



Planning,  
Industry &  
Environment

IRF21/2351

## Gateway determination report – PP-2021-3702

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Prohibition of Cemeteries and Crematoria in Wallacia

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**Table 1 Reports and plans supporting the proposal**

Relevant reports and plans
N/A

# 1 Planning proposal

## 1.1 Overview

**Table 2 Planning proposal details**

LGA	LGA name
PPA	Liverpool City Council
NAME	Prohibition of Cemeteries and Crematoria in Wallacia
NUMBER	PP-2021-3702
LEP TO BE AMENDED	Liverpool Local Environmental Plan 2008
ADDRESS	Wallacia
DESCRIPTION	N/A
RECEIVED	31/05/2021
FILE NO.	IRF21/2351
POLITICAL DONATIONS	There are no donations or gifts to disclose and a political donation disclosure is not required
LOBBYIST CODE OF CONDUCT	There have been no meetings or communications with registered lobbyists with respect to this proposal

## 1.2 Objectives of planning proposal

The planning proposal contains objectives and intended outcomes that adequately explain the intent of the proposal.

The objectives of the planning proposal are to:

- Prohibit Cemeteries and Crematoria in a defined location in the suburb of Wallacia

The objectives of this planning proposal are clear and adequate.

## 1.3 Explanation of provisions

The planning proposal seeks to amend the Liverpool LEP 2008 per the changes below:

**Table 3 Current and proposed controls**

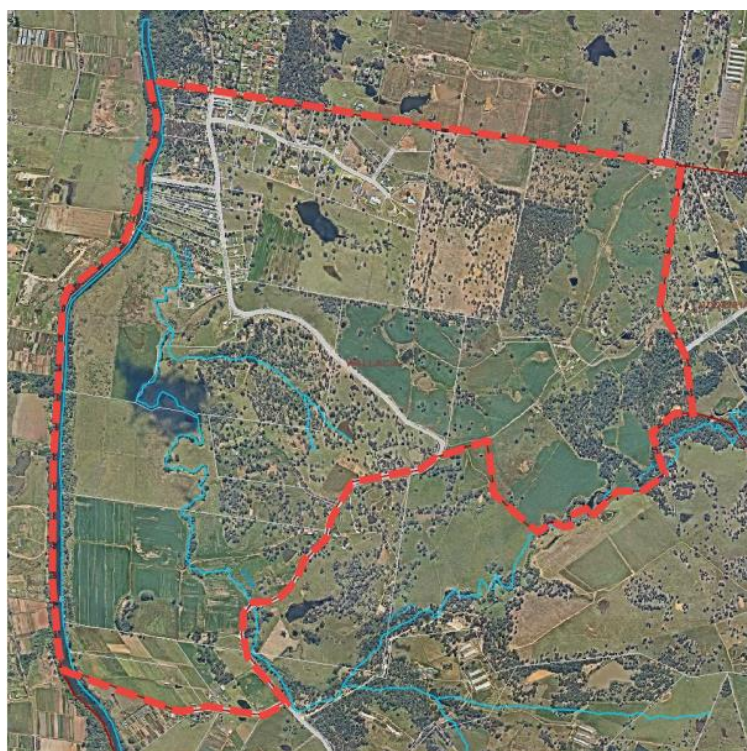
Control	Current	Proposed
Local Provisions	N/A	N/A

Clause 5.10 - Heritage conservation	Clause 5.10(10) - Conservation incentives to support a development that is not allowed elsewhere if a Heritage Management Plan is in-place for development of a heritage item or land that contains a heritage item.	Restrict Cemeteries and Crematoria the subject area applying to this clause.
Land use table – RU1, RU4 and R5 Zones	Cemeteries and Crematoria Permitted with Consent across the land uses	Prohibit Cemeteries and Crematoria in the subject area
Clause 5.3 – Development near zone boundaries	Allows for land use approval if the surrounding site allows for the use, despite it being prohibited on that site.	Restrict Cemeteries and Crematoria the subject area applying to this clause.

