



New South Wales

State Environmental Planning Policy (Transport and Infrastructure) Amendment (Cemeteries) 2024

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following State environmental planning policy under the *Environmental Planning and Assessment Act 1979*.

PAUL SCULLY, MP
Minister for Planning and Public Spaces

State Environmental Planning Policy (Transport and Infrastructure) Amendment (Cemeteries) 2024

under the

Environmental Planning and Assessment Act 1979

1 Name of policy

This policy is *State Environmental Planning Policy (Transport and Infrastructure) Amendment (Cemeteries) 2024*.

2 Commencement

This policy commences on the day on which it is published on the NSW legislation website.

3 Repeal of policy

This policy is repealed at the beginning of the day following the day on which this policy commences.

Schedule 1 Amendment of State Environmental Planning Policy (Transport and Infrastructure) 2021

[1] Part 2.3 Development controls

Insert after Division 28—

Division 29 Cemeteries

Subdivision 1 Preliminary

2.172 Application of division

- (1) To be exempt or complying development under this division, the development must—
 - (a) be carried out in an existing or approved cemetery, and
 - (b) not disturb human remains.
- (2) A heading to a section in Schedule 4A is part of the schedule.

2.173 Definitions

In this division—

Acid Sulfate Soils Map means a map in an environmental planning instrument that identifies land containing acid sulfate soil.

approved cemetery means a cemetery for which a development consent is in force but for which construction has not been completed.

burial area means an area, within a cemetery, in which human remains are buried or are intended to be buried.

cemetery includes a crematorium that is within the cemetery.

existing burial area does not include a burial area for which a complying development certificate has been issued under Schedule 4A, section 20.

foreshore area means the land between a foreshore building line and the mean high water mark of an adjacent waterbody (natural).

non-urban land means land in the following—

- (a) a rural zone,
- (b) a conservation zone,
- (c) Zone R5 Large Lot Residential.

Subdivision 2 Exempt development

2.174 Exempt development

- (1) Development specified in Schedule 4A, Part 1 is exempt development if—
 - (a) the development complies with the requirements of this subdivision, and
 - (b) the development complies with the development standards specified in Schedule 4A, Part 1.
- (2) If the development is likely to affect a State or local heritage item or a heritage conservation area, the development must be carried out in accordance with any applicable heritage conservation management plan.
- (3) The development must not be carried out on the following land—

- (a) a declared area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*,
 - (b) declared critical habitat under the *Fisheries Management Act 1994*, Part 7A,
 - (c) a wetland,
 - (d) a wilderness area within the meaning of the *Wilderness Act 1987*.
- (4) The development must not interfere with the following—
- (a) a registered easement,
 - (b) a sewer main,
 - (c) a water main,
 - (d) an existing drainage fixture,
 - (e) the natural surface flow of water.
- (5) The development must not redirect the flow of surface or ground water or cause sediment to be transported onto an adjoining property.

2.175 Conditions of existing development consents

The development must not contravene a condition of a development consent, other than a complying development certificate, that applies to the land on which the development is carried out relating to the following—

- (a) burial plots,
- (b) car parking,
- (c) contaminated land,
- (d) environmental management,
- (e) heritage,
- (f) hours of operation,
- (g) landscaping,
- (h) loading and transportation of material,
- (i) noise,
- (j) traffic generation,
- (k) vehicular movement,
- (l) visitor numbers,
- (m) waste management.

Subdivision 3 Complying development

2.176 Complying development

- (1) Development specified in Schedule 4A, Part 2 is complying development if—
- (a) the development complies with the requirements of this subdivision, and
 - (b) the development complies with the development standards specified in Schedule 4A, Parts 2 and 3.
- (2) The development must not be carried out on the following land—
- (a) land within a special area within the meaning of the *Water NSW Act 2014*,

