



Our reference: 7882772
Contact: Abdul Cheema
Telephone: 4732 8120

27 October 2017

David Kitto
NSW Department of Planning & Environment
GPO Box 39
SYDNEY NSW 2001

Dear Mr Kitto

**Planning Proposal to amend Penrith Local Environmental Plan 2010:
Prohibition of cemeteries and crematoriums in Mulgoa Valley and parts of
Wallacia**

Thank you for your letter 17/13574 in response to our request for a Gateway Determination to prohibit cemeteries and crematoriums in Mulgoa Valley and parts of Wallacia. The purpose of this letter is to provide additional supporting information as requested.

Council has responded to each of the matters outlined in your letter in the attachment document. These responses are summarised below:

We consider cemetery development to be inconsistent with the objectives of the E3 Environment Management zone. In Local Government Areas (LGA) across almost all NSW and definitely in LGA's adjoining Penrith, cemeteries are prohibited in the E3 Environment Management zone. Cemeteries are also not mandated in E3 Environmental Management zone under the Standard Instrument – Principal Local Environmental Plan.

You have requested further information on the need and location of cemeteries and crematoriums in accordance with the draft West District Plan. The draft Western City District Plan provides no specific requirement for cemeteries or crematoriums therefore the planning proposal is consistent with the newest strategic plan for Penrith.

The State Government has been the planning authority for thousands of hectares of development areas including the Northwest Growth Sector, Southwest Growth Sector and Western Sydney Airport Priority Growth Area. The opportunity to plan for cemeteries as part of these development areas was available, however, the reality has been that this infrastructure has not been recognised during those planning processes.

When looking at the Penrith LGA in its entirety, we do not consider this planning proposal is a blanket prohibition. The planning proposal would have limited impacts on the vast majority of land in the LGA, leaving two other zones (that are widely applied across the LGA) where cemeteries are permissible.

Our investigations have shown there is significant capacity available within existing and approved cemeteries in the West City District and its vicinity.

The nature of service provision for cemeteries and crematoriums has changed to larger regional style facilities. Development of this scale is in conflict with the landscape, aesthetic and heritage values of the Mulgoa Valley.

On the above basis, Council at its Ordinary Meeting of 28 August 2017, stated a clear policy position on the need to remove cemetery and crematorium development as a permissible use in areas which have special environmental and scenic character.

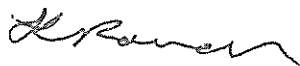
On 27 September 2017, we communicated our policy position to Cemeteries and Crematoria NSW; our willingness to work with the Greater Sydney Commission in regard to the long term planning for cemeteries in the city, and, offered to meet with CCNSW and the GSC. But to be clear, planning for the cemetery needs of Greater Sydney is clearly not the role of Penrith City Council.

We are known as a most responsible planning authority and our city is openly accepting of playing a regional role within Western Sydney. But it is patently clear that an unreasonable tension is being imposed when large, regional or metropolitan serving cemeteries are proposed in Western Sydney's special character areas like the Mulgoa valley and Wallacia.

Our consideration of the strategic merit of the planning proposal in light of the additional information requested is unchanged. We remain committed to pursuing this planning proposal and are confident that the additional information allows the assessment of the proposal to be finalised, allowing a prompt determination of this matter by the Gateway.

If you wish to discuss this matter further, please contact Natasha Baker, City Planning Manager on 4732 8593.

Yours sincerely



Kylie Powell
Executive Manager City Economy & Planning

1. Provide supporting studies or documentation which demonstrate why cemeteries and crematoriums are not suitable in the subject area.

a. Cemeteries are not appropriate in an E3 Environmental Management zone.

Cemeteries are prohibited in the E3 Environmental Management zone in almost all Local Government Area across NSW. Furthermore, all Local Government Areas surrounding Penrith LGA prohibit cemeteries in the E3 Environmental Management zone. Cemeteries are also not mandated in E3 Environmental Management zone under the Standard Instrument – Principal Local Environmental Plan.

The following adjoining Council's Local Environment Plans prohibit cemeteries in the E3 Environmental Management zone:

- i. Liverpool Local Environmental Plan 2008
- ii. Campbelltown Local Environmental Plan 2015
- iii. Wollondilly Local Environmental Plan 2011
- iv. Wingecarribee Local Environmental Plan 2010
- v. Blacktown Local Environmental Plan 2015
- vi. Blue Mountains Local Environmental Plan 2015
- vii. Fairfield Local Environmental Plan 2013
- viii. Hawkesbury Local Environmental Plan 2012

b. Cemeteries and crematoriums are not compatible with the objectives of the E3 Environmental Management zone

The objectives of the E3 Environmental Management zone are:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To minimise conflict between land uses within the zone and land uses within adjoining zones.*
- *To ensure development is compatible with the environmental capabilities of the land and does not unreasonably increase the demand for public services or public facilities.*
- *To preserve and improve natural resources through appropriate land management practices.*

We consider cemetery development to be inconsistent with the above objectives of the E3 zone for the following reasons.

The existing rural and scenic landscape qualities in the Mulgoa Valley provide the best physical evidence of buildings, gardens and pastoral landscapes in NSW, of Australia's colonisation and its impact on the landscape. The Mulgoa Valley and Wallacia contains significant rural landscape, including agricultural qualities, cultural heritage values, scenic vales and is the setting for the villages of Mulgoa and Wallacia.

Development in this zone for cemeteries would jeopardise these qualities for future generations.

The nature of service provision for cemeteries and crematoriums is changing towards larger regional style facilities. Development of this scale will have adverse impacts on the landscape, aesthetic and heritage values of the subject area. Development of this scale will also require an increase in demand for public infrastructure.

- c. The Mulgoa Valley is special and has a uniqueness that must be protected and enhanced for future generations.

The historical significance of the Mulgoa Valley and its rural and scenic character has been held in high regard by communities at a local and State level. In 1982, Bob Carr, the Minister for Planning and Environment, recognised the Mulgoa Valley as an area of archaeological and cultural importance. Competing land uses and development over time were seen to threaten the Valley's rural character and heritage values. This led to the commissioning of the Mulgoa Valley's Regional Environmental Study and preparation of the *State Regional Environmental Plan 13 Mulgoa Valley*.

