

16 November 2023

Mr Ben Lusher
Director Systems and Productivity Policy
Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Mr Ben Lusher,

**Canterbury-Bankstown Council Submission –
Exempt and complying development within existing cemeteries**

Thank you for the opportunity to comment on the Explanation of Intended Effect, which proposes a new exempt and complying development framework for minor works within existing cemeteries.

In considering the proposed changes (page 13), it is recommended that the Department create an exempt development pathway specific to 'pedestrian paths', rather than combining with 'landscaping and landscape structures'.

This will enable the exempt development standards to be more relevant to pedestrian paths and should align with Part 2, Division 1, Subdivision 28 of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

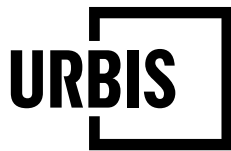
This submission is prepared by Council officers and does not reflect the views of the Councillors.

If you have any enquiries, please contact Council officer Liam Apter by email liam.apter@cbc.city.nsw.gov.au or phone 9707 5473.

Yours sincerely



Camille Lattouf
Manager City Strategy and Design



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22 November 2023

Ben Lusher
Director – Cluster Priorities
Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Ben,

CATHOLIC METROPOLITAN CEMETERIES TRUST SUBMISSION – PROPOSED EXEMPT AND COMPLYING CODE FOR CEMETERIES

The Catholic Metropolitan Cemeteries Trust (CMCT) wishes to thank the Department of Planning and Environment (DPE) for the opportunity to directly engage with them on the proposed amendment to expand *Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) to explicitly apply to cemeteries. This submission responding to the Explanation of Intended Effect (EIE) has been prepared by Urbis on behalf of CMCT.

Support for Exempt and Complying Development Framework for Cemeteries

CMCT strongly supports the proposal to amend the Codes SEPP to include a range of exempt and complying development activities within cemeteries. The proposed amendments have the potential to provide streamlined processes to facilitate essential maintenance works at cemeteries and avoid unnecessary development applications.

Ongoing maintenance and other ancillary works are necessary for cemeteries to remain operational and in the best possible condition throughout their life cycle. These works are also required to help operators meet their obligations under the *Cemeteries and Crematoria Act 2013* (C + C Act), which recognises the importance of respecting internment rights through the maintenance and upkeep of cemeteries.

Explanation of Intended Effect

The proposed amendment to the Codes SEPP seeks to enable minor, low impact works specific to existing cemeteries and crematoria as exempt or complying development. The move recognises the importance of cemeteries as essential social infrastructure the need for the planning system to provide a fast track approval process similar to those available to schools and hospitals.

The EIE also recognises that many cemeteries operate on land with heritage significance and are therefore currently locked out from accessing exempt and complying planning pathways. The EIE sets out to create greater flexibility for these operators, whilst also ensuring heritage values are appropriately considered and protected.

Recommendations

Urbis has reviewed the EIE and makes the following suggestions for the DPE to consider in finalising the amendment. Both relate to heritage, which is a pertinent ongoing consideration for CMCT at Rookwood Cemetery and will also impact future operations at the approved Macarthur Memorial Park, Varroville.

1.2 Heritage Reporting

The EIE identifies that internal and external boundary fencing, if associated with a heritage item, or within a heritage conservation area must be supported by advice from a heritage consultant confirming the development is appropriate for the context and has minimal impact on the heritage item. We understand (based on discussion in our meeting of 9 November 2023) that this heritage assessment would not need to be submitted to any authorities, however this is not explicit in the amendment as it is currently written. We would not like to see this provision scope creep into another onerous reporting requirement.

Recommendation: Provide clarity within the SEPP that heritage assessment pertaining to exempt development is for internal reporting purposes only.

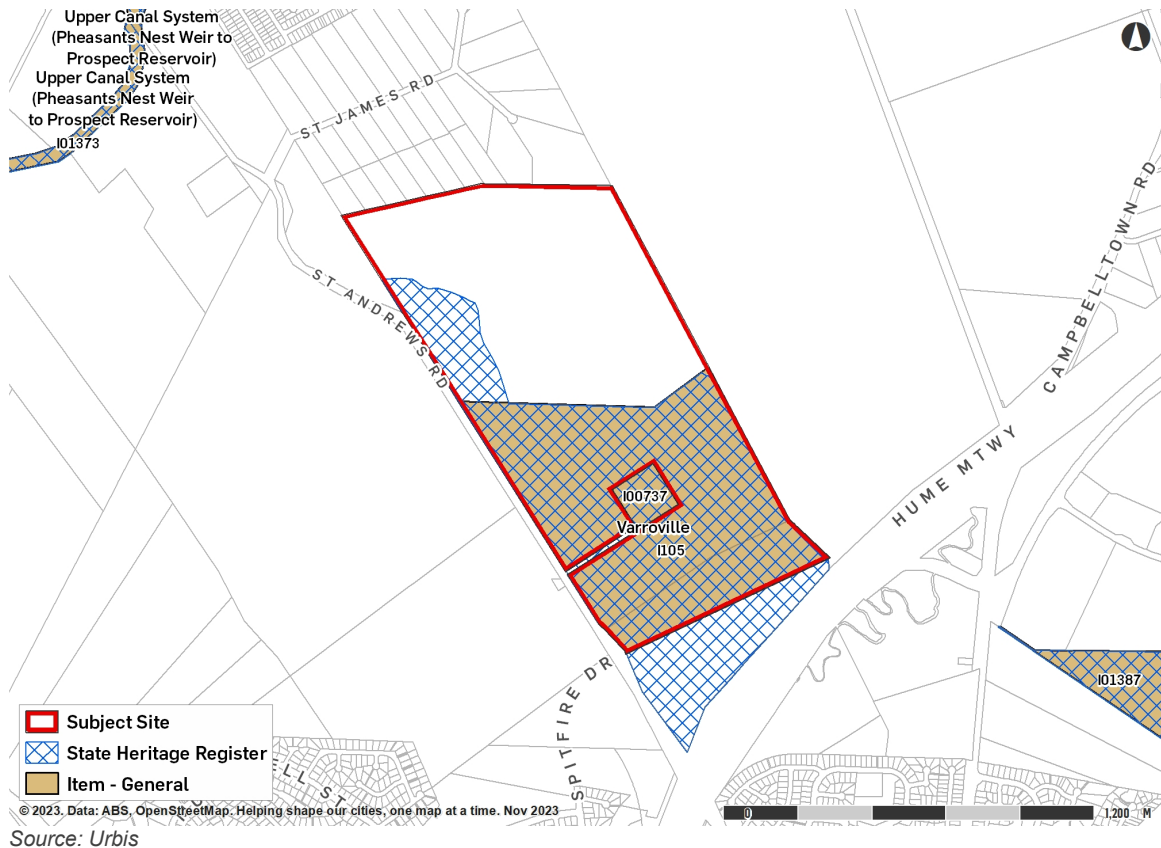
1.1 Heritage 'Curtilage'

This EIE provides for specified minor works to be undertaken as exempt development if they have no more than minimal impact on heritage significance. However, we note that several of the exempt development items cannot be undertaken within the *curtilage of a heritage item*- i.e., driveways, hardstand and carparks, decks terraces and pergolas, and sheds, maintenance facilities and carports all have this additional stipulation. We understand that these types of development are considered to have the potential for greater impact and therefore this additional safeguard has been added.

However, the term is spatially nonspecific and ambiguous. The terminology is also closely associated with the mapped area around a State heritage item which may lead to confusion. This exclusion has practical implications if the heritage listing applies to the whole site, and not just to individually identified items within a site.

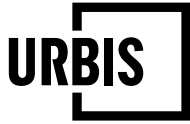
An example is Macarthur Memorial Park which is currently under construction (Refer to **Figure 1**) below.

Figure 1 Heritage Curtilage, McCarthur Memorial Park, Varroville



A large proportion of the Varroville site is mapped as a locally listed heritage item 'Varroville Estate'. On this part of the site the current wording in the EIE would mean that certain exempt development types would still require a development application. This would be the case even if the work was a type for which an exemption was provided under Section 57(2) of the Heritage Act 1977. This creates statutory confusion for the consent authority and would have time-consuming and costly implications for CMCT. This is a live example at Macarthur Memorial Park, with CMCT having to recently lodge a modification application to their cemetery approval to replace boundary fencing.

Recommendation: Explore alternative wording to the term 'curtilage' to facilitate greater flexibility for all types of development that are subject to site wide heritage listings. It would be preferable to require an internal assessment process rather than apply this blanket exclusion.



CONCLUSION

On behalf of CMCT we again thank the DPE for the invitation to make this submission in response to these latest planning reforms for cemeteries. The proposed amendment to the Code SEPP recognises the role that maintenance plays in providing high quality cemeteries as critical social infrastructure. We acknowledge the complexity of the proposed legislative amendment and commend the DPE in expanding the Codes SEPP to help operators with the important maintenance of cemetery land.

We look forward to the progress of this legislation and would welcome the opportunity to engage further with DPE on this matter.

If you have any questions, please don't hesitate to contact me at the details below.

Kind regards,

A handwritten signature in black ink, appearing to read "Rosie Sutcliffe".

Rosie Sutcliffe
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17 November 2023

Mr Ben Lusher
Director Systems and Productivity Policy
Department of Planning and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Our Ref: FP58, FP85

Dear Mr Lusher,

**Submission on Explanation of Intended Effect –
Exempt and Complying Development within Existing Cemeteries**

Thank you for the opportunity to comment on the Explanation of Intended Effect (EIE) for proposed amendments to *State Environmental Planning Policy (Transport and Infrastructure) 2021* (the Transport and Infrastructure SEPP) to introduce a new exempt and complying development framework for maintenance and other minor works within existing cemeteries. Please note this submission has not been reported to the elected Council given the timeframe available for submissions and as such represents officer-level comments only.

By way of context, The Hills Shire Council currently operates two cemeteries within the Shire, including Castle Hill Cemetery and Sackville Cemetery. Our Community Venues Team is the primary interface between the public and the cemeteries, with dedicated staff involved with the sale of plots and supervision of development/internment. The approach taken to the day-to-day operation and management of our cemeteries is guided by Council's Cemetery Operating Guidelines (dated March 2023) and available on our website [Castle Hill Cemetery \(nsw.gov.au\)](https://www.thehills.nsw.gov.au/cemeteries)

It is understood the proposed exempt and complying development framework seeks to create tailored, fast-track approval pathways for minor ancillary works within existing cemeteries, making it easier for operators to carry out minor works to support ongoing maintenance and operations. In principle, we support the intention of the proposed framework that would expedite capital works and maintenance activities within our cemeteries. However, we do raise some concerns from a sales and operations perspective.

Of particular concern is the proposed exempt and complying development pathways for vaults and crypts. Specifically, we are concerned about protecting and maintaining visual amenity on site and are concerned as to the regulatory implications, should purchasers of sites carry out development that does meet the necessary criteria. It is suggested that a more prudent approach would be to not allow for the proposed exempt development pathway for '*vaults, crypts, sculptures (including monuments and memorials), headstones, artwork, columbariums*' and strengthen the complying development pathway criteria to provide suitable oversight and protection on these matters.

Noting that this subject matter is unique and specialised, it would be helpful if the Department arranged targeted briefing sessions with key stakeholders on the proposed changes prior to finalisation to assist understanding and implementation of the changes.

We welcome the opportunity to provide input on the proposed changes as they are further developed and should you require any further information or wish to discuss any aspect of this submission, please contact Jessie Wiseman, Strategic Planning Coordinator on 9843 0122 or Ben Thomson, Manager Customer Services and Venues on 8853 1998.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Nicholas Carlton', written over a faint, light-colored rectangular stamp or watermark.

