

3 April 2019

Ms Dianne Leeson
Panel Chair
Independent Planning Commission
Level 3, 201 Elizabeth Street
SYDNEY NSW 2001

Dear Madam,

A085-18 Crown Cemetery Development Varroville

I am writing in relation to the subject application, which proposes the construction and use of a site at Varroville as a cemetery and parklands.

I also refer to your meeting held at Council's office with Jim Baldwin, Council's Director of City Development and Andrew MacGee, Council's Coordinator Planning Engagement in March 2019.

This letter is in two parts.

Firstly, the letter confirms Council's position on the development. Secondly, the letter provides Council's response to the additional information supplied to the Department of Planning and its assessment of the proposal on the Commission's behalf.

Part One

As discussed in your meeting with staff, the Council has held a long-term position on the development of land within the 'Scenic Hills'. This position has not changed or waived in several decades, and in fact, the Council's position on the protection of the 'Scenic Hills' has only strengthened over that time. The 'Scenic Hills' are considered by Council and the community to be one of the area's most significant environmental assets.

As well as being a strongly held community view, the position has been embodied into planning controls since the 1970s and continues to this day by way of clauses in the current local planning instrument. The clauses aim to:

"recognise and protect the scenic, environmental, cultural and historic qualities of the Scenic Hills and the landscape setting of Campbelltown and protect visual aesthetic amenity and views to and from the Scenic Hills."

Your review of the cemetery's progress through the process of the local environmental plan amendment will reveal the consistent position that the elected Council has held on the development of the site as proposed in this application.

To assist the Commission, I have provided a copy of correspondence to the (Former) Sydney West Joint Regional Planning Panel as part of Council's submission on the proposed amendment to its local environmental plan to permit a 'cemetery' at the site.

I have extracted some relevant points from Council's correspondence below:

- *It was considered to be incompatible with the existing and desired future rural landscape character of the locality and the Scenic Hills generally*
- *It was considered to be inconsistent with the objectives of the existing Environmental Protection Zone*
- *The preservation of the environmental character and scenic qualities of the Scenic Hills for the benefit of the Campbelltown and wider Macarthur community outweighs the regional benefits that would be provided by a cemetery at the nominated site*
- *A cemetery of the scale envisaged by the planning proposal request would be likely to generate traffic at a scale and of a nature that would impact on the existing and desired future passive rural ambience and character of the locality*
- *An amendment to the environmental planning instrument that would permit the development of the land for the purposes of a cemetery and related uses would set a precedent for other inappropriate development in the locality*
- *Council is not satisfied that the development of the land for the purposes of a cemetery and related uses would not have a deleterious impact on the heritage significance of Varroville House, its curtilage and landscape setting as well as the wider cultural rural landscape*
- *Council is not satisfied that the development of the land for a cemetery and related uses would not have a significant and adverse negative impact on the amenity of existing and future desired surrounding land uses*

The Council's position has not changed and matters raised with the Joint Regional Planning Panel at the time remain considerations for the Commission. The subject development application has done little to assuage the community's concerns with development in the 'Scenic Hills' that were raised during the LEP amendment process and in the decades prior.

Council and the community were delighted that the Greater Sydney Commission had considered public sentiment on the 'Scenic Hills' in the Western City District Plan, where amongst other sites in the district, the 'Scenic Hills' are mentioned as being of special importance to the cultural landscape of the Western City.

Planning Priority W16 in the Plan specifically requires the protection of scenic and cultural landscapes and places responsibility for that protection on Councils and also "other planning authorities and State agencies".

On behalf of the community of Campbelltown and its Council, I implore the Commission to be one of those planning authorities.

Part Two

Part two of this letter focuses on the information supplied by the applicant to the Department of Planning as part of its assessment of the proposal on behalf of the Commission. I understand that the information has come about as a result of discussions held with relevant State agencies and in response to some of the issues raised by Council in its letter to the applicant dated May 2018.

For the sake of clarity, this part of the letter takes a practical approach to the assessment of the proposal as development by the Crown. It should not be taken as being inconsistent with Part One.

Council has reviewed the Department of Planning's assessment report and the additional information supplied by the applicant. Further, Council also understands that the 'Schedule of Conditions' provided by the Department of Planning have not been taken by the Commission as suggested wording and a limit to condition types/number, but rather, are an indication of the likely condition content and scope.

The following comments are provided to assist the Commission's assessment of the proposal.

Heritage Impacts

The applicant's amendments to site design, landscaping and interpretation of buildings in response to matters raised, particularly associated with the 'no build area' is noted. The Heritage Council's comments on the revisions are also noted and have been reviewed.

The Commission must satisfy itself that the recommendations from the Heritage Council are embodied into any proposed conditions of consent.

Significant concern is raised by Campbelltown Council that the study prepared to assist the Heritage Council in its assessment of a separate application to amend the State Heritage Register's curtilage around "Varro Ville Homestead" does not appear to have been taken into consideration by the applicant and subsequently, the Department of Planning.

Instead, the applicant and Department have relied upon the conservation management plan and heritage impact statement that accompanied the local environmental plan amendment and development application respectively. While the conservation management plan and supplementary information is specifically referenced in Clause 7.8A of Campbelltown Local Environmental Plan 2015 ("the LEP"), the Clause itself does not restrict the assessment of development against that document alone.

In a manner consistent with Heritage Council guidelines, the conservation management plan referenced in the LEP acknowledges that more detailed assessment and research shall be considered when making decisions about "all future planning" for the site. This would include the subject development application.

Council strongly recommends that the Commission request further information from the applicant and Department of Planning in relation to this issue before making its Direction to the Sydney Western City Planning Panel regarding the application's determination.

Although it is acknowledged that the application for an extension to the curtilage surrounding Varro Ville House is a separate proposal, subject to separate process; Council considers it imperative that the Panel for this development application does not ignore the recommendation of the Heritage Council in that matter.

