposed development on the environment of the area.

Variation of prescribed requirements

13. Nothing in the interim development order shall prevent the council from consenting to the interim development of land where the dimensions of that development when related to the dimensions of the land upon which the development is proposed to depart only to a minor extent from any dimensions specified in that order in relation to the carrying out of that development on that land.
14. (1) A person shall not erect a building on land within Zone No. 1 (a1), 1 (a2), 1 (d), or 7 (d) without the consent of the council.

(2) The council may, as a condition of its consent, require the floor of the building or work to be erected at a height sufficient, in the opinion of the council, to prevent or reduce the incidence of flooding of that building or work or of adjoining land.

Consents

15. *Omitted G.G. No.139 of 26/9/80.*
16. In respect of any application for the consent of the council to the carrying out of the following development, namely -
 - (a) any development within view of any waterway, or adjacent to a designated road the council shall take into consideration the probable aesthetic appearance of the land or of the proposed building or work when used for the proposed purpose and viewed from the waterway or road;
 - (b) to the erection or use of an amusement park, cemetery, club, drive-in theatre, industry, place of assembly, plant nursery or recreation establishment 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 -
 - (i) adequate vehicular entrances to and exits from the site have been provided so that vehicles using those entrances and exits will not endanger persons and vehicles using that 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 (other than a public road); and
 - (iii) *Omitted.*
 - (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; or

- (c) the erection of a dwelling-house, the council shall take into consideration the likelihood of floodwaters entering the dwelling-house and may impose conditions or any consent requiring the floor to be erected at a height sufficient, in its opinion, to obviate the frequent flooding of the dwelling-house.

Clause 16 amended and 16(b)(iii) omitted G.G. No. 201 of 17/12/04 (effective 28/02/05) (SEPP (Repeal of Conc. and Ref. Provs.) 2004).

Consents to be void in certain circumstances

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

Development by the Crown

18. *Clause 18 omitted G.G. No. 201 of 17/12/04 (effective 28/02/05) (SEPP (Repeal of Conc. and Ref. Provs.) 2004).*

Tree Preservation

19. (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 ring-barking, cutting down, topping, lopping, removing, injuring or wilful destruction of any tree or trees specified therein 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 part thereof.
- (4) The council shall forthwith upon the making of a tree preservation order cause notice of its making 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) A person who contravenes, or causes or permits to be contravened, a tree preservation order, is 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) For the purposes of this clause, "tree" means a perennial plant with a self-supporting stem which -

- (a) has a girth of 30 cm or more, measured at a distance of 40 cm above ground; or
- (b) has a height in excess of 3 m.

Clause 19 amended G.G. No. 9 of 20/1/84 (LEP 88).

Places of scientific or historic interest

- 20. A person shall not make any alterations or additions to the buildings referred to in Schedule 4 without the consent of the council and the concurrence of the Commission.

Existing buildings and existing works

- 21. *Omitted G.G. No. 139 of 26/9/80.*
- 22. *Omitted G.G. No. 139 of 26/9/80.*
- 23. The council shall not consent to the carrying out of development under clause 20 or 21 -
 - (a) where the land on which the existing building or existing work is situated is within Zone No. 1(a2) or 1(d) or has a frontage to a designated road, except with the concurrence of the Commission; or
 - (b) where the existing building or existing work was erected, constructed, carried out or used in contravention of the provisions of the Town and Country Planning (General Interim Development) Ordinance, the County of Cumberland Planning Scheme, the Penrith Planning Scheme Ordinance, an interim development order made under Division 7 of Part XIIA of the Act or any consent or permission granted under those Ordinances, such an order or that Scheme.

Clause 23 amended G.G. No. 176 of 21/11/80 (LEP 4).

Foreshore building lines

- 24. (1) The council may by resolution fix building lines (in this clause called "foreshore building lines") in respect of any land fronting any river, creek or other natural watercourse.
- (2) A foreshore building line shall, when fixed by the council be marked upon a plan or clearly described in the resolution and that plan

or resolution shall be available for inspection by the public during office hours of the council.

(3) A building shall not be erected between a foreshore building line and the river, creek or natural watercourse in respect of which it is fixed.

(4) The council may alter or abolish any foreshore building line where the levels or depth of the allotment or other physical characteristics of the site make it necessary to do so.

Incomplete development

25. Nothing in this order shall prevent the carrying out of any development in accordance with any consent or permission granted under the County of Cumberland Planning Scheme, the provisions of Division 7 of Part XIA of the Act or any Ordinance made under that Division, the Penrith Planning Scheme or any Interim Development Order, which consent or permission is in force at the appointed day, if the development has been commenced but not completed at the appointed day or is substantially commenced within a period of 12 months after that day.

Exceptions

26. (1) Notwithstanding clause 5, the land situate at Cranebrook as shown by orange edging on plan catalogued No. 10807 in the office of the Commission may, only with the consent of the council, be subdivided, so that each separate allotment to be created has an area of not less than 2 hectares.
- (2) Notwithstanding any other provision of this order, a dwelling-house may, with the consent of the council, be erected on each of the allotments so created.
27. Lot 2, Deposited Plan 550050, Mulgoa Road, Regentville, may, notwithstanding clause 15 of this order, be developed for the purpose of a recreation establishment in addition to any other purpose for which land zoned 1 (a) may be developed under this order provided that development for the purpose of a recreation establishment (other than development for the purposes of landscaping and roads) shall be placed at least 300 metres from Mulgoa Road and no crossing to the development shall be created within 300 metres of that road.

Restrictions on development - land near Mulgoa Road, Penrith

- 27A. (1) This clause applies to the land being so much of lot 4, D.P. 703409, as is land to which this order applies and is shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 108" deposited in the office of the council.
- (2) A person shall not carry out any development on any land to which this clause applies unless arrangements satisfactory to the council are made for the drainage of the land.
- (3) The council shall not grant consent to the carrying out of development on any land to which this clause applies unless floor levels of buildings to be used for commercial uses and the like will be above R.L. 25.7 A.H.D.
- (4) The council shall not grant consent to the carrying out of development on any land to which this clause applies unless arrangements satisfactory to the Metropolitan Water, Sewerage and Drainage Board and the council by the owner of the land and, where the applicant for development consent is not the owner, by the applicant also, for the amplification and reticulation of water and sewerage services to that land.

Clause 27A added G.G. No. 116 of 27/7/84 (LEP 108).

28. (1) This clause applies to the land shown by orange edging on plan catalogued number 10800 in the office of the Commission.
- (2) Notwithstanding any other clause, interim development may be carried out only with the consent of the council for the purposes of extractive industries.
- (3) Any consent granted under subclause (2) shall be subject to the following conditions:
- (a) such conditions as may be imposed by the council;
 - (b) the condition that a landscape plan at the scale 1:500 shall be prepared by or on behalf of the applicant to the satisfaction of the Commission showing final contours of the land the subject of the consent at 1 metre intervals and providing for the planting of indigenous trees as a shade screen on the southern bank of the Nepean River; and
 - (c) the condition that the applicant shall plant the southern bank of the Nepean River to the satisfaction of the Commission in accordance with the said landscape plan.