Nicholas Carlton
MANAGER FORWARD PLANNING

Arie Van Der Ley

From: Planning Portal - Department of Planning and Environment
<noreply@feedback.planningportal.nsw.gov.au>
Sent: Tuesday, 24 September 2024 8:53 AM
To: DPE PS ePlanning Exhibitions Mailbox
Cc: Christine Chua
Subject: Webform submission from: Exempt and complying development within existing cemeteries

Submitted on Tue, 24/10/2023 - 08:24

Submitted by: Anonymous

Submitted values are:

Submission Type

I am submitting on behalf of my organisation

Name

First name

Graham

Last name

Kennett

I would like my name and personal contact details to remain confidential

No

Info

Email

graham.kennett@kyogle.nsw.gov.au

Suburb/Town & Postcode

Kyogle

Please provide your view on the project

I support it

Submission

Council supports the proposed amendments.

I agree to the above statement

Yes

18 November 2023

Mr Ben Lusher
Director Systems and Productivity Policy
Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 2124

Dear Ben

Submission to Explanation of Intended Effect – Exempt and Complying Development Framework for Cemeteries

Metropolitan Memorial Parks (MMP) welcomes the opportunity to provide a submission to the Department of Planning and Environment in response to the *Explanation of Intended Effect* (EIE) proposing an exempt and complying development framework for cemeteries.

MMP strongly supports a new planning framework which will permit simple and fast-track pathways to supplement the limited approval pathways currently available to us in the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP), and through Clause 5.10 (3) of the *Standard Instrument - Principal Local Environmental Plan*. Thank you for acknowledging the need to introduce planning reforms to the NSW Planning Framework to improve the approval process for essential low impact works and the ongoing management of existing cemeteries.

1. EXECUTIVE SUMMARY

MMP currently manages seven Crown Land Cemeteries in Sydney and one in Newcastle – Macquarie Park Cemetery and Crematoria, Frenchs Forest Bushland Cemetery, Field of Mars Cemetery, Gore Hill Memorial Cemetery, Eastern Suburbs Memorial Park, Woronora Memorial Park, Rookwood General Cemetery and Sandgate Cemetery. A summary of the key property details of these eight sites including zoning, heritage status and other planning controls is included at **Attachment A**.

This submission identifies the restrictive development and planning approval barriers currently experienced by MMP within the NSW Planning Framework and proposes solutions through thirteen (13) recommended changes to the proposed new controls outlined in the EIE. We believe the controls proposed in the EIE do not go far enough to address the operational needs of cemeteries and crematoria.

Table 1 summaries the types of works that are typically carried out by MMP on our cemetery sites, with the red shading showing where there continues to be a barrier to enable a fast track approval pathway via exempt and complying development, notwithstanding the new framework proposed by the EIE. This assessment demonstrates that a majority of essential activities and works would still require a Development Application to be prepared and lodged with the relevant Council.

The two case studies outlined in this submission relating to development works at Sandgate Cemetery and Macquarie Park Cemetery and Crematoria, further demonstrate that under the current planning framework as well as the proposed new framework, MMP, like many other cemetery

operators, are forced and will continue to be required to submit a Development Application to undertake minor ancillary works, refurbishment works and expansion works for existing cemeteries.

Further amendment to the proposed framework will support cemetery development into the future, and most importantly will facilitate the optimisation of land within existing cemeteries. This is vital to address the chronic shortage of burial land in Sydney. MMP recommends the adoption of the proposed 13 amendments to the proposed controls in both the exempt and complying approval pathways, as this will ensure the intended effect of streamlining the development, management and continued use of existing cemeteries.

Where relevant we reference particular development controls allowable under the *Transport and Infrastructure SEPP* for other sectors such as schools and universities, as we believe similar flexibility should reasonably be afforded to cemeteries.

Importantly, our recommendations include that the development of new burial areas, commonly known as *section development*, of up to 5,000 burial plots within existing cemeteries, be recognised as Complying Development, with appropriate standards and conditions to apply (Recommendation 12). We believe this is the single most critical element of the proposed changes; it will have a tangible positive impact for cemetery expansion, streamline the growth of an existing cemetery and enable MMP and other cemetery operators to meet the community demand for interments into the future.

The desired outcome we seek through our proposed amendments to the NSW Planning Framework is the urgent implementation of a new framework which streamlines the delivery of necessary ongoing cemetery management and development works to ensure existing cemeteries and memorial parks can continue to operate and meet future requirements effectively without unnecessary delays and associated additional costs from the need to use the DA approval pathway for low impact works.

Table 1: Minor Works Pathways Compliance Assessment Against the Proposed Framework (EIE)

	Proposed Development Type	Proposed Development Standards Consistent with MMP Operations	Comment/Compliance
Exempt Development	Accessible entrances	✗	Able to comply
	Ash gardens	✓	Able to comply
	Decks, terraces and pergolas	✓	Able to comply
	Demolition	✓	Able to comply
	Driveways, hardstand and carparks	✗	Development Standard/s act as a barrier to facilitating Exempt Development
	Earthworks	✗	Development Standard/s act as a barrier to facilitating Exempt Development
	Fencing	✗	Development Standard/s act as a barrier to facilitating Exempt Development
	Landscaping and landscape structures	✗	Development Standard/s act as a barrier to facilitating exempt Development
	Minor building alterations and additions (external)	✓	Able to comply

	Proposed Development Type	Proposed Development Standards Consistent with MMP Operations	Comment/Compliance
	Minor building alterations (internal)	x	Development Standard/s act as a barrier to facilitating exempt Development
	Rainwater tanks	✓	Able to comply
	Sheds and maintenance facilities, carports	x	Development Standard/s act as a barrier to facilitating exempt Development
	Signage	x	Development Standard/s act as a barrier to facilitating exempt Development
	Vaults, crypts, sculptures (including monuments and memorials), headstones, artwork columbariums	x	Development Standard/s act as a barrier to facilitating exempt Development
Complying Development	Alterations to existing buildings (internal and external)	✓	Able to comply
	Construction of new buildings and structures	x	Able to comply
	Crypts, vaults, memorials (including monuments), shelters and sculptures	x	Development Standard/s act as a barrier to facilitating the efficient continued use of cemeteries

2. NEED FOR PLANNING REFORM TO DELIVER FAST-TRACK APPROVAL PATHWAYS

The need for a policy review regarding the management and on-going operation of cemeteries was brought to attention by the NSW Government's Statutory Review of the Cemeteries and Crematoria Act 2013 and in the report titled *The 11th Hour – Solving Sydney's Cemetery Crisis*, produced by Whitella Consulting in August 2020. The Whitella Report identifies the impending shortage of cemetery space in NSW and paints a bleak outlook for cemeteries in Sydney, noting that cemeteries which have served the Sydney community for more than a century, such as Rookwood General Cemetery, Eastern Suburbs Memorial Park, Field of Mars Cemetery and Macquarie Park Cemetery and Crematorium, are now in their final years of being able to accommodate the burial needs of Sydney.

We offer a number of recommendations in this submission which aim to simplify approval pathways in the proposed new framework by removing unnecessary limitations on typical low impact cemetery development, consistent with the Whitella Report objectives.

3. COMMENTS ON EXPLANATION OF INTENDED EFFECT – PROPOSED DEVELOPMENT FRAMEWORK

We are encouraged by the Department's commitment to create simpler planning pathways for low-

impact works within cemeteries by amending the *State Environmental Planning Policy (Transport and Infrastructure) 2021* (Transport and Infrastructure SEPP) to include a new Division for cemeteries. We also support the Department's acknowledgement that unlike other types of social infrastructure such as schools and hospitals, there is no dedicated fast-track planning approval pathway tailored to support cemetery development.

We strongly support the proposal to acknowledge cemeteries as critical social infrastructure in the planning system and amend the Transport and Infrastructure SEPP to include exempt and complying development provisions for cemeteries. However, we believe the proposed new framework does not go far enough and we request further refinement to adequately achieve the intended effect. We have included actual illustrative case studies based on our experience over the last five years interacting with the NSW planning system. Specific design details of typical essential works are also included to demonstrate the planning barriers within the proposed controls that will have a direct bearing on MMP's ability to deliver its planned infrastructure development program in NSW.

We respectfully request the following thirteen (13) recommendations are considered and adopted in the final version of the amendment to ensure that the intent of the EIE and the recommendation of *The 11th Hour* report are met, and importantly to ensure the planning approval process is improved for the delivery of ancillary operational works in existing cemeteries by removing planning red tape and ensuring that cemeteries can continue to operate well into the future in a financially sustainable manner.

Recommended deletions to the proposed controls are ~~struck-through~~ and proposed additional controls are shown in **bold**.

3.1. General Standards for Exempt and Complying Development

The EIE contains a number of general standards for exempt and complying development which will act as overarching development standards for all exempt and complying development. Three of the proposed general standards will act as immediate obstructions for MMP, specifically for the delivery of refurbishment works and expansion of existing cemeteries:

- The inability to increase the number of patrons or burial capacity on existing cemeteries;
- The inability to remove native vegetation; and
- The inability to remove or prune other trees or other vegetation.

The increase of interment rights via a complying development certificate (CDC) should be development specified in the proposed framework within an existing cemetery. This is because the suitability of the site for use as a cemetery has already been determined through its zoning or via a development consent and to require a new Development Application to be prepared results in unnecessary planning red tape with associated time delays and additional associated costs.

Regarding the removal of vegetation, most of the cemeteries managed by MMP are over 100 years old and the condition of existing vegetation on sites is varied, ranging from healthy trees, trees posing a safety risk or trees and other vegetation impeding required expansion works. All MMP sites have a tree management plan in place, including a tree register listing all significant trees and their condition.

We recommend that the method of tree removal implemented for schools within Section 3.39(1)(b) of the Transport and Infrastructure SEPP, be also implemented for cemeteries to allow tree removal but only when a Level 5 Arborist considers removal is necessary subject to the planting of a new tree and vegetation within the cemetery.

Recommendation 1: General Standards for Exempt and Complying Development

That the proposed General Standards for Exempt and Complying Development be revised as follows:

- Must relate to an existing cemetery and be for the purposes of supporting the existing operations of the cemetery, including crematoria located within an existing cemetery.
- Must ~~not~~ **only** increase the number of patrons or burial capacity ~~except for the interment of ashes, where specified in a development consent~~ within the boundaries of an existing cemetery.
- Must not be designated development.
- Must be structurally adequate and adhere to the relevant requirements of the Blue Book, Australian Standard and the Building Code of Australia.
- Where applicable, must be installed in accordance with the manufacturer's specifications or a professional engineer's specifications.
- ~~Must not involve the removal of native vegetation~~
- ~~Must not involve the removal or pruning of a tree or other vegetation that requires a permit or approval, unless the removal or pruning is undertaken in accordance with a permit or approval~~
- **The removal or pruning of trees that has been assessed by a Level 5 qualified arborist as posing a risk to human health or safety or of damage to infrastructure or impedes expansion of existing cemeteries, but only if a replacement tree that is capable of achieving a mature height of 3 metres or more is planted within the grounds of the cemetery.**
- Must not unearth or disturb the remains of any person.

3.2. Exempt Development for Cemeteries

Driveways, hardstand and carparks

MMP are required to upkeep and occasionally make changes to existing driveways, hardstand, internal roads and carparks to ensure that access is continued to be afforded to designated interment areas and other ancillary uses. It is necessary for these works to be exempt development, as it is inefficient and a poor use of MMP resources to prepare and lodge DAs for these minor works. We therefore recommend that this section be revised to include the provision of resurfacing and renovating existing internal roads, and removes the 50 car space cap for new car parking areas or alterations to existing car parking areas. The 10% area cap held within the second development standard is sufficient to limit the size of car parking areas, while ensuring that the car parking areas are commensurate to the size of the relevant cemetery.

