



Planning Proposal

Prohibition of cemeteries and crematoriums in Mulgoa Valley and parts of Wallacia.

August 2017

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Executive Summary

This planning proposal seeks to amend the Penrith Local Environmental Plan 2010 (the LEP) to prohibit cemeteries and crematoriums within the Mulgoa Valley and parts of Wallacia (the subject area).

The Mulgoa Valley and Wallacia contains significant rural landscape, including agricultural qualities, cultural heritage values, scenic values and is the setting for the villages of Mulgoa and Wallacia. The establishment of cemeteries and crematoriums in this area has the potential to irreparably damage these qualities.

The existing LEP and Penrith Development Control Plan 2014 (the DCP) contain specific controls relating to development in the subject area. The preparation of this planning proposal and the proposed amendments to the LEP will provide a further level of protection.

The LEP amendments seek to remove 'cemeteries' from the E3 Environment Management zone land use table, insert a new provision that prohibits 'cemeteries' and 'crematoriums' in the subject area, overrides the operation of Clause 5.10.10 *Heritage conservation incentive* and any other provision of the LEP as it relates to cemeteries and crematoriums.

This planning proposal has been assessed as being consistent with the relevant regional and subregional strategies, local strategic plans, State Environmental Planning Policies (SEPP's) and Ministerial Directions.

There are no likely environmental, social and economic impacts as a result of this planning proposal. This planning proposal does not propose to require additional public infrastructure or place increased demand on public infrastructure. Consultation with relevant State and Commonwealth agencies and the community will be carried out as required by the legislation and any Gateway Determination conditions.

Introduction

1.1. Purpose of the Planning Proposal

This purpose of this planning proposal is:

- ☐ to further recognise, reinforce and protect the significant landscape values and qualities of the Mulgoa Valley and parts of Wallacia for future generations, and,
- ☐ to ensure land uses within the Mulgoa Valley and parts of Wallacia, specifically cemeteries and crematorium, that have the potential to permanently and negatively impact these significant landscape qualities, are prohibited.

The Mulgoa Valley contains a significant rural landscape, including agricultural qualities, cultural heritage values, scenic values and is the setting for the villages of Mulgoa and Wallacia. 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. This planning proposal proposes amendments to the LEP that will further safeguard these qualities. This document sets out the justification for and explains the intended effect of the recommended amendments.

The preparation of a Planning Proposal is the first step in the NSW Department of Planning and Environment's Gateway Process for amending LEP 2010. The Gateway Process is the current process for making or amending local environmental plans. It has a number of steps (set out in Table 1) that may require this document to be revised as it progresses through the Gateway Process.

| No. | Step | Explanation |
|-----|------------------------|--|
| 1 | Planning Proposal | Council prepares a document explaining the effect of and justification for the making or amending of a local environmental plan. |
| 2 | Gateway | The Minister for Planning and Environment, acting as a checkpoint, determines whether a Planning Proposal should proceed. |
| 3 | Community Consultation | The Planning Proposal is publicly exhibited. |
| 4 | Assessment | Council considers the submissions received in response to the public exhibition, varying the Planning Proposal as necessary. |
| 5 | Drafting | Parliamentary Counsel prepares a draft local environmental plan. |
| 6 | Decision | The Minister approves the local environmental plan, making it law. |

Table 1: Gateway Process

This Planning proposal has been prepared in accordance with the Department of Planning and Environment's *'A guide to preparing planning proposals'* (October 2012) and includes

matters that must be addressed as set out in section 55(2) of the *Environmental Planning and Assessment Act 1979*. These matters (set out in Table 2) include:

| Part | Explanation |
|------|---|
| 1 | The objectives and intended outcomes of the proposal |
| 2 | An explanation of the provisions to be included in LEP 2010 |
| 3 | Justification for the objectives and intended outcomes |
| 4 | Maps identifying the area to which this Planning Proposal applies |
| 5 | Details of the Community Consultation |

Table 2: Matters to be addressed

1.2. The subject area

The Mulgoa Valley and parts of Wallacia (the subject area) is bounded on the west by the Nepean River and Blue Mountains National Park, on the south by the village of Wallacia, on the east by Luddenham and on the north by Glenmore Park and Regentville. The subject area is located in the south west corner of the local government area (LGA) approximately 55 km from the Sydney Central Business District (CBD) and 13 km from the Penrith CBD. The total site occupies an area of approximately 5,010 hectares. The subject area for this Planning Proposal is shown in Figure 1.

The Mulgoa Valley is characterised by its predominantly rural landscape comprising creek flats, undulating agricultural land, wooded hills and escarpment, and large estate gardens. The backdrop of the Nepean River and Blue Mountains, the villages of Mulgoa and Wallacia, its strategic location on the Sydney metropolitan fringe and its proximity to populated and expanding urban areas, all contribute to the significant landscape, cultural and natural heritage qualities of the area.

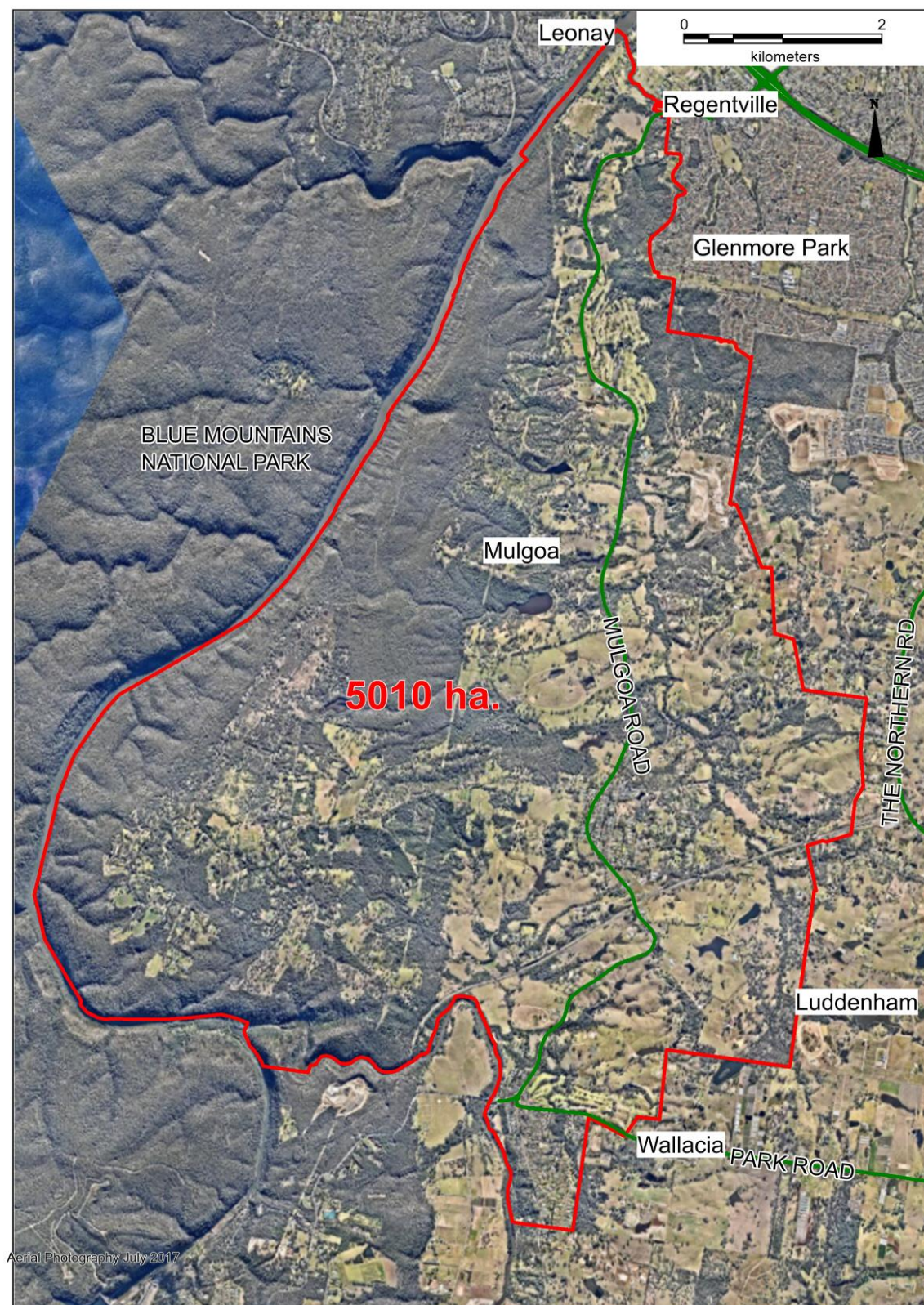
The Mulgoa Valley is steep and hilly to the west with an extensive plateau zone around Fairlight. The topography varies in height from an average of 100 metres to over 215 metres above sea level. To the east the land is more undulating, ranging in height from 40 metres to 100 metres above sea level.¹

Much of the vegetation in the Mulgoa Valley have been cleared for grazing and other agricultural uses. The uncleared portion of the Mulgoa Valley includes dry sclerophyll forest, open forest, woodland and low woodland communities.² The suburb of Wallacia contains rolling landscape, which is predominantly cleared of vegetation.

¹ Mulgoa Valley Regional Environmental Study p.76

² Mulgoa Valley Regional Environmental Study, p.20

Figure 1: Subject area for planning proposal



The Subject Area - Mulgoa Valley & part of Wallacia

1.3. Statutory Planning Context

Penrith Local Environmental Plan 2010 (the LEP) was gazetted on 22 September 2010 and is the principal environmental planning instrument applicable to the site.

Cemeteries and crematoriums are both defined separately in the LEP. The LEP definitions for both are as follows:

- ☐ **cemetery** means a building or place used primarily for the interment of deceased persons or pets or their ashes, whether or not it contains an associated building for conducting memorial services.
- ☐ **crematorium** means a building in which deceased persons or pets are cremated, whether or not it contains an associated building for conducting memorial services.

The applicable zones for the subject area and surrounding zones are depicted in Figure 2. Zones within the subject area where cemeteries and crematoriums are permitted with development consent are shown in Figure 3 and include:

- ☐ RU4 Primary Production Small Lots
- ☐ RU2 Rural Landscape
- ☐ E3 Environment Management zone

Appendix A details each of the zone objectives and land use controls for the RU4, RU2 and E3 zones.

The LEP also includes specific provisions that guide development within the Mulgoa Valley and the villages of Mulgoa and Wallacia. These specific provisions are contained in:

- ☐ Clause 7.18 Mulgoa Valley, and
- ☐ Clause 7.19 Villages of Mulgoa and Wallacia
- ☐ Clause 7.5 Protection of scenic character and landscape values

The objectives of Clause 7.18 Mulgoa Valley are:

- a) *to establish specific planning controls for land in the Mulgoa Valley (the valley),*
- b) *to protect and enhance the rural landscape of the valley, including its agricultural qualities, cultural heritage values and the setting of the villages of Mulgoa and Wallacia,*
- c) *to ensure development in the valley (including rural living opportunities) protects and utilises its tourism and recreational potential and is consistent with conserving its rural and natural landscape, heritage and agricultural qualities,*
- d) *to ensure traffic generating development is suitably located so as not to adversely affect the safety, efficiency and rural character of roads, particularly Mulgoa Road.*

The Scenic and Landscape Values Map is shown in Figure 4. The majority of the Mulgoa Valley is affected by Clause 7.5 *Protection of scenic character and landscape values*. The objectives of this clause are:

- a) *to identify and protect areas that have particular scenic value either from major roads, identified heritage items or other public places,*

- b) to ensure development in these areas is located and designed to minimise its visual impact*

Appendix B contains LEP Clauses 7.18 and 7.19 and 7.5

Penrith Development Control Plan 2014 (the DCP) was adopted by Council on 23 March 2015 and came into effect on 17 April 2015. Any development within the subject area will need to consider the DCP and its relevant sections. The DCP contains a specific section relating to development in the Mulgoa Valley. The aims of the controls for the Mulgoa Valley Precinct are:

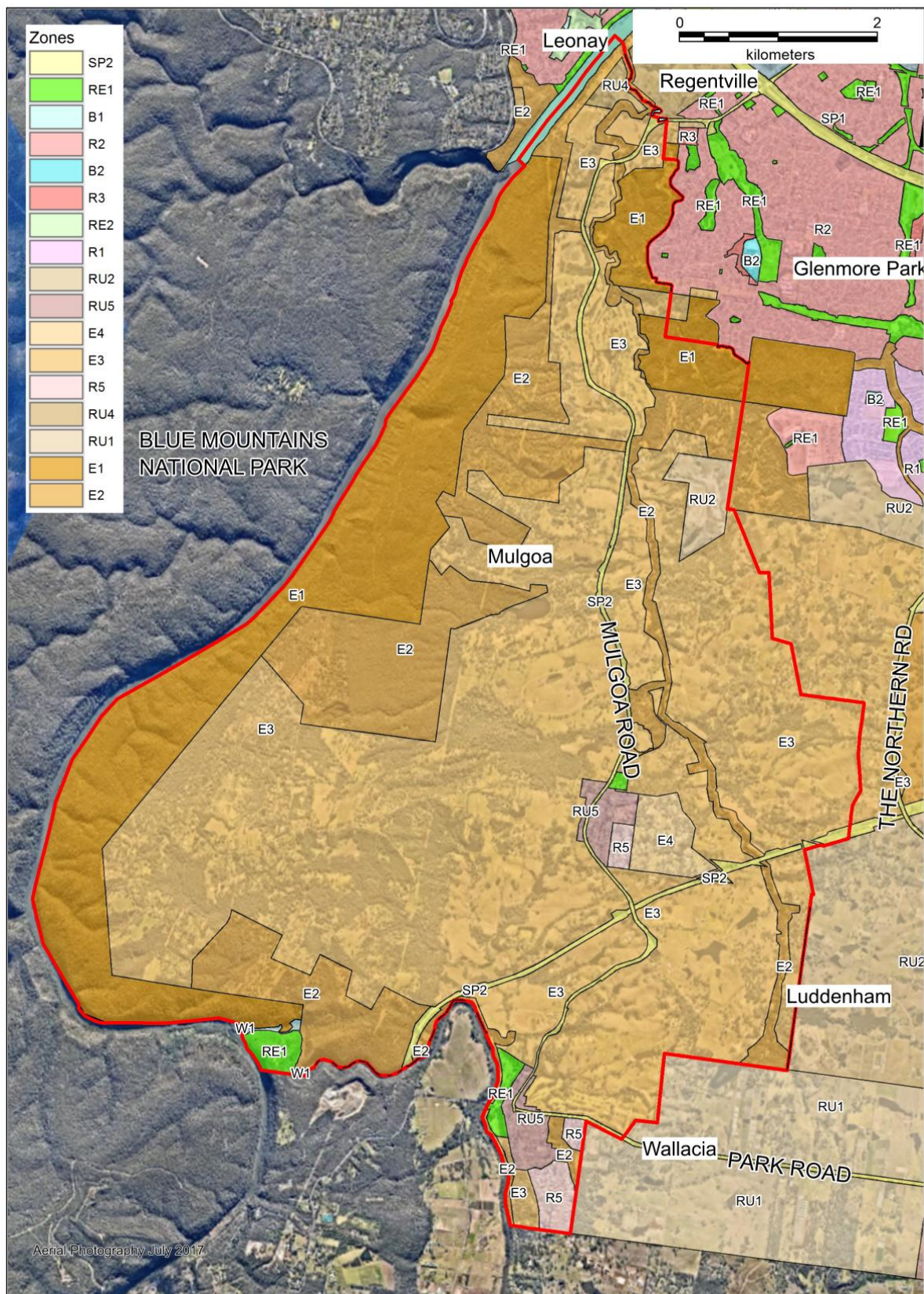
to conserve the heritage, rural and natural landscape of the Mulgoa Valley, and encourage its development as a rural area emphasising its visual and environmental heritage values.

The controls are in addition to and support the provisions in LEP relating to Mulgoa Valley and the Villages of Mulgoa and Wallacia.

Appendix C contains the DCP's Chapter E9 – Mulgoa Valley Precinct.

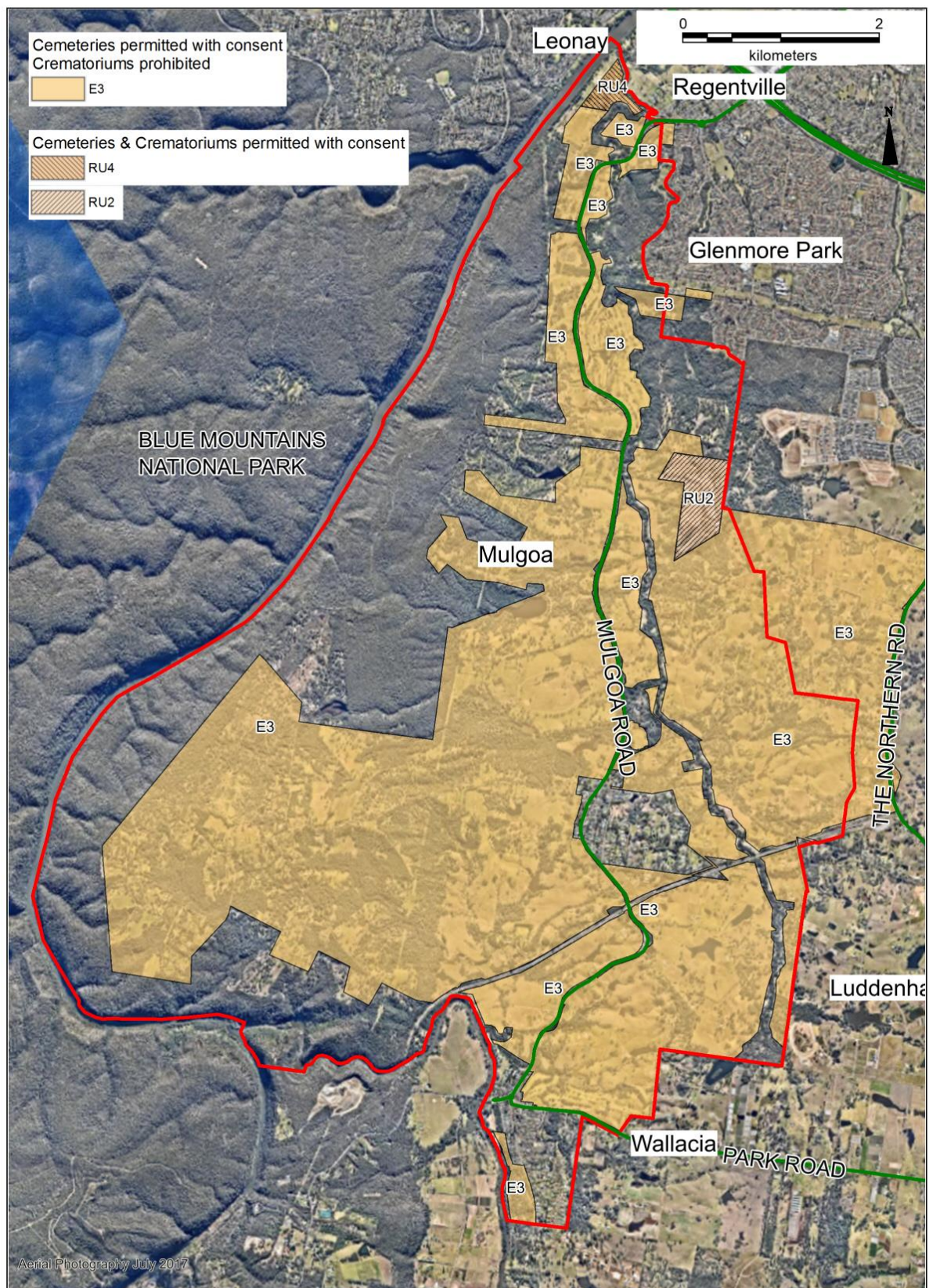
This Planning Proposal is consistent with furthering the objectives of the LEP and DCP as they relate to the Mulgoa Valley and parts of Wallacia.

Figure 2: Zoning map of subject area



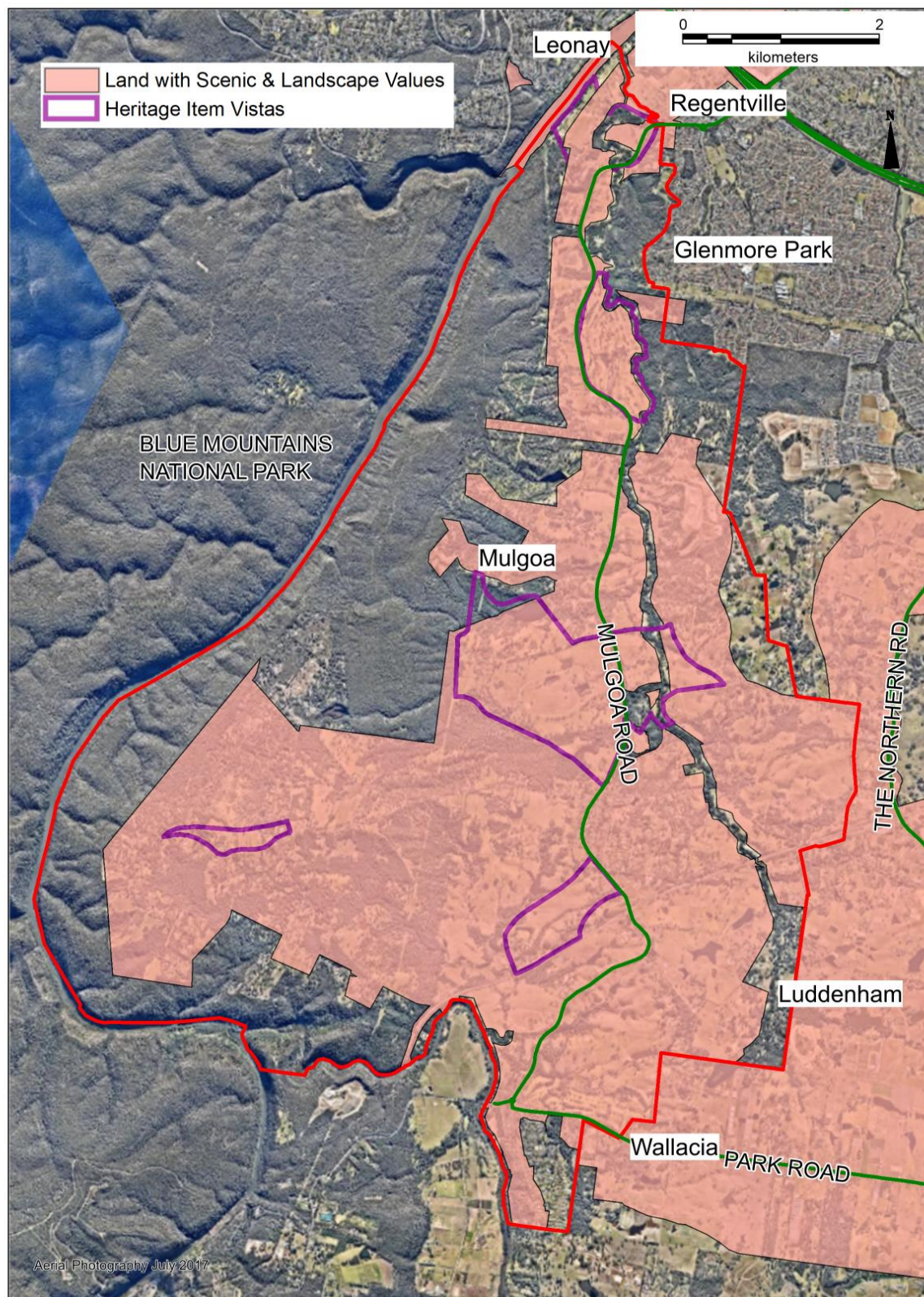
Zoning Map of the Subject Area

Figure 3: Zones where cemeteries and crematoriums are permitted in subject area



Zones Where Cemeteries & Crematoriums permitted in Subject Area

Figure 4: Scenic Landscape Values map of subject area



Mulgoa Valley/Wallacia
LEP2010-Scenic Landscape Values

Part 1- Objectives or Intended Outcomes

The objective and intended outcomes of this Planning Proposal are to amend the Penrith LEP 2010 to achieve the following:

1. to remove 'cemeteries' from the list of land uses, permitted with consent, from the E3 Environmental Management zone;
2. to include an additional local provision that prohibits 'cemeteries' and 'crematorium' in the Mulgoa Valley and parts of Wallacia (the subject area), and overrides any other provision of the LEP.
3. to include a local 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 subject area).

Part 2- Explanation of Provisions

The proposed outcome will be achieved by:

1. removing 'cemeteries' from the list of land uses permitted with consent under the E3 Environmental Management zone.
2. including a local provision that:
 - a) prohibits cemetery and crematorium development in the subject area, and,
 - b) excludes the operation of Clause 5.10.10 *Heritage conservation incentive* and overrides any other provision of Penrith LEP 2010 as it relates to cemetery and crematorium development in the subject area.

1.4. Proposed Amendments

The proposed amendments to Penrith LEP 2010 are shown in detail below.

1.4.1. Land Use Table

The E3 Environmental Management zone can be found predominantly in the southern part of the Penrith local government area within the subject area. The following amendment to the land use table for the E3 Environmental Management zone is proposed.

Zone E3 Environmental Management

1 Objectives of zone

- *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.*

2 Permitted without consent

Extensive agriculture; Home occupations

3 Permitted with consent

Agriculture; Animal boarding or training establishments; Building identification signs; Business identification signs; Cellar door premises; Cemeteries; Community facilities; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Farm buildings; Flood mitigation works; Funeral homes; Home-based child care; Home businesses; Home industries; Information and education facilities; Recreation areas; Roads; Roadside stalls; Rural supplies; Secondary dwellings; Tourist and visitor accommodation; Veterinary hospitals

4 Prohibited

Aquaculture; Hotel or motel accommodation; Industries; Intensive livestock agriculture; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Serviced apartments; Turf farming; Warehouse or distribution centres; Any other development not specified in item 2 or 3

1.4.2. Proposed Amendment to Part 7 Additional local provisions

A new clause that prohibits cemeteries and crematoriums in the subject area is proposed in the Penrith LEP 2010. This clause will provide an additional level of protection and recognition of the significant landscape qualities of the subject area, and override any other provision in the LEP that has the potential to allow cemetery and crematorium development to be permitted.

A new layer on the Clause Application Map is also proposed, that covers the entire subject area as shown in Figure 1.

The proposed amendment to the LEP Part 7 Additional local provisions requires a new clause to be inserted as follows:

7.25 Cemetery and crematoriums in the Mulgoa Valley and Wallacia.

- 1) The objectives of this clause is:*
 - a) to protect and enhance the rural landscape of the subject area, including its heritage and agricultural qualities, cultural heritage values and the setting of the villages of Mulgoa and Wallacia.*
- 2) This clause applies to land identified as “Cemeteries and Crematorium –Prohibited Area” on the Clause Application Map.*
- 3) Development consent must not be granted for the establishment of cemeteries and crematoriums on the land to which this clause applies.*
- 4) Despite any other provisions of this LEP, clause 5.10(10) does not apply to the land to which this clause applies in relation to “cemeteries’ and ‘crematoriums’.*

Part 3- Justification

1.5. Section A– Need for the Planning Proposal

Q1. Is the Planning Proposal the result of any strategic study or report?

