

Planning Services

IRF18/7089

Gateway determination report

LGA	Goulburn Mulwaree
PPA	Goulburn Mulwaree Council
NAME	Planning proposal to remove cemeteries as permissible with consent from the E2 Environmental Conservation and E3 Environmental Management zones of the Goulburn Mulwaree LEP 2009 (0 homes, 0 jobs)
NUMBER	PP_2018_GOULB_001_00
LEP TO BE AMENDED	Goulburn Mulwaree LEP 2009
ADDRESS	Various
DESCRIPTION	Lots 1 and 2 DP1130082, Bungonia Lot 7312 DP1145878, Tallong
RECEIVED	17 December 2018
FILE NO.	IRF18/7089
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

INTRODUCTION

Description of planning proposal

The planning proposal seeks to remove cemeteries as a permissible use in the E2 Environmental Conservation and E3 Environmental Management zones. It also seeks to allow cemeteries to continue as a permissible use on two operational cemeteries in Tallong and Bungonia by including the sites in Schedule 1 Additional Permitted Uses of the Goulburn Mulwaree Local Environmental Plan (LEP) 2009.

Site description

The planning proposal applies to various areas in the Goulburn Mulwaree LGA that are zoned E2 Environmental Conservation or E3 Environmental Management, including two operational cemeteries in Bungonia and Tallong, which are 20km south-east and 30km north-east of Goulburn respectively (Figure 1, next page).

