

Liverpool Local Environmental Plan 2008 (Amendment No 36) - Cemeteries and Crematoria

Proposal Title : **Liverpool Local Environmental Plan 2008 (Amendment No 36) - Cemeteries and Crematoria**

Proposal Summary : **The proposal seeks to remove cemeteries and crematoria as permitted uses with consent in RU1 Primary Production, RU4 Primary Production – Small Lots, RE1 Public Recreation and RE2 Private Recreation zones, remove crematoria as a permitted use from B6 Business Enterprise and add crematoria as a permitted use with consent in IN 2 Light Industrial to the Liverpool Local Environmental Plan 2008 Land Use Table.**

A table indicating the land uses currently permissible with consent under the Liverpool LEP 2008 and under the proposed planning proposal is in Documents.

The planning proposal also seeks to add cemeteries and crematoria as an additional permitted use on five (5) sites that are either currently operate as a cemetery or crematoria or have an approval to develop a cemetery or crematoria. These sites are:

- 1. Kemps Creek Cemetery, Kemps Creek – Lot 1 DP 633792;**
- 2. Forest Lawn Memorial Park, Leppington (cemetery and crematoria) – Lot 1 DP 876560;**
- 3. 321 Greendale Road, Greendale (cemetery and crematoria) – Lot 1 DP 599308;**
- 4. 992 Greendale Road, Greendale (crematoria) – Lot 1 DP 520904**
- 5. 41 Greendale Road, Bringelly (cemetery) – Lot 5 DP 252040**

Kemps Creek Cemetery and Forest Lawn Memorial Park are currently operating and the remaining three sites have recently been approved for 79, 212 burial spaces and crematoria (45,120 ash receptacles).

Council also proposes to amend Liverpool Development Control Plan 2008 to provide guidelines, planning principles and siting requirements for cemetery and crematoria development to ensure environmental and health impact of these development are considered in the future.

PP Number : **PP_2013_LPOOL_008_00** Dop File No : **13/19187**

Proposal Details

Date Planning Proposal Received :	14-Nov-2013	LGA covered :	Liverpool
Region :	Sydney Region West	RPA :	Liverpool City Council
State Electorate :	LIVERPOOL MACQUARIE FIELDS	Section of the Act :	55 - Planning Proposal
LEP Type :	Policy		

Location Details

Street :	Kemps Creek Cemetery		
Suburb :	Kemps Creek	City :	Liverpool
		Postcode :	2178
Land Parcel :	Lot 1 DP 633792		

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Street :	Forest Lawn Memorial Park Cemetery				
Suburb :	Leppington	City :	Liverpool	Postcode :	2179
Land Parcel :	Lot 1 DP 876560				
Street :	321 Greendale Road Cemetery and Crematoria				
Suburb :	Greendale	City :	Liverpool	Postcode :	2745
Land Parcel :	Lot 1 DP 599308				
Street :	992 Greendale Road Cemetery and Crematoria				
Suburb :	Greendale	City :	Liverpool	Postcode :	2745
Land Parcel :	Lot 1 DP 599308				
Street :	41 Greendale Road Cemetery and Crematoria				
Suburb :	Greendale	City :	Liverpool	Postcode :	2745
Land Parcel :	Lot 5 DP 252040				

DoP Planning Officer Contact Details

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DoP Project Manager Contact Details

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Land Release Data

Growth Centre :	N/A	Release Area Name :	N/A
Regional / Sub Regional Strategy :	Metro South West subregion	Consistent with Strategy :	N/A
MDP Number :		Date of Release :	
Area of Release (Ha) :		Type of Release (eg Residential / Employment land) :	
No. of Lots :	0	No. of Dwellings (where relevant) :	0
Gross Floor Area :	0	No of Jobs Created :	0

The NSW Government Yes
Lobbyists Code of
Conduct has been
complied with :

If No, comment :

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Have there been meetings or communications with registered lobbyists? :

No

If Yes, comment :

In relation to the Lobbyist Code of Conduct there are no records on the Department's Lobbyist Contact Register regarding this matter.