Traffic Impacts

Council has reviewed the revised/additional information supplied by the applicant. The response from Roads and Maritime Services (RMS) has also been reviewed.

Council recommends the following items receive further consideration by the Commission:

- Directing traffic to Spitfire Drive is inappropriate and Council is concerned that the additional traffic on this local collector road will make the road unsafe. The intersection of Raby Road and Spitfire Drive is already at LoS E and as such any increase in traffic is likely to cause performance to fail. Yet the applicant's distribution modelling proposes 17% of traffic utilise this route. Council does not support this.

It should be acknowledged by the applicant that in-car and 'smart phone' navigation systems, likely to be used to access and leave the site by out of area visitors almost invariably preference using Spitfire Drive as a means to access Raby Road and the Hume Highway to head in a northerly direction.

With this in mind, justification for only 17% only traffic heading away from the site utilising Spitfire Drive should be provided. Information pertaining to the destination(s) for the 20% of vehicles using St Andrews Road and Campbelltown Road heading to in the applicant's modelling should be provided.

It is also noted that further increases in traffic along St Andrews Road to Campbelltown Road have a significant deleterious impact on that intersection and may cause the need for its upgrade.

- RMS have proposed that the traffic is reassessed every 10 years from 2038. Council believes this could allow an unacceptable traffic situation in the meantime that would inconvenience our community for too long.

Council proposes that the traffic is reassessed when specific triggers are reached.

- Critical traffic volumes on St Andrews Road (to be determined by agreement – as a condition of consent)
 - Intersections servicing the cemetery reaching critical levels of service (Campbelltown Road/St Andrews Rd, St Andrews Road/Spitfire Drive, Spitfire Drive/Thunderbolt Drive, Spitfire Drive/Raby Road, Thunderbolt Drive/Raby Road)
 - Connection of St Andrews Road between Camden Valley Road and Campbelltown Road (should that be proposed in the short to medium term)
 - Uptake of plots within the cemetery reaching agreed threshold levels.
- Documents indicate that peak hour traffic movements in the order of 450 vehicles per hour and weekend peak movements up to 660 vehicles per hour will occur. Given the location adjacent to a high school, there are significant concerns regarding traffic management at the site which do not appear to have been considered by the applicant.

In addition, and as provided to the applicant in the Council's request for further information dated May 2018, the Council has its own background growth estimates that it recommends be obtained for use by the applicant. The model is considered locally to be more reliable than the RMS 'strategic traffic forecasting model' referenced by the applicant and has been developed in cooperation with Camden, Campbelltown and Wollondilly Councils.

Compliance with Campbelltown Local Environmental Plan 2015

The applicant and Department of Planning have considered the application against relevant objectives and requirements contained in Campbelltown Local Environmental Plan 2015 (the LEP).

In addition the issue raised earlier in this letter regarding the development's response to a contemporary heritage assessment undertaken at the locality (Clause 7.8A of the LEP), I would like to raise another issue that does not appear to have been adequately dealt with by the Department of Planning or the applicant, being compliance with Clause 7.6 of the LEP.

Clause 7.6 must be read in conjunction with Clause 7.8A and is not (in Council's opinion) superseded or discounted by way of Clause 7.8A's inclusion as an amendment to the LEP.

Clause 7.6 relates to development of land in scenic protection and escarpment preservation areas – both of which apply to the site. The objectives of the Clause are:

- (a) to recognise and protect the scenic, environmental, cultural and historic qualities of the Scenic Hills and the landscape setting of Campbelltown,*
- (b) to protect visual aesthetic amenity and views to and from the Scenic Hills,*
- (c) to reinforce the visual dominance of landscape over built form,*
- (d) to ensure development on land to which this clause applies is appropriate for the location and is located and designed to minimise its visual prominence in the landscape.*

The objectives of the Clause serve to further demonstrate the Council's ongoing commitment to preserving the scenic, environmental and cultural amenity afforded to the community by the 'Scenic Hills'.

The Clause goes on to provide the following:

- (3) Development consent must not be granted to any development on land to which this clause applies unless the consent authority is satisfied that:*
 - (a) measures will be taken, including in relation to the location and design of the proposed development, to minimise the visual impact of the development on the natural and visual environment of the land, and*
 - (b) the external surfaces of any building consist of prescribed materials, and*
 - (c) the development will incorporate measures to preserve the scenic qualities of, and views to and from, the land, and*
 - (d) measures will be taken to reduce any potential land use conflict, and*
 - (e) the development will maintain the existing natural landscape and landform and will not affect the stability of the land.*

Clause 7.6 is not mentioned in the Department of Planning's assessment of the proposal.

In making its Direction to the Sydney Western City Regional Planning Panel, the Commission should be satisfied that the development proposal is consistent with the Clause and its requirements.

Clause 7.6(3)(a) requires the consent authority to be satisfied that measures will be taken to minimise a development's visual impact on the natural and built environment. The Clause is similar to Clause 7.8A(2)(a) and (b).

Council acknowledges the applicant's ambition to locate certain buildings in specific locations on the site to minimise their visual impact. However, concern is raised regarding the development and its compliance with this visual impact Clause and Condition 9 in the Department of Planning's 'Schedule of Conditions'. The condition comes from a recommendation made by the Heritage Council. The condition requires that:

"Proposed road and boundary lines must not be reinforced with screen or avenue plantings. Planting across the development must respond to and reinforce the pattern of the original landscape (the pattern created by topography, drainage lines, remnant natural or cultural vegetation, and other elements such as fence lines)."

The impacts of compliance with this condition do not appear to have been considered by the applicant and the Department of Planning. Council contends that the Commission could not be satisfied that the development would minimise its visual impact without a proper assessment of the implications of this condition as visual impact photomontages and landscape plans provided for the development appear to rely on screen plantings throughout to minimise the development's visual impact.