- (4) 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.
29. (1) The clause applies to lots 2 to 32 (inclusive), section A, Deposited Plan 1895, having frontage to Mamre Road, Atchison, Hall and Wilson Streets, St Marys.
- (2) Notwithstanding any other clause, interim development may be carried out, only with the consent of the council, for the purposes of a club.
- (3) Crossings in or into Mamre Road are prohibited.
- (4) The use provided for in subclause (2) is 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.
- (5) For the purposes of this clause “crossing” means a pedestrian or vehicular bridge, ramp, road, or way joining an allotment (or a drive therein) to a public road.
30. (1) This clause applies to lots 9, Deposited Plan 2566, Elizabeth Drive and Clifton Avenue, Kemps Creek.
- (2) For the purposes of this clause, “produce store” means a building or place used or intended for use for the sale by retail of grain, stock feed, fertilizer and veterinary medicine, whether or not it is also used or intended for use for the sale by retail of light farm equipment and garden equipment and accessories, but does not include a building or place used or intended for use for the sale by retail of ornamental plants, shrubs and trees.
- (3) Notwithstanding clause 3, but subject to subclause (4), interim development may, with the consent of the council, be carried out on the land to which this clause applies for the purpose of a produce store.
- Clause 30 amended G.G. No. 38 of 6/3/81 (LEP 13).*
31. (1) This clause relates to lot 3, Deposited Plan 201196, and lot 10, Deposited Plan 574020, Factory Road, Regentville.
- (2) Notwithstanding clause 7, but subject to subclause (3), a dwelling-house may, with the consent of the council, be erected and used on lot 3, Deposited Plan 201196.
- (3) No consent to the erection and use of a dwelling-house on lot 3, Deposited Plan 201196, shall be given until that lot 3, Deposited Plan 201196, and lot 10, Deposited Plan 574020, have been consolidated into a single allotment.

32. (1) This clause applies to lot 39, Deposited Plan 25981, having frontage to Reynolds Road, Londonderry.
- (2) Notwithstanding any other provision of this order, interim development may be carried out, only with the consent of the council, for the purposes of one dwelling-house additional to the existing dwelling-house.
- (3) The additional dwelling-house may be erected and used only if it will be used to accommodate a person employed or engaged by the owner of that land in the use of that land for the purposes of a rural industry.
- (4) The use provided for in subclause (2) is in addition to and not in derogation of any other use permissible under this order in respect of the land to which this clause applies.
33. (1) This clause applies to lot 12A, Deposited Plan 69261, Gipps Street, Werrington.
- (2) Interim development may be carried out, only with the consent of the council, for the purposes of a roller skating rink, squash courts and tennis courts.
34. (1) This clause applies to the land shown by orange edging on Internal Plan No. 11196 deposited in the office of the Commission.
- (2) Interim development may be carried out, only with the consent of the council, on land to which this clause applies for the purposes of child care centres, dwelling-houses and recreation establishments and for no other purpose.
- (3) The council shall not consent to the erection of a dwelling-house on land to which this clause applies unless -
- (a) a water supply and facilities for the removal of sewage and drainage are available to the land; or
 - (b) the council is satisfied that in the circumstances the supply or facility is unnecessary.
35. (1) This clause applies to lot 7, Deposited Plan 232448, Castlereagh Road, Agnes Banks.
- (2) A person may, only with the consent of the council -
- (a) add a dwelling to the dwelling-house so as to create 2 dwellings; or
 - (b) convert the dwelling-house into 2 dwellings.

(3) In subclause (2), “dwelling-house” means a dwelling-house erected on the land to which this clause applies on the day upon which notification of this clause is published in the Gazette.

36. (1) Nothing in this order prevents the council from consenting to the interim development of land shown by orange edging on Internal Plan 11196 deposited in the office of the Commission for the purposes of recreation; home occupations; home industries; agriculture; shops; schools; community centres; child care centre and dwelling-houses.

(2) The council shall not consent to the erection of a dwelling-house on land to which this clause applies unless -

- (a) a water supply and facilities for the removal of sewage and drainage are available to the land; and
- (b) the council is satisfied that in the circumstances the supply or facility is unnecessary.

Development of certain land - Mamre Road, Kemps Creek

36A. (1) This clause applies to lot 1, D.P. 62469, in the vicinity of Mamre Road, Kemps Creek, as shown edged heavy black on the map marked “Penrith Local Environmental Plan No. 163” deposited in the office of the council.

(2) The council shall not grant consent to the carrying out of development on the land to which this clause applies unless -

- (a) arrangements satisfactory to the Metropolitan Water, Sewerage and Drainage Board have been made for the amplification and reticulation of water services to the land; and
- (b) vehicular access to and egress from the land, by means of a public road other than Horsley Road, is provided.

(3) The council shall not grant consent to the erection of a dwelling on that part of the land to which this clause applies which is within an Australian Noise Exposure Forecast (ANEF) contour, as determined by the Commonwealth Department of Aviation, having a level in excess of 25.

Clause 36A added G.G. No. 104 of 19/6/87 (LEP 163).

37. Nothing in clause 3 prevents the council from consenting to interim development for the purposes of a butcher’s shop on lot 6, Deposited Plan 2566, Elizabeth Drive, Kemps Creek.

37AA Penrith Panthers Site, Mulgoa Road, Penrith

(1) This clause applies to that part of the land shown edged heavy black on the map deposited in the office of the Council and marked "Penrith Local Environmental Plan No 261" to which this Order applies.

(2) Nothing in this Order operates so as to require development consent to be obtained for the winning of extractive material, or the carrying out of earthworks or operations concerning the winning of extractive material, undertaken for the purposes of any other development that may be carried out only with the consent of the Council under this Order and in respect of which consent is granted.

Clause 37AA added G.G. No. 144 of 13/9/02 (LEP 261).

37A. (1) This clause applies to that part of the land shown edged heavy black on the map deposited in the office of the Council and marked "Penrith Local Environmental Plan No. 160" to which this Order applies.

(2) Terms used to describe the purposes referred to in subclause (3) have the same meaning as in clause 4 (1) of the Environmental Planning and Assessment Model Provisions 1980.

(3) Subject to subclauses (4), (5), (6) and (7), nothing in this order prevents a person, with the consent of the Council, from carrying out development on the land to which this clause applies for the following purposes:

Agriculture; bowling greens; child care centres; clubs; community facilities; educational establishments; golf courses; hotels; open air community markets; open space; parking space; places of assembly; places of public worship; recreational areas and any development ordinarily incidental or subsidiary thereto; recreation establishments; recreation facilities; refreshment rooms; roads; tourist facilities; utility installations (other than gas holders or generating works).