This position is also supported by The National Trust. The National Trust have stated that

In the Trust's view, the proposal to use the site or any part of the site for the purposes of a cemetery is totally incompatible, is in fundamental conflict with and destructive of the use of the site as an "historic landscape of State Significance".

A copy of their letter and report is attached.

2. Identify the need and locational requirements for cemeteries and crematoriums in accordance with the draft West District Plan

The new draft Western City District Plan provides a link between regional and local planning. The draft Greater Sydney Regional Plan states the following in regard to the provision of cemeteries and crematoriums:

Planning for the infrastructure needs of Greater Sydney also requires planning for cemeteries and crematorium infrastructure. In the life of this plan, there will be a need to create substantial additional capacity to meet future local and regional demand.

In the new draft Western City District Plan, planning for cemeteries and crematorium infrastructure is not mentioned at all. It's Liveability priorities do not carry forward the message of the Greater Sydney Regional Plan in regard to planning for this development type.

The Department's preliminary review regarding this Planning Proposal has asked for the need and locational requirements for cemeteries and crematoriums to be identified in accordance with the draft West District Plan. The Planning Proposal is consistent with the Western City District Plan as there is no specific requirement for Cemeteries or Crematoriums.

It should also be noted that the state government has been the planning authority for thousands of hectares of development areas including the Northwest Growth Sector, Southwest Growth Sector and Western Sydney Airport Priority Growth Area. The opportunity to plan for cemeteries as part of these development areas was available, however, the reality has been that this infrastructure has not been recognised during those planning processes. This may have resulted in new cemeteries being proposed in locations and of a scale that have not been strategically planned for. These facilities require strategic planning on a regional Greater Sydney level.

Furthermore, a planning proposal lodged by Liverpool Council in 2014 seeking (among other matters) to remove cemeteries and crematorium from the RU1 and RU4 zones was not supported by the Department of Planning and Environment (DP&E). In the Gateway Determination letter, it stated, that it was considered premature for council to adopt a blanket prohibition for cemeteries and crematoriums in rural zones until sub-regional planning has been identified and safeguarded land for these purposes. This has not been done in the newly released plans. Despite being a clear responsibility of the State Government for some time, nothing has been planned. Notwithstanding this, council is of the view that it is unreasonable to expect local councils to plan for cemeteries at a regional scale.

3. *Identify how a blanket prohibition of cemeteries and crematoriums within the subject area and in the E3 zones will impact on the direction of the draft West District Plan of providing adequate internment services for the future needs of the community.*

The E3 Environmental Management zone is the predominant zone within the subject area. Council is committed to protecting and managing development in these areas and allowing uses that are compatible with the E3 zone.

When looking at the Penrith LGA in its entirety, we do not consider this planning proposal is a blanket prohibition. The planning proposal would have limited impacts on the vast majority of land within the Penrith LGA.

- Under Penrith LEP 2010, cemeteries are permissible with development consent in:
 - RU2 Rural Landscape
 - RU4 Primary Production Small Lots, and
 - E3 Environment Management
- Under Penrith LEP 2010 crematoriums are a separately defined land use which is prohibited in the E3 zone, but is permitted in:
 - RU2 Rural Landscape
 - RU4 Primary Production Small Lots, and
 - IN2 Light Industrial

Providing adequate internment services for our community is a priority, however providing adequate internment services for the future needs of the 'Greater Sydney Region' is a matter that requires planning at a Greater Sydney level and is not the responsibility of Penrith City Council.

Providing adequate internment services for the future needs of our community in line with the West District Plan have been discussed in the point above. The table below summaries the local and out of area cemetery offerings as well as future cemetery proposals.

Table 1: A summary of cemetery provision in Penrith LGA

• Active cemeteries in Penrith*		
	Capacity Available	Comments
Penrith	10,000	There is capacity for up to around 10,000 burials still possible within the Penrith Cemetery.
St Marys	655	There are 655 plots reserved at St Marys Cemetery.
Emu Plains	204	There 204 plots reserved at Emu Plains Cemetery.
Approved cemeteries in LGA		
Luddenham Memorial Park	38,000	This development will include cemetery, memorial gardens, associated buildings and crematorium. Capacity for 25,000 ground burials and 13,000 above ground burials.
Other cemeteries outside LGA likely to have an impact on the area as a regional offering		
InvoCare Cemeteries Castlebrook Pinegrove Forest Lawn	These cemeteries in Rouse Hill, Minchinbury and Forest Lawn, provide all forms of burial and memorialisation, crematorium, café and florist etc.	
Catholic Metro. Cemeteries Trust Catholic Cemetery – Rookwood Kemps Creek General Cemetery Greendale Cemetery Liverpool Cemetery	These cemeteries provide a combination of crematorium, natural burial, Islamic burial and lawn burial areas or rural style cemetery set on church grounds.	
Cemetery proposals within the broader Penrith catchment area		
41 Greendale Road 321 Greendale Road	These are approved cemeteries within the Liverpool LGA. They will have capacity for 85,000 plots.	
Macarthur Memorial Park, Varroville	This facility received rezoning approval in 2016, in the Campbelltown LGA, with capacity for 136,000 plots and expected to be operational by 2018	

It is evident from the table above that there is significant capacity for the West City District in relation to existing and approved facilities.

4. Provide reasons why the current scenic protection provisions in the LEP are not sufficient to manage the impacts resulting from this land use.

The scenic protection provisions in the LEP are as follows:

- a. Clause 7.5 Protection of scenic character and landscape values, and
- b. Clause 7.18 Mulgoa Valley.

A significant area of the Mulgoa Valley is covered by the scenic character and landscape values as shown in the LEP 2010 Scenic and Landscape Values Map.

The current LEP contains specific development standards and provisions guiding development in the Mulgoa Valley and the Villages of Mulgoa and Wallacia that are intended to protect and enhance its landscape values and qualities. The planning proposal is seeking amendments to the LEP that will further safeguard these qualities.

The objectives of the clause are:

- *to protect areas that have scenic value either from major roads, identified heritage items or other public places, and,*
- *To ensure development in these areas of scenic value, is located and designed to minimise its visual impact.*

The clause states that development consent must not be granted for development unless the consent authority is satisfied that measures will be taken (location and design) to minimise the visual impact of development from **major roads and other public places**.

