

## 1. PROTOCOL OBJECTIVES

- 1.1 The protocol will assist in the administration, management and maintenance of Council controlled cemeteries within the Wollondilly Local Government area.
- 1.2 The protocol has been formulated to provide guidelines that will assist in ensuring the functions of the cemeteries is provided in a safe, consistent and socially acceptable standards and practices to assist workers, administrators, clients and the general public.

## 2. BACKGROUND

- 2.1 Under the Local Government Act 1993, the Public Health (Disposal of Bodies) Regulation 2002 and the Local Government Control of Cemeteries Amendment Act 1966 the owner/operator of a cemetery is required to establish policies and procedures in regards to the control of the management and operation of its cemeteries.
- 2.2 The Wollondilly Cemetery protocol outlines the overall principles that underpin how the cemetery is to be managed in order to comply with legislative requirements and to provide a dignified and responsive cemetery and memorialisation service to the community.

## 3. APPLICABILITY

- 3.1 This protocol applies to all Council employees, and/or Funeral Service providers, Grave Diggers, Stonemasons and Community Members operating in Council Cemeteries.
- 3.2 This Protocol applies to all cemeteries that are; controlled, managed, administered, operated and maintained by Wollondilly Shire Council.

## 4. GUIDELINES

### 4.1 Principles

- 4.1.1 To provide places for quiet and safe remembrance of the deceased.
- 4.1.2 To provide sites within cemeteries for the lawful internment of the deceased.
- 4.1.3 To consider the diverse religious ethnic and cultural backgrounds of those using, working in or visiting cemeteries when making decisions relating to cemeteries including planning for the future use of cemeteries.
- 4.1.4 To provide equitable access to burial sites to all members of the community.
- 4.1.5 To provide conditions in cemeteries which have regard to minimising any risk to health or safety of persons working in or entering cemeteries.
- 4.1.6 To consider conservation and heritage issues when making decisions relating to cemeteries including planning for the future use of cemeteries.

## 4.2 Management, Planning, Conduct and Maintenance of Cemeteries

Council may make such provisions as it considers necessary for the following:

- 4.2.1 The setting aside of sections for different types and classes of burials and ashes placements.
- 4.2.2 The size, multiple use and location of burial sites.
- 4.2.3 The carrying out of work by funeral directors, monumental masons, grave diggers and other contractors in the cemeteries.
- 4.2.4 The establishment of standards of construction and design for monuments and structures.
- 4.2.5 The qualifications required by, and the application fees to be lodged by, monumental masons and other contractors.
- 4.2.6 The improvement and maintenance of operational cemeteries under Council control.
- 4.2.7 The placing of vases, statuettes, jars, bottles or other items of embellishment on or near burial sites, monuments or wall or garden niches and removal of the same.
- 4.2.8 The conduct of religious or other ceremonies of burial, disposition or commemoration.

## 4.3 Records

Council is required to maintain certain records under the Public Health (Disposal of Bodies) Regulation 2002, clause 35A of the Public Health Regulation 1991, State Records Act 1998, and Local Government Act, 1993. Council shall maintain a register of all burials, exhumation and burial rights in respect of each cemetery in order to comply with legislation and to provide information for historical research references for the public.

A Register of reserved burial licences must be kept in respect of all burial sites in all cemeteries under Council's care and control but no details of the holder of a burial licence shall be made public unless required to be made available under any relevant legislation.

The Council may amend its register from time to time so as to remove any inaccuracies contained in it and to record any changes to burial licences as a result of transfer, revocation or death of the holder of the burial licence.

#### **4.4 Significance of Burial Sites and Monuments**

Burial sites and monuments are of cultural and historical significance to the community and may confer rights to individuals. Council in its activities relating to cemeteries will aim to observe the significance of burial sites and monuments (along with any rights associated with such burial sites and monuments) within those cemeteries in which they are located.