- (b) land that is reserved for a public purpose in an environmental planning instrument,
 - (c) land identified on an Acid Sulfate Soils Map as “Class 1”,
 - (d) land identified on an Acid Sulfate Soils Map as “Class 2”, unless a preliminary soil assessment of the land indicates that an acid sulfate soil management plan is not required,
 - (e) if the development involves excavation deeper than 1m—land identified on an Acid Sulfate Soils Map as “Class 3” or “Class 4”, unless a preliminary soil assessment of the land indicates that an acid sulfate soil management plan is not required,
 - (f) land that is significantly contaminated land within the meaning of the *Contaminated Land Management Act 1997*,
 - (g) land subject to a property vegetation plan,
 - (h) land subject to a private land conservation agreement under the *Biodiversity Conservation Act 2016* or that is a set aside area under the *Local Land Services Act 2013*, section 60ZC,
 - (i) land identified by an environmental planning instrument as being—
 - (i) within a buffer area, or
 - (ii) within a river front area, or
 - (iii) within an ecologically sensitive area, or
 - (iv) environmentally sensitive land, or
 - (v) within a protected area,
 - (j) land identified by an environmental planning instrument, a development control plan or a policy adopted by the council as being or affected by—
 - (i) a coastline hazard, or
 - (ii) a coastal hazard, or
 - (iii) a coastal erosion hazard,
 - (k) land in a foreshore area.
- (3) The development may be carried out on bush fire prone land only if—
- (a) the development conforms to the specifications and requirements of *Planning for Bush Fire Protection* relevant to the development, and
 - (b) there are no polymer sheathed flexible gas supply lines to gas meters adjacent to a dwelling on the land or on adjoining land.
- (4) A complying development certificate for development specified in Schedule 4A, Part 2 is subject to the conditions specified in Schedule 4A, Part 4.
- (5) In this section—
- Acid Sulfate Soils Assessment Guidelines*** means the *Acid Sulfate Soils Assessment Guidelines* published by the NSW Acid Sulfate Soils Management Advisory Committee in August 1998.
- preliminary soil assessment*** means an assessment prepared in accordance with—
- (a) the Acid Sulfate Soils Manual, and
 - (b) the *Acid Sulfate Soils Assessment Guidelines*.

2.177 Removal and pruning of trees and vegetation

The development is not required to satisfy the requirements of section 2.22(2)(g), to the extent that it relates to a permit or approval required under an environmental planning instrument, in relation to the removal or pruning of a tree or other vegetation if—

- (a) for a tree—the tree is not listed as a significant tree on a register kept by the council, and
- (b) the tree or vegetation is within 3m of the development, and
- (c) the tree or vegetation has a height of less than 8m, and
- (d) for the removal of a tree—a replacement tree capable of achieving a mature height of 3m or more is planted within the boundaries of the cemetery, and
- (e) no more than 250m² of native vegetation is removed.

2.178 Heritage development

- (1) The development must not be carried out on land that—
 - (a) comprises an item listed on the State Heritage Register under the *Heritage Act 1977* or on which an item is located, or
 - (b) is subject to an interim heritage order under that Act or on which an item subject to an interim heritage order is located, or
 - (c) is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which an item is located.
- (2) Subsection (1)(a) or (b) does not apply if the development—
 - (a) is consistent with a conservation management plan endorsed by the Heritage Council under the *Heritage Act 1977*, section 38A, or
 - (b) has been granted an exemption under that Act, section 57(2), or
 - (c) is subject to an exemption under that Act, section 57(1A) or (3), or
 - (d) is consistent with an approval granted under that Act, section 63.
- (3) Subsection (1)(a) does not apply if the development will be carried out on a part of the land not described or mapped on the State Heritage Register.
- (4) Subsection (1)(c) does not apply if—
 - (a) the council of the area in which the development is proposed to be carried out is satisfied the development will not adversely affect the heritage significance of the item, or
 - (b) the development will be carried out on a part of the land that is not described or mapped in the environmental planning instrument.

2.179 Conditions of existing development consents

The development must not contravene a condition of a development consent, other than a complying development certificate, that applies to the land on which the development is carried out relating to the following—

- (a) burial plots,
- (b) car parking,
- (c) contaminated land,
- (d) environmental management,
- (e) heritage,

- (f) hours of operation,
- (g) landscaping,
- (h) loading and transportation of material,
- (i) noise,
- (j) storage or disposal of material,
- (k) traffic generation,
- (l) vehicular movement,
- (m) visitor numbers,
- (n) waste management,
- (o) water management.

