

This document summarises and responds to key matters raised in submissions to the Explanation of Intended Effect for amendments to introduce cemeteries as State significant development (SSD), which was exhibited in late 2021.

Threshold

The following issues were raised in relation to the proposed threshold:

- The proposed threshold of 20,000 burial plots is too high and should be removed entirely for new cemeteries
- The threshold within Greater Sydney should be lowered to 15,000 burial plots
- A threshold value based on a CIV of \$5M should be used for alterations and additions to cemeteries
- The threshold should be defined to clarify intent and whether ancillary development is included.

Department Response

The department has reviewed the proposed threshold through further analysis of available data and discussions with key stakeholders. Following this, the threshold has been revised to 5,000 interment sites for any new or expanded cemetery in NSW.

Although a different threshold for Greater Sydney was considered, a single threshold across NSW provides a clearer and more consistent approach that continues to meet the policy objectives of the amendment.

Although CIV is used as a threshold for some types of SSD, it is not appropriate in this instance. The number of sites for the interment of human remains (excluding cremated remains) is considered to be the most appropriate metric, as it most closely measures the contribution a cemetery can make towards the policy objective of delivering more burial space.

It is not necessary to explicitly provide for ancillary uses, as this is already provided for under section 8(2) of the State and Regional Development SEPP (Ch 2 of the Planning Systems SEPP from 1 March 2022).

Permissibility

The following issues were raised with regards to permissibility:

- Existing limited permissibility is a significant barrier to the delivery of burial space
- Some councils seek to prohibit cemeteries through their LEPs and are generally unsupportive of new cemetery developments
- The department should consider introducing mechanisms to allow cemetery operators to seek rezoning through the Local Planning Panels.

Department Response

The proposed amendment to identify large-scale cemeteries as State significant development is a direct response to recommendation 7.17 of the 11th Hour Report. No changes are proposed to the permissibility of cemeteries within the existing planning framework, as the 11th Hour provided separate recommendations relating to permissibility. Recommendation 7.15 of the 11th Hour report requested the GSC revise District Plans to include priorities for cemeteries across each district to be given effect through future LSPSs and LEPs.

It is also noted that there are existing provisions under section 4.38(5) of the EP&A Act which allow an SSD project that is wholly prohibited to be assessed on its merits, provided this is done in conjunction with assessing a planning proposal to rezone the land and make the project permissible with development consent. In these instances, the Planning Secretary may undertake the functions of the planning proposal authority under Part 3 and the Independent Planning Commission determines the project and rezoning.

Site Selection

The following issues were raised in relation to site selection for cemetery developments:

- Cemeteries should be planned for strategically by NSW Government
- Appropriate sites should be identified and acquired for large scale cemeteries rather than the private sector selecting inappropriate sites
- Cemeteries should be appropriately located and not in flood affected areas or villages and towns where the community oppose development or where scenic village atmosphere would be destroyed.

Department Response

The need to undertake a strategic approach to planning for new cemeteries and appropriate site selection was discussed through the 11th Hour report. Recommendation 7.15 of the 11th Hour report recommends that the GSC revise District Plans to include priorities for cemeteries so that councils can better plan for cemeteries at the strategic planning stage. Recommendation 7.13 also tasks the GSC with the responsibility of leading the process of identifying suitable precincts and parcels of land for new cemeteries.

The proposed amendment to introduce a SSD pathway for large-scale cemeteries does not preclude the GSC or councils' ability to strategically plan for cemeteries through the District Plans or LEPs.

The proposed amendment will not change the permissibility of cemeteries in the existing planning framework. It seeks to facilitate the provision of burial space where cemeteries are already permissible. As part of the SSD approval process, applicants are provided with Secretary's Environmental Assessment Requirements (SEARs) that are required to be addressed. SEARs provide a clear framework to ensure site specific issues are clearly identified and considered.

SSD Process

Concerns were raised in submissions that the SSD assessment process does not consider community concerns and removes decision making power from councils.

Department Response

All SSD applications go through a comprehensive assessment process with extensive community participation. The SSD assessment pathway provides a more consistent approach to the assessment of larger cemetery proposals and facilitates a more predictable whole-of-government approach through stronger coordination of related agency views and inputs on matters such as associated infrastructure needs.

Community participation is integral to assessing the merits of SSD projects, leading to the improved design of projects, reduced environmental impacts and ecologically sustainable development. Meaningful community participation on SSD projects is encouraged in accordance

Summary of Submissions



Introduction of large-scale cemeteries as State significant development

with the Department's *Community Participation Plan* and *Undertaking Engagement Guidelines for State Significant Development*.

The department also works closely with local councils to ensure local and regional issues are fully considered in the detailed assessment of SSD projects and considers a range of matters when undertaking SSD assessment, including whether the project is compatible with the strategic context and whether it complies with the relevant statutory requirements. Targeted community engagement may also be carried out where it is considered necessary to investigate key concerns.