(4) Subclause (3) does not affect the application, to or in respect of development to which that subclause applies, of such of the provisions of this order as are not inconsistent with that subclause or with a consent granted by the Council in respect of the development.

(5) The council, in determining an application for development under subclause (3), shall take into consideration in relation to the construction or operation phase of the proposed development the following matters:

- (a) any relevant floodplain management plan or policy of the council on flood prone land;
- (b) details of flooding relating to the subject lands;
- (c) any social and economic impact of flooding on the development;

- (d) the extent and nature of any impact of the proposed development on the floodplain, including the impact on-
 - (i) the Shire of Hawkesbury;
 - (ii) water quality;
 - (iii) flood behaviour, in particular whether development is likely to substantially divert or detain floodwaters or substantially reduce flood storage capacity within the catchment;
 - (iv) any native plant and wildlife communities;
 - (v) any wetland still largely in a natural state; and
 - (vi) any other flood liable development;
 - (e) any matter likely to significantly change the predicability of, duration of or warning time in regard to, floods;
 - (f) any matter which may increase the risk of flood damage to regional infrastructure or commit the State Government or local government bodies to more expenditure in mitigation or relief measures;
 - (g) any availability of alternative flood free sites and reasonable alternative uses for the subject site;
 - (h) the potential for cumulative adverse impact;
 - (i) the need for buildings and works to be flood proofed.
- (6) The Council in determining an application for development under subclause (3) which will include the creation of a lake shall take into consideration in relation to both the construction and operation phases of the proposed development, in addition to the matters referred to in subclause (5), the following matters:
- (a) the source of water needed to fill any lake (including the quality and quantity of water from that source);
 - (b) water reticulation systems from the Nepean River to any lake, from lake to lake and from any lake to the Nepean River;
 - (c) the water quality of any lake (including the aquatic ecosystem);
 - (d) water treatment facilities;
 - (e) water depth of any lake;
 - (f) flood control;

- (g) storm water control and site drainage;
 - (h) the effect that development would have upon the quantity and quality of the existing groundwater, the level of the existing water table and groundwater movement;
 - (i) lake usage;
 - (j) noise control;
 - (k) lake wall and river bank erosion control, including stability and thickness of the lake liner;
 - (l) stability of the river bank;
 - (m) control of aquatic plants;
 - (n) mechanisms to monitor the water quality of the lakes having regard to their intended use;
 - (o) the effect upon the Hawkesbury and Nepean River system;
 - (p) lighting.
- (7) Before granting consent to development under subclause (3), the Council shall consult with the Director of Environment and Planning.
- (8) The Council shall not grant consent under subclause (3) to the carrying out of any development unless satisfactory arrangements have been made by the applicant or the owner of the land with -
- (a) the Metropolitan Water Sewerage and Drainage Board for the provision of water services to that development; and
 - (b) the Metropolitan Water Sewerage and Drainage Board or the Council, whichever is the responsible authority, for the provision of sewerage and drainage services to that development.
- (9) A person must not use land to which this clause applies for the purposes of an open air community market at any time other than between 8 a.m. and 3 p.m. on Sundays.
- (10) For the purposes of this clause, “open air community market” means a place (other than a shop) where goods (including food) are sold by one or more persons from temporary stalls, benches or tables.

Clause 37A added G.G. No. 73 of 1/5/87 (LEP 160) and amended G.G. No. 183 of 27/12/91 (LEP 213) and G.G. No. 144 of 13/9/02 (LEP 261).

Integrated development of certain land

37B. (1) This clause applies to land shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 193" and deposited in the office of the council.

(2) The Council shall not grant consent to development on land to which this clause applies unless it is satisfied that -

- (a) the development will not create a demand for the unreasonable or uneconomic provision or extension of public amenities or public services, whether by the Council or by another public authority;
- (b) the design of each allotment to be created by any subdivision and the location of any dwelling-house is satisfactory for the economic provision of services and is suitable for disposal of effluent;
- (c) where the development is to be carried out on or near ridgetops, it will not significantly intrude into the skyline or detract from the scenic amenity of the area;
- (d) building curtilages are identified and dwellings appropriately sited to minimise clearing of vegetation;
- (e) views from main roads and the rural character of the area will not be adversely affected;
- (f) allotments are compatible in size and shape with the physical nature of the land, adjoining land uses and the likely use of the land in the future;
- (g) the development will not lead to excessive soil erosion or run off;
- (h) landscaping and the form, siting, building materials and colours of any proposed building are compatible with the surrounding environment;
- (i) satisfactory arrangements have been made with the Water Board for the amplification and reticulation for water services to the land;
- (j) the development will be compatible with the environmental capabilities of the land;
- (k) the development will not affect the efficiency and capacity of the floodway to carry and discharge floodwaters safely;

- (l) the scientific, cultural or aesthetic significance of the Aboriginal archaeological sites will not be detrimentally affected by the development;
- (m) the aquatic environment and its water quality will not be detrimentally affected by the development;
- (n) when the area is fully developed to the extent considered by the Council to be suitable for such an area, the cumulative impact of the development on flooding in the downstream areas will be negligible for the full range of flood magnitudes; and
- (o) dwellings located in the area shown hatched on the map marked "Penrith Local Environmental Plan No. 193" are sited to minimise any adverse impacts that might arise from potential extractive industry in the areas to the south and west of the land.

(3) The Council shall not grant consent to a development application for rural residential development of the land to which this clause applies, either on individual lots or over the entire parcel of land, unless it is satisfied that the development is part of a comprehensive and integrated development proposal which includes a golf course, golf country club, community facility and other associated recreation facilities, generally in accordance with the Luddenham Equestrian Estate Development Control Plan and Plan Nos. 14, 15 and 16 of the Statement of Environmental Factors accompanying the rezoning application, copies of which are deposited in the office of the Council.

(4) The Council shall not grant consent to the subdivision of land shown hatched on the map marked "Penrith Local Environmental Plan No. 193" unless each allotment created by the subdivision has an area of not less than 4 hectares.

Clause 37B added G.G. No. 39 of 16/3/90 (LEP 193).

38. (1) Notwithstanding any other provision of this order, the council may consent to the subdivision of any land, if -
- (a) before the appointed day it had approved or approved in principle of that subdivision; and
 - (b) the subdivision proposed to be approved is substantially in accordance with the terms of that approval or approval in principle.

(2) A dwelling-house may, with the consent of the council, be erected and used on any land referred to in Schedule 5 subject to the conditions, if any, specified in that Schedule in relation to that land.

39. Notwithstanding any other provision of this order, subdivision of land which is the subject of an approval under Part XII of the Act given by the council on 1st July, 1977, to V. Morgan, Surveyor, on behalf of Annwrack Pty Limited in relation to certain land at Mulgoa known as the "Fairlight Estate" (Council reference S4182) is prohibited.

39A.(1) This clause applies to lot 2, D.P. 549247, and lot 29, D.P. 237163, Fairlight Road, Mulgoa, upon which is erected the buildings, being a dwelling-house and out-building, known as "Fairlight" and as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 29." deposited in the office of the Council.

