



Explanation of Intended Effect

Proposed Amendment to State and Regional Development SEPP to identify large scale cemeteries as State Significant Development

October 2021



Published by NSW Department of Planning, Industry and Environment

dpie.nsw.gov.au

Title: Explanation of Intended Effect

Subtitle: Proposed Amendment to State and Regional Planning SEPP to identify Cemeteries as key social infrastructure

First published: October 2021

Department reference number: SF21/73472

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Executive Summary

Cemeteries hold significant value for our communities. They provide both current and future generations with important burial spaces and places for remembrance and reflection.

However, there is a critical shortage of new burial space capacity particularly within Greater Sydney where it is forecast that existing major Crown cemeteries will be unable to accommodate new burials within 12 years. New burial spaces are urgently required to respond to community needs, particularly given the diverse customs and beliefs that drive burial demand across NSW.

The NSW Government commissioned a statutory review of the *Cemeteries and Crematoria Act 2013* entitled '*The 11th Hour - Solving Sydney's Cemetery Crisis*' dated August 2020 (11th Hour Report) to undertake a review of the cemeteries and crematoria sector to address the forecast shortage of burial space and sustainability of the sector. The report provided a range of options to address challenges across the sector, including a recommendation that cemeteries be considered State significant development in line with other key social infrastructure like schools and hospitals to assist in the timely delivery of new cemetery development.

Consistent with this recommendation, it is proposed to amend the *State Environmental Planning Policy (State and Regional Development) 2011* to enable new or expanded cemeteries with a minimum of 20,000 burial plots to be considered as State significant development. This recognises the role of cemeteries as key social infrastructure and provides a more consistent and predictable assessment and decision-making process for cemeteries to help alleviate the projected burial space shortage.

Cemeteries are Essential Infrastructure for Communities

Cemeteries Meet Community Needs

Cemeteries are essential to the people of NSW, providing important burial space along with opportunities for remembrance and reflection. Every person in NSW has the right to a respectful burial in line with their religious and cultural beliefs as provided for in the objects of the *Cemeteries and Crematoria Act 2013* (section 3).

Cemeteries provide a rich source of cultural and environmental heritage and valuable passive open spaces. NSW's cultural diversity is an important driver of burial demand, resulting in a wide range of needs and expectations for burial and cremation services reflecting varied cultural and religious priorities. Ensuring suitable interment options reflect the community's cultural diversity is vital for social inclusion and cohesion.

Cemeteries are a Form of Key Social Infrastructure

Key social infrastructure such as schools, hospitals provide essential services required for communities to function. The 11th Hour Report, tabled in Parliament on 19 February 2021, notes that cemeteries are a key form of social infrastructure and recommends they hold equivalent status in the planning system to other social infrastructure.

The proposed amendments acknowledge the important role of cemeteries as key social infrastructure for NSW by recognising cemeteries as State significant development.



Critical Shortage of Burial Space

Projected Burial Space Shortage

There is a finite amount of space remaining in the existing cemeteries of Greater Sydney, with less than 280,000 available burial plots estimated in 2019 according to some reports¹.

There are on average 18,000 burials annually in NSW, around half of which occur in Greater Sydney². The unmet demand for burial interment is forecast to grow to 304,000 plots over the next 50 years in Greater Sydney and NSW³. The 11th Hour Report notes only one new Crown cemetery has been approved since 2014 and no new large-scale private cemeteries have been developed since the 1960s.

Since the report was released, an additional Crown cemetery has been approved in Wallacia, providing 40,000 burial spaces. Approval was granted by the Land and Environment Court in May 2021 after the decision to refuse the original application was appealed. However, given the projected shortfall in burial space, significantly more burial spaces are needed, and action is required. Without additional burial capacity, Greater Sydney faces a critical shortage which may restrict families and communities from burying loved ones in accordance with their religious and cultural customs⁴.

¹ "The 11th Hour - Solving Sydney's Cemetery Crisis", Statutory Review of the Cemeteries and Crematoria Act 2013 - Whitella Consulting 2020, p85.

² Cemeteries & Crematoria NSW Annual Activity Reports 2016-2019.

³ "The 11th Hour - Solving Sydney's Cemetery Crisis", Statutory Review of the Cemeteries and Crematoria Act 2013 - Whitella Consulting 2020, referring to unmet demand for burial interment rights p14.

