



IRF 20/5355

Gateway determination report 2017_Penrith_003_00

Amend the Penrith Local Environmental Plan 2010 to remove cemeteries as a permissible use in the E3 zone, and prohibit cemeteries and crematoriums within the Mulgoa Valley and parts of Wallacia

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1 Introduction

1.1 Overview of planning proposal

The planning proposal seeks to amend the Penrith Local Environmental Plan 2010 to remove cemeteries as a permissible use in the E3 Environmental Management zone and prohibit cemeteries and crematoria in the Mulgoa Valley and parts of Wallacia.

The planning proposal is supported by the following reports and plans:

- Zone objectives and land use tables for E3, RU2 and RU 4 zones;
- Copies of Penrith LEP 2010 (LEP), clauses 7.18, 7.19 and 7.5;
- Copy of Penrith DCP 2014, Chapter E9, Mulgoa Valley Precinct; and
- NSW Heritage, Heritage Inventory Sheets, Fernhill Estate & Cox's Cottage.

Table 1 Planning proposal details

LGA	LGA name
PPA	Penrith City Council
NAME	Cemeteries and Crematoriums
NUMBER	PP_2017_PENRITH_003_00
LEP TO BE AMENDED	Penrith Local Environmental Plan 2010
ADDRESS	LGA wide with special application to Mulgoa Valley and part Wallacia
DESCRIPTION	All lands zoned E3 (Environmental Management) in Penrith LGA, all land in Mulgoa Valley, and part lands in Wallacia
RECEIVED	8/09/2017
FILE NO.	OBJ 17/13569
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

1.2 Site description and surrounding area

The Mulgoa Valley and Wallacia are located 13km south of the Penrith city centre. The site that is the subject of this planning proposal (Figure 1) is 5010 hectares in area and 10km (approx.) in length, extending from Regentville in the north to Wallacia in the south. Its eastern boundary extends to the suburbs of Glenmore Park and Luddenham, with the Nepean River forming its western boundary. Mulgoa Road traverses its length.

The Mulgoa Valley has a rural character with pockets of vegetation interspersed with cleared agricultural lands. The topography is varied and the Nepean River and Blue Mountains are important landscape features. This place is of high significance to Penrith as it shows the original small village structure from which the city developed.

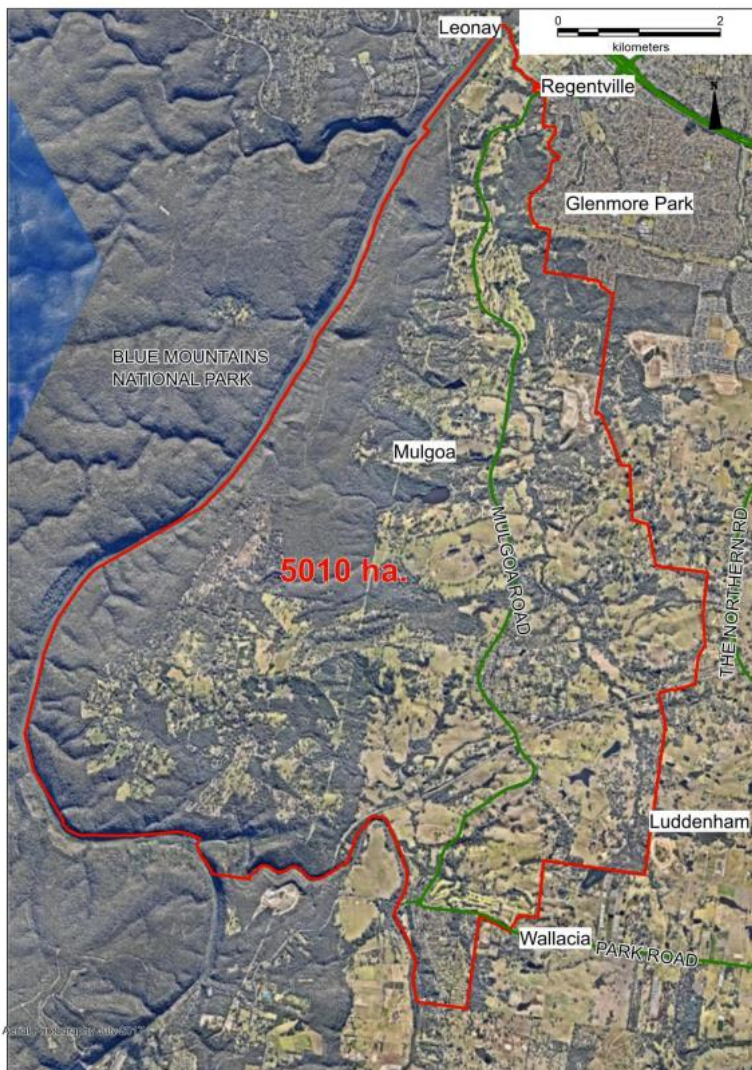


Figure 1 Subject site (source: Penrith City Council PP)

