

**PENRITH PLANNING SCHEME**

**ORDINANCE**

**Government Gazette No. 38 of 18<sup>th</sup> March 1960.**  
**As amended.**

(Published in Government Gazette No. 38 of 18th March, 1960.)

**LOCAL GOVERNMENT ACT, 1919 – PROCLAMATION.**

(L.S.) K.W. STREET, by Deputation from His Excellency the Governor.  
16th March, 1960.

THE City of Penrith Planning Scheme Ordinance is hereby proclaimed as set out in the Schedule hereto. (M.60-127)

By His Excellency's Command,

P.D. HILLS.

GOD SAVE THE QUEEN!

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**SCHEDULE**

**TOWN AND COUNTRY PLANNING.**

**PENRITH PLANNING SCHEME.**

Local Government Act, 1919: Part XIIA.

**PART 1.**

**Preliminary.**

**Citation.**

1. (1) This Ordinance may be cited as the "Penrith Planning Scheme Ordinance".

(2) The planning scheme prepared by the Council of the City of Penrith in respect of all land within the City of Penrith, in pursuance of section 34(1) (a) of the Local Government (Areas) Act, 1948, and the Penrith Planning Scheme (Amendment No. 3) prepared in pursuance of a resolution of the Council of the City of Penrith dated 23rd August, 1960, which resolution was approved by the Minister and notice of such approval was published in the Government Gazette No. 137 of 18th November, 1960, and the Penrith Planning Scheme (Amendment No. 4) prepared in pursuance of the last mentioned resolution and the Penrith Planning Scheme (Amendment No. 2) prepared by the State Planning Authority of New South Wales in pursuance of a direction of the Minister dated 22nd January, 1965, and the

Penrith Planning Scheme (Amendment No. 5) prepared by the State Planning Authority of New South Wales in pursuance of a direction of the Minister dated 10th October, 1966 and the Penrith Planning Scheme (Amendment No. 6) prepared by the State Planning Authority of New South Wales in pursuance of a direction of the Minister dated 8th November, 1968 and the Penrith Planning Scheme (Amendment No. 7) as proclaimed in the Gazette of 19th November, 1971, are embodied in this Ordinance.

*Clause 1 (2) amended G. G. No. 70 of 15/7/66, G.G. No. 87 of 19/8/66; G.G. No. 132 of 2/12/66; G.G. No. 78 of 14/7/67; G.G. No. of 19/11/71; and G.G. No. 191 of 19/12/80.*

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

1A. In the event of an inconsistency between this Ordinance and Penrith Local Environmental Plan 1991 (Environmental Heritage Conservation), that plan shall prevail to the extent of the inconsistency.

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

### **Variation of County of Cumberland Planning Scheme.**

2. The planning scheme referred to in subclause (2) of clause 1 varies in certain respects the County of Cumberland Planning Scheme and incorporates such other provisions of that Scheme as are not inconsistent with the provisions thereof.

### **Division into Parts.**

3. This Ordinance is divided into Parts as follows:-

- Part I - *Preliminary.*
- Part II - *Reservation and Restriction on Use of Certain Land.*
- Part III - *Restrictions on Building and Use of Land.*
- Part IV - *Existing Buildings, Existing Works and Existing Use of Land.*
- Part V - *Consents.*
- Part VI - *General Amenity and Convenience.*
- Part VII - *Special Provisions.*
- Part VIII - *General.*
- Schedules.

### **Interpretation.**

4. In this Ordinance, unless inconsistent with the context or subject matter -  
**“Agriculture”** has the meaning ascribed to it in section 514A of the Act.

**“Airline terminal”** means a building or place or portion of a building, used for the assembly of passengers and goods prior to the transport of such passengers and goods either to or from an aerodrome.

**“Appointed day”** means the day upon which this Ordinance takes effect.

**“Building”** includes any structure or any part thereof.

**“Bulk store”** means a building or place or portion of a building used or designed for use for the bulk storage of goods, where the goods stored or to be stored are not required for use in a shop or commercial premises on the same parcel of land or on adjoining land in the same ownership.

**“Bulky goods”** means goods which are of such a size or 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, clothing or agricultural products.

*“Bulky goods” definition added G.G. No. 127 of 8/8/86 (LEP 144).*

**“Bus depot”** means a building or place used for the servicing, repair and garaging of buses and other vehicles used for the purposes of a bus transport undertaking.

**“Bus station”** means a building or place, or portion of a building, used as a terminal for the assembly and dispersal of passengers travelling by bus.

**“Car repair station”** means any building or place or portion of a building used or designed for use for the purpose of carrying out repairs to motor vehicles or agricultural machinery, not being -

- (a) body building;
- (b) panel beating which involves dismantling; or
- (c) spray painting other than of a touching up character.

**“Commercial premises”** means any building or place or portion of a building used or designed for use as an office or for other business or commercial purposes or for the storage of goods in connection therewith, but does not include an educational establishment, a place of assembly, a car repair station, a service station, a motor showroom, a motel, a building designed or used for industry or for a shop, a refreshment room, a roadside stall, a hotel or a transport terminal.

**“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. 170 of 11/11/88 (LEP 182).*

**“Convenience store”** means a shop trading principally in groceries, smallgoods and associated small items, being a shop that -

- (a) is open for business at hours beyond the normal trading hours of a general shop (other than a small shop) as prescribed by the Factories, Shops and Industries Act 1962; and
- (b) involves the sale of petrol.

*“Convenience store” definition added G.G. No. 127 of 8/8/86 (LEP 144) and amended G.G. No. 129 of 7/8/87 (LEP 162).*

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

**“Country dwelling”** *Omitted G.G. No. 103 of 29/6/01 (LEP 258).*

**“County council”** *Omitted G.G. No. 132 of 2/12/66.*

**“County of Cumberland Planning Scheme”** *Omitted G.G. No. 132 of 2/12/66.*

**“County open space”** means land coloured light green on the scheme map with red edging and the letter “C” in red superimposed thereon.

**“County road”** means -

- (a) any existing road indicated on the scheme map by a continuous red band on white between firm black lines;
- (b) any proposed road indicated on the scheme map by a broken red band between broken black lines; and
- (c) any proposed widening indicated on the scheme map by a broken red band between a firm black line and a broken black line.

**“Development”** has the meaning ascribed to it in section 342r of the Act.

**“Dwelling-house”** means a building designed for use as a dwelling for a single family, together with such out-buildings as are ordinarily used therewith, and includes a dwelling in a row of two or more dwellings attached to each other such as are commonly known as semi-detached or terrace buildings.

**“Educational establishment”** means a building used or designed for use as a school, college, technical college, academy, lecture hall, gallery, museum or gymnasium, but does not include a building used or designed for use wholly or principally as an institution.

**“Erection”, “erect”** and similar expressions in relation to building include any structural work or any alteration, addition or rebuilding.

**“Existing building”** and **“existing work”** mean respectively a building or work erected, constructed or carried out before the appointed day, and a building or work to which the provisions of clause 64 apply.

**“Existing use”** means a use of a building, work or land for the purpose for which it was used immediately before the appointed day and, in the case of a building or work to which the provisions of clause 64 apply, the use of such building or work for the purpose for which the erection of the building or the carrying out of the work, as the case may be, was approved.

**“Extractive industry”** means 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.

**“Extractive material”** means sand, gravel, clay, turf, soil, rock, stone and similar substances.

**“Forestry”** includes arboriculture, silviculture, forest protection, the cutting, dressing and preparation of wood and other forest products and the establishment of roading required for the removal of wood and forest products and for forest protection.

**“General store”** means a building not exceeding two thousand square feet in floor space used or designed for use for the sale by retail of general merchandise whether or not it includes facilities of a post office.

**“Generating works”** means a building or place used or designed for use for the purpose of making or generating gas, electricity or other forms of energy.

**“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. 63 of 22/4/83 (LEP 73) 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).*

**“Home industry”** means industry carried on in a building (not being a dwelling-house or a dwelling in a residential flat building) which -

- does not occupy a gross floor space (whether on one or more floors or in one or more buildings) exceeding 300 square feet;
- is conducted on the land on which is erected the dwelling-house, or dwelling in a residential flat building occupied by the person carrying on the industry or on adjoining land in the same ownership;
- does not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise, or create any hazard in the locality;
- does not involve the exposure to view from any adjacent premises or from any public place, of any unsightly matter;
- does not require the provision of any essential service main of a greater capacity than that available in the locality.

**“Home occupation”** means an occupation carried on in a dwelling-house, or a dwelling in a residential flat building by the permanent residents of the dwelling-house or such dwelling which does not involve -

- (a) the registration of the building under the Factories, Shops and Industries Act, 1962, as amended by subsequent Acts;
- (b) the employment of persons other than such residents;
- (c) interference with the amenity of the neighbourhood by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise;

- (d) the display of goods, whether in a window or otherwise; or
- (e) the exhibition of any notice, advertisement or sign other than a notice or sign exhibited on such dwelling-house or such dwelling to indicate the name and occupation of the resident.

*“Home occupation” definition amended G.G. No. 132 of 2/12/66.*

**“Hospital”** means a building used or designed for use as a hospital, sanatorium, health centre or dispensary, a nursing home or home for aged, infirm, incurable or convalescent persons, whether public or private, and includes a shop or dispensary used in conjunction therewith, but does not include an institution.

**“Hotel”** means any premises specified in a publican’s license issued under the Liquor Act, 1912, as amended by subsequent Acts;

**“Housing for aged or disabled persons”** has the meaning ascribed to that expression in clause 2 of State Environmental Planning Policy No. 5 - Housing for Aged or Disabled Persons.

*“Housing for aged or disabled persons” definition added G.G. No. 50 of 18/3/83 (LEP 62).*

**“Industry”** means -

- (a) any manufacturing process within the meaning of the Factories, Shops and Industries Act, 1962, as amended by subsequent Acts;
- (b) the breaking up or dismantling of any goods or any article for trade or sale or gain or as ancillary to any business;
- (c) the winning of extractive material.

*“Industry” definition amended G.G. No. 132 of 2/12/66.*

**“Institution”** means a building used or designed for use wholly or principally for any of the following uses, namely, as -

- (a) a home or other institution for mental defectives;
- (b) a mental hospital;
- (c) a penal or reformatory institution.

**“Land”** includes any estate or interest in land (whether legal or equitable) and any easement, right or privilege in, over or affecting land and also includes all lands of the Crown.



**“Liquid fuel depot”** means a depot or place used or designed for use for the bulk storage for wholesale distribution of petrol, oil, petroleum or other inflammable liquids.

**“Main road”** means a main road within the meaning of the Main Roads Act, 1924, as amended by subsequent Acts.

**“Mine”** means any place, open cut, shaft, tunnel, pit, drive, level or other excavation, drift, gutter, lead, vein, lode or reef whereon, wherein or whereby any operation is carried on for or in connection with the purpose of obtaining any metal or mineral by any mode or method, and any place adjoining on which any product of the mine is stacked, stored, crushed or otherwise treated, but does not include a quarry.

**“Motel”** means a building or buildings, not being a hotel, substantially used or designed for use for the overnight accommodation of travellers and the vehicles used by them whether or not the building or buildings are also used or designed for use in the provision of meals to such travellers or the general public.

**“Motor showroom”** means any building or place or portion of a building used or designed for use for the display or sale of motor vehicles and accessories.

**“Multiple dwellings”** means the development of 3 or more attached or detached dwellings on one allotment of land, where no line drawn vertically through any part of the development intersects more than 2 floors used for, or capable of habitation (and includes a group of dwellings such as are commonly known as townhouses, terraces, villa homes, cluster housing, multiple occupation dwellings and the like).

*“Multiple dwellings” definition added G.G. No. 170 of 11/11/88 (LEP 182).*

**“Offensive or hazardous industry”** means an industry which, by reason of the processes involved or the method of manufacture or the nature of the materials used or produced, requires isolation from other buildings and includes those trades which are declared noxious under the Noxious Trades Act, 1902, as amended by subsequent Acts.

**“Place of assembly”** means -

- (a) a building used or designed for use as a public hall, theatre, cinema, music hall, concert hall or dance hall;
- (b) any other building of a like character whether used for purposes of gain or not, not being a place of public worship, an educational establishment or an institution.

**“Place of public worship”** means a building used or designed for use as a church, chapel, or other place of public worship or religious instruction or for the purpose of religious training.

**“Professional consulting rooms”** Added G.G. No. 63 of 22/4/83 and omitted G.G. No. 22 of 11/02/00 (LEP 252).

**“Public building”** means a building used or designed for use as offices or for administrative or other like purposes by the Crown, a statutory body representing the Crown, a council or by organisations established for public purposes.

**“Public utility undertaking”** means any of the following undertakings carried on or permitted or suffered to be carried on by or by authority of any Government Department or under the authority of or in pursuance of any Commonwealth or State Act, that is to say -

- (a) railway, road transport, water transport, air transport, wharf, or river undertakings;
- (b) undertakings for the supply of water, hydraulic power, electricity or gas or the provision of sewerage or drainage services;

and any reference to a person carrying on any public utility undertaking shall be deemed to include a reference to a council, county council, Government Department, corporation, firm or authority carrying on such undertaking.

