

**PENRITH LOCAL ENVIRONMENTAL PLAN  
1994**

**(ERSKINE PARK EMPLOYMENT AREA)**

**Government Gazette No. 156 of 25<sup>th</sup> November 1994.  
As Amended.**

**ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

**PENRITH LOCAL ENVIRONMENTAL PLAN 1994**

**(ERSKINE PARK EMPLOYMENT AREA)**

I, the Minister for Planning, in pursuance of section 70 of the Environmental Planning and Assessment Act 1979, make the local environmental plan set out hereunder (P91-02016-PC).

ROBERT WEBSTER MLC  
Minister for Planning

Sydney, 16 November, 1994

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**PART 1**

**PRELIMINARY**

**Citation.**

1. This plan may be cited as Penrith Local Environmental Plan 1994 (Erskine Park Employment Area).

**Aims, objectives etc.**

2. (1) The aims of this plan are:
- (a) to make land available for economic and employment generating development in the City of Penrith; and
  - (b) to promote development which is consistent with the council's vision for the City of Penrith contained in its Strategic Management Plan, namely, one of a region having a harmony of urban and rural qualities with a strong commitment to environmental protection and enhancement; and
  - (c) to promote development which observes responsible and environmentally sound management practices to minimise any adverse environmental impact of that development on surrounding localities.

(2) The objectives of this plan are:

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***Penrith Local Environmental Plan 1994***  
***(Erskine Park Employment Area)***  
***Version 1.1***

- (a) to provide a planning framework which allows development control plans and a staging plan to supplement the controls embodied in this plan; and
- (b) to preserve the amenity of the residential communities of Erskine Park and St Clair; and
- (c) to require development to be assessed in accordance with, and to observe, sound environmental planning principles; and
- (d) to require development to observe relevant environmental performance criteria; and
- (e) to promote the development of land for industrial land uses which require a variety of land types; and
- (f) to promote a variety of employment based activities whilst protecting the viability of existing business centres; and
- (g) to create an environmentally attractive and safe work environment; and
- (h) to promote development which is efficient in terms of transportation, energy and land utilisation; and
- (i) to make land available to accommodate all required special land uses including roads, drainage and other infrastructure; and
- (j) to facilitate the appropriate provision of, or of funding for, major infrastructure works; and
- (k) to limit the potential risk to life and property from flood events; and
- (l) to maximise conservation of urban bushland; and
- (m) to prohibit offensive and hazardous industries and other industries specified in this plan; and
- (n) to prohibit development of land for any purpose if, as a result of carrying out the development, there will be direct vehicular access between that land and either Erskine Park Road or Mamre Road.

(3) The council must consider the aims and objectives of the plan in determining development applications. This plan also includes objectives for each zone.

#### **Land to which plan applies.**

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

(2) This plan does not apply to land referred to on the map as “Deferred Matter”, despite subclause (1).

(3) This plan does not apply to the land to which the following instruments apply:

Penrith Local Environmental Plan 1998 (Urban Land).

State Environmental Planning Policy (Western Sydney Employment Area) 2009.

*(Clause 3 (3) added G.G. No. 4 of 8/1/99 LEP 1998 (Urban Land) and amended 21/8/09 (SEPP (Western Sydney Employment Area) 2009.)*

#### **Relationship to other plans.**

4. (1) With the exception of Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation), this plan repeals all other local environmental plans and deemed local environmental plans in so far as they relate to land to which this plan applies.

(2) Nothing in this plan affects the application to land to which this plan applies of Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation).

(3) This plan prevails over Sydney Regional Environmental Plan No. 9 - Extractive Industry to the extent to which that instrument is inconsistent with this plan.

(4) Except as otherwise provided by this clause, this plan does not affect the operation of State Environmental Planning Policies and Regional Environmental Plans.

(5) Development consent must not be granted unless the council is satisfied that the proposed development is consistent with the provisions, and the objectives, of any development control plan prepared in respect of the land to which the development application relates.

#### **Model Provisions.**

5. Clause 35 of, and Schedule 1 to, the Environmental Planning and Assessment Model Provisions 1980 are adopted for the purposes of this plan.

