



12 July 2019

Wallacia Crown Cemetery Development

1 INTRODUCTION

1. On 4 June 2018, pursuant to section 2.4 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*, the Minister for Planning (**Minister**) delegated his functions under Division 4.6 of the EP&A Act including, but not limited to, his functions under Sections 4.33 and 4.34, to the NSW Independent Planning Commission (**Commission**) regarding the Wallacia Crown Cemetery Development Application (DA17/1092) (**Application**).
2. The Application is classified as regionally significant development under Part 4 of the EP&A Act and clause 4, Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011* as it is development carried out by or on behalf of the Crown with a capital investment value (**CIV**) of more than \$5 million. Consequently, the Sydney Western City Planning Panel (**Planning Panel**) is the consent authority for the Application.
3. On 18 May 2018, the Catholic Metropolitan Cemeteries Trust (**Applicant**) referred the Application to the Minister under Section 4.33(5) of the EP&A Act as the Application had not been determined within 70 days of lodgement with Penrith City Council (**Council**).
4. The Minister has delegated his functions under Section 4.34 of the EP&A Act to direct the Planning Panel to approve, with or without conditions, or refuse the Application within a specified timeframe.
5. Professor Mary O’Kane AC, Chair of the Commission, nominated Ms Dianne Leeson (Chair), Mr Adrian Pilton, and Mr Ross Carter to constitute the Commission considering the Application.

1.1 Site and locality

6. The Application pertains to a site located at 13 Park Road and 512 Mulgoa Road, Wallacia (**the Site**) in Penrith Local Government Area (**LGA**). Refer to Figures 1 and 2.
7. Since 1932 the Site has been operating as Wallacia Golf Club (**existing golf club**) and is currently comprised of an 18-hole golf course, golf club, maintenance shed and car park, wholly owned by the Applicant.
8. The Site has an area of 42 hectares (**ha**) and is largely zoned E3 Environmental Management under the *Penrith Local Environmental Plan 2010 (Penrith LEP)*. A small portion of the Site (i.e. ~0.13 ha) in the Site’s south-western corner is zoned RU5 Village.
9. The Site is located immediately adjacent to Wallacia village, which is zoned RU5 Village. Wallacia village has approximately 590 dwellings and the broader suburb hosts a population of 1,627 (2016 census). The Site is undulating and sparsely vegetated with creeks and drainage lines including Jerry’s Creek in the western portion of the Site.

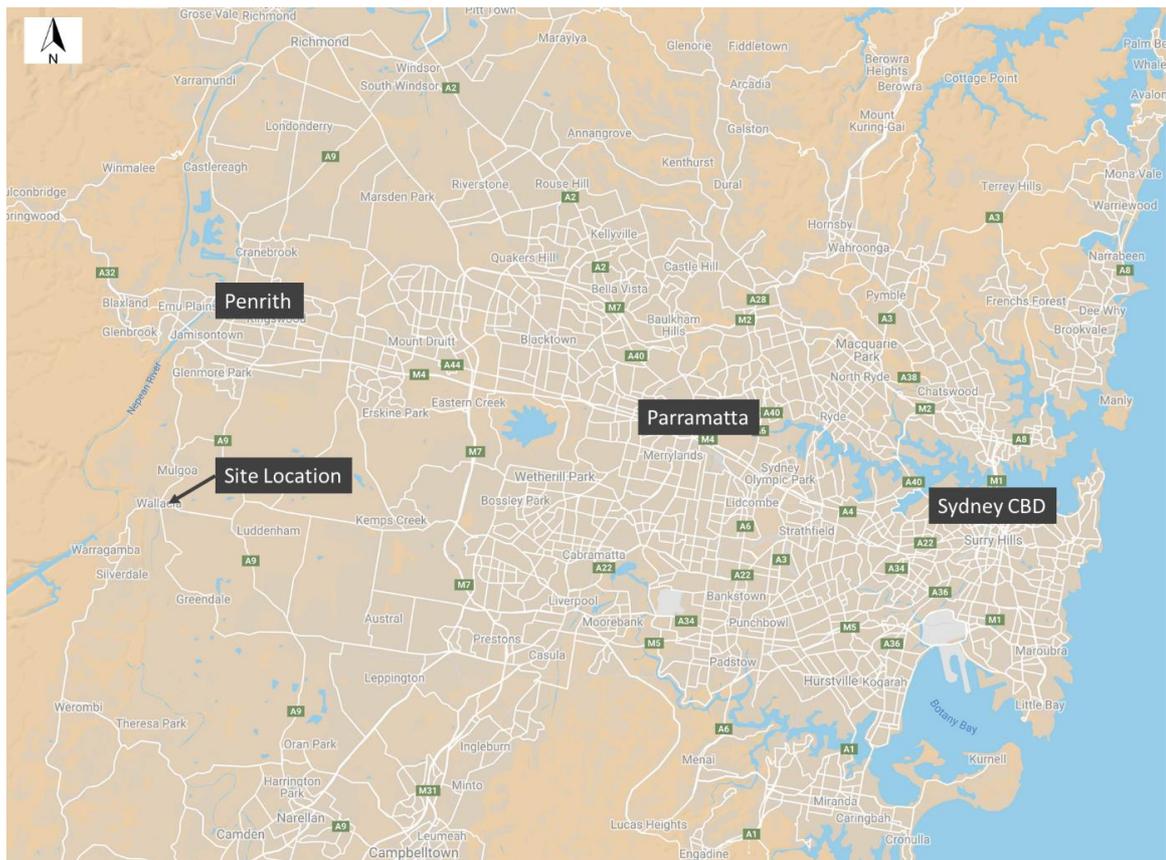


Figure 1: Site Location. Source: Department's Assessment Report.

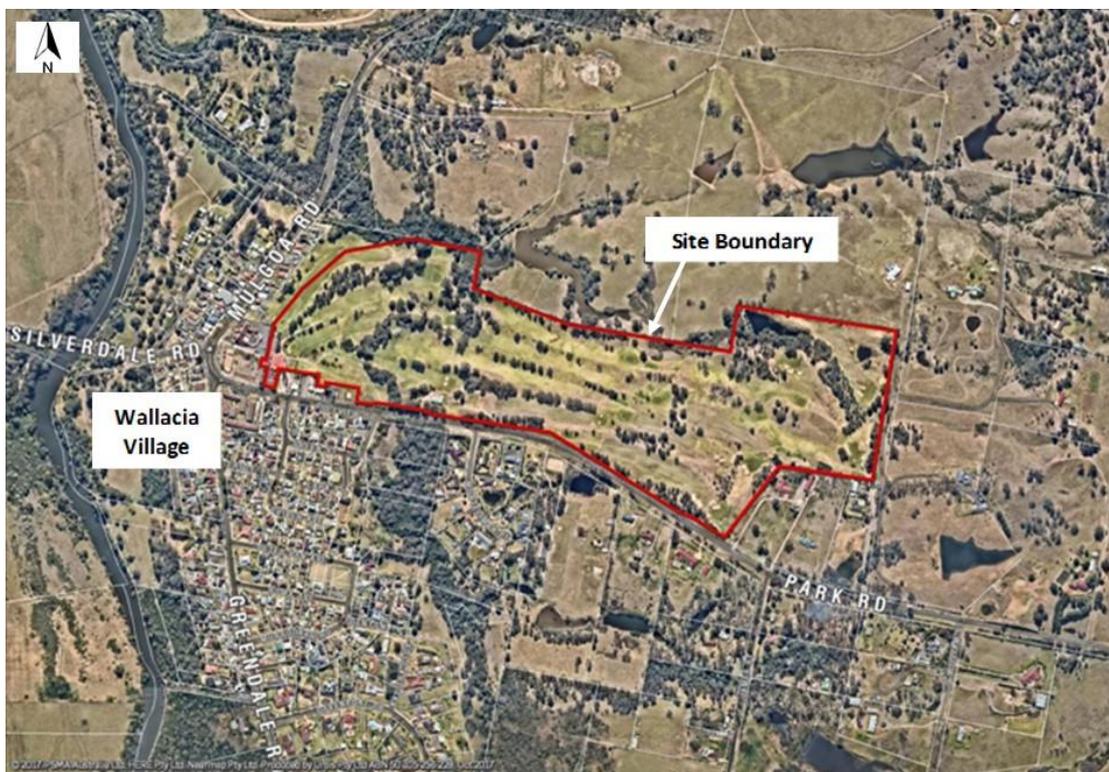


Figure 2: Site Context. Source: Department's Assessment Report.

1.2 Summary of Application

10. The Application before the Commission comprises the staged development of a cemetery with capacity for up to 88,000 burial plots, which the Applicant estimates would provide up to 140 years of burial capacity. Refer to Figure 3.
11. The Application includes the construction of two new buildings, including a chapel and administrative centre, and the refurbishment of the existing golf club house to host functions associated with funeral services.
12. Originally the Application included a crematorium as well as additional vehicle access and an alternate location for graves with headstones. The Applicant subsequently requested the Application be amended to remove the crematorium, relocate the area designated for graves with headstones and exclude vehicle access to the Site over Lot 6 in DP 747868 (1556 Mulgoa Road).
13. The Site would be accessed at three locations from Park Road (a classified state road), including a new main public access located near the centre of the Site, a new employee only access and the existing golf clubhouse access.
14. Additionally, the Application includes a network of internal roads connecting the proposed Site access points to the administrative centre, chapel and burial zones, with pathways, sculptures and landscaping throughout the Site.
15. The Application is proposed to have a life span of over the 140 years and progress in three stages, with the first 56 years of operation allowing for the continued use of the golf course at a reduced scale (i.e. 13 holes). Development would commence in the eastern portion of the Site and progressively move westward towards Mulgoa Road.