**“Recreation area”** means -

- (a) a children’s playground; or
- (b) a building or place used for sporting activities or sporting facilities; or
- (c) a building or place used by the Council to provide recreational facilities for the physical, cultural or intellectual welfare of the community; or
- (d) a building or place used by a body of persons associated together for the purpose of the physical, cultural or intellectual welfare of the community to provide recreational facilities for those purposes,

but does not include a racecourse.

*“Recreation area” definition added G.G. No. 170 of 11/11/88 (LEP 182).*

**“Refreshment room”** means a restaurant, cafe, tea room, eating-house or the like.

**“Residential building”** means a building used or designed for use as a residential flat building, multiple dwellings, a boarding-house, a lodging house or a hostel, but does not include a motel.

*“Residential building” definition amended G.G. No. 170 of 11/11/88 (LEP 182).*

**“Residential flat building”** means a building containing two or more flats, but does not include a row of two or more dwellings attached to each other such as are commonly known as semi-detached or terrace buildings, and “Flat” means a room or suite or rooms occupied or used or so constructed, designed or adapted as to be capable of being occupied or used as a separate domicile.

**“Road transport terminal”** means a building or place used for the principal purpose of the bulk handling of goods for transport by road, including facilities for the loading and unloading of vehicles used to transport such goods and for the parking, servicing and repair or such vehicles.

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

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

**“Sawmill”** means a mill handling, cutting and processing timber from logs or baulks.

**“Schedule”** means a schedule to this Ordinance.

**“Scheme”** means the Penrith Planning Scheme embodied in this Ordinance.

**“Scheme map”** means the series of maps bound in 6 books, one of which has a title sheet marked “Planning Scheme for City of Penrith”, another of which has a title sheet marked “Penrith Villages” and the remaining 4 of which have a title sheet marked “County Roads in Non-urban Areas”, those books being deposited in the office of the council, as amended by the series of 5 maps bound in a book the title sheet of which is marked “Penrith Planning Scheme (Amendment No. 3)” deposited in the office of the Council and the series of 12 maps bound in a book the title sheet of which is marked “Penrith Planning Scheme (Amendment No. 4)” deposited in the office of the Council and as further amended by the maps marked as follows and deposited in the office of the council:-

*“Scheme map” definition amended G.G. No. 70 of 15/7/66, G.G. No. 87 of 19/8/66, G.G. No. 132 of 2/12/66 and G.G. No. 42 of 19/3/82 (LEP 27).*

Penrith Local Environmental Plan No. 27.  
*Added G.G. No. 42 of 19/3/82.*

Penrith Local Environmental Plan No. 62.  
*Added G.G. No. 50 of 18/3/83.*

Penrith Local Environmental Plan No. 69 in respect of so much of the land shown on that map as being within Zone No. 2 (c).  
*Added G.G. No. 52 of 25/3/83.*

Penrith Local Environmental Plan No. 88.  
*Added G.G. No. 9 of 20/1/84.*

Penrith Local Environmental Plan No. 99.  
*Added G.G. No. 42 of 16/3/84.*

Penrith Local Environmental Plan No. 107.  
*Added G.G. No. 133 of 7/9/84.*

Penrith Local Environmental Plan No. 126.  
*Added G.G. No. 114 of 9/8/85.*

Penrith Local Environmental Plan No. 127.  
*Added G.G. No. 145 of 25/10/85.*

Penrith Local Environmental Plan No. 130.  
*Added G.G. No. 155 of 15/11/85.*

Penrith Local Environmental Plan No. 137.  
*Added G.G. No. 44 of 14/3/86.*

Penrith Local Environmental Plan No. 144.  
*Added G.G. No. 127 of 8/8/86.*

Sheet 8 of Sydney Regional Environmental Plan No. 7 -  
(Multi-Unit Housing: Surplus Government Sites).  
*Added G.G. No. 64 of 18/4/86.*

Penrith Local Environmental Plan No. 181.  
*Added G.G. No. 140 of 2/9/88.*

Penrith Local Environmental Plan No. 182.  
*Added G.G. No. 170 of 11/11/88.*

Penrith Local Environmental Plan No. 199.

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*Added G.G. No. 44 of 30/3/90.*

Penrith Local Environmental Plan No. 211.  
*Added G.G. No. 110 of 26/7/91.*

Penrith Local Environmental Plan No. 215.  
*Added G.G. No. 89 of 17/7/92.*

Penrith Local Environmental Plan No. 225.  
*Added G.G. No. 138 of 17/12/93.*

Penrith Local Environmental Plan No. 232.  
*Added G.G. No. 65 of 6/5/94.*

Penrith Local Environmental Plan No. 239.  
*Added G.G. No. 119 of 29/9/95.*

Penrith Local Environmental Plan No. 245.  
*Added G.G. No. 91 of 2/8/96.*

Penrith Local Environmental Plan No. 248.  
*Added G.G. No. 18 of 14/2/97.*

Penrith Local Environmental Plan No. 263.  
*Added G.G. No. 170 of 29/10/04.*

**“Service station”** means any building or place or portion of a building used or designed for use for the fuelling of motor vehicles involving the sale by retail of petrol, oils and other petroleum products whether or not the building or place is also used or designed for use for any one or more of the following purposes -

- (a) the sale by retail of spare parts and accessories for motor vehicles;
- (b) washing and greasing of motor vehicles;
- (c) installation of accessories;
- (d) repairing and servicing of motor vehicles involving the use of hand tools provided that such repairing and servicing shall not include top overhaul of motors, body building, panel beating, spray painting, or suspension, transmission or chassis restoration.

**“Shop”** means any building or place, or portion of a building used or designed for the purpose of exposing or offering goods for sale by retail, and includes any portion of such building or any such place used for a purpose ordinarily connected with the retail business conducted thereon, but does not include a hotel, a club, a service station, a car repair station, a refreshment room or a roadside stall.

**“Stock and sale yard”** means a building or place used or designed for the purpose of offering animals for sale and includes a public cattle market.

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

**“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 any building or work designed for use by a public utility undertaking but does not include a building designed wholly or principally as administrative or business premises or as a showroom.

**“Warehouse”** means a building or place used or designed for use for the storage of goods, merchandise or materials pending their sale and distribution to persons engaged in the retail trade.

**“Zone”** means land shown on the scheme map by distinctive colouring or edging or in some distinctive manner for the purpose of indicating the restrictions imposed by Part III of this Ordinance on the erection and use of buildings or works or the use of land in such zone.

#### **Land to which scheme applies.**

5. Except as provided by subclauses (2) and (3), this Ordinance applies to all land within the City of Penrith, as shown on the scheme map, with boundaries as indicated on such map.

*Amended G.G. No. 82 of 19/6/81 (SEPP 3) and G.G. No.185 of 21/12/07 (SEPP (Infrastructure) 2007).*

(2) This Ordinance does not apply to land to which the following instruments apply:

State Environmental Planning Policy No. 3 - Castlereagh Liquid Waste Disposal Depot.

*Added G.G. No. 82 of 19/6/81.*

Penrith Local Environmental Plan No. 80.

*Added G.G. No. 96 of 8/7/83.*

Penrith Local Environmental Plan No. 150.

*Added G.G. No. 68 of 16/4/87.*

Penrith Local Environmental Plan No. 174 (Residential “M” Zone).

*Added G.G. No. 22 of 5/2/88.*

Penrith Local Environmental Plan No. 201 (Rural Lands).

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

Penrith Local Environmental Plan 1998 (Urban Land).

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

Penrith Local Environmental Plan 2002 (Villages of Mulgoa and Wallacia).

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

(3) This Ordinance does not apply to land shown edged heavy black on the map marked “*State Environmental Planning Policy (Infrastructure) 2007 – Castlereagh Liquid Waste Disposal Depot*” held in the head office of the Department.

*Added G.G. No.185 of 21/12/07 (SEPP (Infrastructure) 2007).*

### **Responsible authorities.**

6. (1) In respect of the provisions of this Ordinance relating to -
- (a) the acquisition and transfer of land reserved under Division 2 or 3 of Part II for county open space, new county roads or the widening of existing county roads;
  - (b) places of scientific or historic interest;
  - (c) the relocation or alteration of the route of any county road indicated on the scheme map;
  - (d) certification under clause 67A of plans showing land as being land to which Division 2 or 3 of Part II applies in so far as such certification relates to county open space, new county roads or widening of existing county roads;
  - (e) controlled access roads; and
  - (f) any matters in respect of which the Authority is expressly charged with any power, authority, duty or function;

the Authority shall be the responsible authority and shall be charged with the functions of carrying into effect and enforcing such provisions.

(2) The Council shall be the responsible authority and shall be charged with the functions of carrying into effect and enforcing the provisions of this Ordinance other than those relating to matters enumerated in sub-clause (1) of this clause.

*Clause 6 amended G.G. No. 132 of 2/12/66.*

## **PART II.**

### **Reservation and Restriction on Use of Certain Land.**

#### **Division 1.**

## **Application of Part.**

7. This Part shall apply to all land shown on the scheme map in the following manner, viz:-

All land coloured light green with red edging and the letter "C" superimposed in red thereon;

All land coloured light green;

All land coloured yellow with green edging with scarlet lettering superimposed thereon;

All land shown grey between broken black lines and all land shown grey between a black line and a broken black line;

All land shown by a continuous red band on white between firm black lines;

All land shown by a broken red band between a firm black line and a broken black line and by a broken red band between broken black lines.

## **Definitions.**

8. In this Part, unless the context or subject matter otherwise indicates or requires -

"Built-up land" means all land other than vacant land;

"Vacant land" means land upon which immediately before the appointed day there were no buildings or upon which the only buildings were fences, green-houses, conservatories, garages, summer-houses, private boat-houses, fuel sheds, tool-houses, cycle sheds, aviaries, milking bails, hay-sheds, stables, fowl-houses, pig sties, barns, or the like.

## **Division 2.**

### **Reservation of land.**

9. The several pieces of land specified in Column 1 of the Table to this clause are reserved for the purposes set out opposite such land in Column 2 of the Table.

#### ***TABLE.***



Column 1. Indication on scheme map of land reserved.	Column 2. Purposes for which land is reserved.
All land coloured light green with red edging and the letter "C" superimposed in red thereon;	County open space.
All land coloured light green;	Recreation and drainage.
All land coloured yellow with green edging with scarlet lettering superimposed thereon;	Special use - the particular purpose shown by scarlet lettering on the scheme map.
All land shown grey between broken black lines and all land shown grey between a black line and a broken black line.	New local roads and widening of existing local roads.

**Buildings, etc., not to be erected on reserved land without consent.**

10. (1) Except as provided by subclauses (2) and (3) of this clause, no person shall -

- (a) erect a building or carry out work of a permanent character or make any permanent excavation on land reserved under this Division other than a building or work or excavation required for or incidental to the purpose for which the land is so reserved;
- (b) spoil or waste land reserved under this Division so as to destroy or impair its use for the purpose for which it is reserved.

(2) Where it appears to the responsible authority that the purpose for which the land is reserved cannot be carried into effect within a reasonable period the responsible authority may approve in connection with such land the erection thereon of buildings and the carrying out of works and the making of excavations thereon.

An approval shall not be granted under this sub-clause -

- (a) in relation to land reserved for county open space, except with the consent of the Authority; or
- (b) in relation to land reserved for special use, except with the consent of the statutory body concerned.

(3) Any such approval may be subject to such conditions including conditions requiring the removal or alteration of the building or works or the reinstatement of the land or the removal of any waste materials or refuse, at any time either with or without compensation, as the responsible authority thinks fit and in the case of an approval in relation to land reserved for county open space or special use, shall attach thereto such conditions as the Authority or the statutory body concerned, as the case may be, may require to be imposed.

(4) Nothing in this clause shall apply to any land which immediately before the appointed day was vested in any council, public body or trustees and is held by such council, body or trustees for the purpose for which such land is reserved under this Division.

(5) Nothing in this clause shall operate to prohibit the fencing of any land reserved under this Division.

*Clause 10 amended Act No. 7 of 1962 and G.G. No. 132 of 2/12/66.*

### **Division 3.**

#### **Application of Division.**

11. This Division shall apply only to vacant land and the expression "land" where used in this Division means vacant land.

#### **Reservation of land.**

12. The several pieces of land specified in Column 1 of the Table to this clause are reserved for the purposes set out opposite such land in Column 2 of the Table.

**TABLE.**

Column 1. Indication on scheme map of land reserved.	Column 2. Purposes for which land is reserved.
All land shown on the maps and plans that comprise part of the scheme map and are to the scale of 4 or less chains to the inch by a broken red band between a firm black line and a broken black line and by a broken red band between broken black lines.	New county roads and widening of existing county roads.

