

PENRITH LOCAL ENVIRONMENTAL PLAN NO. 85

**Government Gazette No. 147 of 28th October, 1983.
As amended.**

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

PENRITH LOCAL ENVIRONMENTAL PLAN No. 85

I, the Minister for Planning and Environment, in pursuance of section 70 of the Environmental Planning and Assessment Act, 1979, make the local environmental plan set out hereunder. (78-10745)

ERIC BEDFORD,
Minister for Planning and Environment.

Sydney, 28th October, 1983.

PENRITH LOCAL ENVIRONMENTAL PLAN No. 85

PART 1

PRELIMINARY

Citation

1. This plan may be cited as "Penrith Local Environmental Plan No. 85".

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

1A. In the event of an inconsistency between this plan 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)).

Aims, objectives, etc.

2. The aims and objectives of this plan are –
 - (a) to make further provision for the orderly and economic development of the land to which this plan applies;
 - (b) to ensure that public utility services, such as electricity, roads, water, sewerage, gas and drainage, are provided for that land;
 - (c) to minimize any adverse environmental impact which development may have upon adjoining land or land in the locality of the land to which this plan applies;

- (d) to provide for the enhancement of the social and physical environment and to achieve the health and general welfare of the population through the provision of land for educational, open space, and community services and facilities, on the basis of community need;
- (e) to provide roads for effective, convenient and safe access and efficient servicing by public authorities; and
- (f) to provide land for a local business centre to encourage the location of an easily accessible supply of goods and services.

Land to which plan applies

3. This plan applies to land in the vicinity of Erskine Park Road, South St Marys, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 85" deposited in the office of the Council of the City of Penrith.

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

Penrith Local Environmental Plan 1998 (Urban Land).

Clause 3(2) added G.G. No. 4 of 8/1/99 (LEP 1998 (Urban Land)).

Variation of Interim Development Order No. 93 - Penrith

4. (1) This plan amends Interim Development Order No. 93 – Penrith by excluding from the operation of that order so much of the land to which this plan applies as it land to which that order applies.

(2) Interim Development Order No. 93 – Penrith is amended by inserting at the end of clause 1A the following words:

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

Arrangement

5. This plan is divided as follows:

PART 1 – PRELIMINARY – *cll. 1-8.*

PART 11 – GENERAL RESTRICTIONS ON DEVELOPMENT OF LAND
– *cl. 9.*

PART 111 – SPECIAL PROVISIONS – *cll. 10-20.*
SCHEDULE.

Adoption of Model Provisions

6. The Environmental Planning and Assessment Model Provisions, 1980, (clause 15 excepted) are adopted for the purposes of this plan.

Clause 6 amended G.G. No. 104 of 19/6/87 (Sydney Regional Environmental Plan No. 12 – Dual Occupancy).

Interpretation

7. (1) In this plan, except in so far as the context or subject-matter otherwise indicates or requires –

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

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

“gross retail floor space” means the sum of the areas of each floor of a building used for retail selling and includes all wall thicknesses, vents, ducts, staircases and lift wells, but does not include –

- (a) any car parking spaces in the building provided to meet the standards required by the council (but not spaces provided in excess of those standards) or any internal access thereto;
- (b) space used for the loading or unloading of goods; or
- (c) lift towers, cooling towers, machinery and plant rooms and any storage space related thereto;

“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 for the purposes of the physical, cultural or intellectual welfare of the community to provide recreational facilities for those purposes,

but does not include racecourses;

“recreation area” definition added G.G. No. 84 of 21/7/89 (LEP 192).

“specialty shops” means shops playing a supportive role within a shopping centre but does not include establishments commonly known as supermarkets or discount department stores;

“the map” means the map marked “Penrith Local Environmental Plan No. 85” deposited in the Office of the Council, as amended by the maps so deposited and marked as follows:

Penrith Local Environmental Plan No. 192;

Local Environmental Plan No. 228 Penrith

“the map” definition amended G.G. No. 84 of 21/7/89 (LEP 192) and G.G. No. 53 of 31/3/94 (LEP 228).

“zone” means land referred to in Column 1 of the Table to clause 9 and shown on the map by distinctive colouring or edging or in some other distinctive manner as referred to in that column for the purpose of indicating any restrictions imposed by this plan on the development of land.