Recommendation 2: Driveways, Hardstand and Carparks

That the development standards for Driveways, hardstand and carparks be revised as follows:

- ~~New car parking areas or alterations to existing car parking areas must not exceed 50 spaces if paved.~~
- Total car parking area must not exceed 10% of the site area.
- Design and layout of parking areas, driveways and access roads must comply with AS2890.1, Off-street car parking.
- Not permitted within the curtilage of a heritage item.

Earthworks

Earthworks are a common type of development required to be undertaken at MMP managed cemeteries, and coordinating CDCs or DAs for a number of these earthworks is unhelpful and inefficient. The proposed limit applied to excavation or fill to 1m above or below the existing ground level is insufficient for the needs of MMP, with typical excavation or filling being required up to 2.5m above or below the existing ground level to achieve double depth burials (two interments). Often the

excavation works up to 2.5m are temporary and following the cut and fill there is no tangible change to the existing ground level.

Recommendation 3: Earthworks

That the development standards for Earthworks be revised as follows:

- **Cut and fill** must not result in ~~cut or fill~~ **a change in finished ground level** of more than 4 ~~m~~ **2.5m** below or above existing ground level.
- If located in or within 3 m of a residential or business zone—must not result in cut or fill of more than 600 mm below or above existing ground level.
- Must be located at least 40 m from a waterbody (natural).
- Must be located at least 1 m from each lot boundary.
- ~~Must be separated from~~ **If located within 2m measured horizontally of** any retaining wall or other structural support on the site ~~by at least 2 m, measured horizontally~~ **certification from a structural or geotechnical engineer is required.**
- Must be located at least 1 m from any ~~registered easement~~, sewer main or water main.
- Any fill brought to the site must contain only virgin excavated natural material (within the meaning of Schedule 1 to the Protection of the Environment Operations Act 1997).

Fencing

MMP utilise masonry fencing across our cemeteries, however the proposed height limit to masonry fences of 1.2m severely limits our ability to roll out required fencing without the need for a DA planning approval. MMP requests that the Department remove this restriction on fence design.

Recommendation 4: Fencing

That the development standards for Fencing be revised as follows:

Generally:

- ~~Must not include masonry construction to a height of more than 1.2 m above ground level (existing).~~
- If it includes an entrance gate on a boundary—must not have a gate that opens outwards across the road reserve.
- If it is located in a core koala habitat or potential koala habitat within the meaning of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 or in a movement corridor used by koalas—must be constructed or installed in accordance with any relevant council policy or guideline under that Policy.
- If it is located on bush fire prone land—must be constructed of non-combustible materials or hardwood.
- If it is constructed of metal components—must be of low reflective materials.
- Must not be an electrical or barbed wire fence.
- If it is associated with a heritage item or within a heritage conservation area—design must be supported by advice from a heritage consultant which confirms the development is appropriate for the context and has a minimal impact on the heritage item.

Height:

- Height of boundary fencing must not exceed 1.8 m above ground level (existing), in any of the following land use zones or a land use zone that is equivalent to any of those zones:
 - Zone R1 General Residential
 - Zone R2 Low Density Residential
 - Zone R3 Medium Density Residential
 - Zone R4 High Density Residential

- Zone R5 Large Lot Residential
- Zone RU5 Village.
- The height of a fence on land or adjoining land other than the zones listed above must not be more than 3 m above ground level (existing).

Landscaping and Landscape Structures

MMP recommend the limit of retaining walls to 1m in height/depth to be removed to ensure that these minor ancillary structures can be delivered without the need of a planning approval.

Recommendation 5: Landscaping and Landscape Structures

That the development standards for Landscaping and landscape structures be revised as follows:

- Landscape structures (~~other than retaining walls~~) must not:
 - be higher than 2.1 m above ground level (existing)
 - be not wider than 1.5 m
 - be located at least 900 mm from each lot boundary – not comprise masonry construction higher than 1 m from ground level (existing) – if it is constructed or installed in a heritage conservation area
 - be visible from any public road frontage.
- Must not include retaining walls greater than ~~4 m~~ **2.5m** above ground level (existing).
- Water feature and ponds must not have a depth of more than 300mm or a surface area greater than 50 m².
- If the sump is covered with a bolted or anchored grate capable of supporting a weight of 150 kg, a pond sump may be placed in a water feature or pond below a water depth of 300mm.
- Note—Paths under this section do not include hardstand development. For hardstand paths, refer to Driveways, hardstand, and carparks.

Minor Building Alterations (Internal)

MMP considers that the minor building alterations (internal) development standards are too restrictive, and do not afford MMP the required operational flexibility. It is requested that these development standards, be revised to mirror building internal alterations of Schedule 5 of the Transport and Infrastructure SEPP, which allow a great deal more flexibility to schools.

Recommendation 6: Minor Building Alterations (Internal)

That the development standards for Minor building alterations (internal) be revised as follows:

- ~~Must not be an alteration to a food preparation area in food and drink premises.~~
- ~~Must not include a change to the configuration of a room, whether by removal of an existing wall, partition or other means.~~
- ~~Must not cause reduced window arrangements for light and ventilation needs, reduce the size of a doorway or involve the enclosure of an open area.~~
- ~~Must not affect the load bearing capacity (whether vertical or horizontal) of a building.~~
- ~~Must not include a change to the fire resisting components of, or interfere with the entry to, or exit from, or the fire safety measures contained within a building.~~
- ~~Must not affect the path of egress from the building in an emergency.~~
- **Must be non-structural alterations to existing building only, such as—**
 - **replacement of doors, wall, ceiling, or floor linings or deteriorated frame members with equivalent or improved quality materials, or**

- **inclusion of built-in fixtures.**
- **Must not affect load-bearing capacity of any load-bearing component of building.**
- Note— If it is associated with a state heritage item, must be work to which an exemption under the Heritage Act applies.

Sheds and Maintenance Facilities, Carports

The area cap of 36m² for sheds and maintenance facilities is restrictive. A 36m² shed or maintenance facility is insufficient to service the needs of large cemeteries under the management of MMP, such as Rookwood General Cemetery.

Recommendation 7: Sheds and Maintenance Facilities, Carports

That the development standards for Sheds and maintenance facilities, carports be revised as follows:

- Must be free-standing, prefabricated and constructed of nonreflective materials.
- Must not result in a shed with a total floor area exceeding ~~36~~ **200m²**.
- Height must not exceed 3.6 m above ground level (existing).
- Minimum 3 m setback from the boundary of residential or business uses.
- Minimum 0.9 m setback from any other boundary.
- Must not be located on or within the curtilage of a heritage item.
- If adjacent to another building—must be located so that it does not interfere with the entry to, or exit from, or the fire safety measures contained within that building.
- Carports must be open and unenclosed.
- No more than 2 developments per lot.

Signage

Ancillary development on existing cemeteries includes cafes, florists and the like that service the needs of the public visiting the cemeteries. Signage that advertises the retail offer at these premises is important for the financial feasibility of these services and to enhance visitor experience. In addition, there is a need for MMP to advertise to the community the different interment and product options available for sale at cemeteries. Based on this, it is recommended that the development standard that prohibits signage for advertising of associated ancillary goods, products or services typically found on cemetery sites be removed.

Further the requirement for certification from an engineer after the installation of signage is not warranted as certification is provided by the signage consultant who installs the signage. On this basis this standard is recommended for deletion and this approach is consistent with the signage controls in the Transport and Infrastructure SEPP for schools.

Recommendation 8: Signage

That the development standards for Signage be revised as follows:

- Maximum height—**3.5 m**.
- Maximum area—**26 m²**.
- ~~Structures with a height greater than 1m be certified by a structural engineer.~~
 - ~~Must not be internally illuminated or flashing~~ **Must be illuminated in accordance with AS/NZS 1158.3.1:2005 Lighting for roads and public spaces.**
- Must not obstruct or interfere with any traffic sign.
- Must ~~not~~ only include ~~any~~ advertising of goods, products or services **associated with or ancillary to the principal cemetery use.**

Vaults, crypts, sculptures (including monuments and memorials), headstones, artwork columbariums

The proposed development standards for this category are very restrictive. Some of these structures are often significantly larger than 9m², to the point that this proposed approval pathway could not be utilised. This development standard must be revised to accommodate the typical size of these structures, which is as large as 200m² for a crypt development. There is no valid reason to impose such a restriction of size limited to 9m² for this category of cemetery development.

Recommendation 9: Vaults, Crypts, Sculptures (Including Monuments and Memorials), Headstones, Artwork, Columbariums

That the development standards for Vaults, Crypts, Sculptures (Including Monuments and Memorials), Headstones, Artwork, Columbariums be revised as follows:

- Must be structurally sound and securely fixed with any moveable parts securely attached.
- Must not give rise to any noise or other nuisance to any adjoining property.
- ~~Any structure with a height greater than 1m must be certified by a structural engineer~~ **All structures must be designed and constructed in accordance with the relevant Australian Standards.**
- If installed on land in a residential zone or within 10 m of land with residential zoned land—must not be more than 3 m in height and must not have a footprint area greater than ~~9~~ **200m²**.
- If installed on land in any other zone—must not be more than 6 m in height and must not have a footprint area greater than ~~9~~ **200m²**.
- If applicable, must comply with AS 4204: 2019 Headstones and cemetery monuments and AS 4425:2020 Above ground burial structures.

3.3. Complying Development for Cemeteries

Construction of new buildings and structures – Function Centres & Chapels

MMP acknowledges the great benefit that this section of the EIE will provide in streamlining the delivery of new buildings on cemetery sites, however the exclusion of function centres and chapels, which are essential low impact building structures for cemeteries is unnecessarily restrictive. We note that function centres are included as a specified development pursuant to Part 5A of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, meaning that in an employment zone, a function centre can be delivered via a CDC. Therefore, the proposal to exclude function centres, which represent ancillary cemetery development, is inconsistent with other planning approval pathways in the NSW Planning Framework.

Chapels within a cemetery operate in a different way to regular places of public worship, as they are primarily used for small memorial services and for private reflection by visitors to cemeteries. To force the delivery of a 200m² chapel to a DA planning approval pathway represents a significant waste of resources and unnecessary delay in the delivery of this development.

Section 3.50(1)(a) of the *Transport and Infrastructure SEPP* allows existing universities to construct buildings for the purposes of food and drink premises, shops, and community facility as complying development. This flexibility should be afforded to cemeteries to allow a streamlined planning approval pathway for ancillary uses within a cemetery.

Regarding the potential impact of both of these uses, the 200m² area restriction acts as the principal method to limit the impacts on adjoining properties as well as the site itself. A 200m² structure limits the overall capacity, once back of house areas are accounted for, thereby limiting any associated impacts including traffic and acoustic impacts associated with the use of these structures. Ancillary

supporting cemetery development like chapels and function centres within cemeteries do not operate in a way that is similar to private function centres or places of public worship elsewhere in the locality. These buildings are required for minimal impact events such as wakes and memorials, of short duration periods, on an as need basis outside of peak traffic periods, noting that any associated car parking requirements to support these buildings are accommodated on the cemetery site itself.

Importantly ceremonies do not overlap with the surrounding road network's peak periods. Instead they primarily occur between 10am and 4pm on week days and limited special days of the year. We advise that ceremonies on the eight MMP sites do not generate additional traffic over and beyond currently approved limitations of the approved cemetery development site. Therefore it follows that all ceremonies (present and post development) will continue to occur in an existing manner and will not generate additional traffic over and beyond currently approved limitations.

