

Planning Proposal

Liverpool Local Environmental Plan 2008

Draft Amendment No.36

Cemeteries and Crematoria

October 2013

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Background

In recent times Council has received multiple development applications for cemeteries and crematoria in locations which jeopardise primary agricultural land and planned future residential growth areas.

In March 2012, Council sought a Gateway determination from the Department of Planning and Infrastructure to prohibit cemeteries in the rural zones of the Liverpool Local Environmental Plan 2008.

At this time the Department advised that it did not support the prohibition of cemeteries and crematoria Council had *"failed to demonstrate at this stage how it has considered this issue in the context of broader Metropolitan planning considerations"*. Furthermore, the Department advised that *"population changes are increasing the demand for social infrastructure and services, including land for the purposes of cemeteries and crematoria. In order to address current needs and accommodate future projected demand further investigation at a Metropolitan level (including land within the South west) is required to identify and safeguard land for these purposes. Consequently, it is premature at this stage for Council to adopt a blanket prohibition for cemeteries and crematoria in rural zones until these investigations are complete"*.

As a result of this advice, Council has undertaken a review of the current planning controls as well as relevant policies, regional strategies, and best practice guidelines with regard to cemeteries and crematoria uses.

An investigation was also conducted into the anticipated demand for burial spaces, the current supply and availability of burial space, the potential risks of environmental and health impacts, and the preferred siting requirements for cemeteries and crematoria.

Based on the findings of this investigation and review, this planning proposal has been prepared to ensure the appropriate siting and design of future cemeteries and crematoria occur.

Introduction

This planning proposal seeks to remove cemeteries and crematoria as permitted with consent uses in RU1 and RU4 Primary Production zones, remove crematoria as a permitted with consent use from B6 Business Enterprise, and add crematoria as a permitted with consent use in IN2 Light Industrial to the Liverpool Local Environmental Plan 2008 Land Use Table.

The planning proposal also seeks to add cemeteries and crematoria as an additional permitted use on 5 sites that either currently operate as a cemetery or crematoria or has an approval to develop a cemetery or crematoria.

These sites are:

- Kemps Creek Cemetery, Kemps Creek- Lot 1 DP 633792;
- Forest Lawn Memorial Park, Leppington (cemetery and crematoria)- Lot 1 DP 876560;
- 321 Greendale Road, Greendale (cemetery and crematoria)- Lot 1 DP 599308;
- 992 Greendale Road, Greendale (crematoria)- Lot 1 DP 520904
- 41 Greendale Road, Bringelly (cemetery)- Lot 5 DP 252040

In conjunction with this planning proposal, Council has prepared a draft amendment to the Liverpool Development Control Plan 2008 which seeks to provide design guidelines, planning principles and siting requirements for cemetery and crematoria development to ensure environmental and health impacts of these developments are considered in the future.

Delegation

Council is seeking delegation to make the plan.

Site Identification

Site 1- Kems Creek Cemetery – Lot 1 DP 633792

The site is located along the Western Road in rural Kems Creek and is occupied by the Kems Creek Cemetery managed by the Catholic Cemetery Trust. It is within a RU4 Primary Production Small Lots zoning and it is surrounded by small scale agricultural uses with single residential dwellings on each lot.

The Site's locational context is shown in **Figure 2 & 3** below:

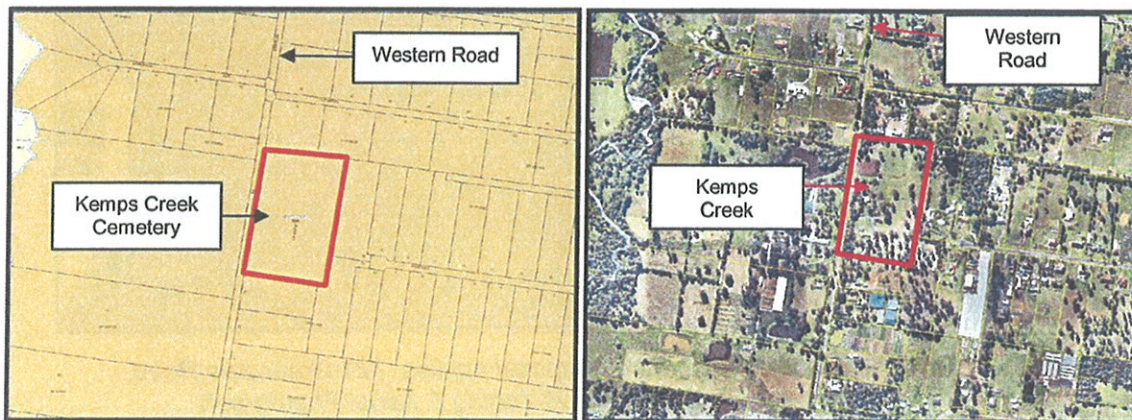


Figure 2 & 3: Land to which this planning proposal applies: Kems Creek Cemetery RU4 Zoning & Aerial Photograph

Site 2- Forest Lawn Memorial Park – Lot 1 DP 876560

The site is located along Camden Valley Way in Leppington, and located within a semi-rural area zoned RU1 Primary Production. Located to the north is the East Leppington Growth Area and the South West Rail link, to the North East is R2 Low density residential, to the south is both Denham Court comprised of R5 Large Lot Residential and further RU2 Rural Landscape lands.