(2) Land to which this clause applies may be developed and -

(a) buildings may be erected thereon; and

(b) buildings thereon may be demolished, only with the consent of the Council.

(3) Nothing in clause 5, 6 or 39 prevents the council from granting consent to -

(a) the subdivision of the land to which this clause applies into 2 allotments, provided that no allotment has an area of less than 2 hectares;

(b) the erection of a dwelling-house on each allotment so created; and

(c) the conversion of part of the building known as "The Barn" to a dwelling.

Clause 39A added G.G. No. 52 of 16/4/82 (LEP 29) and amended G.G. No. 73 of 11/5/84 (LEP 102).

39B. (1) This clause applies to part lot 6, D.P. 2566, Elizabeth Drive, Kemps Creek, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 75" deposited in the office of the council.

(2) Nothing in this order prevents a person, with the consent of the council, from carrying out development on the land to which this clause applies for the purposes of a doctor's surgery and pharmacy, where, at any time that the part of Elizabeth Drive opposite the doctor's surgery and pharmacy consists of more than 2 lanes, all vehicular access to and egress from the land is by means only of Salisbury Avenue.

(3) The council shall not grant its consent as referred to in subclause (2) unless arrangements satisfactory to the council have been made with respect to -

- (a) the amalgamation of the land to which this clause applies with the land, being part of lot 5 , D.P. 2566, into a single allotment; or
- (b) the creation of a right-of-way over the land, being part lot 5, D.P. 2566, for the benefit of the land to which this clause applies so as to afford vehicular access to and egress from the secondmentioned land by way of Salisbury Avenue.

Clause 39B added G.G. No. 74 of 20/5/83 (LEP 75).

40. (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 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 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.

(3) The council shall not consent to the carrying out of development on any part of the land being lots 1-8, section A in D.P. 1613, Cranebrook Road, Cranebrook, below the 22.23 metre A.H.D. level.

Clause 40 (and Table) added G.G. No. 176 of 21/11/80 (LEP 4) and amended G.G. No. 178 of 27/11/81 (LEP 21).

TABLE.

Column I	Column II
<p>Lot 1, D.P. 233427, Fifth Avenue, Llandillo. Lot 91, D.P. 598574, Taylors Road, Cranebrook.</p>	<p>The addition of a second dwelling to existing dwelling-house and the use of one of those dwellings by the owner of the land.</p>
<p>Lot 2, D.P. 228870, Castlereagh Road, Castlereagh.</p>	<p>Subdivision so as to create one allotment within Zone No. 1 (a1) and one allotment within Zone No. 1 (a2) and the erection of a dwelling-house on the land within Zone No. 1 (a1).</p>
<p>Lots 1, 2 and 4, D.P. 213444, Mulgoa Road, Wallacia.</p>	<p>Consolidation and resubdivision of lot 2, D.P. 213444 and lots part 11 and part 12, D.P. 18701; consolidation and resubdivision of lot 1, D.P. 213444 and lots part 13 to part 19, D.P. 18701; subdivision of lot 4, D.P. 213444 into two allotments and the erection of a dwelling-house on that allotment having frontage to Mulgoa Road, Wallacia, and at a height above R.L. 44.041 metres.</p>
<p>So much of the land within Zone No. 1 (a2) as comprises Lot 11, Deposited Plan 30354, Blaikie Road, Regentville.</p>	<p>Road transport terminal and for any other purpose other than for the purpose of amusement parks, commercial premises (other than banks and timber yards), dwelling-houses and residential flat buildings (other than those used in conjunction with industry and situated on land on which such industry is conducted), educational establishments, hospitals, institutions, industries (other than those which, in the opinion of the Department, would not adversely affect the amenity of the neighbourhood), junk yards, liquid fuel depots, mines, motels, roadside stalls, shops (other than chemists' shops, confectionery shops and milk bars) fish and chip shops, fruit shops, newsagents' shops, smallgoods and sandwich shops, tobacconists' and hairdressers' shops).</p>
<p><i>Added G.G. No. 176 of 21/11/80 (LEP 4).</i></p>	

Column I	Column II
<p>Lot 7, D.P. 21499, Mulgoa Road, Mulgoa</p> <p>Lot 65, D.P. 2882, Mulgoa Road, Mulgoa</p> <p><i>Added G.G. No. 30 of 13/2/81 (LEP 7).</i></p>	<p>Retail plant nursery.</p> <p>Art gallery, studio, classroom and residence where -</p> <p>(a) access is only from Vincent Avenue;</p> <p>(b) the Council, before issuing development consent, takes into account the views of the Department of Main Roads and Police (Traffic) Department; and</p> <p>(c) any building erected on the land is not closer than 7.62 metres to Mulgoa Road.</p>
<p>D.P. 948703, Calverts Road, Orchard Hills</p> <p><i>Added G.G. No. 41 of 13/3/81 (LEP 10).</i></p>	<p>piggeries</p>
<p>Lot 15, D.P. 238741, and lot 28, D.P. 2197, Bringelly Road, Orchard Hills.</p> <p><i>Added G.G. No. 91 of 26/6/81 (LEP 15) and amended G.G. No. 105 of 6/8/82 (LEP 48).</i></p>	<p>Church building, school facilities and recreational facilities on a single allotment being a consolidation of the parcels of land referred to in Column I, to which single allotment the only access is by way of Simeon Road, Orchard Hills.</p>
<p>Lot 1, D.P. 211925, Castlereagh Road, Castlereagh.</p> <p><i>Added G.G. No. 102 of 17/7/81 (LEP 18).</i></p>	<p>Caravan park having -</p> <p>(a) no more than 160 sites; and</p> <p>(b) sewerage provisions complying with the requirements of the State Pollution Control Commission.</p>

Column I	Column II
<p>Lot 49, 306(L), First Road, Berkshire Park.</p> <p><i>Added G.G. No. 174 of 13/11/81 (LEP 20).</i></p>	<p>Repair of farm machinery and motor vehicles in addition to the uses included in Column III of the Table to Clause 3 opposite Zone No. 1 (a1) in Column I of that Table.</p>
<p>Lots 1-8, Sect. A in D.P. 1613, Cranebrook Road, Cranebrook.</p> <p><i>Added G.G. No. 178 of 27/11/81 (LEP 21).</i></p>	<p>Dwelling-house.</p>
<p>Lots 12-17, section A, D.P. 1613, Cranebrook Road, Cranebrook.</p> <p><i>Added G.G. No. 3 of 8/1/82 (LEP 22).</i></p>	<p>Church purposes in addition to uses shown in Column III of the Table to clause 3 opposite Zone No. 1 (d) in Column I of that Table.</p>
<p>Part lot 16, D.P. 2197, Frogmore Road, Orchard Hills, as shown by heavy black edging on the map marked "Penrith Local Environmental Plan No. 25", deposited in the office of the council.</p> <p><i>Added G.G. No. 42 of 19/3/82 (LEP 25).</i></p>	<p>Church.</p>

