

PENRITH LOCAL ENVIRONMENTAL PLAN NO. 96

**Government Gazette No. 15 of 3rd February 1984.
As amended**

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

PENRITH LOCAL ENVIRONMENTAL PLAN NO. 96

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. (81-7813)

ERIC BEDFORD,
Minister for Planning and Environment.

Sydney, 3rd February, 1984.

PENRITH LOCAL ENVIRONMENTAL PLAN No. 96

PART 1

PRELIMINARY

Citation

1. This plan may be cited as "Penrith Local Environmental Plan No. 96".

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 for residential purposes;
 - (b) to provide for flexibility in housing choice by allowing for the erection of a variety of residential forms including, but not limited to, dwelling-houses, townhouses, villa houses, cluster houses and other forms of group housing;

- (c) 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 establishments, open space and community services and facilities;
- (d) to ensure the provision of public utility services such as electricity, roads, water, sewerage, gas, telephone and drainage to the land to which this plan applies;
- (e) to minimise any adverse environmental impact which development may have upon adjoining or adjacent land or land in the locality of the land to which this plan applies;
- (f) to provide land for a local business centre to encourage the location of an easily accessible supply of goods and services; and
- (g) to provide roads for effective, convenient and safe access and efficient servicing by public authorities.

Land to which plan applies

3. This plan applies to land in the vicinity of Gipps Street, Werrington, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 96" 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)).

Relationship to other environmental planning instruments

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 is land to which that Order applies.

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

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

Arrangement

5. This plan is divided as follows:

PART 1. – *Preliminary – cl. 1-8.*

PART II. – *General Restrictions on Development of Land – cl. 9.*

PART III. – *Special Provisions – cl. 10-21.*

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, other than the definitions of “health care professional”, “map” and “professional consulting rooms” in clause 4(1) of those Model Provisions.

Clause 6 amended G.G. No. 104 of 19/6/87 (SREP 12) and G.G. No. 22 of 11/2/00 (LEP 252).

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;

“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. 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).

“local shopping facility” means a shop selling only small consumer goods;

“local shopping facility” definition added G.G. No. 98 of 28/6/91 (LEP 210).

“the map” means the map marked “Penrith Local Environmental Plan No. 96”, as amended by the maps marked as follows:

Penrith Local Environmental Plan No. 140.

“the map” definition amended G.G. No. 131 of 15/8/86 (LEP 140).

“zone” means land referred to in Column I of the Table to clause 11 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 –
 - (a) to a building or place used for a purpose includes a reference to a building or place intended to be used for the purpose;
 - (b) to a map is a reference to a map deposited in the office of the council; and
 - (c) to land within a zone specified in Column I of the Table to clause 9 is a reference to land shown on the map in the manner indicated in that Column of the Table as applicable to indicate land of the zone so specified.

Consent authority

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

PART II

GENERAL RESTRICTIONS ON DEVELOPMENT OF LAND

Carrying out of development

9. Except as otherwise provided in this plan, the purposes -
- (a) for which development may be carried out with 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 other indication on the map.	Purposes for which development may be carried out only 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; local shopping facilities; places of assembly; places of public worship; health care consulting rooms; residential flat buildings; roads; utility installations (other than gas holders or generating works).	Commercial premises (other than health care consulting rooms); any other purpose not 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; health care consulting rooms; recreation establishments; refreshment rooms; restaurants; shops; taverns.	Any purpose other than those included in Column III.
5. SPECIAL USES: (a) Special Uses "A". Yellow and lettered 5(a).	_____	Any purpose authorised by Division 2 or 3 of Part XIII of the Local Government Act, 1919; drainage; local shopping facilities (within areas indicated for community purposes on the map); parking; roads; the particular purpose indicated by lettering on the map; utility installations (other than gas holders or generating works).	Any purpose other than those included in Column III.
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; sportsgrounds; uses of buildings associated with these purposes which are under the care, control and management of 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.

Column I	Column II	Column III	Column IV
Zone and colour or other indication on the map.	Purposes for which development may be carried out only without development consent.	Purposes for which development may be carried out only with development consent.	Purposes for which development is prohibited.
9. RESERVATIONS: (a) County Roads Reservation. Black and white bands between firm black lines.	County road widening; county roads.	Drainage; 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. 98 of 28/6/91 (LEP 210) and G.G. No. 22 of 11/2/00 (LEP 252).

Zone No. 3(c) amended G.G. No. 22 of 11/2/00 (LEP 252).

Zone No. 5(a) amended G.G. No. 98 of 28/6/91 (LEP 210).