[2] **Schedule 4A**

Insert after Schedule 4—

Schedule 4A Exempt and complying development in cemeteries—Chapter 2

sections 2.172, 2.174 and 2.176

Part 1 Exempt development

1 Above ground burial structures

- (1) Development for the purposes of above ground burial structures.
- (2) The burial structure must not have an area of more than 25m².
- (3) The burial structure must not be more than 4.5m above ground level (existing).
- (4) The development must comply with—
 - (a) AS 4204:2019 *Headstones and cemetery monuments*, and
 - (b) AS 4425:2020 *Above-ground burial structures*.
- (5) The development must not be carried out on—
 - (a) a floodway within the meaning of the *Flood Risk Management Manual*, or
 - (b) a flow path identified in the council's flood study or floodplain risk management study carried out in accordance with the *Flood Risk Management Manual*.
- (6) In this section—
burial structure means a structure in which human remains are placed and includes a mausoleum, vault or columbarium.

2 Ash gardens

Development for the purposes of gardens for the burial of cremated human remains and associated works.

3 Grave markers, headstones and headstone beams

- (1) Development for the purposes of the following—
 - (a) grave markers,

- (b) headstones,
 - (c) headstone beams.
- (2) The development must comply with—
- (a) AS 4204:2019 *Headstones and cemetery monuments*, and
 - (b) AS 4425:2020 *Above-ground burial structures*.
- (3) In this section—
- headstone beam** means a platform on which a headstone or other burial marker is installed.

4 Demolition of buildings

Development for the purposes of demolishing buildings, if the erection of the building is exempt development under this part.

5 Removal or pruning of trees

- (1) Development for the purposes of the removal or pruning of trees.
 - (2) The tree must have been assessed by a Level 5 qualified arborist as posing a risk to human health or safety or a risk of damage to infrastructure.
 - (3) For the removal of a tree, a replacement tree capable of achieving a mature height of at least 3m must be planted within the boundaries of the cemetery.
 - (4) This section applies despite section 2.20(2)(i).
 - (5) In this section—
- Level 5 qualified arborist** means an arborist with a minimum AQF Level 5 in Arboriculture under the Australian Qualifications Framework, within the meaning of the *Higher Education Act 2001*, section 7.

6 Sheds and carports

- (1) Development for the purposes of sheds and carports.
- (2) The development must not be carried out on land in—
 - (a) a foreshore area, or
 - (b) an environmentally sensitive area within the meaning of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- (3) The shed or carport must be free-standing, prefabricated and constructed of non-reflective materials.
- (4) The development must not result in a shed with a gross floor area of more than 36m².
- (5) The shed or carport must not be higher than 3.6m above ground level (existing).
- (6) If the development is carried out on land on which a State or local heritage item is located or in a heritage conservation area, the shed or carport must not be visible from a public road.
- (7) The shed or carport must be at least—
 - (a) 3m away from any boundary with land in a residential or employment zone, or
 - (b) 0.9m away from any boundary with other land.

7 At grade car parks, hardstand spaces, internal roads and pathways and paving

- (1) Development for the purposes of the following—
 - (a) at grade car parks,
 - (b) hardstand spaces,
 - (c) internal roads,
 - (d) pathways and paving.
- (2) The area of all development must be no greater than 5% of the area of the cemetery.
- (3) Despite subsection (2), alterations or additions to existing development must be no greater than the area of the existing development.
- (4) Surface water or run-off must be disposed of by a drainage system connected to the existing stormwater drainage system.
- (5) Development for the purposes of internal roads and at grade car parks must comply with AS/NZS 2890.1:2004, *Parking facilities - Off-street car parking*.
- (6) For development for the purposes of at grade car parks—
 - (a) the development must not be carried out on land in—
 - (i) a foreshore area, or
 - (ii) an environmentally sensitive area within the meaning of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, and
 - (b) if carried out on land on which a State or local heritage item is located or in a heritage conservation area—the car park must not be visible from a public road, and
 - (c) the development must not result in a sealed car park with more than 50 car spaces.

8 Earthworks and retaining walls

- (1) Development for the purposes of earthworks and retaining walls.
- (2) The development must not be carried out on land—
 - (a) in a foreshore area, or
 - (b) in an environmentally sensitive area within the meaning of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, or
 - (c) within 40m of a waterbody (natural), or
 - (d) in a flood planning area within the meaning of the *Flood Risk Management Manual*.
- (3) The earthworks or retaining wall must not be higher than 2m above ground level (existing).
- (4) If the development involves excavation, the excavation must not be deeper than 1m below ground level (existing).
- (5) If the development involves the use of fill, the fill must be virgin excavated natural material within the meaning of the *Protection of the Environment Operations Act 1997*, Schedule 1.