Column I	Column II
<p>Lot 3, D.P. 238941, Wilchard Road, Castlereagh, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 32" deposited in the office of the council.</p> <p><i>Added G.G. No. 61 of 7/5/82 (LEP 32).</i></p>	<p>Retail plant nursery.</p>
<p>Part of lot 2, Lenore Lane, Erskine Park, shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 30" deposited in the office of the council.</p> <p><i>Added G.G. No 65 of 14/5/82 (LEP 30).</i></p>	<p>Bush fire brigade building, where the land on which the building is erected is excised by a subdivision in accordance with Council Plan No. 014/81.</p>
<p>Lot 47, D.P. 30266, Mamre Road, Kemps Creek, as shown edged heavy black on map entitled "Penrith Local Environmental Plan No. 40" deposited in the office of the Penrith City Council.</p> <p><i>Added G.G. No. 92 of 2/7/82 (LEP 40).</i></p>	<p>2 dwelling-houses.</p>

Column I	Column II
<p>Part lots 6 and 7, D.P. 30326, 135R The Northern Road, Londonderry, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 42", deposited in the office of the council.</p> <p><i>Added G.G. No. 94 of 9/7/82 (LEP 42).</i></p>	<p>Bulk storage of circus equipment.</p>
<p>Lot 6, D.P. 242430, Kenmare Road, Londonderry, shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 53", deposited in the office of the council.</p> <p><i>Added G.G. No. 122 of 10/9/82 (LEP 53).</i></p>	<p>Subdivision so as to create one allotment of area 2.023 hectares and one allotment of area 4.45 hectares and the erection of a dwelling-house on the vacant allotment so created at a height above the 15.8 metre (A.H.D.) contour level.</p>
<p>Lot 91, D.P. 598574, Taylors Road, Cranebrook, being the land edged heavy black on the map marked "Penrith Local Environmental Plan No. 44" deposited in the office of the council.</p> <p><i>Added G.G. No. 129 of 24/9/82 (LEP 44).</i></p>	<p>A second dwelling-house.</p>

Column I	Column II
<p>Lot 10, D.P. 30625, Mamre Road, Kemps Creek, shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 56" deposited in the office of the Council of that City.</p> <p><i>Added G.G. No. 154 of 12/11/82 (LEP 56) and amended G.G. No. 147 of 19/10/84 (LEP 114).</i></p>	<p>General store, where the floor area (excluding wall thickness) for retail and storage purposes does not exceed 80 square metres and 20 square metres, respectively.</p>
<p>Land have frontage to Park Road, Wallacia, shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 61" deposited in the office of the council.</p> <p><i>Added G.G. No. 177 of 17/12/82 (LEP 61).</i></p>	<p>Bush fire brigade building where the allotment of land on which the building is to be erected is excised by a subdivision generally in accordance with council's Plan No. 012/82 deposited in the office of the council.</p>
<p>Lot 2, D.P. 233427, Fifth Avenue, Llandilo, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 67" deposited in the office of the council.</p> <p><i>Added G.G. No. 67 of 21/1/83 (LEP 67).</i></p>	<p>A second dwelling-house where the dwelling-house is erected -</p> <p>(a) on the vacant allotment comprising 15.44 hectares created by subdivision of the land; and</p> <p>(b) at a height above the 1 in 100 year flood level.</p>

Column I	Column II
<p>Lot 2, D.P. 204229, Garswood Road, Regentville, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 74" deposited in the office of the council.</p> <p><i>Added G.G. No. 82 of 10/6/83 (LEP 74).</i></p>	<p>2 dwelling-houses.</p>
<p>Part lot 19, lots 20 and 21, R.P. 379, No. 573 Great Western Highway, Werrington, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 83" deposited in the office of the council.</p> <p><i>Added G.G. No. 122 of 2/9/83 (LEP 83).</i></p>	<p>Landscape and nursery supply depot, where development for this purpose involves access to the land only by way of Water Street, in accordance with the requirements of the Traffic Authority of New South Wales.</p>
<p>Lot 23, D.P. 2120, Allan Road, Mulgoa.</p> <p><i>Added G.G. No. 170 of 9/12/83 (LEP 79).</i></p>	<p>2 dwelling-houses.</p>
<p>Lot 1, D.P. 510238, Campbell Street, Luddenham</p> <p><i>Added G.G. No. 9 of 20/1/84 (LEP 88).</i></p>	<p>Car repair station.</p>

Column I	Column II
<p>Lot 2, D.P. 227955, Vincent Road, Cranebrook, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 94" deposited in the office of the council.</p> <p><i>Added G.G. No. 31 of 2/3/84 (LEP 94).</i></p>	<p>Plant nursery.</p>
<p>Part portions 54 and 55, Parish of Castlereagh, in the vicinity of Castlereagh Road, Upper Castlereagh, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 103" deposited in the office of the council.</p> <p><i>Added G.G. No. 90 of 8/6/84 (LEP 103).</i></p>	<p>The production and sale of rural and horticultural products.</p>
<p>So much of lot 4, D.P. 703409 as is land to which this order applies and is shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 108" deposited in the office of the council.</p> <p><i>Added G.G. No. 116 of 27/7/84 (LEP 108).</i></p>	<p>Tennis courts and associated office and amenities building.</p>

Column I	Column II
<p>Part lot 1, D.P. 2197, Castle Road, Orchard Hills, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 117" deposited in the office of the council.</p> <p><i>Added G.G. No. 9 of 11/1/85 (LEP 117).</i></p>	<p>Plant nursery; wholesale sale of plants and ancillary items.</p>
<p>Land situated in Landers Street, Werrington, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 120" deposited in the office of the council.</p> <p><i>Added G.G. No. 23 of 25/1/85 (LEP 120).</i></p>	<p>Residential flat buildings of the type commonly known as semi-detached houses, terrace houses, town houses or villa homes, where the number of dwellings to be contained in the buildings proposed to be erected on the land does not exceed 33 dwellings per hectare of the area of the land.</p>
<p>Lot 3, D.P. 215949, Londonderry Road, Londonderry, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 118", deposited in the office of the council.</p> <p><i>Added G.G. No. 38 of 8/2/85 (LEP 118).</i></p>	<p>Service station.</p>

Column I	Column II
<p>Lot 1, D.P. 68289, lot 13, D.P. 2223 and part portions 76 and 77, Parish of Castlereagh, County of Cumberland, Thornley Lane, Cranebrook, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 131" deposited in the office of the council.</p> <p><i>Added G.G. No. 145 of 25/10/85 (LEP 131).</i></p>	<p>Shooting range and ancillary purposes.</p>
<p>Part lot 14, corner Gipps and Water Streets, Werrington, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 132" deposited in the office of the council.</p> <p><i>Added G.G. No. 145 of 25/10/85 (LEP 132).</i></p>	<p>Sportsground.</p>
<p>Lot 1, D.P. 543975, The Northern Road, Orchard Hills, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 133" deposited in the office of the council.</p> <p><i>Added G.G. No. 155 of 15/11/85 (LEP 133).</i></p>	<p>Place of public worship.</p>