(2) A reference in this plan to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose.

Consent authority

8. The council shall be the consent authority for the purposes of this plan.

PART 11

GENERAL RESTRICTIONS ON DEVELOPMENT OF LAND

9. Except as otherwise provided in this plan, the purposes –
- (a) for which development may be carried out without development consent;
 - (b) for which development may be carried out only with development consent; and
 - (c) for which development is prohibited, on land within a zone specified in Column I of the Table to this clause are respectively shown opposite that zone in Columns II, III and IV of that Table.

TABLE

Column I	Column II	Column III	Column IV
Zone and colour or indication on the map	Purposes for which development may be carried out without development consent	Purposes for which development may be carried out only with development consent	Purposes for which development is prohibited
2. RESIDENTIAL: (d) Residential "D". Light scarlet with dark red edging and lettered 2 (d).	Dwelling-houses	Child care centres; community facilities; drainage; educational establishments; home industries; home occupations; places of assembly; places of public worship; professional consulting rooms; recreation areas; roads; units for aged persons of single or double storey construction; utility installations (other than gas holders or generating works).	Any purpose other than those included in Column II or III.
3. BUSINESS: (c) Local Business "C". Light blue with dark red edging and lettered 3(c).	_____	Child care centres; commercial premises; professional consulting rooms; recreation establishments; refreshment rooms; restaurants; service stations; shops.	Any purpose other than those included in Column III.
5. SPECIAL USES: (a) Special Uses "A". Yellow and lettered 5(a).	_____	Any purpose authorized by Division 2 or 3 of Part XIII of the Local Government Act, 1919; drainage; parking; roads; the particular purpose indicated by scarlet lettering on the map; utility installations (other than gas holders or generating works).	Any purpose other than those included in Column III.
(b) Special Uses "B" (Roads). Grey and lettered 5(b).	Any purpose authorised by Part IX of the Local Government Act, 1919; drainage; roads; utility installations.	_____	Any purpose other than those included in Column II.

Column I	Column II	Column III	Column IV
Zone and colour or indication on the map	Purposes for which development may be carried out without development consent	Purposes for which development may be carried out only with development consent	Purposes for which development is prohibited
6. OPEN SPACE: (b) Proposed Recreation. Light green with dark green edging and lettered 6 (b).	Children's playgrounds; drill grounds; gardens; parks; public baths; public reserves; sports-grounds; uses of buildings associated with such purposes being uses or buildings which are under the care, control and management of the council.	Drainage; parking incidental to recreation; roads; utility installations (other than gas holders or generating works).	Any purpose other than those included in Column II or III.

Zone No. 2(d) amended G.G. No. 84 of 21/7/89 (LEP 192).

Zone No. 3(c) amended G.G. No. 50 of 28/4/95 (LEP 235) and G.G. No. 144 of 24/12/99 (LEP 256).

PART 111.

SPECIAL PROVISIONS

Minimum site areas

10. (1) A dwelling-house shall not be erected on an allotment of land having an area or less than 550 square metres.

(2) For the purposes of subclause (1), the area of the access corridor shall not be taken into account in calculating the area of a hatchet-shaped allotment.

Preservation of trees

11. (1) Notwithstanding clause 8 of the Environmental Planning and Assessment Model Provisions, 1980, a person shall not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree except with the consent of the council.

(2) In any proceedings for an offence against this clause it shall be sufficient defence to prove that the tree ringbarked, cut down, topped, lopped, removed, injured or wilfully destroyed was dying or dead or had become dangerous.

(3) In this clause, "tree" means a perennial plant with a self-supporting stem which –

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

Subdivision of land

12. Notwithstanding State Environmental Planning Policy No. 4 – Development Without Consent, a person shall not subdivide land to which this plan applies without the consent of the council.

Flood prone lands

13. A person shall not, on land shown by hatching on the map, carry out development for the purpose of building construction or improvement or for the purpose of subdividing the land to create residential allotments, unless arrangements satisfactory to the council have been made for the carrying out of flood mitigation works in respect of the land.

Roads

14. (1) A person shall not subdivide land to which this plan applies unless any proposed road on the land shown by parallel broken black lines on the map is constructed to the satisfaction of the council generally in the location shown on the map.