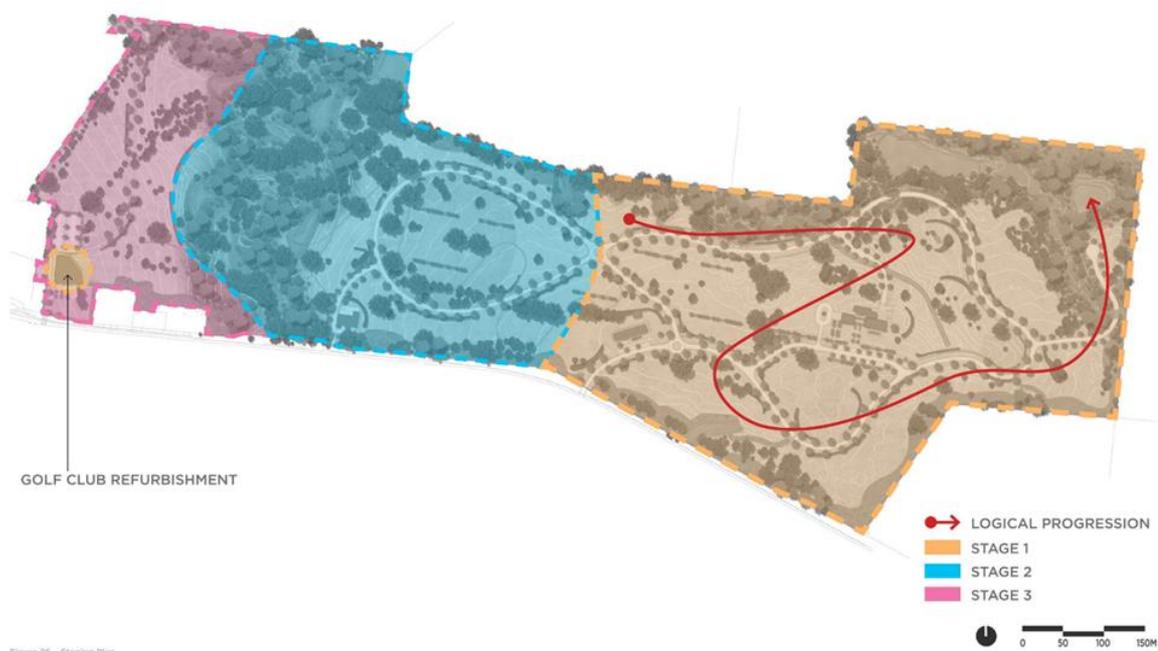


Figure 25. Staging Plan

Figure 3: Indicative Development Staging Plan. Source: Department Assessment Report.

1.3 Stated need for Proposal

16. In the Applicant's Statement of Environmental Effects (**SEE**), dated 3 November 2017, the Applicant stated that the Application: "...is based [on] the strong demand for additional cemetery space in Sydney with a particular focus on Western Sydney. The proposal directly relates to a recognised shortage of burial space across Metropolitan Sydney, as identified within A Plan for Growing Sydney and publications released by Cemeteries and Crematoria NSW."
17. The Applicant's SEE included a Strategic Demographic Assessment (**SDA**) which examines the need for cemetery space in Sydney and specifically within the Wallacia Catchment Area which is defined as comprising the Blue Mountains, Liverpool and Penrith LGAs. Refer to Figure 4. The Commission notes the Catchment Area was defined as the LGAs within approximately a 15km radius of the Site, which is based on analysis of similar cemeteries indicating that around 80% of people buried at the cemetery resided within 15km.



Figure 4: Proposed Wallacia Cemetery Catchment Area. Source: Wallacia Cemetery SDA.

18. The SDA finds that: "Within the Catchment Area, it is projected there will be some 45,000 deaths over the period 2017 to 2032. Assuming all residents are buried within the Catchment Area, around 10,370 burial sites will be required in the catchment area over the period. This represents around 41% of the current supply of burial plots and 6% of current and proposed supply. The current stock of burial plots in the Catchment Area would be fully absorbed in approximately 31 years. It is noted that with the additional 123,490 proposed burial plots, stock would be fully absorbed in approximately 102 years (2119), allowing for an additional 71 years of supply".

1.4 Background to the Application

19. The Application has had a long history, commencing with it being lodged with Council on 3 November 2017.
20. The key steps in the Council's consideration of the Application are summarised in section 2.
21. As stated in paragraphs 3 and 4, on 18 May 2018, the Applicant referred the Application to the Minister under Section 4.33(5) of the EP&A Act as the Application had not been determined within 70 days of lodgement with Council.
22. On 7 June 2018, the Minister delegated his functions under Section 4.34 of the EP&A Act to the Commission to direct the Planning Panel to approve, with or without conditions, or refuse the Application within a specified timeframe.
23. Pursuant to section 2.11(3)(a) of the EP&A Act, on 1 August 2018, the Commission requested the Department of Planning and Environment (now the Department of Planning, Industry and Environment) (**the Department**) to undertake the remaining assessment of the Application.
24. The key steps in the Department's consideration of the Application are summarised in section 3.
25. Importantly, on 26 September 2018, the Applicant requested an amendment to the Application under Clause 55 of the *Environmental Planning and Assessment Regulations 2000* (**Regulations**) to:
 - withdraw the crematorium;
 - exclude vehicle access to the Site over Lot 6 DP 747868; and
 - relocate the area designed for graves with headstones.
26. Under Clause 55 of the EP&A Regulations, as the consent authority, the Planning Panel will need to agree to the proposed amendments to the Application prior to making the determination. The Commission notes that this is likely to occur following the Commission making its direction to the Planning Panel.
27. On 21 December 2018 the Department advised the Commission that it had completed its assessment of the Application. The Department provided the Commission with an Assessment Report including a recommendation for the Commission's consideration.

2 COUNCIL'S CONSIDERATION OF THE APPLICATION

2.1 Key steps in Council's consideration of the Application

28. Council publicly exhibited the Application between 14 November 2017 and 31 January 2018, and received 94 submissions, including six from government agencies and 88 from the general public and special interest groups. Of the 88 submissions received from the general public and special interest groups, 64 objected to, and 24 supported, the Application.
29. Additionally, Council received petitions objecting to the Application with a total of 158 signatures.
30. On 24 January 2018, Council met with the Planning Panel on the Application.

31. On 23 February 2018, Council provided the Applicant with a preliminary review letter, raising a number of issues that required additional information in order for the Council to complete its assessment of the Application.
32. On 4 April 2018, a public Planning Panel briefing session was held at Council chambers.
33. On 30 April 2018, Council provided a letter to the Applicant, following up their request for information and requested the additional information be provided by 14 May 2018.
34. On 21 May 2018, the Applicant provided an Additional Information Response (**AIR**) to address the matters raised by Council, the Planning Panel, the NSW Office of Water and Roads and Maritime Services (**RMS**).

2.2 Council's Preliminary Assessment Report

35. In its preliminary Assessment Report (**Council's Assessment Report**) provided to the Commission on 3 August 2018, Council recommended refusal of the Application and raised concerns about permissibility, non-compliance with the Penrith LEP and stated further information was required to assess the Application's potential impacts on air quality, stormwater management, flooding, groundwater, salinity, biodiversity, sewerage, contamination, road intersection design and security and safety.
36. In summary, Council considered that the Application:
 - does not comply with the objectives of the E3 Environmental Management zone under the Penrith LEP, including that the proposed 'function centre' is prohibited development
 - does not comply with a number of the objectives and specific provisions of the Penrith LEP
 - does not comply with a number of the provisions of the Penrith Development Control Plan 2014
 - has not demonstrated that the Site can drain to Council's satisfaction
 - does not demonstrate that the risk to human health, in particular with regard to air and water quality impacts, has been addressed and can be appropriately managed
 - does not demonstrate that negative and detrimental impacts on water quality, including ground water, will not result from the development
 - is not consistent with the Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River
 - does not demonstrate an acceptable level of consistency with overarching State plans and policies such as the Greater Sydney Commission's A Plan for Growing Sydney and the Western City District Plan, and
 - adequate landowner's consent had not been provided for works proposed over Lot 6 DP 747868

3 THE DEPARTMENT'S CONSIDERATION OF THE APPLICATION

3.1 Key steps in the Department's consideration of the Application

37. As stated in paragraph 23, on 1 August 2018 the Commission requested the Department to undertake the remaining assessment of the Application.
38. As part of its assessment, the Department reviewed the documentation supporting the Application which was provided to Council and the Planning Panel, as well as Council's Assessment Report.

39. Following the review of this documentation, on 28 August 2018 the Department met with the Applicant and requested further information in order to finalise its assessment.
40. The Department undertook an inspection of the Site on 12 September 2018.
41. On 28 September 2018, in response to the Department's request for further information, the Applicant requested an amendment to the Application as outlined in paragraph 25 and subsequently provided amended plans to the Department on 1 and 2 October 2018.
42. As such, a number of items raised in Council's Assessment Report pertaining to the crematorium, the Site access over Lot 6 DP 747868 and some impacts of headstones were no longer considered relevant by the Department in its assessment of the Application.
43. The Department advised the Commission on 21 December 2018 that its assessment of the Application was complete.

3.2 The Department's Assessment Report

44. In its Assessment Report, dated 21 December 2018, the Department identified the key assessment issues associated with the Application as:
 - landscaping and visual amenity
 - water resources (flooding, groundwater and wastewater management)
 - biodiversity
 - soils and contamination, and
 - traffic and access
45. The Department considered Council's reasons for recommending refusal of the Application, noting the proposed amendments to the Application as outlined in paragraph 25. However, the Department considered there are insufficient grounds for the Minister to support the refusal of the Application as it considers the impacts of the development could be appropriately managed through the implementation of conditions.
46. In summary, the Department concluded that the Application is in the public interest and should be approved, on the basis that:
 - *"it responds to the need for additional cemetery space in metropolitan Sydney identified in the CCNSW Metropolitan Sydney Cemetery Capacity Report (2017)*
 - *it satisfies the relevant provisions of the PLEP 2010 [Penrith LEP] and is permissible with consent*
 - *it is consistent with the Greater Sydney Region Plan 2018 and the Cemeteries and Crematoria NSW Strategic Plan 2015-20"*
47. The Department recommended a range of conditions to be included if consent of the Application were granted.

4 THE COMMISSION'S MEETINGS AND SITE VISIT

4.1 Meetings with Applicant, Department and Council

48. As part of its assessment, the Commission met separately with the Applicant and the Department on 14 February 2019, and Council on 19 February 2019.