The Site's locational context is shown in **Figure 4 & 5** below:

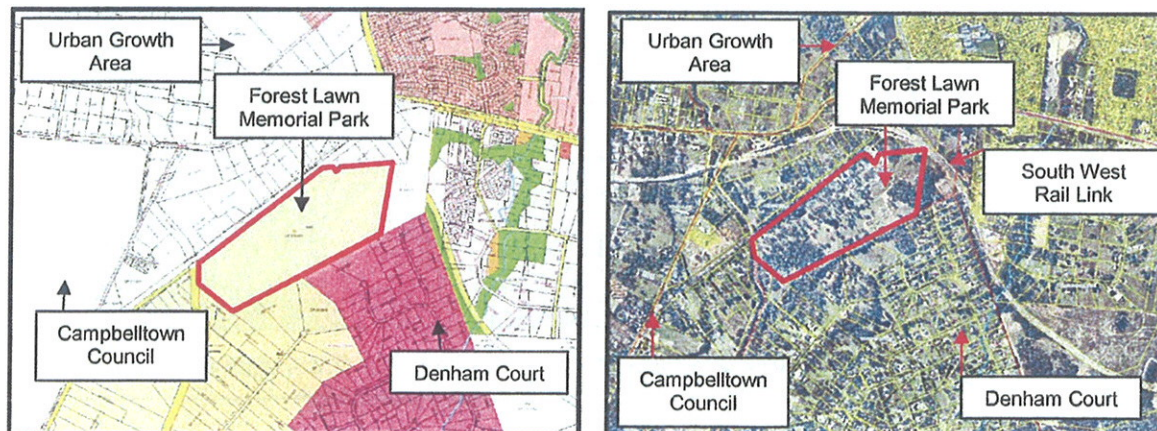


Figure 4 & 5: Land to which this planning proposal applies: Cemetery & Crematoria RU1 Zoning & Aerial Photograph

Site 3- 321 Greendale Road, Greendale – Lot 1 DP 599308

The site area is approximately 395,725sqm and was approved in DA-1133/2010 for Stage 1 development of cemetery for 60,000 single depth burial plots and crematoria with 10,000 ash receptacles, by the Joint Regional Planning Panel on 23 August 2012. It is located in rural area RU1 Primary Production surrounded by medium sized agricultural uses and farm dwellings.

The Site's locational context is shown in **Figure 6 & 7** below:



Figure 6 & 7: Land to which this planning proposal applies: 321 Greendale Road, Greendale Cemetery & Crematoria RU4 Zoning & Aerial Photograph

Site 4- 992 Greendale Road, Greendale – Lot 1 DP 520904

The site area is approximately 200,350sqm and was approved in DA-1291/2010 for a crematorium with 10,000 ash receptacles, by the Joint Regional Planning Panel on 28 April 2011. It is located in a rural area zoned RU1 Primary Production surrounded by medium sized agricultural uses, the Nepean River, and farm dwellings. It is also in close proximity to Site 3- 321 Greendale Road listed above.

The Site's locational context is shown in **Figure 8 & 9** below:

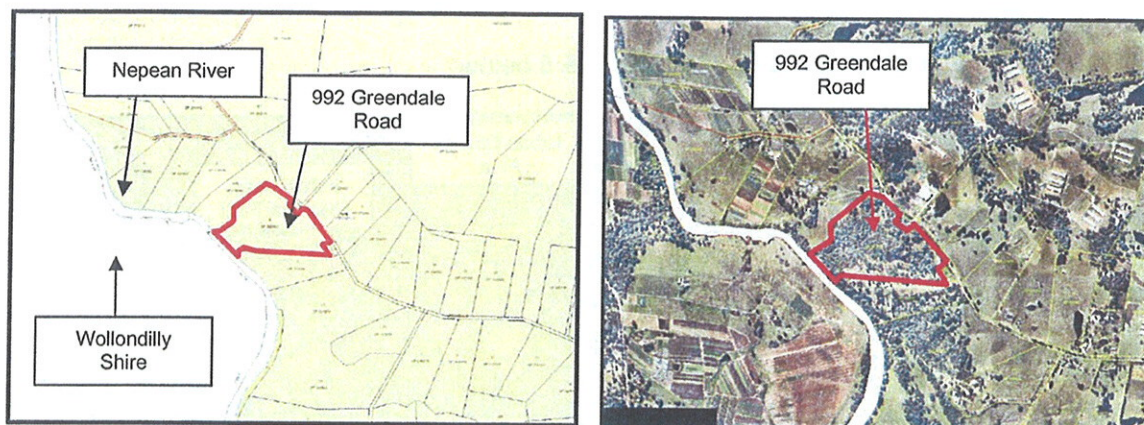


Figure 8 & 9: Land to which this planning proposal applies: 992 Greendale Road, Greendale Crematoria RU4 Zoning & Aerial Photograph

Site 5- 41 Greendale Road, Greendale – Lot 5 DP 252040

The site area is approximately 99,030sqm and was approved in DA-394/2011 by the Joint Regional Planning Panel on 27 February 2013, for a cemetery with the equivalent of 19,212 burial internments and crematoria with 25,100 ash receptacles. It is located in a rural area zoned RU1 Primary Production within the South West Growth Area and it is adjacent to R5 Large Lot Residential and rural land in the Campbelltown Local Government Area.