(2) A person shall not construct a means of access and egress across the boundary of Erskine Park Road to and from any allotment created in a subdivision of land to which this plan applies.

(3) The council may require, when granting consent to development for the purposes of the subdivision of land to which this plan applies, as a condition of that consent, the construction, at no cost to the council, of a half-width road carriageway and kerbs and guttering on roads having frontage to such of that land as is within Zone No. 5 (a) and as is shown on the map lettered "School" in scarlet lettering.

Local Business – Zone No. 3 (c)

15. Notwithstanding any other provision of this plan, the council shall not consent to the erection of shops on land within Zone No. 3 (c) unless the total gross retail floor space of shops within Zone No. 3 (c) will not exceed 6000 square metres which will include a maximum of 1500 square metres of gross retail floor space of specialty shops.

Acquisition of land

16. (1) The owner of land within Zone No. 5 (a) (other than land to which subclause (2) relates), 5 (b) or 6 (b) may, by notice in writing, require the council to acquire that land.

(2) The owner of land within Zone No. 5 (a) in relation to which the word "School" appears on the map in scarlet lettering may, by notice in writing, require the Minister for Education to acquire that land.

(3) Upon receipt of a notice referred to in subclause (1) or (2), the council or the Minister for Education, as the case may be, shall acquire the land to which the notice relates.

Water and electricity supply, telephone facilities, etc.

17. (1) The council when granting consent to the carrying out of development on land to which this plan applies shall impose a condition that arrangements satisfactory to the Metropolitan Water, Sewerage and Drainage Board and the council have been made with the Board and the council by the owner of the land, and where the applicant for development consent is not the owner, by that applicant also, for the amplification and reticulation of water and sewerage services to that land.

(2) The council may require as a condition of its consent to the carrying out of development on land to which this plan applies that arrangements satisfactory to the Prospect County Council be made with that council by the owner of the land and, where the applicant for development consent is not the owner, by that applicant also, for the provision of underground low voltage electricity reticulation supply to the land.

(3) Neither an owner nor an applicant shall be required, by reason of a condition imposed under subclause (2), to contribute more than the difference between the cost of overhead low voltage electricity reticulation to land and the cost of underground low voltage electricity reticulation to the land.

(4) The council may require as a condition of its consent to the carrying out of any development on land to which this plan applies that arrangements satisfactory to Telecom Australia be made by the owner of the land for the provision of underground telephone services to the land.

Payment towards provision or improvement of amenities or services.

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

Development of land on zone boundaries

19. (1) This clause applies to land within Zone No. 2 (d), 3 (c), 5 (a), 5 (b) or 6 (b).

(2) Development may, with the consent of council, be carried out on land within a zone referred to in subclause (1) for any purpose which may be carried out in any adjoining zone referred to in subclause (1) within 20 metres of the boundary of that zone.

(3) The council shall not consent to development referred to in subclause (2) unless –

- (a) the development is desirable, in the opinion of council, due to planning, design, ownership, servicing or similar requirements relating to the optimum development of land to which this plan applies; and
- (b) an area of land, sufficient and suitable in the opinion of the council, is provided elsewhere in the immediate vicinity of the development for the purposes for which the land on which that development is carried out is zoned.

Community use of school sites

20. Notwithstanding any other provision of this plan, the council may consent to –

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

Schedule 1

(Clause 18)

Category A

Those services and facilities which are required to convert the land from a rural state to one capable of accommodating a planned residential development, including –

Community facilities.

Drainage reserves and drains.

Electricity services.

Public reserves.

Roadworks, including the upgrading of Erskine Park Road and any such works necessitated by the construction of new roads intersecting with Erskine Park Road and roadworks adjacent to land zoned 5 (a) Special Uses (School).