### **Definitions.**

6. (1) All definitions used in this plan are set out in Schedule 1.
- (2) In this plan:
- (a) a reference to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose; and
  - (b) a reference to a map is a reference to a map deposited in the office of the council.

### **Consent authority.**

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

## **PART 2**

### **THE LAND USE ZONES IN THIS PLAN**

#### **Zones indicated on the map.**

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

Zone No. 1(f) (Floodway)	-	coloured light brown and lettered 1(f);
Zone No. 4(e) (Employment)	-	coloured purple and lettered 4(e);
Zone No. 4(e1) (Employment – Restricted)	-	coloured purple and lettered 4(e1);
Zone No. 5(c) (State Roads and State Road Widening)	-	broken black band between firm black lines and lettered 5(c).

#### **Zone objectives and development control table.**

9. (1) For each of the zones in the development control Table which follows are indicated:

- (a) the objectives of the zone;
- (b) land uses for the purposes of which:

- (i) development may be carried out without development consent;
- (ii) development may be carried out only with development consent; and
- (iii) development is prohibited.

(2) The council must consider the zone objectives in determining development applications.

(3) Except as otherwise provided by this plan, development consent must not be granted by the council if the proposed development is contrary to one or more aims and objectives of the plan, and one or more objectives of the zone within which the development is proposed to be carried out.

## **TABLE**

### **ZONE No. 1(f) (FLOODWAY ZONE)**

#### **1. Objectives of Zone**

The objectives are:

- (a) to prevent the introduction of unsuitable land uses on the land identified by the council as being likely to be inundated by a 1% AEP flood in Ropes Creek; and
- (b) to limit the potential risk to life and property in the event of a flood in Ropes Creek; and
- (c) to protect and enhance the scenic quality and rural character of the area; and
- (d) to promote development that is compatible with the environmental capabilities of the land; and
- (e) to prevent the unnecessary removal of trees from the land; and
- (f) to promote development that does not have an adverse impact on the flood characteristics of Ropes Creek.

#### **2. Without development consent**

Nil.

#### **3. Only with development consent**

Any land use other than those included in Item 4.

#### **4. Prohibited**

Amusement parks; animal establishments; boarding houses; business premises; camp or caravan sites; general stores; generating works; hotels; industries listed in Schedule 2; intensive agriculture; intensive livestock keeping establishments; junk yards; light industries; materials recycling yards; motels; motor showrooms; offensive or hazardous industries; offensive or hazardous storage establishments; office premises; residential flat buildings; shops; transport terminals; vehicle body repair workshops; vehicle repair stations; warehouse or distribution centres; waste disposal.

### **ZONE No. 4(e) (EMPLOYMENT ZONE)**

#### **1. Objectives of Zone**

The objectives of this zone are:

- (a) to prohibit certain development which is likely to have an adverse environmental effect on the amenity of adjoining localities; and
- (b) to provide opportunities for a diverse range of employment generating activities; and
- (c) to accommodate office and retail activities which are primarily intended to service persons working in the Erskine Park Employment Area; and
- (d) to permit development for the purposes of recreation facilities, child care centres or community facilities in association with, or independent of, other permitted development to serve the needs of the workforce of the Area and the adjoining residential communities; and
- (e) to prohibit development of land for any purpose if, as a result of carrying out the development, there will be direct vehicular access between that land and either Erskine Park Road or Mamre Road; and
- (f) to promote development of land with frontage to Mamre Road and Erskine Park Road if the buildings or works resulting from the carrying out of the development will, by their architectural

and landscape design, enhance the rural scenic character of those roads and their roles as gateways to the City of Penrith.

**2. Without development consent**

Nil.

**3. Only with development consent**

Any land use other than those included in Item 4.

**4. Prohibited**

Amusement parks; boarding houses; camp or caravan sites; dwellings (other than those used in conjunction with other land uses that are not prohibited in this zone and situated on the land on which such other uses are conducted); general stores; generating works; industries listed in Schedule 2; junk yards; motor showrooms; offensive or hazardous industries; offensive or hazardous storage establishments; office premises (other than those ancillary to, and used in conjunction with, another land use that is not prohibited in this zone or which are primarily intended to service persons working in the Erskine Park Employment Area); shops (other than those primarily intended to service persons working in the Erskine Park Employment Area).