Column I	Column II
<p>Lots 1, 2 and 3, D.P. 595418, lot A, D.P. 373498, and lot 2, D.P. 715296, Parish of Bringelly, County of Cumberland, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 151" deposited in the office of the council.</p> <p><i>Added G.G. No. 169 of 24/10/86 (LEP 151).</i></p>	<p>Subdivision of the land into allotments each having an area of at least 4000 square metres and the erection of a dwelling-house on each allotment, where arrangements satisfactory to the council have been made for the disposal of effluent from the land, and to the Metropolitan Water, Sewerage and Drainage Board for the amplification and reticulation of water services to the land, and where, before granting development consent, the council considers -</p> <p>(a) the need to mitigate the effect of flooding on the land and on other land in the locality; and</p> <p>(b) the results of a study on the effect of flooding on the land and on other land in the locality, being a study which examines -</p> <ul style="list-style-type: none"> (i) the effect on the land of the flooding combination of the 20-year event in the Nepean River and the 100-year event in Jerry's Creek; (ii) the effect that any site filling will have on flood level and flood velocity, particularly on adjoining and upstream properties; and (iii) the works required to protect properties fronting Denton Place, Wallacia, from flood affectation.
<p>Lots 1 – 8, D.P. 1613, Cranebrook Road, Cranebrook, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 161" deposited in the office of the council.</p> <p><i>Added G.G. No. 89 of 29/5/87 (LEP 161).</i></p>	<p>Plant nursery, retail sale of plants and ancillary items.</p>

Column I	Column II
<p>Lot 1, D.P. 62469, in the vicinity of Mamre Road, Kemps Creek, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 163" deposited in the office of the council.</p> <p><i>Added G.G. No. 104 of 19/6/87 (LEP 163).</i></p>	<p>Community facilities and subdivision so as to create a maximum of 90 residential allotments, each lot having an area of not less than 1 hectare, and the erection of a dwelling-house on each allotment created by the subdivision.</p>
<p>Lot 25, D.P. 30265, Mamre Road and Elizabeth Drive, Kemps Creek, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 173" deposited in the office of the council.</p> <p><i>Added G.G. No. 131 of 14/8/87 (LEP 173).</i></p>	<p>Storage and sale of extractive materials.</p>
<p>Lot 2, D.P. 567225, "Madang Park", Jamison Road, Penrith and lot 13, D.P. 30274, Blaikie Road, Penrith, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 165", deposited in the office of the council.</p> <p><i>Added G.G. NO. 140 of 4/9/87 (LEP 165).</i></p>	<p>Refreshment rooms for the holding of wedding receptions, conferences and similar functions, subject to the condition that -</p> <p>(a) arrangements satisfactory to the Metropolitan Water Sewerage and Drainage Board are made for the amplification and reticulation of water services to the land; and</p> <p>(b) the council, in granting development consent, takes into consideration -</p> <p style="padding-left: 40px;">(i) the suitability of the design and site of the development having regard to the effects of noise on the surrounding locality and the visual appearance of the development when viewed from the F4 freeway; and</p> <p style="padding-left: 40px;">(ii) the works required to protect the land from flooding.</p>

Column I	Column II
<p>Lot 3, D.P. 30354, Nepean Avenue, Penrith, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 165" deposited in the office of the council.</p> <p><i>Added G.G. No. 140 of 4/9/87 (LEP 165).</i></p>	<p>Motels (including guest houses and holiday cabins) and refreshment rooms for the holding of wedding receptions, conferences and similar functions, subject to the condition that -</p> <p>(a) arrangements satisfactory to the Metropolitan Water Sewerage and Drainage Board are made for the amplification and reticulation of water services to the land; and</p> <p>(b) the council, in granting development consent, takes into consideration-</p> <p style="padding-left: 40px;">(i) the suitability of the design and site of the development having regard to the effects of noise on the surrounding locality and the visual appearance of the development when viewed from the F4 freeway; and</p> <p style="padding-left: 40px;">(ii) the works required to protect the land from flooding.</p>

Column I	Column II
<p>Land in the vicinity of Erskine Park, having frontage to Patons Lane, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 172" deposited in the office of the council.</p> <p><i>Added G.G. No. 144 of 11/9/87 (LEP 172).</i></p>	<p>Refreshment rooms.</p>
<p>Land at Werrington, being the land shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 175" deposited in the office of the council.</p> <p><i>Added G.G. No. 28 of 12/2/88 (LEP 175).</i></p>	<p>Bus depot.</p>
<p>Portion 339 and part lot 2, D.P. 10743, Londonderry Road, Londonderry, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 185" deposited in the office of the council.</p> <p><i>(Added G.G. No. 145 of 16/9/88 (LEP 185).</i></p>	<p>Radio transmitter station.</p>

Column I	Column II
<p>Land, being part lot 1, D.P. 39348, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 187"</p> <p><i>Added G.G. No. 153 of 14/10/88 (LEP 187).</i></p>	<p>-repair, wrecking and sale of used construction and farm machinery, if -</p> <p>(a) no more than 50 per cent of the land is used for those purposes; and</p> <p>(b) the maximum gross floor area of any building used for those purposes does not exceed 1200 square metres.</p>
<p>Part lot 6, D.P. 2197, lot 3 and part lot 2, D.P. 533975, and lot 1, D.P. 634033 in the vicinity of The Northern Frogmore and Simeon Roads Orchard Hills, and part of Frogmore Road as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 186" deposited in the office of the Council of the City of Penrith.</p> <p><i>Added G.G. No. 18 of 3/2/89 (LEP 186).</i></p>	<p>Aged and disabled persons' housing, child care centres, educational establishments, emergency accommodation for homeless persons, ancillary offices, places of public worship, staff and student accommodation, recreation and parking areas where -</p> <p>(a) there is no access to the development from The Northern Road;</p> <p>(b) arrangements satisfactory to the Water Board and the council have been made by the owner of the land to which the development relates for the amplification and reticulation of water and sewerage services to that land;</p> <p>(c) satisfactory noise levels are maintained in regard to traffic on adjoining roads; and</p> <p>(d) arrangements satisfactory to the council and the Department of Main Roads have been made for any necessary roadworks, including dedication of land, required due to development on the site.</p>

