

Cemetery Operations

Policy Name: Cemetery Operations Policy	Policy Number: POL-0114-V01
Date Adopted: 4 September 2018	Review Date: 4 September 2020
Policy Owner: Director Amenity and Assets	

1. Policy Statement/Objective(s)

The Shellharbour City Council Cemetery Operations Policy outlines the overall principles that underpin how Shellharbour City Council (Council) manages its cemeteries in order to comply with legislative requirements and to provide a dignified and responsive cemetery and memorial service to the community.

2. Scope

This policy applies to Council officers, funeral directors, contractors and members of the public.

3. References

- Cemeteries and Crematoria Act 2013
- Crown Lands Management Regulation 2018
- Crown Lands (General Reserves) Amendment (Sustainable Burials) By-Law 2011
- Crown Land Management Act 2016
- Australian Standard AS 4204-1994 Headstones and Cemetery Monuments
- Australian Standard AS4225-1996 Above-Ground Burial Structures
- Anti-Discrimination Act 1977
- Births, Deaths and Marriages Registration Act 1995
- Coroners Act 1980
- Crown Lands Act 2009
- Heritage Act 1977
- Human Tissues Act 1983
- Local Government Act 1993
- Local Government (Control of Cemeteries) Amendment Act 1966
- Privacy and Personal Information Protection Act 1998
- Public Health Act 2010, New South Wales
- Public Health Regulation 2012

- State Records Act 1998
- Work Health and Safety Act 2011
- Cemetery Operations Manual 2017
- Shellharbour Local Environmental Plan 2013
- Native Title Act 1993

4. Definitions

Applicant shall mean the person making an application for an Exclusive Right of Burial, Work Permit, enquiry, burial, relocation or exhumation. This could be a Funeral Director, Monumental Mason or a Family member or Friend.

Ashes/Ash Remains means the processed remains or residue recovered from the cremation of a human body or pathological samples.

Burial/ Interment means the act of burying, interring or immuring the remains of a deceased person.

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

Burial site see Burial plot

Burra Charter means 'The Burra Charter (The Australia International Council on Monuments and Sites (ICOMOS) Charter for Places of Cultural Significance)'.1.4.13 By Law or Crown Lands By-law means the 'Crown Lands (General Reserves) By-Law 2006' and the 'Crown Lands (General Reserves) Amendment (Sustainable Burials) By-Law 2011'.

Casket is a general term to describe coffins and containers used to hold human remains.

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

Cemetery Coordinator means the Shellharbour City Council officer responsible for the operation and control of the Cemetery.

Child shall mean a person aged 0 up to and including 12 years of age.

Council means Shellharbour City Council.

Crown Land means land owned by government. In NSW the nominal owner is the Minister for Lands. In this context the lands are allocated to Trusts and Local Councils and dedicated as cemeteries.

Exclusive Right of Burial means a certificate that provides a person with the authorisation of who can be interred or exhumed from a burial site. The Exclusive Right does not give the holder any equity or property holding in the cemetery.

Exhumation means the removal of Human Remains from a grave filled with soil or sand.

Fee means a fee charged by Council in accordance with its annual Schedule of Fees and Charges.

Funeral Director means an individual or business carrying out funeral services.

Grave site see burial plot

Holder in relation to a burial or niche licence, means the person recorded, in the register kept by Council, as the holder of the burial or niche licence.

Interment Right means the grant by a reserve trust of an exclusive right to bury one or more (human) remains in a burial site.

Interment Right Holder means the original purchaser and person recorded, in the register kept by the Council, as the person entitled to the interment right. The holder of the interment right is that person(s), or corporation(s) currently entered in the cemetery's register

Joint Holders means two or more persons named as joint holders of a single interment right.

Monument means any structure, plaque, headstone, masonry, metal work, casting or item placed over, in or around a burial site.

Monumental Mason means a tradesperson, mason or person possessing the skills to carry out monumental work to the current Australian Standard and fully licenced and insured to do so. Approved by Council.

Niche means the smaller spaces for interment of cremated remains. The niche can be freestanding, such as a wall niche, incorporated into a building, or into the ground, such as a garden niche area.

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

Significant dates means dates where there are generally expected to be a significantly larger number of mourners visiting the cemetery outside of a burial or ashes placement.

5. Variation and Review

Council reserves the right to review, vary or revoke this policy.

Review History

Date Policy first adopted – Version 1	4 September 2018

6. Policy

6.1 Crown Lands

Shellharbour City Council's operating cemeteries, Albion Park and Shellharbour are located on Crown Lands. Therefore, the conditions and provisions of the *Crown Land Management Act 2016*, *Crown Land Management Regulation 2018* and the "*Crown Lands (General Reserves) Amendment (sustainable Burials) By- Law 2011*" shall apply.