49. Transcripts of the meetings with the Applicant and the Department and copies of the documentation presented at those meetings were made available on the Commission's website on 27 February 2019. The transcript of the meeting with Council was made available on the Commission's website on 12 March 2019.

4.2 Site inspection and locality tour

50. The Commission undertook an inspection of the Site and a locality tour on 19 February 2019, which was attended by a representative of the Applicant.
51. Notes from the Site inspection, including a summary of questions asked by the Commission and answers provided by the Applicant's representative, were made available on the Commission's website on 27 February 2019.

4.3 Public meeting

52. The Commission held a public meeting at Wallacia Hotel located at 1590 Mulgoa Road, Wallacia, on 27 March 2019. A list of the 27 speakers scheduled to present at the meeting was published on the Commission's website on 22 March 2019.
53. The transcript of the public meeting was made available on the Commission's website on 3 April 2019, along with copies of all the material tendered at the public meeting.
54. An opportunity to lodge written submissions was afforded until 10 days following the public meeting. The Commission received submissions from eight members of public within that time. All submissions were made available on the Commission's website shortly following their receipt.
55. The main issues of concern raised across submissions from the public included:
- scale of the development
 - loss of existing recreational space (existing golf club)
 - flooding and stormwater impacts
 - traffic and access impacts
 - negative impacts on property values
 - visual amenity impacts
 - contamination impacts
 - proximity of development to Wallacia village, and
 - impacts on the rural character of Wallacia village

56. In submissions in support of the proposal the issues raised included:
- the proposal would allow for the revitalisation and continuation of the golf club, and
 - the golf club will close if this development does not go ahead

4.4 Additional meetings with government agencies

57. In response to a number of concerns raised at the public meeting regarding the potential impacts of the Application on flooding in the Mulgoa Valley, the Commission met with representatives of Infrastructure NSW on 2 April 2019 to discuss the Hawkesbury-Nepean Valley Regional Flood Study.

58. Additionally, in response to a letter received from the Department on 13 March 2019 regarding the Premier's request for the Greater Sydney Commission (**GSC**) to undertake a review of the strategic planning considerations for the provision of new cemeteries, with a focus on the Greater Sydney Region, the Commission met with a representative of the GSC on 2 April 2019.

59. Transcripts of those meetings were made available on the Commission's website on 3 April 2019.

5 ADDITIONAL INFORMATION

60. The Commission received:

- a letter from Council dated 12 April 2019, and
- an email from Infrastructure NSW dated 12 April 2019

6 THE COMMISSION'S CONSIDERATION

6.1 Material considered by the Commission

61. As part of this direction, the Commission has carefully considered the following material (**material**):

- the SEE dated 3 November 2017, prepared by Urbis, and its accompanying appendices
- the Metropolitan Sydney Cemetery Capacity Report (**MSCC Report**) dated November 2017, and prepared by Cemeteries and Crematoria NSW (**CCNSW**)
- the **AIR** dated 21 May 2018, prepared by Urbis, and its accompanying appendices
- the Department's Assessment Report dated 21 December 2018, and its accompanying appendices
- all Government agency submissions
- all material and information provided to the Commission at the public meeting including verbal presentations and written presentations and associated presentation documents, aids and other information
- the Site and locality inspection conducted on 19 February 2019 and all information provided during the site inspection, and
- all public written comments made to the Commission both prior to and following the public meeting

6.2 Relevant considerations

62. In making this direction about this Application, the Commission has taken into consideration the following, as referred to in s 4.15 of the EP&A Act:

- the relevant provisions of relevant environmental planning instruments and development control plans that apply to the land to which the Application relates
- relevant government policies, including:
 - A Plan for Growing Sydney
 - Greater Sydney Region Plan
 - Western City District Plan, and
 - Local Character and Place Guideline
- the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality
- the suitability of the Site for development
- submissions made in accordance with the EP&A Act or the Regulations, and

- the public interest.

6.3 Relevant Environmental Planning Instruments

63. The Applicant and the Department identified the following environmental planning instruments (**EPIs**) as being relevant to the Application:

- Penrith Local Environmental Plan 2010
- State Environmental Planning Policy No 44 - Koala Habitat Protection (SEPP 44)
- State Environmental Planning Policy 55 - Remediation of Land (SEPP 55)
- State Environmental Planning Policy (Infrastructure) 2007 (ISEPP 2007)
- Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River, and
- Sydney Regional Environmental Plan No 9 – Extractive Industry (No 2 – 1995) (SREP 9)

Penrith LEP 2010

64. The Site is zoned E3 Environmental Management under the Penrith LEP. Cemeteries are permissible with development consent in the E3 Environmental Management Zone. Crematoriums are not identified in the E3 Zone land use table and are therefore prohibited.
65. The Applicant originally stated in its SEE that the proposed crematorium is ancillary to the cemetery, however legal advice obtained by Council notes that even if this was the case, the crematorium is an independent use. As noted in paragraph 25 above the Applicant has amended the Application to remove the crematorium.
66. In Council's Report it stated that the use of the existing clubhouse building as a function room is prohibited in the E3 Zone. However, legal advice obtained by the Applicant and Council both consider the proposed use as a function room falls within the definition of 'cemetery' under the Penrith LEP as it is an associated building ancillary to the conducting of memorial services.
67. The Department's assessment concludes that: *"Given the withdrawal of the crematorium from the proposal and because the clubhouse is currently used for functions and the proposed use is within the definition of cemetery, the Department is satisfied the proposal is permissible with consent"*.
68. The Commission accepts the Department's findings regarding the permissibility of the proposed development in the E3 Zone because the proposed function centre is within the definition of cemeteries which are identified in the land use table as permissible with consent.
69. Council stated in its Report that the proposed development does not comply with the objectives of the E3 Environmental Management zone which are:
- *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.*

70. Additionally, Council's Report stated that the Application does not comply with *Part 7 Clause 7.5 Protection of scenic character and landscape values*. 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.
- 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.*
71. The Applicant stated in its SEE that "*The site's design ensures the sites scenic values and the surrounding landscapes scenic values are preserved*".
72. The Commission notes that in response to concerns relating to visual impacts of the development, the Applicant amended its Application to remove areas of 1.5m headstone burials from the western portion of the Site as well as certain locations visible from Park Road.
73. The Commission finds that the cemetery has been designed to minimise its visual impacts from major roads and public places. See further discussion regarding visual impacts and scenic value at section 6.8.2.
74. As noted in paragraph 8, a small portion of the Site, in the south-western corner, is zoned RU5 Village. The Commission notes that cemeteries are prohibited in the RU5 Zone.
75. It is noted that on 8 September 2017 Council submitted a Planning Proposal to the Department seeking to amend Penrith LEP to prohibit cemeteries and crematoriums in Mulgoa Valley and parts of Wallacia (including the Site). The Department wrote to Council advising that review of the Planning Proposal would be put on hold pending a review of the need for land for cemeteries and crematoriums in Greater Sydney. The outcome of this work is currently pending.

Sydney Regional Environmental Plan No 20 – Hawkesbury – Nepean River (SREP 20)

76. SREP 20 requires that consideration be given to the aim of SREP 20 which is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of future land uses are considered in a regional context.
77. Council's Report considers the provisions of SREP 20 and notes that further information is required to properly assess the proposal against SREP 20, relating to on-site sewage treatment, salinity and wastewater management.
78. The Department's Assessment Report concludes "*it has considered these matters in its assessment of the DA (see Section 6) and is satisfied that sufficient measures can be applied during construction and operation of the development to ensure that it meets the aims of SREP 20*".
79. The Commission accepts the Department's conclusion that sufficient measures can be applied to ensure the development meets the aims of SREP 20. See further discussion in section 6.8.4.

Sydney Regional Environmental Plan No 9 – Extractive Industry (No 2 – 1995) (SREP 9)

80. The Department's assessment report noted that a sandstone quarry listed under SREP 9 is located at 2595 Silverdale Road and is approximately 1.5 km from the Site on the other side of the Nepean River. Therefore, before granting consent to a DA, clause 16 (2) of SREP 9 requires Council to be satisfied that, if the development is carried out in accordance with the consent:
- a) *the proposed development will not be adversely affected by noise, dust, vibration or reduced visual amenity from any nearby extractive industry, and*
 - b) *the proposed development will not in any way adversely affect any existing nearby extractive industry or prevent any such extractive industry from realising its full economic potential by adversely affecting future expansion of the extractive industry of which the council is aware.*
81. The Commission accepts the Department's conclusion that the Application would not adversely affect the operation of the quarry in reaching its full economic potential and there are unlikely to be amenity impacts at the Site from operations at the quarry given its physical separation from the Site.

State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)

82. Consistent with the information provided in the Applicant's SEE, the Department's Assessment Report stated: *"Site investigations identified 15 areas with potential contamination at the site and the immediately surrounding areas, primarily associated with the site's existing and current use as a golf course. The potential contamination at most of these areas is associated with chemical storage and use around the golf course maintenance sheds and application over the golf course, areas of fill, asbestos pipes and hazardous building materials in demolished buildings.*

The site investigation report considers the potential for contamination is relatively localised and presents a low to medium hazard rating. It recommends further investigations to establish the extent of each of the identified areas and determine if any contaminants of concern are present.

Given the potential for contamination in areas of the site, the Department recommends conditions requiring the Applicant to engage a Site Auditor accredited under the Contaminated Land Management Act 1997 to oversee further investigations, to confirm if any remediation is required and prepare a remediation action plan (RAP) if necessary. If a RAP is prepared, then the Applicant must undertake remediation works in accordance with the RAP prior to commencing operations to ensure that the site can be made suitable for the proposed development".

83. The Department's Assessment Report concludes: *"given the lead time for commencing operation of the development, the Department is satisfied that the implementation of these conditions can ensure any contamination on the site can be appropriately managed before the Applicant commences operations at the site".*
84. The Commission accepts the Department's advice that any contamination could be managed though the conditions of consent requiring the Applicant to engage a site auditor and if necessary prepare a RAP prior to commencement of construction.