The clause only requires minimising visual impact of the development from major roads and other public places only. However, this does not take into account the heritage vistas and views from the heritage item outwards.

Clause 7.5.3 seeks only to minimise the visual impact of a development from major roads and other public places. The scenic and landscape values of the Mulgoa Valley should also be protected from within these scenic landscape areas as well.

For example, the Fernhill estate was designed as picturesque park like landscape. A principal element of the picturesque landscape was the significant views and vistas to the rural landscape both within the property and beyond. The Conservation Management Plan for Fernhill states that it is important to retain and some instances recover some of the significant vistas within the property (Davies, 2013, p.147).

Furthermore, the scale of cemetery development (most likely being of a regional scale) was not envisaged at the time the current scenic protection provisions were drafted. They were designed with development of the scale of single dwelling, sheds, stables and rural type buildings. This is evident in the type of development that is found in the Mulgoa Valley today. The current provisions seek to protect the areas for tourism and recreational potential and enhance the rural character and qualities of the Valley.

This clause is about minimising visual impact of developments from public places. However, the intention of the planning proposal is to permit only suitable landuses within the E3 Environmental Management zone.

5. *It is acknowledged that sites with environmental and/or heritage significance should be protected. However, no supporting information has been provided to demonstrate the impact cemeteries or crematoriums would have on these significant sites.*

Fernhill is the most significant heritage item in the subject area where council intends to prohibit cemeteries through this planning proposal. Details on its significance and response to this matter is described below.

Significance:

The Fernhill estate comprises an extensive area of natural landscape which provides the setting for a house completed c.1845 for Edward Cox. The estate is primarily significant for its landscape which is a rare Australian example of the English landscape school's practice of modifying the natural landscape to create a romanticised natural appearance embellished by a richness of cultural features: for the house which is a fine example of Greek Revival architecture, exceptionally well crafted; and the setting of the estate within the Mulgoa Valley with its modified landscape distinguished by historic colonial era homesteads and the Anglican Church (St. Thomas', Mulgoa).

The estate also demonstrates a unique phase in Australia's history with the rise of the landed pastoral estates, in this instance developed by Edward Cox and his son Edward King Cox (Paul Davies, 2005). The importance of Fernhill as a group of related sites (along with St. Thomas' Church, Mulgoa, and the Cottage, Mulgoa) is twofold: the landscape is exceptionally significant in its own right irrespective of the buildings, and is as important as the architectural, historic and visual relationships of the buildings themselves.

This group of three sites retain their original visual relationship to each other and demonstrating the ambitions and changes in wealth and status of an important early colonial family (the Coxes) from 1810-1880s. The landscape between the Cottage, the Church and Fernhill has remained virtually unaltered since the 1850s. This landscape is a unique piece of evidence of a very rare attitude in the mid-nineteenth century towards the natural environment.

Fernhill's landscape extends generally from Mulgoa Creek in the east to beyond the ridge of bush behind Fernhill house in the west, from Littlefields Creek in the south to Mayfields Road in the north. Fernhill setting is an extensive area of modified landscape providing a picturesque approach to the historic Homestead. The landscape is significant for the high degree of creative design achievement, attributed to the original owner, Edward Cox.

It is historically significant for the following reasons:

- the landscape is a rare Australian example of the English landscape school's design technique which modified existing landscapes to create a romanticised natural appearance;
- the landscape demonstrates a cultural phase in Australia when landscape design was influenced by the teaching of Thomas Shepherd who advocated the adaptation of the English design technique.

The landscape contains a richness of cultural features such as:

- long vistas to the Homestead;

- vistas to St. Thomas' (the family) Church spire from the Homestead;
- use of water as a foreground for vistas and views;
- ornamental bridges to articulate enframed views;
- and clumps of trees carefully created by thinning of native bushland (RNE)

Fernhill is possibly the only intact early colonial garden laid out on the principles of the English Landscape Garden (a landscape "Park" in the picturesque manner) but relying entirely on indigenous plant material and the process of elimination (thinning and tree removal) rather than planting (Broadbent, J., for the National Trust of Australia (NSW) 1981).

While unfortunately somewhat altered in character and detail, Fernhill's remnant exotic trees of the 19th century garden (Bunyas, stone pines, Chinese elms) around the house and the remnant garden layout are a carefully contrived culmination of the more important landscape drive.

Fernhill was probably one of the last buildings completed in the Colonial period of New South Wales architecture. It was the home of Edward Cox, son of William Cox, and as such is intimately linked with much of the early rural development of the colony. Fernhill property retains most of its rural landscape character, including a visual relationship with the Cox family's earlier house Mulgoa Cottage and church, St Thomas' Church of England. (Report to Heritage Council 1978)

Fernhill was constructed of stone quarried on the site and was probably one of the last buildings to be completed in the noble colonial period. It was at this time that the Greek and Romantic Revival period commenced in which the buildings were constructed of imported materials. (RNE).

The fact that the house was not completed (it is single storey, and was apparently to be two storied) makes it physical evidence of the depression of the 1840s. Perhaps most significant is its siting. In the truly picturesque sense, it is sited like a Greek temple, on an acropolis of a site, to command the country for miles around. It is also significant as the home of a prominent settler, Edward Cox. (Stapleton, 1983).

Heritage Impact Assessment:

We have limited information/detail on any proposal for a cemetery at Fernhill. However, it is likely to be large in size given that the property extends over 400 hectares. A formal impact assessment cannot be undertaken unless a development proposal is put forward detailing the size, type, traffic generated etc. However, if proposed, a cemetery of such a size would be a regional facility that is a matter that should be dealt within the District Plans rather than the permissibility of a LEP.

Council has received correspondence from National Trust (attached) that states:

In the Trust's view, the proposal to use the site or any part of the site for the purposes of a cemetery is totally incompatible, is in fundamental conflict with and destructive of the use of the site as an "historic landscape of State Significance".

Furthermore, the nature and size of modern cemeteries, at Fernhill would adversely impact the heritage significance of the item. Specifically, Lawn Cemeteries typically provide contemporary landscaping that would be inconsistent with the early colonial / rural landscape setting and the historic English landscape design. Given the lack of detail available for such a large scale cemetery proposal, a heritage impact assessment cannot be carried out until a Development Application is submitted or more details provided.