The Planning Proposal is not the result of a strategic study or report. The Planning Proposal has been initiated by Council to provide a further layer of protection to the Mulgoa Valley, and parts of Wallacia from development pressures that are considered in conflict with the historic and unique landscape qualities of this area.

This Planning Proposal has been initiated in response to recent development interest from external parties seeking to establish ‘cemeteries’ and/or ‘crematoriums’ on sites within the subject area. One of these sites have included the Fernhill estate.

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, the then Minister recognised the Mulgoa Valley as an area of archaeological and cultural importance. Competing land uses and development were seen to threaten the Valley’s rural character and heritage values. This led to the commissioning of the Mulgoa Valley Regional Environmental Study and preparation of *State Regional Environmental Plan 13 Mulgoa Valley* (now repealed and translated to the LEP and DCP controls).

In 2017, Penrith City Council has again recognised the potential conflict of land uses that may jeopardise the area’s significance and value for future generations, and is therefore pursuing this Planning Proposal seeking to amend the LEP.

The environmental importance of the Mulgoa Valley and parts of Wallacia is discussed further in Section 1.7 below.

Q2. Is the Planning Proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

The changes included in this Planning Proposal are the most appropriate and best means of achieving the objectives and intended outcomes. The proposed amendments will provide certainty into the future with regard to the protection of the area’s significant rural landscape including cultural heritage values and scenic values from the development of cemeteries and crematoriums.

The proposed amendments include removing cemeteries from the land use table for the E3 Environment Management zone. The E3 Environmental Management zone is the predominant zone within the subject area (See Figure 2). Removing ‘cemeteries’ from the land use table for the E3 zone will result in no land in the subject area containing a land use zoning in which cemeteries are permitted with development consent, apart from, the small area of RU2 land in Mulgoa containing a landfill depot and some RU4 land in the northern part of the subject area (See Figure 2). Cemeteries are not a mandated permissible land use in E3 zones under the Standard Instrument – Principal Local Environmental Plan. Council can remove that land use from the list of uses that are permissible in that zone. Crematorium are a prohibited use in the E3 zone.

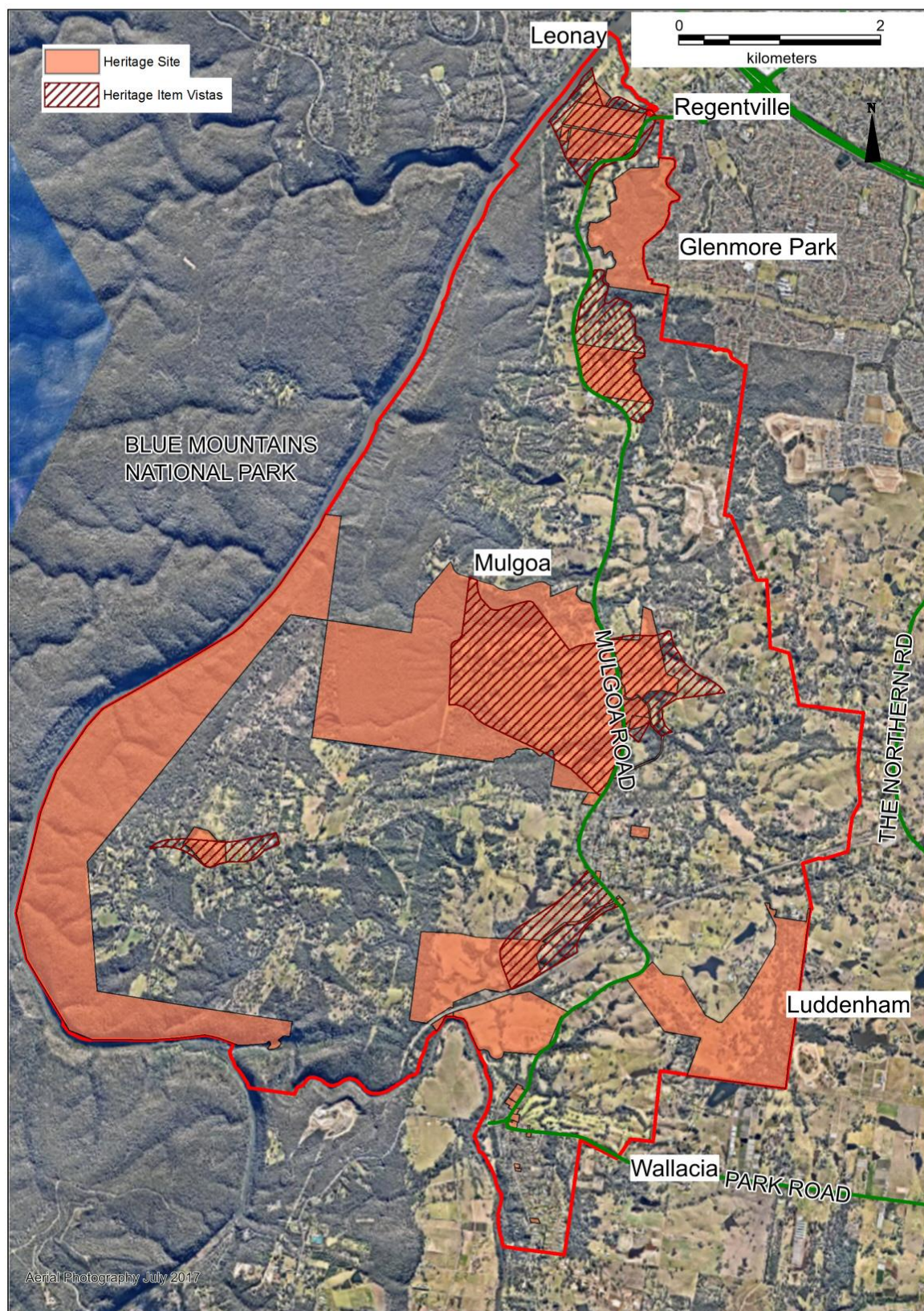
The proposed amendments also include adding a local provision, that prohibits ‘cemeteries’ and ‘crematoriums’ within the subject area and overrides any other provision of the LEP. This provision will operate to prohibit cemeteries and crematoriums within the RU2 and RU4 land

in the subject area and override existing provisions in the LEP that may allow consent to be granted for cemeteries and crematorium.

The LEP contains a mechanism in Clause 5.10.10 *Heritage Conservation incentives*, that allows the consent authority to grant consent for a purpose that would otherwise not be allowed in order to conserve the environmental heritage of Penrith, heritage items, heritage conservation areas (including settings and views), archaeological sites, and Aboriginal objects and places of heritage significance. This may include the establishment of cemeteries and crematoriums. The Mulgoa Valley and surrounding area has concentration of heritage items where Clause 5.10.10 may be used. Figure 5 shows the LEP heritage items and vistas within Mulgoa and Wallacia.

The proposed new additional local provision seeks to identify the subject area with a new layer in the Clause Application Map and override the operation of Clause 5.10.10.

Figure 5: Heritage Sites and Heritage Item Vistas in Mulgoa and Wallacia



Heritage Sites & Heritage Item Vistas in Subject Area

1.6. Section B- Relationship to strategic planning framework

Q.3 Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

A Plan for Growing Sydney

A Plan for Growing Sydney (the Sydney Metropolitan Strategy) was released in December 2014 and is the NSW Government's 20-year plan for the Sydney Metropolitan Area.

The Plan consists of a number of directions and actions focused around four goals:

- **ECONOMY**; a competitive economy with world class services and transport;
- **HOUSING**; a city of housing choice with homes that meet our needs and lifestyles;
- **LIFESTYLE**; a great place to live with communities that are strong, healthy and well connected; and
- **ENVIRONMENT**; a sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources.

Penrith is identified as a Regional City within the Plan and falls within the West subregion. The priorities of the Plan for the West subregion is a competitive economy, accelerated housing supply, choice and affordability, and the protection of the natural environment. Relevant directions from *A Plan for Growing Sydney* are addressed below:

Goal 1: A competitive economy with world-class services and transport

Direction 1.4 Transform the productivity of Western Sydney through growth and investment

Consistent.

The key objective of this Planning Proposal is to prohibit cemeteries and crematoriums within the subject area in order to further protect its scenic, rural and landscape qualities.

Cemeteries and crematoriums are a land use that has recently been approved in the Luddenham area, which, when operational will have the potential to create jobs and contribute to the local economy.

The nature of service provision for cemeteries and crematoriums is changing towards larger regional style facilities. This Planning Proposal discourages investment in this use within the subject area. Council is prioritising the protection of the unique landscape and heritage qualities of the Mulgoa Valley, and, it's role in bringing tourism to the area and region in this instance.

A large regional style cemetery has the potential to irreparably damage the rural, landscape and heritage values of the Mulgoa Valley. It has the potential to also damage the tourism value that this area provides to local and regional communities and the ancillary businesses and related jobs that tourism generates.

Direction 1.7 Grow strategic centres – providing more jobs closer to home

The subject site is not located within proximity to Penrith Health and Education Precinct, which is identified as a Strategic Centre in the Plan.

Direction 1.11 Deliver Infrastructure

Consistent.

Action 1.11.5 Deliver long-term planning for cemeteries and crematorium infrastructure

This direction provides actions specific to the long-term planning of cemetery space, and, identifying and protecting suitable land for cemeteries.

Under LEP 2010 cemeteries are permissible with development consent in the RU2 Rural Landscape; RU4 Primary Production Small Lots and E3 Environment Management. 'Crematorium' is a separately defined land use which is prohibited in the E3 zone but is permitted in the RU2, RU4 and IN2 zones. This Planning Proposal seeks to prohibit cemeteries and crematorium in the E3 zone and specifically in the subject area.

Penrith and the adjoining Liverpool LGA's have taken steps to provide land for cemeteries and crematorium to meet long term demand.

Council has three active cemeteries. Penrith, St Marys and Emu Plains. A cemetery and crematorium has been approved (not yet operational) in Luddenham (including chapel, cafes, florist and caretaker facilities), which will have capacity for 38000 burial plots.³ Since 2010 the adjoining Liverpool LGA has been subject to three development approvals for three cemeteries and three crematoriums in Bringelly and Greendale, providing capacity for 45000 ash internments and 80000 burial plots.⁴ Communities in Penrith and Liverpool are experiencing a concentration of cemeteries and crematorium uses to meet demand from a local and regional catchment.

The provision of adequate cemetery space to meet future demand in Penrith and the adjoining Liverpool LGA is in progress. This Planning Proposal does not distract from achieving this direction. This Planning Proposal and its proposed amendments will provide certainty into the future with regard to planning for cemeteries within the LGA. It seeks to remove areas that are considered unsuitable,

³ <https://www.penrithcity.nsw.gov.au/Building-and-Development/Development-Applications/Application-tracking/> - DA11/1445

⁴ [www.planningpanels.nsw.gov.au/Developmentand Planning Register](http://www.planningpanels.nsw.gov.au/DevelopmentandPlanningRegister).

allowing long term planning and attention to be directed towards more appropriate areas

Goal 3: A great place to live with communities that are strong, healthy and well connected

Direction 3.4 Promote Sydney's heritage, arts and culture

Consistent.

'Community life is often centred around significant places such as heritage buildings. These buildings provide a connection to our past and collectively tell our city's story. Heritage buildings and sites contribute to our sense of place and identity and help us to understand and learn about our past including our proud Aboriginal heritage.

The Planning Proposal seeks to protect and enhance the landscape and heritage qualities of the Mulgoa Valley and parts of Wallacia by prohibiting cemeteries and crematoriums. The Mulgoa Valley contains a significant rural landscape, including agricultural qualities, cultural heritage values, scenic values and is the setting for the villages of Mulgoa and Wallacia.

The need to take steps to protect the unique features of the Mulgoa Valley began in the 1980's, when rural subdivision, housing and other development threatened the rural and heritage quality of the valley. This led to State Regional Environmental Plan 13 – Mulgoa Valley (now repealed and translated into the citywide LEP and DCP) being formed.

The Mulgoa Valley has played a key role in the history of the State's development. There are many examples of colonial history remaining, that gives the Mulgoa Valley its significance including buildings, gardens, pastoral landscapes developed by the Cox family. These features provide some of the best remaining physical evidence in NSW of the manner in which the country was colonised and the impact this has had on the landscape.⁵

The main elements which contribute to the landscape include the escarpment, creek flats, parkland landscape and estate gardens. The larger regional style of cemetery provision that is being supplied and the accompanying infrastructure and ancillary buildings to follow would be incompatible with preserving and promoting the heritage of the area and maintaining the strong connection to our past.

⁵ Sydney Regional Environmental Plan 13 – Mulgoa Valley (SREP 13)

Goal 4: A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources

Direction 4.1 Protect our natural environment and biodiversity

Consistent.

Direction 4.3 Manage the impacts of development on the environment

The Biodiversity network and the Department of Environment and Climate Change's priority conservation areas for the LGA are shown in Figure 6. The subject area contains areas of:

- E1 National parks and nature reserves,
- E2 Environmental Conservation
- Environmentally sensitive lands
- OEH's priority conservation areas.

Cemetery and crematorium development has the potential for the following impacts:

- land contamination
- air quality
- groundwater contamination
- land use conflicts
- biosecurity impacts
- rural character and visual impacts
- the permanent loss of productive agricultural land.

Prohibiting this land use within the subject area is consistent with protecting our natural environment and eliminating the impacts of this land use on the environment.

This direction also aims to prepare a strategic framework that protects productive agricultural land to keep fresh food available locally by planning for the infrastructure and land use needs of agricultural activity and providing appropriate buffers between different land uses to minimise conflicts.

Cemetery and crematorium development impacts on the potential for agricultural activities to occur. This land use takes up large land holdings that utilise the land in perpetuity. This removes the potential for other uses in the future. This planning proposal is consistent with this direction as it seeks to remove an inappropriate land use from the subject area thereby opening the land up for rural/agricultural purposes.

West Subregion

A competitive economy

Consistent.

Support and develop the visitor economy to maintain the role of the Greater Blue Mountains World Heritage Area as a nationally significant tourism destination, and the subregion's role as a visitor gateway to regional NSW

The prohibition of cemeteries and crematoriums within the Mulgoa Valley and parts of Wallacia will further protect and establish the subject area as a significant tourism destination in Penrith. A complementary relationship between Penrith and the West subregions is required to support and develop the visitor economy and enhance its reputation both locally and internationally.

Protect the natural environment and promote its sustainability and resilience

Consistent.

Protect and maintain the high social, economic and environmental value of the Hawkesbury-Nepean River and its aquatic habitats, and the World Heritage-listed Blue Mountains National Park, and continue to protect and implement the plans for the Cumberland Conservation Corridor.

The Cumberland Conservation Corridor is a commitment to protect threatened ecosystems in Western Sydney. The Australian Government has acquired a 38-hectare property in Mulgoa which has made significant contributions to the protection of Cumberland Plain woodland values. The property has good connectivity with Mulgoa Creek and forms an important corridor from Mulgoa Nature Reserve and the Wearn Biobank to the north through to Cumberland Plain Woodland located on private property to the south.⁶ This property is zoned E3. This Planning Proposal is consistent with progressing the plans for the Cumberland Conservation Corridor as it seeks to prohibit cemeteries and crematorium in the E3 zone.

Table 3: Consistency with A Plan for Growing Sydney

Draft West District Plan

The Draft District Plan has been developed by the Greater Sydney Commission and sets out aspirations and proposals for Greater Sydney's West District, which includes the Blue Mountains, Penrith and Hawkesbury local government areas.

It outlines priorities and actions for

- Productivity
- Liveability
- Sustainability

⁶ <http://www.nrm.gov.au/national/20-million-trees/cumberland-conservation-round>

District Planning connects local planning with the longer-term metropolitan planning for Greater Sydney. Relevant priorities from the Draft West District Plan are addressed below:

| A Productive City | Priorities and Actions | Comments |
|--|--|--|
| 3.3 Building international tourism | <p>Action P3: Develop infrastructure to support the growth of the visitor economy</p> <p>PP2: Support the visitor economy</p> | <p>The draft plan has recognised the role of tourism as a major economic driver within the West district. This Planning Proposal seeks to protect and enhance the tourism potential of the Mulgoa Valley and its unique heritage and landscape qualities. Prohibiting cemeteries and crematoriums within the subject area will help to maintain the abovementioned qualities. The Mulgoa Valley features predominantly in Penrith Tourism's Heritage Trail.</p> |
| A Liveable City | | |
| 4.7 Foster cohesive communities in the West District | <p>Action L13: Conserve and enhance the District's environmental heritage, including Aboriginal, European and natural</p> <p>LP7: Conserve heritage and unique local characteristics</p> | <p>The draft plan recognises the need to protect the natural features and vast beauty of the West district for the benefit of current and future generations and tourists. The plan will, through design-led planning work with communities to identify the key strengths of unique places within the District, and ways to enhance these in the future and enhance social cohesion. The community of Penrith and the broader regional community have a strong connection to the Mulgoa Valley.</p> <p>The strengths of the Mulgoa Valley and Wallacia area is its heritage and landscape values. The valley's significance lies in the buildings, gardens and pastoral landscapes. It provides some of the best remaining physical evidence in NSW of the manner in which the country was colonised and the impact this has had on the landscape.</p> <p>This Planning Proposal is consistent with protecting the unique places within Penrith by prohibiting cemeteries and crematoriums as a land use that has the potential to irreparably damage these qualities and the community's connection to this unique place.</p> |
| 4.8 Responding to people's need for services | Action L19: Support planning for cemeteries and crematorium | <p>The nature of service provision for cemeteries and crematoriums is changing from smaller localised facilities, to larger regional style facilities that caters to the Greater Sydney population.</p> <p>The Draft West District Plan acknowledges society's changing preferences for cemeteries</p> |

and crematorium infrastructure, that includes chapels, receptions centres and car parking. Our submission to the Draft West District Plan advocates that planning for cemeteries and crematoriums may be better considered at the Greater Sydney level, to ensure a broader strategic approach for these facilities.

This Planning Proposal's consistency with this priority is discussed in Direction 1.11 – A Plan for Growing Sydney.

| A Sustainable City | | |
|---|---|---|
| 5.4 Protecting and enhancing biodiversity | <p>Action S4: Develop a Strategic Conservation Plan for Western Sydney</p> <p>SP2: Avoid and minimise impacts to biodiversity</p> | Consistency with this priority is discussed in Direction 4.3 and 4.4 – A Plan for Growing Sydney. |

Table 3: Consistency with Draft West District Plan

Q.4 Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The Planning Proposal is also consistent with the *Penrith Community Plan*.

Penrith Community Plan

The Penrith Community Plan represents the community's vision for the Penrith LGA over the next 20 years. It establishes the strategies that will need to be prioritised by a range of agencies, groups and government departments in order to achieve this vision.

The following table identifies the relevant outcomes for consideration and demonstrates how this Planning Proposal is consistent with those outcomes.

Outcome 1 – We Plan for Our Future Growth

Strategy 2.2 Protect the City's natural areas, heritage and character

The preservation of Penrith's unique natural environments, history and character within the Mulgoa Valley and parts of Wallacia is the primary justification for pursuing this Planning Proposal by prohibiting cemeteries and crematoriums. The Community Plan seeks to protect the potential impact of development on the rural landscape in our

north and south through planning policies. This planning proposal seeks to amend the LEP to prohibit this use and provide another level of protection by overriding any other provision in the LEP, including the heritage incentive clause as it relates to cemeteries and crematoriums.

Outcome 5 – We Care about our environment

Strategy 5.1 Protect and improve the environment of our City

Consistent.

This strategy is concerned with the importance of caring for our environment, including waterways and bushland. This Planning Proposal is consistent with this strategy as it seeks to prohibit a use that has the potential to contaminate groundwater.

The topography of the Mulgoa Valley is both steep and hilly, with some relative extensive plateaus in the western zone, to more undulating in the eastern zone.

The drainage within the Mulgoa Valley is as follows: Mulgoa Creek drains an area of over 5000 hectares from Luddenham to Regentville. The Mulgoa Creek has many second and third order streams forming numerous small catchments. Parts of the Mulgoa Valley drains directly into the Nepean River.⁷

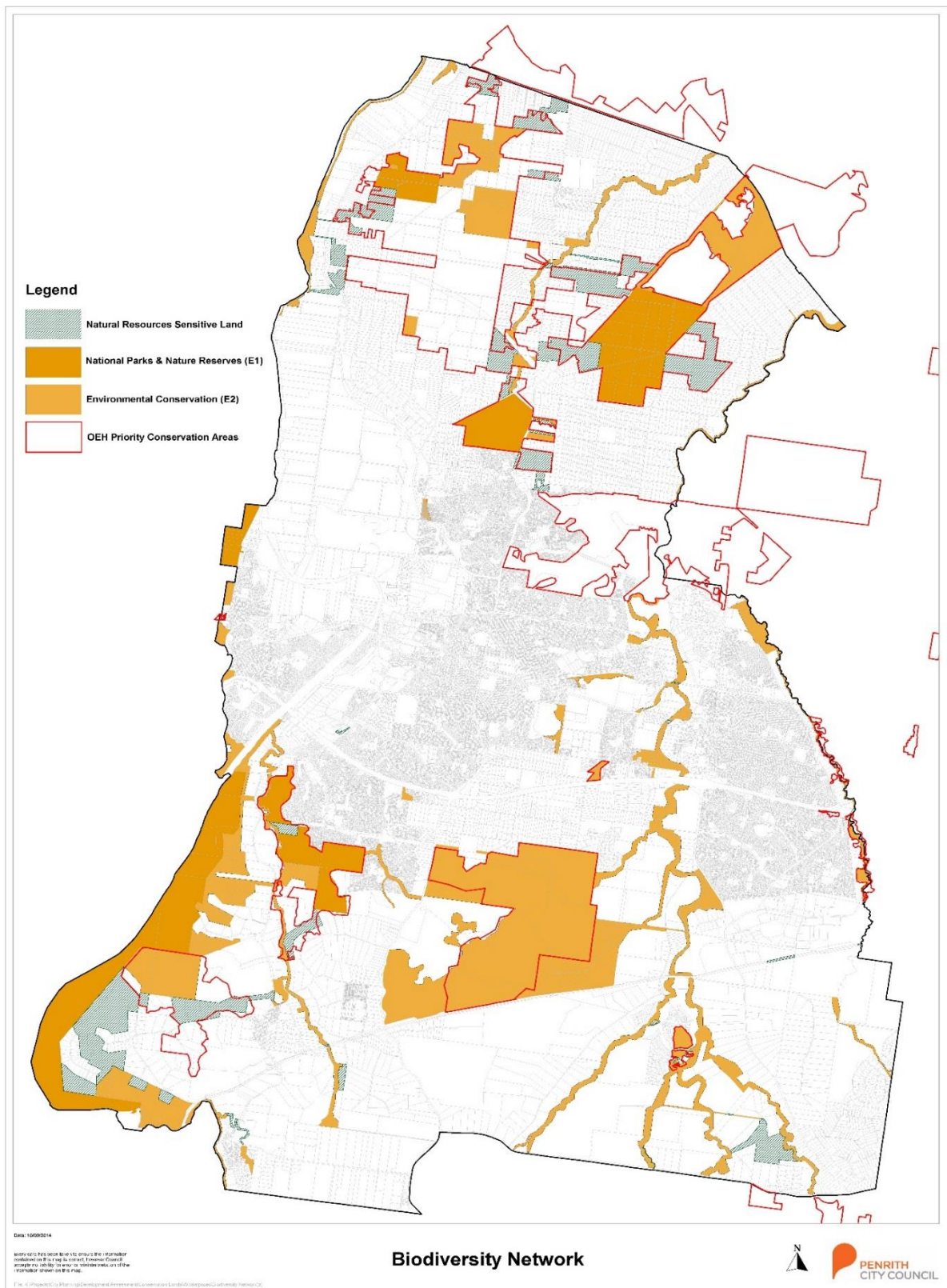
Groundwater contamination is a potential impact of cemeteries. As a body decays fluids can leach out to work their way to the groundwater underlying a site and pose a potential health risk.

Whether the drainage system and topography of the Mulgoa Valley is compatible with the use of the land for cemeteries will be subject to a site specific assessment and further studies. This Planning Proposal seeks to prohibit this use from the subject area and therefore is consistent with this strategy.