6.2 Operations Manual

Administrative, management and operational procedures and controls set out or implied with Shellharbour City Council's operations manual shall be complied with.

6.3 Hours of Operation

Shellharbour and Albion Park Cemeteries will be open to the public from sunrise until sunset, daily.

Administration Staff will be available for enquiries Monday to Friday 8:30am until 4pm, excluding public holidays.

6.4 Fees and Charges

Fees and charges are determined and approved by Council annually as per Council's Operational Plan and can be accessed on Council's website.

6.5 Planning Conduct and Maintenance of Cemeteries

Council will make provisions as it considers necessary for the following:

1. The setting aside of sections for different types and classes of burials.
2. The establishment of standards of construction and design of monuments and structures.
3. The size, multiple use and location of burial places.
4. Interments and entombments in vaults.
5. The carrying out of work by funeral directors in the cemeteries.
6. The erection or installation of structures and the making of inscriptions.
7. The carrying out of work by monument masons in the cemeteries.
8. The required qualifications and the security deposits to be lodged by monumental masons.
9. The removal, replacement and maintenance of structures.
10. The improvement and maintenance of cemeteries.
11. The making of arrangements for the care of burial places on an annual or other basis.
12. The supply of goods and services incidental to the conduct of burials and other matters relating to cemeteries.
13. The conduct of religious or other ceremonies of burial, disposition of ashes or commemoration.

6.6 General Public Requirements within the Cemetery

A person must **not** do any of the following within Council's cemeteries:

1. Damage, deface, interfere with, alter or remove any monument, memorial, foundation, vault, table, headstone, gravestone, kerbing, rail or other structure from a cemetery without Council's written permission.
2. Disturb or interrupt any service, procession, cortege, gathering, meeting or assembly.
3. Bury, inter or exhume any human remains, whether cremated or not, without Council permission.
4. Enter or remain at the Cemetery at night, between the hours of sunset and sunrise.
5. Cause or permit an animal that is under the person's control to enter or remain in the cemetery. This does not prohibit a person from being accompanied by a companion dog while the person is in the cemetery.

6. Take part in any gathering, meeting or assembly, except for the purpose of a religious, research, historical, educational or other ceremony of burial or commemoration.
7. Place fresh flowers unless in approved vases (unbreakable containers). A maximum of two vases per site. Excessive arrangements or wilted arrangements will be removed.
8. Place artificial flowers unless in Council approved vases in the approved area of the plot, however, arrangements must be replaced when faded, weathered or otherwise degraded.
9. Place ceramic or glass objects that are fragile or breakable
10. Place metal objects, or any other objects, that are likely to cause a risk to health or safety of visitors or workers at the cemetery
11. Construct or install any monument, memorial, foundation, headstone, gravestone, kerbing, railing, pebbles, matting or other structure on a burial plot or plots, unless it is of a material and design and carried out to a standard of workmanship approved by the Cemetery Coordinator, through the appropriate approval process.
12. Carry out any adornment including large ornaments and candle holders upon a burial plot or plots, unless approved by the Cemetery Coordinator, and made or installed to a standard of workmanship approved by the Cemetery Coordinator.
13. Place or install any item that extends beyond the constructed headstone, monument or niche, including pot plants, flower holders or live plants; that includes no items placed on grassed or landscaped areas both within burial plots and general areas.
14. Glue or permanently attach items to gardens, wall sites or lawn cemetery concrete beams.
15. Use a hose for the washing of monuments.
16. Erase, correct, or require the erasure or correction of, wording of any inscription that has been constructed, installed, made or carried out:
 - i. without Council's written consent; or
 - ii. otherwise than in accordance with an approval given by Council.
17. Engage in trade or commerce.
18. Distribute any circular, advertisement, paper or other printed, drawn, written or photographic matter unless such item is a funeral booklet or order of service.
19. Drive a vehicle, or ride a horse, except on a road provided for that purpose.
20. Park a motor vehicle on any known burial place, verge or plantation or in a manner that is likely to impede traffic, or detract from the sanctity of the cemetery.
21. Camp or reside on any land in the cemetery.
22. Possess or consume an alcoholic or intoxicating beverage or substance, unless undertaken responsibly as part of a commemoration.
23. Remove any dead timber, logs, trees, flora, whether standing or fallen.
24. Create a rockery or pebble garden unless specifically mentioned in a Right of Burial created prior to 2018.
25. Plant any tree, shrub or other herbage or plant in any place unless written permission has been obtained from Council.
26. Kill, capture or in any way interfere with any animal or bird or other fauna, whether native or introduced.
27. Bring into or leave in the cemetery any rubbish, refuse, scrap metal, rock, soil, sand, stone or other such substance.

