

FILE NO: PSC2005-3664

TITLE: PROVISION AND MANAGEMENT OF CEMETERIES

OWNER: ASSETS SECTION MANAGER

1. PURPOSE:

- 1.1 To ensure the management and maintenance of cemeteries are undertaken in a lawful and respectful manner.
- 1.2 To ensure the sufficient provision of cemetery facilities to meet the needs of the community.

2. CONTEXT/BACKGROUND:

- 2.1 Council manages cemeteries at Anna Bay, Karuah, Nelson Bay, Seaham and Raymond Terrace. These cemeteries offer interments in plots, columbarium walls and memorial gardens. Council also maintains the grounds of historic cemeteries at Hinton, Raymond Terrace and Birubi Point.
- 2.2 Cemetery management requires a focus on compassion with the customer, accuracy in the management of records and safety in the issuing of permits to undertake work. This policy sets the parameters by which cemeteries will be managed in Port Stephens Council and ensures that the corporate knowledge that underpins the management of cemeteries is held in one place.

3. SCOPE:

- 3.1 This policy applies to all cemeteries that are on land that is owned or managed by Port Stephens Council.
- 3.2 This policy does not relate to:
 - a) parks and roadside memorials
 - b) cemeteries, columbarium walls or memorial gardens on land that is not owned or managed by Port Stephens Council.

4. DEFINITIONS:

- 4.1 An outline of the key definitions of terms included in the policy.

Cemetery	A place for burials, not being a church yard.
Cinerary urn	A container holding cremated human remains

Columbarium Wall	A structure with tiers of niches for reception of cinerary urns.
Memorial Garden	A place for reception of cinerary urns.
Exhumation	To dig out, unearth.
Interment	Burial in the earth or placement of cinerary urns in a columbarium wall or memorial garden.
Interred	The placement of human remains in the earth, columbarium wall or memorial garden.
Interment Site	A place of burial in the earth or placement of ashes in a columbarium wall or memorial garden.
Interment Right	An exclusive right granted for use of an interment site. There is no entitlement to any real estate. The holder of an interment right has the sole authority to determine who can be buried or placed in the interment site and to permit headstones, inscriptions and memorials on the site.

5. STATEMENT:

5.1 Provision of cemeteries

5.1.1 Council will plan for the provision of cemeteries including burial plots, columbarium walls and memorial gardens through the Strategic Asset Management Plan process.

5.2 Management of cemeteries

5.2.1 Council does not permit any person to undertake an activity within a cemetery unless:

- a) the activity is an approved activity such as:
 - i. the quiet and respectful commemoration of the dead or undertaking of historical research
 - ii. the use of roadways and pathways to gain access to interment sites or amenities.
- b) the person holds an interment right, exhumation permit, monument permit or other approval as required and issued by Council to undertake that activity.

5.2.2 Council shall maintain cemeteries to agreed service levels detailed in the maintenance service contract specification.

5.2.3 Council will comply with the Cemeteries & Crematoria NSW Cemetery Operator Licence conditions.

5.2.4 Council shall create and maintain general terms and conditions relating to interment rights and monumental permits.

5.3 Keeping of records

5.3.1 Council shall maintain a register of:

- a) all interments, exhumations and interment rights in respect of each cemetery.
- b) complaints received relating to interments in accordance with the Cemetery Operator licence conditions.

5.4 Interment sites and Interment rights

5.4.1 Human remains of a deceased person may only be interred at interment sites with the written permission of Council who shall issue an interment right.

5.4.2 Interment rights may not be sold or transferred except with the express written consent of Council.

5.4.3 The owner of an interment right may relinquish an interment right to Council provided an interment has not taken place and upon providing 28 days notice in writing. If the request is received within 10 days of the interment right contract being signed, a full refund will be offered, minus the current interment right cancellation/transfer fee representing our reasonable administration fee. Thereafter, no refund will be offered.

5.4.4 A person may not hold more than two interment rights.

5.5 Monuments

5.5.1 Council approval is required for the installation of a monument.

5.5.2 A monument must be in keeping with the scale and character of the interment area.

5.5.3 A monument permit shall only be granted in respect of an interment site with the consent of the holder of the interment right.

5.5.4 The holder of a monument permit is responsible for the maintenance and repair of the monument.

5.5.5 If Council is required to undertake any work relating to monuments, to ensure public or employee safety, Council may recover the costs associated with such works from the holder.