14 September 2017

Mr Alan Stoneham
General Manager
Penrith City Council
PO Box 60
PENRITH NSW 2751

Email: council@penrithcity.nsw.gov.au

Dear Mr Stoneham,

Cemetery Proposal – Fernhill, Mulgoa

In early September the National Trust of Australia (NSW) was given a presentation by the Rookwood General Cemeteries Reserve Trust (RGCRT), as part of the Reserve Trust's due diligence prior to a proposed purchase of the Fernhill Estate at Mulgoa. Following that presentation the RGCRT took questions and comments from those Trust Board and Trust Technical Committee Members present at the meeting.

The proposal has now been carefully considered by the National Trust and the Trust does not accept the promotional concept design put forward by the RGCRT and believes that a cemetery of this scale would lead to the ultimate destruction of the heritage values of this rare, early colonial landscape.

In 1946, "Fernhill" was listed on the National Trust's first list of "39 places worthy of preservation". A Permanent Conservation Order was placed on "Fernhill" in July, 1981 and in 1987 The NSW Government made Sydney Regional Environmental Plan No 13 Mulgoa Valley and its provisions were incorporated into the Penrith Local Environmental Plan 2010. Specific development controls in these plans are intended to protect the Valley and "Fernhill". The property was listed on the State Heritage Register in April 1999.

In the Trust's view, the proposal to use the site or any part of the site for the purposes of a cemetery is totally incompatible, is in fundamental conflict with and destructive of the use of the site as an "historic landscape of State Significance". I enclose a copy of the National Trust's Position Paper on this issue.

The National Trust would be pleased to work with Penrith City Council to ensure the heritage values of the Mulgoa Valley and "Fernhill" continue to be protected against damaging development proposals.

Yours sincerely,



Graham Quint
Director - Advocacy



POSITION PAPER

FERNHILL, MULGOA – CEMETERY PROPOSAL

BACKGROUND

In 1946, “Fernhill” was listed on the National Trust’s first list of ‘39 places worthy of preservation.’ On 31 May, 1976 the Mulgoa Group, comprising the properties “Fernhill and Curtilage”, “St Thomas’ Church of England including Cemetery & Curtilage” and “The Cottage, also known as Cox’s Cottage” were listed on the National Trust Register. The author of the listing was architectural historian Dr James Broadbent, author of “The Australian Colonial House – Architecture and Society in New South Wales 1788 – 1842” and owner of Cox’s Cottage (1810).

A Permanent Conservation Order was placed on ‘Fernhill’ in July, 1981. In December 1987 the Government made Sydney Regional Environmental Plan No 13 Mulgoa Valley (REP). Clause 3 (1) and (2) set out the “Aims, objectives etc” inter alia, “to ensure that the development of the Mulgoa Valley is guided to maximize the benefits and conservation of its resources.” The REP was repealed in 2010 and its provisions were incorporated into Penrith Local Environmental Plan 2010 (LEP). “Part 7 Additional local provisions – Clauses 7.17-19” together with the listings in “Schedule 5 Environmental heritage”, provide specific development controls for the Valley which includes “Fernhill”. The property was listed on the State Heritage Register (SHR) in April, 1999. ‘Fernhill’ was listed as a ‘Landscape’ in the group ‘Landscape – Cultural’ and in the Category ‘Historic Landscape’. The SHR Listing states ‘Fernhill is possibly the only intact early colonial garden laid out on the principles of the English Landscape Garden (a landscape “Park” in the picturesque manner) but relying entirely on indigenous plant material and the process of elimination (thinning and tree removal) rather than planting.’ The SHR Listing continues ‘Perhaps most significant is its (the house’s) siting. In the truly picturesque sense, it is sited like a Greek temple, on an acropolis of a site, to command the country for miles around.’

On 6 September, 2017 the Rookwood General Cemeteries Reserve Trust (RGCRT), as part of its due diligence prior to a potential purchase of the Fernhill Estate, presented to the National Trust a proposal for a major cemetery development at ‘Fernhill’ including within the Area listed as the historic landscape. The RGCRT indicated that the proposal did not meet the criteria for a State Significant Development Application (SSDA) and that any proposal would be determined by Penrith City Council. In this event, the National Trust understands that the NSW Heritage Council would also be a joint determining authority.

Following the presentation, the RGCRT took questions and comments from those present at the meeting. It appears the main motivation for the cemetery proposal was the price of the land which was a consequence of the Listing’s likely preclusion of residential development within the boundary of the Listing.

The cemetery proposal at Fernhill was forwarded to the Trust’s Landscape Conservation Committee for the development of a National Trust position and response to the proposal.

NATIONAL TRUST POSITION

- The Trust adheres to its reasons for listing the site in 1946, seventy years on and agrees with the statement in the listing in the SHR.
- The Trust considers that the description of the site in the SHR is an accurate description of the “use of the site” and that the proposal to “use the site or any part of the site for the purposes of a cemetery” is totally incompatible, is in fundamental conflict with and destructive of the use of the site as an “historic landscape of State significance”.
- The Trust is committed to the view that the site is a key heritage asset and resource of local and State importance as reflected in the SHR and the Aims of the REP, the sentiments of which have been incorporated into the “objectives” of Clause 7.18, sub-clause (1) and the controls in sub-clauses (2) – (4) of the LEP.
- The Trust does not accept the promotional concept design put forward by the RGCRT and believes that a cemetery of this scale would lead to the ultimate destruction of the heritage values of this rare, early colonial landscape.
- The Trust does not accept the argument put forward by the Reserve Trust that the cemetery proposal would be preferable to an alternative residential development. The Trust does not believe a residential subdivision development would be permitted within the boundary of an SHR Listed Historic Landscape of this significance.
- The Trust concurs with the view of the RGCRT that it is the role of the NSW Government, particularly the Greater Sydney Commission, to locate and set aside appropriate land for much needed new cemeteries in the Greater Sydney Area.

ACTION TO PROMOTE THE TRUST’S POSITION

The Trust will notify Penrith City Council, the NSW Heritage Council and the Rookwood General Cemeteries Reserve Trust of its objection to the cemetery proposal and its view that the proposal would lead to the destruction of the landscape’s State Heritage significance.