To assist in the operation of the cemeteries Council will make every attempt to liaise with families prior to any action being taken. Council may request a person leaves or remove any person trespassing or causing annoyance, interference or nuisance or otherwise committing a breach of these regulations. Council may also rectify situations including removing items placed and considered not appropriate, hazardous or contrary to the regulations, after attempting to liaise with families, without notice. Council will make every effort to contact the Interment Right Holder or his/her representative on maintenance issues, but safety of the site and its users will be paramount in any decision made.

Minor maintenance such as removal of weeds, grass and moss from the area around a grave may be undertaken by family.

6.7 Interment Rights

An interment right can be granted to one person or to two or more persons as joint holders. An Application to Reserve a Cemetery Site must be completed and accompanied by the applicable fee, paid in full. Council will issue an Interment Right Certificate to the person(s) named in the application.

Council cannot, without the Minister's approval, grant an interment right to a person if the granting of the interment right will result in the person holding (including jointly holding) more than two burial sites in the cemetery. An interment right entitles the person or persons to whom it is granted the interment right in the burial site in respect of which it is granted.

The interment right pertains to the reservation of the ground only. Interment fees are applicable for the opening and closing of the grave, as per Council's fees and charges.

Council will only grant an interment right for a double depth monument plot with the additional condition that a full concrete vault is installed by a Council Approved Stonemason prior to any interments taking place. Where a vault is not present, the interment right can be used for a single depth interment only.

Council will issue an interment right in perpetuity. It is the responsibility of the interment right holder to inform Council of any change of personal details. A fee for re-issue of the interment right may apply, as per Council's fees and charges.

Where the interment right holder is deceased, the right will devolve to the Executor of the deceased's estate. Where there are joint holders, the surviving joint holders shall be entitled to the interment right.

An interment right may be bequeathed. The person to whom the interment right devolves as part of the bequest does not become the interment right holders until such time as application has been made to Council and Council's register has been updated.

Upon application, an interment right may be surrendered to Council and a refund granted as per Council's fees and charges.

Where a dispute arises or other doubt about who holds the interment right for a particular burial site, Council may determine who holds the interment right. Council will follow the steps outlined in the *Cemeteries and Crematoria Act 2013*. Where a determination is made by Council, all other interment rights for the site are taken to be revoked.

6.8 Burials and Grave Standards

Council can only accept a request for a burial from a funeral director.

Requests for placement of ashes can be accepted from a funeral director or authorised

family representative.

Individual child graves shall be single depth only and opened to accommodate the coffin/casket size specified on the burial application.

Burial requests in headstone/monument sections will only be accepted after inspection and approval by the Council.

The number of interments permissible in any site will be in strict accordance with Public Health regulations. Burial procedures will be in strict accordance with Public Health regulations and Work Health and Safety requirements.

Where a second interment is requested in a double depth plot, an inspection of the site must be undertaken prior to the burial request being accepted. Removal of any monumental work, improvements, or other items impeding the opening of the grave will be the responsibility of the interment right holder. A Council Approved Stonemason is to be engaged to open any monuments or remove any monumental masonry to allow the safe opening of the grave.

6.9 Placing Ashes within a Burial Plot

Council will allow cremated ash remains to be placed in a burial site with the permission of the interment right holder and upon completion of the "Application for Placement of Ashes" and payment of the applicable fee.

Council officers will place the ashes under the concrete beam in lawn sections and in a location identified as suitable by Council in headstone/monument sections. Family, contractors or other persons are not permitted to inter ashes.

A maximum of two ash placements will be permitted per burial plot, without reference to and irrespective of any existing or future burial interments.

6.10 Grave Improvements – Plaques, Headstones and Monuments

Council will specify the type of memorial (plaque, headstone or monument) to be placed on a site. Areas specific to each type of memorial are designated in accordance with the Albion Park Cemetery Masterplan and as per section type at Shellharbour Cemetery. Memorials not in accordance with the prescribed type will not be approved.

Council requires that the family or authorised representative for the deceased endeavor to erect a suitable monument within 12 months of the interment or greater if consented to by Council on prior request.

In lawn sections, Council will accept applications for either a Cast Bronze plaque, ordered through Council by completing an Application for Cast Bronze Plaque, or a granite plaque, arranged through a Council Approved Stonemason and upon completion of an Application to Carry Out Works in Council Cemeteries.