The Commission must be satisfied that roads and other infrastructure will be adequately screened from view points throughout the locality. However, with the condition above recommended by the Heritage Council and Department of Planning, that screening ability appears in doubt, further distancing the proposal from any compliance with the LEP control that it had.

Further advice on this condition and its relationship to the proposed 'burial rooms' and associated screen plantings should also be sought from the Heritage Council and Department of Planning. Should the burial room planting regime be altered as a result of the condition, the visibility of headstones would be considered inconsistent with the LEP.

The Council had previously requested further information on the impacts of the development at night. To date, no real assessment of the impacts that the proposal might have on the 'darkness' associated with the 'Scenic Hills' has been provided. It is acknowledged that lighting at night would be low lux, scattered, essential lighting only. But at present, there is no artificial light emanating from the subject site. Council recommends that the Commission seek further information from the applicant on the impacts that this light might have.

The application does not deal successfully with Clause 7.6(3)(b) of the LEP. Prescribed materials are defined in Clause 7.6 as *"materials that are dark-coloured and of low reflective quality or painted or similarly treated with dark-coloured paint of low reflective quality and that blend with the landscape of the site of the building of which they form part."*

Architectural plans supplied with the application and images subsequently supplied to the Commission during its assessment of the proposal (ref. IPC website, 'IPC DA Presentation Architectural Design Varroville', uploaded 27.02.2019) do not comply with this requirement. The palette used is not dark-coloured and in several cases, not considered likely to be of low reflectivity, particularly the expanses of glazing on most of the buildings.

Accordingly, approval of the buildings as proposed is not consistent with the requirements of the Clause.

Although not specifically buildings, it could reasonably be argued that public art proposed throughout the site are 'structures' and as such, should be treated in a manner consistent with other buildings on the site as per Clause 7.6; at least as a means to reduce their visual intrusion on the landscape.

It is noted that the requirements of Clause 7.6(3)(b) would not apply to existing heritage-listed buildings as consent for their construction is not being sought.

Pursuant to Clause 7.6(3)(d), the Commission must be satisfied in making its Direction that all measures have been taken by a development to minimise any land use conflicts. Matters raised by Council and submissions in objection to the proposal should be taken into consideration by the Commission in making its decision on the appropriateness of this site for the subject development.

Clause 7.8 of the LEP is concerned with development on steep land in the Scenic Hills. The Clause applies to the site.

Clause 7.8 is not mentioned in the Department of Planning's assessment of the proposal.

Clause 7.8(4)(b) requires the consent authority to consider whether or not the stability of the land will be maintained. The Commission, in making its Direction to the Regional Panel must have evidence at hand that the stability of the land would to be affected by the development.

The relationship of the development proposed to the findings of the applicant's "Preliminary Stability Assessment" (Douglas Partners March 2017) should be explored further. The three zones mentioned in the study, two of which are susceptible to instability, have not, to Council's knowledge, been interpolated onto a plan of the site's overall development.

The Commission should seek clarification of this matter in order to satisfy itself that the development is compliant with Clause 7.8(4)(b). Excavation for gravesites is proposed in some areas identified as 'moderate stability risk' in the report according to information available to Council.

Schedule of Conditions

As mentioned earlier, Council (and the Commission) are of the understanding that the 'Schedule of Conditions' supplied by the Department of Planning are basic in their scope and detail.

Council would like to reserve the opportunity to provide more detailed conditions associated with development of the site in line with standard local development policies and procedures. Of course, this would be undertaken in accordance with the provisions of Section 4.33(1)(b) of the Environmental Planning and Assessment Act 1979.

These conditions would relate to matters including (but not limited to):

- Roads Act 1993 approvals
- Wastewater capture and disposal
- Developer contributions pursuant to the adopted Section 94A (now Section 7.12) contributions plan
- Vegetation management

The Commission's confirmation of such opportunity would be appreciated.

To end, I reiterate Council's long-held and strongest position against development in the 'Scenic Hills'. The Commission must be satisfied that the proposed cemetery recognises and protects the scenic, environmental, cultural and historic qualities of the Scenic Hills and the landscape setting of Campbelltown and protects visual aesthetic amenity and views to and from the Scenic Hills.

Campbelltown Council is of the opinion that the development, as proposed, is not consistent with several planning controls and objectives, and in fact goes against the Council's and the community's desire for the protection of the Scenic Hills.

This development, being of such a scale with the potential to impact not only the environmental, historic and scenic quality of the site but also the amenity of those living within and nearby, is not considered by the Council to be compatible with the scenic and cultural landscape values of the 'Scenic Hills'.

It is of critical importance to the Council and the community of Campbelltown, that nothing be done to adversely impact on the rare qualities and value of the Scenic Hills; an area that defines the City of Campbelltown, and one that is cherished by the community.

Accordingly, to ensure the brand, vision and future of Campbelltown as a green city is not adversely affected through the large scale and detrimental development of the Scenic Hills, the Commission must not direct the Sydney Western City Joint Regional Planning Panel to approve the application.

Should you require any further information about this letter, please contact Jim Baldwin, Council's Director City Development on (02) 4645 4575.

Yours sincerely



Lindy Deitz
GENERAL MANAGER



29 March 2016

Regional Panel Secretariat
Attention: Ms Suzie Jattan
GPO Box 39
SYDNEY NSW 2001

Dear Ms Jattan

Planning Proposal Submission - 166-176 St Andrews Road, Varroville

Thank you for the opportunity to comment on the above planning proposal to amend the Campbelltown Local Environmental Plan 2015, to permit an additional permitted use "Cemetery" to the subject land.