The Site's locational context is shown in **Figure 10 & 11** below:

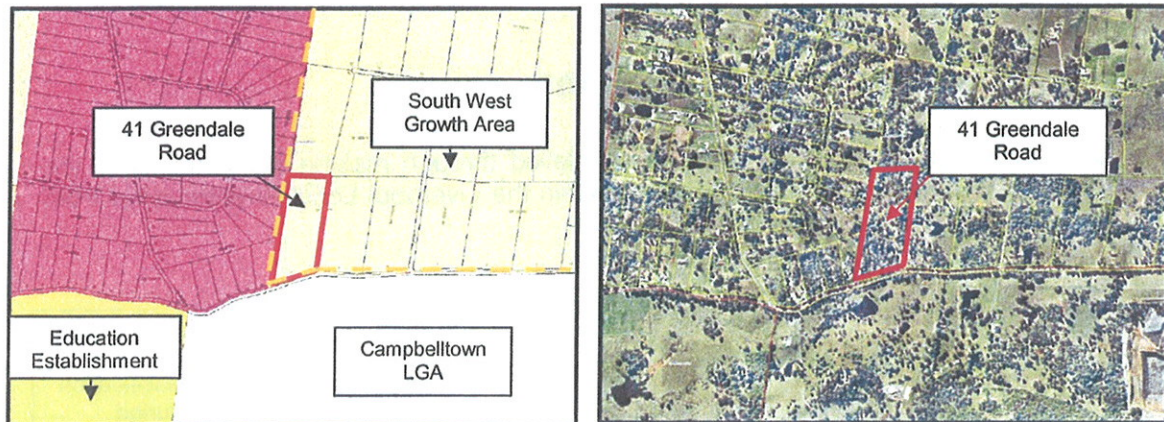


Figure 10 & 11: Land to which this planning proposal applies: 41 Greendale Road, Greendale Cemetery RU4 Zoning & Aerial Photograph

Part 1 - Objectives

The primary objective of this planning proposal is to ensure the permissibility of cemeteries and crematoria is in the most appropriate zones and location. In the context of the Liverpool LGA, this is deemed to be the industrial zonings.

Other objectives of this planning proposal include to limit the proliferation of cemeteries and crematoria in rural areas and to limit the impact of cemeteries and crematoria on rural resource lands and future urban land.

Part 2 - Explanation of Provisions

The aims of this planning proposal will be achieved through making amendments to the Land Use Table as well as the Zoning Maps within the Liverpool Local Environmental Plan 2008 (LLEP 2008).

Amendment to Land Use Table of LLEP 2008

Proposed Change to LLEP 2008	Purpose
Zone B6 Enterprise Corridor Delete crematoria from being permitted with consent.	To remove complications that arise over the change in classification of a crematorium to a cemetery if cremated remains are buried onsite. Cemeteries are not considered a desirable use within B6 Enterprise Corridor and neither is the situation where crematoria are located within 100-200m of dwellings therefore it is appropriate to remove crematoria.
Zone RU1 Primary Production Delete cemeteries and crematoria from being permissible with consent. and Zone RU4 Primary Production- Small Lots Delete cemeteries and crematoria from being permissible with consent.	To prevent the proliferation of cemeteries and crematoria within designated future growth areas and to prevent future land use conflicts and environmental concerns that will arise over the proximity of residential uses to cemeteries and crematoria, it is appropriate to remove these uses from rural areas in the context of the Liverpool LGA. This will also protect the existing rural activities, resource lands, and agricultural industries which are vital to these regional economies and their community identities within rural areas.
Zone RE1 Public Recreation Delete cemeteries from being permissible with consent. and Zone RE2 Private Recreation Delete cemeteries from being permissible with consent.	Although the planning of cemeteries should serve to mimic park-like areas, and indeed can eventually be reclassified as a recreational areas as part of open space networks once the burial business service has ceased, the use of these areas as active cemeteries is inappropriate and in contrast to the objectives of the recreational zones given that it restricts the recreational activities, poses health and environmental risks, limits the space available to meet the needs of the residents, and that the use will not ensure the preservation of environmentally significant or environmentally sensitive land. Additionally recreational areas can be used for camping or caravan grounds so it would be appropriate to remove cemetery and crematoria as conflicting land uses based on environmental, health and amenity reasons.
Zone IN2 Light Industrial Add crematoria to being permissible with consent.	The literature review describe that crematoria are best thought of as a type of industrial use due to their function. Crematoria fit with the objectives of light industrial areas as they are compatible with industry and can buffer heavy industrial zones while not detracting

Proposed Change to LLEP 2008	Purpose
	from centres of activity, especially when coupled within a cemetery. Industrial areas are best suited to minimise adverse effects that can occur from conflicting land uses (such as residential and commercial) and environmental concerns that arise from crematoria as these areas do not generally occur on environmentally sensitive areas.

The proposed limitation of cemeteries and crematoria to industrial zones will not restrict the future provision of this type of social infrastructure. The Department's *Sydney Growth Centres* has identified future industrial areas to be located in the local area which will allow future planning of these uses to be adequately facilitated if a demand exists.