**Buildings etc., not to be erected on reserved land without consent.**

13. (1) Except as provided by subclause (2) and (3) of this clause, no person shall -

- (a) erect a building or carry out work of a permanent character or make any permanent excavation on land reserved under this Division other than a building or work or excavation required for or incidental to the purpose for which the land is so reserved;
- (b) spoil or waste land reserved under this Division so as to destroy or impair its use for the purpose for which it is reserved.

(2) Where it appears to the responsible authority that the purpose for which the land is reserved cannot be carried into effect within a reasonable period the responsible authority may, with the consent of the Authority, approve in connection with such land the erection thereon of buildings and the carrying out of works and the making of excavations thereon.

(3) Any such approval may be subject to such conditions including conditions requiring the removal or alteration of the buildings or works or the reinstatement of the land or the removal of any waste material or refuse, at any time with or without compensation, as the responsible authority thinks fit and shall be subject to such conditions as the Authority requires to be imposed.

(4) Nothing in this clause shall apply to any land which immediately before the appointed day was vested in any council, public body or trustees and is held by such council, body or trustees for the purpose for which the land is reserved under this Division.

(5) Nothing in this clause shall operate to prohibit the fencing of any land reserved under this Division.

*Clause 13 amended Act No. 7 of 1962 and G.G. No. 132 of 2/12/66.*

#### **Division 4.**

##### **Application of Division.**

14. This Division shall apply only to land which is built-up land and the expression "land" where used in this Division means built-up land.

##### **Built-up land on proposed routes of roads.**

15. (1) This clause shall apply only to the following land shown on the maps and plans that comprise part of the scheme map and are to the scale of 4 or less chains to the inch, namely, all land shown by a broken red band between a firm black line and a broken black line and by a broken red band between broken black lines.

(2) Land shall not be used without the consent of the responsible authority for any purpose other than the purpose for which the land was used immediately before the appointed day.

(3) The erection of a building shall not be undertaken without the consent of the responsible authority.

(4) A consent under this subclause shall not be given except with the concurrence of the County council.

*Clause 15 amended Act. No. 7 of 1962.*

### **Division 5.**

#### **Application of Division.**

16. This Division shall apply both to vacant land and built-up land.

#### **Restriction on use of land.**

17. Land which is reserved under Division 2 or 3 of this Part shall not be used without the consent of the responsible authority for any purpose other than the purpose for which it was used immediately before the appointed day and such consent in relation to land reserved for county open space and new county roads and widening of existing county roads shall not be granted except with the concurrence of the Authority.

*Clause 17 amended Act No. 7 of 1962 and G.G. No. 132 of 2/12/66.*

#### **Acquisition of land.**

18. The owner of any land reserved under Division 2 or 3 of this Part upon which the erection of any building or the carrying out of any work of a permanent character or the making of any permanent excavation is prohibited or the owner of any land so reserved on which the responsible authority has refused to approve of the erection of a building or the carrying out of any work of a permanent character or the making of any permanent excavation may, by notice in writing, require the responsible authority to acquire such land.

Upon receipt of any such notice the responsible authority shall acquire the land to which the notice relates.

#### **Transfer of land.**

19. (1) The Authority may and upon such terms and conditions as may be agreed transfer any land which has been acquired by it in pursuance of clause 18 to the council or the Commissioner for Main Roads.

(2) The Authority may, with the consent of the council or of any public body or trustees, as the case may be, place any land acquired for county open space under the care, control and management of the council, public body or trustees.

*Clause 19 amended G.G. No. 132 of 2/12/66.*

### **Schedule of proposals.**

20. (1) The Commissioner for Main Roads may from time to time notify the Authority of a schedule of proposals in conformity with this scheme which the Commissioner, pursuant to any powers, authorities, duties and functions conferred by any Act, proposes to carry into effect in relation to such land.

(2) Where any such notice has been given the Authority shall not thereafter incur any expense in respect of the acquisition of or otherwise in relation to, the land which is required in connection with such proposals and shall upon such terms and conditions as may be agreed transfer to the Commissioner any land which has been acquired by the county council in connection with such proposals before the receipt of such notice.

*Clause 20 amended G.G. No. 132 of 2/12/66.*

### **Relocation of county roads.**

21. (1) The Authority may, with the concurrence of the Commissioner for Main Roads, relocate or alter the route of any county road indicated on the scheme map.

(2) The Commissioner may make application to the Authority for the relocation or alteration of the route of any such road and shall indicate the relocation or alteration desired.

(3) Where the Authority proposes to relocate or alter the route of any county road the Authority shall -

- (a) notify brief particulars in the Gazette and in a newspaper circulating in the locality; and
- (b) in respect of each parcel of land affected by such relocation or alteration, notify the person who is shown in the rate book of the council as the owner of the land, of such proposal by registered letter addressed to the last known address of that person as recorded in the rate book.

Any such notification shall state that full particulars of the proposed relocation or alteration together with a plan or aerial photograph showing the land affected thereby may be inspected at such places as are designated and that objections against the proposal may be made in writing to the Authority on or before the date specified in the notice by any person who has an estate or interest in the land.

(4) On or before the date so specified any such person may make objection in writing to the Authority against the proposal to relocate or alter the route of any county road.

(5) The Authority shall consider any such objection and after making any adjustments which may be considered desirable and which are concurred in by the Commissioner for Main Roads may with the approval of the Governor relocate or alter the route of the county road.

*Clause 21 amended G.G. No. 132 of 2/12/66.*

#### **Plans of relocation or alteration.**

22. (1) Where the route of a county road has been relocated or altered under the provisions of clause 21 the Authority shall cause to be prepared three copies of a plan showing such relocation or alteration and the land which is required for the purposes of the county road as so relocated or altered. The plans shall also indicate any land which is no longer required for the purpose of the county road as relocated or altered and the zones in which such land shall be included or the purposes for which such land shall be reserved in accordance with this Part.

(2) Such plans shall be sealed with the seal of the Authority and thereafter one plan shall be attached to the scheme map, one shall be forwarded to the Council and the other shall be forwarded to the Commissioner for Main Roads.

(3) The Authority shall notify in the Gazette and in a newspaper circulating in the locality that the route of the county road has been relocated or altered and that the plans have been forwarded to the authorities referred to in subclause (2) of this clause.

*Clause 22 amended G.G. No. 132 of 2/12/66.*

#### **Effect of relocation.**

23. (1) The provisions of this clause shall take effect on the date of the notification referred to in clause 22.

(2) (a) The provisions of Division 3 and 4 of this Part relating to county roads shall cease to apply to the land shown on the plans referred to in such notification as being no longer required for the purpose of the county road as relocated or altered.

(b) Such land shall be deemed to be included in the zone indicated on such plans or reserved in accordance with the provisions of this Part and the provisions of this Ordinance relating to land included in a zone or so reserved shall apply to such land.

(3) (a) The provisions of this Part shall apply to any land shown on the plan referred to in such notification as being required for the purposes of the county road as relocated or altered in all respects and to the like extent as if such land were land to which this Part applies and the provisions of Division 3 and 4 of this Part shall apply thereto in the case of vacant land and built-up land respectively.

(b) Such land shall be deemed to be no longer included in a zone or reserved for purposes other than county roads and the provisions of this Ordinance relating to land included in a zone or so reserved shall cease to apply to such land.

### **Relocation of local roads.**

24. The provisions of clauses 21 to 23 both inclusive shall, mutatis mutandis, apply to land shown on the scheme map grey between broken black lines and grey between a black line and a broken black line provided, however, that a reference in the said clauses to “the Authority” shall be read and construed as a reference to “the council” and the concurrence of the Commissioner for Main Roads shall not be necessary to the relocation or alteration of the route of any road for which the land is reserved nor shall the Commissioner be entitled to make application for any such relocation or alteration.

*Clause 24 amended G.G. No. 132 of 2/12/66.*

### **Effect of plan.**

25. *Omitted G.G. No. 132 or 2/12/66.*

## **PART III.**

### **Restrictions on Building and Use of Land.**

#### **Erection or use of buildings or works.**

26. The purposes -

- (a) for which buildings or works may be erected, carried out or used without the consent of the responsible authority;
- (b) for which buildings or works may be erected, carried out or used only with the consent of the responsible authority; and

(c) for which buildings or works may not be erected, carried out or used;

in each of the zones specified in Column 1 of the Table to this clause are respectively shown opposite thereto in Columns III, IV and V of the Table but no building shall be erected on land within Zone No. 2 (d) nor shall land within such zone be subdivided unless a notice applying to the land has been given pursuant to paragraph (a) of section 342R of the Act, and a person shall not be entitled to make any application pursuant to paragraph (c) of the said section in relation to land within such zone pending the giving of such a notice.

*Clause 26 amended G.G. No. 87 of 19/8/66.*



**TABLE**

<b>Column I</b>	<b>Column II</b>	<b>Column III</b>	<b>Column IV</b>	<b>Column V</b>
Zone	Colour or indication on scheme map	Purposes for which buildings or works may be erected or carried out or used <i>without</i> the consent of the responsible authority	Purposes for which buildings or works may be erected or carried out or used <i>only with</i> the consent of the responsible authority	Purposes for which buildings or works may not be erected or carried out or used
1. <i>Non-urban</i>	Light brown tint	Agriculture; forestry.	Any purpose other than those permitted by Column III or prohibited by Column V.	Bulk stores; commercial premises; industries other than rural industries, home industries, offensive or hazardous industries, extractive industries or industries directly associated or connected with, or dependent upon, extractive industries; motor showrooms; shops other than general stores; warehouses.
2. <i>Residential</i> - (a) Residential "A"	Light scarlet tint		Any purpose other than those permitted by Column III or prohibited by Column V; health care consulting rooms.	Bulk stores; car repair stations; commercial premises; generating works; hotels; industries other than home industries; institutions; liquid fuel depots; mines; motels; motor showrooms; places of assembly; refreshment rooms; roadside stalls; sawmills; service stations; shops; stock and sale yards; transport terminals; warehouses.
(b) Residential "B" (High Density).	Light scarlet tint with dark red edging and lettered 2(b).		Any purpose other than those permitted by Column III or prohibited by Column V; health care consulting rooms.	Bulk stores; car repair stations; commercial premises; generating works; hotels; industries; institutions; liquid fuel depots; mines; motels; motor showrooms; places of assembly; refreshment rooms; roadside stalls; sawmills; service stations; shops; stock and sale yards; transport terminals; warehouses.
(c) Village	Light scarlet tint with dark red edging and lettered 2(c).		Any purpose other than those permitted by Column III or prohibited by Column V.	Bulk stores; generating works; industries other than rural industries and industries specified or carried on in places specified in Schedule 1; institutions; liquid fuel depots; mines; roadside stalls; sawmills; stock and sale yards; warehouses.

<b>Column I</b>	<b>Column II</b>	<b>Column III</b>	<b>Column IV</b>	<b>Column V</b>
Zone	Colour or indication on scheme map	Purposes for which buildings or works may be erected or carried out or used <i>without</i> the consent of the responsible authority	Purposes for which buildings or works may be erected or carried out or used <i>only with</i> the consent of the responsible authority	Purposes for which buildings or works may not be erected or carried out or used
(d) Residential (restricted)	Light scarlet tint with dark red edging and lettered 2(d) (restricted).	_____	Any purpose other than those prohibited by Column V; health care consulting rooms.	Bulk stores; car repair stations; commercial premises; generating works; hotels; industries other than home industries; institutions; liquid fuel depots; mines; motels; motor showrooms; places of assembly; refreshment rooms; roadside stalls; sawmills; service stations; shops; stock and sale yards; transport terminals; warehouses.
3. <i>Business -</i> (a) General Business	Light blue tint	Shops or commercial premises other than those referred to in Schedule 2.	Any purpose other than those permitted by Column III or prohibited by Column V.	Dwelling-houses other than those used in conjunction with shops and commercial premises; gas holders; generating works; industries other than those specified or carried on in places specified in Schedule 1; institutions; liquid fuel depots; mines; stock and sale yards.
(b) Business (Special)	Light blue tint with dark red edging and lettered 3(b).	Commercial premises	Any purpose other than those permitted by Column III or prohibited by Column V.	Dwelling-houses other than those used in conjunction with shops and commercial premises; gas holders; generating works; industries other than those specified or carried on in places specified in Schedule 1; institutions; liquid fuel depots; mines; stock and sale yards.

<b>Column I</b>	<b>Column II</b>	<b>Column III</b>	<b>Column IV</b>	<b>Column V</b>
Zone	Colour or indication on scheme map	Purposes for which buildings or works may be erected or carried out or used <i>without</i> the consent of the responsible authority	Purposes for which buildings or works may be erected or carried out or used <i>only with</i> the consent of the responsible authority	Purposes for which buildings or works may not be erected or carried out or used
(c) Neighbourhood Business.	Dark blue tint	Shops.	Buildings or other structures ordinarily associated with dwelling houses; changes of building use (as defined in the <i>Environmental Planning and Assessment Act 1979</i> ); dwelling-houses attached to and used in conjunction with shops; demolition of buildings or other structures; land uses and premises specified in Schedule 3; refreshment rooms; roads; structural or internal alterations to, or external building work in association with, commercial premises or refreshment rooms.	Any purpose other than those permitted by Column III and Column IV.