**ZONE No. 4(e1) (EMPLOYMENT - RESTRICTED ZONE)**

**1. Objectives of Zone**

The objectives of this zone are:

- (a) to prohibit certain development which is likely to have an adverse environmental effect on the amenity of adjoining localities; and
- (b) to promote development which does not have an adverse environmental effect on the adjoining residential and rural communities arising from air, noise or other pollution; and
- (c) to permit retail activities which are:
  - (i) compatible with the concept of the employment area; and
  - (ii) unlikely to prejudice the viability of existing business centres,

or are primarily intended to service persons working in the Erskine Park Employment Area; and

- (d) to permit office development of a type which:
  - (i) would not be readily located in a traditional business zone; and
  - (ii) would be unlikely to prejudice the viability of existing business centres; and
- (e) to permit development for the purposes of recreation facilities, child care centres and community facilities in association with, or independent of, other permitted development to serve the needs of the workforce of the Area and the adjoining residential and rural communities; and
- (f) to prohibit development of land for any purpose if, as a result of carrying out the development, there will be direct vehicular access between that land and either Erskine Park Road or Mamre Road; and
- (g) to promote development of land with frontage to Mamre Road and Erskine Park Road if the buildings or works resulting from the carrying out of the development will, by their architectural and landscape design, enhance the rural scenic character of those roads and their roles as gateways to the City of Penrith.

## **2. Without development consent**

Nil.

## **3. Only with development consent**

Any land use other than those included in Item 4.

## **4. Prohibited**

Amusement parks; boarding houses; camp or caravan sites; dwellings (other than those used in conjunction with other land uses that are not prohibited in this zone and situated on the land on which such other uses are conducted); general stores; generating works; industries listed in Schedule 2; junk yards; materials recycling yards; motor showrooms; offensive or hazardous industries; offensive or hazardous storage establishments; shops (other than those primarily intended to service persons working in the Erskine Park Employment Area or shops trading principally in bulky goods or motor vehicle parts and accessories); vehicle body repair workshops; waste disposal.

## **ZONE No. 5 (c) (STATE ROADS AND STATE ROAD WIDENING ZONE)**

**1. Objective of zone**

The objective is to reserve land which will be required for state roads and state road widening purposes.

**2. Without development consent**

Nil.

**3. Only with development consent**

Drains; landscaping; parking areas; roads; road widening; site filling; utility installations.

**4. Prohibited**

Any land use other than those included in Item 3.

**PART 3 - SPECIAL PROVISIONS APPLYING GENERALLY**

**Environmental considerations.**

10. (1) Notwithstanding any other provision of this plan, the council must not consent to the carrying out of development on land to which this plan applies where, in the opinion of the council, it will have an adverse environmental effect on adjoining residential or rural lands.

(2) In deciding whether a development will have an adverse environmental effect, the council must take into consideration:

- (a) any adverse impact of the carrying out of that development on the existing or likely future amenity of adjoining residential or rural lands likely to be caused by air, water, noise or any other pollution; and
- (b) the effect of the development on the visual amenity of adjoining residential and rural lands; and
- (c) the effect of the development on water quality through particulate or chemical emissions or sedimentation and the measures proposed to improve the existing water quality and to minimise any such effect; and
- (d) the extent of likely air emissions from the development and the measures proposed to improve the existing air quality and to minimise and control those emissions; and
- (e) waste management needs for the development and the adequacy of proposed waste management measures; and

- (f) the hazardous nature and quantities of any materials or substances to be used or stored as part of the development; and
- (g) proposed ongoing monitoring procedures and management plans for the development, to mitigate any adverse environmental effects.

**Efficiency considerations.**

11. In determining whether to grant consent for development on land to which this plan applies, the council must take into consideration:

- (a) the energy efficiency of the proposal in terms of building design, solar access, site layout, technology and the like; and
- (b) the extent to which the development maximises opportunities for the recycling of waste; and
- (c) whether the development makes the most efficient use of the land; and
- (d) whether the development promotes efficiency in terms of:
  - (i) the overall transport network within the Erskine Park Employment Area; and
  - (ii) traffic, parking and access; and
  - (iii) public transport.

**Subdivision of land.**

12. (1) A person must not subdivide land to which this plan applies without the consent of the council.