Column I	Column II
<p>Part Lots 1-4, D.P. 2566, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 190" deposited in the office of the council.</p> <p><i>Added G.G. No. 73 of 16/6/89 (LEP 190).</i></p>	<p>Plant nursery, provided that the development does not have direct access to Elizabeth Drive, Kemps Creek, or that part of Salisbury Avenue within 90 metres of Elizabeth Drive (measured along the road alignment of Salisbury Avenue).</p>
<p>Lot 5, D.P. 229770, Pt. Por. 52, Lot 25, D.P. 258414, Lot 1, D.P. 60530, Lots 1 and 2, D.P. 227140, Lot 1, D.P. 309802, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 193" deposited in the office of the council.</p> <p><i>Added G.G. No. 39 of 16/3/90 (LEP 193).</i></p>	<p>Development of the land for rural residential purposes, at an average density of not more than one dwelling per two hectares; motels; refreshment rooms; community facilities.</p>
<p>Land situated adjacent to The Northern Road, Luddenham, being that part of Lot 19, D.P. 1655 as is shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 198" deposited in the office of the council.</p> <p><i>Added G.G. No. 41 of 23/3/90 (LEP 198).</i></p>	<p>General store (including sales of petrol and ancillary automotive products) with a maximum gross floor area of 500 square metres if arrangements satisfactory to the council have been made with the council or Water Board with regard to the supply of water and the disposal of effluent.</p>

Development on certain land at Luddenham

40A. The council shall not grant development consent to development on land situated adjacent to The Northern Road, Luddenham, being Part Lot 19, D.P. 1655, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 198" deposited in the office of

the council and specified in the Table to clause 40 opposite the description of that land unless it imposes a condition requiring -

- (a) the surrender of all existing use rights that attach to Lot 2, D.P. 510238, The Northern Road, Luddenham; and
- (b) the cessation of the use of Lot 2, D.P. 510238, The Northern Road, Luddenham, for its existing use as a general store,

prior to the commencement of the operation of a general store (including sales of petrol and ancillary automotive products) on the land the subject of the development consent.

Clause 40A added G.G. No. 41 of 23/3/90 (LEP 198).

Rural exhibition ground – Mamre Road, South St Marys

40AA. (1) This clause applies to land having frontage to Mamre Road, South St Marys, as shown edged heavy black on the map marked “Penrith Local Environmental Plan No. 169” deposited in the office of the council.

(2) Nothing in this order prevents a person, with the consent of the council, from carrying out development on the land to which this clause applies for the purposes of rural exhibition grounds and ancillary tourist facilities, where -

- (a) arrangements satisfactory to the Water Board have been made for the amplification and reticulation of water and sewerage services to the land; and
- (b) arrangements satisfactory to the Prospect County Council have been made for the provision of electricity reticulation to the land.

(3) When considering an application to carry out development on any part of the land to which this clause applies that is affected by a 1 in 100 year flood level frequency, the council shall consider -

- (a) the effect of the development on the efficiency and capacity of the floodway to carry and discharge floodwaters; and
- (b) the safety of the development in time of flood; and
- (c) whether the development involves any possible risk to life, human safety or private property in time of flood.

Clause 40AA added G.G. No. 72 of 9/6/89 (LEP 169).

Community use of school facilities and sites

40B. (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 additional community purpose, whether or not the use of that site or those facilities for any such additional purpose results in the use of that site or those facilities for a commercial purpose.

(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 40B added G.G. No. 18 of 3/2/89 (LEP 186).

Development of certain land at Leonay

40C. (1) This clause applies to “Buring Cottage” and its curtilage partially occupying Lot 1, D.P. 499830, Leonay Parade, Leonay, as shown by heavy black edging on the map marked “Penrith Local Environmental Plan No. 191” deposited in the office of the council.

(2) A person may, with the consent of the council, carry out development on the land to which this clause applies for the purposes of advertisements, advertising structures, clubs, dwelling-houses, educational establishments, places of assembly, refreshment rooms, plant nurseries and tourist facilities but only if the building known as “Buring Cottage” and its associated outbuildings are not demolished.

(3) The council shall not grant consent to a development application in respect of land to which this clause applies unless it has made an assessment of the following:

- (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 “Buring Cottage” and its site;
- (b) whether the setting of “Buring Cottage” and, in particular, whether any stylistic, horticultural or archaeological features of the setting should be retained.
- (c) whether “Buring Cottage” constitutes a danger to users or occupiers of “Buring Cottage” or to the public;

- (d) in relation to the erection or renovation of any 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 "Buring Cottage" is situated would be caused by a refusal of consent;
- (f) whether "Buring Cottage" would be rendered incapable of reasonable or economic use by refusal of consent; and
- (g) whether adequate access and visually sympathetic parking for vehicles is proposed.

Clause 40C added G.G. No. 92 of 1/9/89 (LEP 191).

Development of certain land - Gipps and Water Streets, Werrington

40D. (1) This clause applies to Lot 1, D.P. 812984, Water Street, Werrington and Lot 1, D.P. 801995, Gipps Street, Werrington, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 236" deposited in the office of the council.

(2) Nothing in this order prevents a person, with the consent of the council, from carrying out development on land to which this clause applies for the purposes of a builder's yard or ancillary uses (including the storage of materials and equipment and for assembly).

- (3) Before granting such consent, the council must be satisfied that:
- (a) there will be no vehicular access from Gipps Street to the proposed builder's yard; and
 - (b) provision has been made for flood free access to the builder's yard and for maintenance of that access; and
 - (c) the scenic and landscape qualities of the locality will not be adversely affected by the development; and
 - (d) the development will not have an adverse impact on the locality through:

- *any increase in background noise levels; or
- *any increase in traffic; or
- *any generation of dust or other air pollutants.

(4) The council may grant a consent pursuant to this clause that authorises development only if:

- (a) in the case of the first such consent granted after the commencement of this clause - the consent does not authorise the development to be carried out for more than 2 years after the consent is granted; and
- (b) in any case - the consent does not authorise the development to be carried out after the fifth anniversary of the commencement of this clause.

Clause 40D added G.G. No. 88 of 21/7/95 (LEP 236).

41. (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 1 of the Table to this clause for the purposes specified in Column II of that Table opposite that land.

(2) As a consequence of the carrying out of development pursuant to subclause (1) on the land referred to in Column 1 of the Table to this clause, this order identifies a likely increased demand for public amenities and public services, as specified in Schedule 6, and stipulates that dedication or 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.

Clause 41 (and Table) added G.G. No. 65 of 14/5/82 (LEP 39).