Table 4: Penrith Community Plan Review

⁷ Mulgoa Valley Regional Environmental Study

Figure 6: Penrith LGA Biodiversity map



Q2. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The State Environmental Planning Policies (SEPPs) that are applicable to the Planning Proposal are identified below.

| SEPP | Comment |
|---|--|
| State Environmental Planning Policy No 1— Development Standards | SEPP 1 does not apply under the LEP. Exceptions to development standards are considered under Clause 4.6 of the subject LEP. |
| State Environmental Planning Policy No 14— Coastal Wetlands | Not Applicable. The area is not within an identified coastal wetland area. |
| State Environmental Planning Policy No 19— Bushland in Urban Areas | Not Applicable as there are no identified areas of urban bushland within the subject site. |
| State Environmental Planning Policy No 21— Caravan Parks | Not Applicable. Nothing in this Planning Proposal prevents the realisation of this SEPP. |
| State Environmental Planning Policy No 26— Littoral Rainforests | Not Applicable as there are no Littoral Rainforests within the subject site. |
| State Environmental Planning Policy No 30— Intensive Agriculture | Not Applicable as this Planning Proposal does not seek to convert the land from rural to urban use. |
| State Environmental Planning Policy No 33— Hazardous and Offensive Development | Not Applicable. However, the Planning Proposal will not prevent either the existing or future application of the SEPP. |
| State Environmental Planning Policy No 36— Manufactured Home Estates | Not Applicable. The Planning Proposal does not contain land where this SEPP applies. |
| State Environmental Planning Policy No 44— Koala Habitat Protection | Not Applicable. The SEPP does not apply to Penrith local government area as listed in Schedule 1. The subject area for this Planning Proposal does contain E1 National Parks and Nature Reserves areas. This SEPP does not apply to this land. |
| State Environmental Planning Policy No 47— Moore Park Showground | Not Applicable as the site is not within the Moore Park Showground area. |
| State Environmental Planning Policy No 50— Canal Estate Development | Not Applicable. The Planning Proposal does not incorporate a Canal Estate. |
| State Environmental Planning Policy No 52— Farm Dams and Other Works in Land and Water Management Plan Areas | Not Applicable. The proposal however does not prevent the successful application of this SEPP. |

| | |
|---|--|
| State Environmental Planning Policy No 55— Remediation of Land | Not Applicable. This proposal seeks to remove cemeteries and crematorium within the subject area. The Planning Proposal will not prevent the existing or future application of the SEPP. |
| State Environmental Planning Policy No 60— Exempt and Complying Development | Consistent. The proposal ensures that exempt and complying development can occur both now and into the future. |
| State Environmental Planning Policy No 62— Sustainable Aquaculture | Not Applicable. The proposal however does not prevent the successful application of this SEPP. |
| State Environmental Planning Policy No 64— Advertising and Signage | Consistent. The Planning Proposal is consistent with SEPP 64 as no additional provisions relating to signage are proposed. SEPP 64 will continue to apply to the site. |
| State Environmental Planning Policy No 65— Design Quality of Residential Flat Development | Not Applicable. The subject area of this Planning Proposal does not permit residential flat buildings. |
| State Environmental Planning Policy No 70— Affordable Housing (Revised Schemes) | Not Applicable. The proposed changes does not affect the application of this SEPP |
| State Environmental Planning Policy No 71— Coastal Protection | Not applicable as the site is not within a coastal zone. |
| State Environmental Planning Policy (Affordable Rental Housing) 2009 | The Planning Proposal does not include any provisions which impede operation of this SEPP over the subject land. |
| State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 | The proposal is consistent as the BASIX SEPP will continue to apply to the subject site. |
| State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 | Exempt and complying development under this SEPP will continue apply to the land. |
| State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 | The Planning Proposal does not include any provisions which impede operation of this SEPP over the subject land. |
| State Environmental Planning Policy (Infrastructure) 2007 | The Planning Proposal does not include any provisions which impede operation of this SEPP over the subject land. |
| State Environmental Planning Policy (Kosciuszko National Park—Alpine Resorts) 2007 | Not Applicable as the site is not within the Kosciuszko National Park area. |
| State Environmental Planning Policy (Kurnell Peninsula) 1989 | Not Applicable as the site is not at the Kurnell Peninsula. |

| | |
|---|--|
| State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 | The Planning Proposal does not prevent the application of this SEPP. |
| State Environmental Planning Policy (Penrith Lakes Scheme) 1989 | Not Applicable as the subject site is not within the specified land area. |
| State Environmental Planning Policy (Rural Lands) 2008 | Not Applicable as the SEPP does not apply to the subject land. |
| State Environmental Planning Policy (State and Regional Development) 2011 | Not Applicable. The Planning Proposal however does not prevent the application of this SEPP for state significant or critical infrastructure projects. |
| State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 | Consistent. The proposal does not contain any provision that would prevent the application of this SEPP. |
| State Environmental Planning Policy (Sydney Region Growth Centres) 2006 | Not Applicable as the SEPP does not apply to the subject land. |
| State Environmental Planning Policy (Urban Renewal) 2010 | Not Applicable as the site is not identified as an Urban Renewal Precinct. |
| State Environmental Planning Policy (Western Sydney Employment Area) 2009 | Not Applicable. The site is not within the Western Sydney Employment Area. |
| State Environmental Planning Policy (Western Sydney Parklands) 2009 | Not Applicable as the subject site is not within the specified land area. |

| Deemed SEPPs | Comment |
|--|--|
| Sydney Regional Environmental Plan No 9—Extractive Industry (No 2—1995) | Not Applicable. Nothing in this Planning Proposal prevents the application of this SEPP to relevant development applications. |
| Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997) | The Planning Proposal has considered the heads of considerations under this deemed SEPP. Future development is able to occur in a manner in keeping with the requirements of this deemed SEPP. |

Table 5: Consistency with SEPP's

Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

A review of the consistency of this Planning Proposal with the relevant directions under Section 117 has been undertaken. Each s117 Ministerial Direction is listed below with an annotation stating whether it is relevant to the Planning Proposal and confirming consistency.

| S.117 Direction | Is the Direction Applicable? | Consistency of Planning Proposal |
|-----------------|------------------------------|----------------------------------|
|-----------------|------------------------------|----------------------------------|

| | | |
|---|---|---|
| 1.1 Business and Industrial Zones | Not Applicable | The Planning Proposal does not affect land within an existing business or industrial zone. The Planning Proposal does not affect any land proposed to be zoned as business or Industrial land by Penrith Council. |
| 1.2 Rural Zones | Consistent | <p>The Planning Proposal does not seek to rezone land from a rural zone to a residential, business, industrial, village or tourist zone. It does not contain provisions that will increase the permissible density of land within a rural zone.</p> <p>The objective of this direction is to protect the agricultural production value of rural land. Cemeteries and crematorium generally use the land in perpetuity. This Planning Proposal seeks to remove cemeteries and crematoriums from the subject area. This will maintain the land for rural land uses.</p> |
| 1.3 Mining, Petroleum Production and Extractive Industries | Not Applicable | The Planning Proposal will not have the effect of prohibiting mining, petroleum production and extractive industries. |
| 1.4 Oyster Aquaculture | Not Applicable | The Planning Proposal does not affect land within an Oyster Aquaculture area. |
| 1.5 Rural Lands | Not Applicable | Penrith Council is excluded from the application of this Direction. |
| 2.1 Environment Protection Zones | Yes – Applies to all Planning Proposals | <p>Consistent.</p> <p>This Planning Proposal seeks to prohibit cemeteries and crematorium from the subject area that contains environment protection zones. The intended outcome of this Planning Proposal is to further protect the unique rural and landscape qualities of Mulgoa Valley and Wallacia, including the areas significant heritage value.</p> <p>This Planning Proposal is consistent with the Direction as it does not reduce the extent of any existing Environment Protection Zones.</p> |
| 2.2 Coastal Protection | Not applicable | The Planning Proposal does not affect land within Coastal Protection Zone. |
| 2.3 Heritage Conservation | Yes – Applies to all Planning Proposals | <p>Consistent.</p> <p>The objective of this direction is to conserve items, areas, objects and places of environmental heritage significance and indigenous heritage significance. The main justification for this planning proposal is consistent with these objectives.</p> <p>This direction states that a planning proposal must contain provisions that facilitate heritage conservation. This planning proposal seeks to do</p> |

this by including a provision that prohibits cemeteries and crematoriums in the subject area, and, overrides the operation of Clause 5.10.10 *Heritage conservation incentive* as it relates to cemeteries and crematoriums. This is appropriate due to the concentration of heritage items within the Mulgoa Valley. A proponent can seek development consent for a prohibited land use on land containing a building that is a heritage item under Schedule 5 of the LEP 2010.

Overriding Clause 5.10.10 as it relates to cemeteries and crematorium in the subject area will result in an outcome consistent with this direction. The planning proposal seeks only to restrict the operation of Clause 5.10.10 as it applies to the subject area and development for cemeteries and crematoriums. It's operation in the subject area will be otherwise unaffected.

The concern that excluding the operation of Clause 5.10.10 may potentially reduce the ongoing economic survival of heritage items in the subject area is acknowledged. However, cemetery development in the subject area is unlikely to be supported in the E3 zone (the predominant zone in the subject area) due to its inconsistency with the zone objectives (discussed in section 1.7) and the heritage significance of the Mulgoa Valley and its heritage items. The following example will demonstrate this.

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 impacts of cemetery development such as buildings, maintained lawn garden landscapes, additional infrastructure (including roads, pathways and car parks) would be inconsistent with protecting the heritage significance of the Mulgoa Valley and the abovementioned landscape qualities.

The Planning Proposal does not propose changes to existing LEP clauses or Maps relating to Heritage. All future Development Applications submitted will be required to comply with the relevant provisions within the LEP and the Heritage Act.

| | | |
|-------------------------------------|----------------|---|
| 2.4 Recreation Vehicle Areas | Not applicable | This Planning Proposal does not enable land to be developed for the purpose of a recreation vehicle area. |
|-------------------------------------|----------------|---|

| | | |
|--|---|--|
| 3.1 Residential Zones | Not applicable | This Planning Proposal will not affect land within an existing or proposed residential zone or any other zone in which significant residential development is permitted or proposed to be permitted. |
| 3.2 Caravan Parks and Manufactured Home Estates | Yes – Applies to all Planning Proposals | The Planning Proposal does not incorporate provision for Caravan Parks. The Planning Proposal is consistent with this Direction. |
| 3.3 Home Occupations | Yes – Applies to all Planning Proposals | This Planning Proposal does not affect the permissibility of home occupations being carried out in dwelling houses without the need for development consent. |
| 3.4 Integrating Land Use and transport | Not applicable | This Planning Proposal does not create, alter or remove a zone or a provision relating to urban land, including land zoned for residential, business, industrial, village or tourist purposes. |
| 3.5 Development Near Licensed Aerodromes | Not Applicable | The land area is not within the vicinity of a licensed aerodrome |
| 3.6 Shooting Ranges | Not Applicable | The Proposal does not impact on provisions relating to shooting ranges. |
| 4.1 Acid Sulphate Soils | Not Applicable | The Planning Proposal does not affect land within an acid sulphate soils area. |
| 4.2 Mine Subsidence and Unstable Land | Not Applicable | The land is not within an identified Mine Subsidence area. |
| 4.3 Flood Prone Land | Yes – The subject area contains Flood Prone Land. | Consistent. This planning proposal seeks to remove a use from the land use table. It does not seek to allow development that is inconsistent with the NSW Government's flood prone land policy and principles of the Floodplain Development Manual 2005. No changes are proposed to the LEP provisions on flood prone land. |
| 4.4 Planning for Bushfire Protection | Yes – The Planning Proposal includes bushfire prone land. | The majority of land within the subject area for this Planning Proposal is bushfire prone land. This Planning Proposal will not affect land mapped as bushfire prone land. This Planning Proposal does not propose any development; it seeks to prohibit the subject area from use as a cemetery or crematorium. |

| | | |
|---|---|--|
| 5.1 Implementation of Regional Strategies | Not Applicable | Not Applicable as the land is not within an area subject to a Regional Strategy. |
| 5.2 Sydney Drinking Water Catchments | Not applicable | The subject land is not located within the Sydney Drinking Water Catchment. |
| 5.3 Farmland of State and Regional Significance on the NSW Far North Coast | Not Applicable | The subject site does not incorporate land to which this direction applies. |
| 5.4 Commercial and Retail Development along the Pacific Highway, North Coast | Not Applicable | The subject site does not incorporate land to which this direction applies. |
| 5.8 Second Sydney Airport: Badgerys Creek | Not Applicable | The subject site does not incorporate land to which this direction applies. |
| 5.9 North West Rail Link Corridor Strategy | Not Applicable | The subject site does not incorporate land to which this direction applies. |
| 5.10 Implementation of Regional Plans | Yes | Consistent. This Planning Proposal has considered its consistency with relevant Regional Plans, being Sydney Regional Environmental Plan No 9—Extractive Industry (No 2—1995), and, Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997). |
| 6.1 Approval and Referral Requirements | Yes – Applies to all Planning Proposals | The proposal does not result in increased or unnecessary requirements for referrals and/or concurrence to Ministerial or public authorities, and does not include development that would be defined as designated development. The Planning Proposal is consistent with this Ministerial Direction. |
| 6.2 Reserving Land for Public Purposes | Yes – Applies to all Planning Proposals | The proposal does not seek to create land reserved for public purposes without consultation with the relevant authority. The Planning Proposal is consistent with this Ministerial Direction. |
| 6.3 Site Specific Provisions | Not Applicable | The Planning Proposal will not introduce any additional site specific controls. This Planning Proposal seeks to prohibit a use. |

The Planning Proposal is consistent with this
Ministerial Direction

Table 6: Consistency with Ministerial Directions

1.7. Section C- Environmental, social and economic impact

Q7. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?

No. This Planning Proposal seeks to prohibit cemeteries and crematoriums from the Mulgoa Valley and parts of Wallacia. Removing this use from the subject area will not result in any adverse effects to critical habitat or threatened species, populations or ecological communities, or their habitats.

The subject area contains, National Park areas and predominantly rural landscape comprising creek flats and contrasting wooded hills and escarpment areas, and the villages of Mulgoa and Wallacia. Penrith LGA contains over 25% remnant Cumberland Plain Woodland vegetation communities as a proportion across the Cumberland Plain.⁸ Many fauna species in Penrith are not confined to the LGA, but are mobile and will use habitat within the area according to seasonal conditions. Many species have large home ranges and require habitat occurring in adjacent Council areas, or require a continuity of habitat to facilitate migration.⁹

Figure 6 depicts the biodiversity network across the LGA. There is a concentration of significant areas within the Mulgoa Valley and surrounding areas that contain Environmental Sensitive Lands, National Parks and Nature Reserves, Environment Conservation areas and the OEH's Priority Conservation areas. The subject area is important due to its connections with areas in adjoining LGA's.

The establishment of cemeteries and crematoriums (and their associated buildings, infrastructure and increased traffic and general activity), has the potential to adversely affect critical habitat or threatened species, ecological communities or their habitat. By prohibiting this use the likelihood of adverse effects for flora and fauna is minimised.

Q8. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed?

No. The establishment of cemeteries or crematorium in the subject area has the potential to have detrimental environmental effects. Removing the permissibility of this use in the subject area will eliminate the likelihood of these environmental effects from this land use.

The following will outline some of the likely environmental effects resulting from the establishment of cemeteries and crematorium in the subject area.

Heritage Qualities of the Mulgoa Valley

The Mulgoa Valley and parts of Wallacia contain significant heritage items and areas, that have been recognised as having regional, state and local significance. Heritage items identified in the LEP within the subject area are shown in Figure 5.

The significant features and qualities of the Mulgoa Valley were outlined in the Mulgoa Valley Regional Environmental Study. It is these qualities that this planning proposal is seeking to provide a further level of protection to, by prohibiting a land use that has the potential to damage these qualities. Some of these are summarised below:

⁸ Rural Land Study p. 10-12

⁹ Rural Lands Study p.15

- the Mulgoa Valley was intensely used by Aboriginal communities. A large number of sites have been recorded from limited surveys, suggesting many sites are almost certainly undetected.
- the Mulgoa Valley was first settled by Europeans in the 1800's. Its significance lies in the surviving sites, buildings, gardens and pastoral landscapes. These sites provide the best physical evidence remaining in NSW of Australia's colonisation and the impact on the landscape.
- a significant heritage component of the Mulgoa Valley is its landscape. The Valley contains evidence of early man-made landscapes using the principles of selective forest thinning, that appreciates the natural environment creating a unique landscape in the valley that survives today, with very few other instances in NSW. The landscape qualities of the Mulgoa Valley lie not solely in its natural attributes, but the way in which it has been created by colonial settlement. Examples can be found at Fernhill, Cox's Cottage and Glenmore. Appendix D provides the Heritage Inventory Sheets for each of these LEP listed heritage items.
- the cultural significance of the valley comes from its early history. The Valley contains a concentration of houses and sites dating back to the early colonial period. These houses and sites can be found in a relatively unaltered landscape.

Cemetery Development - Consistency with E3 Environmental Management zone objectives

The predominant zone in the subject area is E3 Environmental Management (See Figure 2). Development for the purposes of cemeteries in the subject area would be inconsistent with these zone objectives. This planning proposal, therefore, seeks to remove this use from the E3 Environmental Management zone.

Penrith LEP 2010 – E3 Environmental Management Objectives

| | |
|---|--|
| To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values. | Inconsistent. The Mulgoa Valley and Wallacia contains significant rural landscape, including agricultural qualities, cultural heritage values, scenic values and is the setting for the villages of Mulgoa and Wallacia. |
| To provide for a limited range of development that does not have an adverse effect on those values. | Development in this zone for the purpose of cemeteries would jeopardise these qualities for future generations. |
| To minimise conflict between land uses within the zone and land uses within adjoining zones. | The nature of service provision for cemeteries and crematoriums is changing towards larger regional style facilities. The Draft West District Plan acknowledges society's changing preferences for cemeteries that includes chapels, receptions centres, car parking and pedestrian and vehicle access. Development of this scale within the subject area will have adverse impacts on the landscape, aesthetic and heritage values of the |
| 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 | |

subject area. Development of this scale will also require an increase in demand for public infrastructure into the future, including ongoing upgrades and to Mulgoa Road. Cemetery development generally uses the land in perpetuity.

Cemetery development in the Mulgoa Valley and parts of Wallacia is considered inconsistent with the objectives of the E3 zone.

Traffic

Cemeteries and crematoriums has the potential to create unanticipated traffic volumes on surrounding roads.

Mulgoa Road is a major road that runs north to south through the Mulgoa Valley. It plays a significant role in contributing to the landscape qualities of the Mulgoa Valley. SREP 13 – Mulgoa Valley (now revoked) and the current Penrith Development Control Plan 2014 (DCP), makes reference to Mulgoa Road as follows:

An important part of Mulgoa Valley and appreciating its landscape is the drive along Mulgoa Road. Roadside vegetation, hills, gullies, bends and changing views of heritage buildings and the landscape are the main attributes... Mulgoa Road should be maintained as a rural road and not be improved to the level of a major regional thoroughfare. Development along the road should not impinge on its safety and efficiency nor should new development generate a need to upgrade the road.

Prohibiting this land use will ensure the present rural character and function of Mulgoa Road is protected and any new development involving cemeteries and crematorium does not impact on the safety and efficiency of Mulgoa Road and its role in appreciating the scenic qualities of the Mulgoa Valley.

This Planning Proposal in prohibiting cemeteries and crematoriums will eliminate a development type that has the potential to generate traffic impacts that will extend to the regional road network into the subject area.

Agricultural Land

Cemetery and crematorium development impacts on the potential for agricultural activities to occur. This land use takes up large land holdings that utilise the land in perpetuity. This removes the potential for other uses in the future. This planning proposal seeks to remove an inappropriate land use from the subject area thereby opening the land up for rural/agricultural purposes and encouraging local production of fresh food.

Other Impacts of Cemeteries and Crematorium

The potential impacts for the development of cemeteries and crematorium include:

- Land contamination
- Air quality
- Groundwater contamination
- Land use conflicts
- Bio security impacts and food safety
- Rural character and visual impacts
- Loss of productive agricultural land in the Sydney Basin
- Amenity issues in rural areas, causing ongoing land-use conflicts with adjoining lots

The results of this Planning Proposal will eliminate these potential environmental effects.

Q9. Has the planning proposal adequately addressed any social and economic effects?

The population of Penrith is growing and ageing, and this has implications for the long-term provision of cemetery space.

Cemeteries and Crematorium NSW, in their submission to the Draft District Plans states that cemetery capacity in the West district is projected to be exhausted by around 2043, with 'at need' burial capacity projected to be exhausted well prior. This is a similar story in the other planning districts. It is likely that as cemetery capacity in other districts is reached, greater demand in the West region can be expected.

Penrith City Council's Cemeteries Strategy and Business Review – Discussion Paper states that there are a number of factors that have the potential to influence the extent of demand, such as health improvements and slowly increasing preferences for cremation over burial. These factors may mean that burial rates may not grow as quickly as expected.

There are economic benefits associated with the establishment of cemeteries and crematoriums including, employment and the establishment of ancillary business. This planning proposal seeks to prioritise the economic benefits that the Mulgoa Valley and Wallacia provides to the local and regional tourism industry, by capitalising on protecting the unique landscape and heritage qualities of the area.

This planning proposal seeks to eliminate this use from areas where it is not appropriate, thereby directing this use to more appropriate areas and zones. Society's preferences for cemeteries and crematoriums are changing. Council advocates that planning for cemeteries and crematoriums would be better considered at the Greater Sydney level, to ensure a broader strategic approach for these facilities. This is consistent with the Draft West District Plan consideration for these facilities.

1.8. Section D – State and Commonwealth interests

Q10. Is there adequate public infrastructure for the planning proposal?

This Planning Proposal does not require any additional public infrastructure or place increased demand on existing public infrastructure. The Planning Proposal prevents unexpected pressure on public infrastructure.

Q11. What are the views of state and Commonwealth public authorities consulted in accordance with the Gateway determination?

This section of the Planning Proposal is to be completed following consultation with the State and Commonwealth Public Authorities identified in the Gateway Determination. There has been no early consultation with State and Commonwealth public authorities.

Part 4 - Mapping

This planning proposal requires the LEP to be amended to create a provision to Part 7 *Additional local provisions*. This will require a new layer to be created in the Clause Application Map. The new layer will include the entire subject area as shown in Figure 1. A draft of the new layer is shown in Figure 7. A draft of the proposed Clause Application Map Sheet CAP_002 (showing all LEP Clause Application layers) is shown in Figure 8.

Figure 7: Draft LEP Clause Application Map showing subject area

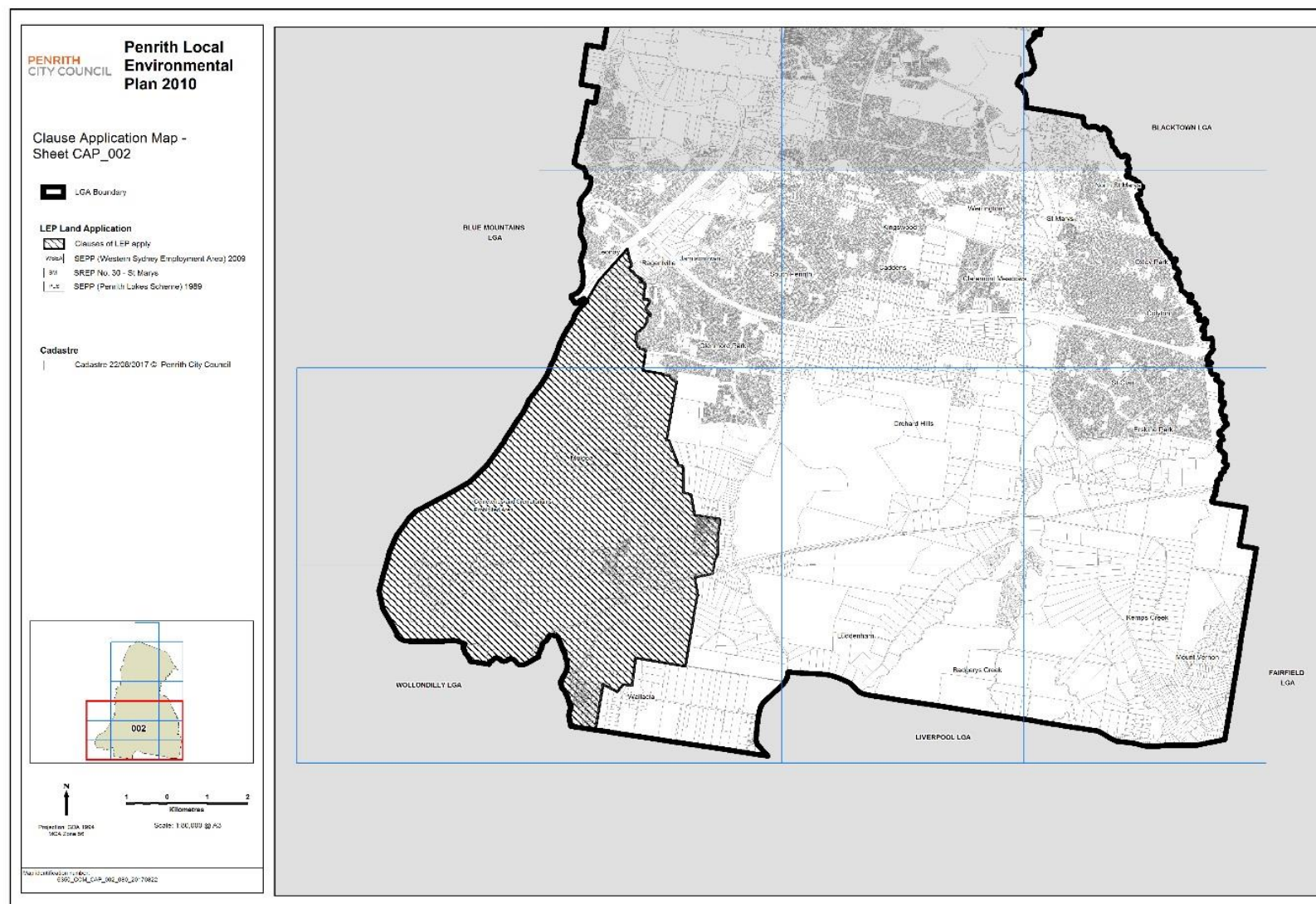
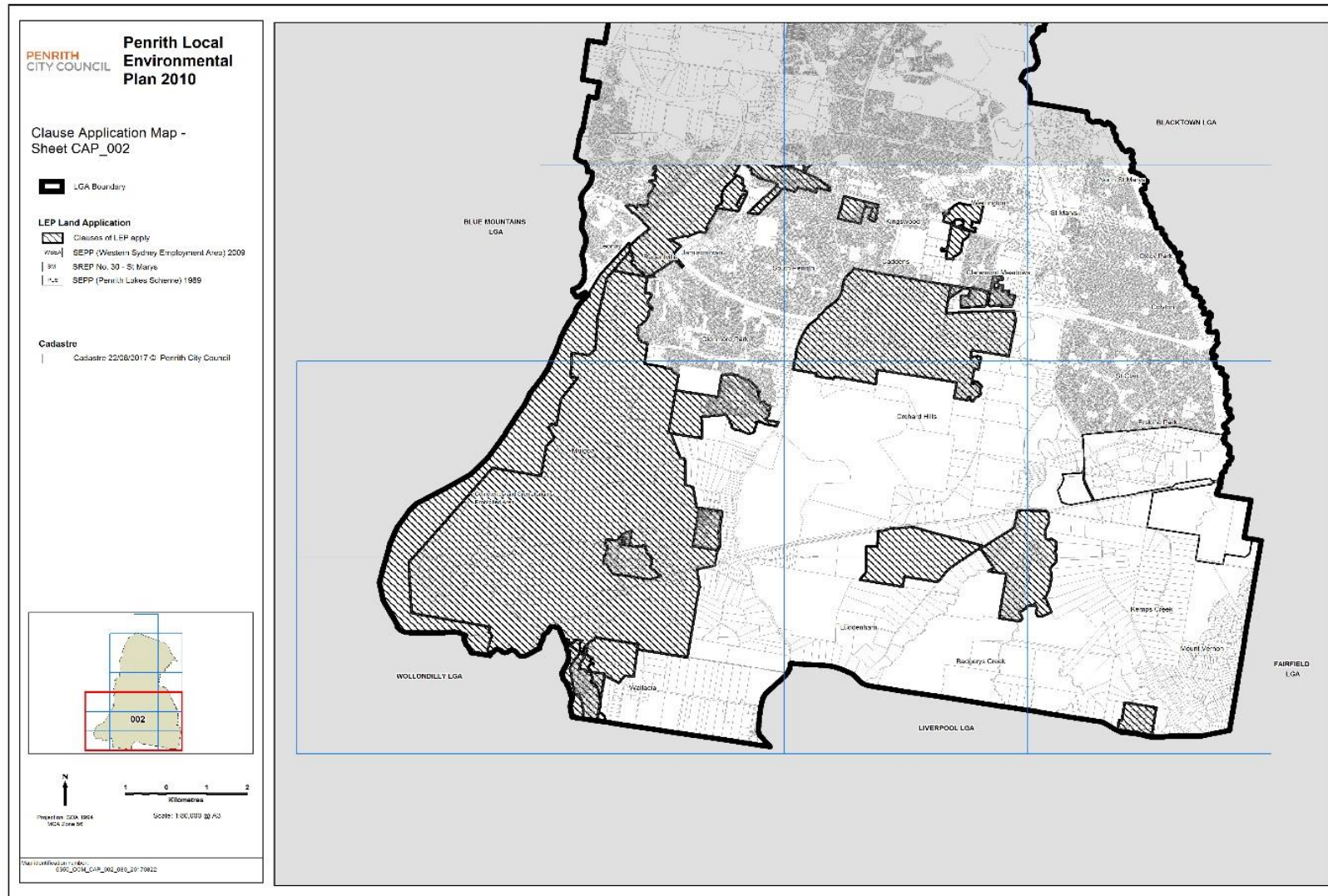


Figure 8: Draft LEP Clause Application Map – Sheet CAP_002



Part 5- Community Consultation

Community consultation will be commenced by giving notice of the public exhibition of the Planning Proposal;

- a) in a newspaper that circulates in the area affected by the Planning Proposal;
- b) on the Penrith City Council website; and

In accordance with the Department of Planning and Infrastructure's guidelines, 'A guide to preparing local environmental plans', the Planning Proposal is classified as a 'low impact' proposal given that:

- The Planning Proposal is consistent with the pattern of surrounding land use zones and/or land uses;
- The Planning Proposal is consistent with the strategic planning framework;
- The Planning Proposal presents no issues with regard to infrastructure servicing;
- The Planning Proposal is not a principal LEP; and
- The Planning Proposal does not reclassify public land.