State Environmental Planning Policy No 44-Koala Habitat Protection (SEPP 44)

85. The Applicant's SEE concluded that the *"The Flora and Fauna Assessment undertaken by Travers Ecology and Bushfire and attached as Appendix P of this report notes that no koalas were directly observed at the time of fauna survey, which included diurnal searches of trees and spotlighting. In addition, there was no secondary evidence of Koala habitation in the area including characteristic scratches on trees and scats beneath trees"*.
86. The Commission is satisfied the Applicant has incorporated appropriate flora and fauna investigations, including conducting targeted surveys for Koalas, which observed no Koalas. The Commission is satisfied the land is not a potential koala habitat.

State Environmental Planning Policy (Infrastructure) 2007 (ISEPP 2007)

87. The Applicant's SEE concluded that *"for development not otherwise classified by the SEPP, the relevant threshold is 200 or more motor vehicles. The proposed development will under peak operating conditions will breach this threshold and as such referral to the RTA (now the RMS) under Clause 104 of the SEPP is therefore required"*.
88. The Commission is satisfied that the Application has been referred to, and considered by, RMS as required by the ISEPP 2007.

6.4 Relevant Development Control Plans

Penrith Development Control Plan 2014 (Penrith DCP 2014)

89. As part of its SEE the Applicant provided an assessment of the Application against relevant provisions of the Penrith DCP 2014 and concluded that the Application is consistent with all relevant controls.
90. In the Council's Report it noted: *"the development proposal does not comply with the provisions of the Penrith DCP 2014, in particular controls within sections C1 Site Planning and Design Principals [sic], C2 Vegetation Management, C3 Water Management, C4 Land Management, C10 Transport, Access and Parking and C13 Infrastructure and Services"*.
91. The Department's Assessment Report did not include a specific assessment of the development against the Penrith DCP 2014 however the Commission considers the issues raised by Council regarding compliance with the DCP have been addressed through the provision of additional information or can be managed through the implementation of conditions of consent.

6.5 Relevant Strategic Plans

A Plan for Growing Sydney

92. In its SEE the Applicant provided an assessment of development against *A Plan for Growing Sydney*. At the time of lodgement, *A Plan for Growing Sydney* was the current strategic planning document to guide land use planning decisions for Greater Sydney.
93. In its SEE the Applicant stated that the Application is consistent with the following Directions and Actions identified in the Plan:

- Direction 1.11 Deliver Infrastructure - Action 1.11.5: Deliver long-term planning for cemeteries and crematoria Infrastructure - *“The proposal directly relates to a recognised shortage of burial space across Metropolitan Sydney, as identified within A Plan for Growing Sydney and publications released by Cemeteries and Crematoria NSW. The applicant’s knowledge in this sector underscores that there is a strong demand for additional burial space in Western Sydney. Previous Cemetery Demand Assessments undertaken for the applicant, have confirmed that if no additional burial space was provided in the Western Sydney Catchment Area, existing plots would be fully absorbed by approximately 2042”*
 - Direction 4.1 Protect our natural environment and biodiversity - Action 4.1.2: Prepare a Strategic Framework for the metropolitan Rural area to enhance and protect its broad range of environmental, economic and social assets - *“Consistent with this action, the proposal will increase the amount of publicly accessible open space for residents and visitors of the broader locality. The publicly accessible parklands in addition to the memorial park, will provide open space for passive recreation activities”.*
94. The Commission accepts the Applicant’s assessment of the Application’s consistency with *A Plan for Growing Sydney*, as set out in paragraphs 92 - 93, including the identification of the relevant actions.
95. The Commission finds that Application is generally consistent with *A Plan for Growing Sydney* because it seeks to address an identified shortfall in cemetery space in Metropolitan Sydney.

Greater Sydney Region Plan

96. The *Greater Sydney Region Plan (GSR Plan)* replaces the former *A Plan for Growing Sydney* and integrates land use, transport and infrastructure planning across Greater Sydney. It outlines how Greater Sydney will be transformed into a metropolis of three cities. The Site is located in the Western City of the GSR Plan.
97. The GSR Plan sets ten directions, including a city supported by infrastructure, a collaborative city, a city of people, housing the city, a city of great places, a well-connected city, jobs and skills for the city, a city in its landscape, an efficient city and a resilient city.
98. The Department’s Assessment Report finds the Application is consistent with the GSR Plan as it will contribute toward the following directions of the GSR Plan:
- *A city for people – celebrating diversity and putting people at the heart of planning*
 - *Objective 6 of the Plan seeks to ensure services and infrastructure meet the communities’ changing needs. The proposed development responds to this by providing key social infrastructure that is accessible and provides burial space for a diversity of cultures and backgrounds.*
 - *A city in its landscape – valuing green spaces and landscape.*
 - *Objectives 27, 28, 30 and 31 of the Plan seek to protect biodiversity, scenic and cultural landscapes and enhance remnant vegetation and publicly accessible open space. The proposed development protects and enhances existing biodiversity and landscapes of the site through site design, a vegetation management plan, revegetation of native species and the provision of publicly accessible parklands and recreation areas throughout the site.*
99. The Commission notes that the GSR Plan states: *“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”.*

100. The Commission accepts the findings of the Department's Assessment Report in paragraph 98. The Commission finds the Application to be generally consistent with the priorities of the GSR Plan because it seeks to provide for burial space for a diversity of cultures and backgrounds and seeks to enhance existing biodiversity.
101. However, the Commission notes the cemetery could be more geographically accessible given the population base it is proposed to serve. See further discussion regarding site suitability at section 6.10.

Western City District Plan

102. The Western City District Plan (**District Plan**) is a 20-year plan to manage growth in the context of economic, social and environmental matters. The District Plan guides the decisions of State agencies and informs the private sector and the wider community of approaches to manage growth and change.
103. The Department's Assessment Report finds the proposal would assist in achieving several Planning Priorities identified in the Western City District Plan by:
 - *providing key social infrastructure - Planning Priority W3*
 - *protecting and enhancing bushland and biodiversity – Planning Priority W14*
 - *protecting and enhancing scenic and cultural landscapes – Planning Priority W16*
 - *delivering high quality open space – Planning Priority W18.*
104. The Commission accepts the findings of the Department's Assessment Report in paragraph 103, above. The Commission finds the Application to be generally consistent with the priorities of the District Plan because it seeks to provide social infrastructure in the form of burial space as well as delivering high quality open space and enhancing bushland and biodiversity.

6.6 Other Strategic Considerations

105. As outlined in paragraph 16 above the Applicant's justification for the development is based on a strong demand for additional cemetery space in Sydney with a focus on Western Sydney.
106. The Commission notes that MSCC Report identifies the probable exhaustion of burial land in metropolitan Sydney by 2051, and the West sub region by 2046, assuming no change to existing cremation and grave occupancy rates. The Commission also notes that the MSCC analysis excludes potential capacity from sites the subject of DAs but not operational as at 1 January 2015.
107. The Commission notes that the Applicant's SDA stated there are currently (as at October 2017) three approved applications for cemeteries in the Catchment Area (two in Liverpool LGA and one in Penrith LGA) with another being considered within the Liverpool LGA. The four projects comprise approximately 143,000 potential additional burial plots within the identified Catchment Area.
108. Additionally, the Commission notes the MSCC Report stated: "*Funeral and memorial service arrangements for persons who pass away are generally undertaken in the location associated with the life of a deceased person. It is also generally the case that the family and social networks for deceased persons are proximate to the location of the deceased's life. Where a burial is by necessity undertaken in a region remote from the location of the life of the deceased, additional travel time is involved in the transfer to the site for burial, and on an ongoing basis for visitation by family and friends*".

109. Based on the material the Commission finds that there is an identified need for the provision of additional burial space in Greater Sydney noting the most urgent need, as identified in the MSCC, is in the Central, Northern and Southern regions.

6.7 Local Character and Place Guideline

110. The Department of Planning and Environment's Local Character and Place Guideline dated February 2019 (**Local Character and Place Guideline**) seeks to support a stronger consideration of local character in decision making and includes:

- a definition of local character and place
- who shapes local character
- tools to understand local character and place, and
- strategies for bringing character and place into plan making

111. The Commission notes that the Local Character and Place Guideline defines local character, stating: "*Character is what makes a neighbourhood distinctive and is the identity of a place. It encompasses the way it looks and feels. It is created by a combination of land, people, the built environment, history, culture and tradition including Aboriginal and non-Aboriginal, and looks at how they interact to make a distinctive character of an area.*

Local character is distinctive, it differentiates one area apart from another. It includes the sense of belonging a person feels to that place, the way people respond to the atmosphere, how it impacts their mood, their emotional response to that place and the stories that come out of peoples' relationship with that place".

112. The Guideline also defines place, stating: "*Place is the layout, division and built form of built environments – its patterns, landscape, density, development, land use and mix, these aspects set the groundwork for places to flourish.*

Places are multi-layered and diverse environments within the broader context of society. Individual places can be described or understood by people in different ways and at different scales. This is because they are made up of many interrelated layers and elements which are generally understood through the physical form and activity occurring in the location. Places have a clear and strong identity and character".

113. The Commission has had regard to these definitions in its consideration of the development, specifically in its consideration of the impacts on visual amenity and scenic value (section 6.8.2), social impacts (section 6.9), site suitability (section 6.10) and public interest (section 6.11).

6.8 Likely impacts of the development on both natural and built environments

6.8.1 Traffic and access

Public and Council comments

114. The Commission heard concerns from Council and speakers at the public meeting and received written comments regarding the traffic impacts associated with the proposal. These concerns included excessive traffic on Park Road, access and parking arrangements and long term cumulative traffic impacts associated with this development and others.

Applicant's consideration

115. The Applicant provided a Traffic Impact Assessment as part of its SEE which concluded *“both Park Road and the proposed site access have sufficient capacity to accommodate expected traffic volumes anticipated from the development. The existing Panthers Golf Club intersection also has appropriate spare capacity to cope with vehicles entering the site in relation to the proposed ‘Function Room’ facility”*.

