

**EGROW 05**

**Planning Proposal to amend Part 7 of Liverpool  
Local Environmental Plan 2008 to prohibit  
Cemetries and Crematoria in Wallacia**

<b>Strategic Direction</b>	Strengthening and Protecting our Environment Exercise planning controls to create high-quality, inclusive urban environments
<b>File Ref</b>	126847.2021
<b>Report By</b>	Kweku Aikins - Strategic Planner
<b>Approved By</b>	David Smith - Acting Director City Economy and Growth

**EXECUTIVE SUMMARY**

In response to a Notice of Motion (**Attachment 1**), Council resolved at the 24 February 2021 meeting to prepare a planning proposal similar to that of Penrith City Council, to prohibit cemeteries and crematoria in Wallacia.

As required by Council's resolution, a planning proposal has been drafted (**Attachment 2**). The planning proposal was reported to the Liverpool Local Planning Panel (LPP) on 3 May 2021 for advice (**Attachment 3**). The LPP advised that "...it is unable to conclude that the planning proposal has strategic merit..." and suggested that Council collaborate with Penrith City and Wollondilly Shire Councils to make a joint representation to the State Government encouraging it to undertake a proper strategic planning study to identify appropriate locations within the Sydney metropolitan area for the development of cemeteries and crematoria.

The advice of the LPP has been reviewed and it is considered that the planning proposal should proceed to a Gateway determination. This is on the basis that, despite being inconsistent with Objective 6 of the Greater Sydney Region Plan (GSRP), and Planning Priority 3 of the Western City District Plan (WCDP), the prohibition of cemeteries and crematoria in Wallacia will help to ensure that such land uses are only developed in appropriate locations. In addition, Objective 6 of the GSRP and Planning Priority 3 of the WCDP can be still achieved by collaborating with neighbouring Councils and NSW government agencies to ensure that the development of cemeteries and crematoria is addressed on a regional/metropolitan scale.

The planning assessment report prepared for the LPP is included in **Attachment 4**. The report outlines that the planning proposal has sufficient strategic and site-specific merit and recommends that the planning proposal be submitted to the Department of Planning, Industry and Environment (DPIE) for a Gateway determination.

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It is recommended that Council notes the advice of the LPP, submits the proposal to DPIE seeking a Gateway determination and collaborates with neighbouring Councils and the State Government to ensure that cemeteries and crematoria are developed in appropriate locations.

**RECOMMENDATION**

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That Council:

1. Notes the advice of the Liverpool Local Planning Panel;
2. Supports in principle the planning proposal to amend Part 7 (Division 2) of the *Liverpool Local Environmental Plan 2008* to prohibit cemeteries and crematoria in Wallacia;
3. Delegates to the CEO to make any typographical or other editing amendments to the planning proposal if required;
4. Forwards the planning proposal to the Department of Planning, Industry and Environment pursuant to Section 3.34 of the Environmental Planning and Assessment Act 1979, seeking a Gateway determination;
5. Subject to Gateway determination, undertake public exhibition and community consultation on the planning proposal in accordance with the conditions of the Gateway determination and Council's Community Participation Plan;
6. Receive a further report on the outcomes of public exhibition and community consultation; and
7. Collaborates with Penrith City and Wollondilly Shire Councils and the State Government to ensure that cemeteries and crematoria are only developed in appropriate locations.

**REPORT**

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Wallacia lies across the boundaries of the Penrith, Liverpool and Wollondilly local government areas (LGA) and is located approximately 23km west of the Liverpool city centre. The portion of Wallacia (within the Liverpool LGA) has an area of 676.92ha and is bound by the Nepean River to the west, the Penrith LGA to the north, the suburb of Greendale to the south and the suburb of Luddenham to the east. The area is predominantly characterised by rural allotments (with the minority being large residential lots) and is largely serviced by 3 roads and a tributary of the Nepean River (Duncan's Creek).