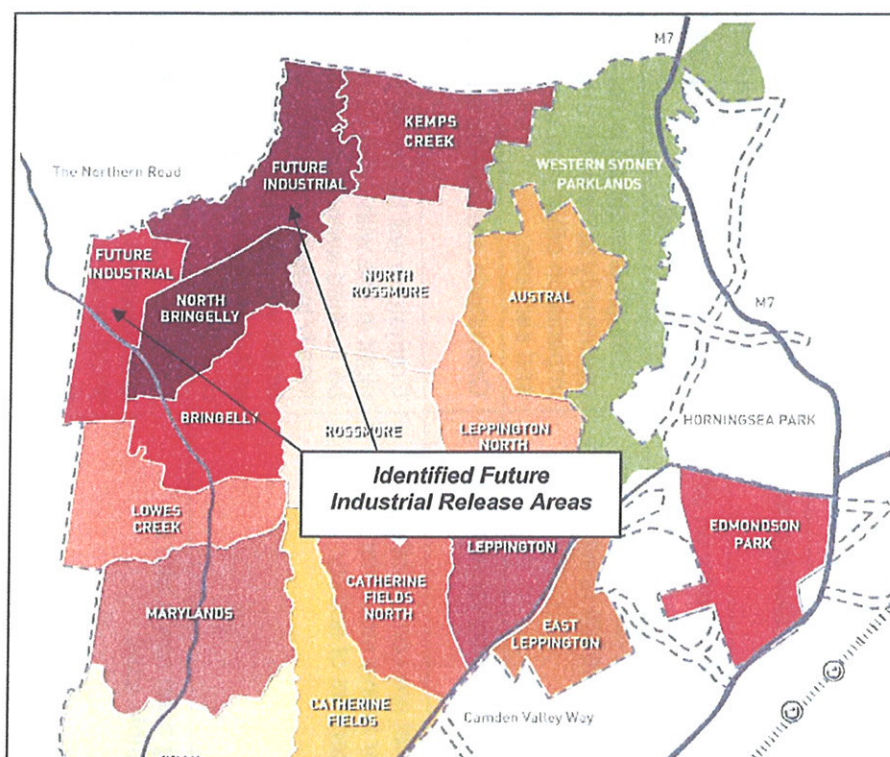


Figure 12: Future Industrial Growth Centres identified by Sydney's Growth Centres.

Furthermore, the Department has recently exhibited the Broader Western Sydney Employment Area Draft Structure Plan, which seeks to provide industrial land uses to cater for Sydney's growing employment needs. These lands will also ensure appropriate land is available for crematoria and cemetery uses into the future.

The following table demonstrates this planning proposal's compliance to the existing objectives and aims in the Liverpool Local Environmental Plan 2008.

Compliance of the Proposed Amendments to the Zone Objectives in the Liverpool Local Environmental Plan 2008

Zoning in Liverpool LEP 2008	Zone Objectives	Justification
IN2 – Light Industrial Add crematoria as permissible with consent.	To provide a wide range of light industrial, warehouse and related land uses.	Crematoria will broaden the industrial activities and be complementary to the functions of cemeteries which are already a permissible use within the zone.
	To encourage employment opportunities and to support the viability of centres	Crematoria will diversify employment opportunities and provide an important social infrastructure to the community.
	To minimise any adverse effect of industry on other land uses	Including crematoria in the IN2 zone will limit their impact on other land uses.
	To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area	Although crematoria is not a day to day use it will serve the community at large on a regular basis and have minimal impacts on other land uses that provide industrial facilities and services.
	To support and protect industrial land for industrial uses.	Crematoria are best described as an industrial use.
	To allow other land uses that are compatible with industry and that can buffer heavy industrial zones while not detracting from centres of activity.	Crematoria will be active throughout the day and close at night in line with most other industrial activities. It will also be located away from conflicting residential areas and ideally located within the larger site area of a cemetery which will provide a noise and visual buffer zone. The activities of crematoria will not detract from existing centres of activity.
B6 – Enterprise Corridor Delete crematoria from permissible with consent.	To promote business along main roads and to encourage a mix of compatible uses.	Crematoria do not promote business along main roads and can generate excess traffic and demands on parking for short periods of time such as during chapel services which may congest roads and impact negatively on the surrounding businesses. They may also emit odours and pollution not compatible to the surrounding uses. It is therefore appropriate to remove this use from the B6 zone.

Zoning in Liverpool LEP 2008	Zone Objectives	Justification
	To provide a range of employment uses (including business, office, retail and light industrial uses).	Although crematoria are best considered a light industrial use its ability to create business, office and retail opportunities outside of its secular operation is minimal if any exist at all. It will have little impact in diversifying employment opportunities and may cause land use conflicts on adjacent lots due to amenity and environmental concerns therefore it is appropriate to remove this use from this zone.
	To maintain the economic strength of centres by limiting the retailing activity.	Crematoria do not offer any retailing opportunity nor will it detract from the economic strength of centres.
	To provide primarily for business along key corridors entering Liverpool city centre, major local centres or retail centres.	Outside of the business that runs the crematoria the use will offer little in the way of business opportunities. Although it may attract crowds for short periods of time these are generally not consumer crowds given their purpose of arriving for a funeral cremation service. It is appropriate then to remove crematoria as a permissible use.
	To ensure residential development is limited to land where it does not undermine the viability or operation of businesses.	The literature review outlines that air pollution from crematoria emission stacks may have negative health and environmental impact on the occupants of any residential lot located within a minimum buffer zone of 100-200 metres from the emission stack. As crematoria uses are best separated from residential uses, and that residential uses are a vital component within this zone, crematoria should be removed.
	To provide for residential uses, but only as part of a mixed use development	As mentioned above crematoriums are not compatible with residential uses and should be separated.
RU1 – Primary Production Delete cemeteries and crematoria	To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.	Neither cemeteries nor crematoria encourage primary industries in any way nor do they enhance any kind of natural resource base, therefore they removal is appropriate.