Where a grave site is over 50 years old, it is subject to the Heritage Act 1977. Council will not issue a monument permit in respect of a burial site, which is over 50 years unless the proposed works conform to the requirements of the National Trust or have been assessed by Council.

#### **4.5 Burial Sites, Rights and Licences.**

4.5.1 Council may grant a burial licence in respect of a burial site in a cemetery.

4.5.2 A burial licence may be granted to one or two or more persons as joint holders.

4.5.3 A burial licence entitles the person or persons to whom it is granted an exclusive entitlement to inter or immure the remains of a deceased person in the burial site/plot in respect of which it is granted.

4.5.4 Council will issue to the owner of the burial licence a “Right of Burial Certificate” in relation to the burial site concerned.

4.5.5 Items and human remains may only be interred at any burial site with the written permission of Council who will issue a burial right.

4.5.6 The burial right is for a period of twenty-five (25) years. If the burial right is not used within 25 years, Council will contact the existing licence holder to offer renewal (at no cost). This renewal would be for a further 25 years or, if the licence holder wishes, Council will purchase the licence from them at the price the licence was originally awarded to them. This renewal would be for a further 25 years. If the licence holder is deceased or uncontactable then Council will contact either next of kin or the Executor of the estate and offer a transfer of ownership (triggering another 25 years) to the estate or surrender back to Council. Council will only cancel the licence if all attempts to contact family or executors fail.

4.5.7 Within the 25 year term, burial rights may be transferred, to another person or back to council. Transfers will not be recognised without the written notification and payment of any associated application fees to council from the original grantee.

4.5.8 Where the original licence holder is deceased, the application may only be made by the Executor of the estate of the deceased holder or their authorised Legal Representative.

4.5.9 Council may enter into arrangements with the holder of a burial licence for the sale of the licence back to Council. In most instances council will refund the original purchase amount.

- 4.5.10 A holder of a burial licence may bequeath the licence as if it were part of the holder's personal estate. A person to whom the licence devolves as a result of the bequest does not become the holder of the licence until the cemetery register is amended to indicate the fact. An application under this clause must be in the form approved by Council. A new 25 year term commences from the time the amendment of the register.
- 4.5.11 Council will not grant a burial licence to a person if the granting of the licence will result in the person holding (including jointly holding) burial licences for more than four (4) burial sites/plots in the cemeteries administered by Council.
- 4.5.12 Council cemeteries allow for interments into allotments in three types of areas. These are:
- a) **Monumental Burial plots:** Allows for the erection of a full monument over the entire allotment by a monumental mason or suitably qualified person upon written application to Council.
  - b) **Lawn Beam Burial plots:** Allows for the erection of a headstone or pedestal and plaque only by a monumental mason or suitable qualified person upon written application to Council. All monument work must be fully contained on the concrete beam and within the width of the allotment. It is prohibited to plant any tree, shrub or other plant, or place any other type of memorial or souvenir on any grave in a lawn section of the cemetery unless approved by Council.
  - c) **Memorial Trees and Columbarium Walls:** Allows for the interment of single ashes container only. Interment of ashes and erection of plaques will be carried out by Council. Family members may be present. Plaques must be purchased through Council and will be of a design and size approved by Council. No other plaques or variations to design are allowable.
- 4.5.13 The size of a burial plot in all operational cemeteries under care and control of Council shall be surveyed as being 1200mm wide X 2400mm long or 900mm wide x 2400mm long within established traditional rows.
- 4.5.14 All burial plots for the first interment shall be excavated to a depth of 2.1 metres (2100)mm with the exception of Bargo Cemetery where the acceptable depth is 1.5 metres/1500mm for a single interment only.
- 4.5.15 Grave allotments will accommodate a maximum of two coffins or caskets and up to six ashes containers. A separate fee shall apply for each interment or ashes placement.

#### 4.6 Memorials and Monuments

- 4.6.1 No unauthorised work is to be carried out in Council cemeteries under its care and control. Written consent from Council is required prior to carrying out any works.

