

HEAD OF POWER

- *Subordinate Local Law 1.9 (Operation of Cemeteries) 2011*
- *Subordinate Local Law 4 (Local Government Controlled Areas, Facilities and Roads) 2011*

INTENT

The purpose of the policy is to provide guidelines for cemetery and crematorium operations under the control of Council.

SCOPE

This policy applies to all Council operated and maintained cemeteries.

DEFINITIONS

Applicant means the person making an application for a burial or memorial right or for a work permit or other Council consent.

Ashes means the processed remains recovered from the cremation of a body.

Burial place means a grave site, memorial site or other place for the disposition or commemoration of the remains of the dead, whether cremated or not.

Burial right holder is the original owner/purchaser of the right of the burial. The recognised owner of the right of burial is that person currently entered into the cemetery's burial register. In some cases, the Burial Right Holder refers to a surviving member of the person's family, their executor or administrator, Power of Attorney, their heir or successor. Ownership may be formally transferred or bequeathed by a Will.

Cemetery or cemeteries means an area containing one or more burial places. When used as generic term it can apply to lone graves, family plots and larger collections, such as those under Council's control.

Employee means a local government employee as defined in the *Local Government Act 2009*.

Exhumation means the removal of the remains of a dead person or still-born child from a grave.

Memorial wall means an area of the cemetery that is established for the memorialisation of cremated remains.

Monument means any structure, tombstone, plaque, headstone, masonry, metal work, kerbing or railing, casting or item placed over, in or around a burial site used for commemorative purposes.

Monumental Mason means a tradesman, mason or person possessing the skills to carry out monumental masonry work.

Register means Council's formal repository of data containing all the details of a burial, memorial site, interment right or burial right.

Reservation means a right of burial.

Right of burial means the right to the holder to inter human remains in a burial space or place a memorial upon a gravesite. There is no entitlement to any 'real estate' or property as such.

Transfer of right of burial means the holder for the time being may transfer the right of burial in accordance with the rules of the cemetery and the transfer takes place when payment is made and details are entered into the burial register

POLICY STATEMENT

1. Management of Cemeteries

1.1 Planning, conduct and maintenance of cemeteries

Council will make provision for:

- Different types of sections for religious denominations and classes of burials.
- Standards of construction and design for monuments and structures, and conditions of entry for funeral directors, monumental masons, contractors and other service providers associated with work in the cemeteries.
- Size, multiple use and location of burial places.
- Interments.
- The erection or the installation of structures.
- The improvement and maintenance of cemeteries.
- The supply of goods and services incidental to the conduct of burials, monuments and other matters relating to cemeteries.
- The conduct of religious or other ceremonies of burial, disposition or commemoration.
- The preservation, conservation and promotion of cemetery sites presently in use as places of community significance in terms of their architectural, heritage, social and genealogical content.
- The promotion and interpretation of cemeteries through the installation of signage, brochures and other interpretive materials.
- The liaison with community groups and other organisations to carry out works relevant to the improvement, maintenance and promotion of cemeteries.
- The establishment of regulations and prohibitions in respect to all areas of operation of Council cemeteries by service providers and the community.

1.2 Operating Hours

Burials and exhumations shall take place only during the hours approved by Council.

Burial hours are:

- Between 9.00 am and 4.00 pm Monday to Friday; and
- Approval is required outside of these hours and additional fees will be incurred.

Approval for any activity, including exhumations, can be granted by Council or a nominated representative of Council.

The cemetery is open to the public daily from sunrise to sunset or as Council may determine. Persons authorised by Council may be on the cemetery grounds at any other time.

1.3 Register of burial places and interments

Council will ensure that a register of burials is kept for all burial places and other memorials. Each burial will be recorded in the burial register immediately after the service. Registers may be amended to remove or correct inaccuracies.

1.4 Right of Burial

1.4.1 Reservations

Council may grant a right of burial in a cemetery open to the public following receipt of the appropriate Reserve Application Form and applicable fee.

Proof of ownership of a right of burial may be required if:

- A person is claiming ownership of a right of burial; and
- A person requests right of burial information.

Reservation information is kept strictly confidential and not given out to any person who does not have the legal right to obtain the information. The registers can be used as verification that a right of burial has been granted in respect of any burial or memorial.

In the event that reservations are cancelled by notification through an Application to Relinquish Reserve from the rightful owner or their authorised representative, Council will pay 75% of the original fees paid.

Reservations may be:

- Cancelled following application from the rightful owner or an authorised representative; or
- Transferred to another party following written approval from the rightful owner.

Reservations cannot be on-sold to another person.

1.4.2 Holder rights

A holder of a right of burial has:

- Exclusive right to bury or inter human remains in the ground allotted.
- The use of the monument beam provided by the cemetery (within the lawn sections) to erect a monument.

1.4.3 Refusal to grant

Council may limit the number of burial rights issues to a person or refuse to grant a right of burial to any person if the grant would create a monopoly or encourage dealings in such burial rights as a business rather than as an affordable service to the public, or within the bounds of normal free trading.