Supporting notes

Internal Supporting Notes :

POLITICAL DONATIONS DISCLOSURE STATEMENT

Political donations disclosure laws commenced on 1 October 2008. The legislation requires the public disclosure of donations or gifts for certain circumstances relating to the Planning system.

"The disclosure requirements under the new legislation are triggered by the making of relevant planning applications and relevant public submissions on such applications.

The term relevant planning application means:

- A formal request to the Minister, a council or the Director-General to initiate the making of an environmental planning instrument..."

Planning Circular PS 08-009 specifies that a person who makes a public submission to the Minister or Director General is required to disclose all reportable political donations (if any).

The Department has not received any disclosure statements for this Planning Proposal.

External Supporting Notes :

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment :

The primary objective of the planning proposal is to ensure cemeteries and crematoria are located in the most appropriate zones and locations. Council considers industrial zonings are the most appropriate zones for this purpose.

Council also proposes to limit the proliferation of cemeteries and crematoria in rural areas as well as to limit the impact of cemeteries and crematoria on rural lands and future urban land. However, cemeteries and crematoria which were approved on land within RU4 Primary Production Small Lots, RU1 Primary Production zones are to be continued on those lands as additional uses.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? Yes

Comment :

Council has provided an explanation for all the proposed amendments. The explanatory statement for each amendment is in Council's planning proposal in Documents. It is considered that the explanations of the proposed amendments are adequate.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? No

b) S.117 directions identified by RPA :

1.1 Business and Industrial Zones

1.2 Rural Zones

* May need the Director General's agreement

1.5 Rural Lands

2.1 Environment Protection Zones

Is the Director General's agreement required? **No**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified? **N/A**

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

1.1 BUSINESS AND INDUSTRIAL ZONES:

This direction applies as the planning proposal involves Business and Industrial zoned land.

Council considers that 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 occur from cremated emissions.

Currently, cemeteries and crematoria are permissible uses in both IN1 General Industrial and IN3 Heavy Industrial zones. IN 2 – Light Industrial zone only permits cemetery. Council considers that by adding crematoria as a permissible land use within the IN2 Light Industrial zone it will minimise environmental effects on other land use areas and is appropriate to allow this use in all the industrial zones.

The planning proposal will not reduce business zoned land, however, crematoria as an additional permissible use within IN2 zone may reduce the availability of industrial uses in industrial zones and is inconsistent with the direction 1.1(4). However, this is considered minimal given these uses are already permissible within other industrial zones.

In this light it is considered that the planning proposal's inconsistency with the direction is of minor significance.

1.2 RURAL ZONES:

The objective of this direction is to protect the agriculture production value of rural land.

Council considers cemeteries and crematoria uses:

- pose environmental contamination risks,
- do not allow for protection of agricultural lands,
- often exceed the capacity of roads and service facilities,
- limit the agricultural potential of the land,
- decrease local amenity, and
- can isolate the site when not integrated within the periphery of local centres.

The planning proposal seeks to remove cemeteries and crematoria uses from all rural areas. The planning proposal is therefore not considered to be inconsistent with the objective of the Direction.

1.5 RURAL LANDS

The objective of this direction is to protect the agricultural production value of rural land and facilitate the orderly and economic development of rural lands for rural and related purposes.

The planning proposal is not considered to be inconsistent with the direction as it aims

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to achieve the above objectives by removing cemeteries and crematoria from rural lands.

2.1 ENVIRONMENTAL PROTECTION ZONES

This direction does not apply as the planning proposal does not propose to reduce an environmental protection zone or reduce the environmental protection standards.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : It is considered that the maps provided by Council are adequate for consultation purposes.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : No community consultation period has been proposed by Council. However, given the nature of the Planning Proposal, it is recommended that it should be placed on public exhibition for a minimum of 28 days

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : The Liverpool principal plan was made in 2012. This planning proposal seeks to amend The Liverpool Local Environmental Plan 2008.