(2) A person must not open a road on land to which this plan applies without the consent of the council.

(3) The council must not grant consent to the subdivision of land to which this plan applies if the subdivision would create an allotment containing land in more than one zone.

**Staging plan for provision of services.**

13. (1) In this clause “services” includes roads, water, sewerage, electricity, telephone, gas and trunk drainage services.

(2) The council must not grant consent to any development on land to which this plan applies unless the proposed development, and the way in which it will be carried out, will be in accordance with any staging plan and management plan for the planning, funding and implementation of services contained within a development control plan applying to the land.

#### **Provision of services.**

14. *Clause 14 omitted G.G. No. 157 of 12/12/08 (SEPP (Repeal of Concurrence and Referral Provisions) 2008).*

#### **Drainage.**

15. The council must not grant consent to any development on land to which the plan applies unless:

- (a) arrangements satisfactory to the council have been made for the implementation of that part of the council's Trunk Drainage and Water Quality Management Scheme to which the land drains; and
- (b) the development conforms with the provisions of the council's Trunk Drainage and Water Quality Management Scheme.

#### **Advertising.**

16. A person must not erect an advertisement on land to which this plan applies except with the consent of the council.

#### **Tree preservation.**

17. (1) In this clause, "tree" means:

- (a) a living perennial plant which:
  - (i) has one or more self supporting trunks, any one or more of which has a circumference of 30cm or more (at a height of 40cm above the ground); or
  - (ii) has a height of 3 metres or more, or a branch spread of more than 3 metres; or
- (b) any tree or plant, irrespective of size, listed in a register of significant trees, which is a register kept at the office of the council;
- (c) any palm, cycad or tree fern.

(2) A person is prohibited from ringbarking, cutting down, digging up, topping, lopping, removing or injuring by mechanical or chemical means any tree, and from taking any other action which could cause the death of any tree, except with the consent of the council.

(3) Notwithstanding subclause (2), the consent of the council is not required:

- (a) for the pruning of a tree for the purpose of its regeneration or shaping; or
- (b) for necessary action in relation to a tree to prevent imminent personal injury or imminent damage to property; or
- (c) for the taking of appropriate action where the tree has otherwise become dangerous, but only if 7 days' notice of the action proposed has been given to the council; or
- (d) for the removal of noxious plants, being plants listed as noxious plants in a pamphlet published by the Hawkesbury River County Council and available to the public in the office of the council.

(4) This clause does not apply to tree trimming, tree removal or other similar measures carried out by an electricity supply authority, which is in accordance with any tree management agreement approved by the council.

## **PART 4**

### **SPECIAL PROVISIONS APPLYING TO SPECIFIC LAND**

#### **Flood liable land.**

18. (1) This clause applies to the land within Zone No. 4(e) or 4(e1) shown diagonally hatched on the map.

(2) The council must not grant consent for development on the land to which this clause applies for purposes other than:

- (a) landscaping; or
- (b) a parking area; or
- (c) the outdoor storage of goods, materials or products.

(3) The council must not grant consent to the carrying out of development on land to which this clause applies unless it is satisfied that:

- (a) the development will not have a significant adverse effect on the characteristics of floods in Ropes Creek; and
- (b) the development is not likely to result in any significant risk to life or property as a result of a standard flood.

(4) Development on land to which this clause applies may be carried out only if the floor level of any building or outdoor storage area that will result from the proposed development will be located above the standard flood level. This subclause does not apply to development for the purpose of structures used for drainage, flood mitigation or water quality management.

**Development in Zone No. 4(e1).**

19. (1) This clause applies to land within Zone No. 4(e1).

(2) The council must not grant consent to development of land within Zone No. 4(e1) unless it is satisfied that:

- (a) wherever appropriate, proposed buildings are compatible with the height, scale, siting and character of existing residential buildings in the vicinity; and
- (b) goods, plant, equipment and other material resulting from the development are to be stored within a building or will be suitably screened from view from residential buildings and associated land; and
- (c) the elevation of any building facing, or significantly exposed to view from, land on which a dwelling house is situated has been designed to present an attractive appearance; and
- (d) noise generation from fixed sources or motor vehicles associated with the development will be effectively insulated or otherwise minimised; and
- (e) the development will not otherwise cause nuisance to residents, by way of hours of operation, traffic movement, parking, headlight glare, security lighting or the like; and
- (f) windows facing residential areas, or from which residential areas might be viewed, have been treated to avoid overlooking of private yard space or windows in residences; and
- (g) the development will provide adequate off-street parking, relative to the demand for parking likely to be generated; and

- (h) the site of the proposed development will be suitably landscaped, particularly between any building and the street alignment.