116. The Applicant stated in its SEE: *“The proposed traffic generation will not adversely affect the existing operations of the surrounding road network”*

Department’s consideration

117. In its Assessment Report the Department stated: *“A network of internal roads would connect the main public access with the administration building, chapel and burial/memorial areas. The existing access to the golf club would be retained and an additional internal road would be constructed to support access to burials in the western portion of the site. On-site parking includes provision for an additional 58 formal parking spaces, plus the existing 61 spaces available at the golf club. The internal road network is designed to also facilitate kerbside parking”*

118. The Department’s Assessment Report noted *“that once complete the development is predicted to generate up to 180 two-way hourly vehicle movements in the peak weekday periods and up to 330 two-way hourly vehicle movements during the weekend peak”*.

119. The Department’s Assessment Report advises: *“the proposal is unlikely to impact the current good performance of Park Road with the introduction of a new intersection built to RMS standards. Sufficient parking will be available on the site to avoid parking on Park Road and RMS has recommended the installation of No Stopping signs to prevent parking”*. Additionally, the Department’s assessment report recommended a number of conditions of consent relating to traffic and parking.

Commission’s Consideration

120. The Commission accepts the advice of the Department outlined in paragraphs 117-119 above. While the estimated traffic volumes are expected to increase, the level of the increase is considered to be manageable through the proposed conditions of consent.

121. Based on the material, the Commission finds that likely changes to traffic volumes and predicted levels of service to impacted roads and intersections will be acceptable, subject to the proposed conditions and management measures.

6.8.2 Visual Amenity and Scenic Value

Public and Council comments

122. The Commission heard concerns from Council and speakers at the public meeting and received written comments regarding visual amenity impacts associated with the proposal, most of these concerns related specifically to its impact on the existing scenic value and rural landscape qualities of the area. Some speakers and written comments also suggested that the cemetery would not appeal to visitors and tourists in the way the golf course currently does.

Applicant’s consideration

123. The Applicant provided a Landscape and Visual Impact Assessment (**VIA**) with its SEE. The VIA concludes: *“the Project is assessed as having a negligible to low visual impact on surrounding sensitive uses and viewpoints. Views to the Project are typically screened by either perimeter or on-site vegetation, or built form along its western and south western interfaces. Adjacent elevated areas to the north and west are not elevated enough to allow for overlooking of the project. Views from surrounding scattered rural residences to the east and north are typically either screened, or heavily filtered by surrounding vegetation”*.
124. In its AIR the Applicant noted: *“the location of monuments has been rearranged throughout the site. Specifically, this has resulted in the monumental 1.5m headstones located to the west of Jerrys Creek have been removed entirely. 1.5m monuments have also been removed from the Park Road frontage of the site with the exception of a small pocket approximate to Jerry’s Creek. This pocket is significantly screened by existing vegetation that will be maintained by the application and will not be visible by those travelling along Park Road”*.
125. In its AIR the Applicant concludes: *“The design responds positively to the site conditions and the surrounding environment. The design has been formulated having close regard to the known scenic, environmental and topographical qualities of the site. The proposed design is highly sympathetic and responsive to site context, conditions and values.”*

Department’s consideration

126. The Department’s Assessment Report considers that Council’s initial assessment *“indicates that the proposed development does not comply with the objectives of the PLEP 2010 that relate to scenic character and landscape values. Community submissions and Council raised concerns about the amenity impacts of a cemetery (and crematorium) on the scenic values of the rural landscape qualities of the area. Of particular concern was the proposed locations of burial areas with higher headstones near Park Road and the western portion of the site where the headstones would be visible from the village”*.
127. The Department’s Assessment Report stated: *“Following concerns raised during the exhibition of the SEE and the Planning Panel public meeting, the Applicant amended its proposal to remove areas of 1,500 mm high headstone burials from the western portion of the site and in certain locations visible from Park Road (see Figure 7). These areas were replaced with lawn plaques, therefore increasing the proportion of the site to be covered by a less visually intrusive type of burial”*.
128. The Department’s Assessment Report concludes: *“The proposed landscape designs, revegetation and layout of the burial areas will generally retain the landscape values of the existing site and additional vegetation plantings will improve the visual appearance of previously disturbed areas”*. And; *“the proposed landscaping and rehabilitation measures are consistent with the objectives of the E3 Zone, the SREP 20, and the Greater Sydney Commission’s Plan for Growing Sydney. The Department recommends conditions requiring the Applicant to implement the landscaping ‘and visual mitigation measures in the SEE and Additional Information Response and to design and construct the new buildings in consultation with Council”*.

Commission’s consideration

129. The Commission accepts the advice of the Department and the Applicant relating to visual amenity impacts because the Application is unlikely to result in unreasonable visual amenity impacts and has been designed to protect the existing views from key vantage points. However, the Commission notes that the existing scenic and rural landscape values currently afforded by the golf course are intrinsically tied to its use for recreation and the tourism opportunities it offers, and these benefits are unlikely to be realised by the Site following the completion of the cemetery development. The Commission finds that whilst the proposed change to the existing landscape is not dramatic, based on the speakers at the public meeting and the written comments regarding visual amenity impacts, people's perception of the landscape and the associated village, rural and scenic values are likely to be impacted by the change of use.
130. Based on the material, the Commission finds that the Application would not have unacceptable visual amenity impacts. However, the change in land use to a cemetery is likely to impact upon the existing scenic and rural landscape values as it is likely to be perceived differently to the existing recreational use.

6.8.3 Soil and contamination

131. The Commission heard concerns from Council, speakers at the public meeting, and received written comments regarding the impacts of the project on soil and the potential for contamination.

Applicant's Consideration

132. The Applicant's SEE includes a preliminary Salinity Assessment. The SEE refers to the Salinity assessment stating: *"Results indicate sub-surface materials at the site can generally be categorised as having a slight salinity risk potential with low lying areas having a moderate risk potential. Therefore, specific saline soil management strategies are required at the site."*

Additional assessments would need to be carried out to confirm and improve characterisation of the site salinity conditions, such as in the low-lying areas / drainage depressions. These issues would be typically addressed through conditions of consent."

Department's Consideration

133. The Department's Assessment Report refers to the Applicant Salinity assessment noting it: *"identifies the site as having moderate salinity potential in the low-lying areas of the site, around Jerry's Creek, the northeast of the site and a southern section along Park Road. The area most likely to be affected by the development is the section along Park Road. The remainder of the site has low salinity potential."*

The salinity assessment report recommends additional targeted surveys of salinity potential in low lying areas and drainage depressions, the potential implications of salinity in these areas on the proposed development and required mitigation measures. The report also includes a recommended management strategy for potential saline soils. The Department recommends that these measures should be adopted in conditions to be implemented prior to commencing development".

Commission's Consideration

134. The Commission accepts the Department's assessment outlined in paragraph 133 above because they consider issues relating to salinity would be adequately managed through conditions of consent. See further discussion relating to contamination at section 6.3 paragraphs 82 - 84.

6.8.4 Flooding/Stormwater and Groundwater

Public and Council comments

135. The Commission heard concerns from Council, speakers at the public meeting, and received written comments regarding impacts associated with flooding and stormwater. These concerns related to the development of flood prone land, water quality impacts associated with placing graves in flood prone land and impacts on groundwater associated with below ground burials.

Applicant's consideration

136. Regarding stormwater, the Applicant stated in its SEE that *"The stormwater drainage network has been designed to capture and reticulate the majority of the site's catchment to a number of proposed basins on site. These basins will act as on-site detention, ensuring the post development flow rates of the development do not increase when compared with the pre-development state"*.

137. The Applicant provided a groundwater assessment as part of its SEE and noted that the assessment concluded: *"Groundwater levels were measured between approximately 2.0 and 3.9 mBGL in areas sloping into drainage depression and Jerrys Creek."*

Based on the limited groundwater assessment results, the risk of the proposed development resulting in adverse impact on groundwater conditions is considered to be low across the majority of the site, except low lying areas associated with Jerrys Creek. Similarly, the base of the single burial plots will be able to maintain a minimum 1 m buffer from groundwater over the majority of the site...

The assessment also recommended further assessment of groundwater condition be undertaken for confirmation of the above to include:

- *Detail surveying of the groundwater well locations and levels to obtain more accurate groundwater data.*
- *Ensure groundwater monitoring period includes at a minimum 2-3 significant wet weather events and corresponding dry weather periods.*
- *Detailed groundwater modelling (using MODFLOW) of the site to determine groundwater levels over the entire site"*.

138. As part of its AIR the Application noted: *"A Flood Sensitivity Model has been prepared for the application and is submitted electronically for further assessment by the Department of Primary Industries – Water"*.

Department's consideration

139. The Department stated in its Assessment Report that *"The site contains areas affected by flooding, particularly around Jerry's Creek in the western portion of the site. Two minor tributaries in the east of the site are also subject to inundation during the 1% annual exceedance probability (AEP) event"*.

140. The Department noted: *“No burials are proposed within the area of the site affected by the 1% AEP flood level and recommends imposing a condition of consent which prohibits burials in the 1% AEP zone.*

Proposed structures within the area affected by the 1% AEP flood level include the roads in the eastern portion of the site and parts of the stormwater drainage system, primarily constructed wetlands. Road drainage design includes provisions for flows in the drainage lines subject to flood levels and this is predicted to result in localised increases in flood levels around the roads. However, these increases would be contained within the site. Additionally, the proposed path from the western carpark near the clubhouse to the centre of the site includes a circular path with boardwalk “bridges” in two locations crossing Jerry’s Creek, utilising the existing bridges at the golf course.