The intention of this clause is to prevent anyone, or persons, purchasing bulk numbers of burial areas in order to 'corner the market'.

1.5 Opening of interment sites

A person must not, without approval of the General Manager Community and Environment open, or cause, suffer or permit the opening of an existing interment site in the cemetery for the purpose of interring additional human remains.

This consent is not required if

- A right of burial has been issued over the grave site.
- Only cremated remains are interred at the site.

When an interment site is opened, if unidentified human remains are found, Council will take all measures to confirm identification of the remains.

1.6 Flowers and ornaments – general

Flowers can be placed near graves/memorials. Fresh or limited artificial flowers are welcome tributes. These should be housed in the approved containers provided. Visitors are encouraged to remove such items when they become unsightly, weathered or wither.

Floral tributes, both fresh and artificial, or other items that encroach on neighbouring memorials or graves will be removed without notice. Glass vases, jars or other non-approved receptacles, ornaments, photo frames, candles, toys, solar lights, windmills and wind chimes etc. are not permitted and will be removed.

Council will, at its discretion, remove withered or weathered floral arrangements and keep the grounds neat and tidy should any tributes be deemed unsuitable or unsightly. Ornaments re-located by cemetery employees may be retrieved from the administration office building.

The cemetery reserves the right to dispose of items two weeks after being removed. These items are not to be placed back on the grave or memorial.

2. Monuments and inscriptions

The burial right holder or memorial applicant must maintain any memorial erected on a gravesite in a safe and aesthetically pleasing condition.

A person shall not:

- Make any inscription or carry out any adornment, unless it is approved by Council.
- Construct or install any monument (temporary or otherwise), memorial, foundation, vault, table, headstone, gravestone, or other structure, unless it is constructed in accordance with requirements of the Cemeteries Manual and Technical Specifications.
- Advertise a business or have inscriptions relating to a business

Council may issue approval to undertake monumental work to any person it considers to be suitably qualified to undertake such work.

Council may refuse any design for a monument as it may determine. Standard monument/plaque configurations for each Cemetery are provided in the Cemeteries Manual and Technical Specifications

2.1 Removal of structures, inscriptions and adornments

Council may remove, demolish, alter or require the removal, demolition or alteration of any structure, inscription and adornment which has been made or carried out without the written consent of Council or which has not been made in accordance with an approval given.

2.2 Maintenance of structures

The ownership of monuments or other structures is deemed to be with the burial right holder or if there is no burial right holder, the person or persons who caused the monument or structure to be constructed.

2.3 Removal and replacement of structures on request

Where notice to open a grave for a lawful purpose is given, Council may authorise the removal of any part of the structure to enable the safe opening of the grave.

The responsibility for the removal of any monuments or memorial for the purposes of lawfully opening a grave site will be the responsibility of the Burial Right Holder or if no Burial Right Holder exists, the person or persons applying for the deceased's interment.

2.4 Lawn section

In addition to the items covered in section 1.6, a monument is to be installed within six months of the burial.

2.5 Garden section

In addition to the items covered in section 1.6, only cut flowers are to be left at ashes placements in the Garden Section and are placed in vases of a type approved by Council that are not made of glass or other breakable material.

2.6 General/monumental sections

In addition to the items covered in section 1.6, timing for the erection of monuments is left to the discretion of the Monumental Mason. The Mason needs to ensure that appropriate soil bearing capacity is established for the construction of a sound foundation prior to the installation of the monument. It is recommended that no construction be undertaken within six months of the burial. This is to allow for subsidence.

2.7 Memorial Walls

Council will maintain, preserve and repair memorial walls.

Council will permit a memorial plaque over each niche in the memorial wall. The burial right holder will ensure that:

- The design and type of plaque is consistent with the reasonable requirements determined by Council (refer to the Cemeteries Manual and Technical Specifications).
- Council will not be liable for the repair, maintenance, upkeep or preservation of any plaque or item placed on a memorial wall.

3. Conservation and Heritage

Council recognises that burial grounds and cemeteries are places of significance to the community by virtue of their architectural, botanical, social or genealogical significant and will provide reasonable assistance to community groups and interested parties who seek to promote or research cemetery issues.

4. Closed Cemeteries

No further burials will be allowed in cemeteries within the Bundaberg Regional Council area which have been closed, except in accordance with the guidelines.

5. Inconsistencies

Where there is an inconsistency between this policy an Act or a Local Law, that Act or Local Law is to apply to the extent of the inconsistency.

ASSOCIATED DOCUMENTS

- AS 4204-1994: Headstones and cemetery monuments
- Cemetery – Manual and Technical Specifications
- Fees and Charges Register
- *Land Act 1994*, division 10 and 11

DOCUMENTS CONTROLS

Council will review this policy biennially or in response to changes in law or best practice.

POLICY OWNER

Branch Manager Parks, Sports and Natural Areas.