Placement of Cast Bronze plaques is only to be undertaken by Council. Granite plaques may be placed by Council Approved Stonemasons in accordance with the conditions outlined in the written approval.

Military insignia and emblems require consent from the Department of Veterans Affairs and will not be included on a plaque by Council without written approval. The onus is on the family to provide adequate military records to obtain written approval.

Where an error has been made by Council the plaque shall be replaced at Council's expense. Council will not be liable for removal or replacement of plaques where errors have been

made by the family or where vandalism has occurred.

The construction or installation of any monument, memorial, foundation, headstone, gravestone, kerbing, railing, footings or other structure on a burial plot or plots shall be:

- a. preapproved by Council through an 'Application to Carry out Works in the Cemetery' form accompanied by sketches, drawings, engineering details and such other particulars as may be required by the Cemetery Coordinator.
- b. carried out by a Council Approved, and licensed Monumental Mason
- c. in accordance to the Australian Standard 4204.
- d. In accordance with Council's Cemeteries Operation Manual
- e. Constructed of materials of a permanent nature eg. marble, granite, sandstone etc (timber or mortar and bricks are not considered permanent).

Council may provide a temporary grave marker for a headstone/monument plot upon request.

Ownership of improvements to a cemetery site is deemed to be with the person or persons who caused the improvement or as noted in the cemetery register. Where a request for an improvement is received from a person other than the authorised applicant, a letter of consent must accompany the request.

Maintenance of improvements is the responsibility of the family or authorised representative.

Council may act to modify and/or remove any structure in a cemetery that has become dilapidated, unsightly, is crumbling, has not been installed in accordance to the standard, is encroaching onto adjoining burial sites or is encroaching into aisle ways or has been deemed to be unsafe in a risk assessment carried out by Council. Council's actions will include making unsafe structures safe to ensure public and employee safety and to fulfil its responsibility for preservation as defined in the *Burra Charter*, ie '1.6 Preservation means maintaining the fabric of a place in its existing state and retarding deterioration'.

Council will not be liable for any costs associated with the removal, restoration or replacement of any items removed. Council will make every effort to contact the interment right holder or his/her representative before any item is modified or removed, but safety of the site and its users will be paramount in any decision made.

6.11 Ashes Interment

Interment of ashes will only be permitted after an Application for Placement of Ashes has been received, along with full payment of the relevant fee as per Council's fees and charges. Where applicable an Application for Cast Bronze Plaque or Application for Stainless Steel Plaque must also be received.

Interment of ashes and placement of relevant plaque may only be completed by Council officers. Families of the deceased, other members of the public or other contractors (such as funeral directors) are not permitted to inter ashes or place plaques.

6.12 Exhumation

Exhumations are NOT to take place unless:

- a. Prior written consent has been received from the Director General of the Department of Health (NSW) and Council has issued an order for exhumation.
- b. The interment right holder or their appointed representative has given permission

for the burial site to be opened for the exhumation.

- c. The clauses a. and b. above do not apply if a Court has ordered the exhumation.
- d. Any exhumation shall be performed under the direction and with the attendance of NSW Department of Health staff. Council staff may be involved in uncovering the earth to expose the coffin name plate, however they will not be involved in the removal or handling of the remains without the prior approval of Council management.
- e. A fee is payable for exhumations at the cemetery and will vary dependent on the particular features of the burial site in question and the sites surrounding it.

All exhumations within Council's cemeteries are to comply with the statutory requirements and follow all requirements of Council's operations policy.

6.13 Contractor and Funeral Director Requirements for Works within the Cemetery

Any person or business providing or carrying out monument masonry or funeral services in a cemetery, including the construction, erection, repair, cleaning and restoration of structures over burial places, must comply with the requirements of Council's policies and procedures.

A person shall not carry out any work as a Monumental Mason within the cemetery without the written approval of Council.

Monumental Masons must apply to become an approved Council Contractor (following Council's procedure) and pay the applicable annual fee. Monumental Masons must maintain their status as approved, to continue to undertake works on site. Council may suspend or cancel approval of any person or company by giving notice in writing. Council may conduct an audit of works completed. If it is found that work is non-compliant, approval may be withdrawn immediately.

All Monument Masons must follow procedures and policies as outlined within Shellharbour City Council's Operations Policy.

Council staff will be present to hand over the burial site and make Funeral Directors aware of any known safety concerns. Immediately after the grave cover is removed the site becomes the responsibility of the Funeral Director as their "Place of Work". The responsibility of the site concludes when the following has occurred:

- a. All mourners have left the immediate vicinity of the grave
- b. Last of the Funeral Directors employees leave the site, and
- c. Grave has been covered with an approved grave cover, supplied by Council.