Zoning in Liverpool LEP 2008	Zone Objectives	Justification
from permissible with consent.	To encourage diversity in primary industry enterprises and systems appropriate for the area.	Cemeteries and crematoria are not considered appropriate system or enterprise to rural areas as these uses generally use the land in perpetuity and due to contamination risks the land cannot be used for primary industries.
	To minimise the fragmentation and alienation of resource lands.	As mentioned above cemeteries and crematoria generally use the land in perpetuity which fragments these parcels of land from surrounding rural uses and completely removes the resource potential from the site area. The proposed removal of these uses from RU1 is appropriate.
	To minimise conflict between land uses within this zone and land uses within adjoining zones.	Residential uses often conflict with proposed cemeteries and crematoria uses, especially in terms of environmental concerns in the surrounding zones. As cemeteries and crematoria often incur more land use conflict within rural areas it is appropriate to remove these uses.
	To ensure that development does not unreasonably increase the demand for public services or public facilities	Cemeteries and crematoria are a crucial social infrastructure to provide to the local community however their location within rural areas can mean these uses are ill-equipped to deal with the proper drainage and water treatment facilities which can result in the enhanced risk of bacteria and viruses migrating off-site into the natural and built environs. Additionally, many rural roads are not capable of dealing with the additional traffic generation posing traffic safety concerns and increased road maintenance costs to Council. Cemeteries and crematoria are an important social service ideally located along the periphery of economic centres which enhances their integration into open space networks and visitor frequency as these areas are not too far from public transport hubs and employment centres. When these uses occur in rural areas they are often isolated with their visitor frequency limited to private transport modes with little

Zoning in Liverpool LEP 2008	Zone Objectives	Justification
RU4 – Primary Production: Small Lots Delete cemeteries and crematoria from permissible with consent.		other purpose of travelling to the rural destination other than for burial services or visitation reasons. These uses (outside of their ancillary uses) provide little to no economic or environmental benefits to the local community.
	To ensure that development does not hinder the development or operation of an airport on Commonwealth land in Badgerys Creek.	Cemeteries and crematoria will pose no development or operation threat to Badgerys Creek Airport.
	To preserve bushland, wildlife corridors and natural habitat.	The design layout of cemeteries should mimic park-like areas and incorporate native vegetation of the local area, however, as the burial of the deceased is a type of landfill that has environmental and contamination issues, especially around waterways and groundwater- cemeteries are classified as very different entities from bushland, wildlife corridors and natural habitats therefore the applicability of cemeteries and crematoria in this instance is incompatible with this objective of RU1.
	To enable sustainable primary industry and other compatible land uses.	As mentioned previously the active use of cemeteries and crematoria are neither sustainable nor compatible to primary agricultural uses and often raise land use conflicts between neighbouring residential and business uses.
	To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.	Cemeteries and crematoria should not be located on small lots as to avoid the proliferation of small cemeteries which will use the land in perpetuity and increase land conflicts over a larger area. Additionally, neither uses are considered intensive in nature. These uses are therefore not in line with the objectives and should be removed from rural areas.
	To minimise conflict between land uses within this zone and land uses within adjoining zones.	As mentioned previously, proposals of this nature generally raise intense land use conflict from the surrounding rural communities more so than in industrial areas which is why is

Zoning in Liverpool LEP 2008	Zone Objectives	Justification
		it fitting to remove these uses from rural areas in Liverpool's context.
RE1 – Public Recreation Delete cemeteries from permissible with consent.	To enable land to be used for public open space or recreational purposes.	While the layout and design of cemeteries should mimic park-like areas in their amenity value and the intent of cemeteries should be to eventually incorporate the land into a local open space network, their appropriateness of integrating active cemeteries with frequent burials and services within the same areas orientated towards recreational use for families, children's playgrounds, barbeque areas and recreational space for sporting activities, is inappropriate and not compatible. Cemeteries are a special use of land isolated for the decomposition of bodies which is starkly definition from other definitions and uses in any of the zonings, cemeteries should be removed from RE1 zone.
	To provide a range of recreational settings and activities and compatible land uses.	Coupled with the points mentioned above cemeteries offer little diversity in the range of recreational activities that are intended for the RE1 zonings. Cemeteries are areas designated for the decomposition of human remains and not considered compatible with recreational zones.
	To protect and enhance the natural environment for recreational purposes.	While cemeteries should endeavour to incorporate significant amounts of native vegetation into its landscaping the use will still pose contamination and health risks as bacteria and viruses from the decomposition process leech into the surrounding environment. This is especially true of the immediate area around burial sites which does not then correlate with the objective to protect and enhance the natural environment for recreational purposes.
	To provide sufficient and equitable distribution of	The functions and purpose of cemeteries is to provide important social and cultural burial or cremation services to

Zoning in Liverpool LEP 2008	Zone Objectives	Justification
RE2 – Private Recreation Delete cemeteries from permissible with consent.	public open space to meet the needs of residents.	the community, not to ensure public open space is available to residents. Though cemeteries can eventually be incorporated into open space networks this should not happen while the cemetery is still being actively used as a current burial space. Cemeteries are therefore not an applicable use of RE1.
	To ensure the suitable preservation and maintenance of environmentally significant or environmentally sensitive land.	As stated within the literature review attached to the council report, it is best practice planning NOT to locate cemeteries on, or in proximity to, environmentally significant or environmentally sensitive land. Cemeteries should be completely separated from these areas based on contamination issues of the surrounding environment.
	To enable land to be used for private open space or recreational purposes.	A cemetery would not be a common use of private open space or private recreational space. It would be subject to a development application which is unlikely to be supported by Council given the departure of the objectives of recreation zones and the function of cemeteries. It would be sensible to then remove cemeteries as a permissible use from this zone.
	To provide a range of recreational settings and activities and compatible land uses.	Cemeteries offer little diversity in the range of recreational activities that are intended for the RE1 zonings. Cemeteries are areas designated for the decomposition of human remains and not considered compatible with the activities that normally take place in recreational zones.
	To protect and enhance the natural environment for recreational purposes.	As with the RE1 zoning, while cemeteries should endeavour to incorporate significant amounts of native vegetation into its landscaping the use will still pose contamination and health risks as bacteria and viruses from the decomposition process leech into the surrounding environment. This is especially true of the immediate area around burial sites