5.6 Exhumation

- 5.6.1 An exhumation may only take place when an order by a Coroner or a Court permitting such exhumation is issued; or
- a) a person has obtained prior to commencing exhumation:
 - i. Approval for exhumation by NSW Health in accordance with the provisions of the Public Health Act.
 - ii. Approval from Council under delegated authority.

5.7 Mementos and Tributes

- 5.7.1 Floral tributes can only be placed:
- a) on columbarium walls on niches where a Council approved plaque has a built in vase.
 - b) in memorial gardens in an approved plastic flower container (available at Council) adjacent to the plaque.
 - c) in monumental/lawn beam plots in containers that form part of the monument.
- 5.7.2 Tributes must not encroach neighbouring memorials or burial locations.
- 5.7.3 Wrapping and rubber bands must be removed from floral tributes before placement.
- 5.7.4 The following are prohibited in Council cemeteries:
- a) items made from or containing glass or other breakable materials such as porcelain.
 - b) planting of trees, shrubs or other plants.
 - c) gluing or permanently attaching items to gardens, walls or memorials.
 - d) Except on days of a total fire ban, the lighting of candles and incense sticks for cultural or religious reasons is acceptable only where the candle or incense is fully contained in an approved enclosed container and extinguished prior to leaving. Alternatively, appropriately placed LED candles may be used.

5.8 Memorials

- 5.8.1 New or restored memorials must comply with the applicable provisions of Australian Standards 4204:2019 Headstones and cemetery monuments and 4425:2020 Above-ground burial structures.

5.9 Customer Service

- 5.9.1 Council will ensure all future interment right purchases are in the form of a consumer contract in accordance with the Cemetery Operator licence conditions.
- 5.9.2 Council is required to comply with the Cemetery and Crematorium Operator Code of Practice 2018 approved by Cemeteries and Crematoria NSW.

5.9.3 Council will, in addition to our general Customer Experience Charter, comply with the Cemetery Operator licence conditions Customer Service Principles being:

- a) respect the personal choices of our customers
- b) provide customers and prospective customers with full and accurate information about the products and services that we are able or unable to provide
- c) carry out our business with competency and integrity, and
- d) maintain high standards of conduct, to enhance the reputation of the industry.

5.10 Dispute Resolution

5.10.1 When resolving any disputes with an interment customer, Council will, in addition to following our Complaint Handling Policy:

- a) deal with disputes and complaints in a respectful and compassionate way; and
- b) advise customers, if they are not satisfied with our handling of the complaint they can contact the Cemeteries Agency, ccnsw.info@cemeteries.nsw.gov.au or 02 9842 8470.
- c) record all complaints in a register and maintain relevant records for 7 years.

6. RESPONSIBILITIES:

6.1 Overall implementation of this policy lies with the Assets Section Manager. Key policy areas are delegated to the following sections and teams:

- a) Provision of cemeteries – Assets Section.
- b) Contract and lease of cemeteries – Community Services Section
- c) Keeping of Records – Facilities and Infrastructure Director's Office - Business Support and Administration team.
- d) Interment sites and Interment rights – Facilities and Infrastructure Director's Office - Business Support and Administration team.
- e) Monuments – Facilities and Infrastructure Director's Office - Business Support and Administration team.
- f) Exhumation – Facilities and Infrastructure Director's Office - Business Support and Administration team.

7. RELATED DOCUMENTS:

- 7.1 Port Stephens Council Setting of Fees and Charges Management Directive.
- 7.2 Port Stephens Council Code of Conduct.
- 7.3 Port Stephens Council Customer Experience Charter.

- 7.4 Port Stephens Council Application Form – Permit to carry out monumental work in Port Stephens Cemeteries.
- 7.5 Port Stephens Council Application Form – Cemetery Burial Application.
- 7.6 Port Stephens Council Application Form – Columbarium Wall/Memorial Garden Application.
- 7.7 Cemetery and Crematorium Operator Code of Practice 2018 (NSW).
- 7.8 Port Stephens Council Application Form – Confirmation of Cemetery Information.
- 7.9 Port Stephens Council Application Form – Request to Transfer Right of Interment.
- 7.10 Port Stephens Council Form – Template for Memorial Niche Plaques.
- 7.11 Port Stephens Council Form – Template for Terrazzo Oval Plaques.
- 7.12 Port Stephens Council Form – Template for Raymond Terrace Granite Columbarium Wall.
- 7.13 Port Stephens Council Cemeteries information brochure.
- 7.14 Port Stephens Council Columbarium Walls and Memorial Gardens brochure.
- 7.15 Cemeteries and Crematoria Act 2013 (NSW).
- 7.16 Local Government Act 1993 (NSW).
- 7.17 Crown Land Management Act 2016 (NSW).
- 7.18 Public Health Act 2010 (NSW).
- 7.19 Coroners Act 2009 (NSW).
- 7.20 Anti-Discrimination Act 1977 (NSW).
- 7.21 Births Deaths and Marriages Registration Act 1995 (NSW).
- 7.22 Fair Trading Act 1987 (NSW).
- 7.23 Government Information (Public Access) Act 2009 (NSW).
- 7.24 Heritage Act 1977 (NSW).
- 7.25 Human Tissue Act 1983 (NSW).
- 7.26 State Records Act 1998 (NSW).
- 7.27 Work Health and Safety Act 2011 (NSW).
- 7.28 Cemeteries & Crematoria NSW Cemetery Operator Licence (NSW).
- 7.29 Port Stephens Council Perpetual Interment Right Consumer Contract.