Public Exhibition will be carried out in accordance with the Gateway determination.

Part 6 – Project Timeline

This section of the planning proposal will be updated once the Gateway Determination has been received from the Department of Planning and Environment.

| No | Action | Date |
|----|--|---------------------|
| 1 | Gateway Determination | November 2017 |
| 2 | Public Authority Consultation | December 2017 |
| 3 | Public Exhibition | Dec 2017 - Jan 2018 |
| 4 | Consideration of Community Feedback | February 2018 |
| 5 | Resubmission of NSW Department of Planning & Environment | April 2018 |
| 6 | Anticipated publication of amendment to LEP 2010 | June 2018 |

Table 7: Project Timeline

Conclusion

This planning proposal seeks to amend the LEP by:

- prohibiting cemeteries and crematoriums from the E3 Environment Management zone,
- adding an additional provision prohibiting cemeteries and crematoriums in the subject area, and
- overriding the operation of Clause 5.10.10 Heritage conservation incentive as it relates to cemeteries and crematoriums.

The rationale for this planning proposal is to protect the significant heritage and landscape qualities of the Mulgoa Valley and parts of Wallacia. Prohibiting cemeteries and crematoriums in the subject area will:

- provide an additional layer of protection for the landscape and heritage qualities of the subject area and safeguard these for future generations,
- protect tourism as an economic driver for the area,
- direct this type of development to more appropriate locations, and
- reinforce Council's support for planning for cemeteries and crematoriums to be considered at a Greater Sydney level, to ensure a broader strategic approach to these facilities.

This planning proposal is consistent with the aims and directions of the relevant State, Commonwealth and local strategic plans, Ministerial Directions and SEPP's.

This report has outlined some of the detrimental environmental impacts of cemeteries and crematoriums. Prohibiting this use will eliminate the potential for these impacts in the Mulgoa Valley and parts of Wallacia.

Appendices

Appendix A

Zone objectives and land use tables for E3, RU2 and RU4 zones

Zone RU2 Rural Landscape

1. Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To maintain the rural landscape character of the land.
- To provide for a range of compatible land uses, including extensive agriculture.
- To minimise conflict between land uses within the zone and land uses within adjoining zones.
- To preserve and improve natural resources through appropriate land management practices.
- 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.

2. Permitted without consent

Extensive agriculture; Home occupations

3. Permitted with consent

Agricultural produce industries; Agriculture; Animal boarding or training establishments; Building identification signs; Business identification signs; Cellar door premises; **Cemeteries**; Community facilities; **Crematoria**; Dual occupancies; Dwelling houses; Environmental facilities; Environmental protection works; Farm buildings; Flood mitigation works; Forestry; Funeral homes; Helipads; Home-based child care; Home businesses; Home industries; Information and education facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Rural supplies; Schools; Secondary dwellings; Stock and sale yards; Tourist and visitor accommodation; Veterinary hospitals

4. Prohibited

Hotel or motel accommodation; Serviced apartments; Any other development not specified in item 2 or 3

Zone RU4 Primary Production Small Lots

1. Objectives of zone

- To enable sustainable primary industry and other compatible land uses.
- To encourage and promote diversity and employment opportunities in relation to primary industry enterprises, particularly those that require smaller lots or that are more intensive in nature.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To ensure land uses are of a scale and nature that is compatible with the environmental capabilities of the land.
- To preserve and improve natural resources through appropriate land management practices.
- To maintain the rural landscape character of the land.
- To ensure that development does not unreasonably increase the demand for public services or facilities.

2. Permitted without consent

Extensive agriculture; Home occupations

3. Permitted with consent

Agricultural produce industries; Agriculture; Animal boarding or training establishments; Building identification signs; Business identification signs; Cellar door premises; **Cemeteries**; Community facilities; **Crematoria**; Dual occupancies; Dwelling houses; Environmental facilities; Environmental protection works; Farm buildings; Flood mitigation works; Home-based child care; Home businesses; Home industries; Intensive plant agriculture; Information and education facilities; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Roads; Roadside stalls; Rural supplies; Schools; Secondary dwellings; Tourist and visitor accommodation; Veterinary hospitals

4. Prohibited

Dairies (restricted); Feedlots; Hotel or motel accommodation; Serviced apartments; Any other development not specified in item 2 or 3

Zone E3 Environmental Management

1. Objectives of zone

- 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.

2. Permitted without consent

Extensive agriculture; Home occupations

3. Permitted with consent

Agriculture; Animal boarding or training establishments; Building identification signs; Business identification signs; Cellar door premises; Cemeteries; Community facilities; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Farm buildings; Flood mitigation works; Funeral homes; Home-based child care; Home businesses; Home industries; Information and education facilities; Recreation areas; Roads; Roadside stalls; Rural supplies; Secondary dwellings; Tourist and visitor accommodation; Veterinary hospitals

4. Prohibited

Aquaculture; Hotel or motel accommodation; Industries; Intensive livestock agriculture; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Serviced apartments; Turf farming; Warehouse or distribution centres; Any other development not specified in item 2 or 3

Appendix B

LEP Clauses 7.18, 7.19 and 7.5

7.18 Mulgoa Valley

1 The objectives of this clause are as follows:

- (a) to establish specific planning controls for land in the Mulgoa Valley (the valley),
- (b) to protect and enhance the rural landscape of the valley, including its agricultural qualities, cultural heritage values and the setting of the villages of Mulgoa and Wallacia,
- (c) to ensure development in the valley (including rural living opportunities) protects and utilises its tourism and recreational potential and is consistent with conserving its rural and natural landscape, heritage and agricultural qualities,
- (d) to ensure traffic generating development is suitably located so as not to adversely affect the safety, efficiency and rural character of roads, particularly Mulgoa Road.

2 This clause applies to land identified as “Mulgoa Valley” on the [Clause Application Map](#).

3 Before granting development consent for any purpose on land to which this clause applies, the consent authority must be satisfied of the following:

- (a) that any proposed building will not be located on a ridgetop and will not intrude into the skyline when viewed from a road or other public place,
- (b) that the proposed development will not adversely affect the historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance of any heritage item in the valley,
- (c) that the proposed form and siting of buildings, colours, landscaping and building materials are appropriate for the rural character of the valley,
- (d) that the proposed development will not detract from the “Vistas of heritage items” specified on the [Scenic and Landscape Values Map](#),
- (e) that extensive areas of vegetation will not be cleared for the proposed development,
- (f) that adequate provision has been made for the landscaping of the land to which the development relates and about whether any trees or other vegetation on the land should be preserved,
- (g) that the agricultural viability of holdings and potential of the land will not be adversely affected,
- (h) that Aboriginal and non-Aboriginal cultural heritage resources on the land will not be adversely affected,
- (i) that the view from Mulgoa Road and the rural setting of the villages of Mulgoa and Wallacia will not be adversely affected,
- (j) that the safety and efficiency of Mulgoa Road will not be adversely affected,
- (k) that any upgrading required to maintain safety and efficiency will not detract from the present rural character of Mulgoa Road.

4 Before granting development consent for the subdivision of land to which this clause applies, the consent authority must be satisfied that consent for a building could be granted in accordance with subclause (3) on each lot proposed to be created.

7.19 Villages of Mulgoa and Wallacia

1 The objectives of this clause are as follows:

- (a) to establish specific planning controls for land in the villages of Mulgoa and Wallacia,
- (b) to protect residential amenity by prescribing minimum dimensions for dual occupancy and the creation of new lots through subdivision.

2 This clause applies to land in the villages of Mulgoa and Wallacia, identified as “Mulgoa Wallacia Villages” on the [Clause Application Map](#).

3 Despite any other provision of this Plan, development consent must not be granted for dual occupancy on land to which this clause applies unless the lot on which the development is to be constructed would have the minimum standards set out in the following Table:

| Zone | Minimum standards |
|--|--|
| Any land not connected to a reticulated sewer (regardless of zone) | Minimum lot size—2 hectares Minimum lot width—30 metres |
| Land in Zone RU5 Village | Minimum area (attached dwellings)—650 square metres Minimum width (attached dwellings)—15 metres Minimum area (detached dwellings)—750 square metres Minimum width (detached dwellings)—15 metres |
| Land in Zone R5 Large Lot Residential | Minimum lot size—4000 square metres Minimum width—30 metres |
| Land in Zone E4 Environmental Living | Minimum lot size—2 hectares Minimum lot width—30 metres |

4 Despite any other provision of this Plan, development consent must not be granted for the subdivision of land to which this clause applies unless all the lots to be created by the subdivision would have the minimum standards set out in the following Table:

| Zone | Minimum area and dimensions |
|---|--|
| Land in Zone RU5 Village (identified as Area 1 on the Lot Size Map) | Standard lot: Minimum area—550 square metres Minimum width—15 metres Minimum depth—30 metres Battle axe lot: Minimum area—650 square metres Minimum width—18 metres Minimum depth—30 metres |
| Land in Zone RU5 Village (identified as Area 2 on the Lot Size Map) | Maximum density—1 lot per 2000 square metres Standard lot: Minimum area—550 square metres Minimum width—15 metres Minimum depth—30 metres Battle axe lot: Minimum area—650 square metres Minimum width—18 metres Minimum depth—30 metres |
| Land in Zone R5 Large Lot Residential | Minimum area—4000 square metres Minimum width—30 metres Minimum depth—75 metres |
| Land in Zone E4 Environmental Living | Minimum area—1 hectare Minimum width—30 metres Minimum depth—75 metres |

Note.

Minimum lot sizes are indicated on the [Lot Size Map](#). Lots must meet standards for area, width and depth. Meeting the standards for just width

7.5 Protection of scenic character and landscape values

1 The objectives of this clause are as follows:

- (a) to identify and protect areas that have particular scenic value either from major roads, identified heritage items or other public places,
- (b) to ensure development in these areas is located and designed to minimise its visual impact.

2 This clause applies to land identified as “Land with scenic and landscape values” on the [Scenic and Landscape Values Map](#).

3 Development consent must not be granted for any development on land to which this clause applies unless the consent authority is satisfied that measures will be taken, including in relation to the location and design of the development, to minimise the visual impact of the development from major roads and other public places.

Appendix C

DCP – Chapter E9 – Mulgoa Valley Precinct

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E9 Mulgoa Valley

A. Background

Area included within the Mulgoa Valley Precinct

The Mulgoa Valley Precinct includes land in the Mulgoa Valley and parts of Wallacia. It is bounded on the west by the Nepean River and Blue Mountains National Park, on the south by the village of Wallacia (and includes the village), on the east by Luddenham and on the north by Glenmore Park and Regentville. The extent of the land is shown on the LEP Clause Application Map with a notation 'Mulgoa Valley'.

The Precinct is characterised by its predominantly rural landscape comprising creek flats, undulating agricultural land, wooded hills and escarpment, and large estate gardens. The backdrop of the Nepean River and Blue Mountains contributes to this landscape. The Precinct includes the villages of Mulgoa and Wallacia, which also have important cultural and natural heritage qualities.

The Mulgoa Valley Precinct plays an important role in providing:

- A nature and heritage conservation area on the fringe of the Sydney metropolitan area;
- A rural, recreation and tourism centre for Penrith and suburbs in the surrounding region;
- An area of limited rural living opportunities in sympathy with its landscape and heritage values; and
- A landscape buffer between the Blue Mountains National Park and the suburbs of Western Sydney.

Aims of the controls for the Mulgoa Valley Precinct

The controls for this Precinct seek to conserve the heritage, rural and natural landscape of the Mulgoa Valley, and encourage its development as a rural area emphasising its visual and environmental heritage values.

The controls are in addition to and support the provisions in LEP relating to Mulgoa Valley and the Villages of Mulgoa and Wallacia. In particular, applicants will need to demonstrate how any proposed development will address the development consent criteria in subclause (3) of the Mulgoa Valley clause of the LEP.

B. General Objectives

- a) To conserve the rural landscape of the Mulgoa Valley;
- b) To protect the setting of the villages of Mulgoa and Wallacia within the rural landscape;
- c) To conserve heritage items and vistas within the Valley;
- d) To protect natural ecological elements within the Valley;
- e) To protect the agricultural capability of prime agricultural land; and

- f) To ensure that development in the Valley is consistent with conserving its rural and natural landscape, heritage and agricultural qualities.

C. Other Relevant Sections of this DCP

This DCP is a multi-layered document that recognises the relationship of a number of issues in achieving sustainable outcomes. Therefore, it is important to read all relevant parts of this DCP.

9.1 Siting and Built Form controls

9.1.1 Heritage Items and Vistas

A. Background

The Mulgoa Valley Precinct has played an important role in the history of the State's development. From 1810, the Valley was a key area of European settlement and it became closely linked to the activities of the wealthy Cox family and other prominent figures of the colony. The Precinct's heritage significance lies in the surviving sites, buildings, gardens and pastoral landscapes developed by the Cox family. These features provide some of the best remaining physical evidence in NSW of the manner in which the country was settled and the impact that this had on the landscape. This section seeks to protect the Valley's heritage items and their vistas from any unsympathetic development.

B. Objectives

- a) To protect the surviving early colonial rural landscape from any further degradation;
- b) To ensure development does not prejudice the remaining evidence of the Cox family's associations with the Valley, its houses and gardens;
- c) To preserve and enhance the visual relationship between the sites of Cox's Cottage, St Thomas's Church and Fernhill;
- d) To conserve the surviving structures, features and gardens at the major historic and archaeological sites;
- e) To protect the visual catchments of heritage items by appropriately siting development having regard to the significance of the setting;
- f) To prevent development within the historic landscapes and curtilages of heritage items which may detract from the significance of those sites; and
- g) To prevent any activity which could destroy the potential archaeological resources of any heritage items.

C. Controls

- 1) No structures are to be located in the view corridors linking the heritage items of Cox's Cottage, St Thomas's Church and Fernhill.

- 2) Figures E9.1 and E9.2 show the extent of the historic landscapes and curtilages in the Mulgoa Valley and should be used in assessing the impact development may have on them. Buildings are to be screened from view from heritage items and their curtilages. (Figures E9.1 and E9.2 are located at the end of Section 9.1).
- 3) The vistas from the major heritage items in Mulgoa Valley are shown on the LEP on the Scenic and Landscape Values Map. No development is permitted in the vistas of these heritage items unless they are for the purpose of restoring, rehabilitating or preserving elements of the heritage items, such as fences, outbuildings, gates, roadways or plantings. Such structures should be designed and sited so as not to detract from the vistas.
- 4) Landscaping, including trees, should be sensitively sited to complement rather than interfere with the vistas.

9.1.2 Siting

A. Background

This section seeks to ensure that buildings are sited so they are in harmony with the existing landscape.

B. Objectives

- a) To ensure that buildings are sited to protect and enhance the rural and natural landscape of the Valley, particularly when viewed from roads and other public places.

C. Controls

- 1) Buildings are to be located on mid-slopes to avoid visual impact on ridges and to avoid the banks of watercourses.
- 2) Buildings are to be setback at least 30m from public roads and at least 100m from Mulgoa Road. This control may be varied depending on the topography of the site.
- 3) Buildings are to minimise excavation, filling and high foundations by avoiding slopes greater than 1 in 6.
- 4) The longest façade of a building is to be parallel to the contours of the land.
- 5) Buildings are to be grouped to minimise the visual impact of buildings in an open rural landscape.

9.1.3 Building Form, Materials and Colours

A. Background

This section seeks to ensure that buildings adopt appropriate building forms, materials and colours that are consistent with conserving the Valley's rural and natural landscape and its heritage values.

B. Objectives

- a) To ensure building forms are in keeping with the traditional buildings of the Mulgoa Valley;
- b) To ensure building materials match or complement those of older rural buildings and heritage items; and
- c) To ensure building colours are derived from the local natural landscape, especially the stone and soil, and from the traditional colours of the historic buildings of the Valley.

C. Controls

- 1) Buildings are to be a maximum of two storeys in height.
- 2) Pitched roofs are preferable with a slope of between 30 and 45 degrees. Skillion roofs by themselves are to be avoided except as verandahs or for extensions.
- 3) Large elements, especially flat surfaces, are to be avoided. Building façades and roof lines are to be broken into small elements. Garden structures, such as trellises and pergolas, can assist in breaking up large elements.
- 4) Buildings are to be designed with a horizontal rather than vertical emphasis. For example, elements such as verandahs and wide eaves can add a horizontal emphasis.
- 5) Windows and doors, expressed as openings in solid walls, are to have a vertical rather than a horizontal emphasis, and large unbroken glazed panels are to be avoided.
- 6) Building materials are to match or complement those of older rural buildings and heritage items. Examples of appropriate materials are:
 - a) Walls – Dressed Hawkesbury sandstone, rendered brickwork, rendered concrete block work, pise, mud brick, earth wall construction, painted weatherboard (horizontal), corrugated iron and timber slab construction; and
 - b) Roofs – Slate, timber shingles, clay tiles of traditional shape and colour, corrugated iron and ribbed sheet metal.
- 7) Building colours are to be derived from the local natural landscape, especially the stone and soil, and from the traditional colours of the historic buildings of the Valley. Examples are:
 - a) Walls – Light Indian Red, Biscuit, Light Stone, Drab, Light Red/Brown, Light Cream, Pink Beige and Brown Pink. Lighter colours are also acceptable, but avoid white and variegated and mottled colours in brickwork;
 - b) Roofs – Unpainted iron, Light Olive Green, Paynes Grey, slate grey and blue/grey; and
 - c) Trim – Bold rich deep colours such as Maroon, Terracotta and Brunswick Green.

9.1.4 Planting

A. Background

This section seeks to ensure that important indigenous vegetation and historic introduced vegetation that contributes to the landscape of the Mulgoa Valley Precinct is protected and enhanced.

B. Objectives

- a) To protect and enhance existing indigenous vegetation and historic introduced vegetation that contributes to the Valley's rural and natural landscape and its heritage values.

C. Controls

- 1) Existing stands of indigenous vegetation and key individual indigenous trees that contribute to the landscape character shall be retained.
- 2) Historic plantings of introduced trees and shrubs shall be retained where they have been identified as significant, or form a positive visual feature in the landscape, or complement a place of historic or cultural significance. For example, the entrance drive of *Pinus pinea* (Stone pines) at Winbourne, the *Araucaria bidwillii* (Bunya pines) at Glenmore, the *Ficus rubiginosa* (Port Jackson Fig) at Fairlight, and *Cinnamomum camphora* (Camphor Laurel) at Glenleigh.
- 3) Regrowth vegetation in the view corridors linking Cox's Cottage/St Thomas's Church/Fernhill may be selectively thinned to restore the landscape to an historic park-like character. However, the rough barked angophora species (*A. subvelutina* and *A. floribunda*) and their hybrids must be retained. For screening or to enhance this landscape character, clumps of three or four of these angophoras should be planted in appropriate locations. Naturally occurring seedlings or those specially propagated from specimens in the locality (provenance stock) for the purpose should be used.
- 4) A comprehensive list of suitable species is available on Council's website or by contacting Council.
- 5) Non-traditional introduced species with strongly coloured or otherwise prominent foliage is not recommended for planting in the Mulgoa Valley Precinct; e.g. golden cypress and *Pinus patula*. These species tend to detract from the landscape of traditional introduced species such as bunya pines or showy indigenous shrubs like wattles.

9.1.5 Access, Parking and Services

A. Background

This section seeks to ensure that access roads, parking areas and services do not detract from the Valley's rural and natural landscape or its heritage values.

B. Objectives

- a) To ensure the visual impact of access roads, parking areas and services is minimised.

C. Controls

- 1) Driveways and access roads shall follow the contours of the land as much as possible and be of the minimum width.
- 2) Driveways and access roads shall be constructed of compacted gravel, or paved or sealed in a dark coloured material if located on steep slopes.
- 3) Parking areas shall be separated from access roads and from the buildings they serve by planting and other landscaping.
- 4) Large parking areas shall not be visible from public roads.
- 5) Services should be appropriately located and screened by walls and vegetation to form part of a coherent group.

9.1.6 Fences and Entrances

A. Background

This section seeks to ensure that fences and entrances do not detract from the Valley's rural and natural landscape or its heritage values.

B. Objectives

- a) To ensure fences, gates and entrances are in harmony with the existing landscape and character of the Mulgoa Valley Precinct.

C. Controls

- 1) If practicable, avoid fences on road frontage boundaries.
- 2) Fences should be simple and unpretentious, and in keeping with traditional forms; e.g. unpainted timber post and rail, timber post and wire, or steel post and wire. Masonry fences, such as brick, blockwork or stone, should be avoided.
- 3) Gates and entrances should also be simple, and in keeping with traditional forms. Examples are:
 - a) Rendered and pointed brickwork, blockwork, sandstone, painted timber or post and rail;
 - b) Decorated gateposts with the property name carved or painted onto the gatepost or painted onto a wide timber top rail; and
 - c) Decorated iron, steel or timber gates.
- 4) Gates and entrances should relate to the materials and colours of the building to which they belong.

9.1.7 Signage

A. Background

This section seeks to ensure that signage does not detract from the Valley's rural and natural landscape or its heritage values.

B. Objectives

- a) To ensure signage is in harmony with the existing landscape and character of the Mulgoa Valley Precinct.

C. Controls

- 1) Signage, where permissible, shall relate to the style, character and function of the building or activity.
- 2) Signage shall not be freestanding in the natural landscape, but relate to walls, fences or buildings.
- 3) Signage shall be no larger than 0.72m² and no higher than 2m.
- 4) Illuminated signage is not permitted.
- 5) A distinctive signage system for the Valley is encouraged based on colonial lettering faces, proportions, sizes and details.

Figure E9.1: Historic landscapes

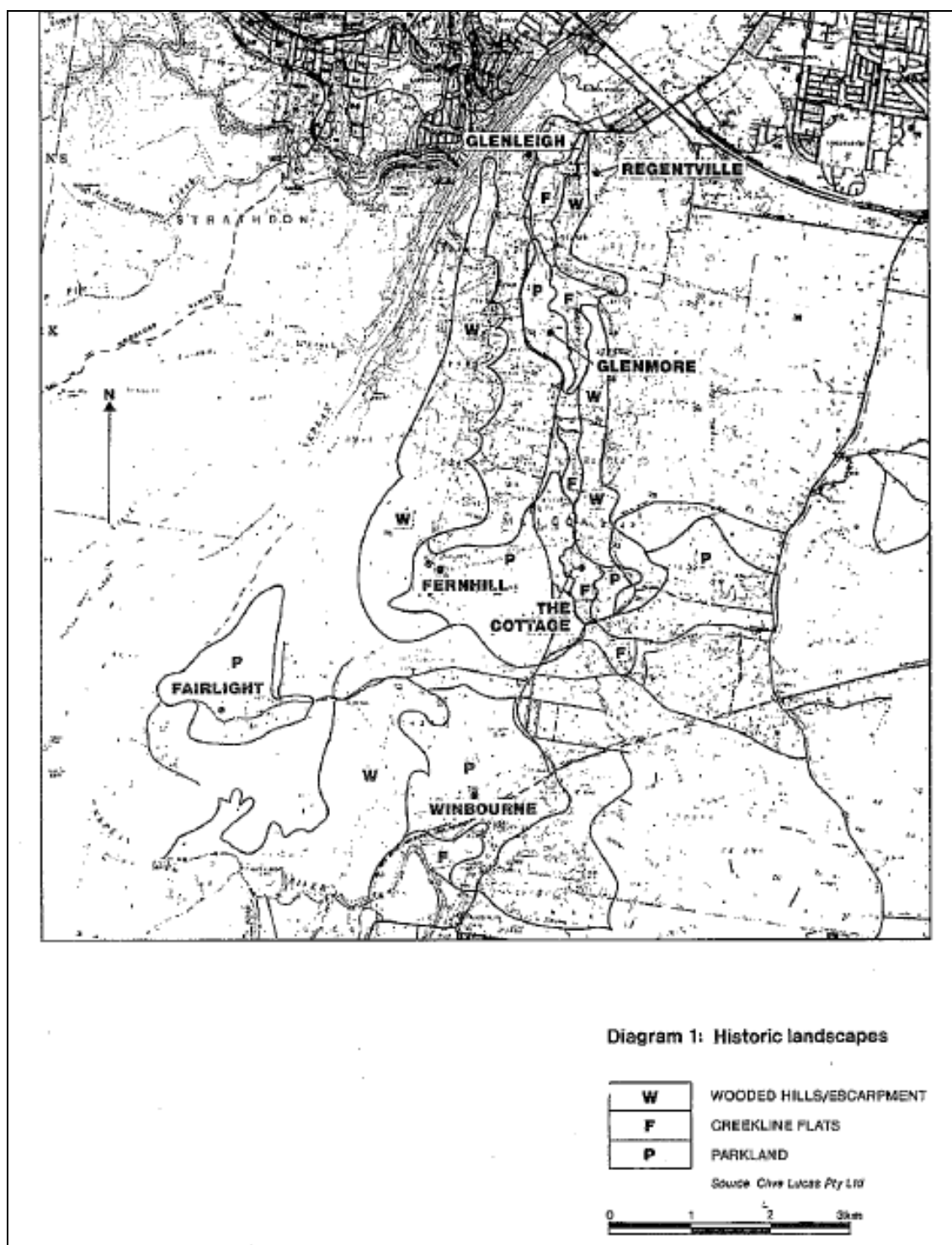
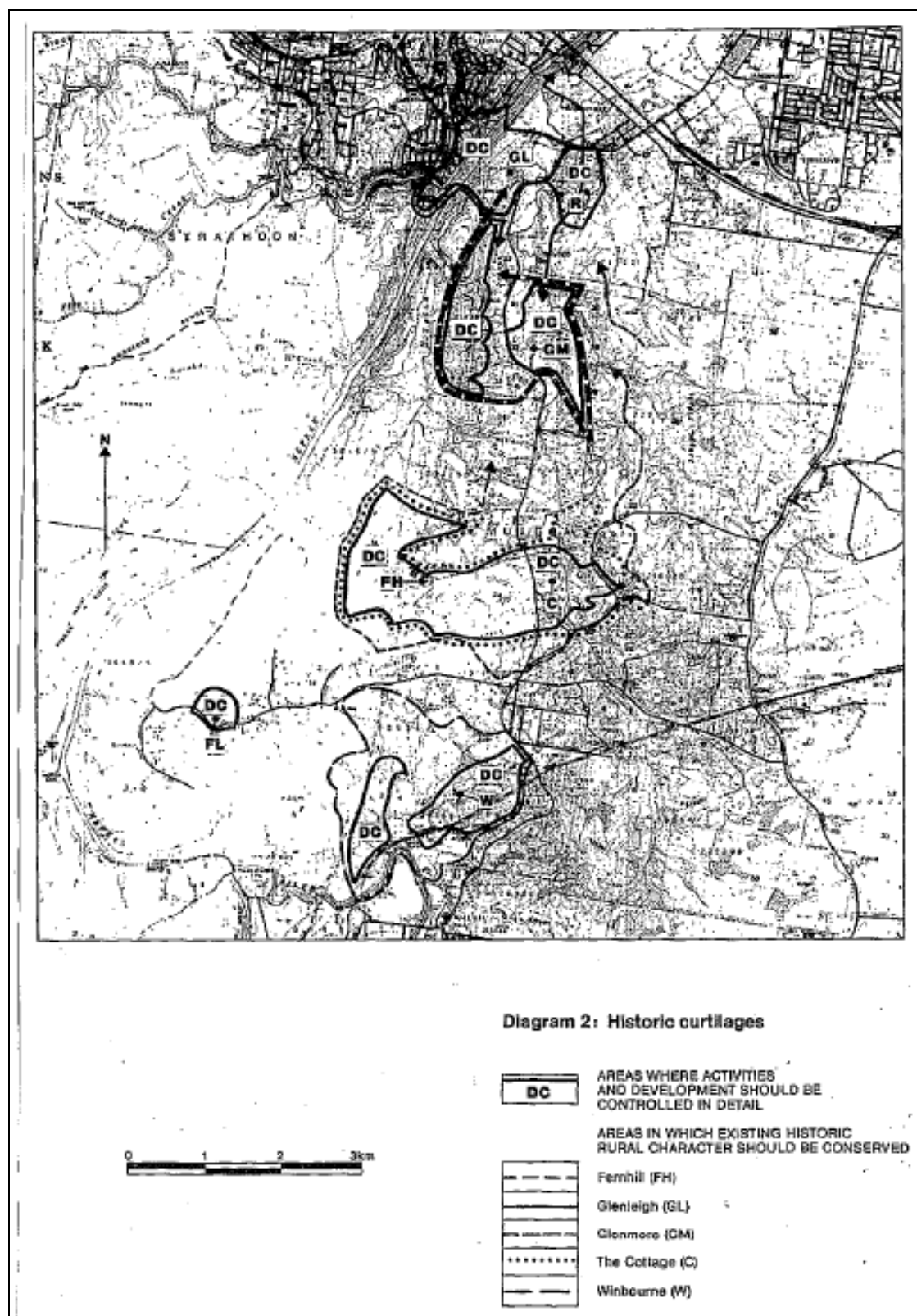


Figure E9.2: Historic curtilages



9.2 Other Controls

9.2.1 Mulgoa Road

A. Background

An important part of the Mulgoa Valley Precinct and appreciating its landscape is the drive along Mulgoa Road. Roadside vegetation, hills, gullies, bends and the changing views of heritage items and the landscape are the main attributes. This section seeks to ensure that Mulgoa Road and these attributes are protected.