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

## 1.4 Site description and surrounding area

The proposal is identified to affect the area of Wallacia in **Figure 1** below. The suburb of Wallacia is across three Local Government Areas (LGAs) including Penrith, Liverpool and Wollondilly. The planning proposal notes the site is approximately 677ha and is bound by the Nepean River to the west, and the Penrith LGA to the north. The site is within the Metropolitan Rural Area (MRA) and predominantly contains rural allotments, and is currently zoned R5 Large Lot Residential, RU1 Primary Production and RU4 Primary Production Small Lots Zone.



**Figure 1 Subject site (source: Planning Proposal)**

## 1.5 Mapping

The planning proposal includes mapping showing the area subject to the proposed amendment. No amendments to LEP maps were proposed as part of this proposal.

## 1.6 Background

The proposal notes Council has received development applications for cemeteries and crematoria in rural areas, with objections from nearby residents. On 16 December 2020, a development application (DA) was received by the Council for a cemetery consisting of 775,000 burial plots. At Council's meeting of 24 February 2021, Council resolved to oppose the proposed DA at 1290 Greendale Road, Wallacia.

## 2 Need for the planning proposal

The Planning Proposal notes the proposed prohibition of cemeteries and crematoria is the best means of achieving the objectives and intended outcomes. Council identifies the alternative is amending the land use zone that prohibits the land uses.

The proposal notes it is not as a result of any strategic planning statement, strategic study or report.

In November 2017, Cemeteries and Crematoria NSW released its analysis of the remaining cemetery capacity in the Sydney metropolitan area. The analysis found cemetery capacity in metropolitan Sydney would be exhausted by 2051. In August 2020, the NSW government released its statutory review of the Cemeteries and Crematoria Act. This review identified Sydney is running out of burial spaces. If left unaddressed, the challenges will escalate quickly. No assessment of the need for burial spaces was included in this planning proposal.

The planning proposal seeks to prohibit Cemeteries and Crematoria due to their perceived impact to scenic and cultural landscape quality of the area. Alternative approaches to address the scenic, heritage and cultural landscape quality of an area has recently been applied to the Campbelltown Local Government Area for a cemetery at 166-176 St Andrews Road, Varroville. Clause 7.8A of the Campbelltown Local Environmental Plan 2015 identifies that development is only permitted with consent if the consent authority is satisfied that particular matters are addressed, including that the proposal will cause minimal effect on the visual or physical qualities of the site and the development will complement the landscape and scenic quality of the site. In addition, a conservation management plan applies to the site to provide management practices for the activity. This approach allows for the site-specific merit of a development application to address key planning impacts for the immediate surrounding area and the qualities of the landscape.

## 3 Strategic assessment

### 3.1 Regional Plan

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

**Table 4 Regional Plan assessment**

Regional Plan Objectives	Justification
<p><b>Objective 6</b> – Services and infrastructure meet communities' changing needs</p>	<p>Objective 6 of the GSRP identifies, Cemeteries and crematoria are key social infrastructure that also need to be accessible geographically and economically, and reflective of a diversity of cultures and backgrounds. A growing Greater Sydney requires additional land for burials and cremations with associated facilities such as reception space and car parking.</p> <p>Council is proposing to prohibit these land uses in the identified area of Wallacia.</p> <p>Council identified this priority limits the strategic merit of the proposal and that other priorities provide strategic merit to the proposal to ensure scenic and cultural landscapes are protected and enhanced.</p> <p>Given no assessment has been undertaken to determine whether the proposed amendment will impact on the ability for Greater Sydney to meet cremation and burial needs, the proposal is considered to conflict with this objective.</p>
<p><b>Objective 28/29</b> – Scenic and cultural landscapes are protected.</p> <p>Environmental, social and economic values in rural areas are protected and enhanced</p>	<p>Objective 28 and 29 seek to protect scenic and cultural landscapes and social values in rural areas.</p> <p>The proposal notes that by prohibiting Cemeteries and Crematoria in Wallacia, the existing character will be protected.</p> <p>Alternative approaches to address the scenic, social, heritage and cultural landscape quality of an area has recently been applied to the Campbelltown Local Government Area for a cemetery at 166-176 St Andrews Road, Varroville. Clause 7.8A of the Campbelltown Local Environmental Plan 2015 identifies that development is only permitted with consent if the consent authority is satisfied that particular matters are addressed, including that the proposal will cause minimal effect on the visual or physical qualities of the site and the development will complement the landscape and scenic quality of the site. In addition, a conservation management plan applies to the site to provide management practices for the activity. This approach allows for the site-specific merit of a development application to address key planning impacts for the immediate surrounding area and the qualities of the landscape.</p>