Zoning in Liverpool LEP 2008	Zone Objectives	Justification
		which does not then correlate with the objective to protect and enhance the natural environment for recreational purposes.
	To enable land uses that are compatible with, and complementary to, recreational uses.	As mentioned before, the functions and uses of active cemeteries as land used for the burial and decomposition of human remains, is not considered a compatible nor complementary land use to recreational activities.

Part 3 - Justification

A. Need for the planning proposal

Is the planning proposal a result of any strategic study or report?

The Planning Proposal is the result of a strategic study conducted by Council into the anticipated burial space required for the short, medium and long term future of Liverpool. This is in response to Council receiving multiple development applications for cemeteries and crematoria which were in close proximity to each other that jeopardised primary agricultural land and designated future residential growth areas.

Council's review shows that these development applications have approved the equivalent of 60,000 single burial spaces and 45,000 crematoria spaces (the current carrying capacity of the existing three cemeteries and one crematorium were not included in the study). The investigation found that over the next 18 years to 2031, there were to be an estimated total number of deaths at around 16,304, resulting in 10,870 cremations and 5,159 burials within the Liverpool LGA. Considering 80,000 burial spaces have been approved and only 5,159 will be used within the next 18 year period, there is a clear oversupply of burial space surrounding or within future growth areas.

A number of planning issues and best practice guidelines were investigated based on the findings of this review. This planning proposal has been prepared to ensure the appropriate locations are selected for cemeteries and crematoria in the future.

Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

This planning proposal is the only means to achieve the objectives and intended outcomes. The proposed amendments to the Liverpool Local Environmental Plan 2008 are the only way to prevent cemeteries and crematoria being developed in inappropriate locations and to encourage cemeteries and crematoria to development in appropriate locations in the future.

Both the current and draft Metropolitan Strategies and draft Subregional Strategy state that cemeteries are best classified as a type of social infrastructure. However, the literature review undertaken by Council concludes that crematoria uses are best thought of as an industrial use due to the type of activity and external impacts, whilst cemeteries are best thought of as a type of landfill.

The prohibition of cemeteries and crematoria within business, recreation and rural zones in the Liverpool context is important to direct the supply of more burial space to appropriate areas. Liverpool has 80,000 approved burial plots which will more than cater for the expected 5,159 burials that are expected over the next 18 years. To prevent land that is currently used for primary agriculture but has been earmarked for future residential growth areas becoming stifled for development or having land uses which are adverse, and to prevent future land use conflicts and the further expansion of the cemeteries cluster forming along Greendale Road, it is important that these amendments to the LLEP 2008 are made.

Will the net community benefit outweigh the cost of implementing and administering the planning proposal?

The Planning Proposal will provide important future net community and environmental benefits. As the approved burial space will more than cater for the population of Liverpool, it

is likely portions of the Western Sydney population will also benefit from these areas. The management practices will cater for a variety of cultural and religious needs of the population now and into the future.

There are no incurred costs as a result of this planning proposal however it will ensure that no further land is unnecessarily converted to burial land in primary agriculture and future urban growth areas. This is a great economic benefit as it will ensure the existing cemeteries and crematoria businesses will maintain a sustainable practices and a market demand which will ensure their longevity to serving the needs of both the local and regional community.

By restricting cemeteries and crematoria uses to the industrial areas it will ensure that appropriate infrastructure will be in place to adequately deal with the needs of these uses, rather than have them occur along rural roads which are insufficient to deal with the traffic generation. Ideally these industrial areas are often in the outer proximity to economic centres which is ideal from their inclusion into open space networks and ensures low travel times to and from the uses, rather than have them in locations which are significant distant from economic and pedestrian centres which then incurs long travel times.

B. Relationship to strategic planning framework

Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The planning proposal is deemed consistent with the objectives and actions contained within the Metropolitan Plan and South-West Subregional Strategy. This is discussed as below:

4.1 Draft Metropolitan Strategy for Sydney to 2031

The draft Metropolitan Strategy's Section Liveable City-Objective 8; refers to the planning of cemeteries and crematoria stating that:

"A vital element of social infrastructure is burial areas - cemeteries and crematoria. Sydney is to continue to require land for cemeteries with good access, especially for communities or cultures for which cemeteries are the only acceptable way of meeting burial needs. The location of cemeteries and crematoria is a sensitive issue and guidance will be provided to meet future needs. The Metropolitan Strategy for Sydney will also provide the land use planning required to support the NSW Government's historic cemetery reforms".

This statement highlights the importance of addressing Sydney's long term need of acquiring land for the expansion of burial grounds. Importantly, it states that future guidance in land use planning will be provided to support the NSW Government's historic cemetery reforms.