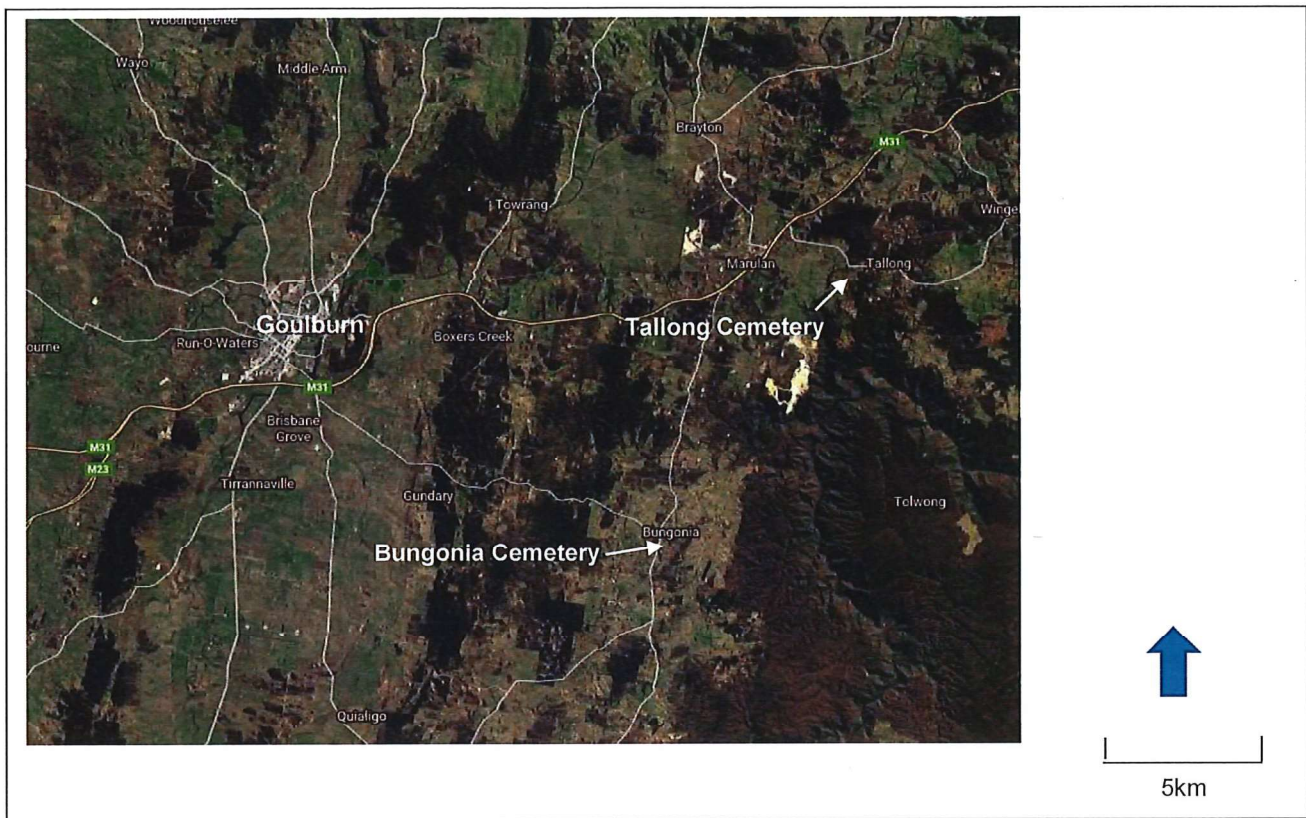


Figure 1: Site map (source: Google maps).

Surrounding area

Bungonia Cemetery

Bungonia Cemetery is on the Oallen Ford Road approximately 400m south of the village of Bungonia as identified in Figure 2 (next page). The cemetery adjoins rural land to the south, east and west. It is identified as a local heritage item in the Goulburn Mulwaree LEP 2009. There is no significant vegetation on the site.

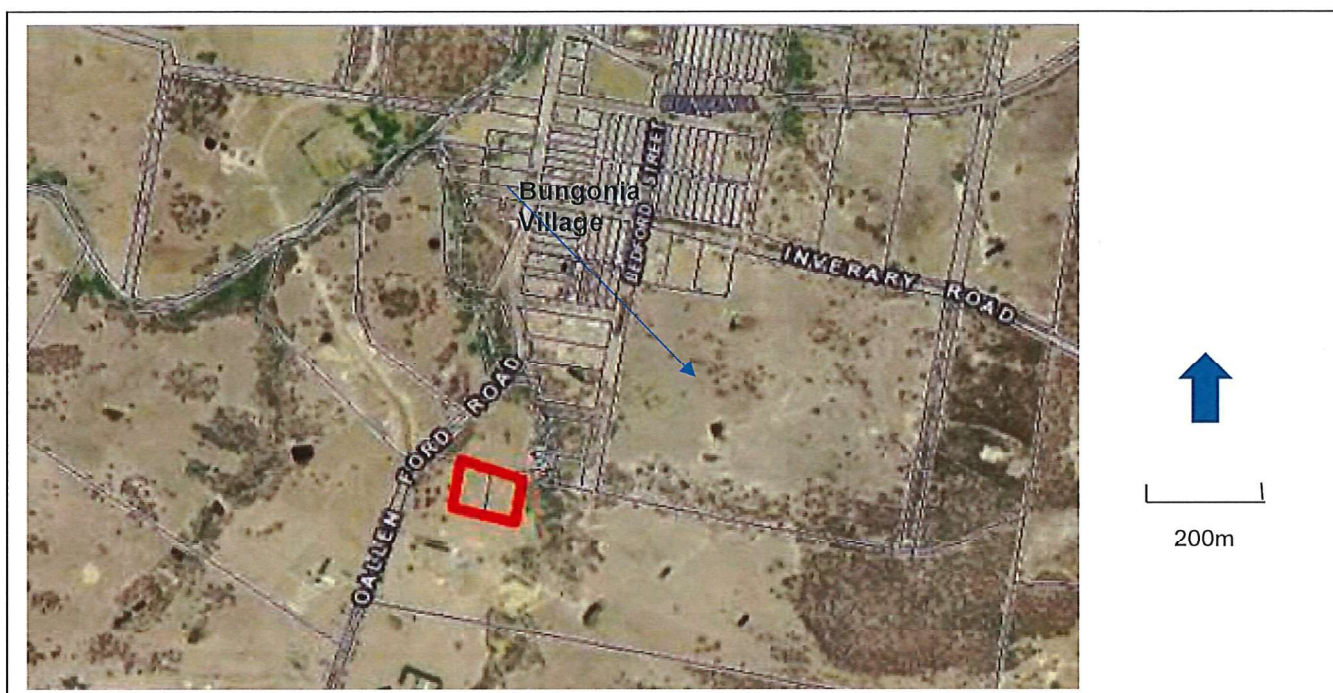


Figure 2: Bungonia Cemetery outlined red (source: Goulburn Mulwaree planning proposal, December 2018).