Council has maintained a long history of opposing land uses which are inconsistent with the objectives, zoning and development standards in its planning instruments for the Scenic Hills in which this planning proposal is located. Council has long promoted the strategic importance of the Scenic Hills, and the defining role that this landscape unit plays in providing:

- i) a buffer to the urban development areas of the Campbelltown, Camden and Liverpool Local Government Areas
- ii) a rural landscape backdrop to urban areas of Campbelltown.

Council's consistent policy position on the Scenic Hills was reaffirmed at its meeting on 11 March 2014 when considering a report on this planning proposal, it resolved:

"That Council not support the planning proposal request to permit the development of a cemetery on Lot B DP 370979, Lot 22 DP 564065, and Lot 1 DP 218016 St Andrews Road, Varroville."

Attached to this letter is a copy of a submission that was previously prepared on Council's behalf by Consultant Mr Ian Reynolds for the Pre -Gateway Review of this planning proposal in August 2014. The issues raised in this submission are still relevant to the planning proposal and are presented as Councils submission to the public exhibition of the planning proposal supplemented with the following strategic updates.

The attached submission contests that it would be premature to consider an isolated request for the use of a site as a cemetery until the completion of the city wide investigation into identifying land suitable for a cemetery as required by the Director General of Planning in certifying Councils Draft "Standard Instrument" LEP for exhibition.

Council's Standard Instrument LEP, Campbelltown Local Environmental Plan 2015 was approved by the Minister and Gazetted on 11 December 2015 on the basis that the Greater Macarthur Land Release Investigation would consider the issue of identifying land for use as a cemetery. As the detailed planning required to implement the Greater Macarthur Land Release is yet to be completed (currently in the Master Planning stage) it is still considered that any decision on this planning proposal would be premature.

A Plan for Growing Sydney (Sydney Metropolitan Strategy) was released on 17 December, 2014 and importantly identifies the Scenic Hills (including the subject site) as potential parkland/reserve reinforcing its strategic open space function in the local/regional landscape.

The potential strategic link identified in the Sydney Metropolitan Strategy between the Western Sydney Parklands and the Australian Botanic Gardens - Mount Annan via the Scenic Hills is supportive of Council's long held views and makes this planning proposal inconsistent with the Sydney Metropolitan Strategy.

More recently in support of its long held desire to retain the visual landscape character of the Scenic Hills Council resolved at its meeting on 16 February 2016 'not to support' two separate planning proposals which sought residential subdivision within the Scenic Hills.

In addition to 'not supporting' these planning proposal, Council also resolved:

- That Council oppose any urban, rural-residential or commercial development of the Scenic Hills that is not in line with the current zoning.
- That Council continues to oppose the planning proposal to permit a cemetery in the Scenic Hills.
- That Council continues to protect and preserve the Scenic Hills from Glenfield to Campbelltown.
- That Council write to the Minister for Planning requesting that in consultation with Campbelltown City Council a State Environmental Planning Policy be created to protect and preserve the environmental, historical, visual and rural landscape and character of the Scenic Hills consistent with the current Local Environment Plan.

These resolutions support and confirm Councils previous Policy position with regard to development within the Scenic Hills and further seek to strengthen controls via the creation of a State Environmental Planning Policy.

Therefore, Council holds the strongest of opinions that there is insufficient planning merit to justify the cemetery planning proposal request as the proposal is inconsistent with:

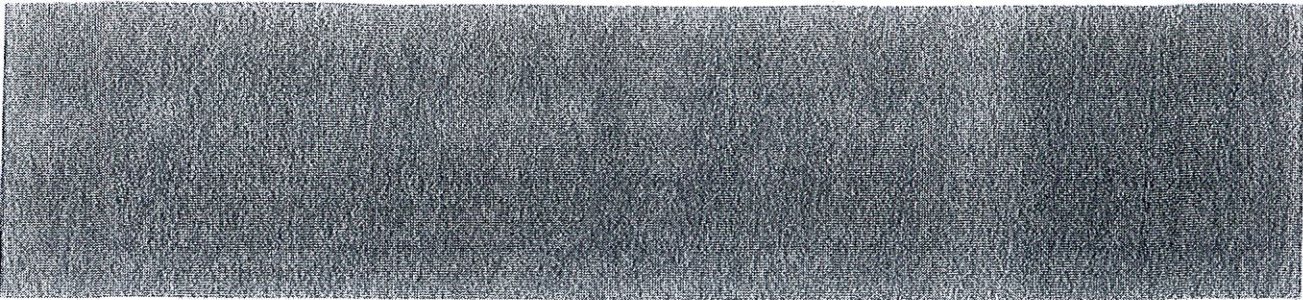
- Council's policy position on development within the Scenic Hills
- Sydney Metropolitan Strategy – "A Plan for Growing Sydney' 2014
- Ministerial Directions (s.117 – *Environmental Planning and Assessment Act 1979*) (Direction 2.1 - Environmental Protection Zones and 7.1 - Implementation of a Plan for Growing Sydney)
- Campbelltown Local Environmental Plan—District 8 (Central Hills Lands)
- Campbelltown Local Environmental Plan 2015
- Campbelltown Local Planning Strategy 2013

I would be happy to expand on any of the issues raised above and should you require any further information please contact me on 02 4645 4575.

Yours sincerely



James Baldwin
Acting Director Planning & Environment



PLANNING PROPOSAL FOR A CEMETERY ON
LAND IN THE SCENIC HILLS CAMPBELLTOWN –
REVIEW ON BEHALF OF CAMPBELLTOWN CITY
COUNCIL



Ian Reynolds

IAN REYNOLDS & ASSOCIATES PTY LTD PO Box 1044 Castle Hill 1765

1 Executive Summary

Council has been requested to amend the zoning controls applying to certain land in the Scenic Hills area of Campbelltown to permit the development of a cemetery. The cemetery is expected to operate for over 150 years, providing for a total of 136,000 burial places and areas for the interment of ashes.