**TABLE**

<b>Column I</b>	<b>Column II</b>	<b>Column III</b>	<b>Column IV</b>	<b>Column V</b>
Zone	Colour or indication on scheme map	Purposes for which buildings or works may be erected or carried out or used <i>without</i> the consent of the responsible authority	Purposes for which buildings or works may be erected or carried out or used <i>only with</i> the consent of the responsible authority	Purposes for which buildings or works may not be erected or carried out or used
(d) Special Business (Service Area).	Light blue tint with dark red edging and lettered 3 (d).	_____	Any purpose other than those prohibited by Column V.	Commercial premises (other than those used in connection with development carried out for a purpose permitted by Column IV); extractive industries; generating works; industries (other than light industries); liquid fuel depots; mines; offensive or hazardous industries; road transport terminals; sawmills; shops (other than convenience stores, general stores and shops trading principally in bulky goods); stock and sale yards.
4. Industrial - (a) General Industrial.	Purple tint	Industries other than offensive or hazardous industries and extractive industries; utility installations.	Any purpose other than those permitted by Column III or prohibited by Column V.	Dwelling-houses and residential buildings other than those used in conjunction with industry and situated on the land on which such industry is conducted; extractive industries; hospitals; institutions; mines; motels; offensive or hazardous industries; shops and commercial premises other than convenience stores, retail plant nurseries (as defined in clause 4 (1) of the Environmental Planning and Assessment Model Provisions 1980) and purposes specified in Schedule 4; stock and sale yards.

<b>Column I</b>	<b>Column II</b>	<b>Column III</b>	<b>Column IV</b>	<b>Column V</b>
Zone	Colour or indication on scheme map	Purposes for which buildings or works may be erected or carried out or used <i>without</i> the consent of the responsible authority	Purposes for which buildings or works may be erected or carried out or used <i>only with</i> the consent of the responsible authority	Purposes for which buildings or works may not be erected or carried out or used
(b) Light Industrial	Purple tint with dark red edging and lettered 4(b).	Industries other than those specified in Schedule 5.	Any purpose other than those permitted by Column III or prohibited by Column V.	Dwelling-houses and residential buildings other than those used in conjunction with industry and situated on land on which such industry is conducted; hospitals; institutions; industries specified in Schedule 5; liquid fuel depots; mines; motels; shops and commercial premises other than convenience stores, retail plant nurseries (as defined in clause 4 (1) of the Environmental Planning and Assessment Model Provisions 1980) and purposes specified in Schedule 4; stock and sale yards.
5. <i>Special Uses</i> - (a) Special Uses "A"	Yellow tint	The particular purpose indicated by scarlet lettering on the scheme map.	Any purpose ordinarily incidental or subsidiary to the purpose referred to in Column III; roads; drainage.	Any purpose other than those permitted by Column III and Column IV.
(b) Special Uses "B" (Railways).	Blue-purple tint	-----	Any purpose	-----
(c) Special Uses "C" (Roads).	Uncoloured between firm black lines or between broken black lines.	Roads	Utility installations; any purposes authorised by Part IX of the Act; drainage.	Any purpose other than those permitted by Column III and Column IV.
(e) Special Uses "E" Drainage.	Yellow tint and lettered 5 (e).	Drainage.	Community facilities, dwelling-houses, multiple dwellings; places of public worship; recreation areas; residential flat buildings; roads.	Any purpose other than those permitted in Column IV.
(u) Special Uses "U" (University).	Yellow tint and lettered 5 (U) (University).	-----	Any purpose other than those prohibited by Column V.	Car repair stations; extractive industries; junk yards, liquid fuel depots; mines; motor showrooms; offensive or hazardous industries; sawmills; stock and sale yards; warehouses.

<b>Column I</b>	<b>Column II</b>	<b>Column III</b>	<b>Column IV</b>	<b>Column V</b>
Zone	Colour or indication on scheme map	Purposes for which buildings or works may be erected or carried out or used <i>without</i> the consent of the responsible authority	Purposes for which buildings or works may be erected or carried out or used <i>only with</i> the consent of the responsible authority	Purposes for which buildings or works may not be erected or carried out or used
6. <i>Open Space</i> - (a) Existing Recreation.	Dark green tint	Any purpose authorised by Division 2 or 3 of Part XIII of the Act; racecourses; showgrounds; sportsgrounds.	Roads; agriculture; forestry; caravan parks; drainage; public utility installations.	Any purpose other than those permitted by Column III and Column IV.
(b) Proposed Recreation.	Light green tint edged dark green.	Any purpose authorised by Division 2 or 3 of Part XIII of the Act; sportsground.	Roads; agriculture; forestry; drainage; public utility installations.	Any purpose other than those permitted by Column III and Column IV.

*Zone No. 1 amended G.G. No. 103 of 29/6/01 (LEP 258).*

*Zone No. 2(a) amended G.G. No. 63 of 22/4/83 (LEP 73), G.G. No. 22 of 11/02/00 (LEP 252) and G.G. No. 103 of 29/6/01 (LEP 258).*

*Zone No. 2(b) amended G.G. No. 63 of 22/4/83 (LEP 73), G.G. No. 22 of 11/02/00 (LEP 252) and G.G. No. 103 of 29/6/01 (LEP 258).*

*Zone No. 2(c) amended G.G. No. 103 of 29/6/01 (LEP 258).*

*Zone No. 2(d) added G.G. No. 87 of 19/8/66 and amended G.G. No. 63 of 22/4/83 (LEP 73) and G.G. No. 22 of 11/02/00 (LEP 252).*

*Zone No. 3(a) amended G.G. No. 70 of 15/7/66.*

*Zone No 3(b) amended G.G. No. 70 of 15/7/66.*

*Zone No. 3(c) amended G.G. No. 113 of 2/9/94 (LEP 234) and G.G. No. 103 of 29/6/01 (LEP 258).*

*Zone No. 3(d) added G.G. No. 127 of 8/8/86 (LEP 144).*

*Zone No. 4(a) amended G.G. No. 134 of 22/8/86 (LEP 142) and G.G. No. 129 of 7/8/87 (LEP 162).*

*Zone No. 4(b) amended G.G. No. 134 of 22/8/86 (LEP 142) AND G.G. No. 129 of 7/8/87 (LEP 162).*

*Zone No. 5(e) added G.G. No. 170 of 11/11/88 (LEP 182).*

*Zone No. 5(u) added G.G. No. 140 of 2/9/88 (LEP 181).*

*Zone No. 6(a) amended G.G. No. 70 of 15/7/66 and G.G. No. 132 of 2/12/66.*

*Zone No. 6(b) amended G.G. No. 70 of 15/7/66 and G.G. No. 132 of 2/12/66.*

### **Restrictions on buildings and works.**

27. Subject to the provisions of Part IV of this Ordinance -

- (a) a building or work shall not, without the consent of the responsible authority, be erected, carried out or used in any zone for any

purpose shown opposite that zone in Column IV of the Table to clause 26;

- (b) a building or work shall not be erected, carried out or used in any zone for any purpose shown opposite that zone in Column V of the Table to clause 26.

### **Restriction on use of land.**

28. Subject to the provisions of Part IV of this Ordinance -

- (a) land, included in a zone, whether forming the site of a building or not, shall not be used without the consent of the responsible authority for any purpose for which a building in the same zone may be erected or used only with the consent of the responsible authority;
- (b) land, included in a zone, whether forming the site of a building or not, shall not be used for any purpose for which a building in the same zone may not be erected or used.

### **Proposed roads and proposed open space.**

29. (1) Nothing in the Act or this Ordinance shall require the responsible authority to acquire or to pay compensation for any land included in Zone No. 5 (c) or 6 (b) in the Table to clause 26 of this Ordinance where such land may be required to be provided without cost to the responsible authority as a condition of approval of a subdivision of adjoining land in the same ownership.

(2) The owner of any land included in Zone No. 6(b) in the Table to clause 26 of this Ordinance may by notice in writing, require the responsible authority to acquire such part or parts of the land included in that zone which may not be required to be provided without cost to the responsible authority as a condition of approval of a subdivision of adjoining land in the same ownership and upon receipt of such notice the responsible authority shall acquire the land to which the notice relates.

*Clause 29 amended G.G.No. 132 of 2/12/66.*

## **PART IV.**

### **Existing Buildings, Existing Works and Existing Use of Land.**

#### **Continuance of existing buildings, works and land use.**

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

### **Alterations and extensions of existing buildings and works.**

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

### **Alteration of existing uses.**

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

### **Building used for more than one purpose.**

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

### **Removal of illegally established development.**

34. (1) The foregoing provisions of this Part shall not apply to an existing building or work or to an existing use of a building, work or land which was erected or carried out or commenced after 12th July, 1946, in contravention of the provisions of the Town and Country Planning (General Interim Development) Ordinance, or of the County of Cumberland Planning Scheme, or of any approval granted under such Ordinance or Scheme.

(2) In a case where an existing building or work or an existing use of a building, work or land referred to in subclause (1) of this clause is one which would have contravened some provision of this Ordinance if it had been erected, carried out or commenced after the appointed day or if it had been erected, carried out or commenced after the appointed day without the consent of the responsible authority, the responsible authority may, subject to subclause (3) of this clause, serve on the owner or occupier of the building, work or land and on any other person who in the opinion of the responsible authority may be affected thereby, notice (in this clause referred to as a "warning notice") that, at the expiration of a period of one month or such longer period as is determined by the responsible authority and specified in the warning notice, it is the intention of the responsible authority to exercise its powers under section 342P of the Act relating to the removal, pulling down or alteration of contravening buildings and the prohibition of contravening uses. Upon the expiration of the period specified in the warning notice, the provisions of section 342P of the Act shall apply accordingly.

(3) If an existing building or existing work or an existing use of a building, work or land referred to in subclause (1) of this clause is one which could have been approved under this Ordinance if it had been erected, carried out or commenced after the appointed day, such existing building or existing work may be maintained and such existing use of the building, work or land may be continued, but in either case only with the consent of the responsible authority. Where an application for consent under this subclause is made, a warning notice shall not be served nor shall a warning notice already served continue to operate, unless and until the responsible authority has refused to consent to the application and, if an appeal under section 342N of the Act is made against such refusal, the appeal has failed.



## **PART V.**

### **Consents.**

#### **Submission of plans.**

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

#### **Consideration of applications generally.**

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

#### **Consideration of certain applications.**

37. Where application is made to the responsible authority whether under this Ordinance or under any provision of the Act for consent or approval -

##### **Aesthetic appearance.**

- (a) to erect a building, to carry out a work or to use land within view of any water-way or adjacent to any county road or main road, railway, public reserve or land reserved for open space, or land within Zone No. 6(a) or 6(b), the responsible authority shall take into consideration the probable aesthetic appearance of such land or of the proposed building, or work when used for the proposed purpose and viewed from such water-way, county road, main road, railway, public reserve or any such reserved or zoned land;

*Subclause 37(a) amended G.G. No. 132 of 2/12/66.*

##### **Extractive industries or mines.**

- (b) to erect a building, to carry out a work or to use land for the purposes of any extractive industry or mine, the responsible authority shall take into consideration the advisability of imposing conditions to secure the reinstatement of the land, the removal of waste material or refuse and the securing of public safety and amenity of the neighbourhood;

##### **Amenity of non-industrial zones.**

- (c) to erect a building, to carry out a work or to use a building, work or land in any zone other than Zones Nos. 4(a) and 4(b), the responsible authority shall take into consideration whether the proposed use of such building, work or land is likely to cause a nuisance due to the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, grit, oil, waste water, waste products or otherwise;

**Hotels, service stations, car repair stations, places of assembly, etc.**

(d) *Omitted G.G. No. 129 of 7/8/87 (LEP 162).*

**Transport Terminals.**

(e) *Omitted G.G. No. 129 of 7/8/87 (LEP 162).*

**Development in Residential Zones.**

38. *Omitted G.G. No. 103 of 29/6/01 (LEP 258).*

**Development by the Crown or public utility undertaking.**

39. *Amended Act No. 7 of 1962 and omitted G.G. No. 201 of 17/12/04 (effective 28/02/05) (SEPP (Repeal of Conc. and Ref. Provs.) 2004).*

**Consultation.**

40. *Amended Act No. 7 of 1962; G.G. No. 132 of 2/12/66 and G.G. No. 133 of 19/11/71 and 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.**

40A. *Omitted G.G.No. 139 of 26/9/80.*

**Determination of application.**

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

**PART VI.**

**General Amenity and Convenience.**

**Places of scientific or historic interest.**

42. (1) The Governor, on the application of the responsible authority, may, by proclamation, declare any land, building or work to be a place of scientific or historic interest.