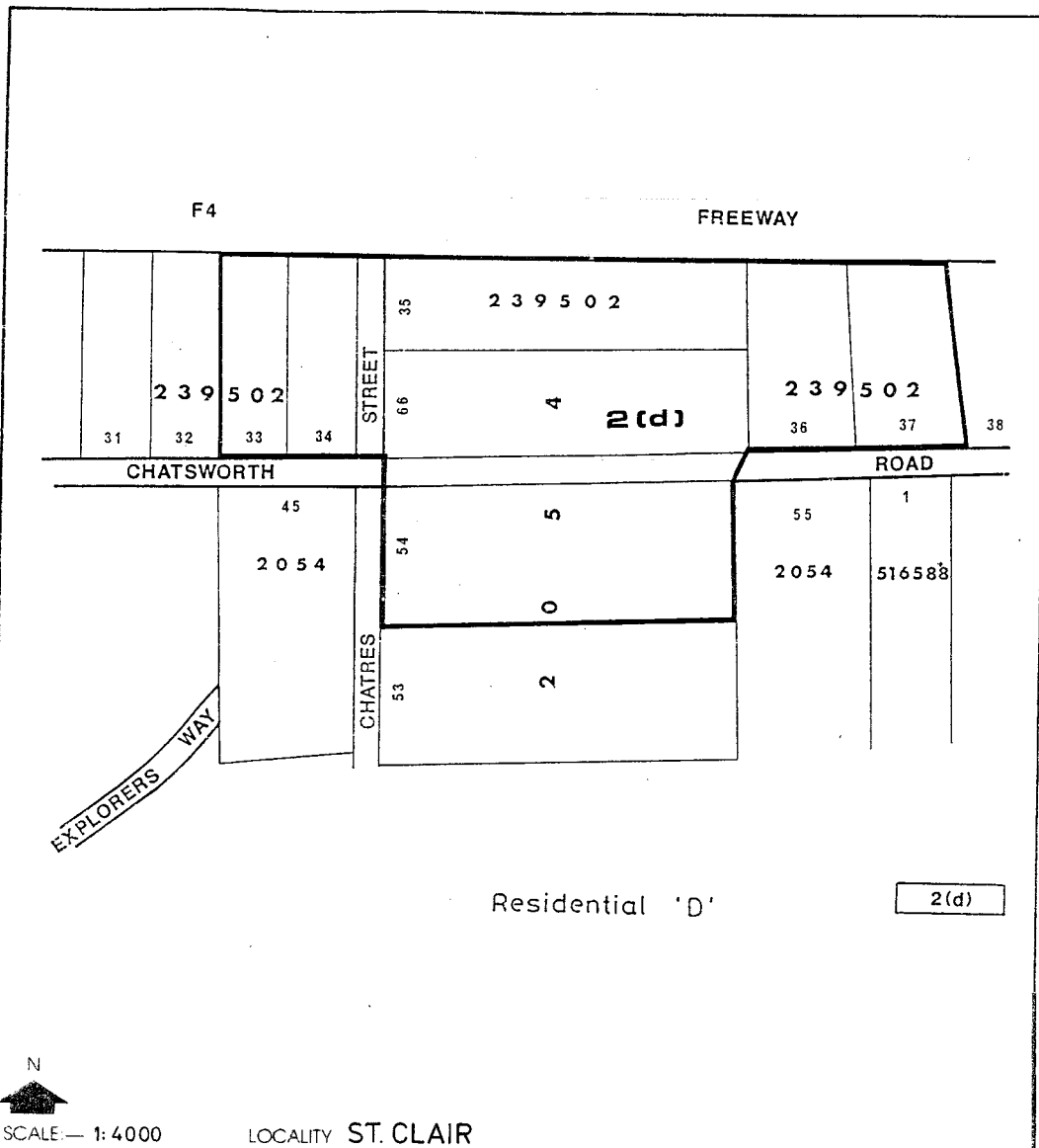
Category B

Those services and amenities needed to facilitate the development of the area to which this plan applies and to provide for the needs of the population, including –

Community centres; child care centres; youth centres.

Embellishment and landscaping of and infrastructure relating to public open space.

Serviced residential land for community facilities.