PART III

SPECIAL PROVISIONS

Subdivision of land

10. A person shall not subdivide land to which this plan applies without the consent of the council.

Residential flat buildings – Zone No. 2 (d)

11. The council shall not consent to the development of an allotment of land within Zone No. 2 (d) for the purposes of a residential flat building unless –

- (a) the residential flat building comprises dwellings commonly known as townhouses or villa homes;
- (b) the ratio of the number of dwellings proposed to be constructed to the area of that allotment is not more than 30 dwellings per hectare; and
- (c) the residential flat building, together with any other residential flat building within that zone in respect of which development consent has been granted after the appointed day and has not lapsed, would not, exceed 10 per cent of the total number of dwellings within that zone.

Minimum site areas

12. (1) Except as provided in subclause (2), a dwelling-house shall not be erected on an allotment of land having an area of less than 560 square metres.

(2) The council may consent to a detached dwelling-house being erected on an allotment of land having an area of not less than 232 square metres where development surrounding the allotment includes town houses or villa units.

Local business – Zone No. 3(c)

13. The total gross retail floor area of shops within Zone No. 3 (c) shall not exceed 650 square metres.

Preservation of trees

14. (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.

Noise abatement

15. (1) This clause applies to land within Zone No. 2 (d) in the vicinity of The Great Western Highway, the Western Freeway and Gipps Street.

(2) A person shall not -

- (a) subdivide land to which this clause applies; or
- (b) erect a dwelling on land to which this clause applies, unless –
- (c) the L10 (18 hour) traffic noise level when measured at any point on the external façade of any habitable room contained in any dwelling erected or at the position where the external façade of

any habitable room contained in any dwelling proposed to be erected would be erected on the land is less than 60dB(A); and

- (d) where the L10 (18 hour) traffic noise level when measured at any point on the external façade of any habitable room contained in any dwelling erected or proposed to be erected on the land exceeds 50dB(A) –
 - (i) that room is so designed as to ensure interior noise levels satisfactory to the council; or
 - (ii) other measures satisfactory to the council have been taken to reduce noise levels to less than 60dB(A).

(3) For the purposes of this clause, “habitable rooms” means bedrooms, living rooms and the like, but does not include bathrooms, kitchens, laundries, hallways and the like.

Roads

16. (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 boundaries of the Great Western Highway, the Western Freeway or any land within Zone No. 9 (a) to and from any allotment of land 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.

(4) On completion of the proposed collector road network shown in part on the map by parallel broken lines, the existing junction of O’Connell Street with Kent Road shall be closed.

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 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) 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.

Acquisition and development of land within Zone No. 5 (a), 6 (b) or 9 (a)

18. (1) The owner of any land within Zone No. 5 (a), (b) or 9 (a) may, where the particular purpose indicated on the map with respect to that land is specified in Column I of the Table to this subclause, require by notice in writing the public authority specified in Column II of that Table opposite the description of that purpose to acquire the land.

TABLE

Column I	Column II
Special purposes – drainage and community uses.	Council.
Special purposes – “P.C.C.” (substation).	Prospect County Council.
Special purposes – School.	New South Wales Department of Education.
Open Space – Proposed Recreation.	Council.
County Road widening. County Road.	Department of Main Roads. Department of Main Roads.

(2) Except as provided by subclause (1), on receipt of a notice referred to in subclause (1), the public authority concerned shall acquire the land.

(3) In respect of land within Zone No.9 (a), where it appears to the council that the purpose for which land is reserved cannot be carried out within a reasonable time after the appointed day, development may be carried out with the consent of the council and the concurrence of the Department of Main Roads.

(4) The owner of any land within Zone No. 9 (a) in respect of which the council has refused its consent under this clause may, by notice in writing, require the Department of Main Roads to acquire that land and that Department on receipt of that notice shall acquire the land to which it relates.

(5) A consent referred to in subclause (3) shall not be granted unless the council is satisfied that proper arrangements have been made (whether by the imposition of conditions under section 91 of the Act or otherwise) with respect to any one or more of the following:-

- (a) the removal or alteration of any building, work or excavation to be erected or carried out on the land pursuant to the consent;
- (b) the reinstatement of the land;
- (c) the removal of any waste material or refuse from the land.

(6) The Department of Main Roads in considering whether to grant concurrence referred to in subclause (3) shall take into consideration whether the arrangements referred to in subclause (5) are adequate having regard to the purpose for which the land is reserved.

Payment towards provision or improvement of amenities or services

19. 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

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

(2) Development may, with the consent of the 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 the 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

21. 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.