9 Fencing

- (1) Development for the purposes of fencing.

- (2) The fencing must not be higher than 1.8m above ground level (existing).
- (3) If the development is located in a core koala habitat or potential koala habitat within the meaning of *State Environmental Planning Policy (Biodiversity and Conservation) 2021*, Chapter 3 or in a movement corridor used by koalas, the fencing must be constructed or installed in accordance with any relevant council policy or guideline under that policy, Chapter 3 or 4.
- (4) For development carried out on non-urban land, the portion of the fence that is further than 3m away from an entrance to the cemetery must be constructed using the following materials—
 - (a) post and wire,
 - (b) post and rail.
- (5) For development carried out on land other than non-urban land, the portion of the fence that is further than 3m away from an entrance to the cemetery facing a primary road must comply with the following—
 - (a) the part of the fence that is more than 1.2m above ground level (existing) must not be constructed of masonry,
 - (b) for development on land on the boundary of a road, or on land within a setback area of a road—at least 75% of the part of the fence that is more than 1.2m above ground level (existing) must have an open design.

10 Decks, terraces and pergolas

- (1) Development for the purposes of decks, terraces and pergolas.
- (2) The deck, terrace or pergola must—
 - (a) have an area of no more than 25m², and
 - (b) not be higher than 4.5m above ground level (existing), and
 - (c) not have a floor higher than 1m above ground level (existing), and
 - (d) not cause the total floor area of decks, terraces or pergolas to exceed 200m², and
 - (e) be at least 3m away from land in a residential or employment zone.
- (3) If the development is for the purposes of replacing an existing deck, terrace or pergola the deck, terrace or pergola must—
 - (a) be constructed from equivalent or improved quality materials, and
 - (b) not increase the gross floor area or height of the existing structure by more than 5%.

11 Landscaping and landscape structures

- (1) Development for the purposes of landscaping and landscape structures.
- (2) The development must not be carried out—
 - (a) in a foreshore area, or
 - (b) within 900m of the boundary of the cemetery.
- (3) If the development is carried out on land on which a State or local heritage item is located or in a heritage conservation area, the landscaping or landscape structure must not be visible from a public road.
- (4) A landscaping structure must not—
 - (a) be higher than 2.7m above ground level (existing), or
 - (b) be wider than 1.5m.

- (5) If the development includes a water feature or pond, the water feature or pond must not—
 - (a) have a water depth of more than 300mm, or
 - (b) have a surface area of more than 50m².
- (6) Despite subsection (5)(a), a pond sump may be placed in a water feature or pond below a water depth of 300mm if the sump is covered with a bolted or anchored grate capable of supporting a weight of 150kg.

12 Monuments, sculptures and art works

- (1) Development for the purposes of monuments, sculptures and artworks.
- (2) The monument, sculpture or artwork must not—
 - (a) be higher than 6m above ground level (existing), or
 - (b) include masonry higher than 1m above ground level (existing), or
 - (c) have a footprint greater than 7m², or
 - (d) cause nuisance to premises on adjoining land.

13 Signage

- (1) Development for the purposes of signage.
- (2) The signage must not—
 - (a) be higher than 5m above ground level (existing), or
 - (b) have an area greater than 3.5m², or
 - (c) be electronic, or
 - (d) obstruct or interfere with a traffic sign, or
 - (e) include the advertising of goods, products or services that are not related to the operations of the cemetery.
- (3) If the development is carried out on the following land, the development must be able to be removed without causing damage to the heritage item—
 - (a) land on which a State or local heritage item is located,
 - (b) land subject to an interim heritage order under the *Heritage Act 1977*.
- (4) If the development comprises the alteration of an existing sign, the development must not result in a change to the size or form of the existing sign.
- (5) The development must comply with AS 4282–1997, *Control of the obtrusive effects of outdoor lighting*.

14 Minor internal alterations to existing buildings

- (1) Development for the purposes of internal alterations to existing buildings.
- (2) The development must not involve an alteration to the following—
 - (a) a food preparation area,
 - (b) a structural component of a building,
 - (c) a load-bearing component of a building.