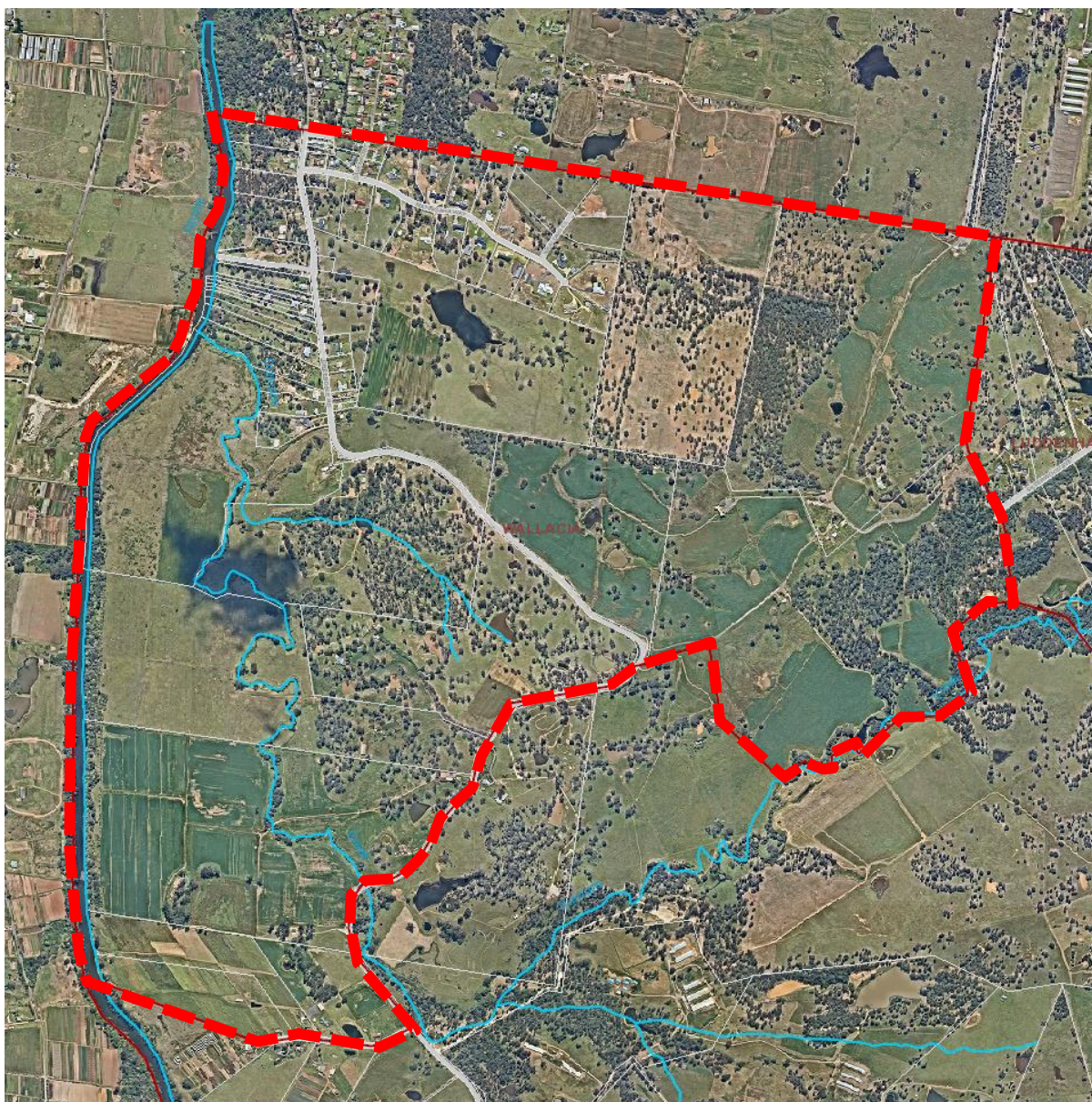


Figure 1 - Aerial image of the locality approximately outlined in red (Source: Near Map)

## Background

A Notice of Motion (NOM) and the Chief Executive Officer's Comment (**Attachment 1**) was considered at the ordinary Council meeting of 24 February 2021. Council resolved the following in relation to the Notice of Motion (NOM):

*That Council:*

1. *Direct the CEO to bring to the April Council Meeting a planning proposal similar to that of Penrith City Council seeking to amend our LEP prohibiting cemeteries and crematoriums within Wallacia;*
2. *Write to Wollondilly Council informing them of Penrith's planning proposal and Liverpool's proposed amendment and requesting the same; and*

3. *Notes its opposition to DA-1059/2020, a proposal for the construction of a cemetery at 1290 Greendale Road, Wallacia, housing 775,000 burials.*

The Chief Executive Officer's comment to this NOM outlined the detailed history of Council's attempts to limit the permissibility of cemeteries and crematoriums in inappropriate locations.

### **Planning Proposal**

A planning proposal (**Attachment 2**) has been drafted in accordance with *A guide to preparing planning proposals*, as updated, and published by DPIE in 2018. The planning proposal involves amending Part 7 (Division 2) of the LLEP 2008 to prohibit 'cemeteries' and 'crematoria' in the suburb of Wallacia.