1.3 Summary of recommendation

It will be recommended that a Gateway Determination is not issued for the following reasons:

- Inconsistency with the Greater Sydney Regional Plan and Western City District Plan which identifies the need for additional land for burials and cremation;
- The proposal is premature in the absence of a strategy for future provision of cemeteries and crematoria;

- There is insufficient evidence to demonstrate that all cemeteries and crematoria will adversely impact on the historic and scenic values of Mulgoa Valley and Wallacia, and that this use could not be assessed on its merits; and
- There is insufficient evidence to demonstrate the capacity and capability of the lands zoned RU2 and RU4 to accommodate cemetery developments within the Penrith LGA into the future.

2 Proposal

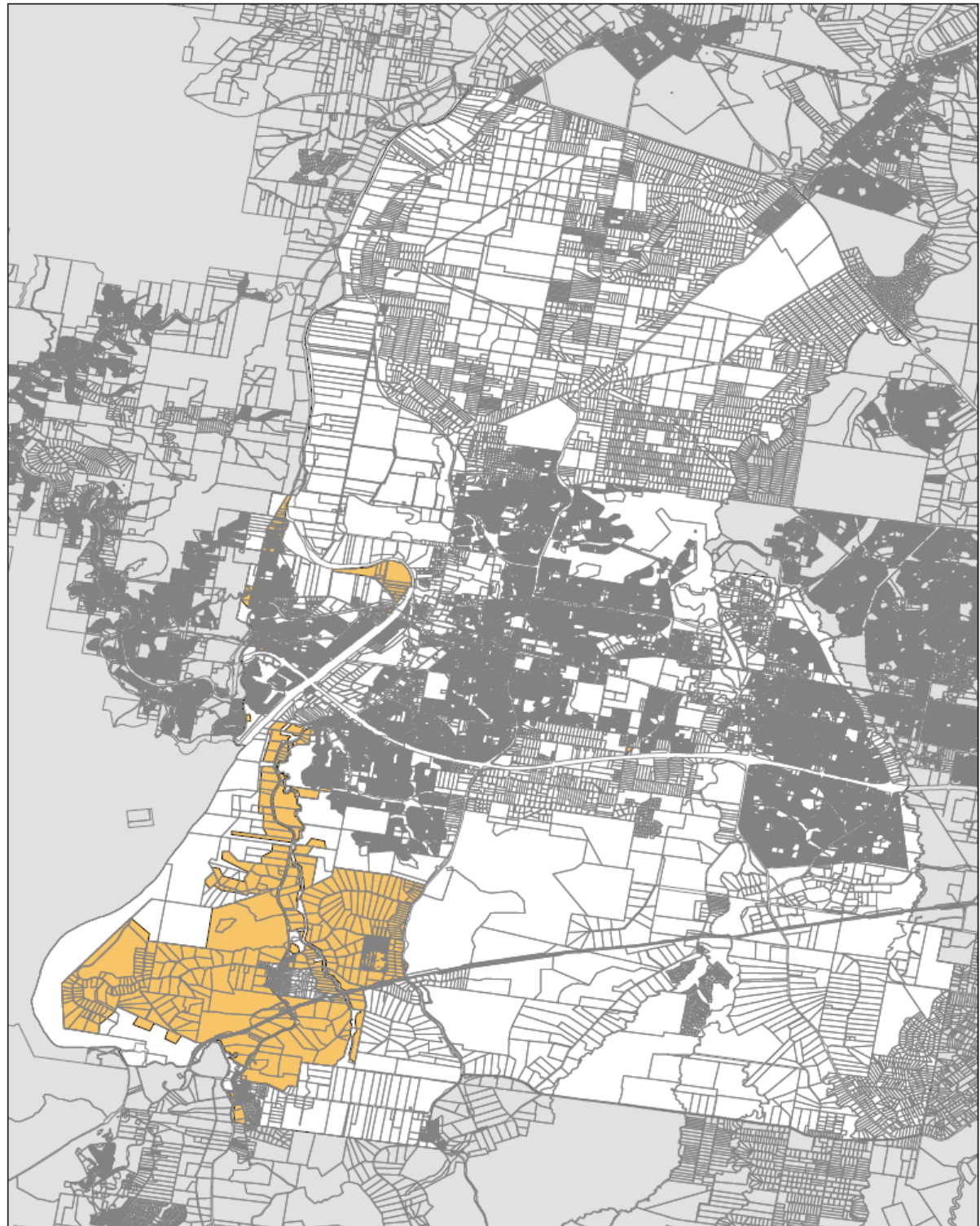
2.1 Objectives or intended outcomes

The planning proposal contains objectives and intended outcomes to explain its intent. The objectives are to:

1. To prohibit 'cemeteries' in the E3 Environmental Management zone;
2. To insert a new local provision that prohibits 'cemeteries' and 'crematorium' in the Mulgoa Valley and parts of Wallacia (the site), and overrides any other provision of the LEP; and
3. To include a new provision that excludes the operation of clause 5.10.10 as it relates to 'cemeteries' and 'crematoriums' in the Mulgoa Valley and parts of Wallacia.

The objectives of this planning proposal are generally clear and adequate.

The planning proposal applies to land in the E3 Zone. Refer to the plan overleaf. The majority of this land is in the Mulgoa Valley and Wallacia, however there are sites in Glenmore Park and Northern Penrith that would be impacted by the proposal. The impact of the planning proposal on these lands has not been addressed, and the planning proposal analysis focuses on Mulgoa Valley and Wallacia.

**Zone**

E3 Environmental Management

Cadastre

□ Cadastre 03/03/2020 © Spatial Services

Penrith LGA

Environmental Management Zoning



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Document Name: E3_Zoning_001
Date Saved: 3/3/2020 12:15:27 PM

Figure 2 Location of E3 zoned land in the Penrith LGA

2.2 Explanation of provisions

The planning proposal seeks to amend the Penrith LEP 2010 per the changes below:

Table 2 Current and Proposed controls

Control	Current	Proposed
Land Use Table – E3 zone	Cemeteries permitted with consent	Remove cemeteries from uses permitted with consent, to prohibit in the zone