TABLE

Column I	Column II
<p>Land in St Clair as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 39" deposited in the office of the council.</p> <p><i>Added G.G. No. 65 of 14/5/82 (LEP 39) and amended G.G. No. 111 of 12/8/83 (LEP 84) and G.G. No. 22 of 11/2/00 (LEP 252).</i></p>	<p>Drainage; dwelling-houses on allotments of not less than 550 square metres in area; home industries; home occupations; open space; places of public worship; health care consulting rooms; roads; subdivision; units, of single storey construction for aged persons.</p>
<p>Land situated adjacent to Chain-o-Ponds Road, Mulgoa, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 146" deposited in the office of the council.</p> <p><i>Added G.G. No. 136 of 29/8/86 (LEP 146).</i></p>	<p>Refreshment room for the holding of wedding receptions and similar functions, where arrangements satisfactory to the council have been made with the Metropolitan Water Sewerage and Drainage Board with regard to the supply of water and the disposal of effluent.</p>

42 Development of certain land at Jamisontown

- (1) This clause applies to Lot 1, DP 788126, Tench Avenue, Jamisontown, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No 260" deposited in the office of the council.
- (2) Nothing in this order prevents a person, with the consent of the council, from carrying out development on the land to which this clause applies for the purpose of refreshment rooms for the holding of weddings, conferences and similar functions.
- (3) The council must not give consent to the carrying out of development referred to in subclause (2) unless the council has taken into consideration the following matters:
 - (a) the design and siting of the development, having regard to:

- (i) the potential impact of the development on the surrounding locality and on existing residents of the site, and
 - (ii) the visual appearance of the development when viewed from the F4 Freeway and the Nepean River, and
- (b) the impact of the proposed development on the provision of community facilities and recreation areas within the existing site, and
- (c) the adequacy of parking available on the site to cater for the holding of wedding receptions, conferences and similar functions.

Clause 42 added G.G. No. 127 of 17/8/01 (LEP 260).

Schedule 1

All the land within the area bounded by Londonderry Road, Studley Street and Rickaby's Creek, Londonderry.

All the land within the Richmond Park Estate, being lots 1 to 537 inclusive in 387 (1), Londonderry.

Lots 1 to 52 inclusive, Deposited Plan 3784, Castle Street and Castlereagh Road, Castlereagh.

All the land within the area bounded by Terrybrook Road, Ninth Avenue, Second Avenue and an unnamed road, Llandilo.

Part lots 182, 182A, 182B, 183, 183A and 184, section D, Mulgoa Road and Spencer Street, Regentville.

Lot 2, Deposited Plan 214036, lots 232A, 232, 231A, 231, 230A, 230, 229 and part lots 238, 238A, 239B, 239A and 239, Deposited Plan 1687 and lots 11 to 19 inclusive, Deposited Plan 238713, Jeannette Street, Regentville.

Part lots 1 to 16 inclusive, lots 17 to 29 inclusive, lots 32 to 37 inclusive, lots 39 to 42 inclusive, section A, Deposited Plan 2566, lots A and B, M.P.S. (R.P.) 115712, lots A and B, MPP.S. (R.P.) 116720 and part lot Y, M.P.S. (O.S.) 10439, Clifton Avenue, Salisbury Avenue and Elizabeth Drive, Kemp's Creek.

Schedule 2

All the land within the area bounded by King's Hill Road, Vineyard Road, Pall Mall and Cheapside Street, Mulgoa.

All the land bounded by Mulgoa Road, Church Road and Littlefields Road, Mulgoa.

Schedule 3

Any development carried out by or on behalf of -

The Department of Agriculture (New South Wales).

The Department of Education (New South Wales).

The Department of Main Roads (New South Wales).

The Department of Mines (New South Wales).

The Department of Public Works (New South Wales).

The Department of Technical and Further Education (New South Wales).

The Department of Youth and Community Services (New South Wales).

The Department of Motor Transport (New South Wales).

The Police Department (New South Wales).

The Department of Tourism (New South Wales).

The Public Transport Commission of New South Wales.

The Electricity Authority of New South Wales.
The Electricity Commission of New South Wales.
The Forestry Commission of New South Wales.
The Health Commission of New South Wales.
The Metropolitan Waste Disposal Authority (New South Wales).
The National Parks and Wildlife Service (New South Wales).
The Metropolitan Water Sewerage and Drainage Board (New South Wales).
The Sport and Recreation Service (New South Wales).
The Water Resources Commission (New South Wales).
The Soil Conservation Service (New South Wales).
The Prospect County Council.
The Department of Transport (Commonwealth).
The Department of Administrative Services (Commonwealth).
The Australian Postal Commission (Commonwealth).
The Australian Telecommunications Commission (Commonwealth).
The Australian Gas Light Company.

Schedule 4

St Thomas Church of England and cemetery, Mulgoa.
Christ Church, Church of England, Church Lane, Castlereagh.
Fernhill, Mulgoa Road, Mulgoa.
Fleurs, Mamre Road, St Marys.
Glenmore, Mulgoa Road, Mulgoa.
Glenleigh, Mulgoa Road, Regentville.

Schedule 5

Any allotment created in a subdivision in respect of which the council has given its consent under clause 38 (2).

Lot 2, Deposited Plan 561091, lots 166 to 178 (inclusive), Deposited Plan 16708, lots 144 to 149 (inclusive) and lots 151 to 163 (inclusive), Deposited Plan 1687, Martin Road, Regentville.

Lots 48, 49, 50 and 51, Deposited Plan 3784, Castlereagh Road, Castlereagh, provided that those allotments shall first be consolidated into a single allotment.

Lot 50A, Deposited Plan 2147, Fourth Avenue, Llandilo.

Lot 160, Deposited Plan 16501, Riverside Road, Emu Plains: Provided that the dwelling-house is only erected on land above the 22.8 metre (A.H.D.) contour level.

Each of lots 25 and 26 on the plan of proposed subdivision of lots 21 to 24 (inclusive), Deposited Plan 593499, Luddenham Road, Luddenham, prepared by Gregory Roy Smeallie, registered surveyor, dated the 9th April, 1979, and bearing reference 3120-77-A, copies of which have been submitted to and retained by the council and the New South Wales Planning and Environment Commission.

Lot 36, Deposited Plan 1344, Castle Road, Orchard Hills.
Lot 37, Deposited Plan 1344, Castle Road, Orchard Hills.
Lot 38, Deposited Plan 1344, Castle Road, Orchard Hills.
Lot 39, Deposited Plan 1344, Castle Road, Orchard Hills.

Each of lots 165 and 166, Deposited Plan 16501, Riverside Road, Emu Plains.

Lot 229, Deposited Plan 2147, Seventh Avenue, Llandillo.

The allotment created by subdivision of part Lot A, Deposited Plan 329009 generally in accordance with the plan prepared by Ernest James Britten, Registered Surveyor, dated 1st June, 1979, bearing Surveyor's reference 629 and Council Clerk's certificate 32/80, copies of which have been submitted to and retained by the Department.

The allotment created by the resubdivision of lots 231 and 232, Deposited Plan 33865, Fourth Road, Berkshire Park which comprises lot 2 in the plan entitled "Plan of proposed subdivision of lots 231 and 232 as shown in Certificate of Title, volume 12070, folio 118, for adjustment of common property boundary, dated 30th January, 1980, copies of which have been submitted to and retained by the council and the Department.

Schedule 5 amended G.G. No. 176 of 21/11/80 (LEP 4).

Schedule 6

Community facilities.
Drainage.
Open Space.
Roads.

Schedule 6 added G.G. No. 65 of 14/5/82 (LEP 39).