### **Liverpool Local Planning Panel**

The planning proposal was reported to the Liverpool Local Planning Panel (LPP) on 29 March 2021. The LPP in providing their advice (**Attachment 3**) suggested that Council collaborate with Penrith City and Wollondilly Shire Councils to make a joint representation to the State Government encouraging it to undertake a proper strategic planning study to identify appropriate locations within the Sydney metropolitan area for the development of cemeteries and crematoria.

A summary of the LPP advice and Council staff response is provided in Table 1.

*Table 1 - Council staff response to LPP advice*

<b>LPP Advice</b>	<b>Council Staff Comment</b>
<i>In essence the Panel understands that the suburb of Wallacia contains areas of special scenic, environmental and agricultural value that are likely to be prejudiced by development for the purposes of cemeteries and crematoria. The Panel understands that the roads within the Wallacia locality are generally not designed to accommodate the large volumes of traffic movements that are often generated by cemeteries and crematoria.</i>	Noted.
<i>As the justification statement notes, the strategic merit of the planning proposal is limited by objective 6 of the GSRP, which aim to ensure sufficient provision is made for burials and cremations and associated activities in the Sydney Metropolitan area, but is supported by objective 28 of the GSRP, and priorities 16 and 17 of the WCDP relating to</i>	The contradictory objectives of the GSRP and WCDP were highlighted in the planning proposal and assessment report prepared by Council officers ( <b>Attachments 2 &amp; 4</b> ).  Despite the inconsistencies between the objectives and priorities of the two Plans, a

<p><i>the protection and enhancement of scenic and cultural landscapes.</i></p>	<p>balance can still be achieved by:</p> <ul style="list-style-type: none"> <li>• Prohibiting the development of cemeteries and crematoria in rural areas like Wallacia so that they are only provided in appropriate alternative locations; and</li> <li>• Collaborating with neighbouring Councils and the State Government so that this issue is addressed on a regional/metropolitan scale.</li> </ul> <p>The above approach will ensure that scenic and cultural landscapes are preserved, and that burial sites are still provided in the Greater Sydney metropolitan area.</p>
<p><i>The planning proposal does not appear to the Panel to be the result of a strategic planning exercise and does not conform with the plan making process prescribed by Part 3 of the Environmental Planning and Assessment Act 1979.</i></p>	<p>Although the proposal is not the result of any strategic planning exercise, the Panel has not provided any specific reasons as to why the proposal does not conform to the plan making process.</p> <p>The planning proposal justification report was prepared in accordance with DPIE's 'A Guide to Preparing Planning Proposals' and the proposed prohibition has been assessed against the Ministerial Directions and the relevant objectives of the Regional/Metropolitan, District and Local Strategic Plans. Therefore, the draft proposal has been prepared in accordance with the plan making process.</p>
<p><i>The location of cemeteries and crematoria is a Metropolitan wide issue and requires strategic planning on a Metropolitan scale. The planning proposal before the Panel, and a similar proposal in the adjoining Penrith LGA, highlight the obvious need for the State Government to strategically address the location of cemeteries and crematoria. Apart from conflicting objectives and priorities in the GSRP and WCDP, there does not appear to be any real attempt by the State Government to plan for these types of land uses at the</i></p>	<p>Noted. The planning proposal justification report prepared by Council officers (<b>Attachment 2</b>) highlights the need for cemeteries and crematoria to be considered on a regional/metropolitan scale, to ensure that a broader strategic approach is applied to the development of these facilities.</p>

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<p><i>Metropolitan level.</i></p>	
<p><i>The Panel considers it is unable to conclude that the planning proposal has strategic merit, solely on the basis of objective 6 of the GSRP.</i></p>	<p>Objective 6 of the GSRP relates to the provision of services and infrastructure to meet communities' changing needs (including cemeteries and crematoria). Although the proposal contradicts Objective 6 of the GRSP, it aligns with Objective 28 of the GRSP and priorities 16 and 17 of the Western City District Plan (WCDP), which all relate to the protection and enhancement of scenic and cultural landscapes in the Metropolitan Rural Area.</p> <p>Given that the objectives of the GSRP and WCDP were prepared by the Greater Sydney Commission (GSC), any inconsistency between the two Plans would need to be addressed by the State Government. Accordingly, the subject proposal should be forwarded to DPIE so that any relevant inconsistencies under the current strategic planning framework can be clarified during the Gateway determination process.</p>
<p><i>The Panel recommends Council consider joining with Penrith and Wollondilly Shire Council to make a joint representation to the State Government encouraging it to undertake a proper strategic planning study to identify locations within the Sydney metropolitan area that are not primary production resource land, scenic or cultural landscapes, ecologically sensitive including riparian and wildlife corridors, and are provided with an appropriate level of road access.</i></p>	<p>The NSW government should take a regional approach to the provision of cemeteries and crematoria. This was highlighted in the planning proposal justification report prepared by Council officers (<b>Attachment 2</b>). Further collaboration with neighbouring Councils and the State Government is encouraged, subject to Council endorsement.</p>