(2) A copy of such proclamation shall be served by the responsible authority on the owner and occupier of any such land, building or work.

(3) Where any land, building or work has been declared a place of scientific or historic interest, a person shall not make any alterations or additions to the land, building or work or demolish such building or work without the consent of the responsible authority.

(4) The responsible authority may acquire any such land, building or work for the purpose of preserving it for public use and enjoyment.

(5) Where any land, building or work has been declared under this clause to be a place of scientific or historic interest the owner of such land, building or work may, by notice in writing, require the responsible authority to acquire the land, building or work.

Upon receipt of any such notice the responsible authority shall acquire the land, building or work to which the notice relates.

(6) The responsible authority may with the consent of the council or trustees or any authority established for that purpose place any such land, building or work under the care, control and management of such council, trustees or authority.

#### **Foreshore building lines.**

43. (1) The responsible authority may by resolution fix building lines (in this clause called foreshore building lines) in respect of any land fronting any river, lagoon or creek.

(2) A foreshore building line shall, when fixed by the responsible authority, be marked upon a plan or clearly described in the resolution and such plan or resolution shall be open for inspection by the public during the office hours of the responsible authority.

(3) A building shall not be erected between such building line and the river, lagoon or creek in respect of which the line is fixed.

(4) The responsible authority may alter or abolish any such building line where the levels or depth of the allotment or other exceptional conditions of the site make it necessary or expedient to do so.

#### **Preservation of trees.**

44. (1) Where it appears to the responsible authority that it is expedient for the purpose of securing amenity or of preserving existing amenities it may for that purpose make an order (hereinafter referred to as a tree preservation order) and may by like resolution rescind or vary any such order.

(2) A tree preservation order may prohibit the ringbarking, cutting down, topping, lopping, removing, injuring or wilful destruction of any tree or trees specified in such order except with the consent of the responsible authority and any such consent may be given subject to such conditions as the responsible authority may think fit.

(3) Any such order may relate to any tree or trees or to any specified class, type or description of trees on land described in such order and such land may be described particularly or generally by reference to the City of Penrith or any divisions thereof.

(4) The responsible authority shall forthwith upon the making of a tree preservation order cause notice of the making of such order to be published in the Gazette and in a newspaper circulating in the area in which the land described in the order is situate.

(5) Any person who contravenes or causes or permits to be contravened the provisions of a tree preservation order shall be guilty of an offence.

(6) In any proceedings under this clause it shall be sufficient defence to prove that the tree or trees ringbarked, cut down, topped, lopped, removed, injured or wilfully destroyed was or were dying or dead or had become dangerous.

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

*Clause 44 amended G.G. No. 132 of 2/12/66.*

## ***PART VII.***

### ***Special Provisions.***

#### **Minimum size of allotments.**

45. (1) A dwelling-house other than a dwelling in a semi-detached or terrace building shall not be erected in Zone No. 2(a), 2(b) or 2(c) on any land other than a hatchet-shaped allotment which has an area of less than 6,000 square feet and a frontage of less than 45 feet to a road: Provided that the responsible authority may consent to the erection of a dwelling-house other than a dwelling in a semi-detached or terrace building on any irregular parcel of land within such zones of not less than 6,000 square feet and a frontage of not less than 25 feet to a road whose radius of curvature is less than 40 feet.

(2) A residential building shall not be erected in Zone No. 2 (b) on any land other than a hatchet-shaped allotment which has an area of less than 9,000 square feet and a rectangular frontage to a road of less than 60 feet.

(2A.) A dwelling house other than a dwelling in a semi-detached or terrace building shall not be erected in Zone No. 2(a), 2(b) or 2(c) on any hatchet-shaped allotment which has an area of less than 6,000 square feet exclusive of the area of the access corridor which shall have a width of not less than 20 feet and a length of not more than 150 feet.

(2B.) A residential building shall not be erected in Zone No. 2(b) on any hatchet-shaped allotment which has an area of less than 9,000 square feet exclusive of the area of the access corridor which shall have a width of not less than 20 feet and a length of not more than 150 feet.

(2C) Notwithstanding the provisions of subclauses (1) and (2A) of this clause the responsible authority may consent to the erection of a dwelling-house, other than a dwelling in a semi-detached or terrace building, on any land the area of which, the frontage of which to a road, or the width of which, is not in accordance with the area, frontage or width prescribed by subclause (1) or (2A) of this clause, whichever is appropriate, but which only departs therefrom to a minor extent.

(3) An hotel shall not be erected on any land in Zone No. 1 which has an area of less than one acre.

(3A) A motel shall not be erected on any land in Zone No. 1 which has a frontage of less than 10 chains to a road and an area -

- (a) in the case of land having a frontage to a main or county road of less than 10 acres;
- (b) in any other case of less than 5 acres.

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

(5) The responsible authority may, by resolution, fix in respect of different parts of Zone No. 1 the minimum size of an allotment on which a rural industry may be established: Provided that such minimum size shall not be fixed at less than one acre.

*Clause 45 amended G.G. No. 70 of 15/7/66; G.G. No. 132 of 2/12/66 and G.G. No. 19 of 13/2/70.*

#### **Dwelling-houses – dual occupancy.**

45A. *Omitted G.G. No. 104 of 19/6/87.*

#### **Variation of area required for country dwelling.**

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46. *Omitted G.G. No. 103 of 29/6/01 (LEP 258).*

46A. (1) This clause applies to the land having frontage to Lemongrove Road and Macquarie Avenue, Penrith, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 111" deposited in the office of the responsible authority.

(2) In this clause, "demolition", in relation to a building or work, means the damaging, destruction, pulling down or removal of a building or work in whole or in part.

(3) A person shall not, without the consent of the responsible authority, demolish a building or work on land to which this clause applies.

(4) Notwithstanding clause 26, a building, (other than a residential flat building) erected prior to 16<sup>th</sup> December, 1982, on land to which this clause applies, may, with the consent of the responsible authority, be used for the purposes of a refreshment room or as a professional office for an accountant, architect, engineer, solicitor, surveyor or person engaged in a similar profession.

(5) The responsible authority shall not grant consent -

to the demolition of a building or work under subclause (3); or  
to the use of a building under subclause (4),  
unless it has made an assessment of the following matters:  
whether approval of the application would result in the demolition of a building or work of historic, scientific, cultural, social archaeological, architectural or aesthetic significance;  
the extent to which approval of the application would affect the historic, scientific, cultural, social archaeological, architectural or aesthetic value of the building or work, the site of the building or work or the neighbourhood;  
the probability of the building or work being incapable of reasonable or economic use.

*Clause 46A added G.G. No. 71 of 19/4/85 (LEP 111).*

### **Subdivisional roads and open space.**

47. The responsible authority shall not approve of any plan of subdivision of land of which any land in Zone No. 5(c) or 6(b) forms part, unless such plan provides for roads and open space reasonably in conformity with the road and open space pattern indicated in respect of that land on the scheme map.

*Clause 47 amended G.G. No. 132 of 2/12/66.*

### **Liquid fuel depots.**

48. The responsible authority shall not grant consent to the establishment or enlargement of a liquid fuel depot having an aboveground storage capacity of 100,000 gallons or more of inflammable liquid except with the concurrence of the Department of Mines.

#### **Industries in business zones.**

49. Subject to the provisions of Part IV of this Ordinance, a building shall not be erected or used, and land shall not be used, in Zone No. 2(c), 3(a) or 3(b) for the purposes of an industry where:-

the total floor space of the building or part of the building or the total area of the land used or proposed to be used for the purposes of the industry is in excess of 5,000 square feet; or

the total area of the parcel of land upon which the proposed development will be established is in excess of 10,000 square feet: Provided that this paragraph shall not apply to a service station or a car repair station.

*Clause 49 amended G.G. No. 132 of 2/12/66.*

#### **Shops in Zone No. 3(d)**

49A. (1) This clause applies to land within Zone No. 3(d).

(2) The Council shall not consent to the carrying out of development for the purpose of a shop trading principally in bulky goods unless it has taken into consideration -

whether the development would be more suitably carried out in some other business centre in the locality; and

whether the carrying out of the development is likely to have an adverse effect on the viability of any other business centre in the locality.

*Clause 49A added G.G. No. 127 of 8/8/86 (LEP 144) and amended G.G. No. 129 of 7/8/87 (LEP 162).*

#### **49B Land within Zone No 3 (d)**

(1) This clause applies to land within Zone No 3 (d) Special Business (Service Area) shown edged by a heavy black line on the map marked "Penrith Local Environmental Plan No 297" deposited in the office of the Council.

(2) Despite clause 4, in this Ordinance as it applies to land to which this clause applies:

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

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

**general store** means a shop:

used for the sale by retail of general merchandise and which may include the facilities of a post office, and

which does not exceed 200 square metres in gross floor area.

(3) The Council must not consent to any development on land to which this clause applies unless the Council is satisfied that:

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

*Clause 49B added G.G. No. 129 of 7/8/87 (LEP 162) and replaced G.G. No. 182 of 26/11/01 (LEP 297).*

## **Closing of roads**

50. (1) The responsible authority shall, as soon as practicable after the appointed day and within a period of ten years after that day, apply for the approval of the Governor to publish a notice of resumption of any land comprised in a road or part of a road shown on the scheme map by black diagonal hatching superimposed on a colour and upon the granting of such approval at once proceed to resume the land.

(2) Upon applying for such approval the responsible authority shall forthwith forward by registered post to each owner and occupier of land adjoining or abutting upon the land to be resumed notice that the purpose of the resumption is to close a road or part of a road and to include the land comprising such road or part of a road in the particular zone or reservation indicated by the colour on which the black diagonal hatching is superimposed.



(3) Upon resumption the land resumed shall be deemed to be included in the zone or reservation indicated by such colour.

(4) Where the land is deemed to be included in a zone or reservation in pursuance of the preceding subclause and the responsible authority decides to sell or lease the land, it shall give to the owners of the adjoining lands first option of purchase or lease, as the case may be, of parts of the land in fair proportions.

(5) The responsible authority shall not approve of any plan of subdivision of land if the only access to a road of any parcel proposed to be created thereby is to a road marked by black diagonal hatching on the scheme map.

### **Advertisements.**

51. A person shall not erect a general advertising structure in Zone No. 1, 2(a), 2(b) or 2(c). For the purposes of this clause, "general advertising structure" shall have the meaning ascribed to it in Ordinance No.55 under the Act.

*Clause 51 amended G.G. No. 132 of 2/12/66.*

### **Railway sidings.**

52. Nothing in this Ordinance shall operate to prohibit the construction and use of any railway siding designed to serve land in Zone No. 4(a) or 4(b).

*Clause 52 amended G.G. No. 132 of 2/12/66.*

### **Restriction on excavations.**

53. Where immediately before 27<sup>th</sup> June, 1951, and land within Zone No. 2(a), 2(b) or 2(c) was used for the purpose of winning extractive materials, no excavation for that purpose shall be made, opened or extended within fifty feet of adjoining land which is within Zone No. 2(a), Zone No. 2(b) or Zone No. 2(c) and was not, immediately prior to 27<sup>th</sup> June, 1951, in the same ownership.

*Clause 53 amended G.G. No. 132 of 2/12/66.*

### **Alignment of main roads.**

54. The council shall not, without the approval of the Commissioner for Main Roads, cause to be aligned or realigned any main road or any other road which the Commissioner for Main Roads has notified as a proposed main road.

### **Junction and intersections.**

55. *Amended G.G. No. 132 of 2/12/66 and omitted G.G. No. 201 of 17/12/04 (effective 28/02/05) (SEPP (Repeal of Conc. and Ref. Provs.) 2004).*

### **Building lines along county and main roads.**

56. (1) Notwithstanding any other provision of this Ordinance a building shall not be erected in Zone No. 1 for a purpose specified in Column I of the Table to this clause where the distance between such building and a county road or main road is less than the distance set out opposite such purpose in Column II of the Table.

**TABLE**

<b>Column I - Purpose</b>	<b>Column II – Distance (in feet)</b>
Hotel	150
Motel	150
Industry	100
Any other building	60

(2) The responsible authority shall not consent to the erection of a building in Zone No. 2(c) for the purpose of commercial premises, a hotel, a motel, a place of assembly or a shop where such building is situated within 30 feet of a county road or main road.

### **Service stations or car repair stations.**

57. *Omitted G.G. No. 129 of 7/8/87 (LEP 162).*

### **Drive-in theatres.**

58. *Omitted G.G. No. 129 of 7/8/87 (LEP 162).*

### **Residential flat buildings on county or main roads.**

59. (1) The responsible authority shall not consent to the erection or use of a building for the purpose of a residential flat building on a site having frontage to a county road or main road unless provision is made within the site for-

- (a) vehicular parking space of an area of not less than 18 feet by 8 feet for each flat within the building, and
- (b) proper vehicular access to such parking space from an adjoining road.