Penrith Heritage Inventory

State Heritage Inventory

SHI Number

2260128

Study Number

MV-4

Item Name: **Fernhill - House, Outbuildings, Landscape and Cu**

Location: **1041-1117 Mulgoa Road, Mulgoa [Penrith]**

Address: 1041-1117 Mulgoa Road

Planning: Sydney West

Suburb / Nearest Town: Mulgoa 2745

Historic Region: Sydney

Local Govt Area: Penrith

Parish:

State: NSW

County: Cumberland

Address: 1041a Mulgoa Road

Planning: Sydney West

Suburb / Nearest Town: Mulgoa 2748

Historic Region: Sydney

Local Govt Area: Penrith

Parish:

State:

County:

Address: 987-1039 Mulgoa Road

Planning: Sydney West

Suburb / Nearest Town: Mulgoa 2745

Historic Region: Sydney

Local Govt Area: Penrith

Parish:

State: NSW

County:

Other/Former Names:

Area/Group/Complex:

Group ID:

Aboriginal Area:

Curtilage/Boundary:

Item Type: Complex / Group

Group: Farming and Grazing

Category: Homestead Complex

Owner: Private - Corporate

Admin Codes: 59932,59933,42755

Code 2:

Code 3: Current LEP Item

Current Use: House and farm

Former Uses:

Assessed Significance: **State**

Endorsed Significance: **State**

Statement of Significance: The importance of Fernhill as a group of related sites (along with St. Thomas' Church, Mulgoa, and the Cottage, Mulgoa) is twofold: the landscape is exceptionally significant in its own right irrespective of the buildings, and is as important as the architectural, historic and visual relationships of the buildings themselves. This group of three sites retain their original visual relationship to each other and demonstrating the ambitions and changes in wealth and status of an important early colonial family (the Coxes) from 1810-1880s. The landscape between the Cottage, the Church and Fernhill has remained virtually unaltered since the 1850s. This landscape is a unique piece of evidence of a very rare attitude in the mid-nineteenth century towards the natural environment. Fernhill's landscape extends generally from Mulgoa Creek in the east to beyond the ridge of bush behind Fernhill house in the west, from Littlefields Creek in the south to Mayfields Road in the north. Fernhill

State Heritage Inventory

Date: 27/10/2017

Full Report with Images

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Penrith Heritage Inventory

State Heritage Inventory

SHI Number

2260128

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MV-4

Item Name: **Fernhill - House, Outbuildings, Landscape and Cu**

Location: **1041-1117 Mulgoa Road, Mulgoa [Penrith]**

setting is an extensive area of modified landscape providing a picturesque approach to the historic Homestead. The landscape is significant for the high degree of creative design achievement, attributed to the original owner, Edward Cox. It is historically significant for the following reasons: - the landscape is a rare Australian example of the English landscape school's design technique which modified existing landscapes to create a romanticised natural appearance; - the landscape demonstrates a cultural phase in Australia when landscape design was influenced by the teaching of Thomas Shepherd who advocated the adaptation of the English design technique. The landscape contains a richness of cultural features such as: - long vistas to the Homestead; - vistas to St. Thomas' (the family) Church spire from the Homestead; - use of water as a foreground for vistas and views; - ornamental bridges to articulate enframed views; and clumps of trees carefully created by thinning of native bushland (RNE) Fernhill is possibly the only intact early colonial garden laid out on the principles of the English Landscape Garden (a landscape "Park" in the picturesque manner) but relying entirely on indigenous plant material and the process of elimination (thinning and tree removal) rather than planting. (National Trust (NSW) 1981) While unfortunately somewhat altered in character and detail, Fernhill's remnant trees of the 19th century garden (Bunyas, stone pines, Chinese elms) around the house and the remnant garden layout are a carefully contrived culmination of the more important landscape drive. Fernhill was probably one of the last buildings completed in the Colonial period of New South Wales architecture. It was the home of Edward Cox, son of William Cox, and as such is intimately linked with much of the early rural development of the colony. Fernhill property retains most of its rural landscape character, including a visual relationship with the Cox family's earlier house Mulgoa Cottage and church, St Thomas' Church of England. (Report to Heritage Council 1978) Fernhill was constructed of stone quarried on the site and was probably one of the last buildings to be completed in the noble colonial period. It was at this time that the Greek and Romantic Revival period commenced in which the buildings were constructed of imported materials. (RNE listing). Believed to be possibly the finest extant Greek Revival temple house in New South Wales. (Fox * Associates 1987: MV-4) The fact that the house was not completed (it is single storey, and was apparently to be two storeys) makes it physical evidence of the depression of the 1840s. Perhaps most significant is its siting. In the truly picturesque sense, it is sited like a Greek temple, on an acropolis of a site, to command the country for miles around. It is also significant as the home of a prominent settler, Edward Cox. (Stapleton for Dept. Of Planning 1983). Also See 2260873.

Historical Notes or Provenance:

Fernhill estate is located principally on the first land grant made in the Mulgoa Valley (to the infant Edward Cox) dating back to 1809. The name Fern Hills seems to have been given it as early as 1810. For some time the property (330 acres) was managed jointly with that of William Cox by the overseer James King with occasional help from Cox's sons, George, Henry and Edward. C1825 Edward Cox (1805-68) returned from schooling in England (since 1821) and established his separate estate. In 1827 he married Jane Maria Brooks and the family lived at The Cottage, Mulgoa (to the east) for many years. The house at Fernhill was completed in 1843 and Edward and Jane Cox moved in then. Above the door is a date of 1842. (Above from Stapleton for Dept. Of Planning, 1983) The architect of Fernhill is not known with any certainty. The house bears features suggestive of the work of Mortimer Lewis and John Verge. The less-well known architect, Francis Clarke, was working in the area at the time of Fernhill's construction and the house may have been designed by him. (Report to Heritage Council 1978) The house appears to have been designed as a two storey building. The recession of the 1840s is said to be the reason for its unfinished (one