### 3.2 District Plan

The site is within the Western City District and the Greater Sydney Commission released the Western City District Plan (WCDP) on 18 March 2018. The plan contains planning priorities and actions to guide the growth of the district while improving its social, economic and environmental assets.



The planning proposal is not consistent with the priorities for infrastructure and collaboration, liveability, productivity, and sustainability in the plan as outlined below.

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

**Table 5 District Plan assessment**

District Plan Priorities	Justification
W3 – Providing services and social infrastructure to meet people's changing needs	<p>Priority W3, page 28, identifies a growing Greater Sydney requires additional land for burials and cremations with associated facilities such as reception space and car parking.</p> <p>Council is proposing to prohibit these land uses in the identified area of Wallacia.</p> <p>Council identified this priority limits the strategic merit of the proposal and that other priorities provide strategic merit to the proposal to ensure scenic and cultural landscapes are protected and enhanced.</p> <p>Given no assessment has been undertaken to determine whether the proposed amendment will impact on the ability for Greater Sydney to meet cremation and burial needs, the proposal is considered to conflict with W3 of the WCDP.</p>
W17 – Better managing rural areas	<p>Priority W17, page 125, identifies Environmental, social and economic values in rural areas are protected and enhanced by better managing rural areas.</p> <p>The Planning Proposal notes cemeteries and crematoria impact on the viability of the agricultural activities of the area, due to their size and ability to impact on other land uses in the future. The Department notes that there was no assessment of current or potential agricultural activities that may be impacted by cemeteries and crematoria.</p> <p>The proposal notes the proposed prohibition of Cemeteries and Crematoria will foster the long-term preservation of the natural environment and scenic landscape of the Metropolitan Rural Area. The proposal takes a place-based approach to removing an inappropriate land use.</p> <p>Controls to address scenic, social, heritage and cultural landscape quality of an area have recently been applied to the Campbelltown Local Government Area for a cemetery at 166-176 St Andrews Road, Varroville. Clause 7.8A of the Campbelltown Local Environmental Plan 2015 identifies that development is only permitted with consent if the consent authority is satisfied for example, that the proposal will have minimal effect on the visual or physical qualities of the site and the development will complement the landscape and scenic quality of the site. In-addition a conservation management plan applies to the site to provide additional guidance to protect these values. This approach allows for the site-specific merit of a development application to address key planning impacts for the immediate surrounding area and the qualities of the landscape, and the Department considers this is a preferable approach to prohibiting cemeteries.</p>



### 3.3 Local

The proposal states that it is consistent with the following local plans and endorsed strategies.

**Table 6 Local strategic planning assessment**

Local Strategies	Justification
Local Strategic Planning Statement	<p>Council has identified the proposal is consistent with Local Planning Priority 16: Rural Lands are protected and enhanced. Council identified:</p> <p>The amendment will enhance the existing character of the area through the prohibition of land uses which would detract from the scenic quality of the Metropolitan Rural</p>

### 3.4 Local Planning Panel (LPP) recommendation

On 3 May 2021, the Liverpool LPP considered the planning proposal and advised it is unable to conclude whether the proposal has strategic merit, on the basis of objective 6 of the GSRP.