B. Objectives

- a) To protect the present rural character and function of Mulgoa Road; and
- b) To ensure any new development does not impact on the safety and efficiency of Mulgoa Road.

C. Controls

- 1) Mulgoa Road shall be maintained as a rural road and shall not be improved to the level of a major regional thoroughfare.
- 2) Consent shall not be granted to development in the Mulgoa Valley Precinct if:
 - a) The safety and efficiency of Mulgoa Road will be adversely affected by the design and siting of the proposed access and by the nature, volume and frequency of vehicles using Mulgoa Road to gain access to the development; and
 - b) Any upgrading or strengthening of Mulgoa Road required to maintain its safety and efficiency detracts from the present rural character and function of Mulgoa Road.

9.3 Other Relevant Information

The following documents may assist applicants in addressing the controls for the Mulgoa Valley Precinct:

- Department of Environment and Planning 1984, Mulgoa Valley Regional Environmental Study
- Department of Environment and Planning 1987, Sydney Regional Environmental Plan No.13 – Mulgoa Valley – Parts I & II
- Penrith City Council 1999, Mulgoa and Wallacia Rural Villages Study.

Appendix D

Heritage Inventory Sheets



[Home](#) [Topics](#) [Heritage places and items](#) [Search for heritage](#)

Fernhill

Item details

| | |
|---------------------------------------|--|
| Name of item: | Fernhill |
| Type of item: | Landscape |
| Group/Collection: | Landscape - Cultural |
| Category: | Historic Landscape |
| Location: | Lat: -33.8251751167 Long: 150.6386152810 |
| Primary address: | Mulgoa Road, Mulgoa, NSW 2745 |
| Parish: | Mulgoa |
| County: | Cumberland |
| Local govt. area: | Penrith |
| Local Aboriginal Land Council: | Deerubbin |

Property description

| Lot/Volume Code | Lot/Volume Number | Section Number | Plan/Folio Code | Plan/Folio Number |
|-----------------|-------------------|----------------|-----------------|-------------------|
| LOT | 2 | | DP | 541825 |
| PART LOT | 10 | | DP | 615085 |
| LOT | 11 | | DP | 615085 |

All addresses

| Street Address | Suburb/town | LGA | Parish | County | Type |
|----------------|-------------|---------|--------|------------|-------------------|
| Mulgoa Road | Mulgoa | Penrith | Mulgoa | Cumberland | Primary Address |
| Mulgoa Road | Mulgoa | Penrith | Mulgoa | Cumberland | Alternate Address |

Owner/s

| Organisation Name | Owner Category | Date Ownership Updated |
|--------------------------|----------------|------------------------|
| Angas Securities Limited | Private | 09 Apr 13 |

Statement of significance:

The

Fernhill estate comprises an extensive area of modified and 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).

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 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).

Note: There are incomplete details for a number of items listed in NSW. The Heritage Division intends to develop or upgrade statements of significance and other information for these items as resources become available.

Description

| | |
|------------------------------|---|
| Designer/Maker: | Unknown. Possibly Mortimer Lewis, John Verge or Francis Clarke |
| Construction years: | 1830-1840 |
| Physical description: | <p>SETTING</p> <p>Fernhill is in (on the western side of the middle of) the Mulgoa Valley, a picturesque rural landscape retaining a number of significant colonial and later 19th century farm estates, building complexes and areas of natural bushland. The valley is bounded to the west by the Nepean River and the Blue Mountains National Park, to the east it slopes down to Mulgoa Road and merges with the undulating slopes of Western Sydney. It is characterised by predominantly rural landscape and comprises creek flats, gently sloping agricultural land, wooded hills and escarpment areas (Anderson, 2008, modified, Stuart Read, 30/7/08).</p> <p>LANDSCAPE</p> <p>Fernhill is a consciously created rural landscape in the English landscape tradition, formed by:</p> <ul style="list-style-type: none"> - 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 rough-barked apples /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.

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 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).

DRIVEWAY

The

original entrance drive 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 designer 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).

The drive is lined with avenue and specimens and clumps of rough-barked native apple or apple box/oak trees (*Angophora intermedia*, *A.subvelutina*, *A.costata*) contrived to offer occasional glimpses of Fernhill's house and St. Thomas' Church to the east, although the latter views are filtered by regenerating bush. The estate has many mature 19th century native trees, particularly angophoras or apple oaks.

Recent (c1980) stone faced walls and rail fences detract seriously from the historic quality of the planting.

The original drive

went from the house to The (/Cox's) Cottage (also once known as Fernhills/Fernhill) (east of the current Mulgoa Road alignment, facing the old Mulgoa Road (now renamed St.Thomas' Road).

The southern of

two existing drives goes to the house from Mulgoa Road through (c.1970/80) dry stone walls at the gates.

The northern drive c1970/80 is

planted with an avenue of bloodwoods (*Corymbia* sp.) and runs in a relatively straight line up hill, compared to original (southern) driveway, with its carefully contrived bends to reveal views and hide them (Stapleton, I, 1983 and Stuart Read, pers.comm., 2002).

The

northern of the two existing drives passes an orchard plantation area of pecan (*Carya illinoensis*) trees and a large rock-faced stable structure to the north. It winds up hill past a large dam to its north and around another smaller dam/large pond to its south but still north of the house, approaching the house by a sloping driveway north-west of both the main house and a second, later house in sandstone with a verandah around it, set on a lower terrace. The drive also passes numerous outbuildings and yards to the west of the house on approach (Stuart Read, pers.comm., 2002, 2009).

DAM ON (the northern) DRIVE

A large dam was formed by

the drive crossing Littlefields Creek. Reportedly timber piling was removed in c1980 works and lined with (quite dramatic and tall) stone walling which has changed its character (pers.comm Mr F Gardiner, Manager), The dam was probably original to the drive - it is shown on c1872 plan. It is a similar construction to the dam at The (Cox's) Cottage, Mulgoa to the east (Stapleton, 1983).

STONE BRIDGES ON

(Southern/Original) DRIVE

Includes two stone bridges and a dam - all shown on c.1872 plan. Both are very fine ashlar sandstone bridges with buttresses, piers and capped parapets. Architectural design. Both were in poor order (1981) with their downhill sides collapsing. These were presumably built before the house as second storey of house did not eventuate.

GARDEN

North of the main house and between it and the newer second house on a lower terrace to the north (built by Warren Anderson) are a grove of pecan (*Carrya illinoensis*) trees, a boundary planting of olives (*Olea europaea* cv.)(Stuart Read, pers.comm., 11/11/09).

Around the original house is a garden dating from the 1840s, much of it re-designed/planted) by garden designer Paul Sorensen around c1969. The garden's early configuration is now obscured (1981 and 2002 observations), but critical elements of early planting survive as setting for the historic house. Old and substantial exotic or non-locally native trees including Bunya pines (*Araucaria bidwillii*), stone pines (*Pinus pinea*), and Chinese elms (*Ulmus parvifolia*) remain (Stapleton, 1983; confirmed Stuart Read, 19/7/2013)). Other exotic trees of note include coral trees (*Erythrina* sp.)(Anderson, 2008), pistachios (*Pistacia* sp.), olives (*Olea europaea* cv.)(Stuart Read, pers.comm., 11/11/2009).

The Sorensen garden redesign includes terracing to the house's south with a swimming pool on the lower terrace, a long pergola edging a lawn to the house's north edged with trees (including olives and cypresses. A lawn to the east slopes to a large oval pond on the far (east) side of which runs one drive to the house.

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 mimosifolia*), one bunya pine, a few smaller trees and a row of struggling Nile/ African lilies (*Agapanthus praecox* ssp. *orientalis*). 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 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 (/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, forms 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* 'Lutea'). 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 Owston Nominees (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.

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, I., for Dept. of Planning 1983)(extensive planting of cypress hedges further block views out/in particularly to/from the north - these were damaged in the 2001/2 summer bushfires. (Stuart Read, pers. comm., 2002)

Shrubs in the garden include a pomegranate (*Punica granatum*) west of the house, and an area of formal roses on a terrace below and north-west of the house (Stuart Read, pers.comm., 11/11/09).

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. Window sills 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 iron.

Elements of the house

suggesting the involvement of Mortimer Lewis are: narrow 'slit' side light windows flanking the front door; internal skirting boards with 'window-panelling' insets; papier mache ceiling friezes and roses (from Bealerfeld & Co. in London)(much used in the 1840s, e.g. by Surveyor-General Sir Thomas Mitchell at Parkhall in Douglas Park; who influenced Lewis; and at Government House, Sydney (which Lewis supervised construction of)(NB: these were later removed and the ceilings stencilled); the 'Gothic' black marble fireplace in the major room; the niches and arched vault openings in and off the entrance lobby (as at Garry Owen house in Lilyfield, by Lewis)(Griffin, 2013).

WINGS/

OFFICERS' COURTYARD / TWO STONE GARDEN WALLS

Off the western side of

house, joined to its two wings (these are remnants of original officers' courtyard of house) are two stone garden walls - both bent i.e.: cornered - one at right angles. Coursed colonial rubble walls of bush stone. Shaped coping of smaller stones, includes gateway to stable (west of house).

STABLES & COACH HOUSE

A sandstone building from

c.1839 is located behind (west of) the main house. A drive runs between it and the house, accessed by a flight of stone steps and terraced lawn and garden areas. The building is thought (Stapleton, 1983) 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.

Facing it across the drive are lemons (*Citrus*

limon) espaliered against wide trellis mounted on walls, likely to have been put in by Sorensen (Stuart Read, visit, 19/7/2013).

| | |
|--|---|
| | <p>STONE BOX DRAIN</p> <p>Substantial drain with dished bottom and stone sides and top running from back (west) of house under south end of old stable. Possibly main cellar drain. Reportedly discovered in works c1980 (pers. comm., Manager Mr F. Gardiner)(Stapleton, 1983).</p> |
| | <p>ORCHARD</p> <p>South of the stables and coach house is a hedged sloping area planted with fruit trees. Two large old sweet bay / bay laurel trees (<i>Laurus nobilis</i>) are the oldest surviving plants here (Stuart Read, visit, 19/7/2013).</p> |
| | <p>WINERY RUIN</p> <p>West of house and stable/ coach house. Coursed and rubble sandstone walls, approx 14m x 8m, originally two stories 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 height 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 a "well kept vineyard".</p> <p>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 <i>Angophora subvelutina</i>, a species which approximates the English Oak in size and habit (Stapleton, 1983).</p> |
| Physical condition and/or Archaeological potential: | <p>Despite modifications, the overall physical condition is good. Archaeological potential is low.</p> <p>House renovated and restored c1980.</p> <p>Park: well maintained as grazing land but a systematic replanting scheme is necessary.</p> <p>Bridges: in need of restoration.</p> <p>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.</p> <p>The swimming pool interrupts the view from the front garden. (Broadbent for National Trust, 1981).</p> <p>-Ruin of winery, c.1840s - ruins of walls and machinery, sunken floors; - miscellaneous drains and walls, c.1840 - generally stone; some only recently revealed; (s.6.5.4 Mulgoa, of appendix D, Historical Archaeological Component by Wendy Thorp, 8/1986 in Fox & Associates, Heritage Study of the City of Penrith, Volume 2 - appendices).</p> |
| Modifications and dates: | <p>1840 - construction completed</p> <p>1930s addition to north-west wing.</p> <p>1950s Original timber porte cochere over front door on eastern facade removed</p> <p>Late 1950s lawn lowered and extended as a terrace (C. Betteridge, Heritage Branch note on file - refers to Sorensen/Darling work carried out from c1956-1970).</p> <p>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</p> |

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 louvre 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).

Late 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 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.

C1981grading 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 (in the 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.).

10/2012: Simon & Brenda Tripp are tipped to have

bought (have an option to buy) Fernhill for \$45m (SMH/Blok, 2012).

Current use:

Residence and horse stud

Former use:

Farm, residence; guest house; plant nursery, chicken hatchery; piggery; stone mason's yard

History

Historical notes:

Aboriginal land

The traditional owners of the land now

occupied by Cox's Cottage were the Mulgowie people, who became known as the "Mulgoa tribe" (Karskens, 2009, 9).

There is a reference to

an attack on the Cox property by Aboriginal people in 1814 (Sydney Gazette, May 1814).

Colonisation

The Mulgoa valley has played

an important part in the history of the development of New South Wales. From 1810 Mulgoa was a key area of settlement in the colony (Anderson, 2008).

The first land grant was made by Governor Macquarie to

Lieutenant William Cox, a colonial magistrate who promptly registered the property in the parish records in the name of his infant son, Edward (Anderson, 2008).

Cox's Cottage is part of early colonial land

grants and purchases to members of the Cox family in the Mulgoa Valley, south of Penrith, eventually totalling some 3,760 acres (Kinhill Stearns, 1983; Bertie 1930, p51). The first of the grants, of 30 acres (12 hectares), made in 1809 to the infant Edward Cox and confirmed by Governor

Macquarie the following year (Watson, 1917), became known as 'Fernhills' or 'Fernhill'.

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 (Stapleton, for Dept. of Planning, 1983).

Lieutenant

William Cox is perhaps best known for supervising the construction of the first road over the Blue Mountains in the second half of 1814 (Betteridge, 2009). He sailed to New South Wales on the 'Minerva' in 1799. During his 37 years of residence in the early colony, he made a substantial and enduring contribution to its progress in the fields of public administration, building and agricultural development. The Cox family were remarkable 'house and garden' people. During the middle years of the 19th century, William Cox Sr. was at Clarendon, near Windsor; his eldest son William, lived at Hobartville, Richmond; his sons Henry, George and Edward were to build and occupy their respective houses of Glenmore, Winbourne and Fernhill at Mulgoa. Another son, James, settled in Van Dieman's Land, where he built his own magnificent 'Clarendon'. Around all these houses the Cox families created beautiful gardens (Chippindall/Broadbent, 1979, 2).

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 at Fernhill. In 1827 he married Jane Maria Brooks (of Denham Court estate, Ingleburn) and the family lived at The Cottage, Mulgoa (to the east) for many years.

By the late 1830s Fernhill

was one of the principal estates in the Mulgoa Valley and included The Cottage site to the east (Stapleton, for Dept. of Planning, 1983). At this time it was one of five properties that had expanded to occupy virtually the entire Mulgoa Valley (Anderson, 2008).

In 1842 Edward Cox

began building the sandstone house. It was planned on a large and sophisticated scale and in the Greek Revival style, possibly by colonial architect Mortimer Lewis (Anderson, 2008). The house was completed in 1843 and Edward and Jane Cox moved in then. Above the door is a date of 1842. (Stapleton, 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).

Lewis' private commissions show a dependence on published

sources, identified in recent year by architectural historian James Broadbent. 'Fernhill' and 'Tomago' boast separate entrance and garden fronts at right angles to each other, the garden fronts marked by bay windows. Their plans are probably adapted from the British architect William Wilkins' design for 'Oxberton House', Nottinghamshire, as published by George Richardson in the 'New Vitruvius Britannicus' (1802-8)(Carlin, 2012).

Elements of the house suggesting the

involvement of Mortimer Lewis are: narrow 'slit' side light windows flanking the front door; internal skirting boards with 'window-panelling' insets; papier mache ceiling friezes and roses (from Bealerfeld & Co. in London)(much used in the 1840s, e.g. by Surveyor-General Sir Thomas Mitchell at Parkhall in Douglas Park; who influenced Lewis; and at Government House, Sydney (which Lewis supervised construction of)(NB: these were later removed and the ceilings stencilled); the 'Gothic' black marble fireplace in the major room; the niches and arched vault openings in and off the entrance lobby (as at Garry Owen house in Lilyfield, by Lewis)(Griffin, 2013).

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 storey) state (Stapleton, for Dept. of Planning, 1983).

20 Irish stone masons were brought out to Australia under the bounty system of immigration for the specific purpose of building the Fernhill house, using sandstone quarried from the local hills. Edward Cox and his family lived in the house from 1843 until his death in 1868, when the property passed to his eldest son, Edward King Cox (Anderson, 2008).

The surviving stable at the rear (west) is said to be built in 1839 and is certainly of the same period as the house.

In the early 1850s the estate 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 (Stapleton, 1983). E.K. Cox was a breeder of fine race horses and Fernhill Stud produced the first Sydney Cup winner and several Melbourne Cup winners. (Anderson, 2008).

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. Darling was a
World War II fighter pilot, a banker, director of resource companies, accomplished international agri-business pioneer and Australian film industry visionary. After World War II Darling married Susie Yencken and they settled at Vacluse. Weekends were often spent at Fernhill, Mulgoa, which Darling bought in 1956 and gradually restored (Lee, 2015).

C1969
Darling and garden designer Paul Sorensen reworked the garden around the house.

In 1980 the house was sold with 1000 acres to the property
developer, Warren Anderson for \$2.8m (Dawson, 7/1980, 91).

C1981 and
earlier, the house was extensively restored and renovated by former owner Darling and then Anderson. The most notable addition has been the sandstone columns (ex the Union Club, Sydney) in the northern pergola (Stapleton, 1983).

12/2001-1/2002 bushfires damaged the property
down to Mulgoa Road, but had some benefits in killing some of the cypress hedging obscuring/blocking views. Bushland is recovering (July 2002, Stuart Read, pers. comm.).

2007-8 Warren Anderson acquired
adjoining properties on Fernhill's northern flank, lying uphill and visually prominent to its setting, when seen from the house/drives.

2010: an auction of the collection (1400 lots, reputedly the
largest such sale in Australia) of antiques, furniture and artworks belonging to the owners (Warren & Cheryl Anderson) held in June 2010

(SMH, 24-25/4/2010).

2011: property put on real estate market by receivers Korda Mentha (SMH/Blok, 2012).

10/2012: Simon & Brenda Tripp are tipped to buy (have put an option to buy) Fernhill for \$45m (SMH/Blok, 2012). The Tripps have been using the estate as a venue for functions, such as picnic race events on the racetrack, 'Tough Mudder' endurance events, concerts and the like.

Fernhill has been sold for redevelopment as a cemetery (Lucas, 2017, 2).

Historic themes

| Australian theme (abbrev) | New South Wales theme | Local theme |
|---|--|--|
| 1. Environment-Tracing the evolution of a continent's special environments | Environment - naturally evolved-Activities associated with the physical surroundings that support human life and influence or shape human cultures. | Cultural: Plains and plateaux supporting human activities- |
| 1. Environment-Tracing the evolution of a continent's special environments | Environment - naturally evolved-Activities associated with the physical surroundings that support human life and influence or shape human cultures. | Natural - regenerating native flora valued for conservation purposes- |
| 2. Peopling-Peopling the continent | Convict-Activities relating to incarceration, transport, reform, accommodation and working during the convict period in NSW (1788-1850) - does not include activities associated with the conviction of persons in NSW that are unrelated to the imperial 'convict system': use the theme of Law & Order for such activities | Creating a gentleman's estate- |
| 2. Peopling-Peopling the continent | Convict-Activities relating to incarceration, transport, reform, accommodation and working during the convict period in NSW (1788-1850) - does not include activities associated with the conviction of persons in NSW that are unrelated to the imperial 'convict system': use the theme of Law & Order for such activities | Working on private assignment- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Clearing land for farming- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Farming by detainees and prisoners- |
| 3. Economy-Developing local, regional | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, | Pastoralism - grazing sheep, cattle, goats or |

| | | |
|---|--|---|
| and national economies | usually for commercial purposes, can include aquaculture | other animals- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Horse stud farming- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Improving agricultural production- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Farming with convict labour- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Attempting to transplant European farming practices to Australian environments- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Landscapes and parklands of distinctive styles- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Landscapes of scenic beauty- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Significant tree(s) providing rural amenity or character- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Gardens and landscapes reminiscent of an 'old country'- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Landscapes of cultural and natural interaction- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the | Places important in developing conservation processes- |

| | | |
|---|---|---|
| | shaping of their physical surroundings | |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Landscapes and countryside of rural charm- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Landscapes and gardens of domestic accommodation- |
| 3. Economy-Developing local, regional and national economies | Events-Activities and processes that mark the consequences of natural and cultural occurrences | Developing local landmarks- |
| 3. Economy-Developing local, regional and national economies | Pastoralism-Activities associated with the breeding, raising, processing and distribution of livestock for human use | (none)- |
| 3. Economy-Developing local, regional and national economies | Pastoralism-Activities associated with the breeding, raising, processing and distribution of livestock for human use | Working for pastoralists- |
| 3. Economy-Developing local, regional and national economies | Pastoralism-Activities associated with the breeding, raising, processing and distribution of livestock for human use | Modifying landscapes to increase productivity- |
| 4. Settlement-Building settlements, towns and cities | Accommodation-Activities associated with the provision of accommodation, and particular types of accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities. | Housing famous families- |
| 4. Settlement-Building settlements, towns and cities | Accommodation-Activities associated with the provision of accommodation, and particular types of accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities. | Housing for farm and station hands- |
| 4. Settlement-Building settlements, towns and cities | Accommodation-Activities associated with the provision of accommodation, and particular types of accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities. | Housing farming families- |
| 4. Settlement-Building settlements, towns and cities | Accommodation-Activities associated with the provision of accommodation, and particular types of accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities. | Gentlemens Mansions- |
| 4. Settlement-Building settlements, | Accommodation-Activities associated with the provision of accommodation, and particular types of | Country Villa- |

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| towns and cities | accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities. | |
| 4. Settlement-Building settlements, towns and cities | Accommodation-Activities associated with the provision of accommodation, and particular types of accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities. | Guesthouses- |
| 4. Settlement-Building settlements, towns and cities | Land tenure-Activities and processes for identifying forms of ownership and occupancy of land and water, both Aboriginal and non-Aboriginal | Demonstrating Governor Macquarie's town and landscape planning- |
| 4. Settlement-Building settlements, towns and cities | Land tenure-Activities and processes for identifying forms of ownership and occupancy of land and water, both Aboriginal and non-Aboriginal | Changing land uses - from rural to tourist- |
| 4. Settlement-Building settlements, towns and cities | Land tenure-Activities and processes for identifying forms of ownership and occupancy of land and water, both Aboriginal and non-Aboriginal | Sub-division of large estates- |
| 4. Settlement-Building settlements, towns and cities | Land tenure-Activities and processes for identifying forms of ownership and occupancy of land and water, both Aboriginal and non-Aboriginal | Fencing boundaries - wooden post and rail- |
| 4. Settlement-Building settlements, towns and cities | Land tenure-Activities and processes for identifying forms of ownership and occupancy of land and water, both Aboriginal and non-Aboriginal | Granting Crown lands for private farming- |
| 4. Settlement-Building settlements, towns and cities | Towns, suburbs and villages-Activities associated with creating, planning and managing urban functions, landscapes and lifestyles in towns, suburbs and villages | Creating landmark structures and places in regional settings- |
| 4. Settlement-Building settlements, towns and cities | Towns, suburbs and villages-Activities associated with creating, planning and managing urban functions, landscapes and lifestyles in towns, suburbs and villages | Country Estate- |
| 4. Settlement-Building settlements, towns and cities | Towns, suburbs and villages-Activities associated with creating, planning and managing urban functions, landscapes and lifestyles in towns, suburbs and villages | Rural orchards- |
| 4. Settlement-Building settlements, | Towns, suburbs and villages-Activities associated with creating, planning and managing urban functions, landscapes | Role of transport in settlement- |

