

PENRITH LOCAL ENVIRONMENTAL PLAN NO. 52

**Government Gazette No. 101 of 30th July 1982.
As amended**

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

PENRITH LOCAL ENVIRONMENTAL PLAN NO. 52

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. (76-20197)

ERIC BEDFORD,
Minister for Planning and Environment.

Sydney, 30th July, 1982.

PENRITH LOCAL ENVIRONMENTAL PLAN NO. 52 PART 1

PRELIMINARY

Citation

1. This plan may be cited as "Penrith Local Environmental Plan No. 52".

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)).

1B Land to which this plan does not apply

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

Penrith Local Environmental Plan 1998 (Urban Land).

Clause 1B added G.G. No. 4 of 06/01/06 (LEP 1998 (Urban Land)(Amendment No. 18)).

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 the plan applies for residential purposes;
- (b) to allow for the erection of a variety of residential forms including but not limited to dwelling-houses, town-houses, villa houses, cluster houses and other forms of group housing;
- (c) to provide for the enhancement of the environment 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 and drainage to the land; and
- (e) to minimize any adverse environmental impact which development may have upon adjoining land or land in the locality of the land to which the plan applies.

Land to which plan applies

3. This plan applies to land in the vicinity of Mamre Road, South St Marys, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 52" deposited in the office of the council.

Variation of Interim Development Order No. 28 – City of Penrith

4. (1) This plan varies Interim Development Order No. 28 – City of 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. 28 – City of Penrith is amended by inserting after clause 1 the following clause:

1A. Nothing in this order applies to land in the vicinity of Mamre Road, South St Marys, as shown edged heavy black on the map marked "Penrith Local Environmental Plan No. 52" deposited in the office of the council.

Arrangement

5. This plan is divided as follows:

PART I. – PRELIMINARY-*cll.* 1-8.

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

PART III. – 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;

“professional suites” means a room or rooms used for the purposes of consultation by a professional person such as a medical practitioner, dentist, physiotherapist, lawyer, accountant, architect, planning consultant, engineer or the like;

“the map” means the map marked “Penrith Local Environmental Plan No. 52” deposited in the office of the council;

“zone” means land referred to in Column I 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 the 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 II

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).	-----	Child care centres; community facilities; drainage; dwelling-houses; educational establishments; home industries; home occupations; places of assembly; places of public worship; professional consulting rooms; roads; units for aged persons of single storey construction; utility installations (other than gas holders or generating works).	Any purposes 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; parking; roads; the particular purpose indicated by scarlet lettering on the map and any purpose incidental or subsidiary thereto; utility installations (other than gas holders or generating works).	Any purposes 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 purposes other than those included in Column II.
6. OPEN SPACE: (B) Proposed Recreation. Light green with dark green edging and lettered 6(b).	Any purpose authorised by Division 2 or 3 of Part XIII of the Local Government Act, 1919.	Community facilities; drainage; parking incidental to recreation; roads; utility installations (other than gas holders or generating works).	Any purposes other than those included in Column II or III.

Zone No. 6(b) amended G.G. No. 15 of 24/1/86 (LEP 135).

PART III SPECIAL PROVISIONS

Residential flat buildings – Zone No. 2 (d)

10. (1) The council shall not consent to the erection of a residential flat building on an allotment of land within Zone No. 2(d) unless –

- (a) the residential flat building comprises dwellings commonly known as town-houses or villa houses;
- (b) the allotment of land has an area of not less than 7500 square metres and not more than 1.5 hectares; and
- (c) the ratio of the number of dwellings proposed to be constructed to the area of that allotment is not more than 22 dwellings per hectare.

(2) The council shall not consent to the erection of a residential flat building on land within Zone No. 2 (d) where that development 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 (being development consent for the erection of residential flat buildings other than residential flat buildings referred to in clause 11), would exceed 20 per cent of the total number of dwellings within that zone.

Residential flat buildings containing 2 dwellings – Zone No. 2(d)

11. Notwithstanding the provisions of clauses 9 and 10, the council may approve of the development of an allotment of land within Zone No. 2 (d) for the purpose of a residential flat building containing not more than 2 dwellings where –

- (a) in the case of an allotment having frontage to only 1 road – the area of the allotment is not less than 800 square metres and the width of the allotment is not less than 20 metres measured at a distance of 7.5 metres from the boundary of the allotment with that road;
- (b) in the case of an allotment having frontage to 2 roads – the area of the allotment is not less than 960 square metres;
- (c) the floor space of the proposed residential flat building does not exceed 50 per cent of the total area of the site; and
- (d) it is proposed that the building be subdivided under the provisions of the Strata Titles Act, 1973.