141. The Department’s Assessment Report noted that Council’s Report *“indicates the proposal is inconsistent with Clause 7.2 Flood Planning in the PLEP 2010. However, Council’s engineering section notes that the proposal is consistent with the relevant provisions of the PLEP 2010 and DCP and has recommended certain design details be resolved, including locating detention basins outside the 1% AEP affected area. These matters are consistent with the proposed development and can be addressed through recommended conditions of consent”.*
142. It is also noted that Council raised concerns regarding consistency with Council’s Water Sensitive Urban Design (**WSUD**) principles, concept drainage plans, and calculations of stormwater flows and detention volumes. It is noted the Applicant’s AIR includes a WSUD strategy which it states is consistent with Council’s WSUD principles.
143. The Department’s Assessment Report advises: *“These are design matters that can be resolved before commencing the development. The Department therefore recommends conditions be included that require the final stormwater drainage designs to be prepared in consultation with Council and for the detailed (“for construction”) designs to comply with Council’s WSUD policy and stormwater design specifications prior to commencing development of the site”.*
144. The Department’s Assessment Report noted the following regarding groundwater: *“The groundwater assessment in the SEE identified two areas of potential groundwater based on results obtained from monitoring at the site. One area in the centre of the site (near monitoring well location MW 117) and the other in the west of the site (MW 104). The highest level of groundwater recorded in MW117 was 1.7 m below ground level (mBGL) in October 2017 and in MW104 the highest level recorded was 2.35 mBGL in September 2017.”*

“The groundwater assessment recommended further monitoring to better define the groundwater conditions in those areas. Results of additional monitoring were provided in the Additional Information Response and further results and analysis were provided to the Department in a letter dated 6 September 2018 (see Appendix E). The analysis of this monitoring indicates the groundwater levels in the two target wells are decreasing (the last recorded water levels were 2.51 mBGL in MW117 and 3.78 mBGL in MW104), however this has coincided with dry weather. The September 2018 groundwater report recommends ongoing monitoring to understand the effects of rainfall events on the groundwater levels. The Applicant’s Additional Information response also notes that no burials would be within 50 m of a bore or monitoring well.”

“The Applicant proposes to develop a groundwater monitoring plan for the site to establish ongoing baseline data collection before commencing burials. The Applicant also proposes to maintain a one metre buffer between the groundwater levels and the base of the graves and for the top of coffins to be a minimum of 900 millimetres below the natural surface level, consistent with the Public Health (Disposal of Bodies) Regulation 2012. Based on this approach, a depth of groundwater to 2.5 m below natural ground level would be an appropriate limiting level for graves.”

145. In response to concerns relating to the impacts on groundwater associated with below ground burials the Department stated in its Assessment Report: *“The Applicant commissioned Red Earth Geosciences to assess the suitability of the Varroville site (DA 3293/2017/DA-C) for a cemetery based on soil and groundwater characteristics. The Varroville site has a similar geology to the Wallacia site, generally being silts and clays of the Wianamatta Group Bringelly Shale. The report concludes that the Varroville site is suitable for a large cemetery complex therefore the Wallacia site is also suitable”.*
146. The Department advises imposing a number of conditions on the development in order to manage groundwater impacts, including the requirement for the preparation of a Groundwater Management Plan.

Commission’s consideration

147. The Commission notes that the community provided evidence of significant site inundation during major flood events. As noted in paragraph 57, the Commission met with Infrastructure NSW who provided evidence that major flooding events referred to were a result of flood waters backing up into the area rather than being driven by local flows. Additionally, the Applicant provided further evidence that the concern for the integrity of graves was related to local flood events that could generate erosive or scouring flows through the site and the design setbacks would mitigate this.
148. The Commission accepts the advice of the Department outlined in paragraphs 139 - 146 above because whilst the site is flood prone the impacts can be managed to acceptable levels.
149. Based on the material, the Commission considers that the flooding risks and groundwater impacts could be appropriately managed and or mitigated through the implementation of conditions of consent.

6.8.5 Biodiversity

Council and Public comments

150. The Commission heard concerns from Council and speakers at the public meeting and received written comments regarding the proposals impacts on biodiversity including impacts on local flora and fauna.
151. Council’s Report noted *“Submissions from local residents have raised the possibility of the presence of a yet-to-be-described, rare species of orchid within the golf course grounds”.*

Applicant’s Consideration

152. The Applicant stated in its SEE: *“A Flora and Fauna report has been prepared for the application which forms Appendix P of this report. The assessment confirms that whilst matters for consideration under the EPBC Act are located on the site, the proposal is not considered to cause a significant impact on matters of national environmental significance. As such referral under the EPBC Act is not required for the application”.*

Department’s Consideration

153. The Department noted in its Assessment Report: *“The majority of the site (approximately 90% according to the biodiversity assessment in the SEE) is cleared to facilitate the golf course. However, the remnant vegetation comprises the Cumberland Plain Woodland (CPW) and River-flat Eucalypt Forest on Coastal Floodplains (REFCF) vegetation communities, both listed ecological communities under the Threatened Species Conservation Act 1995 as Critically Endangered and Endangered, respectively.*

...

The proposal includes the removal of 0.15 ha of REFCF and 0.93 ha of CPW which is considered by the biodiversity assessment to be an insignificant impact, therefore not warranting a biodiversity offset scheme under the Biodiversity Conservation Act 2016”.

154. The Department advised that the identified potential presence of an unrecorded species of orchid on the Site could be addressed by recommending: *“a condition requiring targeted seasonal surveys for the species before commencing the development, with the survey plan to be developed in consultation with Council”.*

155. The Department also advised in its Assessment Report *“The proposal includes rehabilitation of the Jerry’s Creek riparian corridor using species representative of the Cumberland Plain Woodland and River Flat Eucalypt Forest on Coastal Floodplains vegetation communities (see Figure 8). The intact vegetation communities in the northeast of the site will be retained with additional revegetation using the same species composition as for Jerry’s Creek...*

In response to information provided by the Applicant, the Department of Industry – Water has now issued general terms of approval for the development (see Appendix H), including riparian revegetation requirements...

With the proposed revegetation measures, the implementation of measures recommended "by Council and the Department of Industry – Water, in addition to the progressive improvement of the landscape with public facilities, paths, the Department considers the proposal meets the principles of protecting and improving the health and enjoyment of the District’s waterways. Therefore, the Department is satisfied the proposal is consistent with Planning Priority 12 of the Western City District Plan”.

156. The Department recommended imposing a number of conditions relating to landscaping, water management and riparian revegetation requirements.

Commission’s consideration

157. The Commission accepts the Department’s finding that with the implementation of measures recommended by Council and the Department of Industry biodiversity the Application will provide for the health and enjoyment of the waterway.

158. Based on the material, the Commission finds that the potential impacts to biodiversity are acceptable because the level of impact to native vegetation, and associated threatened flora and fauna, is limited and the proposed rehabilitation of Jerry's Creek would provide for an improved outcome.

6.9 Social and economic impacts

159. The Commission heard concerns from Council and speakers at the public meeting and received written comments regarding the social impacts associated with the development.

6.9.1 Local Character and Sense of Place

Council and Public comments

160. The Commission heard concerns from Council, speakers at the public meeting and received written comments regarding the impacts of the Application on the character of the village of Wallacia. These concerns were expressed in many ways and included:

- *"...golf course is a very important part of the social fabric of the town and I believe of the wider, so extended, community"*
- *"I consider that the golf course is the most inappropriate location for a cemetery, being right in the Centre of Wallacia. The golf course is surrounded by residential homes, the local shops and Wallacia Hotel. Wallacia is a small rural village and a to place a cemetery right in the centre of the village will change the atmosphere forever. It will cease to be a small rural village and will become known only for its cemetery"*
- *"We chose Wallacia because it is a beautiful, peaceful, rural village and bringing a cemetery into the village changes its nature completely"*
- *"Wallacia will become infamous as the region's graveyard or dead centre"*
- *"We moved to Wallacia to enjoy the quiet rural lifestyle that is currently enjoyed. We would like to keep our amenity and enjoyment"*
- *"Please do not approve the plans and stop this cemetery development destroying our village... The social impact of this cemetery development will affect us all"*
- *"Concerned for my local community from the detrimental effects of this intrusion on the heart of our community"*

161. In their meeting with the Commission, Council noted: *"...our elected council has received significant objection and concern from the community in Wallacia and surrounding areas and their elected councillor has been very, very concerned about this proposal being out of character with that area, with the village but the broader Mulgoa Valley as well. We've always held very, very strongly that the principles of the old REP 10 and the need to protect the heritage of Mulgoa Valley"*.

Applicant's consideration

162. The Applicant's SEE stated that: *"The proposal is not considered to be out of character with the existing landscape and local character of the area. The new buildings occupy only a very small proportion of overall site area and can be sympathetic to the changing character of the landscape to accommodate new burial grounds"*.

Department's consideration

163. The Department's Assessment Report does not include an assessment of the local character, but relevantly the Department describes the surrounding land uses in its Assessment Report as "*The site is immediately east of the Wallacia village, with low density residential land use along the southern side of the Park Road, which forms the southern boundary of the site. Large lot residential and cleared land are to the north and east of the site*".

Commission's consideration

164. As noted in paragraph 111, local character is what makes a neighbourhood distinctive and is the identity of a place, it encompasses the way it looks and feels. It includes the sense of belonging a person feels to that place, the way people respond to the atmosphere, how it impacts their mood, their emotional response to that place and the stories that come out of peoples' relationship with that place. Place is the layout, division and built form of built environments – its patterns, landscape, density, development, land use and mix.
165. With regard to this definition, the concerns raised by Council and the public, and taking into account the surrounding land uses outlined in paragraph 163, the Commission considers that the Application will impact upon the existing identity of the area, therefore impacting upon local character and sense of place.
166. The Commission considers the Application will have a negative social impact on the community associated with its effect on local character and sense of place. Additionally, the Commission considers that preservation of the existing and desired character of the area, including the preservation of passive and active recreation space, is of benefit to the community.
167. The Commission considers that, whilst not being unacceptably visually intrusive, the Application will result in a very different character compared to that of the existing golf course. Specifically, a large cemetery development with manicured lawns, internal roadways, a chapel and gravestones, as well as the associated the traffic and funeral processions provides for a different look and feel and a more sombre atmosphere, which is likely to evoke a different emotional response when compared to that of the existing golf club. Additionally, the change of land use from an area offering active recreation to an area offering only passive recreation (following completion of development) within the grounds of a cemetery, further impacts upon the existing local character and sense of place. See further discussion regarding the impacts associated with loss of recreational space in section 6.9.2.
168. Based on the material the Commission considers that the Application will change the existing local character and sense of place enjoyed and valued by the community of Wallacia. The Commission considers a key component of the existing local character and sense of place is associated with the real and perceived value the existing golf club offers in terms of providing for both active and passive recreation. The Application will result in the sterilisation of the real and perceived passive and active recreation currently offered by the Site. See further at 6.9.2 and 6.10. The Commission finds that the likely change to the existing character and sense of place that will occur because of the Application is an impact that cannot be easily mitigated or managed and has not been adequately addressed by the Applicant. It is noted a Response to Public Submission was never prepared for this Application by the Applicant.