Tallong Cemetery

Tallong Cemetery is approximately 2.5km east of the village of Tallong and fronts Long Point Road (Figure 3). The property has an area of approximately 2.5ha. The cemetery is surrounded by rural activities and has a 75% cover of native vegetation.



Figure 3: Tallong Cemetery outlined red (source: Goulburn Mulwaree planning proposal, December 2018).

Existing planning controls

The planning proposal applies to all land in the LGA that is zoned E2 Environmental Conservation or E3 Environmental Management under the Goulburn Mulwaree LEP 2009. This includes the Bungonia and Tallong cemeteries, which are zoned E3 Environmental Management. Cemeteries are permissible with consent in the E3 and E2 zones.

Summary of recommendation

It is recommended that the planning proposal proceed to a Gateway determination as proposed.

PROPOSAL

Objectives or intended outcomes

The stated intended outcome of the planning proposal is to amend the Goulburn Mulwaree LEP 2009 to prohibit cemeteries in the E3 Environmental Management and E2 Environmental Conservation zones so cemeteries and ancillary development do not impact on environmentally sensitive land.

The second objective of the proposal is to allow historic operational cemeteries in their current locations under the LEP.

It is considered that the objectives and intended outcomes of the planning proposal are adequate.

Explanation of provisions

The planning proposal states that the proposal seeks to amend the Goulburn Mulwaree LEP 2009 by:

- amending the land-use table for the E2 Environmental Conservation zone by removing 'cemeteries' as a permitted use;
- amending the land-use table for the E3 Environmental Management zone by removing 'cemeteries' as a permitted use; and
- revising Schedule 1 Additional Permitted Uses by including cemeteries as an additional permitted use for the following lots:
 - Lot 7312 DP1145878 (Tallong);
 - Lot 1 DP89405 (Bungonia); and
 - Lot 2 DP1130082 (Bungonia).

It is considered that the explanation of provisions provided in the planning proposal is adequate.

Mapping

The planning proposal provides locality maps for the Bungonia and Tallong cemeteries. The LEP does not provide draft additional permitted uses maps for the Bungonia and Tallong cemeteries and it is not proposed to introduce these maps. As the additional uses will apply to the entire affected lots, it is not considered necessary to prepare additional permitted uses maps.

NEED FOR THE PLANNING PROPOSAL

Council prepared the planning proposal in response to a review it undertook on the impact of cemeteries in the E2 and E3 zones under the Goulburn Mulwaree LEP 2009. Council carried out the review considering a recent large-scale cemetery

development proposal near Marulan and considered its direct and indirect impacts on environmentally sensitive land. Council considers that cemetery development is incompatible with the objectives of the E2 and E3 zones because of the impacts of clearing vegetation.

Council has prepared a Cemetery Plan of Management, which identifies there is capacity to meet demand for the next 45 years in the six Council-operated cemeteries in the LGA. The plan also identifies that there are an additional 33 privately maintained cemeteries in the LGA.

The planning proposal indicates it does not seek to prevent cemetery development in the Goulburn Mulwaree LGA, with cemeteries continuing to be permissible in the following zones subject to development consent:

- RU1 Primary Production;
- RU2 Rural Landscape;
- RU5 Village;
- RU6 Transition;
- R1 General Residential;
- R2 Low Density Residential;
- B2 Local Centre;
- IN2 Light Industrial; and
- SP2 Infrastructure (Cemeteries).

Council considers that the planning proposal is the best way to achieve the objectives and intended outcomes.