### **Retailing in employment zones.**

20. (1) Notwithstanding any other provision of this plan, the council may grant consent to development on land within Zones Nos. 4(e) and 4(e1) for the purpose of shops only where it is satisfied that the development is primarily intended to provide services to people working in the Erskine Park Employment Area.

(2) The council must not grant consent to development on land within Zone No. 4(e1) for the purpose of a hypermarket, supermarket, department store, discount department store or small specialty items shop or for any other purpose which, in the opinion of the council, would be more appropriately located in an existing business centre.

(3) The council must not grant consent to the carrying out of development on land within Zone No. 4(e1) for the purposes of a shop trading principally in bulky goods unless it is satisfied that:

- (a) the development would not be more suitably carried out in a business centre in the locality; and
- (b) the development is unlikely to have an adverse effect on the viability of any other business centres in the locality; and
- (c) the development is of a type appropriate to the objectives of an employment zone, or to the general character of existing development within the locality.

(4) This clause does not apply to the retailing on land of goods produced or stored on the same land where such retailing is minor and ancillary to a manufacturing or storage use.

### **Office premises in Zone No. 4(e1).**

21. Notwithstanding any other provisions of this plan, the council may grant consent to development on land within Zone No. 4(e1) for the purpose of offices only where it is satisfied that:

- (a) land suitable for development for that purpose would not be readily available in an existing business zone; and

- (b) development on the land for that purpose would be unlikely to prejudice the viability of existing business centres.

### **Convenience stores.**

22. So much of the gross floor area of a convenience store as is used for the retailing of goods on land to which this plan applies must not exceed 200 square metres.

### **Community use of school sites etc.**

23. Notwithstanding any other provision of this plan, a person may, with the consent of the council, carry out development on land to which this plan applies involving:

- (a) the community use of the facilities and sites of schools, colleges and other educational establishments; and
- (b) the commercial operation of those facilities and sites for community purposes; and
- (c) the carrying out of development for community uses on land used for the purposes of schools, colleges or other educational institutions, whether or not the development is ancillary to those purposes.

### **Transmission easement.**

24. (1) This clause applies to the land to which this plan applies affected by the Pacific Power transmission easement located adjacent to the northern boundary of the Erskine Park Employment Area.

(2) The council must not consent to the carrying out of development (with the exception of landscaping) on land affected by the transmission easement.

(3) The council must require appropriate landscape treatment of land affected by the transmission easement as part of any development of land which includes the transmission easement.

(4) Before granting consent to any landscape treatment of the land affected by the easement, the council must ensure that it will be carried out to the council's satisfaction and in accordance with any specific requirements of Pacific Power notified to the council.

### **Quarry and surrounding land.**

25. (1) This clause applies to Lot 9, D.P. 229784, Portion 77 and Portion 85, in the Parish of Melville, Erskine Park.

(2) The council must not consent to development on the land to which this clause applies unless it has taken into consideration a management plan providing for the restoration of the quarry and the surrounding land, being a plan approved for the time being by the council.

(3) Notwithstanding any other provision of this plan, the council may grant consent to the carrying out of development on the land only if it is satisfied that:

- (a) the development will not restrict opportunities for restoration of the quarry and surrounding land; and
- (b) the development is in accordance with the management plan providing for restoration; and
- (c) the development contributes to restoration work provided for by the management plan.

### **Acquisition of land reserved for roads.**

26. (1) In this Part:

“the corporation” means the corporation constituted by section 8(1) of the Act;

“the RTA” means the Roads and Traffic Authority constituted under the Transport Administration Act 1988;

“vacant land” means land on which, immediately before the day on which a notice under subclause (2) is given, or an application for development consent referred to in clause 27(1) is lodged, there were no buildings other than fences, greenhouses, conservatories, garages, summer houses, private boat houses, fuel sheds, tool houses, cycle sheds, aviaries, milking bails, hay sheds, tables, fowl houses, pig sties, barns or the like.