6.14 Cemetery Maintenance and Operations

Council acknowledges that cemeteries are special places that require sensitive and sympathetic management. Council officers will undertake weekly maintenance of the cemeteries. Flowers that have become displaced, deteriorated or unsightly will be removed. Artificial flowers will be removed if they are not in approved vases. Artificial flowers will be removed when they are faded, weathered or otherwise degraded.

Council staff will be mindful of being sympathetic and consultative, but may rectify situations within sites that are determined not appropriate or acceptable. Council has the right to remove and dispose of unauthorised structures such as fencing, railing or edging around graves, monuments, statues, vases or holders, photographs, memorial plaques and attachments, plantings such as flowers and trees or any other structures that may detract from the presentation of the cemetery or become a hazard to the public and council employees.

Grave subsidence will be monitored regularly and graves which have subsided shall be filled to ground level. Consideration for additional levelling of subsided graves shall be made prior to significant dates or graveside ceremony.

The following dates shall be considered significant dates for the purpose of the operation of the cemetery.

- a. Anzac Day - 25 April
- b. Easter - the declared four day period each year
- c. Mother's Day - the second Sunday in May
- d. Father's Day - the first Sunday in September
- e. Christmas – 25 December
- f. Orthodox Memorial Day – Dates vary each year

Boundary fencing shall be placed and maintained to a level that will prevent unauthorised access to the cemetery grounds and ensure a safe space for visitors and Council staff. Replacement and repair of fencing adjoining a road reserve or public lands will be the sole responsibility of Council. Replacement and repair of fencing adjoining private lands or leased public land will be the sole responsibility of the private land owner or holder of the lease. Where a fence adjoining private lands or leased public land is damaged such that it would allow entry to the cemetery grounds, Council may make temporary repairs until permanent repairs by the owner can be made. Fencing repairs or replacement shall be made within one month of any notification from Council to the owner for the need for such repairs or replacement.

Council's first priority remains the safety the public and employees of Council. Council reserves the right to remove any tributes that have been placed at a gravesite, niche or plot that cause safety or significant amenity concerns to visitors, Council staff and Council equipment, interferes with any maintenance work or burials, or encroaches upon other graves and plots. This includes alcohol, other drink and food products.

While full respect will be given to mourners on site, every attempt will be made to liaise with people, at certain times works may be required to be undertaken for safety reasons.

6.15 Cemetery Records

The Public Health Regulation 2012, Part 8 – Disposal of Bodies, Division 3 – Handling of bodies, Section 68 Register of Burials, states:

- a. A register of burial, as required by the regulations of the current Health Act, must be kept in respect of all burial sites in the cemetery.
- b. A register of reserved interment rights must also be maintained.
- c. The register may be kept in electronic or written form but in either case the location of each burial site must be identified on a plan or map that shows sections, rows and burial site numbers or other locations of remains.
- d. The register must contain the name and address of the holder of the Interment Right granted in relation to a burial site.
- e. Council must, immediately after a burial in a burial site, ensure that it enters in the register, opposite the entry for that burial site, the following information;
 - i. The name of the deceased; and
 - ii. The date of burial.

- iii. The date of the person's death;
 - iv. The section and allotment where the burial has been made;
 - v. The name of the person (if any) who continues to hold any right of burial in that allotment;
 - vi. The name of the funeral director who transported the body to the cemetery;
 - vii. The fees paid to the cemetery authority for the burial.
 - viii. Any other details that are likely to help in the identification of the deceased
- f. Council may amend its register from time to time so as to remove any inaccuracies contained in it and to record any changes to interment rights as a result of transfer, revocation or death of the holder of a interment right.
 - g. Council must, on application made by any person, make available to the person a copy of any entry made in the register in relation to a burial site.
 - h. Such an application must be in the form approved by Council and accompanied by the appropriate fee.
 - i. The register can be used as verification in any proceedings requiring evidence of the identity of the holder of a interment right that has been granted in respect of any burial site.

7. Related Forms

- Application for Burial
- Application for Placement of Ashes
- Application for Cast Bronze Plaque
- Application for Stainless Steel Plaque
- Application to become a Council Approved Stonemason
- Application to Carry Out Works in Council Cemeteries
- Application for Removal of Ashes
- Application for Exhumation
- Application to Reserve a Cemetery Site

8. Attachments

Nil

Policy Authorised by:

Name: Council Resolution 203

Date: 4 September 2018