Council considered the options of seeking a revision of the standard definition of cemetery and associated buildings and controlling cemetery development through its development control plan. Council's view that the planning proposal is the most appropriate means to facilitate the proposed amendments to the Goulburn Mulwaree LEP 2009 is supported.

STRATEGIC ASSESSMENT

Regional

South East and Tablelands Regional Plan 2036

The planning proposal states that the proposal is consistent with the regional plan, particularly Goal 2 – A diverse environment interconnected by biodiversity corridors, and the following directions:

- Direction 14 – Protect important environmental assets: The planning proposal states that it will prohibit development that has a high propensity to damage land in environmental zones;
- Direction 15 – Enhance biodiversity connections: The planning proposal states that it will enhance biodiversity connections by preventing development that could sever key connections on environmentally sensitive land;

- Direction 17 – Mitigate and adapt to climate change: The planning proposal states that it will protect environmentally sensitive land, which will help adapt to climate change pressures; and
- Direction 18 – Secure water resources: The planning proposal states that it will protect the Sydney drinking water catchment, which will have a beneficial effect on water quality throughout the region.

It is considered that the planning proposal is consistent with the regional plan, particularly Goal 2 and Directions 14, 15, 17 and 18. The proposed removal of cemeteries and ancillary development as a permissible use in the E2 and E3 zones will protect important biodiversity, habitat corridors and Sydney drinking water catchment land.

It is considered that the planning proposal is also consistent with the following directions of the regional plan:

- Direction 22 – Build socially inclusive, safe and healthy communities: The proposal will ensure the continued operation of the Bungonia and Tallong cemeteries, which are important items of community infrastructure/services; and
- Direction 23 – Protect the region's heritage: The proposal will ensure the continued operation of the Bungonia cemetery, which is a local heritage item.

Local

Goulburn Mulwaree Strategy 2020

The planning proposal states that the proposal is consistent with the Goulburn Mulwaree Strategy 2020, particularly in terms of the community vision and environmental themes outlined in the strategy.

It is considered that the planning proposal is consistent with the strategy as it requires the protection of the natural environment and avoidance of land-use conflict.

Tablelands Regional Community Strategic Plan 2016-2036

The planning proposal identifies that it is consistent with the Tablelands strategic plan, particularly:

- Strategy EN1 – Protect and enhance the existing natural environment, including flora and fauna native to the region;
- Strategy EN2 – Adopt environmental sustainability practices;
- Strategy EN3 – Protect and rehabilitate waterways and catchments; and
- Strategy EN4 – Maintain a balance between growth, development and environmental protection through sensible planning.

It is considered that the planning proposal is consistent with the strategic plan because it will strengthen the protection of important environmental land zoned E2 and E3 by prohibiting cemeteries and ancillary uses, which are considered to be incompatible with the objectives of the E2 and E3 zones.

Goulburn Mulwaree Biodiversity Strategy

The planning proposal states that it is consistent with the Goulburn Mulwaree Biodiversity Strategy because:

- the strategy recommends that the E2 Environmental Conservation and E3 Environmental Management zones provide for environmentally sensitive uses and prohibit uses that would have a negative environmental impact; and
- by seeking to prohibit cemetery uses, it will help protect the environmental value of the E2 and E3 zones.

It is considered that the planning proposal is consistent with the biodiversity strategy as it will facilitate the protection of identified important biodiversity in the Goulburn Mulwaree LGA that is zoned E2 or E3.

Section 9.1 Ministerial Directions

The planning proposal states that it is consistent with all applicable section 9.1 Directions, namely:

Direction 1.5 Rural Lands

The planning proposal identifies that this Direction applies because the proposal affects land in an environmental (E2 and E3) zone. The planning proposal states it is consistent with this Direction because it will facilitate the protection of important environmental land from potentially incompatible land uses, which is consistent with the rural planning principles contained in State Environmental Planning Policy (Rural Lands) 2008.

It is considered that the planning proposal is consistent with this Direction because it will facilitate the protection of important environmental land and natural resources zoned E2 and E3 and this is consistent with the rural planning principles of the Rural Lands SEPP.