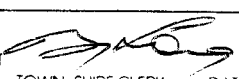


SCALE — 1:4000

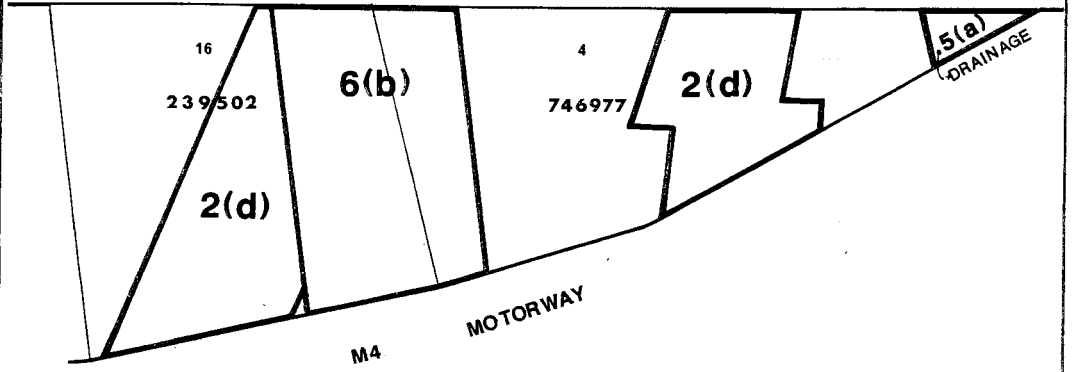
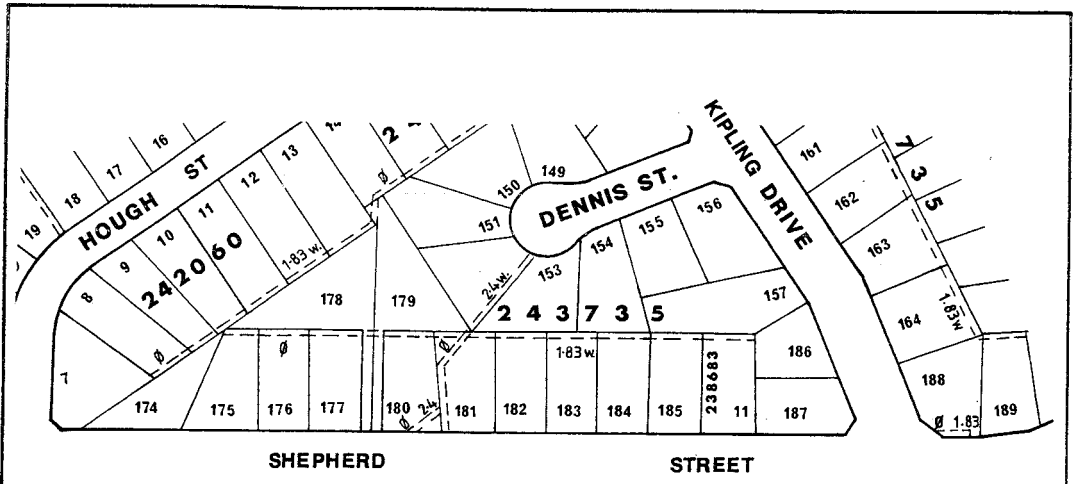
LOCALITY ST. CLAIR

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979
CITY OF PENRITH

LOCAL ENVIRONMENTAL PLAN No. 192

DRAWN BY C. Horne	DATE 29-3-1989	STATEMENT OF RELATIONSHIP WITH OTHER PLANS
SUPERVISING DRAFTSMAN G. Capsanis		Amends Local Environmental Plan No.85
PLANNING OFFICER B. McDonald.		
COUNCIL FILE NO. 4107-14		
DEPT. FILE NO. 88/1537		CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS.
GOVT. GAZETTE OF 21-7-89		
		TOWN SHIRE CLERK  DATE 29-3-1989

FORM LEP



- RESIDENTIAL 'D' 2(d)
- SPECIAL USES 'A' 5(a)
- OPEN SPACE (proposed) 6(b)