### 3.5 Section 9.1 Ministerial Directions

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

**Table 7 9.1 Ministerial Direction assessment**

Directions	Consistent/ Not Applicable	Reasons for Consistency or Inconsistency
5.10 Implementation of Regional Plans	No	Refer to section 3.1 and 3.2 of this report.

## 4 Site-specific assessment

### 4.1 Environmental

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

**Table 9 Environmental/Social and economic impact assessment**

Impact	Assessment
Heritage and Rural Amenity	The planning proposal seeks to prohibit Cemeteries and Crematoria due to their perceived impact to scenic and cultural landscape quality of the area. Alternative approaches to address the scenic, heritage and cultural landscape quality of an area has recently been applied to the Campbelltown Local Government Area for a cemetery at 166-176 St Andrews Road, Varroville. Clause 7.8A of the Campbelltown Local Environmental Plan 2015 identifies that development is only permitted with consent if the consent authority is satisfied that particular matters are addressed, including that the proposal will cause minimal effect on the visual or physical qualities of the site and the development will complement the landscape and scenic quality of the site. In-addition a conservation management plan applies to the site to provide management practices for the activity. This approach allows for the site-specific merit of a development application to address key planning impacts for the immediate surrounding area and the qualities of the landscape.
Cemetery and Crematoria Needs	In November 2017, Cemeteries and Crematoria NSW released its analysis of the remaining cemetery capacity in the Sydney metropolitan area. The analysis found cemetery capacity in metropolitan Sydney would be exhausted by 2051, if not before. In August 2020, the NSW government prepared its statutory review of the <i>Cemeteries and Crematoria Act 2013</i> , which was tabled in Parliament in February 2021. This review identified Sydney is running out of burial spaces faster than expected. If left unaddressed, the challenges will escalate quickly. No assessment of the need for burial spaces was included in this planning proposal.

### 4.2 Infrastructure

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

**Table 11 Infrastructure assessment**

Infrastructure	Assessment
Public Infrastructure	In November 2017, Cemeteries and Crematoria NSW released its analysis of the remaining cemetery capacity in the Sydney metropolitan area. The analysis found cemetery capacity in metropolitan Sydney would be exhausted by 2051, if not before. In August 2020, the NSW government released its statutory review of the Cemeteries and Crematoria Act. This review identified Sydney is running out of burial spaces. If left unaddressed, the challenges will escalate quickly. No assessment of the need for burial spaces was included in this planning proposal.

## 5 Local plan-making authority

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

As the planning proposal is recommended for refusal, no further assessment is necessary.

## 6 Assessment summary

The planning proposal is not supported to proceed for the following reasons:

- The proposal conflicts with Planning Priority W3 (Providing services and social infrastructure to meet people's changing needs) of the Western City District Plan.
- Insufficient evidence has been provided regarding the need for the proposal and whether Greater Sydney's Cemetery and Crematoria supply will be impacted by the proposed prohibition.
- It will create an undesirable precedent that restricts the land available in Greater Sydney for cemetery and crematory purposes.

## 7 Recommendation

It is recommended the delegate of the Secretary:

- Note that the inconsistency with section 9.1 Directions 5.10 Implementation of Regional Plans is unresolved.

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

- The proposal conflicts with Planning Priority W3 (Providing services and social infrastructure to meet people's changing needs) of the Western City District Plan.
- Insufficient evidence has been provided regarding the need for the proposal and whether Greater Sydney's Cemetery and Crematoria supply will be impacted by the proposed prohibition.
- It will create an undesirable precedent that restricts the land available in Greater Sydney for cemetery and crematory purposes.



25/06/2021

Frankie Liang

Manager, Western



*30 June 2021*

Adrian Hohenzollern

Director, Western

Assessment officer Thomas Holmes, Senior Planner, Western. 9860 1583