15 Minor external alterations to existing buildings

- (1) Development for the purposes of external alterations to existing buildings.
- (2) The development must not—

- (a) involve the making of, or an alteration to the size of, an opening in a wall or roof, such as a doorway, window or skylight, or
 - (b) reduce the existing fire resistance level of a wall or roof, or
 - (c) involve the use of external combustible cladding, or
 - (d) affect the means of egress from the building in an emergency, or
 - (e) reduce the structural integrity of the building, or
 - (f) cause the building to be located within 1m of a registered easement, or
 - (g) result in plant or equipment being visible from a public road or reserve.
- (3) If the building is located on bush fire prone land—
- (a) the part of the building comprising the alteration must—
 - (i) be adequately sealed or protected to prevent the entry of embers, and
 - (ii) be constructed of equivalent or improved quality materials, and
 - (b) the development must not involve an alteration to the fire resisting components of the building.

16 Access and mobility structures

- (1) Development for the purposes of access and mobility structures.
- (2) The structure must not create a pedestrian or traffic hazard.
- (3) The development must comply with AS 1428.1–2021, *Design for access and mobility, Part 1: General requirements for access—New building work*.

17 Rainwater and bore water tanks

- (1) Development for the purposes of rainwater and bore water tanks.
- (2) The development must not be carried out on land—
 - (a) in a foreshore area, or
 - (b) in an environmentally sensitive area within the meaning of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.
- (3) If the development is carried out on land on which a State or local heritage item is located or in a heritage conservation area, the tank must not be visible from a public road.
- (4) The tank must—
 - (a) for a tank on land in a relevant zone—be located at least 1m from the boundary of the cemetery, and
 - (b) for a tank on other land—be located at least 10m from the boundary of the cemetery, and
 - (c) if the development is for an underground tank—not be located on land identified on an Acid Sulfate Soils Map as “Class 1”, “Class 2”, “Class 3”, “Class 4” or “Class 5”, and
 - (d) be fitted with a first-flush device incorporating an automatic resetting valve that causes initial run-off rainwater to bypass the tank, and
 - (e) be affixed with a sign that identifies the source of the water, and
 - (f) if reticulated water is provided to the lot—not be interconnected with a system supplying drinking water to the lot, unless it complies with the relevant water authority’s requirements.

- (5) If the development is for an above ground tank, the development must not involve—
 - (a) the placement of fill more than 1m above ground level (existing), or
 - (b) excavation deeper than 1m below ground level (existing).
- (6) In this section—

relevant zone means the following—

 - (a) Zone E1 Local Centre,
 - (b) Zone E2 Commercial Centre,
 - (c) Zone E3 Productivity Support,
 - (d) Zone R1 General Residential,
 - (e) Zone R2 Low Density Residential,
 - (f) Zone R3 Medium Density Residential,
 - (g) Zone R4 High Density Residential,
 - (h) Zone RU5 Village.

18 Infill burials

- (1) Development for the purposes of the burial of human remains.
- (2) The development must be carried out in an existing burial area in a cemetery.

Part 2 Complying development

19 Above ground burial structures

- (1) Development for the purposes of above ground burial structures.
- (2) The burial structure must not have an area of more than 100m².
- (3) The burial structure must not be more than 5.5m above ground level (existing).
- (4) The development must comply with—
 - (a) AS 4204:2019 *Headstones and cemetery monuments*, and
 - (b) AS 4425:2020 *Above-ground burial structures*.
- (5) The burial structure must not be located within 10m of land in a residential or employment zone.
- (6) The development must not involve earthworks more than 1m above or below ground level (existing).
- (7) In this section—

burial structure means a structure in which human remains, other than cremated human remains, are placed and includes a mausoleum, vault or columbarium.