Recommendation 10: Construction **and use of** new buildings and structures

That the development standards for Construction and use of new buildings and structures be revised as follows:

- ~~Does not include a new function centre or chapel.~~
- **Can include a new function centre, chapel, food and drink premises, shops for the use of visitors to the cemetery or any other ancillary use**
- On land zoned R1, R2, R3, R4, RU5, E1, E2, E3, C1, C2, C3, C4 zoned land:
 - maximum footprint—100 m²
 - maximum height—5.5 m
 - setback from boundary—3 m.
- On land in other zones:
 - maximum footprint—200 m²
 - maximum height—7 m
 - setback from boundaries generally—5 m
 - distance from boundary from residential or business land use—10 m.
- For alterations and additions to an existing building larger than the maximum footprints above, the maximum gross floor area shall not increase by more than 10 %.
- ~~Note—Must not increase the number of patrons restricted in a current development consent.~~

Crypts, vaults, memorials (including monuments), shelters and sculptures

MMP considers that there is a misunderstanding of how a crypt is delivered, based on the proposed development standards. Although a single crypt may be of a size that is consistent with the proposed development standards of this section (maximum building footprint of 25m² and maximum building height of 7m), MMP construct large mausoleum structures with numerous crypts, often extending to a 200m² building footprint, which are then sold to community on demand. The development standards of this section envision that crypts are constructed on an individual as needs basis which is not the case and importantly would be totally inefficient from a construction perspective. Refer to Figure 1.

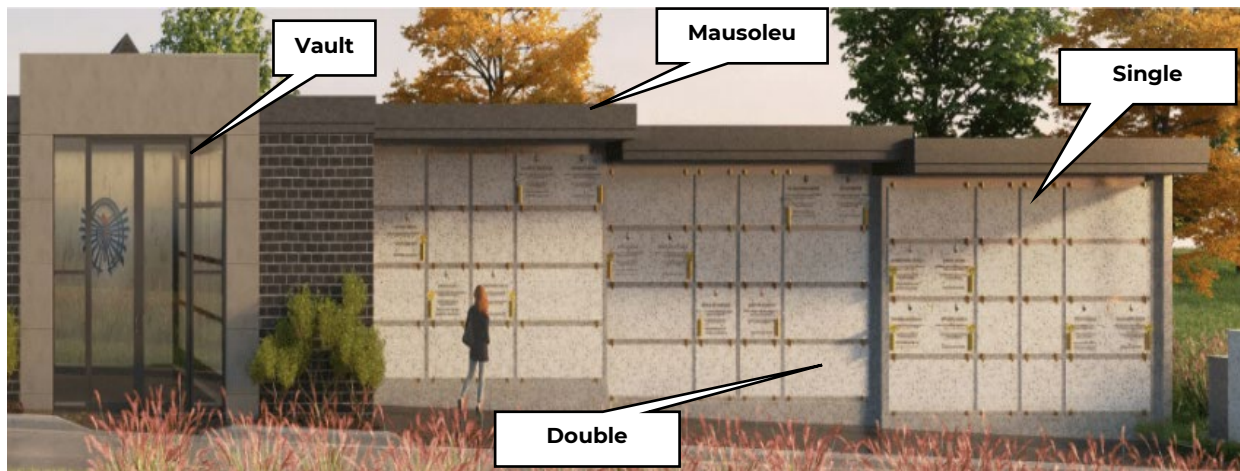


Figure 1: Typical Crypt and Mausoleum Building

Source: Field of Mars Cemetery

Recommendation 11: Crypts, vaults, memorials (including monuments), shelters and sculptures

That the development standards for Vaults, Crypts, Sculptures (Including Monuments and Memorials), Headstones, Artwork, Columbariums be revised as follows:

- Maximum footprint—~~25~~ **200m²**.
- Maximum height—7 m.
- Distance from boundary from residential or business land use—10 m.
- ~~Not result in earthworks that excavate or fill more than 1 m.~~
- If applicable, must comply with AS 4204:2019 Headstones and cemetery monuments and AS 4425:2020 Above ground burial structures
- Note—~~Except for the interment of ashes, must not increase the burial capacity~~ **can increase burial capacity for up to 5,000 interment rights if located within the boundaries of an existing cemetery. where a cap on burial capacity is stated in a current development consent**

Case Study 1 - Macquarie Park Cemetery and Crematorium

A Section 4.55 Modification Application was lodged to Ryde City Council for minor works to the Macquarie Park Cemetery and Crematorium cemetery which involved the deletion of an internal access road, upgrades to pedestrian access and the installation of six new family vaults. Refer to **Figure 2**, **Figure 3** and **Figure 4**. The total cost of proposed works was approximately \$1.6 million.

The Council assessment time for the Modification Application was 98 days between 6 September 2021 and 13 December 2021. The original Development Application LDA2018/0338 sought approval for the construction of a single storey mausoleum with 650 crypts and five family vaults, a single storey chapel, two amenity buildings for the mausoleum and chapel, and landscape works. The assessment time required by Ryde Council for the DA was 218 days, between 23 August 2018 and 29 March 2019. The total assessment timeframe to facilitate an approval for the modified development (DA and Section 4.55 Modification Application) was 316 days, for what is typical ancillary development within the existing cemetery to better accommodate the intended cemetery use of the SP1 Special Activities – Cemetery zoning of the land.

Although the new family vaults and footpath are proposed additions, these components have been specifically designed so that they are directly connected to and form part of the approved development being one single Mausoleum development containing both crypts and vaults as well as an associated Chapel building for funeral services as approved under Development Consent No. LDA/2018/0338.

Based on the proposed controls in the new framework, the DA approval pathway would still be required to deliver the approved modified development, with the exception of the construction of the footpath and landscaping works. This demonstrates the limitations of the Department's proposed framework, which continues to deny cemetery operators with a much needed fast track pathway for minor works in cemeteries without the need for a Development Application and lengthy assessment timeframes.

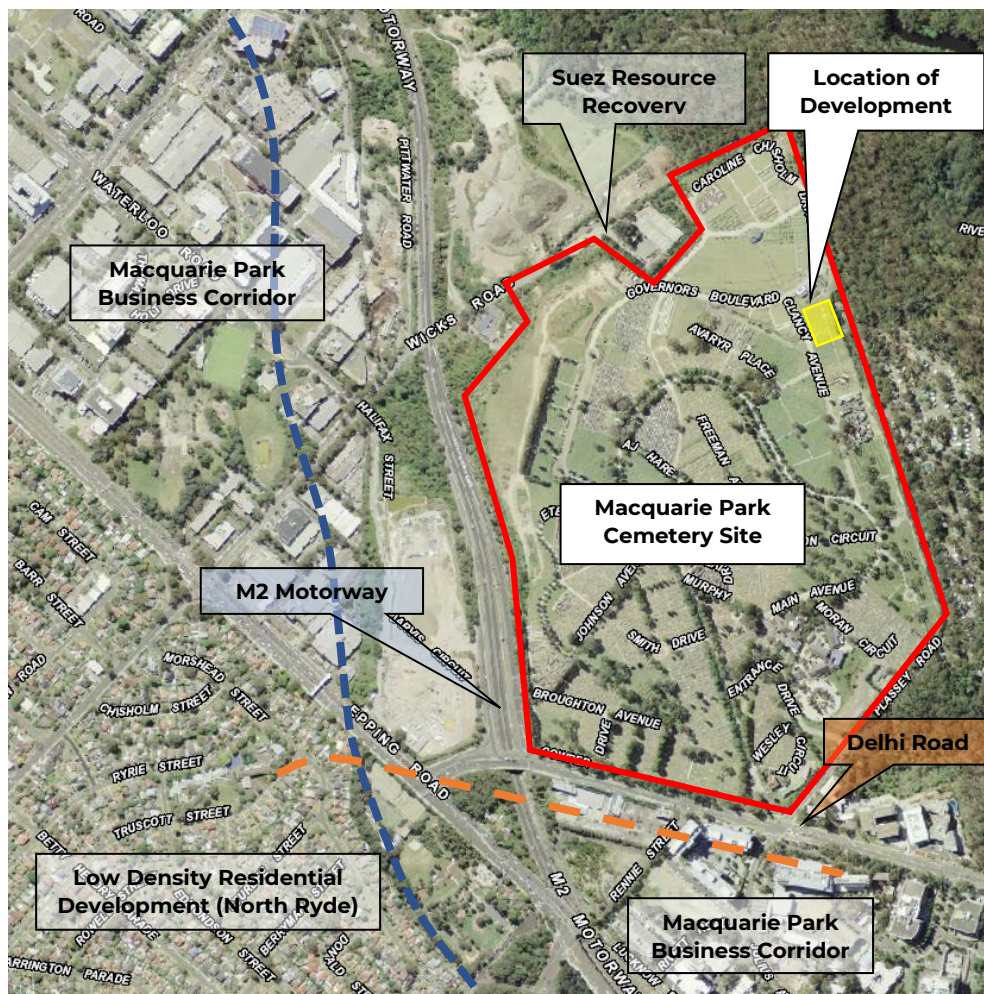
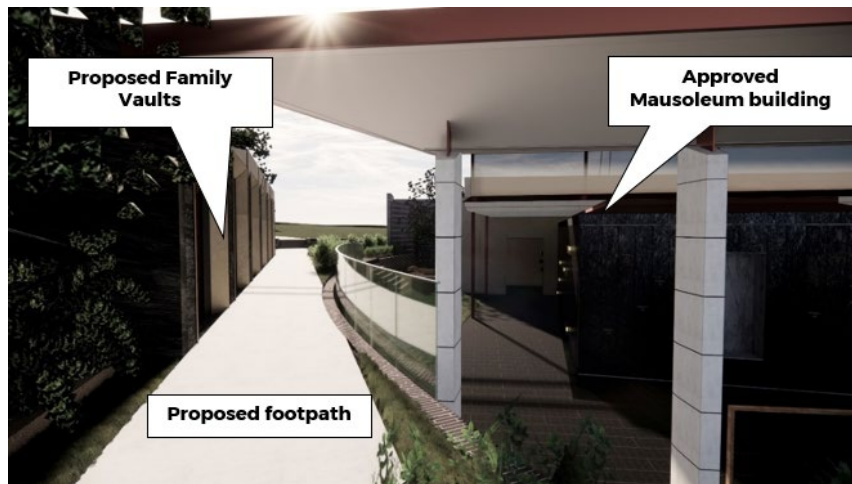


Figure 2: Macquarie Park Cemetery and Crematorium – Section 4.55 Modification Application For Minor Works (shaded yellow)

Source: Six Maps



**Figure 3: Location of New Family Vaults and pedestrian path
(Section 4.55 Modification works)**
Source: Gardner Wetherill Associates

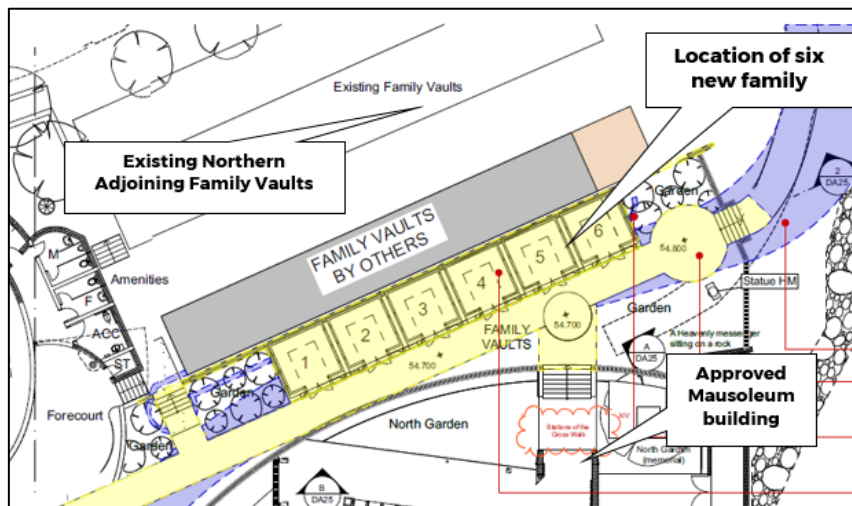


Figure 4: Location of New Family Vaults showing proposed building footprint
Source: Gardner Wetherill Associates

3.4. Additional Matters Recommended For Inclusion

There are a number of matters that have been excluded from the proposed controls, and if the proposed pathway is not revised to capture these additional typical cemetery development works, any new framework will continue to pose a substantial barrier to the efficient operation of cemeteries and will unnecessarily restrict the much required flexibility in relation to the delivery of critical social infrastructure, particularly for staged refurbishments and expansions of existing cemeteries.