State Heritage Inventory

Date: 27/10/2017

Full Report with Images

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SHI Number

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Study Number

MV-4

Item Name: **Fernhill - House, Outbuildings, Landscape and Cu**

Location: **1041-1117 Mulgoa Road, Mulgoa [Penrith]**

storey) state. The surviving stable at the rear (west) is said to be built in 1839 and is certainly of the same period as the house. By the late 1830s Fernhill was one of the principal estates in the Mulgoa Valley and included The Cottage site to the east. In the early 1850s it was singled out by Governor FitzRoy's aide-de-camp, Col. Godfrey Mundy, for the way in which its landscape had been moulded by thinning the native species. C1860 it was described as "a modern mansion situated on rising ground with well kept shrubberies, lawns and a well kept ... vineyard". Following Edward Cox's death in 1863, the property passed to his eldest son, Edward King Cox (1829-1883) of Rawden, Mudgee, who until 1885 carried out at The Cottage, Mulgoa, a noted racehorse stud producing several Melbourne cup winners. Following E.K.Cox's death in 1883 the estate seems to have been divided. In 1888 Standish Cox sold the house and surrounding land to Mr Wright of Wright Heaton. For some years possibly due to the recession of the 1890s the house is said to have been uninhabited. By 1911 the property was owned by R.B.Baynes, Mayor of Mulgoa. About 1931 the house and 1000 acres was bought by Mr & Mrs Moyse who ran it as a guest house. At that time the building had a galvanised iron roof and a large stone reservoir holding 45,000 gallons. C1965 Mr John Darling bought the estate. C1969 Darling and garden designer Paul Sorensen reworked the garden around the house. C1981 the house has been extensively restored and renovated by Darling and (current) owner Mr Warren Anderson. The most notable addition has been the sandstone columns (ex Union Club, Sydney) in the northern pergola. (Stapleton for Dept. Of Planning, 1983).

Themes:	National Theme	State Theme	Local Theme
	4. Settlement	Land tenure	Country estates
	8. Culture	Creative endeavour (Cultur	Country estates
	9. Phases of Life	Persons	Country estate

Designer: Unknown. Possibly Mortimer Lewis, John Verge or Francis Clarke

Maker / Builder:

Year Started: 1835 Year Completed: 1840 Circa: Yes

Physical Description: HOUSE Fernhill is a single storey ashlar sandstone house. There is a central semi-circular bay on the south-eastern elevation, with a stone flagged verandah, curved timber rafters and the roof of which is supported by stone Doric columns. The extensive cellar features a stone cantilevered stairway. The windows and the entrance on the north-eastern elevation suggest that a verandah along that side of the house was planned but never built. Interior ceilings are lofty as the house was originally designed for two-storeys. Windowsills are hewn from the wall of masonry, rather than being separate blocks of stone. The stone-flagged entrance hall has flattened corners containing round-headed niches which flank the opening into the central hall. Very fine cedar joinery and papier mache ceiling ornamentation. Also very fine Italian style chimney pieces. All of the living rooms feature elegant architraves. Interior ceilings are lofty as house was originally designed for two storeys. Roof is of corrugated

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iron. STABLES & COACH HOUSE A sandstone building is located behind the main house. This is thought (Stapleton for Dept. Of Planning) to be a stable and coach house, with fine face sandstone construction, mostly original openings, coach house door original, roof and all other joinery and finishes are c1980. TWO STONE GARDEN WALLS Off western side of house, joined to two wings - both walls bent ie: cornered - one at right angles. Coursed colonial rubble walls of bush stone. Shaped coping of smaller stones, includes gateway to stable (west of house). Remnants of original officers courtyard of house. GARDEN Old and substantial trees including Bunya pines (*Araucaria bidwillii*), Stone pines (*Pinus pinea*), and Chinese elms (*Ulmus parvifolia*) remain. The early configuration of the garden is now obscured (1981 and 2002 observations), but critical elements of early planting survive as setting for the historic house. Much recent (1981) planting and the introduction of unsympathetic landscape elements (walls, gazebo on island in recent dam east of house), etc obscure the significance of the setting and obstruct original panoramic views from the house. (Stapleton for Dept. Of Planning 1983)(2002 observation - extensive planting of hedges of cypresses further block views out/in - fortunately damaged in the 2001/2 summer bushfires. (S. Read, pers. Comm.) In 1969 owner John Darling hired garden designer Paul Sorensen to construct a garden around the house. At that time photographs showed little "development" around the house apart from the carriage loop and dramatic views. Darling and Sorensen were both keen to provide a setting both sympathetic to the house and suitable for modern outdoor living. Planting then was limited to two jacaranda trees (*Jacaranda mimosaeifolia*), one bunya pine a few smaller trees and a row of struggling agapanthus. The immediate land was littered with farm structures, tank stands, castor oil bushes and dead wattles. Cattle were roaming through parts of the house at the time. Sorensen and the Darlings (then owners) created level lawns around the house by building retaining walls and lots of fill. This in turn required replanning the carriage loop, which was buried in the process of filling. This was replaced with a car court hidden below a retaining wall to the north-east of the house with an approach stair arriving at lawn level near a grove of Chinese elms at the end of an enormous pergola. In this pergola Sorensen and Darling reused old architectural elements, sandstone columns from the Union Club, Bligh Street, Sydney (demolished in the early 1960s to build the Wentworth Hotel). These were erected as supports for the heavy timber pergola over which white *Wisteria sinensis* 'Alba' was planted. This pergola design was very refined, with the timber ends fashioned in a detail sympathetic to the Georgian architecture of the house. A wide bed of mixed plantings of perennials and shrubs, including camellias and azaleas, for a backdrop to the pergola when viewed from the house, adding a floral display at this important arrival point to the house. A swimming pool was installed south of the house, sited so it cannot be seen from the house, even though it is on the central southern axis (bay). It was set at a lower level below a balustraded wall. While flowering shrubs were planted for further screening. A pool house was set below the adjoining upper terrace and is invisible from other parts of the garden. Hedges were planted as an important garden feature. The rose garden is screened by tall hedges of star jasmine (*Trachelospermum jasminoides*) with the entrance being arched with yellow banksia rose (*Rosa banksiae*). Star jasmine was also used to screen a new tennis court to the southwest. The garden was nowhere near complete when Darling sold Fernhill to (current) owner Warren Anderson, who continued to use Sorensen's services. Later works included provision of an ornamental pool (the dam with island east of the house) and the transplanting of an ancient evergreen magnolia/bull bay (*Magnolia grandiflora*) from Sydney into the garden. STONE BOX DRAIN Substantial drain with dished bottom and stone sides and top running from back (west) of house under south end of old stable. Possibly main