(2) For the purposes of subclause (1) of this clause, “vehicular parking space” shall be deemed to include any garage or court available for use by vehicles.

### **Controlled access roads.**

60. (1) The Governor may proclaim any county road or any part of a county road to be a controlled access road and in the like manner amend or revoke any such proclamation.

(2) A copy of any proclamation made under subclause (1) of this clause shall be published in the Gazette and in a newspaper circulating in the locality in which the controlled access road is situated and shall be served on the responsible authority.

(3) A person shall not enter or leave a controlled access road except by a means of access or route provided for that purpose.

(4) The council or any person shall not, without the consent of the responsible authority, open, construct, from or lay out any means of access to or from a controlled access road:

Provided that the responsible authority shall not without the approval of the Commissioner for Main Roads consent to the opening, construction, forming or laying out of any means of access to or from a controlled access road which is or which may be a main road: Provided also that in the event of the Commissioner for Main Roads refusing in any case to approve, a difference within the meaning of section 654 of the Act shall be deemed to have arisen and the responsible authority or the Commissioner for Main Roads may submit such difference to the Minister for determination under that section.

(5) The responsible authority may erect and maintain fences or posts across any side road or other means of access for the purpose of preventing access to a controlled access road.

(6) A person shall not drive any loose sheep, cattle, horses or other animals on or along a controlled access road.

(7) The provisions of this clause shall not apply to or in respect of any main road which is proclaimed a motorway under Part VA of the Main Roads Acts, 1924, as amended by subsequent Acts.

#### **Restriction of ribbon development.**

61. (1) The provisions of this clause shall apply to any county road or to any main road or to any part of a county road or main road to which road or part such provisions are applied by the Governor by proclamation.

(2) The Governor, in respect of any land fronting, adjoining or adjacent to a road to which the provisions of this clause apply, may by proclamation -

prohibit the erection of buildings or any specified class of buildings or buildings intended for use for specified purposes within such distance of the road as may be set out in the proclamation;

direct that, in respect of the erection of buildings or any specified class of buildings or buildings intended for use for specified purposes within such distance of the road as may be set out in the proclamation, unless the Authority certifies to the responsible authority that it is satisfied that either -

- (i) the character of the building or the use to which the building is to be put is such as not to be likely to cause traffic congestion on the road; or
- (ii) satisfactory arrangements have been made for limiting traffic congestion on the road;

the responsible authority shall as a condition of its consent to the erection of any such building require the provision and maintenance of such means of entrance and egress and of such accommodation for the loading or unloading of vehicles or picking up and setting down of passengers or the fuelling of vehicles as may be determined by the Authority for the purpose of limiting such congestion;

prohibit the making of any permanent excavation within such distance of the road as may be set out in the proclamation;

prohibit the subdivision of any land which provides for the creation of separate parcels of land with a length of frontage to the road less than that specified in the proclamation.

For the purposes of this subclause “building” has the meaning ascribed to it in paragraph (b) of sub-section three of section 342G of the Act.

- (3) Any proclamation made under subclause (2) of this clause -

may apply generally to all buildings or to all buildings other than those mentioned in the proclamation or particularly to any specified class of buildings or buildings intended for use for specified purposes;

may specify different distances for different buildings or for different classes of buildings or buildings intended for use for different purposes or different distances for different roads or different distances for different parts of the same road.

- (4) Any such proclamation may be amended, varied or revoked by a similar proclamation.

(5) A proclamation made under this clause shall be published in the Gazette and in a newspaper circulating in the locality in which the road is situated.

A copy of any such proclamation shall be served on the responsible authority and on the Authority.

*Clause 61 amended Act No. 7 of 1962 and G.G. No. 132 of 2/12/66.*

61A. Notwithstanding any other provision of this Ordinance the responsible authority shall not consent to the carrying out of any development on land situated between Castlereagh Road and Nepean River except with the prior concurrence of the Authority.

*Clause 61A added G.G. No. 70 of 15/7/66.*

61B. (1) Nothing in this Ordinance 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 subject to such conditions (if any) as are so specified.

(1A) Subclause (1) does not affect the application, to or in respect of development to which that subclause applies, of such of the provisions of this Ordinance as are not inconsistent with that subclause or with a consent granted by the Council in respect of the development.

(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 Ordinance 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 Ordinance relating to land reserved for a purpose or included within a zone specified in Column II of the Table shall thereupon apply to that land.

*Clause 61B added G.G. No. 170 of 14/11/80 (LEP 3) and amended G.G. No. 65 of 6/5/94 (LEP 230).*

**TABLE.**

<b>Column I</b>	<b>Column II</b>
<p>Lot 2, Deposited Plan 201831, Oxford Street, Cambridge Park.</p> <p><i>Added G.G. No. 170 of 14/11/80 (LEP 3).</i></p>	<p>Bank.</p>
<p>lot 2, Deposited Plan 218434, Glossop Street, St Marys</p> <p><i>Added G.G. No. 32 of 20/2/81 (LEP 11).</i></p>	<p>retailing of prefabricated aboveground swimming pools and associated equipment</p>
<p>Lot 38, D.P. 16540, Factory Road, Regentville.</p> <p><i>Added G.G. No. 38 of 6/3/81 (LEP 14).</i></p>	<p>Any purpose included in Columns III or IV of the Table to clause 26 shown opposite Zone No. 2(c) in Column I of that Table where –</p> <p>a report on soil suitability of this site is prepared and submitted to the council for consideration; and the floor levels of all habitable rooms are not less than 0.5 metres above the level considered by the Council to be the flood level for this area.</p>
<p>Lot 2, D.P. 242573 (No. 180) Smith Street, Penrith.</p> <p><i>Added G.G. No. 42 of 19/3/82 (LEP 28) and amended G.G. No. 22 of 11/02/00 (LEP 252).</i></p>	<p>Health care consulting rooms in addition to uses included in Column III or IV of the Table to clause 26 opposite Zone No. 2 (d) in Column I of that Table.</p>
<p>Lot 5, D.P. 38664, Parker Street, Penrith, as shown edged heavy black on the map marked “Penrith Local Environmental Plan No. 45”, deposited in the office of the council.</p> <p><i>Added G.G. No. 97 of 16/7/82 (LEP 45).</i></p>	<p>Truck rental centre.</p>

<b>Column I</b>	<b>Column II</b>
<p>Lot B, D.P. 2054, Great Western Highway, Colyton, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 46", deposited in the office of the council.</p> <p><i>Added G.G. No. 110 of 20/8/82 (LEP 46).</i></p>	<p>Community market.</p>
<p>Part portion 89, Parish of Castlereagh, Castlereagh Road, Penrith, being the land shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 72" deposited in the office of the council.</p> <p><i>Added G.G. No. 45 of 11/3/83 (LEP 72).</i></p>	<p>Any purpose included in Column III or IV of the Table to clause 26 shown opposite Zone No. 4(a) in Column I of that Table.</p>
<p>Lot 102, D.P. 623641, Kurrajong Avenue, St Marys, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 89" deposited in the office of the council.</p> <p><i>Added G.G. No. 9 of 20/1/84 (LEP 89).</i></p>	<p>Scout hall.</p>
<p>Lot A, D.P. 2054 and Lots 5 and 6, D.P. 238864, Great Western Highway, St Marys, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 93" deposited in the office of the council.</p> <p><i>Added G.G. No. 12 of 27/1/84 (LEP 93).</i></p>	<p>Fruit market.</p>

<b>Column I</b>	<b>Column II</b>
<p>Lot 1, D.P. 580711, Great Western Highway, St Marys, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 136" deposited in the office of the council.</p> <p><i>Added G.G. No. 34 of 21/2/86 (LEP 136).</i></p>	<p>Car parking in conjunction with the fruit market located on part lot 24, D.P. 1641, Great Western Highway, St Marys.</p>
<p>The land adjacent to Santley Crescent and Bringelly Road, Kingswood, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 143" deposited in the office of the council.</p> <p><i>Added G.G. No. 136 of 29/8/86 (LEP 143).</i></p>	<p>Single storey medical centre.</p>
<p>Part Lot D, D.P. 382105 and lot 1, D.P. 250213, Great Western Highway, St Marys, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 167" deposited in the office of the council.</p> <p><i>Added G.G. No. 133 of 21/8/87 (LEP 167).</i></p>	<p>Service Station.</p>
<p>Lots 2 and 3, D.P. 25317, corner of Carpenter Street and Bennett Road, St Marys, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 202" deposited in the office of the council.</p> <p><i>Added G.G. No. 101 of 10/8/90 (LEP 202).</i></p>	<p>Single storey general store.</p>



<b>Column I</b>	<b>Column II</b>
<p>Lot 15, D.P. 1655, The Northern Road, Luddenham, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 209" deposited in the office of the council.</p> <p><i>Added G.G. No. 110 of 26/7/91 (LEP 209).</i></p>	<p>Butcher shop.</p>
<p>Lot 102, DP 623641, Kurrajong Avenue, St Marys, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 218" deposited in the office of the Council.</p> <p><i>Added G.G. No. 105 of 28/8/92 (LEP 218).</i></p>	<p>Community facilities.</p>
<p>Part Lots B and C, D.P. 101602, Part Lots 1 and 2, D.P. 316550, and Lots 7 and 8, D.P. 814801, Great Western Highway and Morley Avenue, Kingswood, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 230" deposited in the office of the Council.</p> <p>Lot 9 and 10, D.P. 814801, Great Western Highway and Morley Avenue, Kingswood, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 230" deposited in the office of the Council.</p> <p><i>Added G.G. No. 65 of 6/5/94 (LEP 230).</i></p>	<p>Commercial premises, if the Council is of the opinion that arrangements have been made with the Water Board for the provision of water and sewerage services, being arrangements that are satisfactory to that Board.</p> <p>Motor showrooms and commercial premises, if the Council is of the opinion that arrangements have been made with the Water Board for the provision of water and sewerage services, being arrangements that are satisfactory to that Board.</p>

<b>Column I</b>	<b>Column II</b>
<p>Lots 1 and 2, D.P. 157408, Gidley Street, St Marys, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 240" deposited in the office of the Council.</p> <p><i>Added G.G. No. 99 of 18/8/95 (LEP 240).</i></p>	Commercial premises
<p>Part Lot 1673, D.P. 811688, Illawong Avenue, Penrith, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 244" deposited in the office of the Council.</p> <p><i>Added G.G. No. 95 of 16/8/96 (LEP 244).</i></p>	Community facilities.
<p>Lots A, B, C and D, DP 24607 and Lot 302 DP 14333, Derby Street, Kingswood, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 246" deposited in the office of the Council.</p> <p><i>Added G.G. No. 119 of 25/10/96 (LEP 246).</i></p>	Medical centre and building for hydrotherapy.

*LEP 150 (G.G. No. 68 of 16/4/87), LEP 153 (G.G. No. 80 of 15/5/87) and LEP 174 (G.G. No. 22 of 5/2/88) omitted items from the above table.*

### **Development of certain land – Station and Phillip Streets, St Marys**

61BA. (1) This clause applies to land shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 130" deposited in the office of the council.

(2) The council shall not consent to the carrying out of development on the land to which this clause applies where the gross floor area of all buildings to be erected on that land would exceed 7200 square metres.

(3) In this clause, “gross floor area” has the meaning ascribed to that expression in clause 4 (1) of the Environmental Planning and Assessment Model Provisions 1980.

*Clause 61BA added G.G. No. 155 of 15/11/85 (LEP 130).*

### **Bronte House**

61C. (1) The council shall not consent to the carrying out of development on lot 1, D.P. 234088, and lots 3 and 4, D.P. 38617, Gidley Street, St Marys, unless it has made an assessment of

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

(2) The building known as “Bronte House” shall not be demolished.

(3) Subject to this clause, a person may, with the consent of the council, carry out development on the land referred to in subclause (1) for the purposes of commercial premises or refreshment rooms.

*Clause 61C added G.G. No. 82 of 19/6/81 (LEP 17) and replaced G.G.No. 80 of 15/5/87 (LEP 153).*

61CA. (1) This clause applies to part portion 89, Parish of Castlereagh, Castlereagh Road, Penrith, being the land shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 72" deposited in the office of the council.

(2) The council shall not consent to the carrying out of development on an allotment of land to which this clause applies unless arrangements satisfactory to it have been made for the provision of access to that allotment from Coombes Drive.

*Clause 61CA added G.G. No. 45 of 11/3/83 (LEP 72).*

61D. (1) The provisions of this clause relate to land at the corner of Derby and Warwick Streets, Penrith, being lot 1, D.P. 2363.

(2) In this clause -

"demolition", in relation to a building or work, includes the damaging, destruction, pulling down or removal of the building or work in whole or in part;

(3) Notwithstanding the provisions of clause 26, the council may consent to the use of the land to which this clause applies for the purposes of health care consulting rooms.

(4) A person shall not demolish or erect a building or work on the land to which this clause applies without the consent of the council.