As outlined in Table 1, Council staff consider that the development of cemeteries and crematoria should be addressed on a regional/metropolitan scale. Therefore, it is imperative that all Councils in Greater Sydney take a consistent approach to the development of such land uses in appropriate locations. Although collaboration with neighbouring Councils and the State Government is encouraged, nothing prevents Council from proceeding with the subject proposal. The subject proposal is still consistent with Objective 28 of the GRSP; Priorities 16 and 17 of the WCDP; and Priority 16 of the Local Strategic Planning Statement

(LSPS) – Connected Liverpool 2040 (relating to the protection and enhancement of scenic and cultural landscapes).

### **Next Steps**

Given the above, it is recommended that the planning proposal be forwarded to DPIE for a Gateway determination. However, it is advised that Council makes a concerted effort to collaborate with neighbouring Councils and the State Government to ensure that a regional/metropolitan approach is applied to the development of cemeteries and crematoria. The collaborative efforts can occur concurrently to the Gateway determination process and should continue regardless of whether a Gateway determination is issued.

### **CONCLUSION**

The planning proposal sufficiently demonstrates both strategic and site-specific merit as it is consistent with the relevant objectives of the GSRP, WCDP and LSPS regarding the preservation of rural land. Therefore, it is recommended that Council provides in-principle support and endorses the planning proposal to proceed to a Gateway determination, noting that efforts should be made to collaborate with neighbouring Councils and the State Government to ensure that cemeteries and crematoria are developed in appropriate locations.

### **CONSIDERATIONS**

<b>Economic</b>	Facilitate economic development.
<b>Environment</b>	<p>Manage air, water, noise and chemical pollution.</p> <p>Retain viable opportunities for local food production while managing land use to meet urban growth.</p> <p>Protect, enhance and maintain areas of endangered ecological communities and high quality bushland as part of an attractive mix of land uses.</p>
<b>Social</b>	Preserve and maintain heritage, both landscape and cultural as urban development takes place.
<b>Civic Leadership</b>	<p>Encourage the community to engage in Council initiatives and actions.</p> <p>Provide information about Council's services, roles and decision making processes.</p> <p>Operate a well-developed governance system that demonstrates accountability, transparency and ethical conduct.</p>

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<b>Legislative</b>	Environmental Planning and Assessment Act 1979.
<b>Risk</b>	<p>The risk is deemed to be Low.</p> <p>As previously identified in the CEO comment on the original notice of motion, there is a risk that the planning proposal request will be denied by the Department of Planning, Industry and Environment at Gateway.</p> <p>The risk is considered within Council's risk appetite.</p>

**ATTACHMENTS**

1. Council Resolution (NOM 05) - 24 Febbruary 2021
2. Planning Proposal Justification Report (Under separate cover)
3. Local Planning Panel Advice (Under separate cover)
4. Planning Assessment Report (Under separate cover)

**Council**

**COUNCIL DECISION**

**Motion:**

**Moved: Cllr Hagarty**

**Seconded: Cllr Hadid**

That Council:

1. Notes the advice of the Liverpool Local Planning Panel;
2. Supports in principle the planning proposal to amend Part 7 (Division 2) of the *Liverpool Local Environmental Plan 2008* to prohibit cemeteries and crematoria in Wallacia;
3. Delegates to the CEO to make any typographical or other editing amendments to the planning proposal if required;
4. Forwards the planning proposal to the Department of Planning, Industry and Environment pursuant to Section 3.34 of the Environmental Planning and Assessment Act 1979, seeking a Gateway determination;
5. Subject to Gateway determination, undertake public exhibition and community consultation on the planning proposal in accordance with the conditions of the Gateway determination and Council's Community Participation Plan;
6. Receive a further report on the outcomes of public exhibition and community consultation; and
7. Collaborates with Penrith City and Wollondilly Shire Councils and the State Government to ensure that cemeteries and crematoria are only developed in appropriate locations.



On being put to the meeting the motion was declared CARRIED.

The Councillors voted unanimously for this item.