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cellar drain. Reportedly discovered in works c1980 (pers. Comm. Manager Mr F Gardiner)(Stapleton for Dept. Of Planning 1983) WINERY RUIN West of house and stable/coach house. Coursed and rubble sandstone walls, approx 14m x 8m, originally two storeys high. Contained (1981) some old iron machinery including a large (boiling down) pot. Divided into two rooms, the larger with a two storey space. Except for the dividing wall, the walls are now (1981) reduced to approx. 2.5m and the sunken floors are filled with rubble. (2002 - all walls c.2.5m high - S. Read). Said to be a winery. There is some documentary evidence of vineyards at Fernhill (Lyth, The Golden South, p173-6) notes "well kept vineyard". The property retains most of its rural landscape character including a strong historical and visual relationship with the Cox family's earlier house Mulgoa Cottage and Church, St. Thomas' Church of England. The three buildings were originally linked by tree-lined drives, the remains of which bear evidence of an attempt by Cox to create an English-style rural landscape in an Australian setting. The native trees of the area include *Angophora subvelutina*, a species which approximates the English Oak in size and habit. DRIVEWAY The original entrance drive to Fernhill was designed to provide visitors with constantly changing glimpses of the house and its estate. Two damaged but still trafficable sandstone arch bridges on the drive exist. They were unnecessary in an engineering sense as the drive could have been constructed higher up the hill to avoid the shallow gullies which the bridges cross. They were an obvious attempt by the landscape architect to increase the grandeur of the entrance. This contrived landscape is an integral part of the setting of the house and outbuildings. (Report to Heritage Council 1978) Drive lined with avenue and specimens and clumps of native apple trees (*Angophora intermedia*, *A.costata*) contrived to offer occasional glimpses of the Fernhill house and St. Thomas' Church. Mature 19th century native trees. Recent (c1980) stone faced walls and rail fences detract seriously from the historic quality of the planting. Original drive went from the house to the Cottage, Mulgoa (east of Mulgoa Road today). Includes two stone bridges and a dam - all shown on c.1872 plan. The southern of two existing roads to the house from Mulgoa Road - northern drive c1970/80, planted with avenue of bloodwoods - relatively straight line up hill, compared to original driveway with its carefully contrived bends to reveal views and hide them. (Stapleton for Dept. Of Planning, 1983 and Stuart Read, 2002) STONE BRIDGES ON DRIVE Two very fine ashlar sandstone bridges with buttresses, piers and capped parapets. Architectural design. Both in poor order (1981) with downhill sides collapsing. Presumably built before house as second storey of house did not eventuate (Stapleton for Dept. Of Planning 1983). DAM ON DRIVE Dam formed by drive crossing Littlefields Creek. Reportedly timber piling was removed in c1980 works and lined with stone walling which has changed the character of the dam. (Pers.comm Mr F Gardiner, Manager) Dam probably original to the drive - shown on c1872 plan. Similar construction to the dam at The Cottage, Mulgoa to the east. (Stapleton for Dept. Of Planning 1983). LANDSCAPE Fernhill is a consciously created rural landscape in the English landscape tradition, formed by: - the process of elimination rather than planting; - the removal of natives regarded as unpicturesque; and - thinning to create a park like scene with clumps of angophoras left along the drive to the house. Beyond the avenue of trees the drive crosses the wall of a dammed watercourse. The road continues across two small decorative but massively constructed balustraded bridges and winds upwards below the now partially obscured garden front of the house. Around the house a garden designed(?/planted) by Paul Sorensen was developed c1969. Significant elements are the hill setting of the house and original (southern) entrance drive including the drive, bridges, pond and estate landscaping in English landscape park style. The house, garden and modern works are not significant elements. Munday's nineteenth century description of

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Fernhill's landscape being the finest piece of English park like scenery, but with Australian species, in New South Wales, is still arguably true. (RNE, based on National Trust (Broadbent), 1981)

Physical Condition: Despite modifications, the overall physical condition is good. Archaeological potential is low. House renovated and restored c1980. Park: well maintained as grazing land but a systematic replanting scheme is necessary. Bridges: in need of restoration. The final approach to the house has been altered by the removal (covering up) of the carriage loop and the construction of a garden by Paul Sorensen. The swimming pool interrupts the view from the front garden. (Broadbent for National Trust, 1981).

Modification Dates: 1840 - construction completed 1930s addition to north-west wing. Late 1950s lawn lowered and extended as a terrace (C. Betteridge, file - refers to Sorensen/Darling work carried out from c1956-1970). 1962 restoration work undertaken to house - replacement of termite damaged beams with steel beams "where concealed", in roof and floor structure. Floor boards lifted and relaid on new joists where needed. Ceilings replaced throughout. All papier mache mouldings and enrichments were photographed, removed, and refixed to new ceilings. Moulds used to replace unusable sections. Galvanised iron roof sheeting replaced with slate, closest approximation to the original shingle roof (stripped c1890). Galvanised iron guttering replaced with copper of same ogee section. External shutters repaired with louver blades, stiles and rails renewed as needed. Sham porte cochere (timber and flat sheeting) added c1900 was removed (in poor repair with termites), showing up the original arched stone entrance. (Peddle Thorp and Walker for Mr John Darling). 1966 subdivision approved of two lots - a residue lot of 926 acres, and a 25 acre curtilage around house and right of way from Mulgoa Road of varying width (amending the 1960 proclamation of 6 acres of Fernhill as a historic building under the County of Cumberland Planning Scheme/place of historic interest in the Penrith Planning Scheme Ordinance, which included the driveway). Clate 1950s-1969 Then owner Mr Darling and landscape gardener Paul Sorensen undertook extensive garden remodelling close to the house, including filling above the original carriage loop (now a terrace with retaining walls), a swimming pool and tennis court south of the house, large pergola (re-using sandstone columns salvaged from the demolished Union Club in Bligh Street, Sydney (site of the now Wentworth Hotel), extensive shrub planting closer to the house, and dam to the east of the house. The swimming pool, while not visible from the house (it is at a lower level), interrupts the view of the garden front and the views previously available over the carriage loop to the entire property to the east. Sorensen work included thinning of existing plantings and relocation of many existing shrubs, laying of concrete for a ha-ha wall on the west of the old entrance drive to the east of the house. C1970 coach house and stables renovated as stables and dwelling. Renovated c1982 to remove dwelling and add further verandahs. 6/12/1979 Subdivision approved of 49.8 hectares (of the 374.9 hectares) in the north-east of the property, for ownership transfer within the Darling family/estate purposes. Land used for horticultural purposes in the form of water storage and plant nursery developments, includes part of the right of way to access house. House renovated and restored c1980. c1979-81 - two owners, Mr Darling and Mr Anderson (who acquired Fernhill in 5/1980), undertook extensive upgrading and new construction works, including extensive stone faced walls, one along the entire length of the original entrance drive to the house and abutting the stone bridges on the slope to the house, others lining key roads, stone faced entrance piers on the original driveway to Mulgoa Road, stone facing to the old farm dam on the original (southern) entrance driveway