The total area of the subject site is 113 hectares. It is a largely undeveloped rural property predominantly cleared (currently being grazed by cattle), contains a number of drainage lines and farm dams, with pockets of remnant native vegetation, and is characterised by undulating grassed hills, high scenic amenity and panoramic views to the Blue Mountains and Sydney CBD. It forms part of the rural backdrop to the urban areas of Campbelltown, being a key component of Council's policy approach to the future of Campbelltown as a City in a rural/bushland setting.

The objectives of the current zoning clearly indicate an intent to continue rural and open space uses into the long term. This policy intent carries over into the objectives of the proposed zoning under consideration by Council as part of its City – Wide Standard Instrument LEP. The cemetery would be prohibited under the zonings proposed for the site in that draft plan.

Council Officers recommended that Council endorse the draft planning proposal. However, Council refused to support the proposal, instead refusing it for a range of reasons principally related to incompatibility with its long term policy to preserve the environmental character and scenic quality of the Scenic Hills.

Council is conducting an assessment of its rural lands in general for cemetery and related purposes. Proceeding with one isolated proposal for a cemetery at this time would be prejudicial to proper and reasonable planning practice in advance of this investigation.

2 The Planning Proposal

2.1 The Proposal

Council has been requested to support an amendment to Campbelltown Local Environmental Plan – District 8 (Central Hills Lands) to permit the development of a multi-denominational general land cemetery on a site in the Scenic Hills area of Campbelltown. The cemetery is proposed to be operated by the Catholic Metropolitan Cemeteries Trust on behalf of the Crown.

The cemetery is expected to operate for over 150 years, providing for a total of 136,000 burial places and areas for the interment of ashes.

The following works are proposed to be provided within the cemetery:

- Chapels
- Condolence rooms
- Information and administration buildings
- Sculpture park offering opportunities for local and Australian artists
- Arboretum for future preservation and education of generations to come
- Burial areas integrated in the landform
- Memorial gardens
- Passive recreation
- Swales and ponds

If the proposal proceeded, development would be staged. The first stage would be expected to cater for demand for 60 years.

2.2 The Subject Site

The subject site includes Lot B DP 370979, Lot 22 DP 564065 and Lot 1 DP 218016 St Andrews Road, Varroville, owned by Cornish Investments Pty Ltd. It is located on the eastern side of St Andrews Road, Varroville north of the M31 Hume Highway, and surrounds the historic house of Varro Ville.

The total area of the subject site is 113 hectares. It is a largely undeveloped rural property predominantly cleared (currently being grazed by cattle), contains a number of drainage lines and farm dams, with pockets of remnant native vegetation, and is characterised by undulating grassed hills, high scenic amenity and panoramic views to the Blue Mountains and Sydney CBD.

The site is shown in Figure 1 below. It forms part of the rural backdrop to the urban areas of Campbelltown, being a key component of Council's policy approach to the future of Campbelltown as a City in a rural/bushland setting.

April 2014 aerial photograph



Scale 1:2000 (1:1000) 2014
This photo is a 2014 aerial photograph
The information is provided by the State of Texas

Figure 1 Subject Site

2.3 Current Zoning

The current zoning of the subject site is part Zone No 7(d1) Environmental Protection (Scenic) and part Zone No 6(c) Open Space (Regional) under the provisions of Campbelltown Local Environmental Plan – District 8 [Central Hills Lands] (CLEP-D8) (See Figure 2).