Expanding an existing cemetery (section development/new burial areas)

Expanding cemeteries via section development is the process of developing land within an existing cemetery for the purpose of burial (bodily interment). Section development represents approximately 60% of the development works undertaken by MMP, is the most common form of development in our cemeteries and is vital to address the shortfall of gravesites in Sydney.

Currently, the only planning approval pathway for section development is via a Development Application, or via a State Significant Development (SSD) for section development with greater than 5,000 sites for the interment of human remains (excluding cremated remains). This represents a

significant strain of resources for MMP, to not be able to fast track approvals for already available land in an existing cemetery. Expanding the burial capacity of our existing cemeteries wherever possible through section development is critical as it optimises land use and ensures efficient use of existing cemetery resources and infrastructure.

To address the ineffectiveness of current planning controls, it is recommended that the delivery of new burial areas and associated infrastructure be permitted as Complying Development for up to 5,000 interment rights if the proposed development is within the boundaries of an existing cemetery which is zoned for that purpose. Thresholds greater than 5,000 will trigger a more complex merit based environmental assessment via the SSD approval pathway. A suitable fast-track pathway is essential for smaller development that does not provide 5,000 interment sites and to support the refurbishment and expansion of existing cemeteries.

Currently Clause 5(10) 3(b) of the Standard Instrument LEP permits the creation of a single new grave without development consent. For obvious reasons this pathway has limited applicability as MMP would always deliver multiple new burials in a single construction stage along with connection pathways and other required infrastructure.

When MMP deliver additional new burials within a new area of an existing cemetery, all works are diligently managed and informed by two important expert reports including a geotechnical report to determine the soil profile and water table analysis as well as an assessment from a civil engineer. This analysis protects the environment and informs construction works. Recommendations from these consultants are implemented in the delivery of such development. We therefore recommend the inclusion of development standards to ensure the necessary analysis from a geotechnical engineer and civil engineer are required prior to the issue of a Complying Development Certificate.

Recommendation 12: New burial areas and associated infrastructure within existing cemeteries

That New burial areas and associated infrastructure within existing cemeteries be introduced as Complying Development, with the following development standards:

- Can increase burial capacity for up to 5,000 interment rights if located within the boundaries of an existing cemetery.
- If applicable, must comply with AS 4204:2019 Headstones and cemetery monuments and AS 4425:2020 Above ground burial structures.
- Must obtain a report from a professional engineer specialising in civil engineering, stating that the proposal is consistent with the relevant Australian Standards.
- Must obtain a report from a professional engineer specialising in geotechnical engineering, including a water table analysis, ensuring development is consistent with the relevant Australian Standards and will not impact the water table or cause damage to the environment.

In relation to the number of patrons using a cemetery, we contest the assumption that this is increased as a result of the development of new burial areas. The annual number of burials at our cemeteries has remained relatively stable over the last 10 years, as has the proportion of the NSW population choosing burial over cremation. New burial areas are developed as old ones are buried out, so the number of people attending the cemetery to attend funeral services or visit interred loved ones also remains constant. Development of new burial areas therefore does not typically result in an increase in overall visitor numbers to the cemetery and will therefore not generate additional usage over and above currently approved limitations.

Adoption of this recommendation will have a tangible positive impact for cemetery expansion, streamline the growth of an existing cemetery and enable MMP to meet the growing demand for interments into the future.

Stormwater management and irrigation works repairs

Given the age of the majority of the existing cemeteries managed by MMP, a large portion of regular maintenance works required to be undertaken on cemetery sites relate to aging stormwater management systems and irrigation, installing new drainage and associated pump houses. The proposed new controls do not facilitate the delivery of these required works as exempt development, acting as a significant barrier to the upkeep of cemeteries. The approval pathways for these minor works are required to be streamlined to ensure that the drainage of stormwater and irrigation of existing cemetery grounds are able to be facilitated on an as needs basis, sometimes required urgently, without additional planning red tape.

Recommendation 13: Stormwater and irrigation systems

That a new development type of Stormwater and irrigation systems be introduced into exempt development, with the following development standards:

- **Development for stormwater and irrigation systems (including pump houses) is exempt development if it is on land within the boundaries of an existing cemetery and is designed and constructed in consultation with a Civil Engineer.**

Case Study 2 – Sandgate Cemetery, Newcastle

MMP is currently coordinating the lodgement of a Development Application with City of Newcastle for a blanket approval to facilitate minor development works in stages over the next 1-5 years. These works comprise urgent works that are required to the cemetery, which is a heritage listed site and has been operating as a cemetery since 1881. **Table 2** describes the works that are proposed under this DA. The works shaded red, notwithstanding the proposed framework (EIE), show that certain development types will still not be able to be undertaken as exempt or complying development and will still require a DA to be lodged to Council.

We note that the vast majority of proposed works are minor in nature and will have little to no subsequent environmental impact. At the very least proposed cemetery works denoted in red shading should be able to be delivered by a certifier to ensure that the development undertaken is controlled and of minimal impact. However, because neither the exempt nor complying development approval pathways would be available under the proposed EIE framework, the burdens of not having a fast track approval pathway will include:

- Further delays in the delivery of critical infrastructure in response to need and demand;
- Additional consultant costs, statutory fee costs and staff resources required to manage the DA co-ordination process by MMP; and
- Unnecessary use of crucial town planning resources within City of Newcastle Council to carry out the assessment of what is considered a straight forward DA on an existing cemetery of minimal environmental impact.

Table 2: Proposed Development Required at Sangate Cemetery

Stage		Summary of Proposed Works
1	Southeast Extension	Southeast Cemetery Lawn <ul style="list-style-type: none">• Extend the existing lawn burials including monumental burial sites (820 x new plots) and raised ash memorials.• Remove 3 x trees to accommodate new burial plots and provide new landscaping throughout the project area.

Stage		Summary of Proposed Works
		<ul style="list-style-type: none"> • Reseal existing bitumen road. • Extend existing hardstand pathways and concrete road paving into new burial plot area. • Provide 9 x new parking bays.
		Site Works associated with Administration Buildings (3 x Existing Buildings)
		<ul style="list-style-type: none"> • New stormwater works. • New concrete road paving and re-sealing of existing bitumen roads.
2	Presbyterian Shelter	<ul style="list-style-type: none"> • Partial demolition and subsequent rectification work to the existing Presbyterian Shelter in response to damages caused to the structure by a storm event in November 2020. • Repurpose shelter for use as an Ashes Memorial. • New landscaping throughout this area of the site.
3	New Amenities	<ul style="list-style-type: none"> • Construct a small amenities building comprising 2 x accessible unisex toilets and covered hardstand area with bench seat and counter with sink. • New landscaping throughout this area of the site.
4	Northern Expansion	<ul style="list-style-type: none"> • Establish the use of the vacant land as a cemetery. • Tree removal to accommodate expansion area. • Expand the existing cemetery grounds into the secondary lot to the north of the primary lots, to provide additional burial plots (number of new plots not yet confirmed) and a small Ash memorial garden. • New road providing access to new car parking and turn-around bay. • New hardstand pathways throughout the site. • New landscaping throughout this area of the site.

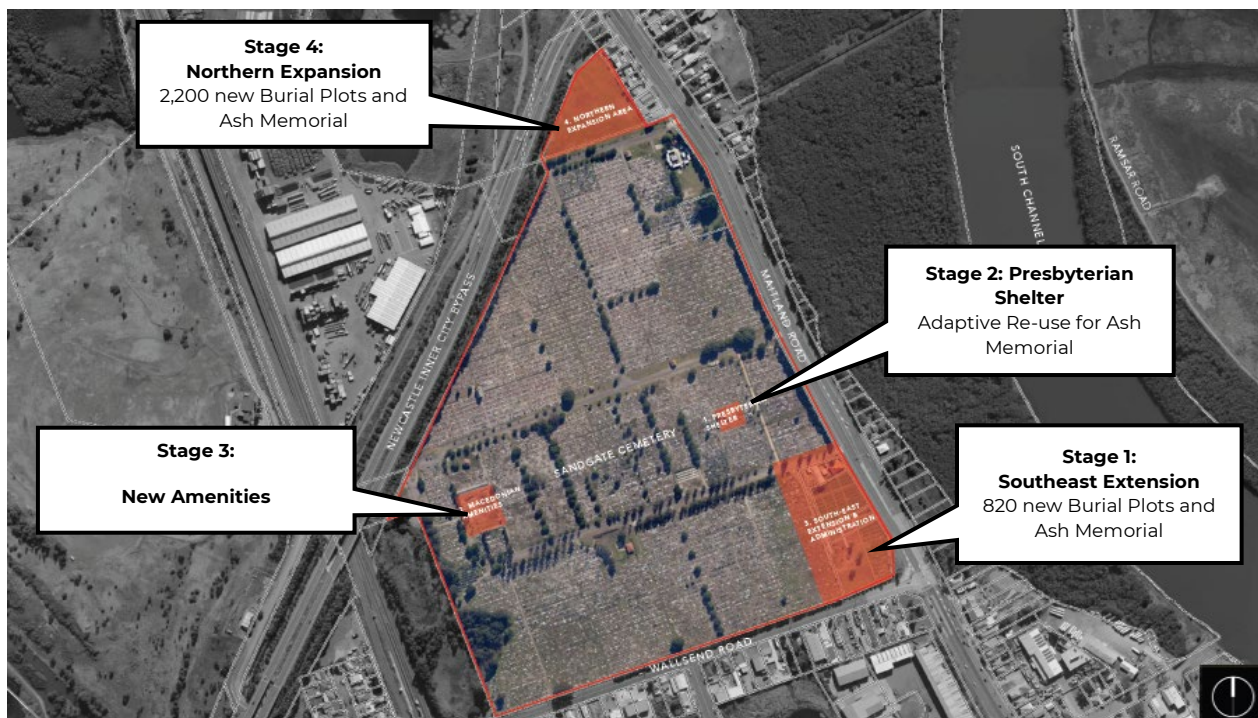


Figure 5: Staging Plan of Proposed Works at Sandgate Cemetery

Source: Heritas (Statement of Heritage Impact, Figure 1, dated 24 October 2023)

This example highlights the fact that while the pathway for some essential cemetery development may be improved and streamlined by the Department's proposed reforms, MMP and other cemetery operators will still be required to submit DAs to undertake a substantial amount of minor, maintenance, refurbishment, and expansion works, with the disadvantages of additional costs and extended timeframes for delivery. Further reform is therefore required so that the EIE achieves its intention of creating tailored, fast-track approval pathways for ancillary works within existing cemeteries and enable cemetery land managers to carry out their required duties.

4. CONCLUSION

The urgent implementation of clear and simplified planning provisions for cemeteries and crematoria works are required to reduce the complex and convoluted regulatory framework for ancillary cemetery development and supporting operational works. It is also important to ensure that the planning framework does not continue to unduly or disproportionately constrain the delivery of essential low impact development and operational works for cemeteries.

This submission outlines 13 recommendations that Metropolitan Memorial Parks request be adopted within the final amendment instrument to remove unnecessary barriers for the delivery of works that are incidental or ancillary to approved cemetery and crematoria sites. The adoption of these recommended changes will ensure cemetery development can be delivered effectively and without delay.