Minimum site areas

12. (1) A dwelling-house shall not be erected on any allotment of land having an area of less than 550 square metres and a width of less than 15 metres at the front alignment of the building.

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

Preservation of trees

13. (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 to which this clause applies except with the consent of the council.

(2) In any proceedings under 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) For the purposes of 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 ground; or
- (b) has a height in excess of 3 metres.

Landscaping – Zone No. 2(d)

14. Where land within Zone No. 2(d) having frontage to Mamre Road is subdivided, arrangements to the satisfaction of the council shall be made for the planting of trees and shrubs and landscaping of land separating the allotments so created from land adjoining Mamre Road reserved for the Department of Main Roads.

Subdivision of land

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

(2) The council shall not grant consent as referred to in subclause (1) unless –

- (a) in the case of land within Zone No. 5 (a) (Community Purposes) (excluding any land shown on any Development Control Plan, applying to the land in that zone, providing for shops, professional suites and

attendant facilities including landscaping and parking), 5 (a) (Drainage), 5 (b) (Roads), or 6 (b) (Open Space Proposed), the subdivision provides for the dedication of that land to the council without cost to the council;

- (b) a water supply and sewerage service is or is to be provided by the applicant to land within Zone No. 5 (a) (Community Purposes) and Zone No. 6 (b) (Open Space Proposed);
- (c) where, as at the time the application to subdivide land is made, there is a development control plan in force under section 72 of the Act and that control plan applies to the land the subject of the application – the proposed subdivision is generally in accordance with the provisions of that plan; and
- (d) where, as at the time the application to subdivide land is made, there is no such development control plan as referred to in paragraph (c) the proposed subdivision complies with the following requirements:
 - (i) land may be subdivided for dwelling-houses only where the subdivision conforms with the council's "Subdivision Code" or where, subject to the provisions of clause 12, the land is within Zone No. 2 (d) and the number of allotments to be created does not exceed a density of 10 allotments per hectare;
 - (ii) open space shall be provided at an overall rate of at least 2.83 hectares of open space per 1000 persons and it shall be presumed for the purposes of this plan that each residential allotment shall have an occupancy of 3.64 persons;
 - (iii) pedestrian walkways, open space and drainage areas should be designed to create an efficient pedestrian network focusing on schools, open space and community uses;
 - (iv) the road network should be designed in accordance with the council's policies and widths as stipulated in the council's "Subdivision Code" and should minimize traffic movements through residential areas; and
 - (v) bus routes shall be provided and shall be confined to roads having a minimum carriage-way of 11 metres

and all bus bays shall be designed as indented storage bays.

(3) Nothing in subclause (2) (b) prevents the council from granting consent as referred to in subclause (1) if the applicant agrees in writing to pay a monetary contribution for the provision of such services.

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 subdivide land to which this plan applies where the subdivision provides for the construction of a road (other than a road referred to in subclause (1)) which forms a junction with Mamre Road.

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

Shops and professional suites – Zone No. 5 (a)

17. (1) Nothing in clause 9 prevents a person, with the consent of the council, from carrying out development for the purposes of a shop or professional suites on land within Zone No. 5 (a) “Community Purposes” where the aggregate floor space of all premises for which consent has been granted and which has not lapsed for the purposes of shops and professional suites under this plan does not exceed 650 square metres.

(2) The council shall not grant consent to the carrying out of development referred to in subclause (1) unless and until a development control plan showing the location and purposes for which the land may be developed is in force.

Water and electricity supply, telephone facilities, etc.

18. (1) The council shall not grant consent to the carrying out of development on any land unless and until 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 such land, and where the applicant for development consent is not the owner, by such 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 the County Council by the owner of such land and, where the applicant for

development consent is not the owner, by such 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, 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 that land.

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

Payment towards provision or improvement of amenities or services

19. As a consequence of the carrying out of development in accordance with this plan, 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 (1) of the Act, or both, may be required as a condition of any consent to that development.

Special provisions

20. (1) This clause applies to land within Zone No. 2 (d), 5 (a), 5 (b) and 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 necessary, in the opinion of the council, due to design requirements relating to the 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.

Schedule 1

(Clause 19)

Category A

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

Community facilities.

Drainage reserves and drains.

Electricity services.

Public reserves.

Roadworks, including any such works necessitated by the construction of new roads intersecting with Mamre Road.

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.

Childcare facilities.