New local provision	-	Insert provision that prohibits cemetery and crematorium in subject area
Amend cl. 5.10 (10) – Heritage Conservation – Conservation Incentives	Clause has nil effect as cemeteries are a permitted use	Remove power of clause to make cemetery and crematorium permitted in study area

The planning proposal contains an explanation that adequately explains how the objectives of the proposal will be achieved.

2.3 Mapping

The maps at Figures 1-4 of the planning proposal define the study area and describe the extent of the planned prohibition. Figures 7 and 8 in part 4 of the planning proposal provide the proposed mapping amendments on LEP map tiles.

3 Need for the planning proposal

The planning proposal states that is not the result of a strategic study or report.

Council's has further developed its strategic planning framework since submission of the planning proposal with the publication of its Local Strategic Planning Statement (LSPS) and exhibition of its final draft Rural Lands and Villages study (draft rural lands study). Additional analysis is required to demonstrate the proposals consistency with the commentary on cemeteries and crematoria in the LSPS and draft rural lands study. These matters are discussed further in Section 4.3. As noted in this report, refusal of the proposal will be recommended for this and other reasons.

The proposed changes to the zoning table, amendment of and creation of new clauses and insertion of a new map tile, are the most suitable means of giving effect to the changes sought.

4 Strategic assessment

4.1 Regional Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Greater Sydney Regional Plan.

Table 3 Regional Plan assessment

Regional Plan	Justification
Liveability	<p>Cemeteries and crematoria are identified as key social infrastructure, which must be geographically and economically accessible. Strategy 6.1 is:</p> <p><i>Deliver social infrastructure that reflects the needs of the community now and in the future.</i></p> <p>Reference is made to the <i>Cemeteries and Crematoria NSW 2017 – Metropolitan Sydney Capacity Report. Discussion on that report and other related Government initiatives</i> are identified and discussed in section 4.7.</p>
Infrastructure & Collaboration	Generally consistent
Productivity	Generally consistent
Sustainability	Generally consistent

4.2 District Plan

The following table provides an assessment of the planning proposal against relevant aspects of the Western City District Plan.