The proposed recommendations will also streamline the assessment and approval process for development that complies with specified development standards and thereby eliminate the inefficiencies and time delays associated with local government merit based assessments required by the Development Application planning approval pathway. The two case studies outlined in this submission relating to development works at the Sandgate Cemetery and Macquarie Park Cemetery and Crematoria, demonstrate that under the current planning framework as well as the proposed new framework Metropolitan Memorial Parks, like many other cemetery operators, are forced and will continue to be required to submit a Development Application to undertake minor ancillary works, refurbishment works and expansion works for existing cemeteries.

Thank you for the opportunity to comment on this important planning reform specifically for cemetery development and to participate in the consultative process. We would be happy to expand on this submission if required. Please do not hesitate to contact me should further information or clarification be required on 0468 943 602 or david.ham@mmplm.com.au.

Yours sincerely



David Ham
Executive Director Built Environment
Metropolitan Memorial Parks Land Manager

ATTACHMENT A: MMP CEMETERIES – PLANNING CONTROLS

Cemetery	Address	LGA	LEP	Zoning	Heritage Status	Biodiversity	Bushfire Prone Land
Macquarie Park Cemetery and Crematorium	12 Delhi Road, Macquarie Park	Ryde Council	Ryde LEP 2014	SP1 Special Activities - Cemetery	Local Heritage Item - Item No. I44	Part along boundaries	Part Vegetation Buffer, Part Category 1, Part Category 2, Part Not
Frenchs Forrest Bushland Cemetery	Hakea Ave, Davidson	Northern Beaches Council	Warringah LEP 2011	SP1 Special Activities - Cemetery	NA	NA	Vegetation Category 2, Vegetation Buffer and Part Not
Field of Mars Cemetery	Cressy Road, Ryde	Ryde Council	Ryde LEP 2014	SP1 Special Activities - Cemetery	Local Heritage Item - Item No. I59	NA	Part Vegetation Buffer, Part Category 1, Part Category 2, Part Not
Gore Hill Memorial Cemetery	211 Pacific Highway, St Leonards	Willoughby City Council	Willoughby LEP 2012	SP1 Special Activities - Cemetery	State Heritage Item - Item No. I148	NA	NA
Sandgate Cemetery	116 Maitland Road, Sandgate	City of Newcastle	Newcastle LEP 2012	SP2 Cemetery	Local Heritage Items - Item No. I516 & I518	NA	Part Vegetation Buffer, Part Category 3, Part Not
Eastern Suburbs Memorial Park	12 & 51 Military Road, Matraville	Randwick Council	Randwick LEP 2012	SP2 Cemetery	2x Local Heritage Items Heritage Conservation Area Item No. I238, I239 & Bunnerong Power Station HCA	NA	NA
Woronora Memorial Park	121 Linden Street, Sutherland	Sutherland Shire Council	Sutherland Shire LEP 2015	SP1 Special Activities - Cemetery	Local Heritage Items - Item No. 3627, 3640, A3650 & A3651	NA	Part Vegetation Buffer, Part Category 1
Rookwood General Cemetery	2 East Street, Rookwood	Cumberland City Council	Cumberland LEP 2021	SP1 Special Activities - Cemetery	State Heritage Item - Item No. I00718 & A00718	Parts within site	Part Vegetation Buffer, Part Category 2

Department of Planning and Environment

Via email submission:

systemsproductivity.policy@planning.nsw.gov.au

Your Reference N/A

Our Reference F2023/00024

Contact Janelle Scully

Telephone 9806 5771

Email jscully@cityofparramatta.nsw.gov.au

24 November 2023

Dear Sir / Madam,

RE: New exempt and complying development framework via an amendment to the State Environmental Planning Policy (Transport and Infrastructure) 2021 (TISEPP) for maintenance and other minor works within existing cemeteries.

City of Parramatta Council (Council) officers thank the Department for the opportunity to comment on the proposed reforms to the TISEPP that are aimed to assist the ongoing management of cemeteries.

This submission has been prepared by Council officers and has not been endorsed by Council, however, is consistent with Council-endorsed policy.

Existing situation

There are seven (7) cemeteries in the City of Parramatta Local Government Area; six (6) are listed heritage items and four (4) are under the management of Council. The table below summarises the key conditions for each cemetery, and full details are provided in the tables in Attachment 1 to this letter.

Cemetery name	Heritage listing: State / Local; whole or part of the site	Owner	Management	Status
1. All Saints Cemetery – North Parramatta	Local heritage listing, applies to the whole site	Crown	Council	Open; Existing interment rights only
2. Mays Hill Reserve, Fort Macquarie cannon and Marys Hill Cemetery	Local heritage listing, applies to the whole site Local Archaeological site, applies to the whole site	Crown	Council	Open; Existing interment rights only
3. St Patricks Roman Catholic Cemetery -	Local & State heritage listing, applies to the	Council	Council	Closed

Contact us:

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North Parramatta	whole site			
4. Walter Lawry Methodist Memorial Cemetery – North Parramatta	Local heritage listing, applies to the whole site	Council	Council	Closed
5. St John's Anglican Church, Parramatta	State heritage listing, applies to the whole site	Private	Private landowner	Closed
6. St Pauls Church Cemetery – Carlingford	Local heritage listing, applies to the whole site	Private	Private landowner	Open
7. North Rocks Catholic Cemetery – North Rocks	Not heritage listed	Private	Private landowner	Open

Council officers **support the draft reforms** for the following reasons,

- The reforms will assist Council to meet its obligations as a 'cemetery operator' under the Cemeteries and Crematoria Act 2013.
- The reforms provide a clear and consistent pathway for typical works undertaken by Council to ensure the ongoing safety and accessibility of cemeteries under our ownership and/or management.
- The intent of the reforms aligns with Council's position of streamlining approval pathways for minor ancillary works.

Notwithstanding the above, the following **matters are raised, and amendments suggested** for the Department's consideration.

Issue 1: Inconsistent definitions for management of cemeteries as 'public reserves'

Council currently carries out maintenance of historic, heritage listed cemeteries under Division 12 (Parks and other public reserves) and Schedule 1 (General Exempt Development) of the TISEPP.

For Council owned cemeteries, Division 12 (Parks and other public reserves) of the TISEPP enables Council to carry out works on heritage listed cemeteries as Exempt Development for such matters as landscaping, retaining walls, seating, fencing and maintenance of paths. However, there are no specific references in Division 12 for works unique to cemeteries such as headstones, monuments and vaults.

Council welcomes the proposed amendments to the TISEPP to enable vaults, crypts, sculptures (including monuments and memorials), headstones, artwork, columbariums as exempt and complying development.

The issue for Council is the definition of 'public reserves'. Crown Land dedicated or reserved for cemetery purposes within the City of Parramatta LGA generally comprises cemeteries that are closed to new burials, except for existing burial rights. Council therefore manages these as 'public reserves' under the Local Government Act 1993 (LG Act).

For Crown Land cemeteries under Council management, works by Council are limited to the Schedule 1 (General Exempt Development) provisions. This is because the definition of a 'public reserve' under Division 12 of the TISEPP excludes a 'Crown Reserve dedicated or reserved for a public cemetery'.

This definition is inconsistent with the definition of a 'public reserve' under the LG Act, which includes 'Crown managed land that is dedicated for public recreation or for a public cemetery'.

Recommendation: that the definition of 'public reserve' under Division 12 of the TISEPP be made consistent with the definition under the LG Act i.e. 'Crown managed land that is dedicated for public recreation or for a public cemetery'.

Issue 2: Intent to enable low impact works on heritage listed cemeteries unclear.

Council welcomes the proposed amendments to the exempt development types in the TISEPP to enable low impacts works on heritage listed cemeteries, provided the works will have no more than minimal impact on heritage significance.

There are two (2) proposed exempt development types for decks, terraces and pergolas; and non-habitable buildings. However, for these to be exempt development they, 'Must not be located within the *curtilage* of a heritage item'.

Given that all the heritage listed cemeteries in the Parramatta LGA cover the whole of the cemetery, and there is no existing or proposed definition of 'curtilage' in the TISEPP, the intent of the proposed amendment to enable low impact works on heritage listed cemeteries is unclear.

Recommendation: that this amendment be reviewed for practical application to achieve the outcome of enabling low impact exempt works on heritage listed cemeteries to be carried out.

If you have any enquiries regarding this submission, please contact:

- Janelle Scully, Service Manager, Strategic Land Use Planning, 98065771 or jscully@cityofparramatta.nsw.gov.au; or
- Troy Holbrook, Senior Open Space and Natural Area Planner, Parks and Open Space Planning, 98068272 or tholbrook@cityofparramatta.nsw.gov.au

Yours sincerely,



Jennifer Concato

Executive Director, City Planning & Design

Attachment 1: Details of the Cemeteries within the City of Parramatta Local Government Area

Table 1: Cemeteries within the City of Paramatta Local Government Area

Name	Suburb	Address	Lot/DP	Local/State Heritage listing	Item No	SHR	Whole or Part of site heritage listed
1. All Saints Cemetery	North Parramatta	56 Fennell Street	Lot 7042 DP 93837	Local	I324		Whole
2. Mays Hill Reserve, Fort Macquarie cannon and Marys Hill Cemetery	Mays Hill	Franklin Street, also 20A Steele Street, Mays Hill	Lot 1, DP 119247; Lot 1, DP 795277; Lot 7051, DP 1028194; Lot 370, DP 752058; Lot 7056, DP 1028195	Local and Local Archaeological site	I287 & A03		Whole
3. St Patricks Roman Catholic Cemetery	North Parramatta	1 Pennant Hills Road	Lot 1 DP 1111985	Local State	I357	01880	Whole
4. Walter Lawry Methodist Memorial Cemetery	North Parramatta	2 Buller Street	Lot 1 DP 747007	Local	I308		Whole
5. St John's Cemetery	Parramatta	1 O'Connell Street	Lot 5, DP 1239127	State	I612	00049	Whole
6. St Pauls Church Cemetery	Carlingford	233 Marsden Road	Lot 1 and 2 DP 1023389	Local	1024		Whole
7. North Rocks Catholic Cemetery	North Rocks	395 North Rocks Road	Lot 10 DP1071512	No	No	No	Whole

Attachment 1: Details of the Cemeteries within the City of Parramatta Local Government Area

Table 2: Status of Cemeteries in the City of Parramatta

Name	Status of Cemetery	Year	New Interments	Management	Legislation
1. All Saints Cemetery	Open (See Note 1)	N/A	Existing Rights Only	Council	
2. Mays Cemetery	Open (See Note 2)	N/A	Existing Rights Only	Council	
3. St Patricks Cemetery	Closed	1975	N/A	Council	Conversion of Cemeteries Act 1974
4. Walter Lawry Cemetery	Closed	1961	N/A	Council	Parramatta Methodist Cemetery Act 1961
5. St Johns Cemetery	Closed	1980	N/A	Church	Conversion of Cemeteries Act 1974
6 .St Pauls Cemetery	Open	N/A	Yes	Church	
7. North Rocks Cemetery	Open	N/A	Yes	Church	

*Closure proposed 1970s due to lack of capacity (did not proceed due to cost).

**Closure proposed 1979 due to lack of capacity (did not proceed due to cost). 2003 Conservation Management Plan recommends no further burials.