4.2 Metropolitan Plan for Sydney 2036

Burial grounds and cemeteries are defined within the Metropolitan Strategy 2036 as social infrastructure. It states that social infrastructure should be located where people can easily access them and adaptable to changing needs, which may occur through improving the quality of management of existing facilities (in Action H2.1 of the Strategy):

'The Department of Planning will prepare- with key agencies- Social Infrastructure Implementation Guidelines to indicate which social infrastructure and services can best

be provided within the existing planning system and set consistent standards for assessing social infrastructure”.

The newly formed NSW Cemeteries & Crematoria Board will work in congruence with the Department of Lands & the Department of Planning and Infrastructure in establishing guidelines and standards for land use of cemeteries and crematoria, however currently these guidelines do not exist.

It would seem inappropriate then for Liverpool City Council to be subject to anymore development applications for cemeteries and crematoria until at least a time when these guidelines are available, especially given that sufficient burial space has now been approved in Liverpool until well past 2031.

4.3 Draft South West Subregional Strategy

The South West Subregional Strategy provides more specific detail on the planning of cemeteries and crematoria it indicates that the Department of Lands has the lead responsibility for the State Government's role in the supply and management of burial space. It will work with the Department of Planning and representatives of the funeral industry to establish site selection criteria for land use planning that can be applied in strategic planning at the regional, subregional and local government level. As stated in Action SW: E3.6.1 that:

“The Department of Planning with the Department of Lands is to establish site selection criteria for new cemeteries in the Sydney Region to be used in assessment of opportunities for identifying future sites in strategic planning”.

Equally important is the draft South West Subregional Strategy's Direction 8 that states that the resource lands spread across the west and southern parts of the subregion are to be protected. Action E4 specifically places an imperative on protecting valuable rural activities and resource lands as the agricultural industry are significant contributors to regional economies and important in terms of lifestyle and community identity.

In the context of Liverpool the three development consents for cemeteries and crematoria fall within RU1 Primary Agricultural Land zoned areas, as does to the refused application under appeal in the Land and Environment Court. Due to the long term nature of cemeteries and crematoria on land use locating this within both a primary agricultural zone and a designated growth centre next to residential uses will undoubtedly create land use conflicts, decreased amenity and possible health issue with air, water and land contamination.

Given that two applications fall within the South West Growth Centre boundary and that Action E4.2 states that sustainable land use strategic planning is to occur in the planning of this area, and that Action E4.3 aims to protect lands from incompatible and inappropriate uses, it is appropriate to remove cemetery and crematoria uses from this zoning.

Of concern too is the location of cemeteries and crematoria next to water courses and catchment areas. The Subregional Strategy identifies half the region as a water supply catchment. This should place strict environmental constraints on areas where cemeteries and crematoria are permissible.

The literature review recommend that cemeteries never occur on floodplains, near waterways or groundwater tables, swamplands or on land likely to be subject to inundation within 1 in 100 year flood level. This is to avoid the spread of disease from contaminated or stagnant water, the uplift of coffins, disturbances to the compaction of grave fill, repair of site and infrastructure, destruction of drainage networks, clogging of subsoils drains, damage to monument and grave property, and relocation of cremated remains.

The literature review also recommends that a minimum buffer zone of 100 metres is used for a crematoria's emission stack and neighbouring residential land uses in line with state environmental protection authority guidelines. Two development consents for cemeteries and crematoria are within the South Western Growth Centre and neighbour residential uses which is a less than desirable location.

Is the planning proposal consistent with the Liverpool Community Strategic Plan "Growing Liverpool 2023"

The community strategic plan sets the strategic directions for change over the next ten year period to achieve a vibrant regional city of opportunity, prosperity and diversity. Of the seven directions there are three that are applicable to this planning proposal although none specifically relate to cemeteries and crematoria:

- Liveable Safe City
- Healthy Inclusive City
- Accessible Connected City.

The exclusion of cemeteries and crematoria uses from rural and recreational lands will ensure there is no environmental and contamination risks to the local area and current and future land use conflicts are prevented. The limitation of these uses to industrial zones will ensure that they occur in key areas which are located in close proximity to the outer periphery of economic centres and can be incorporated into open space networks. Approved and existing cemeteries will incorporate sustainable and culturally sensitive operational management practices to provide for a range of social and religious beliefs and green burials.

Is the planning proposal consistent with the applicable state environmental planning policies?

Draft Metropolitan Strategy for Sydney to 2031

The draft Strategy for Sydney sets out a new plan for the city's future over the next two decades. Objective 8 of Liveable City section makes reference to cemeteries and crematoria stating that burial areas are vital elements of social infrastructure.

It further states that the guidance will be provided in regards to the land use planning required to support the NSW Government's historic cemetery reforms.

Liverpool Council acknowledges Sydney's long term need to ensure the provision of burial grounds for its population and will adhere to the guidance delivered by the NSW Cemetery reforms to deliver these objectives. However, given the present context of Liverpool having the equivalent of 80,000 single burial spaces and 45,000 crematoria ash spaces approved, which will more than adequately deal with the burial needs over the population over the next 20 to 30 years, it is appropriate to restrict these uses to industrial zonings and review these provisions once these guidelines have been established and a demand for further burial space exists.