The Department has found that the planning proposal does not give effect to the District Plan in accordance with section 3.8 of the *Environmental Planning and Assessment Act 1979*. The following table includes an assessment of the planning proposal against relevant directions and actions.

Table 4 District Plan assessment

District Plan	Justification
Liveability	<p>Planning Priority W3 below supports Strategy 6.1 of the Regional plan, reiterating the need to provide social infrastructure that supports the needs of a growing Sydney.</p> <p><i>Providing services and social infrastructure to meet people's changing needs</i></p> <p>The Western City District Plan states that cemeteries and crematoria are key pieces of social infrastructure that also need to be accessible geographically and economically. A growing Sydney requires additional burial spaces and associated services. The planning proposal does not adequately demonstrate that sufficient lands capable of feasible cemetery development will remain in the LGA.</p>
Infrastructure and Collaboration	Generally consistent with Planning Priorities
Productivity	Generally consistent with Planning Priorities
Sustainability	Generally consistent with Planning Priorities

4.3 Local planning policy

The proposal is inconsistent with certain aspects of the local planning policy framework, including the matters outlined below:

Table 5 Local strategic planning assessment

Local Strategies	Justification
<p>Penrith Local Strategic Planning Statement</p> <p>Planning for a Brighter Future</p> <p>March 2020</p>	<p>The LSPS states:</p> <p><i>“Cemeteries and crematoria provision is changing from the historic provision of small, localised facilities to larger, regional style infrastructure that includes chapels, reception centres and function areas, as well as car parking. These facilities cater for the diverse and changing population of Greater Sydney. To be effective, planning for these larger facilities requires a regional approach. We will advocate with the NSW Government to ensure Sydney-wide consideration is given to the location of new facilities. This should ensure a balance in providing facilities while respecting the sensitivity of locations and the communities’ views.”</i></p> <p>The Premier has requested that the Greater Sydney Commission prepare strategic advice and recommendations on considerations for the provision of new cemeteries. That advice will inform the Governments ‘approach to planning for cemeteries across the region. The progression of this planning proposal ahead of the finalisation of the GSCs advice is inconsistent with the strategic approach advocated for by the LSPS as it effects change that may impact on the approach to and delivery of cemeteries across the region. Council’s desire to protect local amenity and ensure the communities views are heard is acknowledged.</p>
<p>Final Draft Penrith Rural Lands and Villages study.</p> <p>August 2019</p>	<p>The draft Rural Lands study discusses the <i>Metropolitan Sydney Cemetery Capacity Report (November 2017)</i> and includes the following statement:</p> <p><i>“To ensure equitable access to interment and cremation facilities and meet projected demands for burial space, opportunities to accommodate new cemetery and crematorium capacity will need to be identified through future planning of Penrith’s rural lands.”</i></p> <p>The planning proposal identifies that cemeteries are and will continue to be permissible in the RU2 and RU4 zones, and crematoria in the RU2. RU4 and IN2 zones.</p> <p>Analysis of capacity of those lands to accommodate environmentally and financially feasible cemetery or crematoria developments is required, to determine the planning proposals consistency with the draft rural lands study and District plan.</p>

4.4 Local planning panel (LPP) recommendation

Planning proposals made after 1 June 2018 must in general be referred to the LPP for advice prior to being forwarded to the Minister for Gateway determination. This planning proposal was forwarded to the Minister prior to the commencement of the referral provisions and as such does not incorporate the advice of the LPP.

4.5 Section 9.1 Ministerial Directions

The planning proposal's consistency with relevant section 9.1 Directions is discussed below:

Table 6 9.1 Ministerial Direction assessment

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
2.1 Environment Protection Zones	Yes	The planning proposal does not propose any amendment that would reduce the environmental protection standards that apply to the land.
2.3 Heritage Conservation	No	<p>The planning proposal recognises the heritage values of the area to which it applies.</p> <p>The proposed amendment to clause 5.10 (10) will restrict land use but not create any additional heritage protection controls. The clause 5.10 is intended to incentivise innovative development that leads to the protection of heritage values.</p> <p>The planning proposal does not demonstrate that there are no lands within the site that could be developed for cemetery or crematoria, without adversely affecting the areas heritage values.</p>
4.3 Flood Prone Land	Yes	The planning proposal does not propose to increase exposure to flood hazard. Flood prone lands are not suitable for cemetery development.
4.4 Planning for Bushfire Protection	Yes	The planning proposal does not propose to increase exposure to the bushfire hazard.