Our reference: InfoStore
Contact: Abdul Cheema
Telephone: 4732 8120

17 November 2023

Mr Ben Lusher
Director Systems and Productivity Policy
NSW Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 2124

Sent by online submission portal

**Submission on proposed exempt and complying development
framework for minor work within existing cemeteries**

Thank you for the opportunity to comment on the Explanation of Intended Effect (EIE) that has been prepared to provide details on the proposed planning exempt and complying development framework for maintenance and minor work within existing cemeteries via an amendment to *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

Given the short timeframe to provide a submission, there has been no opportunity to report to Council, which is normally our standard practice, therefore these comments are provided without endorsement from Council. On review of the exhibited EIE by Council officers, we are supportive of the proposed framework to enable cemetery operators to carry out minor works and ongoing maintenance through a fast-tracked approval pathway, thus ensuring cemeteries are safe and accessible.

However, there are concerns with certain development types that are included within the EIE as being minor, with the potential to interfere with adjoining land uses. In addition, there are concerns with some of the development types included within the exempt and complying development pathways that allow works to be carried out involving heritage items and buildings. The below submission table provides details on all concerns and subsequent recommendations for your consideration.

If you have any questions about this matter, please contact me at abdul.cheema@penrith.city or on 02 4732 8120.

Yours sincerely

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NSW 2751 Australia
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penrith.city



Abdul Cheema

A/City Planning Manager

Attach.

Table of comments on Explanation of Intended Effect (EIE)

Penrith City Council
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Proposed reforms within the Explanation of Intended Effect (EIE)	Consistent with Council's Position	Comments
State Environmental Planning Policy – (Transport and Infrastructure) 2021		
Exempt Development		
Accessible entrances	Yes	N/A
Ash gardens	Yes	N/A
Decks, terraces and pergolas	Yes	N/A
Demolition (to support the undertaking of development types specified within this framework and carried out in accordance with AS 2601-2001)	Neutral	<ul style="list-style-type: none"> • Council officers are supportive of minor demolition works to be carried out to support the undertaking of development types proposed within this framework. However, the EIE does not go far enough to state requirements on the total size of the structure that can be demolished under the exempt development pathway. • This is a concern if demolition of structures that are of a substantial size can be undertaken as exempt development and in addition if they are associated with heritage items and/or buildings. • Council officers do not support the demolition of heritage items and/or buildings to be undertaken as exempt development. This undermines our existing development controls and standards surrounding the protection of heritage items, ensuring demolition of heritage items are therefore considered as a last resort, ensuring all other alternatives have been considered.

Proposed reforms within the Explanation of Intended Effect (EIE)	Consistent with Council's Position	Comments
		Recommendations: <ul style="list-style-type: none"> It is strongly recommended that additional criteria surrounding the size of the development is to be added as a maximum requirement within the exempt development pathway to ensure disruptions to adjoining land uses are minimised. It is also recommended that this pathway does not include demolition of items/buildings involving heritage.
Driveways, hardstand and carpark	Yes	N/A
Earthworks (must not result in cut or fill of more than 1 metre below or above existing ground level)	Yes	N/A
Fencing	Yes	N/A
Landscaping and landscape structures	Yes	N/A
Minor building alterations and additions (external)	Neutral	<ul style="list-style-type: none"> Minor building alterations as specified in the EIE as being painting, cladding, repair and replacement of building fabric, balustrades and handrails, plant and equipment are supported in general to structures that are not associated to heritage items. Minor building alterations and additions to Heritage items and/or buildings are not supported to be undertaken as exempt development. This undermines Council's existing development

Proposed reforms within the Explanation of Intended Effect (EIE)	Consistent with Council's Position	Comments
		<p>controls that are in place to conserve the heritage significance of buildings to ensure new development does not detract from heritage values.</p> <p>Recommendation:</p> <ul style="list-style-type: none"> It is strongly recommended that additional criteria and development standards are applied for the carrying out of alterations and additions that involve heritage items and/or buildings to ensure the preservation and protection of heritage.
Minor building alterations (internal)	Yes	N/A
Rainwater tanks	Yes	N/A
Sheds and maintenance facilities, carports (Must not result in a shed with a total floor area exceeding 36 m ² . Height must not exceed 3.6 m above existing ground level)	Yes	N/A
Signage	Yes	N/A
Vaults, crypts, sculptures (including monuments and memorials), headstones, artwork, columbaria	Yes	N/A
Complying Development		

Proposed reforms within the Explanation of Intended Effect (EIE)	Consistent with Council's Position	Comments
Alterations to existing buildings (internal and external)	Neutral	<ul style="list-style-type: none"> Alterations to existing buildings as specified in the EIE as to facilitate general maintenance, upgrades and replacement of damaged or deteriorated fabric which are more substantial than what is permitted under the exempt development provisions are supported in general to structures that are not associated to heritage items. Alterations to existing Heritage buildings are not supported to be undertaken as complying development. This undermines Council's existing development controls that are in place to conserve the heritage significance of buildings to ensure new development does not detract from heritage values. <p>Recommendation:</p> <ul style="list-style-type: none"> Additional criteria and standards to be applied to the carrying out of alterations and additions that involve heritage items and/or buildings.
Construction of new buildings and structures. (On land zoned R1, R2, R3, R4, RU5, E1, E2, E3, C1, C2, C3, C4 zoned land: maximum footprint—100m ² - maximum height—5.5 m. Setback from boundary 3 m. On land in other zones: maximum footprint of 200 m ² , maximum height of 7 metres, setback from boundaries generally 5 metres distance from boundary from residential or business land use 10 metres).	Neutral	<ul style="list-style-type: none"> The construction of new small buildings such as toilet facilities and the like are supported. However, the current criteria as included within the EIE doesn't go far enough to detail the building design, materials and articulation to ensure structures correspond with the existing buildings on the site and complement the character of the area. <p>Recommendation:</p> <ul style="list-style-type: none"> Additional criteria is included for construction of new buildings and structures surrounding building design and materials to ensure all new buildings are sympathetic to the local character of the

Proposed reforms within the Explanation of Intended Effect (EIE)	Consistent with Council's Position	Comments
		neighbourhood, particularly if visible from the street and located in a residential zone.
Crypts, vaults, memorials (including monuments), shelters and sculptures. (Maximum footprint of 25 m2 and maximum height of 7 metres)	Yes	N/A

Mr Ben Lusher
Director Systems and Productivity Policy
Department of Planning and Environment
Locked Bag 5022
Parramatta NSW 212

07 December 2023

Ref No: F2017/00269

Dear Mr Lusher

RE: Exempt and complying Development Frameworks for Cemeteries

Thank you for the opportunity to comment on the proposed exempt and complying development framework for maintenance and other minor ancillary works within existing cemeteries through amendments to the Transport and Infrastructure SEPP 2021. Randwick has two key cemeteries one of which is owned and managed by Council (known as Randwick Cemetery) and the other, being Botany Cemetery, is located in a sensitive coastal headland location and managed by Crown Lands under a trust arrangement. Council has reviewed the proposed changes and the implications for Randwick's two key cemeteries which are detailed as follows:

Heritage Impacts

Council notes that the proposed framework seeks to protect heritage values by requiring all exempt development to have no more than minimal impact on heritage significance and be in accordance with any existing heritage management documents. In regard to the latter, Council notes that a large proportion of cemeteries in NSW, that have recognised heritage values, do not have a Conservation Management Plan or a Plan of Management managing their operations. As such, protection of heritage items or areas could be compromised if no heritage management document is available to inform and guide exempt and complying proposals in heritage significant cemeteries.

While Council supports the suggestion that a heritage expert should be consulted to ensure the best practice standards are being met under the proposed framework, there is no onus on proponents to inform Council that this has occurred when the proposed exempt or complying developments are undertaken.

Sensitive coastal environments

Many cemeteries in NSW are located on headlands or cliffs in sensitive coastal or inland environments. Development in sensitive coastal environments is currently managed under the coastal provisions contained in the Resilience and Hazards SEPP (formerly Coastal Management SEPP). This SEPP categorises areas of coastal risk, coastal environment or coastal use into different zones each of which have planning provisions associated with development on these areas under this SEPP. It is noted that, while the provisions of this Resilience and Hazards SEPP prevail over the provisions on the Transport and Infrastructure SEPP, the works covered under this proposed exempt and complying framework will no longer require development consent. In effect, the important requirements that currently apply under the Resilience and Hazards (RH)

<p>English</p> <p>If you need help to understand this letter, please come to Council's Customer Service Centre and ask for assistance in your language or you can contact the Telephone Interpreter Service (TIS) on 131 450 and ask them to contact Council on 1300 722 542.</p>	<p>Greek</p> <p>Αν χρειάζεστε βοήθεια για να καταλάβετε αυτή την επιστολή, παρακαλείστε να έρθετε στο Κέντρο Εξυπηρέτησης Πελατών της Δημαρχίας (Council Customer Service Centre) και να ζητήσετε βοήθεια στη γλώσσα σας ή τηλεφωνήστε στην Τηλεφωνική Υπηρεσία Διερμηνέων (Telephone Interpreter Service — TIS) τηλ. 131 450 και να ζητήσετε να επικοινωνήσουν με τη Δημαρχία τηλ. 1300 722 542.</p>	<p>Italian</p> <p>Se avete bisogno di aiuto per capire il contenuto di questa lettera, recatevi presso il Customer Service Centre del Municipio dove potrete chiedere di essere assistiti nella vostra lingua; oppure mettetevi in contatto con il Servizio Telefonico Interpreti (TIS) al 131 450 e chiedete loro di mettersi in contatto col Municipio al 1300 722 542.</p>
<p>Croatian</p> <p>Ako vam je potrebna pomoć da biste razumjeli ovo pismo, molimo dođite u Općinski služni centar za klijente (Council's Customer Service Centre) i zatražite pomoć na svom jeziku, ili možete nazvati Telefonsku službu tumača (TIS) na 131 450 i zamoliti njih da nazovu Općinu na 1300 722 542.</p>	<p>Spanish</p> <p>A la persona que necesite ayuda para entender esta carta se le ruega venir al Centro de Servicios para Clientes [Customer Service Centre] de la Municipalidad y pedir asistencia en su propio idioma, o bien ponerse en contacto con el Servicio Telefónico de Intérpretes [“TIS”], número 131 450, para pedir que le comuniquen con la Municipalidad, cuyo teléfono es 1300 722 542.</p>	<p>Vietnamese</p> <p>Nếu quý vị không hiểu lá thư này và cần sự giúp đỡ, mời quý vị đến Trung Tâm Dịch Vụ Hướng Dẫn Khách Hàng của Hội Đồng Thành Phố (Council's Customer Service Centre) để có người nói ngôn ngữ của quý vị giúp hay quý vị có thể liên lạc Dịch Vụ Thông Dịch qua Điện Thoại (TIS) ở số 131 450 và yêu cầu họ liên lạc với Hội Đồng Thành Phố (Council) ở số 1300 722 542.</p>
<p>Polish</p> <p>Jeśli potrzebujesz pomocy w zrozumieniu treści tego pisma, przyjdź do punktu obsługi klientów (Customer Service Centre) przy Radzie Miejskiej i poproś o pomoc w języku polskim, albo zadzwoń do Telefonicznego Biura Tłumaczy (Telephone Interpreter Service — TIS) pod numer 131 450 i poproś o skontaktowanie się z Radą Miejską (Council) pod numerem 1300 722 542.</p>	<p>Indonesian</p> <p>Jika Anda memerlukan bantuan untuk memahami surat ini, silakan datang ke Pusat Pelayanan Pelanggan (Customer Service Centre) Pemerintah Kotamadya (Council) dan mintalah untuk bantuan dalam bahasa Anda, atau Anda dapat menghubungi Jasa Juru Bahasa Telepon (Telephone Interpreter Service - TIS) pada nomor 131 450 dan meminta supaya mereka menghubungi Pemerintah Kotamadya pada nomor 1300 722 542.</p>	<p>Turkish</p> <p>Bu mektubu anlamak için yardima ihtiyaciniz varsa, lütfen Belediye'nin Müşteri Hizmetleri Merkezi'ne gelip kendi dilinizde yardım isteyiniz veya 131 450'den Telefonla Tercüme Servisi'ni (TIS) arayarak onlardan 1300 722 542 numaradan Belediye ile ilişkiye geçmelerini isteyiniz.</p>
<p>Hungarian</p> <p>Amennyiben a levél tartalmát nem érti és segítségre van szüksége, kérjük látogassa meg a Tanácsház Ügyfél Szolgálatát (Customer Service Centre), ahol magyar nyelven kaphat felvilágosítást, vagy hívja a Telefon Tolmacs Szolgálatot (TIS) a 131 450 telefonszámon és kérje, hogy kapesolják a Tanácsházat a 1300 722 542 telefonszámon.</p>	<p>Czech</p> <p>Jestliže potřebujete pomoc při porozumění tohoto dopisu, navštivte prosím naše Středisko služeb pro veřejnost (Council's Customer Service Centre) a požádejte o poskytnutí pomoci ve vaší řeči anebo zavolejte Telefonní tlumočnickou službu (TIS) na tel. číslo 131 450 a požádejte je, aby oni zavolali Městský úřad Randwick na tel. číslo 1300 722 542.</p>	<p>Arabic</p> <p>إذا أردت مُساعدة لفهم هذه الرسالة، نرجوك الحضور إلى مركز خدمة عملاء المجلس وأطلب المساعدة في لغتك، أو يُمكنك الاتصال بخدمة الترجمة الهاتفية (TIS) على هاتف رقم 131 450 وأطلب منهم الاتصال بالمجلس على رقم 1300 722 542.</p>
<p>Chinese</p> <p>如果你需要人幫助你了解這封信的內容，請來市政會顧客服務中心要求翻譯服務，或者與電話傳譯服務（TIS）聯係，號碼是131 450。請他們幫助你打電話給市政會，號碼是1300 722 542。</p>	<p>Russian</p> <p>Если Вам требуется помощь, чтобы разобраться в этом письме, то, пожалуйста, обратитесь в Муниципальный Центр Обслуживания Клиентов и попросите оказать Вам помощь на Вашем языке или же Вы можете позвонить в Телефонную Службу Переводчиков (TIS) по номеру 131 450 и попросить их связаться с Муниципалитетом по номеру 1300 722 542.</p>	<p>Serbian</p> <p>Ako vam treba pomoć da razumete ovo pismo, molimo vas da dođete do Centra za usluge mušterijama pri Opštini (Customer Service Centre) i zamolite ih da vam pomognu na vašem jeziku, ili možete nazvati Telefonsku prevodilačku službu (TIS) na 131 450 i zamolite ih da vas povežu sa Opštinom na 1300 722 542.</p>