In addition to the above, the following is a list of NSW legislation that currently governs the planning, operation and management of burials, cremation and cemeteries:

- Public Health Act 1991 and Public Health (Disposal of Bodies) Regulation 2002.
- Occupational Health and Safety Act 2000 and Occupational Health and Safety Regulation 2001.
- Workers Compensation Act 1987 and Workplace Injury Management and Workers Compensation Act 1998
- Fair Trading Act 1987 and Fair Trading General Regulations 2002.
- Funeral Funds Act 1979 and Funeral Funds Regulation 2001.
- Local Government Act 1993, Local Government (Orders) Regulation 1999, and Local Government (Approvals) Regulation 1999.
- Environmental Planning and Assessment Act 1979 and Environmental Planning and Assessment Regulation 2000;
- Conversion of Cemeteries Act 1974;
- Crown Lands Act 1989, Crown Lands Amendment (Sustainable Burials) 2011 and Crown Lands (General Reserves) By-law 2001;
- Rookwood Necropolis Act 1901 and other Acts relating to individual cemeteries and or crematoria in NSW.
- Coroners Act 1980
- Birth, Deaths, and Marriages Registration Act 1995.

Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The Planning Proposal is considered to be consistent with the current Section 117 Directions particularly the following Ministerial Directions:

- ***1.1 - Business and Industrial Zones***
By removing crematoria as a permissible use within B6 Enterprise Corridor zone the planning proposal increases the viability of business zones by removing the potential for land use conflicts and prevents localised air pollution that can occur from cremated emissions. By adding crematoria uses as permissible development within the IN2 Light Industrial zone it will facilitate the provision of land for this use if such a demand requires it in a future within an area where there are no residential uses and therefore environmental threats are minimised as much as possible. Both IN1 and IN3 industrial zones currently allow crematoria uses so it would seem appropriate to allow this in all the industrial zones.
- ***1.2 – Rural Zones***
The planning proposal aims to remove cemeteries and crematoria uses from all rural areas. These uses pose environmental contamination risks, generally use the land in perpetuity, do not allow for protection of agricultural lands, often exceed the capacity of roads and service facilities, limit the potential of productive industries, decrease local amenity, and can stagnant and isolate the site when not integrated within the periphery of local centres. The planning proposal therefore complies with the objective of this direction to protect the agricultural production value of rural land.
- ***1.5 – Rural Lands***
Following the above statement the additional objectives of this direction is to facilitate the orderly and economic development of rural lands for rural and related purposes. Given that the Liverpool population over the next 18 years is expected to incur 5,159 deaths that will result in burial, and that the equivalent of 80,000 single burial spaces

have been recently provided- on top of the current capacity of the existing 3 cemeteries within the Liverpool LGA, there is no demand to provide any more rural land as burial space. Therefore the planning proposal is consistent with this objective.

- **2.1 Environmental Protection Zones**

The planning proposal is consistent with this Ministerial Direction in that currently the RE1 zoning serves to protect and conserve environmentally sensitive areas whilst allowing cemeteries to occur within this area. Considering cemeteries are for the decomposition of human remains and that this process results in the concentration of bacteria and viruses that can travel offsite through runoff waters, soil contamination or through seepage into the underground water table, the planning proposal complies with this direction by removing these risks within RE1 Public Recreational areas.

C. Environmental, Social and Economic Impact

Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

The planning proposal poses no risks to the natural ecology or environment in fact the proposal serves to protect and conserve rural and recreational ecological communities. If the planning proposal is refused, however, this will likely result in more cemetery and crematoria development proposals which pose threats to ecological processes and communities.

Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

There are no likely environmental effects of the proposal. The proposal will protect and preserve the rural and natural environments.

How has the planning proposal adequately addressed any social and economic effects?

The Liverpool community has no need or demand to provide more burial space. The protection of rural lands for other economic uses and future residential growth will be achieved with the implementation of this planning proposal and the provision of adequate burial space has been assured for Liverpool's communities and will likely intake from the wider regional communities for many more decades.

This planning proposal is in accordance with all the planning directives and objectives that recognise the need for the provision of burial space and associated uses, appropriately provides for social infrastructure and services required for the function and use of cemeteries and crematoria, protects rural economies and primary agricultural lands, reserves land for the eventual transition into residential growth areas, mitigates pollution and health concerns associated with cemeteries and crematoria, and protects and conserves the environmental and recreational areas and open space networks. The proposal only has positive social, environmental, and economic outcomes with little to no negative consequences.

D. State and Commonwealth Interests

Is there adequate public infrastructure for the planning proposal?

The existing infrastructure maintained within IN2 Light Industrial areas will likely exceed the needs of any crematoria development and be able to adequately deal with the air emissions into the local area without increasing health and environmental concerns. The planning proposal only positively influence public infrastructure in the way of removing the potential for cemeteries and crematoria to occur in rural and recreation zones where often road, water, and drainage infrastructure are lacking. The proposal is therefore seen to benefit Liverpool Council, local economies, the natural environment, and the community at large.

What are the views of State and Commonwealth Public Authorities consulted in accordance with the gateway determination, and have they resulted in any variations to the planning proposal?

This will be determined by NSW Department of Planning and Infrastructure upon the assessment for Gateway Determination.

Part 4 - Mapping

No maps are proposed to be amended as part of this planning proposal.

Part 5 - Community Consultation

The Gateway Determination will specify the community consultation that must be undertaken on the planning proposal.

Part 6 - Timeline

Council estimates that a timeframe of 12 months, from the issue of a Gateway determination, is required to complete the process.

Timeframe	Action
15 December 2013	Receive Gateway Determination
15 February 2014	Completion of reports/studies
20 February – 20 March 2014	Public authority consultation
20 March – 20 April 2014	Public exhibition
20 April – 20 May 214	Review of submissions
May 2014	Report to Council
June 2014	Review of Planning Proposal by PC, legal drafting and finalisation of LEP