4.6 State environmental planning policies (SEPPs)

The planning proposal is consistent with all relevant SEPPs as discussed in the table below.

Table 7 Assessment of planning proposal against relevant SEPPs

SEPPs	Requirement	Proposal	Complies
State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011	Provide for healthy water catchments that deliver high quality water	<p>The SEPP permits development that is compatible with its aim of providing healthy catchments. The removal of categories of development is not inconsistent with that aim.</p> <p>The planning proposal does not demonstrate that there are no lands within the site that could be developed for a cemetery or crematoria without adverse impact on the catchment.</p>	Yes
Sydney Regional Environmental Plan No 20 Hawkesbury-Nepean River (No 2—1997)	Protect the environment of the Hawkesbury-Nepean River system	<p>The deemed SEPP specifies additional matters for consideration for certain categories of development to ensure they are consistent with its aims. Additional matters are not identified for cemeteries and crematoria.</p> <p>The removal of categories of development is not inconsistent with the aim of the deemed SEPP.</p>	Yes

4.7 Other strategies, studies, and developments related to cemeteries and crematoria

4.7.1 Cemeteries and Crematoria NSW 2017 – Metropolitan Sydney Capacity Report

This report was prepared by Cemeteries and Crematoria NSW. The report is to be produced periodically to monitor the supply of lands available in NSW for cemetery and crematoria. Its key findings are:

- There is capacity for approximately 301,000 grave plots in Metropolitan Sydney (as at 1 Jan 2015);
- Over 1.5 million people are projected to require burial or cremation by 2056, with 355,000 grave plots projected to be required;
- By 2056, it is estimated that around 11,800 new grave plots would be consumed in Metropolitan Sydney per annum, requiring 4 hectares of land;
- If there is no change to existing cremation and grave occupancy rates, cemetery capacity in metropolitan Sydney would be exhausted by 2051 if not before; and
- Even with incremental increases in cremation and grave occupancy rates from 2015 through to 2056, capacity would be exhausted by 2057.

The report analyses the impact of new cemeteries like Varroville Memorial Park (see below) on supply projections and finds that it would result in 0-13 years of cemetery capacity in 2056, instead of exhaustion of supply. If death and burial rates remain at the same level beyond 2056, then a major regional cemetery will be required every 15 - 20 years.

4.7.2 Cemeteries and Crematoria Amendment Regulation 2018 – Regulation Committee

A Parliamentary Committee was established to consider the proposed Cemeteries and Crematoria Regulation 2018. The Committee's efforts were primarily focused on methods of internment, but its report included the following finding:

Finding 1

The committee notes the concerns raised by several inquiry participants regarding the finite amount of land currently available for burials in the greater Sydney metropolitan area. The committee urges the government to look at potential opportunities to acquire further land for cemeteries in the greater Sydney metropolitan area as a matter of priority

4.7.3 GSC Review – Strategic planning considerations for cemeteries

In February 2019, the Premier requested that the Greater Sydney Commission provide advice and recommendations on the strategic planning considerations for the provision of new cemeteries.

The request was made under Section 10 (1)(a) of the *Greater Sydney Commission Act 2015* and the Commission's advice will inform the NSW Government's strategic planning for cemeteries.

The Commission reported its findings to the Premier in December 2019. These findings have not been released to date.

As noted in section 4.3 above, progression of the planning proposal in the absence of the conclusion of the GSC review is considered premature. This is consistent with the Department's repeated earlier advice to the Penrith City Council. In February 2018, the Department wrote to all metropolitan local governments (Penrith included) to advise that a strategic review of future cemeteries needs was being undertaken and no planning proposals dealing with such matters will be proceeded until the conclusion of the current review.

4.7.4 Review of the Cemeteries and Crematoria Act 2013

The Department's Policy team has recently concluded a 5-year Review of the operations of the Cemeteries and Crematoria Act 2013, which is a statutory requirement.

The final Review Report was tabled in Parliament on 19 February 2021 and is now publicly available.

The report concludes that:

".. all existing operational Crown cemeteries will exhaust their currently available land in the next twelve years. The magnitude of the projected supply-demand imbalance is such that there is no single solution to this predicament. The NSW Government must embark on a series of initiatives to ensure the sustainable supply of land for burials and ash interments.