⁴ Ibid, p12.

Better Facilitating Cemetery Development

As part of its findings, the 11th Hour Report notes that uncertainty within the existing development approval process is a key impediment to the development of new cemeteries across Sydney and NSW as it deters operators and new entrants to the market.

The report also notes that without appropriate and measured government intervention, there is a risk that the planning system will continue to impede the delivery of this key social infrastructure across Greater Sydney and NSW.

The proposed amendments will facilitate the assessment of large-scale cemeteries through the State significant development assessment pathway.



Proposed Amendments to the SRD SEPP

State Significant Development

State significant development includes certain types of development that are identified as having importance to the State for economic, environmental or social reasons – such as key social infrastructure.

The State Significant Development assessment pathway provides for the consideration of larger and potentially complex cemetery applications taking into account:

- Relevant strategic plans and policies (including state, regional and local);
- Environmental Planning Instruments (including Local Environmental Plans)
- Feedback and comments from the relevant local council(s);
- Specialised and technical input and advice;
- Public submissions received during the exhibition; and
- The public interest.

State significant development applications are lodged with the Department of Planning, Industry and Environment for assessment, including consultation with the community. All State significant development must be exhibited for at least 28 days to enable community participation, giving members of the community a right to have a say on such projects. The Minister for Planning and Public Spaces or the Independent Planning Commission is the consent authority for State Significant Development applications.

The proposed amendment will recognise cemeteries as key social infrastructure and will allow development proposals that seek this use to be considered in the same way as other types of social infrastructure, such as schools and hospitals.

Creating a State significant development pathway will also provide a consistent approach to the assessment of larger cemetery proposals across different parts of Sydney and NSW. A State significant development pathway also more effectively facilitates a more predictable whole-of-government approach through stronger coordination of related agency views and inputs on matters such as associated infrastructure needs.

State and Regional Development SEPP

To enable cemeteries to be recognised as State significant development, Schedule 1 of the *State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP) will be amended.

Schedule 1 of the SRD SEPP sets a threshold value for each category of development that determines whether it is State significant development. Typically, the scale of development identified as State significant under Schedule 1 of the SRD SEPP is triggered by its capital investment value (CIV) to capture only larger-scale developments.

However, in the case of cemeteries, the intent of the threshold is to capture those proposals that will meaningfully contribute to the supply of burial space. CIV is not considered to be an accurate measure of scale and significance for cemeteries as the nature of the use does not require significant upfront construction costs.

Accordingly, the proposed amendment will establish a capacity figure, being 20,000 burial plots, as the threshold for cemeteries to be considered as State significant development.

Accounting for the space needed for large scale infrastructure, along with contemporary design approaches, a cemetery with 20,000 burial plots could be accommodated within a 10 hectare site. 10 hectares provides capacity for multi-generational burial, multiple cultures or religious denominations requiring burials. However, it should be noted that the size of a site alone is not an accurate measure of contribution towards burial capacity due to significant variation depending on matters such as design, site constraints and buffers.

Expansions to existing cemeteries would be required to provide a minimum of 20,000 additional plots to meet the threshold for State significant development. Based on current burial trends, 20,000 burial plots would contribute to approximately two years of supply in Greater Sydney⁵. Smaller proposals would continue to be managed at a local level, either as local development or regionally significant development depending on the cost of works.

Associated and ancillary uses and structures such as crematoria, function centres and other internal infrastructure may also be assessed as State significant development where they are a related part of a proposed cemetery development that meets the 20,000 burial plot threshold.

The proposed amendments will provide improved certainty for the sector and support the timely delivery of new burial space urgently required to meet demand across the State.

⁵ Cemeteries & Crematoria NSW Annual Activity Reports 2016-2019.

How to Get Involved

The department welcomes your feedback regarding the proposals outlined in this EIE. Your feedback will help us better understand the views of the community and will assist us in finalising the amendment outlined in this paper.

Submissions can be made on the NSW Planning Portal.

All submissions will be made public in line with our objective to promote an open and transparent planning system. If you do not want your name published, please state this clearly at the top of your submission. The Department will publish all individual submissions and an assessment report on all submissions shortly after the exhibition period has ended.