(5) Before determining an application under subclause (3) or (4), the council shall make an assessment of -

the extent to which approval of the application would affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the existing building on the site and the site;

whether approval of the application would result in the demolition of an item of the environmental heritage; and

the aesthetic and architectural character or quality of the proposed development with respect to -

- (i) the pitch and form of the roof of the existing building on the site;
- (ii) the size, proportion and position of the openings for windows and doors in relation to the existing building on the site; and
- (iii) the colour, texture, style, size and type of finish of material to be used in relation to the materials used in the existing building on the site.

*Clause 61D added G.G. No. 57 of 30/4/82 (LEP 33) and amended G.G. No. 22 of 11/02/00 (LEP 252).*

61E (1) This clause applies to lot 5, D.P. 1582, No. 16 Evan Street, Penrith, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 68" deposited in the office of the council.

(2) Nothing in this Ordinance prevents a person, with the consent of the council, from carrying out development on the land to which this plan applies for the following purposes:

advertising structures, child care centres; clubs; commercial premises; drainage; dwellings; educational establishments; hospitals; open space; parking; places of public worship; public buildings; recreation facilities; refreshment rooms (other than drive-in take away food establishments); roads; shops being confectionery shops and milk bars, fruit and vegetable shops, newsagencies, pharmacies, small goods and sandwich shops, tobacconists and hairdressers' shops; utility installations (other than gas holders or generating works).

(3) Notwithstanding clause 4, the definitions in clause 4 of the Environmental Planning and Assessment Model Provisions, 1980, are adopted for the purposes of subclause (2).

*Clause 61E added G.G. No. 16 of 28/1/83 (LEP 68).*

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

61EA. As a consequence of the carrying out of development in accordance with this Ordinance (as in force at the time development is carried out), this Ordinance identifies a likely increased demand for public amenities and public services (as specified in Schedule 7) and stipulates that dedication or a contribution under section 94 (1) of the Environmental Planning and Assessment Act 1979, or both, may be required as a condition of any consent to that development.

*Clause 61EA added G.G. No. 155 of 15/11/85 (LEP 130).*

## **Development – 19 The Crescent, Lemongrove**

61F. (1) This clause applies to lot 8, section D, D.P. 978488, known as No. 19 The Crescent, Lemongrove, as shown edged heavy black on the map marked “Penrith Local Environmental Plan No. 124” deposited in the office of the council.

(2) In this clause, “demolition”, in relation to a building or work, includes the damaging, destruction, pulling down or removal of the building or work, in whole or in part.

(3) Notwithstanding the provisions of clause 26, the land to which this clause applies may, with the consent of the council, be used for the purposes of professional offices for an accountant, architect, engineer, solicitor or surveyor, or a person engaged in a similar profession.

(4) A person shall not demolish or erect a building or work on the land to which this clause applies without the consent of the council.

(5) Before determining an application under the Act for a consent referred to in subclause (3) or (4) concerning the site consisting of land to which this clause applies, the council shall make an assessment of -

- (a) the extent to which the carrying out of the development the subject of the application would affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of the existing building on the site and the site; and
- (b) the aesthetic and architectural character or quality of any building or work proposed to be constructed or carried out and its relationship to –
  - (i) the pitch and form of the roof of the existing building on the site;
  - (ii) the size, proportion and position of the openings for windows and doors of the existing building on the site; and
  - (iii) the colour, texture, style, size and type of finish of the materials used in the existing building on the site.

*Clause 61F added G.G. No. 103 of 12/7/85 (LEP 124).*

61G. A person shall not carry out development on land having frontage to Parkes Avenue and Albert and Princess Streets, Werrington, as shown edged heavy black on the map marked “Penrith Local Environmental Plan No. 127”, unless –

all habitable areas of any building included in the development are above the 1 in 100 year flood level; and

arrangements satisfactory to the Council and the Metropolitan Water Sewerage and Drainage Board have been made for the provision of sewerage and water services to the land on which the development is to be carried out.

*Clause 61G added G.G. No. 145 of 25/10/85 (LEP 127).*

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

61H. (1) Where land to which this plan applies is used for the purposes of an educational establishment or tertiary institution, 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 61H added G.G. No. 134 of 22/8/86 (LEP 142) and amended G.G. No. 140 of 2/9/88 (LEP 181).*

### **University**

61HA. (1) This clause applies to land zoned Special Uses "U" (University).

(2) The Council shall not grant consent to the carrying out of development on land to which this clause applies for the purposes of commercial premises or shops unless it is satisfied that the development will be ordinarily incidental to the predominant use of the land for a university.

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

- (a) arrangements satisfactory to the Water Board have been made with the Board by the owner of the land, and the applicant for development consent (if the applicant is not the owner) for increasing the supply and reticulation of water to that land; and
- (b) arrangements satisfactory to the Water Board and the Council have been made with the Board and the Council by the owner of the land, and the applicant for development consent (if the

applicant is not the owner) for the provision of sewerage and drainage services to that land.

*Clause 61HA added G.G. No. 140 of 2/9/88 (LEP 181).*

### **Development of certain land at St Marys**

61I. (1) This clause applies to the land to which Penrith Local Environmental Plan No. 166 applies.

(2) Nothing in this Ordinance 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:

auction rooms;  
builders' supply establishments;  
centre for the display and retail sale of the following goods, where the display and sale of goods is ancillary and subordinate to the manufacture, assembling, processing or warehousing of the goods on the site:

camping equipment;  
data processing equipment;  
garages;  
glass;  
home renovation materials;  
home decoration materials;  
home improvement and building materials;  
knock down furniture;  
office equipment;  
swimming pools;

recreation centres, meaning buildings or places used or intended for use for the purposes of archery, basketball, golf, gymnastics and callisthenics, roller skating, squash, swimming, tennis or the like and for the purposes of a refreshment room;

shops for the retail sale of builders' supplies, hardware and home improvement products.

(3) The council shall not consent to the carrying out of development under subclause (2) unless it has taken into consideration -

whether suitable land for the development is available in any nearby business centre;

whether granting consent would, by reason of the number of retail outlets which exist or are proposed on land to which this clause



applies, defeat the predominantly industrial nature of the locality;  
and

whether the proposed development will detrimentally affect the viability  
of any business centre.

*Clause 61I added G.G. No. 131 of 14/8/87 (LEP 166).*

### **Development – Oxley Park and Colyton**

61J. (1) This clause applies to land in the vicinity of Adelaide Street, Woodland Avenue and Great Western Highway, Oxley Park, and to lot 3, D.P. 395695, Carpenter Street, Colyton, as shown edged heavy black on the map marked “Penrith Local Environmental Plan No. 182” deposited in the office of the Council.

(2) Notwithstanding any other provision of this Ordinance, the Council shall not consent to the carrying out of development on land to which this clause applies unless -

- (a) it is satisfied that the land to which the development relates will not be required for drainage purposes in conjunction with the Oxley Park Drainage Scheme; and
- (b) arrangements satisfactory to the Council have been made for the provision of sewerage and water services to the land on which the development is to be carried out.

(3) Where the Council has refused to grant consent under subclause (2) to the development of land for a purpose identified in Column IV of the matter relating to Zone No. 5 (e) in the Table to clause 26, the owner of that land may, by notice in writing, require the Council to acquire that land.

(4) Upon receipt of a notice referred to in subclause (3), the Council shall acquire the land to which the notice relates.

*Clause 61J added G.G. No. 170 of 11/11/88 (LEP 182).*

### **Development of certain land at Parker Street, Penrith**

61K. (1) This clause applies to land situated in the City of Penrith, being Lot 1, D.P. 737205, Parker Street, Penrith, as shown edged heavy black on the map marked “Penrith Local Environmental Plan No. 211” deposited in the office of the council.

(2) The council shall not consent to the erection of a building on the land to which this clause applies if, in the opinion of the council, the L10 (18 hour) traffic

noise level (when measured at any point on the external wall of any habitable room contained or to be contained in the building) will be 63dB(A) or more.

(3) If, in the opinion of the council, the L10 (18 hour) traffic noise level (when measured at any point on the external wall of any habitable room contained or to be contained in a building to be erected on the land to which this clause applies) will be more than 50dB(A) but less than 63dB(A), the council shall not consent to the erection the building unless:

- (a) the room is so designed as to ensure interior noise levels satisfactory to the council; or
- (b) other measures satisfactory to the council have been taken to prevent internal noise levels rising above 60dB(A).

(4) For the purposes of this clause, “habitable room” includes a bedroom or living room, but does not include a bathroom, kitchen, laundry or hallway.

*Clause 61K added G.G. No. 110 of 26/7/91 (LEP 211).*

#### **Development of certain land at The Crescent, Penrith**

61L. Nothing in this Ordinance prevents a person, with the consent of the Council, from carrying out development for the purpose of refreshment rooms on the land having frontage to The Crescent, identified as Lot 4, D.P. 632985, The Crescent, Penrith.

*Clause 61L added G.G. No. 34 of 8/4/93 (LEP 223).*

#### **Development of certain land bounded by Rance and Werrington Roads and Walker Street, Werrington**

61LA. (1) This clause applies to land situated in the City of Penrith, being Lot 5, D.P. 263098, Lot 10, D.P. 624980 and Lot 11, D.P. 624936, 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.

(2) The Council must not grant consent to the carrying out of development on land to which this clause applies unless it is satisfied that proper arrangements have been made for the provision of water and sewerage services for the land.

*Clause 61L added G.G. No. 119 of 29/9/95 (LEP 239).*

#### **Development of certain land – Bringelly Road, Kingswood**

61M. (1) This clause applies to land situated in the City of Penrith, being Lot 227(A), D.P. 107823, Bringelly Road, Kingswood as shown edged black on the map

marked "Penrith Local Environmental Plan No. 232" deposited in the office of the Council.

(2) The Council shall not grant consent to the carrying out of development on land to which this clause applies unless it is satisfied that proper arrangements have been made for the disposal of drainage through and from the land.

*Clause 61M added G.G. No. 65 of 6/5/94 (LEP 232).*

#### **61N Use of the footpaths in Queen Street, St Marys**

This clause applies to the footpath of Queen Street, St Marys between the Great Western Highway and Belar Street on the western side, and between the Great Western Highway and the northern boundary of Lot 1 DP216932 on the eastern side, as shown hatched on the map marked "Penrith Local Environmental Plan No 263" deposited in the office of the Council.

Nothing in this Ordinance prevents a person, with the consent of the Council, from carrying out development for the purpose of a shop or a refreshment room on a section of the footpath to which this clause applies.

The Council must not grant the consent referred to in subclause (2) unless it is satisfied that the section of footpath concerned:

- is located in front of a shop or refreshment room for which consent has been granted, and
- is intended to be used in conjunction with, and for the same purpose as, that shop or refreshment room.

*Clause 61N added G.G. No.170 of 29/10/04 (LEP 263)*

### **PART VIII.**

#### **General.**

#### **Savings.**

62. Nothing in this Ordinance shall be construed as restricting or prohibiting or enabling the responsible authority to restrict or prohibit -

- (i) the carrying out of development of any description specified in Schedule 6 to this Ordinance;
- (ii) the use of existing buildings of the Crown; or
- (iii) home occupations.

## **Rights, &c. under County of Cumberland Planning Scheme.**

63. (1) Subject to subclause (2) of this clause the revocation, pursuant to paragraph (d) of subsection two of section 342L of the Act, of the County of Cumberland Planning Scheme to the extent to which it applies in respect of all land within the City of Penrith shall not affect -

the previous operation of that Scheme in respect of the said land or anything duly suffered, done or commenced to be done under that Scheme or under the Act in relation to that Scheme;

any right, privilege, obligation or liability acquired, accrued or incurred under that Scheme or under the Act in relation to that Scheme;

any penalty, forfeiture, or punishment incurred in respect of any offence committed against that Scheme or under the Act in relation to that Scheme;

any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment is aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed and enforced as if the said Scheme has not been revoked.

(2) Nothing contained in subclause (1) shall have the effect of reviving any claim for compensation or giving an additional claim for compensation in respect of the injurious affection of an estate or interest in land by reason of any provision contained in the County of Cumberland Planning Scheme but where a claim for compensation in respect of any such injurious affection had been made within the time prescribed and had not been determined before the appointed day, legal proceedings in respect of that claim may be continued and enforced as if the County of Cumberland Planning Scheme had not been revoked.

## **Application of scheme to development incompleting at commencement of scheme.**

64. Nothing in this Ordinance shall prevent the erection of a building or the carrying out of work and the use of such building or work in accordance with the terms of the Town and Country Planning (General Interim Development) Ordinance or of any permission granted under Division 7 of Part XIIA of the Act and under that Ordinance or of any consent granted under the County of Cumberland Planning Scheme if the erection of the building or the carrying out of work as commenced, but not completed, before the appointed day or is substantially commenced within a period of twelve months after that day.