These measures need to be acted upon concurrently:

1. *Identification, acquisition and the releasing of land for new cemeteries across Sydney.*
2. *Transition to more sustainable burial practices, as adopted in other international cities, including cemetery renewal and renewable tenure interments, in the medium to long term.*

3. *Amendments to the planning and approval system to identify cemeteries in the planning system as key social infrastructure, with State Significant Development status.*
4. *Ensuring cost-price signals are efficiently reflected in the market, so consumers can make informed choices about their preferred form of interment*

A series of recommendations (numbers 7.1 to 7.17) have been made relating to planning for and use of cemeteries. Other recommendations relate to regulatory and financial sustainability matters. In particular, Review Recommendation 7.13 outlines that:

The Greater Sydney Commission (GSC) is to be tasked with the responsibility of leading the process of identifying suitable precincts and parcels of land that could be used for new cemeteries.

GSC is to consult widely with operators and the broader industry to ensure suitable land is identified in appropriate locations across the city.

The Office of Strategic Lands (OSL) should be the agency of Government, where necessary, for the procurement, holding and releasing of new cemetery land as required. The funding for such activities should be via Crown cemetery operators or long-term loans from the NSW Treasury."

Recommendation 7.15 states:

"The GSC be requested to revise the District Plans to include priorities for cemeteries and crematoria across each District which councils will be required to give effect to through their future LSPSs and LEPs."

Recommendation 7.17 states:

"Cemeteries and crematoria be recognized as State Significant Developments, reflecting their status as key social infrastructure, in the State Environmental Planning Policy (SEPP) framework.

The Government to consider two options for delivering SSD status [site specific or general]."

4.7.5 Crown Cemetery Development - Wallacia (Penrith LGA)

The Catholic Metropolitan Cemeteries Trust submitted a development application to construct a cemetery in three stages with capacity for up to 88,000 burial lots on the Wallacia golf club.

The Independent Planning Commission was the consent authority for the matter. The assessment of the application considered impacts on local character and place, the scale of the development, site accessibility and the public interest.

Key findings of the Commission include:

- The impacts of the application on the natural and built environment, including visual amenity, traffic and access, soil and contamination, biodiversity and flooding and stormwater, can be managed or mitigated to an acceptable level;
- The application will likely have significant social impacts on the community, specifically it will likely have a permanent impact on the existing local character of the village of Wallacia and the community sense of place; and
- The application will provide public benefit including the provision of burial space and the rehabilitation of Jerry's Creek, however on balance it is not in the public interest given the unsuitability of the site and the social impacts that cannot be mitigated and have not been addressed by the Applicant.

The Commission directed that the application be refused.

Notes:

An amended development application was lodged with Penrith City Council on 11 December 2019. The Catholic Metropolitan Cemeteries Trust has lodged an appeal with the Land and Environment Court against Council's deemed refusal of the application. The matter is scheduled for Hearing in March 2021.

4.7.6 Crown Development Application – Varroville (Camden LGA)

The Catholic Metropolitan Cemeteries Trust submitted a development application to construct a cemetery in four stages with capacity for up to 136,000 burial plots, in Varroville. The proposed development would occur in primarily an E3 Environmental Management zone, and a small portion of RE1 zone.

The Independent Planning Commission was the consent authority for the matter. Key issues considered included heritage, social and economic impacts and compatibility with surrounding land uses.

Key findings of the Commission include:

- The Application is likely to enhance the existing character and sense of place through improved management of the landscape associated with the cemetery and the retention of vegetation; and
- If the Application were approved, it would provide for the development of identified critical social infrastructure in a manner which would provide for increased environmental protection in an accessible location.

The Commission directed that the application be approved.

5 Site-specific assessment

5.1 Environmental

The following table provides an assessment of the potential environmental impacts associated with the proposal.

