



Penrith Local Environmental Plan 1996 (Industrial Land) (Amendment No 4)

under the

Environmental Planning and Assessment Act 1979

I, the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration), make the following local environmental plan under the *Environmental Planning and Assessment Act 1979*. (P02/00080/PC)

DIANE BEAMER, M.P.,

Minister Assisting the Minister for Infrastructure
and Planning (Planning Administration)

2003 No 889

Clause 1 Penrith Local Environmental Plan 1996 (Industrial Land) (Amendment No 4)

Penrith Local Environmental Plan 1996 (Industrial Land) (Amendment No 4)

under the

Environmental Planning and Assessment Act 1979

1 Name of plan

This plan is *Penrith Local Environmental Plan 1996 (Industrial Land) (Amendment No 4)*.

2 Aims of plan

This plan aims to amend *Penrith Local Environmental Plan 1996 (Industrial Land)*:

- (a) to update the aims and objectives of the plan and the objectives of the zones to ensure that development of land to which the plan applies does not significantly affect the road network, and to include provisions restricting development on land having direct access to certain roads, and
- (b) to make provision with respect to covenants prohibiting or restricting development otherwise permitted by the plan, and
- (c) to permit, with the consent of the Council of the City of Penrith, building, hardware or garden supplies premises in industrial zones, and
- (d) to prohibit restaurants in industrial zones, and
- (e) to update provisions with respect to tree preservation, and
- (f) to provide for development involving the temporary use of land, and
- (g) to consolidate certain land already zoned “Industrial” in another environmental planning instrument into one environmental planning instrument, and
- (h) to update several existing definitions and add several new definitions.

3 Land to which plan applies

This plan applies to the land to which *Penrith Local Environmental Plan 1996 (Industrial Land)* applies.

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Clause 4 Penrith Local Environmental Plan 1996 (Industrial Land) (Amendment No 4)

4 Amendment of Penrith Local Environmental Plan 1996 (Industrial Land)

Penrith Local Environmental Plan 1996 (Industrial Land) is amended as set out in Schedule 1.

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Schedule 1 Amendments

Schedule 1 Amendments

(Clause 4)

[1] Clause 2 Aims and objectives of this plan

Omit clause 2 (2) (f). Insert instead:

- (f) to ensure that development of land to which this plan applies does not significantly affect the function, efficiency and safety of the road network, particularly Castlereagh Road, the Great Western Highway, Mulgoa Road and Parker Street, and

[2] Clause 7A

Insert after clause 7:

7A Suspension of certain covenants etc

- (1) Any agreement, covenant or similar instrument which would otherwise prohibit or restrict development permitted by this plan does not apply to the extent necessary to permit that development.
- (2) Nothing in subclause (1) affects the rights or interests of any public authority under any registered instrument.
- (3) In accordance with section 28 of the Act, the Governor approved of subclauses (1) and (2) before this clause was made.

[3] Clause 9 Zone objectives and development control Table

Omit clause 9 (2) and (3). Insert instead:

- (2) Except as otherwise provided by this plan, the council must not grant consent to development of land to which this plan applies unless the council:
 - (a) is satisfied that the carrying out of such development is consistent with:
 - (i) the aims of this plan, and
 - (ii) the objectives of the zone within which the development is to be carried out, and
 - (b) has considered the objectives of any development control plans applying to the land.

[4] Clause 9, Table

Omit paragraph (a) (vii) of the matter relating to Zone No 4 (a) General Industry Zone.

Insert instead:

- (vii) to prohibit development of land for any purpose if the development will:
 - (A) have direct vehicular access between that land and Castlereagh Road or Parker Street, and
 - (B) significantly affect the function, efficiency and safety of Castlereagh Road or Parker Street.

[5] Clause 9, Table

Insert in alphabetical order in paragraph (b) (iii) of the matter relating to Zone No 4 (a) General Industry Zone:

- restaurants

[6] Clause 9, Table

Omit the bullet point relating to shops from paragraph (b) (iii) of the matter relating to Zone No 4 (a) General Industry Zone.

Insert instead:

- shops (other than convenience stores, corner shops, fast food take-away restaurants and take-away food shops)

[7] Clause 9, Table

Insert in alphabetical order in paragraph (b) (iii) of the matter relating to Zone No 4 (a) General Industry Zone:

- shops trading principally in bulky goods or those trading in motor vehicle parts and accessories, including marine vessel parts and accessories

[8] Clause 9, Table

Omit paragraph (a) (vii) of the matter relating to Zone No 4 (b) Special Industry Zone.

Insert instead:

- (vii) to prohibit the development of land for any purpose if the development will:

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- (A) have direct vehicular access between that land and the Great Western Highway or Mulgoa Road, and
- (B) significantly affect the function, efficiency and safety of the Great Western Highway or Mulgoa Road.