### **Application of scheme to development before commencement of scheme.**

65. (1) Any development which was carried out between the twelfth day of July, one thousand nine hundred and forty-six and the twenty-seventh day of June, one thousand nine hundred and fifty-one otherwise than in accordance with the terms of the Town and Country Planning (General Interim Development) Ordinance or of any permission granted under Division 7 of Part XIA of the Act and under that Ordinance and between the date secondly mentioned and the appointed day otherwise than in accordance with the terms of the said Ordinance and of any such permission or of any consent granted under the County of Cumberland Planning Scheme as the case may require and which does not conform with the provisions of this Ordinance shall be deemed to be in contravention of this Ordinance.

### **Compensation.**

(2) Where for the purpose of carrying the provisions of this Ordinance into effect any land, on which any development has been undertaken in contravention of the provisions of the Town and Country Planning (General Interim Development) Ordinance or of this Ordinance or of the County of Cumberland Planning Scheme, is acquired by the responsible authority or any other statutory authority, whether under the provisions of the Act or of any other Act, the compensation payable in respect of such acquisition shall be assessed on the assumption that such development had not been carried out.

(3) The provisions of section 342AE of the Act and any other provisions of the Act or of any other Act which provide for the payment of and the assessment of compensation in respect of the acquisition of land, to the extent to which such provisions would, but for subclause (2) of this clause, apply to any such development referred to in this clause, are hereby suspended.

### **Fulfilment of conditions.**

66. Where permission to erect any building or to carry out any work or to use any building, work or land or to do any other act or thing has been granted under Division 7 of Part XIA of the Act or under any Ordinance made under that Part or where any consent for any such purpose has been granted under the County of Cumberland Planning Scheme and conditions have been imposed which are not inconsistent with any provisions of this Ordinance the conditions shall have effect as if they were conditions imposed under this Ordinance and may be enforced accordingly.

### **Leasing of certain lands.**

67. (1) Where the responsible authority has acquired any land for any purpose under this Ordinance and where it appears to be the responsible authority that such purpose cannot be carried into effect immediately following such acquisition the responsible authority may let such land by way of lease under and subject to the provisions of the Act:

Provided that in the case of land acquired for the purpose of a main road or county road the consent of the Department of Main Roads to the lease shall be obtained.

(2) In determining the term of any such lease regard shall be had to the time when the land is likely to be required for the purpose for which it was acquired or the time when the purposes of the acquisition are likely to be carried into effect.

(3) Any such lease may authorise the erection of buildings, the carrying out of works and the making of excavations for any purposes but in any case where such purposes are inconsistent with the purposes for which the land is reserved or zoned under this Ordinance the lease shall require the removal of any such buildings or works or the reinstatement of the land before the end of the term of the lease.

(4) Where the Authority is the responsible authority under this Ordinance it shall, before determining any application under this clause, consult with the council and shall take into consideration any representations made by the council in relation thereto.

*Clause 67 amended G.G. No. 132 of 2/12/66.*

#### **Suspension of Acts, covenants, etc.**

68. (1) The operation of the provisions of sections 227 and 229 of the Act which provide that a pathway shall be opened to or beyond the standard width of twelve feet is hereby suspended in respect of the pathways to be provided pursuant to this Ordinance.

(2) The operation of the proclamation made under section 309 of the Act and published in Government Gazette No. 66 of 29<sup>th</sup> June, 1945, declaring Residential District No. 1 – St Marys is hereby suspended to the extent to which such proclamation is inconsistent with any of the provisions of this Ordinance or with any consent given thereunder.

*(2A) Omitted G.G. No. 104 of 19/6/87.*

(3) In respect of any land which is comprised within any zone, other than within Zones Nos. 2(a), 2(b), 2(c), the operation of any covenant, agreement or instrument imposing restrictions as to the erection or use of buildings for certain purposes or as to the use of land for certain purposes is hereby suspended to the extent to which any such covenant, agreement or instrument is inconsistent with any provision of this Ordinance, or with any consent given thereunder.

(4) The provisions of paragraphs (e), (f) and (g) of section 342R of the Act are hereby suspended in respect of land comprised within Zone No. 2(d) to the extent to which such provisions are inconsistent with the provisions of clause 26 of this Ordinance.

*Clause 68 amended G.G. No. 87 of 19/8/66.*

**Plans of subdivision.**

69. The council shall retain and catalogue a copy of every plan of subdivision approved by it and upon registration of such plan in the office of the Registrar-General, shall clearly mark on a copy of a map of its area, to a suitable scale, the location of the land to which each such plan relates with a reference to the catalogued copy.

**Register.**

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

**Difference between authorities.**

71. If any difference arises between the Authority and the council with respect to the fulfilment and exercise of the duties, powers, privileges or authorities of the Authority or the council under this Ordinance the same shall be deemed to be a difference within the meaning of section 654 of the Act and the Authority or the council may submit such difference to the Minister for determination under that section.

*Clause 71 amended G.G. No. 132 of 2/12/66.*

**Review.**

72. The council shall, whenever directed by the Minister so to do and in any case within ten years from the appointed day, review the scheme and prepare and submit to the Minister in accordance with the provisions of the Act a town and country planning scheme or schemes varying this scheme.

**Penalty.**

73. Any purpose who contravenes any of the provisions of this Ordinance or who fails to comply with any of those provisions or with the terms of any notice or direction issued or given thereunder or with the terms and conditions imposed by any consent or approval given thereunder shall be guilty of an offence and shall be liable to a penalty not exceeding two hundred dollars and also a daily penalty not exceeding ten dollars for any continuance of the offence.

*Clause 73 amended G.G. No. 15 of 11/2/66.*

## **SCHEDULES.**

### **SCHEDULE 1.**

Aerated waters and cordial manufacture.  
Boot and shoe repairing.  
Bread, cake and pasty manufacture.  
Builders' supplies establishment.  
Builder's yard.  
Cabinet making.  
Car repair station.  
Carrier's establishment.  
Cycle and motor cycle repairing.  
Dressmaking.  
Dry cleaning and dyeing.  
Electrician's workshop.  
Farrier's workshop.  
Fuel merchant's establishment.  
Laundry.  
Milk distributing depot.  
Painter's workshop.  
Plumber's workshop.  
Radio mechanic's workshop.  
Rubber vulcanising and tyre retreading works.  
Service station.  
Signwriter's workshop.  
Tailoring.  
Toymaking.  
Undertaker's establishment.  
Veterinary surgeon's establishment.  
Any home industry not specified above.

### **SCHEDULE 2.**

Amusement park.  
Building or group of buildings to be used wholly or partly as commercial premises, with a total floor space in excess of 20,000 square feet.  
Building or group of buildings to be used wholly or partly as a shop, with a total floor space in excess of 15,000 square feet.  
Bulk store.  
Depots for the standing or servicing of omnibuses, tourist buses or taxis.  
Fish markets (wholesale).  
Fruit and vegetable markets (wholesale).  
Furniture storage and repairing premises.  
Hotel.  
Meat markets (wholesale).  
Motor showroom.  
Poultry markets (wholesale).



Produce markets (wholesale).  
Undertaker's establishment.  
Warehouse.

#### **SCHEDULE 3.**

Bread, cake and pastry manufacture.  
Boot and shoe repairing.  
Dental surgery.  
Dressmaking.  
Dry cleaning and dyeing agency.  
Electrician's workshop.  
Home industry.  
Lending library.  
Photographic studio.  
Health care consulting rooms.  
Radio mechanic's workshop.  
Service station.  
Tailoring.

*Schedule 3 amended G.G. No. 22 of 11/02/00 (LEP 252).*

#### **SCHEDULE 4.**

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

#### **SCHEDULE 5.**

Agricultural machinery manufacture.  
Asbestos cement products manufacture.  
Boiler works.  
Brick, tile and pipe manufacture.  
Brass foundry.  
Cement manufacture.  
Electric machinery manufacture.  
Engineering workshop (heavy).  
Extractive industry.  
Fireclay products manufacture.  
Glass products manufacture.  
Grain milling.  
Hardboard manufacture.  
Iron foundry.  
Machinery manufacture (heavy).  
Motor body building.

Motor vehicle manufacturing and assembly.  
Offensive or hazardous industry.  
Sawmill.  
Steel products manufacture (heavy).  
Stone cutting and crushing works.  
Wire manufacture.

#### **SCHEDULE 6.**

1. The carrying out by persons carrying on public utility undertakings, being railway undertakings, on land comprised in their undertakings of -

any development required in connection with the movement of traffic by rail, including the construction, reconstruction, alteration, maintenance and repair of ways, works and plant;

the erection within the confines of a railway station of buildings for any purpose;

the erection, reconstruction and alteration of buildings for railway undertaking purposes with Zone No. 5(b) outside the limits of a railway station;

but excluding –

the construction of new railways, railway stations and bridges over roads;

the erection of any building on land not included in Zone No. 5(b);

the erection, reconstruction and alteration of buildings for purposes other than railway undertaking purposes outside the confines of a railway station and the reconstruction or alteration so as to materially affect the design of railway stations or bridges;

the formation or alteration of any means of access to a road;

the erection, reconstruction and alteration of buildings for purposes other than railway purposes where such buildings have direct access to a public place.

2. The carrying out by persons who are carrying on public utility undertakings, being water, sewerage, drainage, electricity or gas undertakings, of any of the following development, being development required for the purpose of their undertakings, that is to say -

development of any description at or below the surface of the ground;

the installation of any plant inside a building or the installation or erection within the premises of a generating station or sub-station established

before the appointed day of any plant or other structures or erections required in connection with the station or sub-station;

the installation or erection of any plant or other structures or erections by way of addition to or replacement or extension of plant or structures or erections already installed or erected, including the installation in an electrical transmission line of sub-stations, feeder-pillars or transformer housings, but not including the erection of overhead lines for the supply of electricity or pipes above the surface of the ground for the supply of water, or the installation of sub-stations, feeder-pillars or transformer housing of stone, concrete or brickwork;

the provision of overhead service lines in pursuance of any statutory power to provide a supply of electricity;

the erection of service reservoirs on land acquired or in process of being acquired for the purposes thereof before the appointed day, provided reasonable notice of the proposed erection is given to the responsible authority;

any other development except –

the erection of buildings, the installation or erection of plant or other structures or erections, and the reconstruction or alteration, so as materially to affect the design or external appearance thereof, of buildings;

the formation or alteration of any means of access to a road.

3. The carrying out by persons carrying on public utility undertakings, being water transport undertakings, on land comprised in their undertakings, of any development required in connection with the movement of traffic by water, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except -

(a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect the design or external appearance thereof;

(b) the formation or alteration of any means of access to a road.

4. The carrying out by persons carrying on public utility undertakings, being wharf or river undertakings, on land comprised in their undertakings, of any development required for the purposes of shipping or in connection with the embarking, loading, discharging or transport of passengers, livestock or goods at a wharf or the movement of traffic by a railway forming part of the undertaking, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, works and plant, except -

the construction of bridges, the erection of any other buildings, and the reconstruction or alteration of bridges or of buildings so as materially to affect the design or external appearance thereof;

the formation or alteration of any means of access to a road.

5. The carrying out by persons carrying on public utility undertakings, being air transport undertakings, on land comprised in their undertakings within the boundaries of any aerodrome, of any development required in connection with the movement of traffic by air, including the construction, reconstruction, alteration, maintenance and repair of ways, buildings, wharves, works and plant required for that purpose, except -

(a) the erection of buildings and the reconstruction or alteration of buildings so as materially to affect the design or external appearance thereof;

(b) the formation or alteration of any means of access to a road.

6. The carrying out by the owner or lessee of a mine, on the mine, of any development required for the purposes of the mine, except -

(a) the erection of buildings (not being plant or other structures or erections required for the mining, working, treatment or disposal of minerals) and the reconstruction, alteration or extension of buildings so as materially to affect the design or external appearance thereof;

(b) the formation or alteration of any means of access to a road.

7. The carrying out of any development required in connection with the construction, reconstruction, improvement, maintenance or repair of any county road or other road, except the widening, realignment or relocation of such road.

8. The carrying out of any forestry work by the Forestry Commission, School Forest Trust or Community Forest Authorities empowered under relevant Acts to undertake afforestation, roading protection, cutting and marketing of timber and other forest development and utilisation within areas dedicated for forestry purposes under such Acts or upon any Crown land temporarily reserved from sale as a timber reserve under the Forestry Act, 1916, as amended by subsequent Acts.

9. The carrying out by a Pastures Protection Board of any development required for the improvement and maintenance of travelling stock and water reserves, except -

the erection of buildings and the reconstruction or alteration of buildings, so as materially to affect the design or purpose thereof;

any purpose designed to change the use or purpose of any such reserves.

#### **SCHEDULE 7**

Community facilities

Water, sewerage and drainage works.

Local open space.

Public car parks.

Embellishment of local open space and public car parks.

Roads, traffic management facilities and systems.

*Schedule 7 added G.G. No. 155 of 15/11/85 (LEP 130).*