Assessment Criteria

Need for planning proposal :

Over the past few years, Council received numerous development applications for cemeteries and crematoria in locations which Council considered would jeopardise primary agricultural land and planned future residential growth areas.

In March 2012, Council sought a Gateway determination for a planning proposal (PP_2012_LPOOL_001_00) which seeks to prohibit cemeteries in rural zones. The Department however did not support the proposal and advised Council that it "failed to demonstrate at this stage how it has considered this issue in the context of broader Metropolitan planning considerations" and requested for further investigation at a Metropolitan level (including land within South west) to identify and safeguard land for these purposes. Consequently, the Gateway considered that the proposal is premature until these investigations are complete. Gateway Determination letter dated 18th June 2012 is in Document.

Consequently, Council undertook a review of the current planning controls as well as relevant policies, regional strategies, and practice guidelines with regard to cemeteries

and crematoria uses. Council also investigated into the anticipated demand for burial spaces in the region, the current supply and availability of burial space, the potential risk of environmental and health impacts and the preferred siting requirements for cemeteries and crematoria.

Based on the findings of this investigation and review, Council prepared the planning proposal to ensure the appropriate siting and design of future cemeteries and crematoria (a copy of Attachment 1: Population and Mortality Analysis is in Documents and is discussed further in Consistency with strategic planning framework of this report).

The details of the five sites that either currently operate as a cemetery or crematoria or has an approval to develop a cemetery or crematoria are in the planning proposal document.

Consistency with strategic planning framework :

POPULATION AND MORTALITY ANALYSIS OF THE LIVERPOOL LOCAL GOVERNMENT AREA

Liverpool Council recently completed a population and mortality analysis study for its local government area.

According to this study, Liverpool Council now has surplus burial space to meet the needs of Liverpool and the South West region until 2031. For detail please refer to this Population and Mortality Analysis Study in Documents.

In brief, the study reached this conclusion on the following basis:

- Based on the standard death rate at 6.5/1000 over next 18 years to 2031, and the Department's population projections, Council assumes there will be an approximate total of 16,304 deaths resulting in need of 5,159 burials and 10, 870 cremations within the Liverpool Local Government Area by 2031.
- In the regional context, assuming that the standard death rate remains constant, there will be approximately 48,000 deaths that are expected to occur within the entire South Western Region over the next 18 years. This is likely to result in need of 32,000 cremations and 16, 115 burials for the South Western Region until 2031.

Liverpool LGA has 80,000 approved burial plots. Council considers that Liverpool LGA alone could easily accommodate all of the 48,000 deaths that are expected to occur within the entire South Western Region over the next 18 years, with a further 32,000 burial plots remaining.

Given the cremation rate of approximately 2/3 and that sustainable burial practices and proposed changes in regulatory policies to allow graves to be reused, it is very unlikely additional burial space within Liverpool will be needed over the next 30-50 year period.

It should be noted that Council has not consulted the Crown Lands Division of the NSW Department of Primary Industry as part of the analysis.

DRAFT METROPOLITAN STRATEGY FOR SYDNEY 2031

The draft Metropolitan Strategy refers to the planning of cemeteries and crematoria as an important social infrastructure under Liveable City – Objectives 8. The strategy acknowledges the requirement of land for cemeteries with good access. The strategy also acknowledges that the location of cemeteries and crematoria is a sensitive issue and guidance will be provided by the Department to meet future needs (a relevant extract from the Metropolitan Strategy is in Documents).

DRAFT SOUTH WEST SUBREGIONAL STRATEGY

The draft South West Subregional Strategy provides 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. Action SW E3.6.1 of the Strategy (copy in Documents) states 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."

According to Council, the Strategy also recognises the need to protect the resource lands spread across the west and southern parts of the subregion. Action E4 specifically mentions of protecting valuable rural activities and resource land.

The planning proposal was referred to Metro Strategy Team, Planning Coordination and Support Team and Strategies and Land Release Team of the Department. Crown Land Division of NSW Department of Primary Industries (John Filocamo – 8836 5313) was also

consulted.