20 Burial areas

- (1) Development for the purposes of burial areas.
- (2) A burial must not result in a grave floor that is less than 1m above the highest seasonal water table.
- (3) The land on which the development is carried out—
 - (a) must have at least 2m of soil below ground level, and

- (b) must have a soil permeability of 0.001-0.5m/d measured in accordance with methods outlined in AS/NZS 1547: 2012 *On-site domestic wastewater management*, and
 - (c) must have a gradient of less than 10%, and
 - (d) must be land that will not be inundated by the discharge of a 1:100 ARI (average recurrent interval) flood event.
- (4) The development must not increase an existing burial area by more than 10%.
- (5) The burial area must be at least—
- (a) 100m from a wetland, and
 - (b) 3m from the boundary of the cemetery, and
 - (c) 10m from land in the following—
 - (i) Zone R1 General Residential,
 - (ii) Zone R2 Low Density Residential,
 - (iii) Zone R3 Medium Density Residential,
 - (iv) Zone R4 High Density Residential,
 - (v) Zone R5 Large Lot Residential, and
 - (d) 40m from an intermittent waterbody or watercourse, and
 - (e) 100m from a permanent waterbody or watercourse, and
 - (f) 10m from the following—
 - (i) a path of overland flow water within the meaning of the *Water Management Act 2000*,
 - (ii) a drain that is less than less than 30cm below ground level (existing).
- (6) A geotechnical engineer must certify that the development complies with subsections (2) and (3)(a) and (b).
- (7) A civil engineer must certify that the development complies with subsections (3)(c) and (d) and (5)(d)–(f).

21 Ancillary buildings

- (1) Development for the purposes of ancillary buildings.
- (2) The building must not have a gross floor area greater than the maximum gross floor area.
- (3) The building must not have a height greater than the maximum building height.
- (4) If the development is for alterations or additions to an existing building that has a gross floor area greater than the maximum gross floor area, the gross floor area of the resulting building must not be increased by more than 10%.
- (5) If the development is for alterations or additions to an existing building that has a height greater than the maximum building height, the height of the resulting building must not be greater than the height of the existing building.
- (6) For development on land in Zone RU1, RU2, RU4, SP1, SP2, RE1 or RE2, the building must not be located within—
 - (a) 10m of land in a residential or employment zone, or
 - (b) 5m of land in another zone.

- (7) For development on land in a zone other than Zone RU1, RU2, RU4, SP1, SP2, RE1 or RE2, the building must not be located within 3m of the boundary of the cemetery.
- (8) The development must not increase the gross floor area used for the following—
 - (a) commercial premises,
 - (b) function centres,
 - (c) places of public worship.
- (9) If the building is within a flood planning area, the building must have a minimum floor level no lower than the floor levels set by the council for the land.
- (10) The development must not be carried out on land in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ).
- (11) For subsection (10), land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ) if—
 - (a) the council or a person who is recognised by the NSW Rural Fire Service as a suitably qualified consultant in bush fire risk assessment determines, in accordance with the methodology specified in *Planning for Bush Fire Protection*, that the land is not in bush fire attack level-40 (BAL-40) or the flame zone (BAL-FZ), or
 - (b) for development carried out on grasslands—the development conforms to the specifications and requirements of Table 7.9a of *Planning for Bush Fire Protection* that are relevant to the development.
- (12) Subsections (10) and (11) do not prevent complying development being carried out on part of a lot that is not on land referred to in subsection (10), even if other parts of the lot are on land referred to in subsection (10).
- (13) In this section—

bush fire attack level-40 (BAL-40) has the same meaning as in AS 3959:2018, *Construction of buildings in bushfire-prone areas*.

flame zone (BAL-FZ) has the same meaning as in AS 3959:2018, *Construction of buildings in bushfire-prone areas*.

flood planning area has the same meaning as in the *Flood Risk Management Manual*.

maximum building height means a building height of—
 - (a) if the building is on land in Zone RU1, RU2, RU4, SP1, SP2, RE1 or RE2—7m, or
 - (b) otherwise—5.5m.

maximum gross floor area means a gross floor area of—
 - (a) if the building is on land in Zone RU1, RU2, RU4, SP1, SP2, RE1 or RE2—200m², or
 - (b) otherwise—100m².

22 External and internal alterations to existing buildings

- (1) Development for the purposes of external and internal alterations to an existing building.
- (2) The development must not increase—
 - (a) the gross floor area of the building, or

- (b) the gross floor area used for the purposes of commercial premises, or
 - (c) the footprint of the building.
- (3) The development must not result in the building being higher than—
- (a) the height limit specified in an environmental planning instrument applying to the land, or
 - (b) if there is no applicable limit—the existing building.
- (4) If the development relates to food and drink premises, the development must comply with AS 4674–2004, Design, construction and fit-out of food premises.