Community arts facilities.

Community halls.

Cycleways.

Facilities for guides and scouts, mothers' clubs, and youth clubs.

Indoor sports facilities.

Information and orientation services.

Libraries.

Lighting.

Meeting places.

Outdoor recreation facilities.

Parking spaces.

Playgroup facilities.

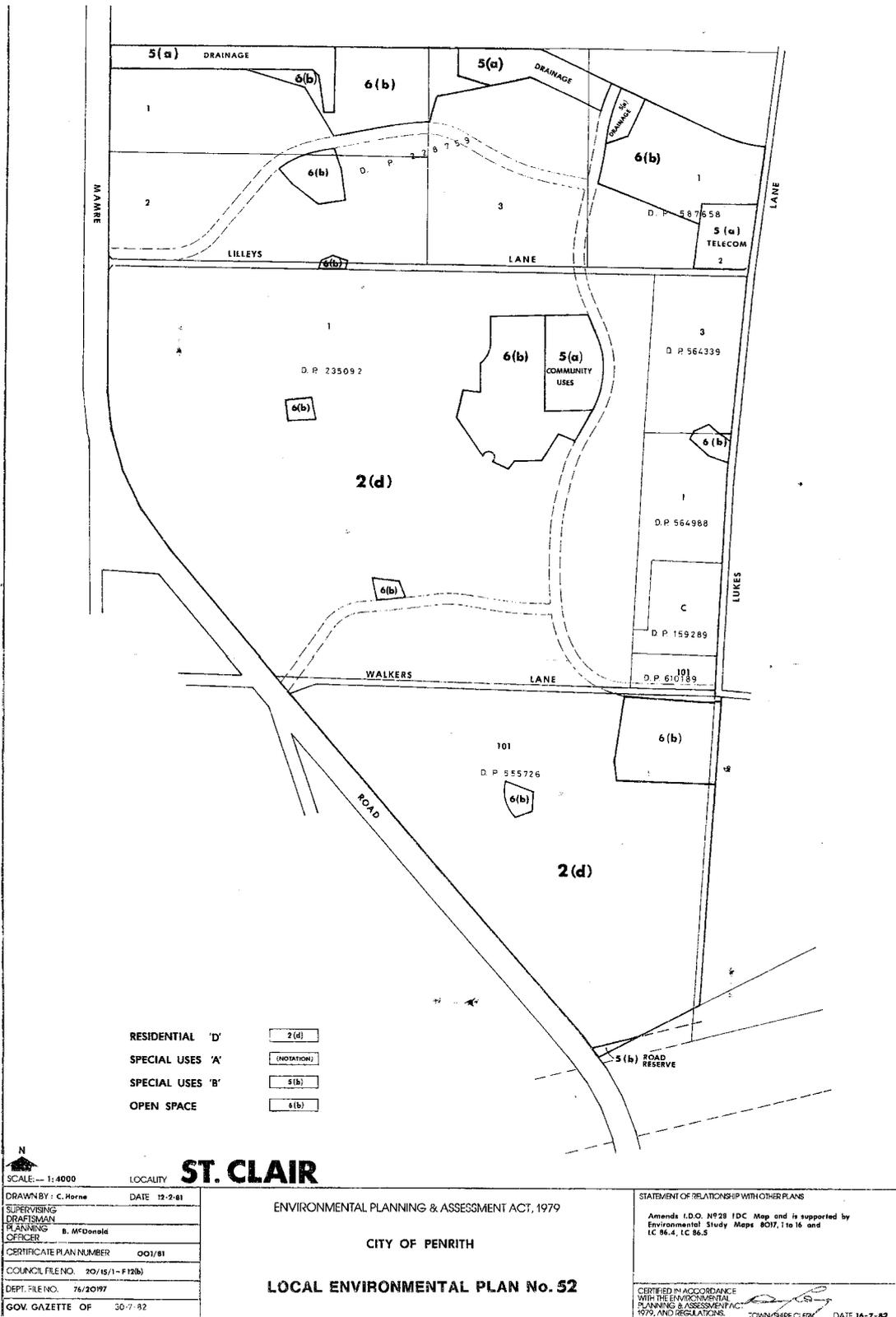
Self-help groups' facilities.