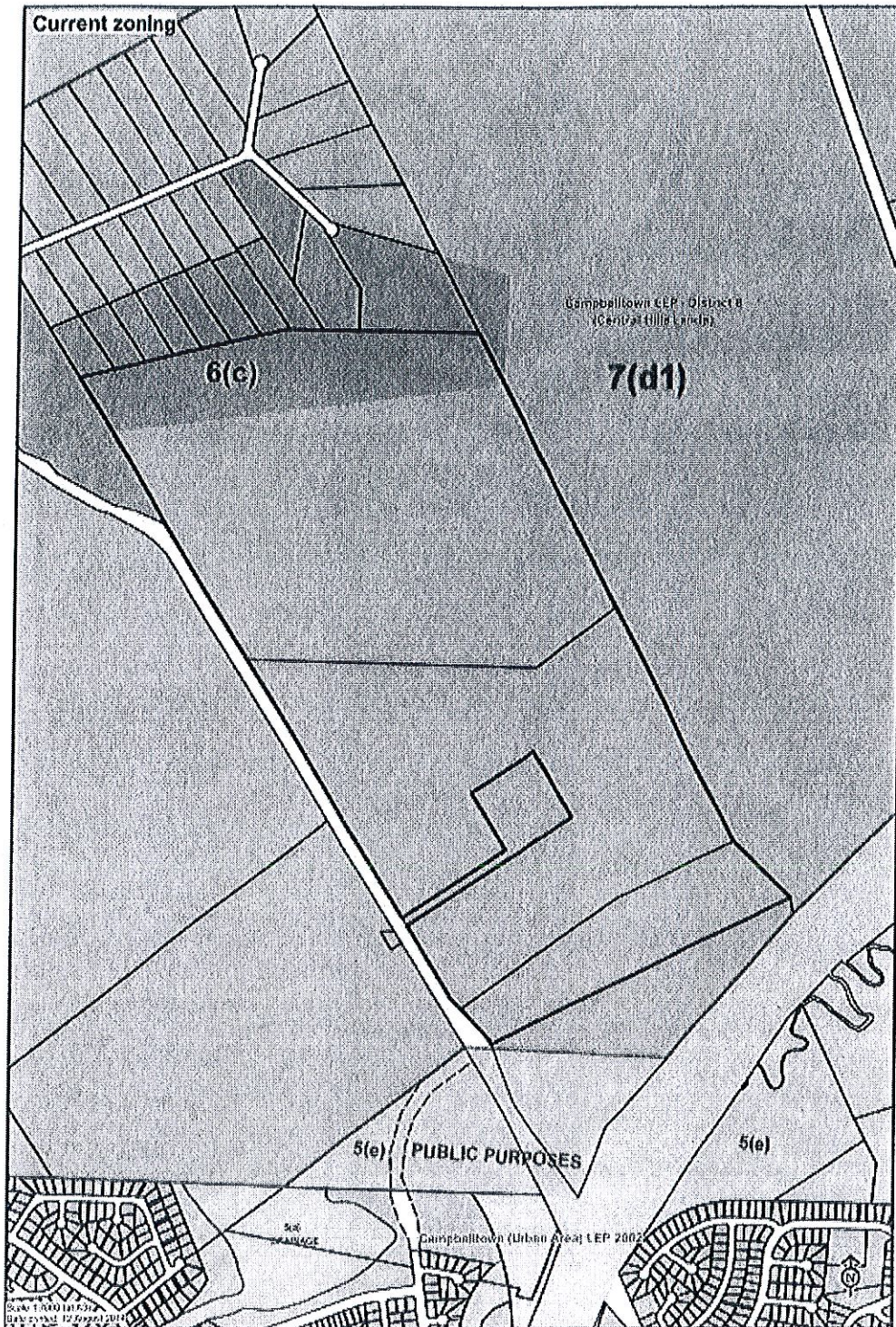


Figure 2 Current Zoning

Cemeteries are not a defined land use within this planning instrument leading to uncertainty over permissibility. Council has been requested to support amendment of the instrument to remove this uncertainty.

It is noted that the overall aim of CLEP - D8 is to retain *the rural character that was envisaged for [the Central Hills] during the planning that preceded the urbanisation of [Campbelltown].*

Under CLEP - D8 the objective of the 6 (c) zone is *to recognise the regional open space that has been identified by the Department of Environment and Planning.* Permissible uses are heavily restricted to *works for the purpose of landscaping, gardening and bushfire hazard reduction.* It is noted that the proposal is not intended to affect that part of the site.

Owners of land within the 6 (c) zone can request the Ministerial Corporation to acquire the land.

Under CLEP - D8 the objectives of the 7 (d1) zone are

- *to set aside certain land as a protected scenic environment,*
- *to ensure that that land will remain a rural environment providing visual contrast to the urban areas of Campbelltown, Camden and Liverpool,*
- *to ensure that the inhabitants of Campbelltown will continue to have views of, and access to, a rural environment,*
- *to maintain a stock of land that is capable of being developed for the purpose of providing recreation establishments of the kind that require large areas of open space, and*
- *to preserve existing farming and agricultural research activities.*

As such, they clearly indicate an intent to continue rural and open space uses into the long term.

2.4 Proposed Zoning

Council is currently preparing a City Wide Local Environmental Plan responding to the State Government's Standard Instrument Program. Under the Draft LEP (See Figure 3), the site is proposed to be zoned RE1 (Public Recreation) and E3 (Environmental Management). Cemeteries, crematoria and mortuaries are proposed to be prohibited in these zones.

Under the Draft Plan, the objectives of these zones are as follows:

RE1:

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*
- *To facilitate the multiple use of certain open space areas.*
- *To facilitate development that is ancillary or incidental to the special land uses provided for in this zone.*
- *To provide for the sufficient and equitable distribution of public open space to meet the needs of the local community.*
- *To preserve and rehabilitate bushland, wildlife corridors and natural habitat, including waterways and riparian lands, and facilitate public enjoyment of these areas.*
- *To provide for the retention and creation of view corridors.*
- *To protect and enhance areas of scenic value and the visual amenity of prominent ridgelines.*
- *To preserve land that is required for public open space or recreational purposes.*

E3

- *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 enable development for purposes other than rural-residential only if that development is compatible and complementary, in terms of design, size and scale, with the character of the surrounding area.*
- *To allow cellar door premises, restaurants and cafes only where they are directly associated with the agricultural use of the land.*
- *To protect, and maintain the environmental and visual amenity of, the Scenic Hills, the Wedderburn Plateau and environmentally sensitive lands in the vicinity of the Georges River from inappropriate development.*
- *To protect and enhance areas of scenic value and the visual amenity of prominent ridgelines.*
- *To protect bushland, wildlife corridors and natural habitat, including waterways and riparian lands.*
- *To ensure the preservation and maintenance of environmentally significant and environmentally sensitive land.*

As such, the objectives signal the Council's clear intent to continue to pursue its policy position of maintaining rural and open space uses in the Scenic Hills area.