Table 8 Environmental impact assessment

Environmental Impact	Assessment
Heritage	<p>Mulgoa and Wallacia are of significance to Penrith city as they “remain a legacy of the smaller communities from which Penrith derived its origins and the villages retain strong connections with early pioneers who initiated settlement of the area”¹.</p> <p>The importance of retaining that character is acknowledged.</p> <p>The planning proposal does not demonstrate that all land subject to the planning proposal if developed for cemetery or crematoria would necessarily adversely affect the area’s heritage values.</p>
Scenic quality	<p>Mulgoa and Wallacia have a high scenic value with a mix of clear and vegetated lands in a rolling landscape, with the Nepean River and Blue Mountains as a backdrop.</p> <p>The value of the scenic quality and to the relationship with the area’s heritage values are acknowledged. The planning proposal applies to a large and topographically varied landscape. There is insufficient evidence provided to conclude that all development within it would adversely scenic quality. It is noted that the IPC found that the scenic impacts of the Wallacia Crown Cemetery development could be mitigated or managed.</p>
General	<p>Cemetery developments have the potential to cause a range of environmental impacts including ground water pollution and traffic.</p> <p>Analysis of the extent and impact of those environmental impacts must be made on case by case basis, having regard to the site’s characteristics and the nature of the proposed development.</p> <p>The planning proposal does not identify a specific environmental impact that would be caused by all cemetery and crematoria which make them unsuitable for development.</p>

¹ Mulgoa and Wallacia Rural Villages Study December 1999.

5.2 Social and economic

The following table provides an assessment of the potential social and economic impacts associated with the proposal.

Table 9 Social and economic impact assessment

Social and Economic Impact	Assessment
Regional shortage of burial space	The Metropolitan Sydney Capacity report identified the absence of consideration that has been given to cemeteries and crematoria in land use planning, and the consequential shortage of land for internments beyond the medium term. The planning proposal would implement changes that may impact on the development of a regional response to that issue.
Local character	Local character is defined as what a neighbourhood distinctive and the identity of a place ² . The provision of a large-scale cemetery does have the potential to impact upon the character of an existing area of a lesser size. Impact on local character can only be determined on a project basis.
Public benefit	<p>A significant public benefit is gained from having an adequate supply of land for cemeteries and crematoria.</p> <p>The IPC in its assessment of the Crown Cemetery at Wallacia noted the development would have broader public benefits, but its local benefits were limited, which when balanced against its impacts resulted in it being not in the public interest.</p> <p>The planning proposal is not in the broader public interest as it seeks to prevent cemetery and crematoria developments in an area in which they may be environmentally acceptable. Any development would need to demonstrate the local benefits it delivers.</p>
Economics	<p>The planning proposal identifies that part of the local economy is tourism based, with visitors wishing to experience the areas scenic and historic character. Council is concerned that cemetery or crematoria affect the qualities of the area, reduce its attractiveness to tourists. There is no evidence provided to demonstrate that to be the case.</p> <p>Cemetery's and crematoria create local employment opportunities and have multiplier effects in the local economy.</p>

² Local Character and Place Guidelines DPIE (February 2019)

5.3 Infrastructure

The following table provides an assessment of the adequacy of infrastructure to service the site and the development resulting from the planning proposal and what infrastructure is proposed in support of the proposal.

Table 8 Infrastructure assessment

Infrastructure	Assessment
General	The availability of infrastructure in particular transport infrastructure supports the operation of cemeteries. Analysis of the infrastructure needs and impact upon existing infrastructure need to be made on case by case basis.

6 Consultation

6.1 Community

Council proposes a community consultation period of 30 days. The exhibition period does not form part of the conditions of the Gateway determination.

6.2 Agencies

6.2.1 Greater Sydney Commission

The officers of the Greater Sydney Commission provided their views and advice on the planning proposal, which included the following:

- Research by Cemeteries & Crematoria NSW in 2017 found that cemetery capacity in Greater Sydney could be exhausted by 2051. This timing might be deferred by additions to the supply of burial plots in the short to medium term and by use of other interment methods that may also extend supply (vertical or renewable interment and an increased rate of cremations). However, additional land for burial plots will be required in the long term to meet the needs of Greater Sydney.
- In 2018, there was a Parliamentary Inquiry into the Cemeteries and Crematoria Amendment Regulation 2018 (the Regulation). The Regulation came into effect on 25 June 2018 to enable Crown cemetery operators to offer both perpetual and renewable interment rights.
- The Inquiry Committee's report noted the finite availability of burial space in the Greater Sydney Metropolitan Area and included a finding that the Government should look at potential opportunities for additional cemeteries as a matter of priority.
- One of the key Directions of the Greater Sydney Region Plan (GSRP) 'A City for People' notes that cemeteries and crematoria are key social infrastructure that need to be accessible geographically and economically, and reflective of a diversity of cultures and backgrounds. Objective 6 of the GSRP also notes that 'a growing Greater Sydney requires additional land for burials and cremations with associated facilities such as reception space and car parking.'
- These strategic considerations are similarly reflected in the five District Plans for Greater Sydney.