N

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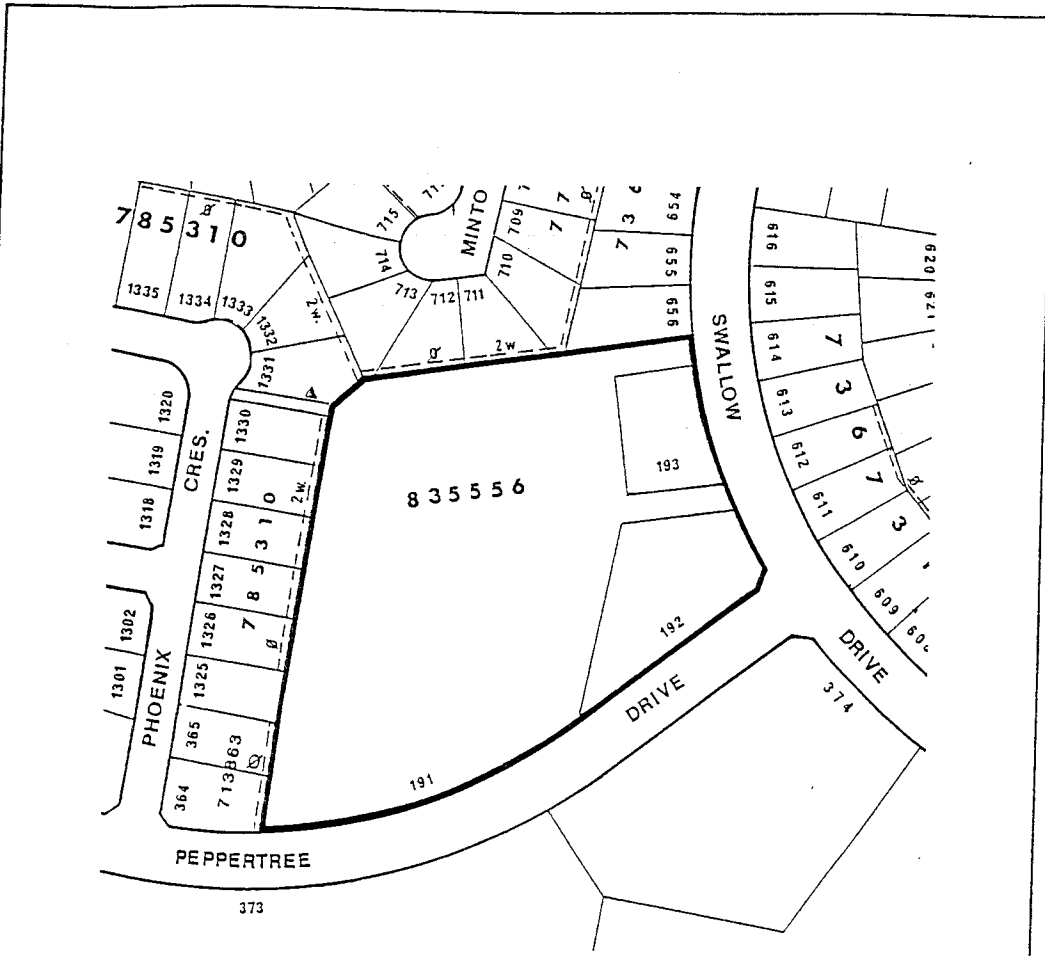
LOCALITY COLYTON

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979
 CITY OF PENRITH

LOCAL ENVIRONMENTAL PLAN No. 228

DRAWN BY C. Horne SUPERVISING DRAFTSMAN G. Capsanis PLANNING OFFICER B McDonald COUNCIL FILE NO. D.72400/54694 RZ1 DEPT. FILE NO P. 93/00032 GOVT. GAZETTE OF 31-3-94	DATE 15-12-1993	STATEMENT OF RELATIONSHIP WITH OTHER PLANS Amends Local Environmental Plan No. 85 CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS <div style="text-align: right;"> TOWN CLERK DATE 15-12-1993 </div>
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FORMAL



Subject Land edged thus..... 



SCALE — 1:2000

LOCALITY **ERSKINE PARK**

ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979

CITY OF PENRITH

LOCAL ENVIRONMENTAL PLAN No. 235

DRAWN BY C. Horne	DATE 17-10-1994	STATEMENT OF RELATIONSHIP WITH OTHER PLANS Amends Local Environmental Plan No 85
SUPERVISING DRAFTSMAN G. Capsanis		
PLANNING OFFICER R Nethercote		
COUNCIL FILE NO 930517		
DEPT FILE NO P94/00230/001		CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS <i>R Nethercote</i> TOWN CLERK DATE 24-3-1995
GOVT GAZETTE OF 28-4-1995		

FORM LEF