(2) The owner of any vacant land within Zone No. 5(c) may, by notice in writing, require:

- (a) the RTA in the case of land that is included in the 5 year works programme of the RTA current at the time of the receipt of the notice; or
- (b) the corporation in any other case,

to acquire the land.

(3) The owner of any land within Zone No. 5(c) that is not vacant may, by notice in writing, require the RTA to acquire the land if:

- (a) the land is included in the 5 year works programme of the RTA current at the time of the receipt of the notice; or
- (b) the RTA has decided not to give concurrence under clause 27(1) to an application for consent to the carrying out of development on the land; or
- (c) the RTA is of the opinion that the owner of the land will suffer hardship if the land is not acquired within a reasonable time.

(4) On receipt of a notice under this clause, the RTA or the corporation, as the case may be, must acquire the land unless the land might reasonably be required to be dedicated for public roads.

#### **Development of land reserved for roads.**

27. (1) Despite the provisions of clause 9, a person may, with the consent of the Council, carry out development on land within Zone No 5(c) for a purpose for which development may be carried out on land within an adjoining zone created by this plan.

(2) *Omitted.*

(3) Land acquired under this Part may be developed, with the consent of the council, for any of the purposes permitted on land within an adjoining zone created by this plan, until such time as it is required for the purpose for which it was acquired.

*Clause 27 amended G.G. No. 157 of 12/12/08 (SEPP (Repeal of Concurrence and Referral Provisions) 2008).*

#### **Development along particular roads.**

28. The council must not consent to the development of land within Zone No. 4(e) or 4(e1) for any purpose if, as a result of carrying out the development, there will be direct vehicular access between that land and either Erskine Park Road or Mamre Road.

## SCHEDULE 1 – DEFINITIONS

(Cl.6)

“abattoir” means a building or place used for the slaughter of animals, whether or not animal by-products are processed, manufactured or distributed, and includes a knackery;

“advertisement” means the display of symbols, messages or other devices for promotional purposes or for conveying information, instructions, directions or the like, whether or not the display includes the erection of a structure or the carrying out of a work;

“agriculture” means:

- (a) the cultivating of fruit, vegetable or flower crops; or
  - (b) the keeping or breeding of livestock, bees or poultry or other birds; or
  - (c) the cultivating of plants in a wholesale plant nursery,
- for commercial purposes, but does not include intensive agriculture;

“amusement park” means a place where amusements or mechanical or electronic entertainments are permanently situated;

“animal establishment” means a building or place used for the breeding, boarding, training, or keeping of, or for caring for, animals for commercial purposes, and includes a riding school and veterinary clinic;

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

“boarding house” means a building or place:

- (a) where accommodation, meals and laundry facilities are provided to the residents of the building or place; and
- (b) which is not licensed to sell liquor within the meaning of the Liquor Act 1982;

“building” includes any structure or part thereof;

“bulky goods” means large goods which are, in the opinion of the council, of such a size and shape as to require:

- (a) a large area for handling, storage or display; and

- (b) easy and direct vehicular access so as to allow for their collection by customers,

but does not include food, beverages, clothing, footwear, leisure goods, toys, agricultural products, small electrical appliances or electronic goods;

“business premises” means a building or place in which there is carried on an occupation, profession, light industry or trade which provides a service directly and regularly to the public, but does not include a building or place elsewhere defined in this Schedule;

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

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

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

- (a) caters for 5 or more under school-age children whether or not those children are related to the owner or operator of the child care centre; and
- (b) may include an educational function; and
- (c) may operate for the purpose of gain,

but does not include a building or place providing residential care for those children;

“classified road” means a road or work declared under Part 5 of the Roads Act 1993 to be a main road, a secondary road, a State highway, a tourist road, a State work, a freeway, a tollway or a controlled access road within the meaning of that Act;

“community facility” means a building or place owned or controlled by a public authority or a body of persons which may provide for the physical, social, cultural or intellectual development or welfare of the local community, but does not include a club registered under the Registered Clubs Act 1976;

“convenience store” means a building or place:

- (a) used for the purpose of selling, exposing or offering for sale by retail principally groceries, smallgoods and associated small

items which is open for business in the interests of public convenience at hours beyond the normal trading hours of a general shop (other than a small shop) as prescribed under the Factories, Shops and Industries Act 1962; and

- (b) used in conjunction with the sale by retail of petrol, oil and other petroleum products;

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

“drain” means any drain used for removing water other than sewage;

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

“dwelling house” means a dwelling which is the only dwelling erected on an allotment of land;

“educational establishment” means a building or place used for education (including teaching) and includes:

- (a) a school; and
- (b) a tertiary institution, being a university, college of advanced education, teachers’ college, technical college or other tertiary college providing formal education which is constituted by or under an Act; and
- (c) an art gallery or museum, not used to sell the items displayed therein,

whether or not accommodation for staff and students is provided and whether or not used for the purposes of gain;

“existing ground level” means the level of a site before development is carried out on the site in accordance with this plan;

“extractive industry” means:

- (a) the winning or removal of extractive material from land; or
- (b) an 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, and includes any washing, crushing, grinding, milling or separating into different sizes of that extractive material on that land;

“extractive material” does not include coal, shale, petroleum, uranium or any mineral within the meaning of the Mining Act 1992;

“floor” means that space within a building which is situated between one floor level and the floor level next above or if there is no floor above, the ceiling or roof above;

“general store” means a shop used for the sale by retail of general merchandise and which may include the facilities of a post office;

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

“gross floor area” means the sum of the areas of each floor of a building where the area of each floor is taken to be the area within the outer face of the external enclosing walls as measured at a height of 1400 millimetres above each floor level, excluding:

- (a) columns, fin walls, sun control devices, awnings and any other elements, projections or works outside the general lines of the outer face of the external walls; and
- (b) lift towers, cooling towers, machinery and plant rooms, ancillary storage space and air-conditioning ducts; and
- (c) carparking needed to meet any requirements of the council and any internal designated vehicular or pedestrian access thereto; and
- (d) space for the loading and unloading of goods; and
- (e) internal public arcades and thoroughfares, terraces and balconies with outer walls less than 1400 millimetres high;

“hazardous industry” means an industry which, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate it from existing or likely future development on other land in the locality), would pose a significant risk in relation to the locality:

- (a) to human health, life or property; or
- (b) to the biophysical environment;

“hazardous storage establishment” means any establishment where goods, materials or products are stored which, when in operation and when all measures proposed to reduce or minimise its impact have been employed (including, for example, measures to isolate it from existing or likely future development on other land in the locality), would pose a significant risk in relation to the locality:

- (a) to human health, life or property; or

(b) to the biophysical environment;

“height” in relation to a building, means the vertical distance measured between natural ground level at any point at which the building is sited and the roof of the topmost floor of the building above that point;

“home industry” means a home occupation undertaken by the permanent residents of the dwelling, whether or not others are also employed;

“home occupation” means the use of a dwelling or of any land comprising, or building erected on, the allotment on which the dwelling is located, for the purpose of an office, light industry, industry or business, but only if:

- (a) that use is undertaken by the permanent residents of the dwelling; and
- (b) the use does not involve the employment of persons other than those residents; and
- (c) the use does not interfere unreasonably in any way with the amenity of adjoining properties or the locality in which the dwelling is situated;

“hotel” means premises specified or proposed to be specified in a hotelier’s licence granted under the Liquor Act 1982;

“industry” means:

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

but (except in this Schedule) does not include an extractive industry or other land use elsewhere defined in this Schedule;

“intensive agriculture” means any form of agriculture which requires the waste, including faeces, to be disposed of on land which is not simultaneously used for the nurturing of livestock and poultry;

“intensive livestock keeping establishment” means a building or place in which or upon which cattle, sheep, goats, poultry or other livestock are held for the purposes of nurturing by a feeding method other than grazing and, without limiting the generality of the foregoing, includes:

- (a) feedlots;
- (b) piggeries;

- (c) poultry farms; and
- (d) fish (including crustacean) farms,

but does not include an animal boarding, breeding or training establishment or land used for the keeping of livestock or poultry intended solely for personal consumption or enjoyment by the owner or occupier of the land;