[9] Clause 9, Table

Omit the bullet points relating to junkyards and shops from paragraph (b) (iii) of the matter relating to Zone No 4 (b) Special Industry Zone.

[10] Clause 9, Table

Insert in alphabetical order in paragraph (b) (iii) of the matter relating to Zone No 4 (b) Special Industry Zone:

- materials recycling facilities
- motor vehicle and machinery wrecking facilities
- restaurants
- shops (other than convenience stores, corner shops, fast food take-away restaurants, take-away food shops, shops trading principally in bulky goods included in paragraph (b) (ii) and shops trading principally in motor vehicle parts and accessories, including marine vessel parts and accessories)

[11] Clause 9, Table

Omit “State Roads and State Road Widening Zone” from the heading to the matter relating to Zone No 5 (c) State Roads and State Road Widening Zone.

Insert instead “Classified Roads and Classified Road Widening Purposes”.

[12] Clause 9, Table

Omit “Nil” from paragraph (b) (i) of the matter relating to Zone No 5 (c) Classified Roads and Classified Road Widening Purposes.

Insert instead:

- road widening
- roads

[13] Clause 9, Table

Omit the dot points relating to roads and road widening from paragraph (b) (ii) of the matter relating to Zone No 5 (c) Classified Roads and Classified Road Widening Purposes.

[14] Clause 13 Tree preservation

Omit clause 13 (1) and (2). Insert instead:

- (1) A person must not ringbark, cut down, poison, dig up, top, lop, remove, injure or wilfully destroy any tree (including by the addition of soil or drainage works around the base of a tree), except with the consent of the council.
- (2) Despite subclause (1), consent is not required if:
 - (a) the tree is dead, or
 - (b) the tree is declared a noxious weed under the *Noxious Weeds Act 1993*, or
 - (c) the tree is less than 5 metres from a building or work for which consent has been granted, or which has been approved, by the council, or
 - (d) the tree is a fruit tree that requires an annual pruning, or is a tree within a timber plantation, or
 - (e) the tree is of a species identified in a development control plan applying to land to which this plan applies as having potential to cause damage to foundations and sewer lines, or is of a species that is identified in a development control plan as undesirable.

[15] Clause 14A

Insert after clause 14:

14A Temporary use of land

Despite any other provision of this plan, a person may carry out development of land to which this plan applies with the consent of the council for any purpose for a maximum of 28 days, whether consecutive or non-consecutive, in any one year, but only if, in the council's opinion, the use of the land for that purpose contributes to the cultural well-being of the community.

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[16] Clause 20

Omit the clause. Insert instead:

20 Development along particular roads

- (1) The council must not grant consent to development of land that has direct access onto Castlereagh Road, the Great Western Highway or Parker Street unless:
 - (a) the council has taken into consideration:
 - (i) whether the development enables the safe and efficient movement into and out of the development site without adversely affecting the existing or future service and safety levels of the road, highway or street, and
 - (ii) if the development is on an allotment of land created in accordance with a subdivision approved pursuant to this plan, the council has taken into consideration whether the access to that land will be in accordance with the access arrangements approved in the consent for that land, and
 - (b) a deceleration lane is provided in accordance with RTA guidelines.
- (2) The council must not grant consent to development of land that has direct access onto Mulgoa Road unless adequate provision has been made for vehicular access to that land in accordance with the plan identifying such access depicted in any development control plan applying to that land.
- (3) Despite subclauses (1) and (2), the council may consent to a development involving alterations or additions to any existing development with direct vehicular access to Castlereagh Road, the Great Western Highway, Mulgoa Road or Parker Street, if the development after such alterations or additions will not significantly increase the number of vehicles using that access.

[17] Clauses 21 and 22

Omit the clauses. Insert instead:

21 Development for additional purposes

Despite any other provision of this plan, a person may, with the consent of the council, carry out development of land described in Schedule 4 for the purpose specified in that Schedule in relation to the land.

[18] Clause 23 Development of land at Wolseley Street and Gibbes Street, Penrith

Renumber as clause 22.

[19] Clause 22 (3) (as renumbered)

Omit “retail outlets,”. Insert instead “retail outlets”.

[20] Clause 24 Development of land at North Penrith

Omit the bullet point relating to junkyards. Insert instead:

- materials recycling facilities
- motor vehicle and machinery wrecking facilities

[21] Schedule 1 Definitions

Omit the definitions of *business premises*, *child care centre*, *community facility*, *contaminated land*, *convenience store*, *drain*, *flood liable land*, *general store*, *home industry*, *home occupation*, *industry*, *junkyard*, *materials recycling yard*, *motel*, *recreation facility*, *restaurant*, *road*, *tree* and *warehouse or distribution centre*.