THE METRO STRATEGY TEAM (attached at Documents)

The Metro Strategy Team has advised that in the absence of any established guidelines for cemeteries and crematoria, the proposal is assessed under the guiding principles for social infrastructure in the draft Metropolitan Plan for Sydney 2036 as follows:

- The draft Metropolitan Strategy classifies cemeteries and crematoria as a type of social infrastructure.
- The relevant principles from the draft strategy are to:
 - o assess current and future needs and demands at the local, subregional and regional (metropolitan) scale (to avoid duplication as social infrastructure is 'boundary blind');
 - o boost social cohesion and be accessible to existing and new communities;
 - o ensure facilities and services are accessible and functional; and
 - o ensure facilities are designed to address the needs of specific groups (e.g. culturally and linguistically diverse communities).

The Metropolitan Strategy team considers that:

- over the next 30-40 years, it is expected that current burial places in the Greater Metropolitan area will reach capacity without additional land and/or new burial practices;
- the planning proposal classifies crematoria as a type of 'light industrial' use and cemeteries as a type of "landfill"; and
- the planning proposal while addresses the "process" undertaken as part of these uses, it does not address the social needs of these facilities, which include the need to visit relatives etc. in a suitable environment.

The Metropolitan Strategy team has questioned whether a cemetery in a "light industrial" area is "functional" i.e. whether it meets the social needs, rather than the "process" and whether it will be suitably connected to existing and future communities. The Team considers the use is incompatible with the "light industrial" uses.

The team estimates of demand for cemetery space need to specifically address the needs of groups that cannot use cremation as an alternative to burial (e.g. Jewish and Islamic people) (this information is not included in the material supplied by Council with this planning proposal).

It was considered that the decision should be made at the subregional scales and the planning proposal should be deferred until the subregional delivery plans are made, so that the regional and subregional implications and demand can be considered. The team has advised that a Cemeteries Agency will be established under the recently passed Cemeteries and Crematoria Bill to develop planning strategies to address current and future interment needs and codes of practice for cemetery and crematoria operations.

THE PLANNING COORDINATION AND SUPPORT TEAM (attached in Documents)

The Planning Coordination and Support Team advised that "Although there has not been a formal policy document released by the Department, to date, it has been the Department's view regarding land use permissibility under the Standard Instrument, cemeteries and crematoria are appropriate land uses permissible with consent in rural areas. However, as council has acknowledged in the current planning proposal, the need for additional cemeteries and crematoria is a matter that needs to be addressed at a sub-regional level."

With regard to Council's proposal to include cemeteries and crematoria as additional uses on existing and approved sites, the team has suggested that as a cemetery is a land use that is highly unlikely to be used for a different purpose in the future, cemetery can be

appropriately zoned as SP2 Infrastructure as per the Department's Practice Note PN10-001 Zoning for Infrastructure in LEPs.

THE STRATEGIES AND LAND RELEASE TEAM (attached in Documents)

The Strategies and Land Release Team advised that the Metropolitan Strategy sets a target of 625,000 new jobs with 50% of these jobs to be located in Western Sydney. The team also notes that existing industrial lands, especially in established areas, are under pressure to be rezoned to other uses, despite the clear need for them in the future.

Additional land uses for cemeteries and crematoria in industrial zones should not be permitted as these land uses conflict with the intention to preserve Sydney's supply of valuable employment lands.

CROWN LANDS DIVISION OF NSW DEPARTMENT OF PRIMARY INDUSTRIES

Crown Lands Division of NSW Department of Primary Industries advised that:

- In next 30 to 40 years, there will be a shortage of burial places in the Sydney metropolitan area.
- A Cemeteries and Crematoria Bill 2013 has recently been passed by the NSW Government.
- Among other objectives of the Bill, one of the objectives is "to ensure that sufficient land is acquired and allocated so that current and future generations have equitable access to interment services".
- Under this Bill, a new Agency called "Cemeteries and Crematoria NSW" is to be set up.
- Among other function of the Agency, one of the function of this Agency would be "to access current and future interment needs and develop planning strategies for cemetery space to meet those needs".