- On the basis of this background, the Commission considers that the planning proposal should not proceed until such time as there is an adopted strategy for the identification of additional lands for new cemeteries to serve the Greater Sydney Region. The strategy should be developed in consultation with councils as well as the cemetery industry and relevant government agencies. To prohibit cemeteries in the area identified in the planning proposal may prematurely constrain examination of options for new cemetery sites in Western Sydney.
- Recommendation 7.15 of the Report on the Statutory Review of the Cemeteries and Crematoria Act 2013, released in February 2021 is that *“the GSC be requested to revise the District Plans to include priorities for cemeteries and crematoria across each District which councils will be required to give effect to through their future LSPSs and LEPs.”* GSC have advised that it does not envisage undertaking this study in 2021 unless funding is secured.

6.2.2 Heritage NSW

The officers of Heritage NSW provided comments on the proposal including the following:

- The Mulgoa Valley cultural landscape is the last unspoilt rural landscape in the Greater Sydney area and the richest in historic, cultural and natural sites in NSW. This is a cultural landscape likely to meet the threshold for State heritage significance. A ‘cemetery’ of a regional scale will not be compatible with the predominantly rural character of the Mulgoa Valley and has the potential to have a detrimental impact on the heritage values of the SHR items within this area.
- Heritage NSW recommend that any proposal for a cemetery in the area should undergo a site-specific assessment, including assessment of the significance of any cultural heritage place affected, to determine any impacts on heritage and the appropriateness of the development.

7 Timeframe

Council proposes a 7 month time frame to complete the LEP.

No additional comment required.

8 Local plan-making authority

Council has advised that it would like to exercise its functions as a Local Plan-Making authority.

Planning for cemeteries is a regional planning matter that is best undertaken by the Minister.

Council’s request is not therefore supported.

9 Assessment Summary

Council has long recognised the scenic and historic values of the Mulgoa Valley and Wallacia and endeavoured to protect and celebrate them. The Penrith Local Environmental Plan 2010 (cl’s 7.18 and 7.19) and the Penrith Development Control Plan 2014 (Part E9) contain specific controls to protect the Mulgoa Valley and the villages of Wallacia and Mulgoa.

Council contends that this planning proposal will add a further layer of protection to the planning framework, preventing large regional scale cemeteries which they believe pose a threat to the valley and villages.

The planning proposal applies to a large site being 10km (approx.) in length. In its justification Council argues that cemeteries and crematoria will have a range of environmental impacts on the

site and in particular impacts on scenic and heritage values. There is insufficient evidence to demonstrate that all of the lands are unsuitable for cemeteries and crematoria. The extent of any impacts is dependent on the environmental characteristics of the land and the nature of the development. The planning proposal does not establish those impacts will be a definite outcome of cemetery and crematoria development in the area.

Council's draft final Rural Lands and Villages strategy identifies the need for rural lands to be used to meet the demand for cemeteries and crematoria. The planning proposal identifies other land use zones in which cemeteries and crematoria are permissible but does not analyse the capability of those lands. It is therefore unknown if the net effect of the planning proposal proceeding, would be to remove all opportunity for cemetery development in the Penrith LGA.

Council's LSPS identifies the need to develop a regional approach to cemeteries. The Greater Sydney Commission's officers identify the need for development of a strategy that identifies additional lands for new cemeteries to serve the Greater Sydney Region. The progression of this planning proposal forward of development of such a strategy may prevent creation of a holistic and orderly solution for the region.

10 Recommendation

It is recommended that the delegate of the Minister determine that the planning proposal should not proceed to Gateway because:

- It is inconsistent with the Greater Sydney Regional Plan and Western City District Plan, in particular Planning Priority W3 which identifies the need for additional land for burials and cremations;
- The proposal is premature in the absence of a strategy for future provision of cemeteries and crematoria;
- There is insufficient evidence to demonstrate that cemeteries and crematoria of all scales and in any location will adversely impact on the historic and scenic values of Mulgoa Valley and Wallacia; and
- There is insufficient evidence to demonstrate the capacity and capability of the lands zoned RU2 and RU4 to accommodate cemetery developments within the Penrith LGA into the future.



Ian Bignell
Manager Place and Infrastructure, Central (Western)
Central River City and Western Parkland City



Jane Grose
Director, Central (Western)
Central River City and Western Parkland City

Noted
BW 24/3/21

Assessment officer

Mark Yee
Senior Planning Officer, Central (Western)
9860-1535