[22] Schedule 1

Insert in alphabetical order:

building, hardware or garden supplies premises means a building, or a group of buildings, with a gross floor area greater than 5,000m² used for the purpose of retailing:

- (a) building materials, or
- (b) hardware items and tools, or
- (c) timber and other associated joinery, or

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(d) garden and landscape supplies,

but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

business premises means a building or place in which there is carried on a light industry or trade (but does not include a brothel) which provides a service directly and regularly to the public but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

child care centre means a building or place used for the purpose of supervising or providing care for children that caters for 6 or more children and:

(e) may include an educational function, and

(f) may operate for the purpose of gain, and

(g) may include a dwelling house that is attached to, part of or associated with the building or place,

but does not include a building or place providing residential care for children and (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

community facility means a building, place or facility, whether or not provided by the council, provided for use by groups having similar physical, cultural, social, recreational, ethnic or other interests or beliefs, but (in the development control table) does not include a club that is registered under the *Registered Clubs Act 1976* or a building or place specifically defined elsewhere in this Schedule.

contaminated land means land in, on or under which any substance is present at a concentration above that naturally present in, on or under the land and that poses, or is likely to pose, an immediate or long-term risk to human health or the environment.

convenience store means a building or place:

(h) used for the purpose of selling, exposing or offering for sale by retail principally groceries, small goods and associated small items, and

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

(j) that does not exceed 200 m² in gross floor area,
but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

drain means any channel, conduit or pipe used for removing water, other than sewage, and includes a stormwater detention basin but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

fast food take-away restaurant means a building or place with a drive-in take-away or drive through food retail facility where food or drink is prepared or offered for sale, whether or not the food or drink is consumed in that building or place or elsewhere, but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

flood liable land means land that would be inundated as a result of a flood having an annual exceedence probability of 1%.

flood mitigation works means works and measures that are intended to reduce or eliminate the possibility of, or the effects of, flooding.

general store means a shop:

(k) used for the sale by retail of general merchandise and that may include the facilities of a post office, and

(l) that does not exceed 200 m² in gross floor area,

but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

industry means an undertaking involving the manufacturing, assembling, altering, repairing, renovating, ornamenting, finishing, cleaning, washing, processing, treating or adapting of any goods or articles for commercial purposes, but (in the development control table) does not include any form of industry defined elsewhere in this Schedule.

materials recycling facility means a building or place used for collecting, dismantling, salvaging, storing or recycling second hand or scrap materials, whether they are offered for sale or not, but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

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motel means a building, other than a boarding house or hotel, used principally for the overnight accommodation of travellers and the parking of their vehicles, whether or not the building incorporates a common facility for the provision of meals, either to persons temporarily resident or to the public, and whether or not those facilities are licensed.

motor vehicle and machinery wrecking facility means a building or place used for the accumulation, storage or dismantling of abandoned or scrap motor vehicles, car bodies, machinery and motor vehicle and machinery parts and accessories and the like, whether they are offered for sale or not, but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

recreation facility means a building or place used for indoor recreation (such as a table tennis centre, squash court, swimming pool, gymnasium, health studio or bowling alley), whether or not used for the purpose of gain, but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

restaurant means a building or place the purpose of which is to provide food and drink for consumption (including a cafe, tearoom or the like), but (in the development control table) does not include a building or place specifically defined elsewhere in this Schedule.

road means a public thoroughfare all or part of which is used for the passage of vehicles, pedestrians, bicycles or animals, or a classified road within the meaning of the *Roads Act 1993*.

RTA means the Roads and Traffic Authority constituted under the *Transport Administration Act 1998*.

tree means:

- (m) a living perennial plant that exceeds 5 metres in height, being the distance measured vertically between the horizontal plane of the base of the tree which is immediately above the ground and the horizontal plane of the uppermost point of the tree, or
- (n) individual trees, gardens or native vegetation listed in any Significant Tree and Garden Register, or development control plan, adopted by the council.

warehouse or distribution centre means a building or place used mainly for storing or distribution of good or materials pending their distribution to the retail trade but does not include the retail sale of any of the goods or materials from that building or place.

[23] Schedule 1, definition of “the map”

Insert at the end of the definition:

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[24] Schedule 4

Insert after Schedule 3:

Schedule 4 Development for additional purposes
(Clause 21)

Emu Plains

No 130, Old Bathurst Road, Lot 1 DP 851389—Development for the purpose of a restaurant.

No 152, Russell Street, Lot 32 DP 1005063—Development for the purpose of a restaurant.

Penrith

Unit 55, 61 York Road, Lot 71A DP 1687—Development for the purpose of a restaurant and reception centre.

60–64 Copeland Street, Lot 1 DP 227488—Development for the purpose of a restaurant.

St Marys

Unit 1A, 81 Glossop Street, Lot 2 DP603144—Development for the purpose of the manufacture, sale and installation of mufflers.

Unit 2B, 81 Glossop Street, Lot 2 DP603144—Development for the purpose of the distribution, wholesaling and retailing of automotive spare parts and accessories.