In light of the above, it is considered that the planning proposal should be deferred until the new Agency for Cemetery and Crematoria NSW is created. The Agency will issue planning strategies to address current and future interment needs and codes of practice for cemeteries and crematoria.

CONSIDERATION

It is considered premature for the planning proposal to proceed at this stage as:

- the planning proposal does not meet the relevant objectives of the Metropolitan Plan for Sydney 2036 and the draft South West Subregional Strategy;
- crematoria in light industrial zone is an incompatible use;
- subregional delivery plans are yet to be made;
- shortfall for burial places is expected in the Greater Sydney Metropolitan area in 30 to 40 years; and
- the new Agency for Cemetery and Crematoria NSW which will establish planning strategies and guidelines to address current and future interment needs and codes of practice for cemeteries and crematoria is yet to be created.

If planning proposal proceeds, Council may consider zoning of existing and approved cemeteries and crematoria sites as SP2 Infrastructure rather than to include them as an additional use.

Environmental social
economic impacts :

There are no likely environmental, social or economic effects of the proposal.

Assessment Process

Proposal type : **Inconsistent** Community Consultation Period : **28 Days**

Timeframe to make LEP : **12 months** Delegation : **RPA**

Public Authority Consultation - 56(2) (d) : **Office of Environment and Heritage
NSW Department of Primary Industries - Agriculture
Adjoining LGAs**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **No**

If no, provide reasons : **See recommendations.**

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

Identify any internal consultations, if required :

Metropolitan and Regional Strategy

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
Council Letter.pdf	Proposal Covering Letter	Yes
Planning Proposal.pdf	Proposal	Yes
Council's report.pdf	Determination Document	Yes
Council's resolution.pdf	Determination Document	Yes
Attachment 1-Population & Mortality Analysis.pdf	Determination Document	Yes
Extract from Draft Metropolitan Strategy for Sydney 2031.pdf	Determination Document	Yes
Extract from South West subregional strategy.pdf	Determination Document	Yes
Relevant extracts from Liverpool LEP 2008.pdf	Determination Document	Yes
Previous Gateway Determination-12.6.2012.pdf	Determination Document	Yes
Metropolitan & Regional Strategies Team's Comments.pdf	Determination Document	No
Planning Coordination & Support Team's Comments.pdf	Determination Document	No
Strategy and Land Release Team's Comments.pdf	Determination Document	No
Cemeteries and Crematoria Bill 2013 - Passed by both Houses.pdf	Determination Document	Yes
Table indicating existing and proposed landuses.pdf	Determination Document	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Not Recommended**

S.117 directions: **1.1 Business and Industrial Zones**
 1.2 Rural Zones
 1.5 Rural Lands
 2.1 Environment Protection Zones

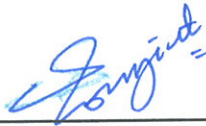
Additional Information : **The planning proposal should not proceed as it is considered to be premature at this stage for the following reasons:**

- the planning proposal does not meet the relevant objectives of the Metropolitan Plan for Sydney 2036 and the draft South West Subregional Strategy;
- shortfall for burial places is expected in the Greater Sydney Metropolitan area in 30 to 40 years;
- subregional delivery plans are yet to be made;
- the new Agency for Cemetery and Crematoria NSW which will establish planning strategies and guidelines to address current and future interment needs and codes of practice for cemeteries and crematoria is yet to be created; and
- crematoria in light industrial zone is an incompatible use.

If planning proposal proceeds, Council may consider zoning of existing and approved cemeteries and crematoria sites as SP2 Infrastructure rather than to include them as an additional use.

Supporting Reasons : **It is considered that the planning proposal should be deferred until the new Agency for Cemetery and Crematoria NSW is created.**

Signature: _____



Printed Name: _____

CHO CHO MCINT

Date: _____

16/12/13