Local shopping facilities

(1) This clause applies to all the land within Zone No. 2(d) Residential "D" or 5(a) Special Uses "A" (Community Uses).

(2) The council shall not grant consent to the establishment of a local shopping facility on land to which this clause applies where the gross retail floor space of the facility exceeds 200 square metres or the facility located less than 1 kilometre from any similar shopping facility established in the area.

"Local shopping facilities" clause added G.G. No. 98 of 28/6/91 (LEP 210).

Schedule 1

(Clause 19)

Category A

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

Community facilities.

Drainage reserves and drains, including the construction of trunk drainage works along Claremont Creek and its tributaries between the Western Freeway and The Great Western Highway.

Electricity services.

Public reserves.

Roadworks, including the upgrading of Gipps Street and construction of the proposed Gipps Street extension and its intersection with the Great Western Highway, and traffic control signals at this intersection, and any such works necessitated by the construction of new roads intersecting with Gipps Street.

Sewer and water services.

Category B

Those services and amenities needed to facilitate the development of the area to which the plan relates and to provide for the needs of the population, including:

Activity centres.

Before and after school and holiday activity facilities.

Child care centres.

Community arts facilities.

Community halls.

Cycleways.

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

Indoor sports facilities.

Information and orientation services.

Libraries.

Lighting.

Meeting places.

Outdoor recreation facilities.

Parking spaces.

Playgroup facilities.

Self-help groups' facilities.

Serviced residential land for community facilities.

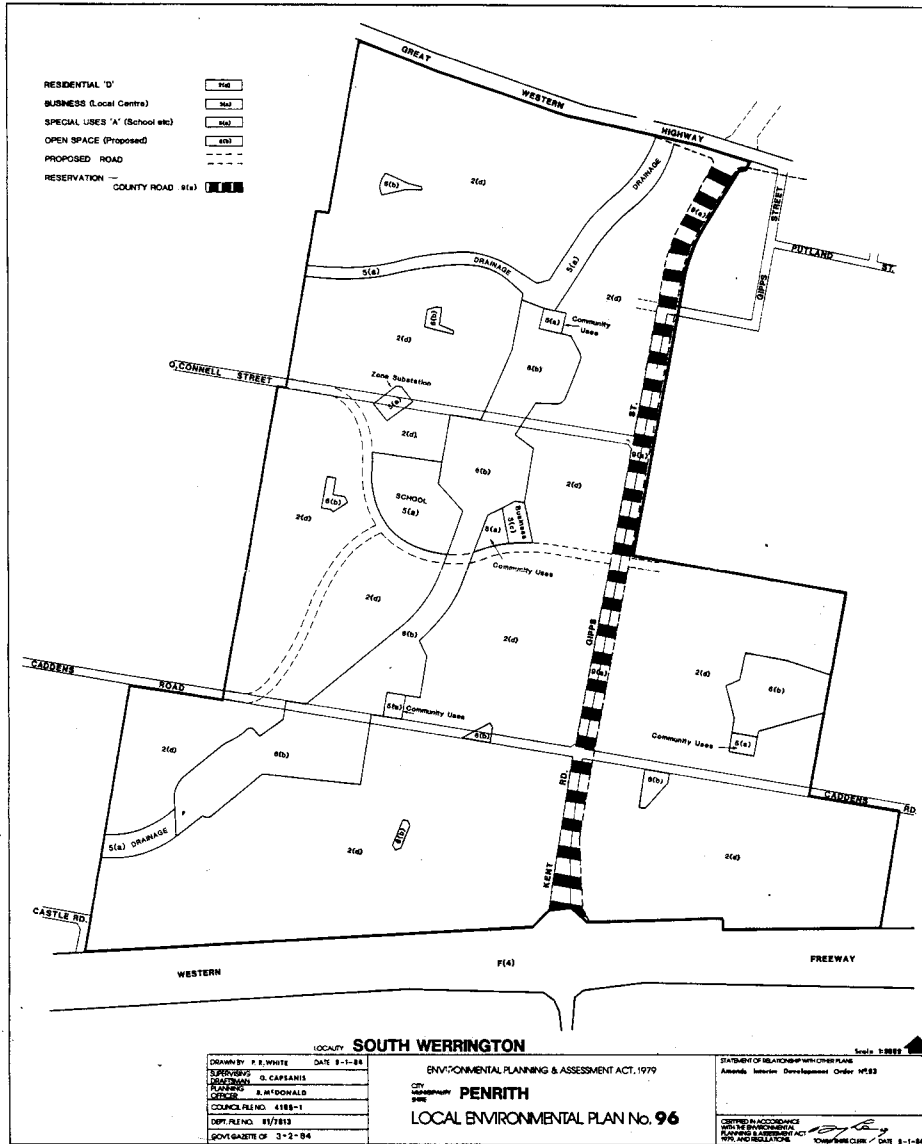
Special interest groups' facilities.