Direction 2.1 Environment Protection Zones

The planning proposal states that it is consistent with this Direction because it seeks to prohibit cemeteries in the E2 and E3 zones, which will protect environmental values from incompatible land uses.

It is considered that the planning proposal is consistent with this Direction for the reasons provided by Council in the planning proposal.

Direction 2.3 Heritage Conservation

The planning proposal states that it is consistent with this Direction because it seeks to protect a historical use for Bungonia Cemetery, which is a local heritage item.

It is considered that the planning proposal is consistent with this Direction for the reasons provided by Council in the planning proposal.

Direction 4.4 Planning for Bushfire Protection

The planning proposal states that the affected land is bushfire prone and the proposal is consistent with this Direction because it seeks to prohibit an inappropriate development, which encourages large gatherings of people, in a bushfire-prone area.

It is considered that the planning proposal is neither consistent nor inconsistent with this Direction until Council has consulted with the NSW Rural Fire Service (RFS) in accordance with the Direction.

It is recommended that Council consult with RFS before public consultation in accordance with this Direction and reflect any comments provided by RFS in the planning proposal.

Direction 5.2 Sydney Drinking Water Catchments

The planning proposal states that it is consistent with this Direction because it will have a beneficial impact on water quality by prohibiting cemeteries and ancillary development from land in the drinking water catchment that is zoned E2 or E3. Council did not consult with WaterNSW before lodging the planning proposal as required by this Direction but intends to consult with WaterNSW if a Gateway determination is issued.

It is considered that the planning proposal is likely to have a neutral or beneficial impact on water quality (as required by this Direction). However, it is considered that the planning proposal is inconsistent with this Direction because Council has not consulted with WaterNSW on the planning proposal, which is a requirement of this Direction. Council should provide further information to demonstrate that it has addressed the requirements of the Direction prior to finalising the planning proposal.

It is recommended that Council provide further information to demonstrate that it has addressed the requirements of this Direction before finalising the planning proposal.

Direction 5.10 Implementation of Regional Plans

As previously discussed, the planning proposal states that it is consistent with the South East and Tablelands Regional Plan. It is considered that the planning proposal is consistent with this Direction.

Direction 6.3 Site Specific Provisions

The planning proposal states that this Direction applies because the proposal seeks to include Schedule 1 Additional Permitted Uses, which are site-specific provisions, in the Goulburn Mulwaree LEP 2009 to allow cemeteries to continue to be a permissible use for the Bungonia and Tallong cemeteries.

Council considers that the planning proposal is consistent with this Direction because the proposal does not seek to impose any additional development standards or requirements on the subject sites beyond those already imposed by the LEP as required by section 4(c) of the Direction.

It is considered that the planning proposal is consistent with this Direction because it satisfies section 4(c) of the Direction.

State environmental planning policies (SEPPs)

The planning proposal identifies that the following SEPPs apply:

- SEPP (Rural Lands) 2008: The planning proposal states that it is consistent with this SEPP because, as previously discussed, it is consistent with, or not inconsistent with, the rural planning principles contained in the SEPP;
- SEPP (Sydney Drinking Water Catchment) 2011: The planning proposal states that it is consistent with this SEPP because it is likely to facilitate a neutral or beneficial effect on water quality in the Sydney drinking water catchment, which covers land zoned E2 and E3 under the Goulburn Mulwaree LEP 2009 and the entire Goulburn Mulwaree LGA; and

- SEPP (Vegetation in Non-Rural Areas) 2017: The proposal states that it is consistent with this SEPP because it seeks to prohibit potentially harmful development from taking place in environment protection zones.

Council's assessment that the planning proposal is consistent with applicable SEPPs is supported for the reasons provided by Council in the planning proposal. Council intends to consult with WaterNSW in relation to SEPP (Sydney Drinking Water Catchment) 2011 if a Gateway determination is issued.