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| towns and cities | and lifestyles in towns, suburbs and villages | |
| 4. Settlement-Building settlements, towns and cities | Towns, suburbs and villages-Activities associated with creating, planning and managing urban functions, landscapes and lifestyles in towns, suburbs and villages | Vernacular hamlets and settlements- |
| 4. Settlement-Building settlements, towns and cities | Towns, suburbs and villages-Activities associated with creating, planning and managing urban functions, landscapes and lifestyles in towns, suburbs and villages | Developing and operating manorial villages- |
| 5. Working-Working | Labour-Activities associated with work practises and organised and unorganised labour | Working on pastoral stations- |
| 7. Governing-Governing | Government and Administration-Activities associated with the governance of local areas, regions, the State and the nation, and the administration of public programs - includes both principled and corrupt activities. | Developing roles for government - facilitating agriculture- |
| 7. Governing-Governing | Government and Administration-Activities associated with the governance of local areas, regions, the State and the nation, and the administration of public programs - includes both principled and corrupt activities. | Developing roles for government - town and country planning- |
| 7. Governing-Governing | Government and Administration-Activities associated with the governance of local areas, regions, the State and the nation, and the administration of public programs - includes both principled and corrupt activities. | Developing roles for government - conserving cultural and natural heritage- |
| 8. Culture-Developing cultural institutions and ways of life | Creative endeavour-Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | Landscaping - colonial period- |
| 8. Culture-Developing cultural institutions and ways of life | Creative endeavour-Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | Landscaping - 20th century interwar- |
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| 8. Culture-Developing cultural institutions and ways of life | Creative endeavour-Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | Landscaping - 20th century post WW2- |
| 8. Culture-Developing cultural institutions and ways of life | Creative endeavour-Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | Landscaping - Victorian gardenesque style- |
| 8. Culture-Developing cultural institutions and ways of life | Creative endeavour-Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | Interior design styles and periods - Victorian- |
| 8. Culture-Developing cultural institutions and ways of life | Creative endeavour-Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | Designing landscapes in an exemplary style- |
| 8. Culture-Developing cultural institutions and ways of life | Creative endeavour-Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | Designing in an exemplary architectural style- |
| 8. Culture-Developing cultural institutions and ways of life | Creative endeavour-Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | Architectural styles and periods - colonial homestead- |
| 8. Culture-Developing cultural | Creative endeavour-Activities associated with | |

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| institutions and ways of life | the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | Vernacular structures and building techniques- |
| 8. Culture-Developing cultural institutions and ways of life | Creative endeavour-Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | Building in response to climate - verandahs- |
| 8. Culture-Developing cultural institutions and ways of life | Creative endeavour-Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | Landscaping - Federation period- |
| 8. Culture-Developing cultural institutions and ways of life | Creative endeavour-Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | Architectural styles and periods - Greek revival- |
| 8. Culture-Developing cultural institutions and ways of life | Domestic life-Activities associated with creating, maintaining, living in and working around houses and institutions. | Living on the urban fringe- |
| 8. Culture-Developing cultural institutions and ways of life | Domestic life-Activities associated with creating, maintaining, living in and working around houses and institutions. | Living in a rural homestead- |
| 8. Culture-Developing cultural institutions and ways of life | Domestic life-Activities associated with creating, maintaining, living in and working around houses and institutions. | Kitchens and servants- |
| 8. Culture-Developing cultural institutions and ways of life | Domestic life-Activities associated with creating, maintaining, living in and working around houses and institutions. | Living in, adapting and renovating homes for changing conditions- |
| 8. Culture-Developing cultural | Leisure-Activities associated with recreation and | Visiting heritage places- |

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| institutions and ways of life | relaxation | |
| 8. Culture-Developing cultural institutions and ways of life | Leisure-Activities associated with recreation and relaxation | Gardening- |
| 8. Culture-Developing cultural institutions and ways of life | Leisure-Activities associated with recreation and relaxation | Gathering at landmark places to socialise- |
| 8. Culture-Developing cultural institutions and ways of life | Leisure-Activities associated with recreation and relaxation | Developing collections of items- |
| 8. Culture-Developing cultural institutions and ways of life | Social institutions-Activities and organisational arrangements for the provision of social activities | Commemorating war losses- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with James King, overseer of Cox family farms- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with Francis Clarke, architect- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with Edward King Cox, pastoralist and stud racehorse breeder- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with Warren Anderson, entrepreneur- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with John Darling, merchant banker, industrialist- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with R. B. Baines, Mayor of Mulgoa- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with Mr. and Mrs. Moyle, Guest House operators- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with Warren Anderson, property developer- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with Henry Cox, pastoralist- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable | |

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| life | individuals, families and communal groups | Associations with George Cox, pastoralist- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with Edward Cox, pastoralist- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with William Cox, road builder over Blue Mountains, magistrate, farmer- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with William Cox, road builder over Blue Mountains, magistrate, farmer- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with Aaron Muron Bolot, architect- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with Mortimer Lewis, Colonial Architect, 1796-1879- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with John Verge, architect- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with Paul Sorensen, landscape architect- |

Assessment of significance

SHR Criteria a)

[Historical significance]


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)

SHR Criteria c)

[Aesthetic significance]

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)

Assessment criteria:

Items are assessed against the  **State Heritage Register (SHR) Criteria** to determine the level of significance. Refer to the Listings below for the level of statutory protection.

Procedures /Exemptions

| Section of act | Description | Title | Comments | Action date |
|----------------|-------------------------|--------------|---|-------------|
| 57(2) | Exemption to allow work | Heritage Act | Maintenance & Repairs. Refer to standard exemptions gazetted 23 October 1998. | Jul 3 1981 |

| | | | | |
|----------|---|--|--|-------------|
| | | | <p>Order Under Section 57(2) to exempt the following activities from Section 57(1):</p> <p>Eradication of noxious animals and noxious plants;</p> <p>Pasture improvement, not requiring substantial clearing of existing vegetation;</p> <p>Stock grazing, not requiring substantial clearing of existing vegetation;</p> <p>Maintenance and repairs to existing farm fences;</p> <p>Maintenance and repairs to existing farm buildings other than the main house and manager's residence;</p> <p>Provision of internal subdivision fences which may be necessary to improve grazing management.</p> | |
| 21(1)(b) | Conservation Plan submitted for comment | Proposed CMP and Heritage Agreement preparation to guide subdivision, development and ongoing conservation | <p>6/11/2014</p> <p>Heritage Council Approvals Committee minutes (excerpt):</p> <p>Resolved:</p> <p>1)to support in principle the proposed process of preparing a conservation management plan for the whole of the remaining estate, supporting other studies and a heritage agreement to ensure the future maintenance and conservation of the property;</p> <p>2)to note that the Heritage Council will require an endorsed conservation management plan for the property in advance of any development application or amendments to the planning instruments covering this property; and</p> <p>3)to advise Penrith City Council of the Heritage Council's decision.</p> | Nov 6 2002 |
| 21(1)(b) | Conservation Plan submitted for comment | Report on Sustainability Assessment (10/07) supporting proposal for LEP zoning amendment and two proposed residential development areas, adjoining Mulgoa Village & west of ridgeline. | | Nov 28 2007 |
| 57(2) | Exemption to allow work | Standard Exemptions | <p>SCHEDULE OF STANDARD EXEMPTIONS HERITAGE ACT 1977</p> <p>Notice of Order Under Section 57 (2) of the Heritage Act 1977</p> <p>I, the Minister for Planning, pursuant to subsection 57(2) of the Heritage Act 1977, on the</p> | Sep 5 2008 |

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|----------|---|---|--|-------------|
| | | | <p>recommendation of the Heritage Council of New South Wales, do by this</p> <p>Order:</p> <p>1. revoke the Schedule of Exemptions to subsection 57(1) of the Heritage Act made under subsection 57(2) and published in the Government Gazette on 22 February 2008; and</p> <p>2. grant standard exemptions from subsection 57(1) of the Heritage Act 1977, described in the Schedule attached.</p> <p>FRANK SARTOR Minister for Planning</p> <p>Sydney, 11 July 2008</p> <p>To view the schedule click on the Standard Exemptions for Works Requiring Heritage Council Approval link below.</p> | |
| 21(1)(b) | Conservation Plan submitted for comment | Sustainability Assessment: Fernhill Estate, January 2008 - additional information | | Feb 25 2009 |
| 21(1)(b) | Conservation Plan submitted for endorsement | Updated CMP and Master Plan for whole estate (beyond SHR curtilage) - Paul Davies P/L | CMP - Superseded by August 2014 version. | Aug 29 2013 |
| 21(1)(b) | Conservation Plan submitted for endorsement | Fernhill CMP, dated September 2013. | Superseded by August 2014 version. | Oct 9 2014 |
| 21(1)(b) | Conservation Plan submitted for endorsement | Fernhill CMP for Simon and Brenda Tripp (August 2014 version) | Under review. | Apr 13 2015 |

 **Standard exemptions** for works requiring Heritage Council approval

Listings

| Heritage Listing | Listing Title | Listing Number | Gazette Date | Gazette Number | Gazette Page |
|--|---|----------------|--------------|----------------|--------------|
| Heritage Act - State Heritage Register | | 00054 | 02 Apr 99 | 27 | 1546 |
| Heritage Act - Under consideration for SHR/IHO listing | Owner's request for SHR curtilage amendment | | | | |
| Heritage Act - Permanent Conservation Order - former | | 00054 | 03 Jul 81 | 97 | 3637 |
| | | | | | |

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|--|------------------------|------|-----------|-----|--|
| Regional Environmental Plan | Mulgoa Valley REP # 13 | | 11 Dec 87 | | |
| Cumberland County Council list of Historic Buildings 1961-67 | | | | | |
| Heritage study | | MV-4 | 01 Apr 80 | 180 | |
| National Trust of Australia register | | 7506 | | | |
| Register of the National Estate | | 3109 | 21 Mar 78 | | |
| Register of the National Estate | | | 21 Oct 80 | | |

Study details

| Title | Year | Number | Author | Inspected by | Guidelines used |
|---|------|--------|--|--------------|-----------------|
| Sydney Regional Environmental Plan - No.13 - Mulgoa Valley | 1987 | | Department of Environment and Planning | | No |
| Colonial Landscapes of the Cumberland Plain and Camden, NSW | 2000 | | Morris, C., & Britton, G./NSW National Trust (for the Heritage Council of NSW) | | Yes |

References, internet links & images

| Type | Author | Year | Title | Internet Links |
|---------|--|------|--|----------------|
| Written | | 1978 | Directors Report to the Heritage Council of New South Wales | |
| Written | Allen, Trevor, Broadbent, James & Tanner, Howard | 1969 | Colonial Gardens (Undergraduate thesis, Univ Syd/Architecture) | |
| Written | Anderson, Warren | 2008 | Fernhill (Presentation Volume/Record) | |
| Written | Blok, Margie | 2012 | 'Good things come in trees', in Title Deeds, in Domain, in The Sydney Morning Herald | |
| Written | Carlin, Scott | 2012 | 'Lewis, Mortimer' entry, in Goad, P. & Willis, J. (ed.s), The Encyclopaedia of Australian Architecture | |
| Written | Chippindall, Pamela / Broadbent, James | 1979 | 'Fernhill' entry, in National Trust of Australia (NSW) Inspection no. | |

| | | | | |
|---------|---|------|---|--|
| | | | 274 - Mulgoa Days - Saturday 24/3 or Sunday 25/3/1979 | |
| Written | Dawson, Jonathan | 1980 | There's just no place like a million dollar house", in 'Sydney Extra', in Sunday Herald | |
| Written | Douglas Sanger P/L; Paul Davies P/L; Austral Archaeology P/L; Conacher Travers Environmental Consultants et al. | 2003 | Fernhill, Mulgoa NSW: Heritage & Environmental Studies, vol.s 1& 2 | |
| Written | Eco Logical Australia Assessment Planning Management | 2007 | Fernhill, Mulgoa Valley, Australia: Sustainability Assessment: Fernhill Estate (Project no. 163-001) | |
| Written | Eco Logical Australia P/L | 2008 | Fernhill, Mulgoa Valley, Australia - Sustainability Assessment: Volume 4: Addendum | |
| Written | G. Munday | 1850 | Our Antipodes | |
| Written | Griffin, Robert | 2013 | Historic Houses Trust (of NSW) Members - Colonial Architects of NSW: Southern Highlands & Goulburn, 19th-2st July 2013 (tour notes) | |
| Written | Heritage Division, OEH | | paper file: HC32127 | |
| Written | Historic Buildings Committee | 1986 | National Trust Classification Card | |
| Written | Lee, Leonard | 2015 | 'John Darling, 1923-2015 - World War II ace to film visionary' (obituary) | |
| Written | Lucas, Clive | 2017 | 'From the President', in National Trust (NSW) Magazine, Winter Calendar of Events: June-August 2017 | |
| Written | Lyth, | 1860 | The Golden South | |
| Written | Paul Davies Architects Heritage Consultants | 2005 | Fernhill: Mulgoa - 'by far the most lovely and extensive landscape' - a Conservation Management Plan | |
| Written | Paul Davies P/L | 2014 | Conservation Management Plan - Fernhill, Mulgoa, Mulgoa NSW | |
| Written | Ratliffe, Richard | 1990 | Australia's Master Gardener - Paul Sorensen and His Gardens | |
| Written | Roxburgh, Rachel | 1974 | Early Colonial Houses of New South Wales | |
| | | | | |

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|---------|---|------|---|--|
| Written | Stapleton, Ian for NSW Department of Environment and Planning | 1983 | Mulgoa Valley Regional Environmental Study (RES) | |
| Written | Tanner, Howard & Begg, Jane | 1969 | The Great Gardens of Australia | |
| Written | Urbis | 2010 | draft Conservation Management Plan - Fernhill, Mulgoa | |

Note: internet links may be to web pages, documents or images.



(Click on thumbnail for full size image and image details)

Data source

The information for this entry comes from the following source:

Name: Heritage Office

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Glenmore

Item details

| | |
|---------------------------------------|--|
| Name of item: | Glenmore |
| Other name/s: | Glenmore Heritage Valley Golf and Country Club |
| Type of item: | Landscape |
| Group/Collection: | Landscape - Cultural |
| Category: | Historic Landscape |
| Location: | Lat: -33.7980382008 Long: 150.6537800940 |
| Primary address: | 754-760 Mulgoa Road, Mulgoa, NSW 2745 |
| Parish: | Mulgoa |
| County: | Cumberland |
| Local govt. area: | Penrith |
| Local Aboriginal Land Council: | Deerubbin |

Property description

| Lot/Volume Code | Lot/Volume Number | Section Number | Plan/Folio Code | Plan/Folio Number |
|-----------------|-------------------|----------------|-----------------|-------------------|
| LOT | 1 | | DP | 251423 |
| LOT | 1 | | DP | 701949 |
| LOT | 2 | | DP | 701949 |
| LOT | 3 | | DP | 701949 |
| LOT | 4 | | DP | 701949 |
| LOT | 5 | | DP | 701949 |

All addresses

| Street Address | Suburb/town | LGA | Parish | County | Type |
|----------------|-------------|---------|--------|------------|-----------------|
| | Mulgoa | Penrith | Mulgoa | Cumberland | Primary Address |

| | | | | | |
|---------------------------|--------|---------|--------|------------|----------------------|
| 754-760 Mulgoa Road | | | | | |
| Mulgoa Road | Mulgoa | Penrith | Mulgoa | Cumberland | Alternate Address |

Owner/s

| Organisation Name | Owner Category | Date Ownership Updated |
|--------------------|----------------|------------------------|
| Askhour Pty Ltd | Private | 25 Mar 99 |

Statement of significance:

Glenmore estate is an integral part of a relatively intact rural landscape developed by the pioneering Cox family in the early years of the colony of New South Wales, and subsequently throughout the 19th century. It is thus a physical record of the development of farming in Australia in general and the Mulgoa Valley in particular. The remnants of early exotic plantings include some of the finest specimens of their species in New South Wales.

The existing house and garden remnants at Glenmore are a substantial and rare surviving example of an early 19th century country residence, adapted for changing uses over time.

The estate is associated with significant personalities in state and local 19th century history, notably Henry Cox and James Riley.

There is archaeological significance in the potential evidence of other buildings and structures on the site. Because of the scarcity of documentary evidence about many aspects of the former homestead, the archaeological resource contains the only remaining evidence.

Glenmore has aesthetic values as a landmark on Mulgoa Road since its construction in 1825. The house and barn, associated large trees and setting, are located on a ridge and are visible from many places.

(general S.o.S., from Orwell & Peter Phillips, 1997 - elements of ranked relative significance, see below, for more detail, see CMP)

Areas or elements of exceptional significance include:

- underground spaces including cellars and sub-floor spaces, excluding modern services and alterations;
- all rooms in the main house and barn constructed before 1920;

Fabric of exceptional significance

includes all extant fabric from the first stages of development except as noted elsewhere, and including:

- underground elements including courtyard well, external drains and other structures, excluding modern alternations and services;
- masonry elements including footings, walls, fireplaces, chimneys, verandah flagging and steps, constructed before 1920;
- structural timber elements including floor, roof and verandah framing (posts and beams, both decorated and plain) constructed before 1920;
- decorative timber elements and associated hardware constructed before 1920 (including elements relocated or removed), including eaves, doors, windows, shutters, architraves, skirtings and trims;
- plaster and render constructed before 1920 including wall and ceiling finishes, cornices and mouldings;

- cast iron fireplace
surrounds and grates;
- landscape elements planted or constructed
before 1920 including paths, driveways and mature trees and shrubs (refer
to CMP for details);

Views and vistas of exceptional significance
include:

- views of house, landscaping and outbuildings from Mulgoa
Road;
- views from the main house towards the creek;
- views
between the main house and the barn;
- approach to the main house and
views of the house along the original driveway.

Fabric of
considerable significance includes:

- galvanised steel roofing, roof
plumbing and tanks installed prior to 1920;
- pressed metal ceilings
and cornices.

Spaces and attributes of some significance include:

- storage rooms built on to kitchen;
- enclosure to rear verandah;

Fabric of some significance includes:

- landscape elements
constructed or planted from 1930, including golf tees and greens;
- rainwater tanks and similar traditional items installed after 1920.

Orwell & Peter Phillips, 1997 (elements of ranked relative
significance)

Glenmore is historically significant because:

1.
it is an integral part of a relatively intact landscape consisting of a
network of surviving rural properties from the 19th century, all
intimately associated with the Cox family which demonstrates the landscape
and developmental mechanisms of 19th century pastoralism in the Cumberland
Plain;
2. It is one of the few surviving properties' houses from
the very earliest period of development in the Mulgoa Valley;
3.
It provides evidence of the development of the home farms in the district
as centres of conspicuous consumption during the latter part of the 19th
century;
4. It demonstrates the development of the Mulgoa Valley
in the early 20th century as a tourist attraction, as a result of its
historical and aesthetic appeal;
5. It is intimately associated
with the Cox family, notable for their role in the early development of
the colony;
6. It is associated with the Riley family, notable in
the history of the Penrith district (Kass, T., 1989, in Orwell + Peter
Phillips, 1997)

Date significance updated: 04 Mar 05

Note: There are

*incomplete details for a number of items listed in NSW. The Heritage
Division intends to develop or upgrade statements of significance and
other information for these items as resources become
available.*

Description

Construction years: 1809-1868

Physical description: Glenmore lies between Mulgoa Road and Mulgoa Creek to the east and west, between two points to the north and south where road and creek are close together, south of Penrith. The land slopes gently upwards from Mulgoa Road to a ridgeline then falls steeply eastwards to the creek. The main homestead is near the site's centre, close to the ridgeline. Views to the house from the road are obstructed partly by landscaping and partly by the original stone barn, to its southwest.

A driveway from Mulgoa Road approaches the house and barn through a newly constructed parking area. Remnants of original tree plantings survive, particularly to the northwest of the homestead, together with some of the early hedge plants and trees beside the driveway to the south. The main homestead is U-shaped in plan with the front 2-storey wing facing northeast. The side wing facing northwest has a wine cellar under part of its length, and a disused attic towards its southwest end. A small lean-to on the northwest side was built in c.1920s. The opposite wing is single storey, with an extension at the southwest built c.1970s.

1809 400 acre rural land grant with 1824+ homestead.

1868 addition, large underground cellar for wine, stone barn, a school from c.1904, and post 1920s subdivisions/sales a golf club from 1929 and more recently a function centre. Original layout included orchard and orangery areas, vegetable and split-rail fenced ornamental flower gardens, shrubbery, climbing plants covering a verandah, three dams, a spring near the cottage, double hawthorn hedge lining gravel entrance drive, teardrop bed in front of main house, rear service yard (abridged from Orwell & Peter Phillips, 2004)

Mature specimen trees include Bunya Bunya pine (*Araucaria bidwillii*) and Chinese elm (*Ulmus chinensis*). (NB: in the 1920s Glenmore was noted for its mature trees and English atmosphere, citing oaks (*Quercus* sp.) and elms (*Ulmus* sp.) (Australian Motor Owner, 1929). Other mature trees include kurrajong (*Brachychiton populneum*) an exceptional example of Queensland kauri (*Agathis robusta*), Chinese elm (*Ulmus parvifolia*), pear (*Pyrus pyrifolia*), Osage orange (*Maclura pomifera*), weeping lilly pilly (*Waterhousea floribunda*) and conifers including hoop pine (*Araucaria cunninghamii*), stone pine (*Pinus pinea*) and funeral cypress (*Cupressus funebris*) (Read, S., summarising Orwell & Peter Phillips, 1997).

The surrounding pastures are ringed by native forest, being grey box (*Eucalyptus moluccana*)-ironbark (*E. crebra*) woodland, and also noted in this area for *Angophora subvelutina*, or rough-barked apple gums.

The site today - see <http://www.glenmoregolf.com.au/>

Physical condition and/or Archaeological potential:

- Ruin of kitchen courtyard?, c.1825 - substantial remnants of garden walls with gateway; evidence of lean-to shed etc;
- 'house belonging to Gill' on Glenmore pre 1863 - building rubble and old planting;
- site of 2 houses of 'Hoe' pre 1863 on Glenmore - exotic plantings, no visible (built) evidence;

(s.6.5.4, p.92 of appendix D, Historical Archaeological Component by Wendy Thorp, 8/1986 in Fox & Associates, Heritage Study of the City of Penrith, Volume 2 - appendices)

Date condition updated: 28 Nov 07

| | |
|---------------------------------|--|
| Modifications and dates: | <p>1824/5 Glenmore appears to have been built, 1845-5 extensions (pre 1852) to an 'L' shaped building</p> <p>c.1868 eastern wing added for James Riley</p> <p>c1904 select girls' school set up in house</p> <p>c.1920s land acquisition of adjoining land, and land sales of portions by Hattersley & Holswich, graziers - reduced to present boundaries by 1929.</p> <p>1927 golf course use began (9 holes)</p> <p>1938 additional 9 holes added to course - 1930s operated as golf course and guest house</p> <p>11978 internal additions made to main homestead including wall stripping, installation of a new bar, enlarging and reconcreting the patio, repainting, and reseeding/dressing the greens.</p> <p>1986 putting green constructed in front of homestead (ranked intrusive in CMP, 1997)</p> <p>1993 re-roofed and repainted the main house, recorded and demolished a side verandah to the main house, converted former barn to golf pro shop, constructed a fresh water pipeline from the Nepean River, installed a new electrical substation and underground mains, removed Bunya pine tree # 2, built new entry gates, driveway, parking areas, amenities building next to existing barn, machinery shed & compound. Secure fence to Mulgoa Road erected to dissuade vandalism</p> |
| Current use: | golf club and function centre |
| Former use: | farm estate with orchards and vineyards, rural residence, private school |

History

| | |
|--------------------------|--|
| Historical notes: | <p>1809-16 Luttrell family granted land in the Mulgoa Valley, sold this in 1815-16 to neighbour William Cox. Also in 1809 an adjoining 400 acres of land were granted to William Cox - and used for pastoralism, had fine orchards and vineyards.</p> <p>Between 1816 and 1852 the Cox family had strong associations with Glenmore. the father William Cox retained Glenmore until 1817, conveying it then to his fourth son George. His brother Henry Cox bought the lands off George in 1823 at the time of his marriage, and is most closely associated with the property.</p> <p>In 1825 Henry gained another 850 grant from William and George sold Henry a 640 acre grant he had acquired in 1815 from Thomas Hobby.</p> <p>1824/5 Glenmore homestead appears to have been built, on the former grant of Robert Luttrell. It was the principal home of Henry Cox and family and head station of his pastoral estates. By 1825 Henry had a large estate with fertile and well watered land between Mulgoa Creek and the Nepean River. Convicts were used to clear the holding. It was used as a holding farm for animals from his other lands west of the Blue Mountains, on their way to the markets in Sydney (Orwell & Peter Phillips, 1997). Glenmore was a busy centre for many years, with grape vines, wheat, corn, alfalfa and all kinds of horse and cattle feed and sheep roaming the homestead (Nepean District Historical Society, 2014).</p> <p>1845-5 the first homestead was built for Henry Cox.</p> <p>In 1850 Henry Cox had his sheep transferred to a property he had purchased at 'Broombee' between Mudgee and Bathurst. The family moved there in 1851 (Nepean District Historical Society, 2014).</p> |
|--------------------------|--|

In 1852 Glenmore was sold to his half-brother Alfred Cox, who in 1853 sold it to merchant Thomas Sutcliffe Mort.

Between 1852 and c.1920 was the Riley family association with Glenmore (the Rileys were already leasing land in the Mulgoa Valley) (Orwell & Peter Phillips, 1997).

1854 T,S,
Mort sold Glenmore to James Riley (who was later to become the first Mayor of Penrith, in 1871). The estate was developed as his private home.

In the 1860s land use changed in the area from pastoralism to fruit growing and dairying, particularly with the arrival of the railway to Penrith in 1863 and thus ready access of products to the city markets.

c.1868 the eastern wing of the house was added for James Riley.
The farm was known (along with Winbourne, Fernhill and Fairlight, for the abundance and success of their crops and vineyards.

In 1882 James
Riley died. His wife and four daughters remained living at Glenmore.

In 1891 the estate was put up for sale/rent, noting it was both residence and working farm. 2000 acres including 500 acres forest, fattening paddocks, homestead and 'magnificent' grounds, three good dams and a spring at the cottage.

c.1904 Riley's widow Christina died and
his daughters set up a select girls' school in the house.

c.1920s
land acquisition of adjoining land, and land sales of portions by D.Hattersley & C.Holswich, graziers. Hattersley subsequently bought out Holswich. Portions of the estate were sold off during the 1920s - it was reduced to its present boundaries by 1929.

In 1926 the
earliest plans to use it as a golf club arose, the course opened in 1927 (9 (what are now the course's 'back') holes), continuing in the 1930s with a guest house, tennis, horse riding, shooting, swimming, fishing, archery, table tennis and bridge. The valley was increasingly known for its scenery and historic associations.