Part 3 General development standards for complying development

23 Drainage

All stormwater drainage collected as a result of the carrying out of development must be conveyed by a gravity fed or charged system to—

- (a) a public drainage system, or
- (b) an inter-allotment drainage system, or
- (c) an on-site disposal system.

Note— All stormwater drainage systems and connections to public drainage systems or inter-allotment drainage systems must be approved under the *Local Government Act 1993*, section 68 or comply with the requirements for the disposal of stormwater in the development control plan that applies to the land.

24 Flood control lots

- (1) This section applies to complying development carried out on a flood control lot.
- (2) The development must not be carried out on part of a flood control lot unless that part of the lot has been certified by the council or a professional engineer who specialises in hydraulic engineering as not being the following—
- (a) a flood storage area,
 - (b) a floodway,
 - (c) a flow path, high hazard area or high risk area identified in the council's flood study or floodplain risk management study carried out in accordance with the *Flood Risk Management Manual*.
- (3) The development must, to the extent it is within a flood planning area—
- (a) for the materials used in the part of the development at or below the flood planning level—be flood compatible, and
 - (b) be able to withstand the forces of floodwater, debris and buoyancy up to the flood planning level, or, if on-site refuge is proposed, the probable maximum flood level, and
 - (c) not increase flood affectation elsewhere in the floodplain.
- (4) A standard specified in subsection (3)(b) or (c) is satisfied if a joint report by a professional engineer who specialises in hydraulic engineering and a professional engineer who specialises in civil engineering confirms that the development will satisfy the standard.

- (5) A word or expression used in this section has the same meaning as in the *Flood Risk Management Manual*.
- (6) In this section—
 - flood compatible material** means building materials and surface finishes capable of withstanding prolonged immersion in water.
 - flood control lot** means a lot located within or partly within an area identified in a local environmental plan as a flood planning area.

25 Earthworks

- (1) Excavation must be structurally sound.
- (2) Excavation must not be carried out—
 - (a) more than 1m below ground level (existing), for land identified as “Class 3” or “Class 4” on an Acid Sulfate Soils Map, or
 - (b) more than 3m below ground level (existing), for other land.
- (3) Excavation on land not specified in subsection (2) must not be more than 3m below ground level (existing).
- (4) Excavation must be—
 - (a) carried out at least 40m from a waterbody (natural), and
 - (b) if carried out on a lot adjacent to a rail corridor—set back at least 3m from the corridor.
- (5) Fill must—
 - (a) not raise the ground level (existing) more than 2m, and
 - (b) be structurally sound, and
 - (c) be located at least 40m from a waterbody (natural).
- (6) Excavation and fill are structurally sound for subsections (1) and (5)(b) if the earthworks have structural support that—
 - (a) has been certified as structurally sound by a professional engineer, including in relation to the ability to withstand the forces of lateral soil load, and
 - (b) has adequate drainage lines connected to an existing stormwater drainage system for the site, and
 - (c) does not redirect the flow of water or cause sediment to be transported onto an adjoining property, and
 - (d) is not higher than 3m.

26 Garbage and waste

- (1) This section applies to complying development involving the erection of a building, if the building does not have an existing garbage and waste storage area.
- (2) A garbage and waste storage area must be provided as part of the development.
- (3) The garbage and waste storage area must comply with the document entitled *Better Practice Guidelines for Waste Management and Recycling in Commercial and Industrial Facilities*, ISBN 978-1-74293-944-5, published by the NSW Environment Protection Authority in December 2012.

Part 4 Complying development certificate conditions

27 Excavated material

A complying development certificate is subject to the condition that material excavated from an area containing saline soil or acid sulfate soil must be managed in accordance with the *Waste Classification Guidelines, Part 4: Acid sulfate soils*, published by the NSW Environment Protection Authority in November 2014.

28 Stockpiled soil

A complying development certificate is subject to the condition that temporarily excavated and stockpiled soil must be stored so that it is separated from the flow of surface water and is covered to prevent the transportation of sediment.

29 Burial in burial areas

A complying development certificate for development specified in section 20 is subject to the condition that a burial—

- (a) must not occur at a depth greater than 2.8m below ground level, and
- (b) must allow for at least 900mm of soil to be placed above the remains.