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and a new road over its new dam wall, several farm buildings, outbuildings west of the house including a games room, tennis court, a barn (sic) on a new (1980) northern driveway to Mulgoa Road, an aviary, racecourse with horse rail fencing, later deer fencing). Main house walls, manager's residence, garage stone walls and part of the stone retaining walls were high-pressure jet-water-cleaned. New dam constructed on northern side of northern (new) access road. Application to Penrith Council for a nursery on site. Air-conditioning installed in house, leading to some deterioration in sandstone in the cellars. C1981 grading of original (southern) entrance drive, clearing of trees, ripping of areas around house, construction of large dam north-east of house, including diversion of main entrance drive away from the house over the new dam wall. New caretaker's house erected to north-east of the house in the style of Experiment Farm cottage, Parramatta. Work to address house's/cellar's rising damp, and remove paint from cedar joinery. Repointing of stonework in cellar. Rebuilding (owner's assertion)/Erection (Heritage Council's view) of "existing" buildings for games room, alterations to existing stables building, workshop, machinery shed, brick bull shed & silo, erection of gardener's cottage, stone huts in surrounding paddocks, retaining wall and levelling. Existing sheds and other structures north of the house used as nursery removed, and in 1983 approval given for new stables block (58x27m), mating shed, lunging ring and sand roll to the north-west of the house. C1980-1990 - extensive cypress hedging planted along fencelines to add privacy to house?/shelter for horses - but also obscuring and blocking important views/vistas. New dam constructed on western hilly section of the property. 2/8/1984 approved a small extension to house service sing for new laundry facilities, and to remove an existing accretion. 2/7/1987 Heritage Council commenced legal proceedings for second instance of substantial unapproved works undertaken on property. (2nd instance was stables to east of house - about half way between house and Mulgoa Road)(1st instance was rebuilding (owner's assertion)/Erection (Heritage Council's view) of "existing" buildings for games room, alterations to existing stables building, workshop, machinery shed, brick bull shed & silo, erection of gardener's cottage, stone huts in surrounding paddocks, retaining wall and levelling.) 12/2001-1/2002 bushfires damaged the property down to Mulgoa Road, but some benefits in killing some of the cypress hedging obscuring/blocking views. Bushland recovering (July 2002, Stuart Read, pers. Comm.).

**Recommended
Management:**

Management:

Further Comments:

Criteria a) Fernhill was probably one of the last buildings completed in the Colonial period of New South Wales architecture. It was the home of Edward Cox, son of William Cox, and as such is intimately linked with much of the early rural development of the colony. (Report to Heritage Council 1978)

Criteria b)

Criteria c) Fernhill property retains most of its rural landscape character, including a visual relationship with the Cox family's earlier house Mulgoa Cottage and Church, St Thomas' Church of England. (Report to Heritage Council 1978)

Criteria d)

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Criteria e)

Criteria f) House and landscaped setting are unique in Australia

Criteria g)

Integrity / Intactness: High

References:	Author	Title	Year
	Paul Davies Pty Ltd	Fernhill Conservation Management Plan	2005

Studies:	Author	Title	Number	Year
	Paul Davies Pty. Ltd.	Penrith Heritage Study Review	MV-4	2005
			MV-4	
	Depart. Of Environment and Planning	Mulgoa Valley R.E.S.	FH1 - FH10	1983
	Australian Heritage Commission	Register of the National Estate		

Parcels:	Parcel Code	LotNumber	Section	Plan Code	Plan Number
	LOT	2		DP	541825
	LOT	11		DP	615085
	PART LOT	10		DP	615085

Latitude:

Longitude:

Location validity:

Spatial Accuracy:

Map Name:

Map Scale:

AMG Zone:

Easting:

Northing:

Listings:	Name:	Title:	Number:	Date:
	Heritage Act - State Heritage Register	Fernhill	00054	2/04/1999
	Regional Environmental Plan	Fernhill		1/01/1987
	Local Environmental Plan			
	Heritage study		2260128	1/11/2007
	Heritage study	Fernhill	MV-4	1/04/1987
	National Trust of Australia Register	Fernhill		11/02/1974
	Heritage Act - Nomination Deferred		2260128	

Built Form:

Allotment and Setback:

Height:

Fences:

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Driveways and Garages:

Building Materials:

Data Entry:

Date First Entered: 21/12/1999

Date Updated: 10/10/2017

Status: Completed

Image:

Caption: Fernhill- House, Outbuildings, Landscape and Curtilage

Copyright: Paul Davies Pty Ltd

Image by: Paul Davies Pty Ltd

Image Date: 5/07/2006

Image Number:

Image Path:

Image File: 2260128b1.jpg

Thumb Nail Path:

Thumb Nail File: 2260128t1.jpg

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Location: **1041-1117 Mulgoa Road, Mulgoa [Penrith]**

Image:

Caption: Fernhill House

Copyright: Penrith City Council

Image by: Fox * Associates

Image Date: 1/04/1987

Image Number: M1/1

Image Path:

Image File: 2260128b2.jpg

Thumb Nail Path:

Thumb Nail File: 2260128t2.jpg

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