In the 1930s Glenmore operated
as golf course and guest house under Mr & Mrs T. O'Rourke, also tennis, horse riding, shooting, swimming, fishing, archery, table tennis and bridge were available. The Mulgoa Valley was increasingly becoming known for its scenery and historic associations. (Winbourne was another key valley guesthouse of this era).

In 1937 the Glenmore Country
Club purchased the property. In 1938 the Glenmore Country Club added an extra 'front' 9 holes to the course.

In 1940 the southern part of
the estate around the homestead was in use as golf links and the northern part was reserved as grasslands. In 1947 Glenmore and the golf links were bought by Mary Woodland, who leased it as a golf club to a succession of lessees. 1959 Glenmore Golf & Country Club bought the business, Mrs Woodland retained ownership of the land. A liquor licence was granted.

In 1975 the property was classified by the National Trust of
Australia (NSW).

In 1978 internal additions were made to main
homestead including wall stripping, installation of a new bar, enlarging and re-concreting the patio, repainting, and reseeding/dressing the greens.

From 1981+ there were at least two changes of owners.

Warren Anderson, a property developer from Western Australia,

bought Glenmore in 1981 (as well as nearby Fernhill, Boomerang in Elizabeth Bay and Tipperary pastoral stations in the Northern Territory)(Davies, 2014, 68).

1982+ Department of Planning conducted a Regional Environmental Study of the Mulgoa Valley, leading to SREP 13 - Mulgoa Valley gazetted in 1987, with an emphasis on the conservation of heritage, natural and landscape values.

1986 a putting green was constructed.

In 1993 the present owners Askhour P/L bought the property, re-roofed and repainted the main house, recorded and demolished a side verandah to the main house, converted former barn to golf pro shop, constructed a fresh water pipeline from the Nepean River, installed a new electrical substation and underground mains, removed Bunya pine tree # 2, built new entry gates, driveway, parking areas, amenities building next to existing barn, machinery shed & compound.

In 1993 the present owners re-roofed and repainted the house, converted the barn to a pro shop, constructed a pipeline from the Nepean, new substation and mains, built new entry gates, new driveway, parking areas, amenities building, machinery shed & compound.

In 1994 a proposed new function centre did not eventuate. A further proposal arose in 2004 but did not advance.

In 1997 approval was given to convert the former barn into a golf pro-shop.

Historic themes

| Australian theme (abbrev) | New South Wales theme | Local theme |
|---|--|--|
| 1. Environment-Tracing the evolution of a continent's special environments | Environment - naturally evolved-Activities associated with the physical surroundings that support human life and influence or shape human cultures. | Cultural: Rivers and water bodies important to humans- |
| 2. Peopling-Peopling the continent | Convict-Activities relating to incarceration, transport, reform, accommodation and working during the convict period in NSW (1788-1850) - does not include activities associated with the conviction of persons in NSW that are unrelated to the imperial 'convict system': use the theme of Law & Order for such activities | Working on private assignment- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Growing vines and maintaining vineyards- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Marking the transition from pastoralism to agriculture- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can | Experimenting with new crops and methods- |

| | | |
|---|--|---|
| | include aquaculture | |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Farming wheat and other grains- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Clearing land for farming- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Orcharding- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Experimenting with new breeds of stock- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Pastoralism - grazing sheep, cattle, goats or other animals- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Windmills to pump water for farm use- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Significant tree(s) providing rural amenity or character- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Significant tree(s) providing rural amenity or character- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Landscapes and gardens of domestic accommodation- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Landscapes and gardens of domestic accommodation- |

| | | |
|---|---|--|
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Landscapes of food production- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Landscapes and countryside of rural charm- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Landscapes and countryside of rural charm- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Landscapes of cultural and natural interaction- |
| 3. Economy-Developing local, regional and national economies | Pastoralism-Activities associated with the breeding, raising, processing and distribution of livestock for human use | Working for pastoralists- |
| 4. Settlement-Building settlements, towns and cities | Accommodation-Activities associated with the provision of accommodation, and particular types of accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities. | Housing for farm and station hands- |
| 4. Settlement-Building settlements, towns and cities | Accommodation-Activities associated with the provision of accommodation, and particular types of accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities. | Housing farming families- |
| 4. Settlement-Building settlements, towns and cities | Accommodation-Activities associated with the provision of accommodation, and particular types of accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities. | Housing ordinary families- |
| 4. Settlement-Building settlements, towns and cities | Land tenure-Activities and processes for identifying forms of ownership and occupancy of land and water, both Aboriginal and non-Aboriginal | Sub-division of large estates- |
| 4. Settlement-Building settlements, towns and cities | Land tenure-Activities and processes for identifying forms of ownership and occupancy of land and water, both Aboriginal and non-Aboriginal | Fencing boundaries - dry stone walls- |
| 4. Settlement-Building settlements, | Land tenure-Activities and processes for | Granting Crown lands for private farming- |

| | | |
|---|--|---|
| towns and cities | identifying forms of ownership and occupancy of land and water, both Aboriginal and non-Aboriginal | |
| 4. Settlement-Building settlements, towns and cities | Towns, suburbs and villages-Activities associated with creating, planning and managing urban functions, landscapes and lifestyles in towns, suburbs and villages | Role of transport in settlement- |
| 4. Settlement-Building settlements, towns and cities | Towns, suburbs and villages-Activities associated with creating, planning and managing urban functions, landscapes and lifestyles in towns, suburbs and villages | Creating landmark structures and places in regional settings- |
| 5. Working-Working | Labour-Activities associated with work practises and organised and unorganised labour | Working on pastoral stations- |
| 8. Culture-Developing cultural institutions and ways of life | Creative endeavour-Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | Architectural styles and periods - colonial homestead- |
| 8. Culture-Developing cultural institutions and ways of life | Creative endeavour-Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities. | Landscaping - Victorian gardenesque style- |
| 8. Culture-Developing cultural institutions and ways of life | Domestic life-Activities associated with creating, maintaining, living in and working around houses and institutions. | Living in a rural homestead- |
| 8. Culture-Developing cultural institutions and ways of life | Leisure-Activities associated with recreation and relaxation | Gathering at landmark places to socialise- |
| 8. Culture-Developing cultural institutions and ways of life | Leisure-Activities associated with recreation and relaxation | Visiting heritage places- |
| 8. Culture-Developing cultural institutions and ways of life | Leisure-Activities associated with recreation and relaxation | Enjoying public parks and gardens- |
| 8. Culture-Developing cultural | Sport-Activities associated with organised recreational | Private sporting facilities- |

| | | |
|--|--|--|
| institutions and ways of life | and health promotional activities | |
| 8. Culture-Developing cultural institutions and ways of life | Sport-Activities associated with organised recreational and health promotional activities | badminton- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with William Cox, road builder over Blue Mountains, magistrate, farmer- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with Henry Cox, pastoralist- |

Procedures /Exemptions

| Section of act | Description | Title | Comments | Action date |
|----------------|-------------------------|---------------------|--|-------------|
| 57(2) | Exemption to allow work | Standard Exemptions | <p>SCHEDULE OF STANDARD EXEMPTIONS HERITAGE ACT 1977</p> <p>Notice of Order Under Section 57 (2) of the Heritage Act 1977</p> <p>I, the Minister for Planning, pursuant to subsection 57(2) of the Heritage Act 1977, on the recommendation of the Heritage Council of New South Wales, do by this Order:</p> <p>1. revoke the Schedule of Exemptions to subsection 57(1) of the Heritage Act made under subsection 57 (2) and published in the Government Gazette on 22 February 2008; and</p> <p>2. grant standard exemptions from subsection 57(1) of the Heritage Act 1977, described in the Schedule attached.</p> <p>FRANK SARTOR Minister for Planning</p> <p>Sydney, 11 July 2008</p> <p>To view the schedule click on the Standard Exemptions for Works Requiring Heritage Council Approval link below.</p> | Sep 5 2008 |

 **Standard exemptions** for works requiring Heritage Council approval

Listings

| Heritage Listing | Listing Title | Listing Number | Gazette Date | Gazette Number | Gazette Page |
|--|---------------|----------------|--------------|----------------|--------------|
| Heritage Act - State Heritage Register | | 00074 | 02 Apr 99 | 27 | 1546 |
| | | | | | |

| | | | | | |
|---|----------------------------------|-------|--------------|----|------|
| Heritage Act - Permanent Conservation Order - former | | 00074 | 12 Feb 82 | 23 | 0615 |
| Regional Environmental Plan | Sydney REP 13 - Mulgoa Valley | | 07 Oct 87 | | |
| Heritage study | Glenmore Country Club | MV-1 | 01 Apr 87 | | |
| National Trust of Australia register | | 7770 | | | |
| Register of the National Estate | | | 21 Mar 78 | | |

Study details

| Title | Year | Number | Author | Inspected by | Guidelines used |
|---|------|--------|---|-----------------|--------------------|
| Sydney Regional Environmental Plan - No.13 - Mulgoa Valley | 1987 | | Department of Environment and Planning | | No |
| Colonial Landscapes of the Cumberland Plain and Camden, NSW | 2000 | | Morris, C., & Britton, G./NSW National Trust (for the Heritage Council of NSW) | | Yes |

References, internet links & images

| Type | Author | Year | Title | Internet Links |
|---------|--|------|---|--|
| Written | (uncited) in Australian Motor Owner, The | 1929 | Glenmore House, Mulgoa | |
| Written | Casey & Lowe Pty Ltd.; Kass, Terry.; Orwell & Peter Phillips Title: Glenmore heritage valley golf club : archaeological excavation permit application / prepared for Charles Glanville (Architects) Pty Ltd on behalf of Askhour Pty Ltd. Date: . | 2005 | Glenmore heritage valley golf club: archaeological excavation permit application | |
| Written | Davies, Paul | 2014 | Fernhill Conservation Management Plan, May 2014, Revised Endorsement Edition | |
| Written | Glenmore Heritage Valley Golf Club | | Glenmore Heritage Valley Golf Club website | View detail  |
| Written | Nepean District Historical Society | 2014 | Watkin Tench Luncheon (to be held at Glenmore, 21/6/2014) | |
| Written | | 1990 | Vineyards of Sydney | |

| | | | | |
|--------------------|---|------|--|--|
| | Norrie, P. Dr. | | | |
| Written | Orwell & Peter Phillips Architects | 2004 | Heritage Impact Statement - Glenmore Function Centre Mulgoa | |
| Management Plan | Orwell and Peter Phillips Architects | 1997 | Conservation Plan Glenmore Mulgoa Road Mulgoa | |
| Written | Rappoport P/L | 2010 | Conservation Management Plan - (Revised 6/2010) Glenmore Heritage Valley, Mulgoa Road, Mulgoa | |
| Written | Rappoport P/L | 2009 | Statement of Heritage Impact - Proposed Development at Glenmore, Mulgoa Road, Mulgoa Valley | |
| Written | Rappoport P/L, 10/2009 | 2009 | Conservation Management Plan - Glenmore, Mulgoa Road, Mulgoa | |
| Written | Rappoport P/L, 6/2010 | 2010 | Statement of Heritage Impact - Proposed Development at Glenmore, Mulgoa Road, Mulgoa | |

Note: internet links may be to web pages, documents or images.



(Click on thumbnail for full size image and image details)

Data source

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Cox's Cottage

Item details

| | |
|---------------------------------------|---|
| Name of item: | Cox's Cottage |
| Other name/s: | Mulgoa Cottage; The Cottage, Cox's Cottage, Fern Hill, Estate of Mulgoa |
| Type of item: | Landscape |
| Group/Collection: | Farming and Grazing |
| Category: | Homestead Complex |
| Location: | Lat: -33.8254180585 Long: 150.6566228860 |
| Primary address: | 2 St Thomas Road, Mulgoa, NSW 2745 |
| Parish: | Mulgoa |
| County: | Cumberland |
| Local govt. area: | Penrith |
| Local Aboriginal Land Council: | Deerubbin |

Property description

| Lot/Volume Code | Lot/Volume Number | Section Number | Plan/Folio Code | Plan/Folio Number |
|-----------------|-------------------|----------------|-----------------|-------------------|
| LOT | 2 | | DP | 241971 |
| LOT | 3 | | DP | 241971 |
| LOT | 4 | | DP | 241971 |

All addresses

| Street Address | Suburb/town | LGA | Parish | County | Type |
|------------------|-------------|---------|--------|------------|-----------------|
| 2 St Thomas Road | Mulgoa | Penrith | Mulgoa | Cumberland | Primary Address |

Owner/s

| Organisation Name | Owner Category | Date Ownership Updated |
|-------------------|----------------|------------------------|
|-------------------|----------------|------------------------|

| | | |
|------------------------|---------------------|--------------|
| | Private | 25 Mar 99 |
| | Private | 25 Mar 99 |
| Department of Planning | State Government | |

Statement of significance:

Cox's

Cottage or 'the Cottage', dating from 1810, is of State significance as one of the oldest weatherboard-clad dwellings in NSW and probably the oldest occupied residence in the country. Located on the early land grant made to the influential Cox family in the Mulgoa Valley, Cox's Cottage is historically significant and rare at a State level for retaining the original pastoral landscape of its immediate surrounds, providing evidence of colonial settlement patterns in the western part of the Cumberland Plain and of early attempts at farming and viticulture in the Sydney region.

The property has historical associational significance at

a State level through several generations of the Cox family, who were important in the development of agricultural and pastoral industries in the colony of NSW, including William Cox, who supervised the first road over the Blue Mountains. The house is of State aesthetic significance as a relatively intact early Georgian cottage and its surrounding fields are also of State significance for providing an intact pastoral landscape setting for the Cottage.

Cox's Cottage is of social significance

at a State level for the esteem in which it is held by heritage organisations and other community groups. Cox's Cottage has research potential at a State level for the tangible evidence of its early nineteenth century heritage fabric including the Cottage building itself and the former vineyard terracing on Lot 2 dating from the first half of the 19th century. The property is considered likely to contain other archaeological evidence relating to the Cox family period of occupation of the area, including possible building sites and orchard locations.

Cox's Cottage has rarity significance at a State level as an

integral part of one of the most significant cultural landscapes in NSW, namely the Mulgoa Valley landscape which is also associated with 'Fernhill' and St Thomas' Anglican Church. This is a designed landscape which includes historic and existing visual links between the three properties and which demonstrates attempts by early European settlers to manipulate the native vegetation to achieve a particular design outcome. Cox's Cottage is also of State significance as representative of early colonial homesteads and cultural landscapes associated with early farming practices in the western part of the Cumberland Plain.

Date significance updated: 21

May 10

Note:

There are incomplete details for a number of items listed in NSW. The Heritage Division intends to develop or upgrade statements of significance and other information for these items as resources become available.

Description

Builder/Maker: James King (supervisor)

1810-1811

**Construction
years:****Physical
description:**

Cox's Cottage
Cox's

Cottage, dating from 1810 or 1811, is probably the oldest inhabited residence in Australia (other earlier surviving domiciles are now typically run as museums). It is probably also the oldest weatherboard cottage in New South Wales. The cottage is a early colonial bungalow which retains its rural setting and remnants of its original garden (including white cedar trees (*Melia azederach* var. *australasica*) and the striking succulent 'century plants' (*Agave americana*), both documented as growing here in the mid 19th century). Post 1980 plantings include a number of species typical of Cumberland Plain colonial gardens, such as Bunya Bunya pine (*Araucaria bidwillii*) and silky oak (*Grevillea robusta*)(Stuart Read, pers.comm.5/3/2012). It has a rectangular, asymmetrical plan with double pitched roof. Appears to have reached present form by 1820. It was originally shingled but this was replaced c.1850 by zinc coated roofing tiles (AHC entry for RNE, 1978).

The original SHR listing for

Cox's Cottage included two ten hectare lots of land, Lots 3 and 4 DP 241971. The Cottage is located on the northern end of Lot 3 and a contemporary home with associated outhouses has been built on Lot 4 DP 241971 to the north and out of sight from the cottage. Mulgoa Creek runs from north to south near the eastern boundary of both Lots 3 and 4. Most of the 20 hectares comprising Lots 3 and 4 is pastoral in appearance.

The Cottage is oriented to the north-east and positioned at the end of its ridge (a pattern of development through the immediate area) with views along the creek to the north and over the river flats.(Davies, 2007, p2).

The still intact historical and visual relationships between Cox's Cottage, St Thomas's Church to the south and Fernhill to the west are important. (AHC)

Lot 2

Lot 2 DP 241971 is an undeveloped lot of 10 hectares adjacent to Cox's Cottage to the north, with its narrow western end fronting onto Mulgoa Road. It is L shaped and extends to the north along the river flats on its eastern boundary.

The block generally slopes from Mulgoa Road to the creek with a small rise of saddle near the road. . . The site features two small dams located on the natural watercourse along the northern boundary which are fed by rain and not by a watercourse (Davies, 2007).

Two areas of

former vineyard terraces are still evident. Vegetation on the cleared lower flats and the flat area east of Mulgoa Road is mainly pasture species with agricultural weeds including St John's Wort and blackberry in places. Along Mulgoa Creek are remnant native trees interspersed with mature exotic species including English and Japanese elms and privet. Vegetation elsewhere is mostly regenerating rough-barked apple oak (*Angophora* sp. - e.g. *A.intermedia*, *A.floribunda*) and stands of *Acacia* sp. (Musescape, 2009)

**Physical
condition
and/or
Archaeological
potential:**

The property is

considered likely to contain archaeological evidence relating to the Cox family period of occupation of the area, including possible building sites and orchard locations, for example:

Site of early buildings - large area of ridge to south of the cottage with signs of former buildings from farm and possibly race horse stud;
Site of clay pits, c.1810 - distinct impression in ground in gully to west of cottage; source of bricks for house;
Site of the vineyard, c.1810 - distinct impression of many terraces over wide area on slope;
Site of dam/weir, c19th c. - possibly marked by vertical timber piling;
Site of former house, c.1792 - marked by surviving fruit trees;
Possible site of former

horse graves, c1880s - no visible remains of graves of 'Yattendon' and 'Grand Flaneur'
(s.6.5.4 Mulgoa, p.92 in appendix D, Historical Archaeological Component by Wendy Thorp, 8/1986 in Fox & Associates, Heritage Study of the City of Penrith, Volume 2 - appendices)

Date**condition updated:**28 Nov 07**Modifications and dates:**

Cox's Cottage was almost derelict when bought by historian and conservator James Broadbent and his family in the 1970s. He has spent decades carefully conserving the building and its landscape following Burra Charter principles.

Current use:

Residence and pasturing land

Former use:

Residence and pasturing land

History

Historical notes:

Aboriginal land
The traditional owners of the land now occupied by Cox's Cottage were the Mulgowie people, who became known as the "Mulgoa tribe" (Karskens, 2009, p9).

There is a reference to
an attack on the Cox property by Aboriginal people in 1814 (Sydney Gazette, May 1814).

Colonisation
Cox's Cottage is part of
early colonial land grants and purchases to members of the Cox family in the Mulgoa Valley, south of Penrith, eventually totalling some 3,760 acres (Kinhill Stearns, 1983; Bertie 1930, p51). The first of these grants, of 30 acres (12 hectares), made in 1809 to the infant Edward Cox and confirmed by Governor Macquarie the following year (Watson, 1917), became known as 'Fernhills' or 'Fernhill'.

Edward's father Lieutenant
William Cox is perhaps best known for supervising the construction of the first road over the Blue Mountains in the second half of 1814 (Betteridge, 2009). Lt. William Cox sailed to New South Wales on the 'Minerva' in 1799. During his 37 years of residence in the early colony, he made a substantial and enduring contribution to its progress in the fields of public administration, building and agricultural development. The Cox family were remarkable 'house and garden' people. During the middle years of the 19th century, William Cox Sr. was at Clarendon, near Windsor; his eldest son William, lived at Hobartville, Richmond; his sons Henry, George and Edward were to build and occupy their respective houses of Glenmore, Winbourne and Fernhill at Mulgoa. Another son, James, settled in Van Dieman's Land, where he built his own magnificent 'Clarendon'. Around all these houses the Cox families created beautiful gardens (Chippindall/Broadbent, 1979, 2).

'The Cottage'/'Mulgoa Cottage'
or 'Fernhill' was built for Lt. William Cox under the supervision of James King, a retired sergeant of the New South Wales Corps, on land granted to the infant Edward Cox in 1809-10. Surveyor James Meehan apparently sighted boundaries for neighbouring grants from "Mr Cox's house" in July 1811 (Meehan, Field Books), and the earliest part of the house - (verandah-less, with jerkin-head gables, intact in the roof space today) - may date from this time (Chippindall/Broadbent, 1979, 3). The house noted by Meehan, probably built circa 1810-11, is most likely to have been the building known as 'The Cottage' or 'Cox's Cottage'. The farm was well established by 1815 when Mrs Cox prepared for the visit of Governor Macquarie with 'an excellent cold collation'. For some time James King, a servant of the Cox family, managed their Mulgoa properties from the site

of 'The Cottage', with the occasional help of William Cox's fourth, fifth and seventh sons, George, Henry and Edward (Watson, 1917)(Betteridge, 2009).

Between 1821 and 1825 George and Henry Cox lived in turn at 'The Cottage' with their new wives before moving to their own houses in the Mulgoa area. At about this time (Chippindall/Broadbent, 1979 says c.1820) 'The Cottage' was extended from a simple three room house with jerkin head gabled roof by the addition of another room, at the western end, and an encircling verandah (Watson, 1917). Adding a verandah was an innovation of architectural significance: the former vernacular English weatherboard box became a colonial bungalow. The cottage was the nucleus of the Mulgoa Settlement...and was also the site of religious gatherings before the construction of St.Thomas' Anglican Church nearby (Chippindall/Broadbent, 1979, 3).

About 1825 Edward Cox, who had been only four years old when he was granted the land, returned from schooling in England (Roxburgh, pp.239-40). In 1827, at the age of 22, he married Jane Maria Brooks and they lived at 'The Cottage' for the next sixteen years (Cox, Jane Maria, 'Reminiscences', B391)(Betteridge, 2009).

By the late 1830s 'Fernhill', including 'the Cottage' and Lot 2 was described as one of the five principal estates in the Mulgoa Valley (Riley, W E, JRAHS, vol.XXXII, p.251 et al.) In 1843 Edward Cox built and moved into a much grander Greek Revival style house, 'Fernhill', on the hill to the west of 'The Cottage' on the western side of Mulgoa Road. Apparently designed as a two-storey building but built as single storey, possibly by colonial architect Mortimer Lewis, 'Fernhill' was not finished, possibly as a result of the economic recession of the 1840s (Betteridge, 2009).

Perhaps also as a result of the recession 'The Cottage' and 400 acres of land were put up for lease. At this time the property was described as:
'a commodious and convenient Family Cottage in the Vale of Mulgoa, containing dining (30 feet by 17), drawing, five bedrooms and a large cellar with every description of convenient out-offices - an established well stocked orchard and garden' (Sydney Morning Herald, 7 July 1845, p.3) (Betteridge, 2009)

In 1847 a medal was won by Edward Cox (Australiana, November 2008) for wines produced on his property, Fernhill, competing against his brother and neighbour Henry at Glenmore also at Mulgoa and Sir John Jamison at Regentville. Competition in 1847 for the West Cumberland Agricultural Society (now Royal Agricultural Society of NSW) medal for the production of the best wine, was keen. The magnificent 3 1/2' (9cm) diameter, 5 1/2 oz (156g) medal by Richard Lamb is a reflection on the status of the prize, possibly engraved by the colony's leading exponent Samuel Clayton, then living close by at Windsor. A case could be made for this medal being amongst the earliest and possibly the grandest of all surviving New South Wales agricultural medals and one of the great objects of Australian silver (Betteridge, 2009).

Historical archaeologist Judy Birmingham(1979, p.158) has listed the literature on wine making that would have been available to the early European settlers of the colony, including William Macarthur's comprehensive Letters on the culture of the vine (1844). She cites William Cox's vineyard at Mulgoa as being planted in 'deep trenches, and their parallel lines can still often be seen clearly as 'crop marks' (Birmingham, 1979, p.158). The vineyard terracing on Lot 2 was very evident in 1983 when the Mulgoa Valley Regional Environmental Study was prepared and is still obvious today. It is likely that the vines that produced the medal winning wine in 1847 were grown on Lot 2, since terraces have not been identified on the property now known as 'Fernhill' to the west of Lot 2 (Betteridge, 2009).

In the early 1850s Colonel Godfrey Mundy, aide-de-camp to Governor Fitzroy singled out 'Fernhill' for the way in which the Cox family had manipulated the landscape by removing or thinning eucalypts and retaining the local angophoras, which had more of the appearance of English trees (Mundy, pp.150-151) (Betteridge, 2009).

Edward Cox died in 1863 and the

property passed to his oldest son Edward King Cox (1829-1883) of 'Rawden', Mudgee, who until 1885 operated a noted racehorse stud at 'The Cottage', producing several famous horses including 1880 Melbourne Cup winner 'Grand Flaneur' (Clibborn, 1926, pp.16, 23). In late 1982 the once-fenced gravesites of 'Grand Flaneur' and famous sire 'Yattendon' were no longer evident (Mulgoa Valley RES appendices item C14). The stables behind 'The Cottage' were still evident in 1917 (Watson, 1917, p.187) (Betteridge, 2009).

Following the death of Edward King Cox, his third son, Alfred Edward Cox and a J Blaikie formed a partnership and ran a dairy on the property during the period circa 1897 to 1913 (Palmer, 1972).

After the Cox family

In 1913 the property was sold to Fowler and Baylis of Penrith, then to a Mr Max Lam for a short time. In 1920 it was purchased by H J Davey. Mrs Davey and J Love had a short partnership, then Mrs Davey and Mrs Love ran the dairy farm until about 1969, when Mrs Davey retired to a fibro house she had built to the west of 'The Cottage'. 'The Cottage' was then leased to a Mr Sheehan until 1972 (Palmer, 1972) (Betteridge, 2009).

Rescue and revival:

'The Cottage' endured years of neglect with the inevitable consequence of the serious deterioration of its fabric. An important step was taken when Miss Valerie Cox made a donation to the National Trust of Australia (NSW): payment was made for the eradication of termites and the boarding up of its windows. The house thus was given some protection, but unfortunately the stone verandah flagging was removed shortly before Mr. Broadbent purchased the house (Chippindall/Broadbent, 1979, 4).

'The Cottage' has been

owned by James Broadbent and his family since the 1970s. Dr James Broadbent is a noted architectural and landscape historian who has preserved the house and reconstructed/ recreated the garden to retain the significance of the building and its setting (Betteridge, 2009). Broadbent has embarked on a lengthy scheme of restoration. His plan was to work from the outside in: therefore his attention was given firstly to the repair of the verandah and roof (ibid, 4).

Beautifully sited on a small rise

near Mulgoa Creek, the Cottage is one of the earliest and most important colonial houses, and still retains its fine rural setting. It formed the nucleus of the Mulgoa settlement (Proudfoot, 1987). It is perhaps the oldest weatherboard house in New South Wales, in proportion and roofline being one of the first early colonial bungalows. It is the oldest building in the Mulgoa/Wallacia Valley, and the oldest surviving of the numerous Cox family houses (Chippindall/Broadbent, 1979,

3).