SITE-SPECIFIC ASSESSMENT

Social

The planning proposal states that it will have a negligible social impact. Council's Cemetery Plan of Management 2012, which applies to the six Council-managed cemeteries in the LGA, states that based on the current use of graves, Council's facilities will last approximately 45 years, assuming the proportion of lawn and ashes interments remains consistent. There are also 33 privately run cemeteries in the LGA.

The planning proposal states that the loss of potential cemetery capacity in the E2 and E3 zones is considered to be of minimal impact in terms of the capacity to provide for cemeteries infrastructure in the LGA.

The proposal does not seek to change the permissibility of cemeteries in numerous zones in the Goulburn Mulwaree LEP 2009, including the RU1, RU2, RU5, RU6, R1, R2, B2, IN2 and SP2 zones.

Council has advised that the community supports the intent of the planning proposal to protect important environmental land in environmental zones from inappropriate development. The planning proposal will also protect the ongoing operation of the Bungonia and Tallong cemeteries.

Environmental

The planning proposal states that it will not impact on any critical habitat or threatened species, populations or ecological communities or their habitats. Rather, the proposal will protect environmentally sensitive land that is zoned E2 or E3 from inappropriate development.

It is considered that the planning proposal will not have any negative impacts but will have a positive impact by prohibiting an incompatible land use from the E2 and E3 zones.

Economic

The planning proposal states that it will have a negligible economic impact.

The planning proposal may impact economically on owners of land zoned E2 or E3 intending to operate a cemetery. However, there is the option to consider alternative development sites where cemeteries are permissible, such as on rural-zoned land. Council has determined that there is adequate capacity in the 39 cemeteries to meet current and future demand.

CONSULTATION

Community

Council proposes a 28-day exhibition period for the planning proposal and to notify the proposal in local media, on its website and via letters to affected landowners. It is considered that Council's proposed consultation on the planning proposal is suitable.

Agencies

Council proposes to consult with RFS and WaterNSW in accordance with the section 9.1 Directions. It is considered that Council's agency consultation is appropriate.

TIME FRAME

Council proposes to forward an LEP to the Department for notification by December 2019. It is considered that a 12-month time frame from the date of the Gateway determination to prepare and finalise a planning proposal/LEP is appropriate.

LOCAL PLAN-MAKING AUTHORITY

Council has requested to be authorised as the local plan-making authority. Given the minor impact and local significance of the planning proposal, it is considered that Council's request should be supported.

CONCLUSION

The planning proposal is supported to proceed with conditions for the following reasons:

- the proposal is consistent with the South East and Tablelands Regional Plan 2036, the Goulburn Mulwaree Strategy 2020, the Tablelands Regional Community Strategic Plan 2016-2036, the Goulburn Mulwaree Biodiversity Strategy, applicable section 9.1 Ministerial Directions (except Directions 4.4 and 5.2, which require further justification by Council), applicable state environmental planning policies and the objectives of the E2 and E3 zones under the Goulburn Mulwaree LEP 2009;
- the proposal will ensure the continued operation of the Bungonia and Tallong cemeteries;
- there is adequate capacity in existing cemeteries in the Goulburn Mulwaree LGA to meet forecast demand; and
- the proposal will not change the permissibility of cemeteries in other zones in the Goulburn Mulwaree LEP 2009 (cemeteries are permitted in the RU1, RU2, RU5, RU6, R1, R2, B2, IN2 and SP2 zones).

RECOMMENDATION

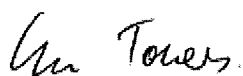
It is recommended that the delegate of the Secretary:

1. note that consistency with section 9.1 Directions 4.4 Planning for Bushfire Protection and 5.2 Sydney Drinking Water Catchments is unresolved and will require justification.

It is recommended that the delegate of the Minister determine that the planning proposal should proceed subject to the following conditions:

1. The planning proposal should be made available for community consultation for a minimum of 28 days.
2. Consultation is required with the following public authorities:
 - NSW Rural Fire Service; and
 - WaterNSW.
3. The time frame for completing the LEP is to be 12 months from the date of the Gateway determination.

4. Given the nature of the planning proposal, Council should be authorised as the local plan-making authority.



6/02/19

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6/02/2019

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