- 4.6.2 All memorial work must be carried out by a monumental mason or a suitably qualified person registered with Council to operate at the cemeteries. Minor maintenance work on the memorial or headstone, that does not involve structural work i.e. Cleaning, painting etc. may be carried out conditional on the approval of the grantee.
- 4.6.3 No structures or other articles are to be placed or erected over graves on a lawn beam section. Memorials on lawn beam sections are limited to Council approved headstones erected on the concrete beam by a monumental mason or suitably qualified person registered with Council and payment of Council's standard fee. Construction work must not damage or encroach upon adjacent graves.
- 4.6.4 Council is not responsible for any ongoing upkeep, maintenance or repair of any monument, structure or landscaping on burial sites but reserves the right to remove any dilapidated monuments to ensure public and employees safety.
- 4.6.5 It is prohibited to plant any tree, shrub or other plant or place any other type of memorial or souvenir on any grave in a lawn section of the cemetery.
- 4.6.6 Council reserves the right to remove and dispose of any unauthorised memorial work without reference to any person. This includes any tree, shrub or other vegetation, furniture, fencing, kerbing, glass, alcohol, offensive material or any such item that does not meet the standards determined by Council.
- 4.6.7 No vases, glass jars or objects are to be placed at the base of Columbarium walls or memorial gardens. Items are not to be glued to the plaques or columbarium walls.
- 4.6.8 Floral arrangements that have deteriorated may be removed by Council's maintenance staff.
- 4.6.9 Council will provide acceptable flower receptacles at each Cemetery.

#### 4.7 **Exhumation**

An exhumation may only take place when an order by a Coroner or a Court permitting is issued or an applicant has obtained, prior to commencing exhumation:

- Approval for exhumation by NSW Department of Health in accordance with the provision of Public Health (Disposal of Bodies) Regulation, 2002.

## 5. **RESPONSIBILITY/ACCOUNTABILITY**

- 5.1 Manager Infrastructure Strategy & Planning

## 6. **RELATED POLICIES/ PROTOCOLS**

- 6.1 Nil

## 7. RELATED PROCEDURES

7.1 Nil

## 8. RELATED LEGISLATION

- 8.1 Local Government Act, 1993
- 8.2 Local Government Control of Cemeteries Amendment Act, 1966
- 8.3 Public Health Act, 2010
- 8.4 Work Health and Safety Act, 2011
- 8.5 Privacy and Personal Information Act, 1998
- 8.6 State Records Act, 1998
- 8.7 Heritage Act, 1977
- 8.8 Conversion of Cemeteries Act, 1974
- 8.9 Births, Deaths and Marriages Registration Act, 1995
- 8.10 Human Tissues Act, 1993
- 8.11 Crown Lands Act, 1989
- 8.12 GIPA Act, 2009
- 8.13 Cemeteries and Crematoria Act 2013

## 9. ATTACHMENTS

9.1 Nil

## 10. RESOURCES

- 10.1 National Trust Guidelines for Cemetery Conservation
- 10.2 Department of Local Government
- 10.3 NSW Local Government areas Policies and Procedures.

## 11. IMPLEMENTATION STATEMENT

11.1 To ensure this protocol is implemented effectively, Council will employ a variety of strategies involving awareness, education and training. These strategies will be aimed at Councillors, staff and council representatives and will involve:

11.1.1 That the Protocol be made available on Council's website.

11.1.2 Hard copies are available through Council's Customer Service Centre.

11.1.3 Notification be given to Funeral Directors, Contractors and Customers to adhere to the Protocol.

## 12. PROTOCOL HISTORY

12.1 Date First Endorsed	17 August 2015 – Res No. 145/2015
12.2 Most Recent Endorsement	15 November 2016
12.3 Next Review Date	15 November 2019
12.4 Responsible Officer	Manager Infrastructure Strategy & Planning
12.5 Responsible Department	Infrastructure Planning



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**CHIEF EXECUTIVE OFFICER**