6.9.2 Access to recreational space

Council and Public comments

169. The Commission heard concerns from Council and speakers at the public meeting and received written comments regarding the impacts of the project on access to recreational space. These included concerns that:

- a cemetery is a place for the dead to rest and for people to grieve, not a place to use for recreational activities such as playing golf, walking a dog, playing with children or jogging
- the proposal would destroy the Wallacia Golf Club and therefore erode the community's access to facilities and places essential to maintaining socially connected and healthy lifestyles
- the need to maintain the golf course as it is the most significant sporting and recreational space in the area
- use as a cemetery will eliminate potential for the Site to provide future alternative recreational or open space uses
- there is an identified lack of sufficient sporting and outdoor recreational sites within the village of Wallacia, and
- *“As a community we feel strongly the site’s attributes will not be valued or enhanced. It is said by CMCT that we will have 42 hectares of passive recreation. No community member will enjoy any part of visiting a cemetery for enjoyment or recreation”*

170. The Commission also heard from members of the public who spoke in support of the Application raising concern that the golf course will close if the Application is not approved, leading to a loss of recreational space. Specifically, these concerns included:

- the development will allow for the golf club to be maintained, at a smaller scale, for several years into the future. However, if the Application does not go ahead the result would likely be an overgrown, unsightly paddock with no club facilities, and
- if the development application is not approved the golf club is not financially viable and therefore will have to shut down.

Applicant’s consideration

171. The Applicant stated in its SEE that: *“The development has been based on the design approach that the cemetery can function as a park, sanctuary, and open space available to the public. It will allow the progressive conversion of the Wallacia Golf Course to be made more accessible to the public and managed/maintained effectively by the applicant the CMCT in perpetuity*

...the proposal will increase the amount of publicly accessible open space for residents and visitors of the broader locality. The publicly accessible parklands in additional [sic] to the memorial park, will provide open space for passive recreation activities.”

Department’s consideration

172. The Department stated in its assessment report that *“The proposal would assist in achieving several Planning Priorities of the Western City District Plan by... delivering high quality open space – Planning Priority W18”.*

Commission’s consideration

173. The Commission notes that the community has overwhelmingly expressed the view that the open space to be provided by the Application is not conducive to passive recreation. Many community members consider the function of a cemetery (as a place for mourning and memory of the dead) to be inconsistent with use for recreation. Additionally, based on paragraph 169 the Commission finds that the community highly values the existing recreational space (sporting facility) that is currently provided on the Site.
174. As noted in the Local Character and Place Guideline, community facilities, including sporting facilities, help support cohesive and integrated communities with places for people to gather and socialise. They foster a strong sense of place and instil community pride. Based on the material, the Commission consider the existing golf club to represent a highly valued community facility, which plays an important role for the community by providing for recreation and social cohesion.
175. The Commission acknowledges the concerns raised by the public in paragraph 170. However, the Commission considers that there is no evidence to suggest whether the golf club would, or would not, be maintained into the future in absence of the cemetery development. Whilst it is beyond the remit of the Commission in making its direction to consider or provide comment on commercial viability, the Commission considers that if the site was a cemetery, the possibility of other commercial arrangements and future recreational land uses would be more limited.
176. Based on the material, the Commission considers that if the Application were to be approved, the proposed publicly available open space to be provided within the cemetery grounds would not be as conducive to passive recreation and would be unlikely to be highly utilised by the community. The Commission considers that the community highly values active and passive recreational space in this location and that changing the current land use to a cemetery would irreversibly sterilise future opportunities that align with such a land use.

6.10 Suitability of the site for the development

177. The Commission heard concerns from Council and speakers at the public meeting and received written comments regarding the suitability of the Site for the development.

6.10.1 Scale of the Development

Public and Council comments

178. The Commission heard concerns from Council and speakers at the public meeting and received written comments and submissions regarding the impacts associated with the scale of the proposed cemetery development. These included concerns that:
- the regional scale of the development is inappropriate in context of the village of Wallacia
 - the cemetery will overshadow the town of Wallacia, and
 - *“The burial facility proposed is of regional style facilities. Development of this scale will have adverse impacts on the landscape, aesthetic and heritage values of the subject area”*

Council comments

179. In the Council’s Report it stated: *“The proposed use of the entire site as a cemetery will have the effect of sterilising the land and will inhibit the ability of the Wallacia town centre to grow, noting the western boundary of the township is flanked by the Nepean River.*

Parts of the site are positioned to allow for development which may contribute to the strength and diversity of commercial and employment opportunities within the Wallacia Town centre, particularly given the site's position relative to the town centre and its frontage to Park Road...

The scale of the development proposal is assessed as incompatible with the character of the area and the site's more technical characteristics. It is raised for consideration that the review for the need for land for cemeteries and crematoria in the Greater Sydney region has not been finalised and in this respect the scale of the development is further highlighted as unreasonable".

180. In its meeting with the Commission Council stated: *"The scale of the development in relation to the Wallacia Town Centre is apparent, you would have seen, when you visited the site, that that existing golf club is... quite large compared to the small village. Once the, I guess, stage 3 is completed, the scale of that cemetery in relation to the actual village goes to, I guess, a test of character in terms of where it's located in proximity to the village and also, in a sense, the sterilization of that land in particular, stage 3, 20 in the sense of the town centre can't grow any more to the west because of the location of Nepean River or to the south because of the other – because the river comes around and Warragamba is there, and then you've got the cemetery to the east. So there are concerns from the residents that, economically, there could be greater or better use of land, in particular with the regard to the... parts that front Park Road and closer to the village centre in stage 3".*

Applicant's consideration

181. The Applicant stated in its SEE that: *"The proposal responds to an identified need for cemetery space with Metropolitan Sydney particularly within Western Sydney" and "The scale of the development is consistent with the scale and bulk of other cemeteries within Sydney".*

Department's consideration

182. The Department did not directly address the scale of the Application however stated in its Assessment Report that the Application *"responds to the need for additional cemetery space in metropolitan Sydney identified in the CCNSW Metropolitan Sydney Cemetery Capacity Report (2017)".*

Commission's consideration

183. As noted in paragraph 17, the catchment area was defined to include the Blue Mountains, Liverpool and Penrith LGAs being the LGAs within approximately a 15km radius of the site (based on analysis indicating 80% of people buried at a cemetery reside within 15km). The Commission notes that the catchment area for the proposal includes a significant area outside of a 15km radius of the site.
184. The Commission considers the Application to represent a regional scale cemetery development given it would provide for 88,000 burial plots which is notably larger than other recent cemetery developments in metropolitan Sydney.
185. In considering the appropriateness of the scale of the development the Commission also considered how accessible the Site is in relation to its likely user base and key population centres as well as the context of the locality. See further discussion regarding accessibility in section 6.10.2 below.

186. The Commission considers Wallacia to be a relatively small peri-urban village and considers that a cemetery development at the scale and location proposed is out of context with the size of the village of Wallacia. Additionally, the Commission considers the considerable scale of the development will further impact upon the local character and sense of place as discussed in section 6.9.1.
187. Based on the material, the Commission considers that the scale of the Application is inappropriate in the context of the locality given its proximity to the village of Wallacia and the distance from the population base which it is proposed to serve.

6.10.2 Site Accessibility

Applicant's consideration

188. The Traffic Impact Assessment submitted with the SEE stated: *"The subject site is situated approximately 145 metres from northbound bus services and approximately 185 metres from southbound and eastbound services, located on Mulgoa Road. Bus service 795 is the only service which stops at these bus stops and provides travel between McCarthy High School, Emu Plains and Weir Road at Ninth Street, Warragamba.... There are no additional public transport links within the vicinity of the site..."*

There are no formal cycle routes within the immediate vicinity of the development site. The closest cycle route is located approximately 4.5km east of the golf club on The Old Northern Road. The RMS cycleway finder classifies this route as 'high difficulty' and the route extends to South Penrith to the north and Narellan to the south".

Commission's consideration

189. As noted in paragraph 108 the MSCC Report notes funeral services are generally undertaken in the location associated with the life of the deceased and generally the family and friends of the deceased are proximate to the location of the deceased's life. If burial occurs in a location that is not proximate to the life of the deceased, additional travel time is involved in the transfer to the site for burial, and on an ongoing basis for visitation.
190. The Commission notes that the Northern Road (A9) is approximately 4km and a 4-minute drive from the Site and the Western Motorway (M4) is approximately 17km and a 17-minute drive from the Site. Additionally, Blacktown is approximately 35km from the site and a 35-minute drive and Liverpool is approximately 30km and a 37-minute drive from the Site. As noted in paragraph 183 above the Commission finds that the proposed cemetery is located more than 15km from key population centres it is proposed to serve.
191. The Commission notes that the 795 bus route is the only public transport currently servicing the Site and currently provides 9 regular daily services (in each direction) Monday to Friday, four regular services on Saturdays and 2 regular services on Sundays. The Commission notes that 24-hour access to the proposed cemetery may be important for some people, particularly those of certain faiths. However, the Commission notes the Site would not be accessible via public transport 24-hours with the last bus service departing before 6pm and the first bus service not arriving at the Site until approximately 6am in the morning.
192. Based on the material the Commission finds that the Site is not readily accessible via public transport given it is only serviced by one bus route which offers an infrequent service and limited connections.

6.10.3 Compatibility with surrounding land uses

Public and Council comments

193. The Commission heard concerns from Council and speakers at the public meeting and received written comments regarding the impacts of the Application on surrounding land uses. These included concerns regarding the proximity of the Application to residential development, Wallacia village and the broader Mulgoa Valley and the location of the Application being '*right in the centre of the town*' (referred to in the public meeting).