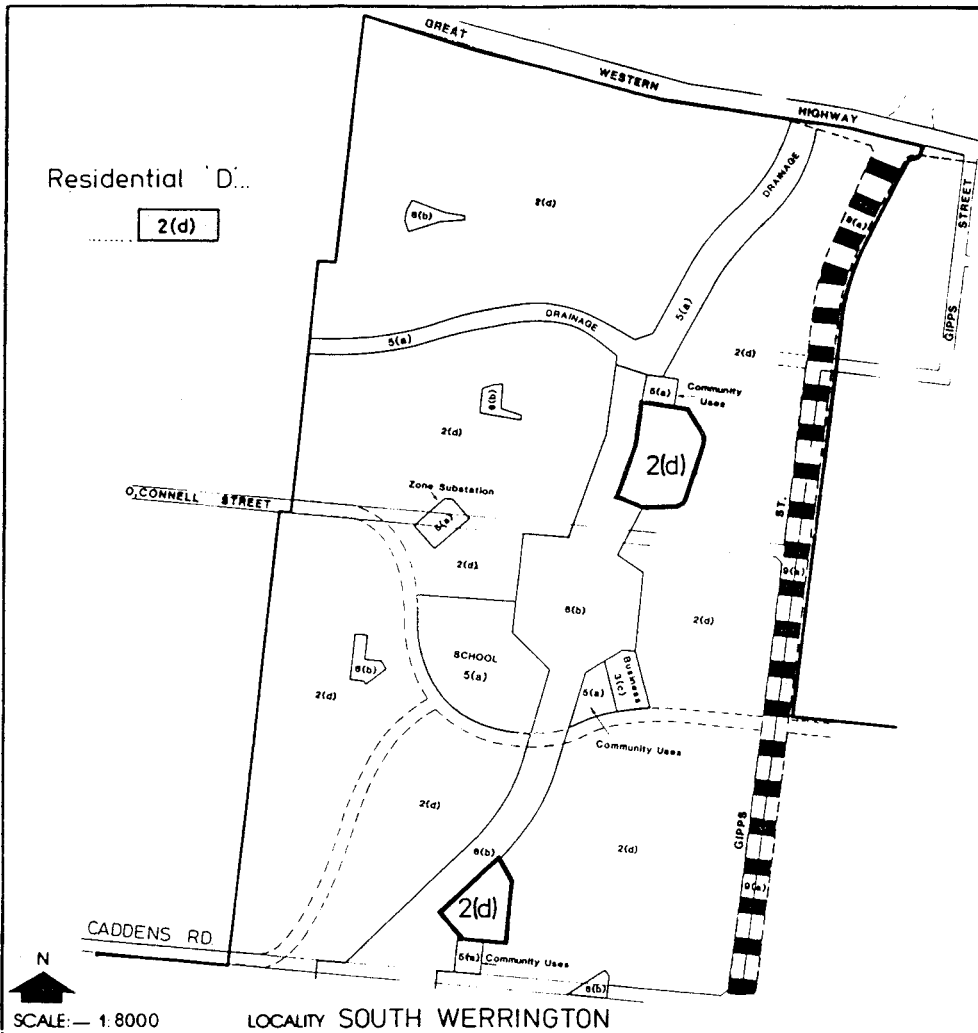
Toy libraries.

Walkways.

Welfare agencies.

Youth centres.





SCALE: — 1:8000		LOCALITY SOUTH WERRINGTON	
ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979			
CITY OF PENRITH			
LOCAL ENVIRONMENTAL PLAN No. 140			
DRAWN BY	C. HORNE	DATE	6-2-86
STATEMENT OF RELATIONSHIP WITH OTHER PLANS		AMENDS LOCAL ENVIRONMENTAL PLAN No 96 CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS TOWN <i>Penrith</i> DATE 6-2-86	
SUPERVISING DRAFTSMAN	G. CAPSANIS		
PLANNING OFFICER	B McDonald		
COUNCIL FILE NO	4105/1		
DEPT FILE NO	81/7813 (2)1		
GOVT GAZETTE OF	15-8-86		

FORM LEP