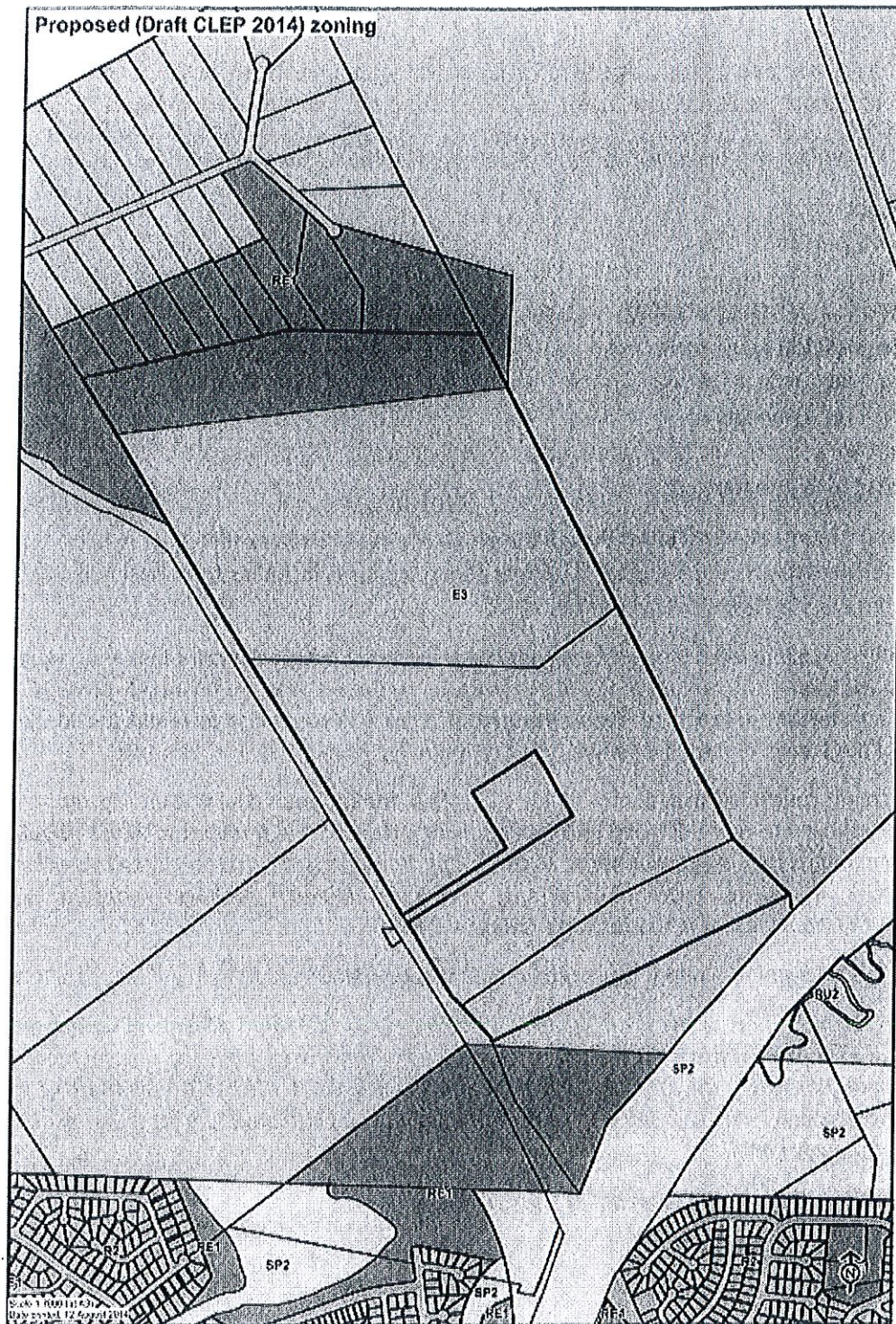


Figure 3 Proposed Zoning

3 Council Officers' Report

Council Officers prepared a report regarding the proposal for Campbelltown Council's Planning and Environment Committee of 4 March 2014.

The Report identified the following Key Planning Issues surrounding the Proposal:

- Visual Impacts
- Flora and Fauna
- Transport and Access
- Stormwater Drainage and Watercourse Assessment
- Geotechnical Assessment
- Heritage – Non Indigenous
- Heritage – Aboriginal
- Servicing
- Need for a cemetery

The Officers' Report notes that, even though the proposal has not been exhibited for public comment, Council has received several objections to the proposal, including from local religious communities and the NSW Heritage Council.

Council Officers conducted a broad assessment of the proposal noting Council's long term policy of protecting the Scenic Hills but observing that acquisition by Council was not financially possible. As a result, it was further noted that *"Council must use what powers it has to retain the landscape qualities of the Scenic Hills, for the benefit of the community, through planning controls"*.

The assessment concluded that, appropriately controlled, the proposal could be an appropriate use of the land, subject to more detailed information being prepared *"with regard to issues relating to aboriginal heritage, non-indigenous heritage, traffic and transport, flora and fauna, and servicing (eg water, sewer, electricity, telecommunications) and any additional matters requested by the Department of Planning and Infrastructure's Gateway Panel"*.

Based on this assessment, Council Officers recommended as follows:

1. *That Council endorse the draft planning proposal which aims to amend Campbelltown Local Environmental Plan – District 8 (Central Hills Lands) to permit the development of a cemetery on Lot B DP 370979, Lot 22 DP 564065 and Lot 1 DP 218016 St Andrews Road, Varroville, and lodge with the Department of Planning and Infrastructure for determination by the Gateway Panel.*
2. *That Council advise the applicant of Council's decision.*

4 Council's Decision

4.1 The Decision

Following consideration of the Officers' report on 4 March, 2014, Council's Planning and Environment Committee resolved to reject the Officers' recommendation and instead not support the proposal.

The Committee's recommendation was endorsed by Council at its Ordinary Meeting on 11 March 2014.

4.2 The Reasons

The reasons given for Council's decision were expanded by Council in a letter to the (then) Department of Planning and Infrastructure dated 9 April 2014.

These reasons were as follows:

- *The development of the land for the purposes of a cemetery and related uses is considered to be incompatible with the existing and desired future rural landscape character of the locality and the Scenic Hills generally*
- *The development of the land for the purposes of a cemetery and related uses is considered to be inconsistent with the following objectives of the existing Environmental Protection (Scenic) 7d1 Zone (LEP D8):*
 - *to set aside certain land as a protected scenic environment,*
 - *to ensure that that land will remain a rural environment providing visual contrast to the urban areas of Campbelltown, Camden and Liverpool,*
 - *to ensure that the inhabitants of Campbelltown will continue to have views of, and access to, a rural environment,*
 - *to maintain a stock of land that is capable of being developed for the purpose of providing recreation establishments of the kind that require large areas of open space, and*
 - *to preserve existing farming and agricultural research activities.*
- *The preservation of the environmental character and scenic qualities of the Scenic Hills for the benefit of the Campbelltown and wider Macarthur community outweighs the regional benefits that would be provided by a cemetery at the nominated location*
- *A cemetery of the scale envisaged by the planning proposal request would be likely to generate traffic at a scale and of a nature that would impact on the existing and desired future passive rural ambience and character of the locality*
- *An amendment to the environmental planning instrument that would permit the development of the land for the purposes of a cemetery and related uses would set a precedent for other inappropriate development in the locality*
- *Council is not satisfied that the development of the land for the purposes of a cemetery and related uses would not have a deleterious impact on the heritage significance of Varroville House, its curtilage and landscape setting as well as the wider cultural rural landscape*
- *Council is not satisfied that the development of the land for a cemetery and related uses would not have a significant and adverse negative impact on the amenity of existing and future desired surrounding land uses*