Applicant's consideration

194. In its SEE the Applicant noted that it has had regard to the planning principle established on "compatibility" in the matter of *Project Venture v Pittwater Council* (2005) NSW LEC noting that Roseth SC stated: "*The physical impacts, such as noise, overlooking, overshadowing, and constraining future development potential, can be assessed with relative objectivity*".
195. In its SEE the Applicant has considered noise impacts, overlooking and overshadowing, future development potential, visual impact, heritage context and traffic generation and concludes that all associated impacts can be adequately managed and/or mitigated.
196. In relation to future development potential the Applicant's SEE stated: "*The proposal will not prevent access to adjacent sites, prevent additional services being provided to support additional development or isolate any sites. The proposal is therefore considered to not restrict future development potential on adjacent allotments. The proposed use by its nature is relatively benign compared to other permitted uses in E3 Environmental Management zone and its design does not place unnecessarily restrictions on adjacent land uses*".
197. In respect of on-going operational land use compatibility, the Applicant prepared an overarching Plan of Management "*which sets out CMCT commitment both to itself and the wider community on the transparent expectations the cemetery will operate by. These commitments include management of site use in a manner responsive to its locality, its community and other key stakeholders*".
198. The Applicant stated in its SEE that "*Based on the assessment of visual compatibility with the existing landscape of the surrounding setting, the components of the project will result in a landscape not dissimilar to the golf course landscape*" and "*The proposed built form has been assessed to be compatible with the surrounding development and environment*".

Commission's consideration

199. The Commission accepts the Applicant's advice that key impacts associated with noise, traffic, heritage and visual amenity can be managed or mitigated via conditions of consent.
200. As noted in paragraph 179, at its meeting with the Commission, Council raised concern that the Application could impact on the future potential development and growth of the town centre, particularly following completion of stage 3.
201. Regarding the future development potential, the Commission considers that the development is unlikely to restrict future development potential on adjacent allotments however finds that the Application will impact upon future development potential on the Site for a significant time period. The Commission considers the proposed cemetery development will sterilise the Site, which represents a large and significant parcel of land in the context of the village of Wallacia. The opportunity for the land to be used for an alternate use and/or uses that are more consistent with the community's desired character of the area or provide for a more substantial community benefit will be eroded.

202. The Commission notes that the GSC is currently undertaking a review of the strategic planning considerations for new cemetery development in Greater Sydney however in lieu of the completion of that review and information about its conclusions the Commission has considered the suitability of the site in the context of both its immediate and broader surrounding land uses.
203. Based on the material, the Commission finds that the proximity of the development to the RU5 zoned rural village of Wallacia is inappropriate given the social impact it will have on the existing attributes of the area including the local character and sense of place currently enjoyed and valued by the community as well as the limiting of future development potential of the Site.

6.11 Public Interest

Applicants Consideration

204. The Applicant concludes in its AIR that the Application is in the public interest, stating: *“The proposal responds to the demonstrable need and demand for cemetery space in Sydney and the Western Sydney region, with limited sites and opportunities to meet the long-term spatial requirements of the applicant. The proposal will provide an inter-generational piece of social infrastructure that will provide lasting social benefits, operated by CMCT who have a record of managing such facilities dating back 150 years in Sydney. Accordingly, the proposal is in the public interest as it will long term relief to the identified shortfall in burial plots within the Western Sydney Region; and facilitate public access to a previously privately owned element of the Penrith LGA at no cost to the community. Further it is noted that 42 hectares of the site will be made available for publicly accessible passive recreation. This reflects an emerging global trend in cemetery design and embodies principles of social connectedness and passive celebration of lives past within a parkland garden setting”*.

Department’s Consideration

205. As noted in paragraph 46, the Department’s Assessment Report stated that the Application is appropriate as it:
- *it responds to the need for additional cemetery space in metropolitan Sydney identified in the CCNSW Metropolitan Sydney Cemetery Capacity Report (2017)*
 - *it satisfies the relevant provisions of the PLEP 2010 and is permissible with consent*
 - *it is consistent with the Greater Sydney Region Plan 2018 and the Cemeteries and Crematoria NSW Strategic Plan 2015-20*
206. The Department’s Assessment Report concluded that: *“...the impacts of the development can be appropriately managed through implementation of the recommended conditions of consent. Consequently, the Department considers the development is in the public interest and is approvable, subject to conditions”*.

Commission’s consideration

207. In considering whether the Application is in the public interest the Commission has had regard to the objects of the EP&A Act. Under section 1.3, the objects of the Act relevant to the proposal are as follows:

(a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State’s natural and other resources,

- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,
- (c) to promote the orderly and economic use and development of land,
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),
- (g) to promote good design and amenity of the built environment,
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,
- (j) to provide increased opportunity for community participation in environmental planning and assessment.

208. The Commission considers object (a) to be particularly relevant to the Application. Specifically, the Commission considers that if the Application were to go ahead it would erode the social welfare of the community through its impact on local character and sense of place, which would be inconsistent with the object of the Act.
209. The Commission finds that whilst there are benefits to the public from the Application, associated chiefly with the provision of additional burial space, there are significant issues relating to site suitability and social impacts that cannot be mitigated and therefore the Application is not in the public interest.

6.12 Other relevant issues

210. The Department's Assessment Report identified other relevant considerations associated with the development application as identified by Council. These issues, including the Department's assessment of the significance of the impacts and recommended conditions, are set out in Table 1 below.

Table 1: Department's Consideration of Other Issues

Consideration	Recommended Conditions
Noise	
<ul style="list-style-type: none"> • Council raised concerns about the noise impacts due to the operation of the function room, particularly later in the evenings. • The operation of the existing clubhouse building to host functions is subject to a separate DA (DA 379/87) which restricts the operating hours to between 8 am and midnight. The Applicant proposes to maintain these hours for the function room for the development. • The Department notes that the proposed development is not expected to result in changes above and beyond its current permitted use. • The Department's assessment concludes that Subject to the implementation of the recommended conditions, noise emissions from the cemetery can be appropriately managed 	<p>Require the Applicant to:</p> <ul style="list-style-type: none"> • Restrict operating hours of the function room to between 8 am and midnight • Comply with the noise impact requirements of the <i>Protection of the Environment Operations Act 1997</i> or a license issued under the <i>Liquor Act 2007</i>

Consideration

Recommended Conditions

Lighting, signage, security and fencing

- Council's report notes that details of the proposed lighting, security features and fencing were not provided, and recommends further information be provided including a:
 - Lighting Plan
 - Security Plan
 - Gate and fencing details for the site
- Council's Public Domain Amenity and Safety Unit (see Error! Reference source not found.) has outlined recommended conditions that relate to lighting, design of car parks, landscaping, building security and access control and graffiti/vandalism
- The Department is satisfied that these issues can be adequately managed through the implementation of conditions that require the design and implementation of these measures in consultation with Council.

- Require the Applicant to:
- Ensure lighting is compliant with relevant standards and does not cause a nuisance to surrounding properties or Park road
 - Implement the conditions outlined in Council's referral response dated 8 December 2017 to the satisfaction of Council
 - design gates and fencing in accordance with relevant design guidelines and to the satisfaction of Council

Construction management

- Council's report notes that mitigation measures will need to be applied for the management of impacts during the construction of the development, including:
 - Construction noise and vibration
 - Construction air quality
 - Erosion and sediment control
- The Department is satisfied that these issues can be adequately managed through the implementation of construction management and mitigation measures to be described in a construction environmental management plan (CEMP).

- Require the Applicant to:
- Prepare and implement a CEMP for the construction of the development

211. The Commission accepts the conclusions of the Department's Assessment Report and recommendations as outlined in paragraph 210 and Table 1 because issues relating to noise, lighting signage, security and fencing and construction management can be managed through conditions of consent.

7 HOW THE COMMISSION TOOK COMMUNITY VIEWS INTO ACCOUNT

212. The views of the community were expressed through:

- public submissions and comments received (as part of exhibition and as part of the Commission's assessment process), and
- members of the public who spoke at the public meeting or sent written submissions during or after that meeting.

213. In summary, views expressed by the community raised a number of significant concerns about the impact of the development on the community specifically relating to the impact on sense of place, site suitability given the proximity to the village of Wallacia, the scale of the development in the context of the village of Wallacia, loss of recreational space, impacts associated with flooding and impacts associated with traffic.
214. The Commission carefully considered all of these views as part of making its direction. The way in which these concerns were taken into account by the Commission is set out in section 6 above.
215. It is noted a number of public comments raised concerns about the impacts of the proposal on property values however it is beyond the remit of the Commission in making its direction to consider or provide comment on impacts of property values.

8 CONCLUSION: THE COMMISSION'S DIRECTION

216. The Commission has carefully considered the Material before it and hereby directs the Planning Panel as the delegate of the Minister.
217. The Commission considers that:
- the key likely impacts of the Application on the natural and built environment including visual amenity, traffic and access, soil and contamination, biodiversity and flooding and stormwater can be managed and or mitigated to an acceptable level
 - the Application will likely have significant social impacts on the community, specifically it will likely have a permanent impact on the existing local character of the village of Wallacia and the community's sense of place
 - there are issues around the suitability of the Site, specifically the proposed scale of the development is too large in the context of the locality being the village of Wallacia and the Site is relatively removed from the population base it is proposed to serve (catchment area) and is not easily accessible via public transport
 - the proposed benefits associated with publicly accessible open space are unlikely to be realised by the local community
 - the Application will limit the opportunity for alternative uses of the land specifically those that are more consistent with existing character of Wallacia, may that be for recreation or other another use, and
 - the Application will provide for public benefit including the provision of burial space and the rehabilitation of Jerry's Creek, however on balance it is not in the public interest given the unsuitability of the Site and social impacts that cannot be mitigated and have not been addressed by the Applicant.
218. For the reasons set out in this report and summarised above in paragraph 217, the Commission directs the Planning Panel to refuse the project within 60 days of the date of this direction under section 4.34(1)(b) of the EP&A Act.



Dianne Leeson (Chair)
Member of the Commission



Ross Carter
Member of the Commission



Adrian Pilton
Member of the Commission