SEPP will become obsolete including the objectives of the Coastal Management Act which are achieved through the provisions of the RH SEPP. In addition, the newly released [NSW Coastal Design Guidelines](#) issued in October 2023, and associated urban design checklist which is applicable to development applications within the coastal zone areas, will no longer be a consideration for these types of works in cemeteries.

The provisions of the RH SEPP currently require consent authorities to consider a wide range of potential impacts on the sensitive coastal environment requiring expert technical input including whether the proposed development is likely to:

- alter coastal processes to the detriment of the environment.
- reduce the public amenity.
- impact coastal environmental values and natural coastal processes
- impact the water quality of the marine estate.
- impact marine vegetation, native vegetation and fauna and their habitats
- cause overshadowing, wind funnelling and the loss of views from public places to foreshores,
- impact the visual amenity and scenic qualities of the coast, including coastal headlands.

None of these will be considered if works are redefined as exempt or complying under the proposed new framework.

Scenic Impacts

Under the Randwick LEP, there are designated lands along the foreshore, often adjacent to public open space areas and beaches, that are protected under scenic protection provisions (Clause 6.7 Foreshore Scenic Protection Area). These provisions aim to achieve the following:

- recognise, protect and enhance the natural, visual and environmental qualities of the scenic areas of the coastline,
- protect significant public views to and from the coast,
- ensure development in these areas is appropriate for the location and does not detract from the scenic qualities of the coast.

As these scenic protection measures only pertain to works requiring development consent, these provisions will not apply to the proposed exempt and complying development in cemeteries. As such, the impacts of the proposed exempt and complying provisions on scenic values of the coast and impacts on view corridors, and on adjacent public recreational land, will no longer be assessed.

The existing foreshore scenic qualities form an important component of the local character of the eastern suburbs in Randwick City. Accordingly, the objectives and provisions of Clause 6.7 - Foreshore Scenic Protection Area of the Randwick LEP should be key considerations in assessing potential impacts arising from the proposed exempt and complying works in the areas covered by this Clause. For example, the proposed exempt and complying framework will permit solid fencing up to a permissible fence height of 3m in areas adjacent to public recreation zones which will potentially result in intrusive and dominant structures within and on the perimeter of cemeteries and can also disrupt view corridors and passive surveillance of open space areas.

Remnant Native vegetation

Many cemeteries in NSW contain remnant vegetation, several of which are recognised on the [NSW Biodiversity Values Map](#) as areas that are sensitive to development and clearing. Many of these areas have species or ecological communities which are protected under NSW Biodiversity Conservation Act and/or Commonwealth Environmental Protection and Biodiversity Conservation Act, including Eastern Suburbs Banksia Scrub in the coastal areas of Randwick City.

While the Explanation of Intended Effects (EIE) attached to the proposed exempt and complying framework states that the proposal must not include removal or pruning of native vegetation,

development of the proposed exempt or complying works may still impact on protected vegetation or communities through root disturbance, crown pruning, overshadowing, changes to overland water flow, drainage and impacts on nutrient loads. These impacts on native vegetation would normally require a Biodiversity Development Assessment Report to be prepared and submitted with a development application, however under the proposed exempt and complying provisions these impacts will not be considered or assessed. It is noted that the Exempt and Complying Development Codes SEPP requires consideration of the [Biodiversity Values Map](#), which is a threshold tool to identify land with high biodiversity value that are particularly sensitive to impacts from development and clearing.

Scale of Development

The scale of development proposed to be covered under the SEPP provisions include height and scales that are significantly above and beyond those of structures currently typically found in cemeteries in the Randwick LGA.

Under the Randwick LEP, cemeteries are zoned as SP2 Infrastructure. The proposed provisions intend to permit a 50-car carpark as exempt development either in the form of new paved carparking area or alterations to existing paved car parking areas. As exempt development, Council considers the proposed 50 car spaces to be excessive in scale and visually intrusive; and will result in a range of planning and technical considerations being overlooked including flooding, traffic generation, parking, vegetation protection and landscaping. Furthermore, this proposed size and scale of carparking would normally be associated with the development of new cemeteries where increase burials are contemplated thus requiring a development application. Additionally, it is noted that under the existing Exempt and Complying Development Codes SEPP, driveways and associated hard stand areas are required to be *“constructed or installed so that any surface water or runoff is disposed of by a drainage system that is connected to the existing stormwater drainage system”*. Council would suggest that, omitting such a basic consideration for a car park of up to 50 car spaces as exempt development, would not be advisable given the scale of runoff and associated drainage system that would be considered in order to mitigate overflow and flooding impacts on neighbouring *properties*.

Complying Development Provisions

The proposed provision permits a 50-car carpark as exempt development and a 200 square metre 7m high building as complying development for proposed used as a toilet block. While council supports the provision of toilet facilities as exempt development under the proposed framework, the scale of the new buildings provisions is in Council's opinion excessive. By comparison, Council is currently building a [new amenity block at south Maroubra beach](#) with more accessible toilets for the general public. The design incorporates toilets, showers change room, a baby change room and extra storage areas for the surf lifesaving club with a large proportion of the Maroubra space being taken up by the shower/change room area. These extensive facilities are significantly under 90 square metres. Accordingly, Council recommends that toilet facilities should be significantly reduced from the proposed 200 sqm to under 50 sqm.

The proposed framework will also allow for crypts, vaults, memorials to be complying development with a maximum footprint of 25 square metres and maximum height of 7m. These dimensions are considered excessive when compared to those existing in existing cemeteries in Randwick City and may compromise the heritage values of these cemeteries.

Overall, Council queries whether or not assessment has been made of the feasibility of these proposed dimensions for new buildings, crypts, vaults, memorials in view of the current critical shortage of space within existing cemeteries in Sydney and regional cities. The absence of any assessment would make it difficult to assess the cumulative impacts of these structures overtime.

Local councils have a duty to consider the environmental impact of any development activity under section 5.5 of the EPA Act. This section requires councils to examine and consider, to the fullest extent possible, all matters affecting or likely to affect the environment by reason of that activity. Accordingly, councils have an obligation to be aware of site-specific sensitivities of its cemeteries and would have a vested interest in protecting heritage values, adjacent open space, bushland and sensitive coastal environments. However, where cemeteries are operated by a private entity or trust, awareness or priorities to these environmental considerations may not be fully understood or applied. In this context, the proposed exempt and complying provisions should be designed to a conservative scale of development to ensure the surrounding areas are not negatively impacted upon.

Council understands the DPE's objectives in introducing the proposed exempt and complying framework into the Transport and Infrastructure SEPP for cemeteries. However, some of these provisions are inconsistent with objectives of the Resilience and Hazards SEPP and the development standards of the Exempt and Complying Codes SEPP such that consistency with these instruments should be a priority consideration in the preparation of the proposed exempt and complying framework.

Council is happy to provide the Department with further details on any of the issues raised in this submission. If you have any questions regarding this submission please contact Bronwyn Englaro, Senior Sustainability Officer on 02 9093 6796.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stella Agagiotis', written in a cursive style.

Stella Agagiotis

Manager Strategic Planning

Stella.agagiotis@randwick.nsw.gov.au

Mr Ben Lusher
Director Systems and Productivity Policy
Department of Planning and Environment
c/o NSW Planning Portal

17 November 2023

Dear Mr Lusher,

**WOLLONDILLY SHIRE COUNCIL SUBMISSION TO EXEMPT AND COMPLYING DEVELOPMENT
WITHIN EXISTING CEMETERIES**

Thank you for the opportunity provide feedback on the explanation of intended effect for proposing an exempt and complying development framework for cemeteries.

We are broadly supportive of the proposed changes and consider that they will further assist us in maintaining our cemeteries and also to maintain high levels of customer satisfaction.

However, we have concerns with the proposed exempt development pathway applying to heritage listed items and places.

Clause 5.10(3) of the Standard Instrument – Principal LEP, adopted in all Local Environmental Plans in NSW, already provides an exemption from the need for development consent for minor works to heritage items and heritage conservation areas.

It is recommended that the fast-track assessment pathway provided by 5.10(3) should be retained as the appropriate pathway for minor works where a cemetery has heritage value.

Instead of amending the Codes SEPP, consideration should be given to amending the *Standard Instrument – Principal Local Environmental Plan* to ensure that clause 5.10(3)(b) adequately covers the development types intended to be captured by the Explanation of Intended Effect not requiring development consent.

The recommended approach would still effectively implement the intent of the proposed changes and Councils would remain empowered to manage and protect local heritage values.

If the proposed exempt development types are still to be implemented via amendments to the Codes SEPP we request that the legislative drafting considers the requirements of Schedule 2 of the *Environmental Planning and Assessment Regulation 2021* so that there is no ambiguity around the interpretation of information mandated on planning certificates issued under clause 10.7 of the *Environmental Planning and Assessment Act 1979* for cemetery operators.

Please contact me on (02) 4677 1100 or email carolyn.whitten@wollondilly.nsw.gov.au for any questions about this submission.

Yours faithfully,



Carolyn Whitten
Acting Manager Sustainable Growth
Shire Futures