Council has reasonably taken the view that making the subject land available for use as a cemetery and related uses would be contrary to Council's long term and publicly expressed policy position of

maintaining the character and use of the land as a rural landscape, protecting its scenic quality in the context of ongoing agricultural use.

Council Officers note that current traffic movements in the area are low given the nature of the land uses and existing road connections but this would be expected to increase significantly should the proposal proceed. Council's technical officers clearly foreshadow the need for further assessment of traffic impacts to adequately examine the impact of the proposal. Regardless of the extent of impact, Council itself has reasonably formed the view that the extent of increased traffic would be such as to undesirably impact on the rural character of the area.

Having reasonably formed a view that the proposed development is not appropriate because of its potential impact on the locality, Council has also reasonably taken the view that to proceed with the proposal would establish a precedent for other inappropriate development proposals to seek to occupy land in the Scenic Hills.

In addition, it is apparent that Council shares the concerns of the Heritage Council of the inappropriateness of the proposal surrounding the listed property Varro Ville.

Council has also come to its conclusion on a regional basis, considering the site in the context of its wider amenity value to the Campbelltown, Camden and Liverpool communities. In contrast, the proponent has concentrated its analysis in support of the proposal on site specific aspects.

Taken as a whole, Council has reached a reasonable position in refusing to proceed with the proposal.

5 Relationship of the proposal to overall Campbelltown City Planning

As noted previously, Council is in the process of preparing a new City-wide Local Environmental Plan in response to the State Government's Standard Instrument program. Exhibition of the Draft Plan concluded on 8th August 2014.

Subsequent to Council's decision to refuse to proceed with the requested rezoning, by letter dated 24 March 2014, the then Director General of the Department of Planning and Infrastructure issued his S65 Certificate enabling exhibition of the Draft Plan to proceed. In that letter, he specifically addressed the issue of permissibility of cemeteries, crematoria and mortuaries in certain zones in the City:

"I have also agreed to Council's proposed prohibition of 'cemeteries', 'crematoria' and 'mortuaries' from the following proposed zones:

- *RU2 Rural Landscape*
- *E3 Environmental Management*
- *E4 Environmental Living*

I agree to this on the basis that these land uses are not mandated under the Standard Instrument Template and their exclusion from these zones reflects the existing zoning status.

I support Council's intent to conduct further investigations concerning the use of rural lands in the City of Campbelltown. I understand these investigations will enable Council to develop a well-informed and strategic policy position regarding these areas and the need for cemeteries, crematoria and mortuaries. To this end I request that Council lodge a planning proposal dealing with this matter within 12 months."

It is understood that Council has commenced this investigation and will consider any submissions on the draft City-wide plan as part of that investigation.

Proceeding with an isolated proposal for a cemetery in the Scenic Hills in advance of this overall investigation is considered inappropriate.

6 Conclusion

The proposal to rezone land for a major cemetery on the subject site in the Scenic Hills should be rejected by the Joint Regional Planning Panel for the following reasons:

- Proceeding with one isolated proposal for a cemetery at this time would be prejudicial to proper and reasonable planning practice in advance of the investigation underway by Council pursuant to the Director General of Planning's requirements in certifying Council's Draft "Standard Instrument" LEP for exhibition
- In Council's opinion, the proposal represents an unwarranted intrusion into the Scenic Hills, being an area that Council has consistently sought to protect in its rural form, a policy position maintained by Council in its exhibited Draft Standard Instrument
- The long term nature of the proposed use (over 150 years in active use for interments) means that any decision to proceed with the proposed rezoning will have long term effects which need to be considered in the overall Campbelltown City context prior to committing this site to this proposed use. This can only be done in light of the City Wide investigation underway
- The investigation underway by Council may identify other sites better capable of accommodating the proposed use without the potentially adverse impacts on the Scenic Hills associated with the current proposal
- In reaching its decision to refuse the proposal, Council considered the proposal in the broader context of Campbelltown City Planning in general and reasonably concluded that the proposal was not worthy of support for the following reasons
 - *It was considered to be incompatible with the existing and desired future rural landscape character of the locality and the Scenic Hills generally*
 - *It was considered to be inconsistent with the objectives of the existing Environmental Protection (Scenic) 7d1 Zone (LEP D8)*
 - *The preservation of the environmental character and scenic qualities of the Scenic Hills for the benefit of the Campbelltown and wider Macarthur community outweighs the regional benefits that would be provided by a cemetery at the nominated location*
 - *A cemetery of the scale envisaged by the planning proposal request would be likely to generate traffic at a scale and of a nature that would impact on the existing and desired future passive rural ambience and character of the locality*
 - *An amendment to the environmental planning instrument that would permit the development of the land for the purposes of a cemetery and related uses would set a precedent for other inappropriate development in the locality*
 - *Council is not satisfied that the development of the land for the purposes of a cemetery and related uses would not have a deleterious impact on the heritage significance of Varroville House, its curtilage and landscape setting as well as the wider cultural rural landscape*
 - *Council is not satisfied that the development of the land for a cemetery and related uses would not have a significant and adverse negative impact on the amenity of existing and future desired surrounding land uses*