“junk yard” means land used for the collection, dismantling, salvaging, storage or abandonment of scrap materials, goods, vehicles or machinery and may include the ancillary sale of parts thereof;

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

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

“materials recycling yard” means a building or place used for collecting, dismantling, salvaging, storing and recycling of second hand or scrap materials for the purpose of resale, but does not include a junk yard;

“mine” means an activity which depends for its operation on the winning or removal of any material to which the Mining Act 1992 or the Petroleum (Onshore) Act 1991 applies, and includes the storage and primary processing of the material obtained;

“motel” means premises not being a hotel, used for the temporary or short-term accommodation of travellers;

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

“offensive industry” means an industry which, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate it from existing or likely future development on other land in the locality), would emit a polluting discharge (including, for example, noise) in a manner which would have a significant adverse impact in the locality or on existing or likely future development on the other land in the locality;

“offensive storage establishment” means any establishment where goods, materials or products are stored which, when in operation and when all measures proposed to reduce or minimise its impact on the locality have been employed (including, for example, measures to isolate it from existing or likely future development on other land in the locality), would emit a polluting discharge (including, for example, noise) in a manner which would have a significant adverse impact in the locality or on existing or likely future development on other land in the locality;

“office premises” means a building or place used for the purpose of carrying out professional, administrative, clerical or public duties but does not include an office used in conjunction with or ancillary to a land use elsewhere specifically defined in this Schedule;

“parking area” means a building or place, including ground level parking areas or deck parking structures, used for parking vehicles, and includes any associated vehicle manoeuvring areas whether such parking area is used for the purposes of gain or not;

“recreation facility” means a building or place used for sporting activities, recreation or leisure activities, whether or not operated for the purpose of gain, but does not include a building or place elsewhere defined in this Schedule;

“residential flat building” means a building containing three or more dwellings, but does not include a building elsewhere defined in this Schedule;

“road” means a public thoroughfare used for the passage of vehicles or animals and includes a classified road;

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

- (a) the hiring of trailers;
- (b) the retail selling or the installing of spare parts and accessories for motor vehicles;
- (c) washing and greasing of motor vehicles;
- (d) repairing or servicing of motor vehicles;
- (e) the retail selling or hiring of small consumer goods,

but does not include a building or place used for vehicle body building or the panel beating or spray painting of vehicles;

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

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

“staging plan and management plan” means a staging plan and a related management plan adopted by the council;

“standard flood” means the probable maximum flood;

“1% AEP flood” is a 1% probability flood within the meaning of Appendix C to the Floodplain Development Manual published by the Public Works Department and available to the public at the office of the council;

“the Act” means the Environmental Planning and Assessment Act 1979;

“the map” means the map marked “Penrith Local Environmental Plan 1993 (Erskine Park Employment Area)” as amended by the maps (or, if any sheets of maps are specified, by the specified sheets of the maps) marked as follows:

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

“utility installation” means a building or work used for a utility undertaking;

“utility undertaking” means any undertaking carried on by or by authority of any Government department, or in pursuance of any Commonwealth or State Act, for the purposes of:

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

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

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

“warehouse or distribution centre” means a building or place used for the principal purpose of storing, handling or displaying items (whether goods or materials) which have been produced or manufactured for sale, other than retail sale to the public from the warehouse or distribution centre;

“waste disposal” means the discharge, emission or deposit into the environment, of any matter, whether liquid, solid, gaseous or radioactive, in such volume, consistency or manner as to cause an alteration to the environment, but does not include waste water disposal carried out by the Water Board.

## SCHEDULE 2 - PROHIBITED INDUSTRIES

(Cl.9)

- abattoirs;
- chemical factories or works;
- crushing, grinding or milling works;
- extractive industries;
- gasholders;
- liquid, chemical, oil or petroleum waste works;
- liquid fuel depots;
- metallurgical works in which more than 100 tonnes per annum of ferrous or non-ferrous metals or their ores are processed;
- mines;
- oil refineries;
- paper or pulp works;
- petroleum product storage and processing works;
- pre-mix bitumen works;
- rubber or plastic works;
- sawmills;
- scrap recovery or drum reconditioning works.

## **NOTE**

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#### **SCHEDULE 2 - PROHIBITED INDUSTRIES**