Historic themes

| Australian theme (abbrev) | New South Wales theme | Local theme |
|---|--|--|
| 1. Environment-Tracing the evolution of a continent's special environments | Environment - naturally evolved-Activities associated with the physical surroundings that support human life and influence or shape human cultures. | Natural - regenerating native flora valued for conservation purposes- |
| 2. Peopling-Peopling the continent | Aboriginal cultures and interactions with other cultures-Activities associated with maintaining, developing, experiencing and remembering Aboriginal cultural identities and practices, past and present. | Daruk nation - sites of first contact or early interaction with colonisers- |
| | Convict-Activities relating to incarceration, transport, | |

| | | |
|---|---|---|
| 2. Peopling-Peopling the continent | reform, accommodation and working during the convict period in NSW (1788-1850) - does not include activities associated with the conviction of persons in NSW that are unrelated to the imperial 'convict system': use the theme of Law & Order for such activities | Creating a gentleman's estate- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Clearing land for farming- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Growing vines and maintaining vineyards- |
| 3. Economy-Developing local, regional and national economies | Agriculture-Activities relating to the cultivation and rearing of plant and animal species, usually for commercial purposes, can include aquaculture | Pastoralism - grazing sheep, cattle, goats or other animals- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Places important in developing conservation processes- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Landscapes and countryside of rural charm- |
| 3. Economy-Developing local, regional and national economies | Environment - cultural landscape-Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings | Gardens and landscapes reminiscent of an 'old country'- |
| 4. Settlement-Building settlements, towns and cities | Accommodation-Activities associated with the provision of accommodation, and particular types of accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities. | Housing famous families- |
| 4. Settlement-Building settlements, towns and cities | Accommodation-Activities associated with the provision of accommodation, and particular types of accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities. | Country Villa- |
| 4. Settlement-Building settlements, towns and cities | Land tenure-Activities and processes for identifying forms of ownership and occupancy of land and water, both Aboriginal and non-Aboriginal | Selecting land for pastoral or agricultural purposes- |

| | | |
|---|--|---|
| 4. Settlement-Building settlements, towns and cities | Towns, suburbs and villages-Activities associated with creating, planning and managing urban functions, landscapes and lifestyles in towns, suburbs and villages | Rural orchards- |
| 8. Culture-Developing cultural institutions and ways of life | Domestic life-Activities associated with creating, maintaining, living in and working around houses and institutions. | Living in a rural homestead- |
| 9. Phases of Life-Marking the phases of life | Persons-Activities of, and associations with, identifiable individuals, families and communal groups | Associations with Aaron Muron Bolot, architect- |

Assessment of significance

SHR Criteria a)

[Historical significance]

Cox's

Cottage or 'the Cottage', dating from 1810, is of State significance as one of the oldest weatherboard-clad dwellings in NSW and probably the oldest occupied residence in the country. Located on the early land grant made to the influential Cox family in the Mulgoa Valley, Cox's Cottage is historically significant and rare at a State level for retaining the original pastoral landscape of its immediate surrounds, providing evidence of colonial settlement patterns in the western part of the Cumberland Plain and of early attempts at farming and viticulture in the Sydney region.

SHR Criteria b)

[Associative significance]

The

property has historical associational significance at a State level through its strong associations with several generations of the Cox family, who were important in the development of agricultural and pastoral industries in the colony of NSW, including William Cox, who supervised the first road over the Blue Mountains. William and other members of the Cox family were instrumental in developing the Mulgoa Valley and the houses they erected include some of the most significant surviving colonial residences in NSW. The land is considered to have historical associational significance at a State level.

SHR Criteria c)

[Aesthetic significance]

The house is of State aesthetic significance

as a relatively intact colonial cottage, thought to be the oldest weatherboard-clad dwelling in Australia and probably the oldest occupied residence in the country. Its surrounding fields are also of State significance for providing an intact pastoral landscape setting for 'the Cottage'. This cultural landscape remains substantially intact unlike the settings of many other colonial homesteads on the Cumberland Plain. The land also has potential local natural heritage significance since it includes remnant riparian vegetation (albeit with a species composition that includes a number of exotic species, including weeds), that is part of a wildlife corridor along Mulgoa Creek which may be the last of western Sydney's waterways to remain in a natural, largely undisturbed state.

SHR Criteria d)

[Social significance]

Cox's


Cottage is of social significance at a State level for the esteem in which it is held by heritage organisations and other community groups including the Australian Garden History Society and National Trust of Australia (NSW)) as well as the locally based Mulgoa Progress association and Mulgoa Valley Landcare Group.

SHR Criteria e)

[Research potential]

Cox's Cottage has research potential at a State

level for the tangible evidence of its early nineteenth century heritage fabric including The Cottage and the former vineyard terracing on Lot 2 dating from the first half of the 19th century. The property is considered likely to contain other archaeological evidence relating to the Cox family period of occupation of the area, including possible building sites and orchard locations.

| | |
|--|---|
| SHR Criteria f) [Rarity] | Cox's Cottage has rarity value at a State level as an integral part of one of the most significant cultural landscapes in NSW, namely the Mulgoa Valley landscape which is also associated with 'Fernhill' and St Thomas' Anglican Church. This is a designed landscape which includes historic and existing visual links between the three properties and which demonstrates attempts by early European settlers to manipulate the native vegetation to achieve a particular design outcome. |
| SHR Criteria g) [Representativeness] | Cox's Cottage is of State significance as representative of early colonial homesteads and cultural landscapes associated with early farming practices in the western part of the Cumberland Plain. |
| Assessment criteria: | Items are assessed against the  State Heritage Register (SHR) Criteria to determine the level of significance. Refer to the Listings below for the level of statutory protection. |

Procedures /Exemptions

| Section of act | Description | Title | Comments | Action date |
|----------------|-------------------------|---|--|-------------|
| 57(2) | Exemption to allow work | Standard Exemptions | <p>SCHEDULE OF STANDARD EXEMPTIONS HERITAGE ACT 1977</p> <p>Notice of Order Under Section 57 (2) of the Heritage Act 1977</p> <p>I, the Minister for Planning, pursuant to subsection 57(2) of the Heritage Act 1977, on the recommendation of the Heritage Council of New South Wales, do by this Order:</p> <p>1. revoke the Schedule of Exemptions to subsection 57(1) of the Heritage Act made under subsection 57 (2) and published in the Government Gazette on 22 February 2008; and</p> <p>2. grant standard exemptions from subsection 57(1) of the Heritage Act 1977, described in the Schedule attached.</p> <p>FRANK SARTOR Minister for Planning</p> <p>Sydney, 11 July 2008</p> <p>To view the schedule click on the Standard Exemptions for Works Requiring Heritage Council Approval link below.</p> | Oct 8 2010 |
| 57(2) | Exemption to allow work | Heritage Act - Site Specific Exemptions | <p>(a) All activities associated with the ongoing use of the land for pastoral, agricultural or agistment purposes, excluding any new development that may materially affect the significance of the item.</p> <p>(b) All activities associated with the rehabilitation and re-vegetation of the landscape where these activities do not involve the disturbance of the early nineteenth century vineyard terracing and do not materially affect the significance of the</p> | Oct 8 2010 |

| | | | | |
|--|--|--|-------|--|
| | | | item. | |
|--|--|--|-------|--|

 **Standard exemptions** for works requiring Heritage Council approval

Listings

| Heritage Listing | Listing Title | Listing Number | Gazette Date | Gazette Number | Gazette Page |
|--|-------------------|----------------|--------------|----------------|--------------|
| Heritage Act - State Heritage Register | | 00171 | 02 Apr 99 | 27 | 1546 |
| Heritage Act - Permanent Conservation Order - former | | 00171 | 31 Dec 82 | 182 | 6066 |
| Regional Environmental Plan | Mulgoa Valley REP | | 07 Oct 87 | | |
| Local Environmental Plan | Cox's cottage | MV-2 | 20 Dec 91 | | |
| National Trust of Australia register | | 10453 | | | |
| Register of the National Estate | | | 21 Mar 78 | | |

Study details

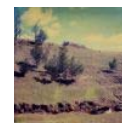
| Title | Year | Number | Author | Inspected by | Guidelines used |
|--|------|--------|--|--------------|-----------------|
| Heritage Study of the City of Penrith | 1987 | | Fox & Associates | | No |
| Sydney Regional Environmental Plan - No.13 - Mulgoa Valley | 1987 | | Department of Environment and Planning | | No |

References, internet links & images

| Type | Author | Year | Title | Internet Links |
|---------|---|------|---|----------------|
| Written | Birmingham, Judy, Jack, Ian & Jeans, Dennis | 1979 | Australian Pioneer Technology | |
| Written | C.H. Bertie | 0 | 'Australian Pioneer Families: 2. The Cox Family', The Home | |
| Written | Chippindall, Louise / Broadbent, James | 1979 | 'The Cottage, Mulgoa' entry, in National Trust of Australia (NSW), Inspection no. 274, Mulgoa Days, Saturday 24/3 or Sunday 25/3/1979 | |
| Written | Clibborn, T | 1885 | Catalogue of the Fernhill Stud Horses | |

| | | | | |
|---------|-------------------------------------|------|--|--|
| Written | Colleen Morris and Geoffrey Britton | 2000 | Colonial Landscapes of the Cumberland Plain and Camden | |
| Written | James Broadbent | 2004 | "On the verandah", Australia's Open garden Scheme 2004-05: The Essential Guide to Australia's Open Gardens | |
| Written | James Meehan | 1811 | Surveyor's field notes 1811-1813 [State Library of NSW] | |
| Written | Kinhill Stearns | 1983 | Mulgoa Valley Regional Environmental Study | |
| Written | Michael Walters | 2003 | Colonial Boy (100 amazing Sydney homes) SMH 15/11/03 | |
| Written | Mundy, G C | 1857 | Our Antipodes | |
| Written | Palmer, Freda | 1972 | "The Cottage, Mamre and Leeholme" | |
| Written | Proudfoot, Helen | 1987 | Exploring Sydney's West | |
| Written | Purdy, Barbara | 1969 | 'The Cox Family in the Mulgoa Valley'. | |
| Written | Watson | 1917 | 'Mulgoa Present and Past', Journal of the Royal Australian Historical Society, Vol. IV, 1917, pp.161-196 | |

Note: internet links may be to web pages, documents or images.



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Appendix E

Council reports and minutes endorsing this planning proposal

2 Planning Proposal - Prohibition of cemeteries and crematoriums in Mulgoa Valley and Wallacia

Compiled by: Danielle Fox, Planner
Authorised by: Abdul Cheema, City Planning Coordinator
Requested By: Councillor Ross Fowler OAM

| | |
|-------------------------|--|
| Outcome | <i>We plan for our future growth</i> |
| Strategy | <i>Protect the City's natural areas, heritage and character</i> |
| Service Activity | <i>Maintain a contemporary framework of land use and contribution policies, strategies and statutory plans</i> |

Previous Items: Prohibition on the establishment of cemeteries in the Mulgoa Valley- Ordinary Meeting - 24 Jul 2017

Procedural note: Section 375A of the Local Government Act 1993 requires that a division be called in relation to this matter.

Executive Summary

Council has prepared a planning proposal seeking to amend Penrith Local Environmental Plan 2010 (LEP) to prohibit cemeteries and crematoriums in the Mulgoa Valley and Wallacia. It is proposed to remove 'cemeteries' from the E3 Environment Management zone land use table, create a new provision that prohibits 'cemeteries' and 'crematoriums' in the subject area, overrides Clause 5.10.10 *Heritage conservation incentive* and any other provision of the LEP as it relates to this use.

This report outlines the objectives and justification for this planning proposal, how the objectives will be achieved, the development process, and the next steps in progressing the planning proposal through the Department of Planning and Environment's Gateway Process.

Background

At Council's Ordinary Meeting of 26 June 2017, Councillor Ross Fowler OAM requested that an urgent report be presented to the next Ordinary Meeting of Council looking at the case for Council to prohibit the establishment of cemeteries in the Mulgoa Valley.

A report on "Prohibition on the establishment of cemeteries in the Mulgoa Valley" was presented at Council's Ordinary meeting of 24 July 2017. At that meeting Council resolved that:

1. Council prepare a planning proposal to:
 - a. amend LEP 2010 to remove "cemeteries" and "crematoriums" from the list of land uses permitted with consent from the E3 Environmental management zone;
 - b. include an additional local provision that recognises the landscape value of the Wallacia Area and Mulgoa Valley, prohibits cemetery and crematoria development and overrides any other provision of LEP 2010.

2. Council advise the NSW Government and the Greater Sydney Commission of its decision and offer to work with them in relation to the long term planning for the provision of cemeteries in suitable locations.
3. Council write to the Premier for NSW, The Hon Gladys Berejiklian and the Minister for Planning, The Hon Anthony Roberts MP, seeking their support for the planning proposal detailed in Recommendation 1 above.

The Mulgoa Valley and Wallacia (the subject area) is shown in Attachment 1. It is located in the south west of the Local Government Area (LGA), bound on the west by the Nepean River and Blue Mountains National Park, on the south by the village of Wallacia, on the east by Luddenham and on the north by Glenmore Park and Regentville.

The Mulgoa Valley contains significant rural landscape, including agricultural qualities, cultural heritage values, scenic values and the setting of the villages of Mulgoa and Wallacia. The suburb of Wallacia contains large rural residential lots, it forms part of the southern gateway into the Penrith LGA and contains the village of Wallacia. The combined size of the subject area is 5507 hectares.

Penrith LEP 2010, which was gazetted on 22 September 2010, applies to the land. The applicable zonings for the subject area are shown in Attachment 2. There are three zones within the subject area where cemeteries and/or crematoriums are permissible with consent. These are the E3 Environmental Management zone, RU2 Rural Landscape zone and RU4 Primary Production Small Lots zone.

The LEP prescribes some limited development standards which are intended to protect and enhance the values and qualities of the Mulgoa Valley, and the villages of Mulgoa and Wallacia. These limited development standards do not extend across the broader subject area to which Council's resolution applies to.

A planning proposal seeking to amend the LEP to prohibit cemeteries and crematoriums within the subject area and to override the operation of any other provision of the LEP (as it relates to cemeteries and crematoriums) has been prepared and is included as Attachment 3. There are other provisions within the LEP that may permit cemeteries and crematoriums to be established even though prohibited within the zone. Clause 5.10.10 *Heritage conservation incentive*, is an example of one of these provisions that this planning proposal is specifically seeking to override.

The historical significant and unique qualities of the Mulgoa Valley have been held in high regard by communities at a local and regional level. Prior to the LEP, planning controls applying to the Mulgoa Valley were set in *State Regional Environmental Plan 13 Mulgoa Valley* (SREP 13). In the early 1980's, the Mulgoa Valley was recognised as an area of archaeological and cultural importance. Competing land uses and development were seen to threaten the valley's rural character and heritage values. This led to the commissioning of the Mulgoa Valley Regional Environmental Study and the preparation of SREP 13. The SREP 13 controls have been incorporated into the LEP and Penrith Development Control Plan 2014 (DCP). However more work needs to be done to protect the Mulgoa Valley's unique qualities. Council has resolved to provide a further layer of protection to the subject area from development pressures that are considered in conflict with this areas historic and unique landscape qualities.

Amendment to Penrith LEP 2010

The objective of the planning proposal is to amend Penrith LEP 2010:

- to further recognise, reinforce and protect the significant landscape values and qualities of the Mulgoa Valley and Wallacia for future generations, and,
- to ensure land uses within the Mulgoa Valley and Wallacia, specifically cemeteries and crematoriums, that have the potential to permanently and negatively impact these significant qualities are prohibited.

The subject area for this planning proposal includes all the Mulgoa Valley (as defined in the LEP Clause Application Map) and extends its western boundary to the LGA boundary, and, includes the suburb of Wallacia.

The planning proposal seeks to achieve the abovementioned objectives by:

- Removing 'cemeteries' from the list of land uses permitted with consent under the E3 Environment Management zone. The zones within the subject area where cemeteries and crematoriums are permitted with development consent are shown in Attachment 4. The E3 Environment Management zone is the predominant zone within the subject area. Removing cemeteries from the land use table of E3 Environment Management zone will result in no land in the subject area where cemeteries are permitted with consent, apart from a small area of RU2 zoned land in Mulgoa containing a landfill depot and some RU4 land in the northern part of the subject area.

Council's resolved to remove crematoriums from the list of land uses permitted with consent from the E3 zone on 24 July 2017. Crematoriums are defined separately in the LEP. This part of the resolution is not required as crematoriums are currently prohibited in the E3 zone.

- Including a local provision to Penrith LEP2010 that:
 - recognises the landscape value of the Mulgoa Valley and Wallacia
 - prohibits cemetery and crematorium development in the subject area, and,
 - overrides any other provision of the LEP including Clause 5.10.10 in relation to cemeteries and crematoriums.

This local provision will operate to prohibit cemeteries and crematoriums within the RU2 and RU4 land in the subject area and override existing provisions (such as Clause 5.10.10 *Heritage conservation incentives*) in the LEP that may allow consent to be granted.

The Penrith LEP 2010 contains a provision in Clause 5.10.10 *Heritage conservation incentives*, that allows the consent authority to grant consent for a purpose that would otherwise not be permitted, in order to conserve a heritage item or place of Aboriginal heritage significance. This clause has the potential to allow the establishment of cemeteries and crematoriums, due to the concentration of heritage items and places within the Mulgoa Valley and surrounding area. (Attachment 5 shows Penrith LEP 2010 heritage items within the subject area). The proposed new provision seeks to identify the subject area with a new layer in the Clause Application map that will override the operation of Clause 5.10.10.

If Council resolves to proceed with the planning proposal, the development of cemeteries and crematoriums within the LGA to meet future demand, would be provided only in the RU2 and RU4 zones (excluding RU2 and RU4 land in the Mulgoa Valley). These areas are primarily located in the south eastern and northern parts of the LGA. In addition to the above

zones the development of crematorium would also be permitted in the IN2 Light Industrial zone.

Council is committed to working with the Department of Planning and Environment, and the Greater Sydney Commission on a regional planning approach to the appropriate provision of land for this purpose.

Justification of the Planning Proposal

The purpose of this planning proposal is to protect and enhance the rural, heritage and landscape qualities and values of the subject area. The following outlines the specific landscape and heritage qualities and values within the Mulgoa Valley and Wallacia that this planning proposal seeks to protect:

- the Mulgoa Valley is characterised by its rural landscape including creek flats, wooded hills and escarpment areas, established estate gardens and open grassed and treed parklands. It is strategically located on the metropolitan fringe, close to urban areas of Penrith. It has local and regional significance.
- the Mulgoa Valley was intensely used by Aboriginal communities. A large number of sites have been recorded from limited surveys, suggesting many sites are almost certainly undetected.
- the Mulgoa Valley was first settled by Europeans in the 1800's. Its significance lies in the surviving sites, buildings, gardens and pastoral landscapes. These sites provide the best physical evidence remaining in NSW of Australia's colonisation and the impact on the landscape.
- a significant heritage component of the Mulgoa Valley is its landscape. The Valley contains evidence of early man-made landscapes using the principles of selective forest thinning, that appreciates the natural environment creating a unique landscape in the valley that survives today, with very few other instances in NSW.
- the cultural significance of the valley comes from its early history. The Valley contains a concentration of houses and sites dating back to the early colonial period. These houses and sites can be found in a relatively unaltered landscape.
- the vistas from the major heritage items in the valley are shown in the Penrith LEP 2010 Scenic Landscape Values map.

Development for the purposes of cemeteries and crematoriums have the potential to impact the following:

- land contamination
- air quality issues
- traffic issues
- groundwater contamination
- land use conflicts
- bio security impacts and food safety
- rural character and visual impacts
- loss of productive agricultural land in the Sydney basin

- use of the land in perpetuity for cemeteries

These impacts have the potential to irreparably damage the unique landscape and heritage qualities and values within the Mulgoa Valley and Wallacia.

Development Assessment Process

With regards to a Development Assessment process, it should be noted that:

- The preparation of a planning proposal is the first stage in seeking to amend the LEP. The entire process can take around 12 months to complete.
- A planning proposal that is or has been the subject of public consultation, must be taken into consideration in the assessment of any Development Application (DA) that is received. This planning proposal will be exhibited immediately upon receipt of a Gateway Determination. It is hoped that this could occur before the end of the year.
- Until then, a proponent can lodge a DA that will be assessed on the current provisions of the LEP, including the zone objectives, the permissibility of the use under the land use table for the zone, additional local provisions for the Mulgoa Valley, scenic character and landscape values and the heritage conservation incentive clause if applicable.
- Under the Crown Land Act 1989, a proponent can create a crown trust and lodge a DA that is assessed by the Sydney West Planning Panel and cannot be refused without the consent of the Minister.

Notwithstanding, the amount of time and number of steps required to amend a LEP, the ability for a DA to be lodged and assessed on current LEP provisions, and, the provisions of the Crown Land Act 1989, Council's endorsement of this planning proposal succeeds in immediately stating a clear policy position regarding the establishment of this use within the subject area.

Next Steps

In accordance with Council's resolution of 24 July 2017, Council has advised the NSW Government and the Greater Sydney Commission of its decision to pursue this planning proposal and offer to work with them. A letter was also sent to the Premier for NSW The Hon Gladys Berejiklian, and the Minister for Planning, The Hon Anthony Roberts MP, seeking their support for the planning proposal.

Should Council endorse the recommendations, the following steps will occur in accordance with the Environmental Planning and Assessment Act 1979:

1. Council officers will finalise the planning proposal, written instrument and associated maps.
2. Upon resolution of Council, the planning proposal will be forwarded to the Minister for Planning & Environment / Greater Sydney Commission, seeking a 'Gateway Determination' and authorisation that the LEP plan making process may proceed.
3. Council officers will liaise with the Department of Planning & Environment / Greater Sydney Commission and negotiate any changes sought by the Department in the lead up to the Gateway Determination.

4. The Gateway Determination will, amongst other things, authorise a list of public authorities that Council must consult prior to finalisation of the planning proposal for public exhibition.
5. The planning proposal will be publicly exhibited.
6. Submissions to the planning proposal public exhibition will be reviewed, and recommendations prepared for Council's consideration.
7. The planning proposal will be presented to Council for endorsement and then forwarded to the Minister of Planning & Environment / Greater Sydney Commission to make the LEP.

During this process, amendments to the draft planning proposal will continue to be made. These changes may result from further consultations (such as with relevant government agencies), directions or suggestions from the DP&E.

Conclusion

A planning proposal seeking to prohibit cemeteries and crematoriums in the Mulgoa Valley and Wallacia has been prepared. The rationale for this planning proposal lies in recognising the importance of the Mulgoa Valley and protecting it from the type of development that would leave an irreparable scar on the landscape and jeopardise its significance and value to future generations. This planning proposal seeks to achieve this by amending the Penrith LEP 2010 to remove cemeteries from the E3 Environment Management zone; including an additional local provision that prohibits cemeteries and crematoriums in the subject area, and, overrides the heritage conservation incentive clause and any other clause in the LEP as it pertains to the permissibility of cemeteries and crematorium.

RECOMMENDATION

That:

1. The information contained in the report on Planning Proposal - Prohibition of cemeteries and crematoriums in Mulgoa Valley and Wallacia be received
2. Council sponsor and endorse the attached "Planning Proposal - Prohibition of cemeteries and crematoriums in Mulgoa Valley and Wallacia" to be forwarded to the Department of Planning and Environment/ Greater Sydney Commission seeking a Gateway Determination under s56 of the Environmental Planning and Assessment Act 1979.
3. The General Manager be granted delegation to update and finalise the Planning Proposal, written instrument and associated maps before submitting it to the Department of Planning & Environment / Greater Sydney Commission seeking the Gateway Determination.
4. Council seek approval from the Gateway to publicly exhibit the "Planning Proposal - Prohibition of cemeteries and crematoriums in Mulgoa Valley and Wallacia" in accordance with the community consultation requirements under s57 of the EP&A Act, and in a form consistent with any revisions of the Planning Proposal directed by the Department of Planning & Environment as part of the s56 Gateway Determination.

5. The Greater Sydney Commission be requested to delegate its authority for Council to finalise and make the proposed amendment to Penrith Local Environmental Plan 2010.
6. A further report be presented to Council following the Public Exhibition.

ATTACHMENTS/APPENDICES

| | | |
|---|-----------|----------------------|
| 1. Map showing the Subject Area - Mulgoa Valley and Wallacia | 1 Page | Attachments Included |
| 2. Zoning Map of the Subject Area | 1 Page | Attachments Included |
| 3. Planning Proposal - Prohibition of cemeteries and crematoriums in Mulgoa Valley and Wallacia | 123 Pages | Attachments Included |
| 4. Map showing zones that permit Cemeteries and Crematoriums within the Subject Area | 1 Page | Attachments Included |
| 5. Map showing Heritage Sites and Heritage Item vistas in Mulgoa and Wallacia | 1 Page | Attachments Included |

DELIVERY PROGRAM REPORTS

OUTCOME 2 - WE PLAN FOR OUR FUTURE GROWTH

2 Planning Proposal - Prohibition of cemeteries and crematoriums in Mulgoa Valley and Wallacia

1 RESOLVED on the MOTION of Councillor Ross Fowler OAM seconded Councillor Tricia Hitchen

That:

1. The information contained in the report on Planning Proposal - Prohibition of cemeteries and crematoriums in Mulgoa Valley and Wallacia be received
2. Council sponsor and endorse the attached "Planning Proposal - Prohibition of cemeteries and crematoriums in Mulgoa Valley and Wallacia" to be forwarded to the Department of Planning and Environment/ Greater Sydney Commission seeking a Gateway Determination under s56 of the Environmental Planning and Assessment Act 1979 after amending the subject area to exclude land zoned RU1 – Primary Production in Wallacia.
3. The General Manager be granted delegation to update and finalise the Planning Proposal, written instrument and associated maps before submitting it to the Department of Planning & Environment / Greater Sydney Commission seeking the Gateway Determination.
4. Council seek approval from the Gateway to publicly exhibit the "Planning Proposal - Prohibition of cemeteries and crematoriums in Mulgoa Valley and Wallacia" in accordance with the community consultation requirements under s57 of the EP&A Act, and in a form consistent with any revisions of the Planning Proposal directed by the Department of Planning & Environment as part of the s56 Gateway Determination.
5. The Greater Sydney Commission be requested to delegate its authority for Council to finalise and make the proposed amendment to Penrith Local Environmental Plan 2010.
6. A further report be presented to Council following the Public Exhibition.

In accordance with Section 375A of the Local Government Act 1993, a DIVISION was then called with the following result:

For

Councillor Kath Presdee
Councillor Bernard Bratusa
Councillor Kevin Crameri OAM
Councillor Karen McKeown
Councillor John Thain
Councillor Greg Davies
Councillor Mark Davies
Councillor Ross Fowler OAM
Councillor Tricia Hitchen
Councillor Marcus Cornish
Councillor Joshua Hoole
Councillor Aaron Duke
Councillor Todd Carney
Councillor Ben Price

Against