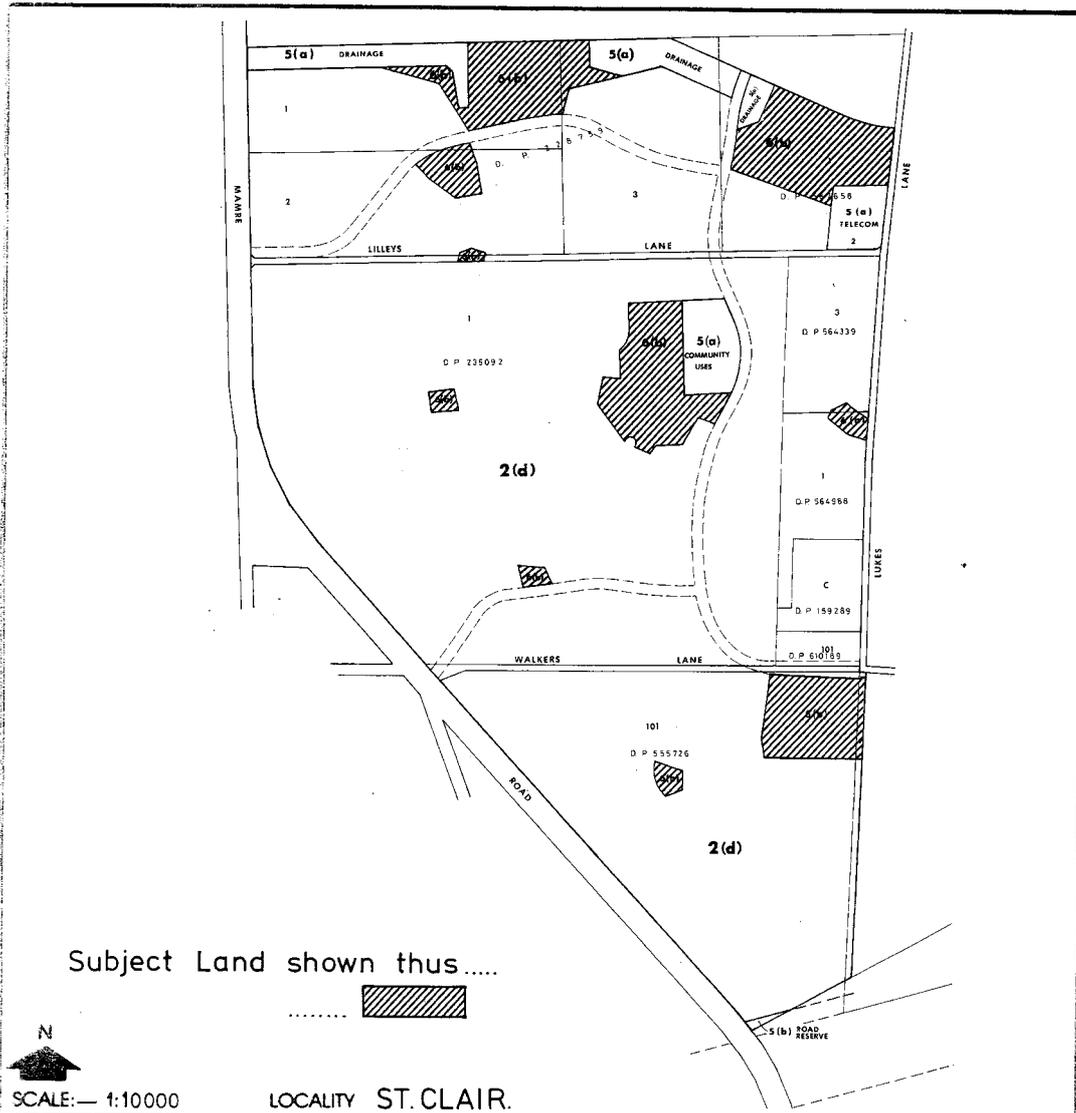
Special interest groups' facilities.

Toy libraries.

Walkways.

Welfare agencies.





ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979
CITY OF PENRITH

LOCAL ENVIRONMENTAL PLAN No. 135

DRAWN BY C. HORNE	DATE 6-11-85	STATEMENT OF RELATIONSHIP WITH OTHER PLANS
SUPERVISING DRAFTSMAN G. CAPSANIS		AMENDS LOCAL ENVIRONMENTAL PLAN NO. 52
PLANNING OFFICER B. McDonald.		
COUNCIL FILE NO. D.76390/63094 RZ.1		
DEPT. FILE NO 76/20197 Pt. 3		CERTIFIED IN ACCORDANCE WITH THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979, AND REGULATIONS
GOVT. GAZETTE OF 24-1-86		
		TOWN SHIRE CLERK <i>[Signature]</i> DATE 6-11-85

FORM LEP