CONTROLLED DOCUMENT INFORMATION:

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EDRMS container No.	PSC2005-3664	EDRMS record No.	TBA
Audience	Funeral Directors, Grave Diggers, Monumental Masons, West Ward Cemetery Group, Volunteer Groups, Historical Societies, general community.		

Process owner	Assets Section Manager		
Author	Community Services Section Manager		
Review timeframe	4 years	Next review date	TBA
Adoption date	14/07/2015		

VERSION HISTORY:

Version	Date	Author	Details	Minute No.
0.1	27/05/2015	Community Services Section Manager	Draft version for review by Executive Leadership Team	n/a
0.2	07/07/2015	Community Services Section Manager	Draft version for Public Exhibition.	n/a
1.	14/07/2015	Community Services Section Manager	The Public Exhibition period ended 20 August 2015 and no submissions were received. This policy is now adopted and replaces the Port Stephens Cemeteries Policy (dated 290102 – Min No. 016)	194
2.	19/09/2019	Community Services Section Manager	Reviewed and updated in new Policy Template. 4.1 Definitions updated to include 'Memorial Garden' and under Interment Site the words 'of ashes' and 'wall' were added. 5.2.6 the addition of "or Volunteer Group". 7.16 the addition of "Local Government Act 1993 (NSW)". Controlled Document Information the addition of the word	187

Version	Date	Author	Details	Minute No.
			<p>“cemetery” and “Volunteer Group”.</p> <p>The public exhibition period ended 18 September 2019 and no submissions were received.</p> <p>This policy is now adopted and replaces the Provision and Management of Cemeteries Policy dated 14/07/2015 – Min No. 194.</p>	
3.	24/05/2022	Community Services Section Manager	<p>Updated policy into the latest format.</p> <p>2.2 – Removed “Council”.</p> <p>5.3 – Removed ‘Council may delegate some aspects of the maintenance of cemeteries to a 355c Committee or Volunteer Group of Council’ to reflect that all maintenance is either carried out by contractors or internal Council staff.</p> <p>5.6.1 (a) – Updated ‘NSW Department of Health’ to ‘NSW Health’ to reflect correct title.</p> <p>6.1 (b) – Updated ‘Contracts and Services team’ to ‘Emergency Management team’ to reflect current responsibilities.</p> <p>7.17 Added “Management” to the Crown Lands Act 2016 (NSW).</p> <p>Audience: Removed ‘355c Cemetery Committees’ to reflect that there are no 355c Cemetery Committees.</p> <p>Process owner: updated ‘Contracts and Services Coordinator’ to ‘Emergency</p>	134

Version	Date	Author	Details	Minute No.
			Management Coordinator' to reflect current responsibilities. Controlled document information: amended review timeframe to 3 years in accordance with Council's policy review process.	
4.	TBA	Assets & Community Services Section Managers	Reviewed and updated policy. Process Owner amended as policy has changes Sections. 3.2(a) Added 4.1 Definitions for Cinerary urn and Interred Added 5.2.1(b) Removed "works permit or", Added "or other approval as required and" 5.2.3 Added 5.3.1(b) Added 5.4.3 Added "provided an interment has not taken place and upon providing 28 days notice in writing. If the request is received within 10 days of the interment right contract being signed, a full refund will be offered, minus the current interment right cancellation/transfer fee representing our reasonable administration fee. Thereafter, no refund will be offered." 5.6.1(a)(ii) Added "under delegated authority". 5.7 - 5.10 Added clauses. 6.1 Updated titles in Responsibilities. 7. Added and updated Related documents. Amended review timeframe to 4 years in accordance with Council's policy and	TBA

Policy

Version	Date	Author	Details	Minute No.
			management directive review process.	

Policy

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