

CEMETERY MANAGEMENT POLICY

QUALITY CONTROL			
TRIM REFERENCES	D14/28765 – 12/14		
RESPONSIBLE POSITION	Director Infrastructure and Environment		
APPROVED BY	Council		
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1. INTRODUCTION

This policy has been developed to assist in the management of the Broken Hill Cemetery.

2. POLICY OBJECTIVE

The Broken Hill City Council Cemetery Management Policy outlines the overall principles that underpin how Council manages its cemetery in order to comply with legislative requirements and to provide a dignified and responsive cemetery and memorial service to the community.

3. POLICY SCOPE

This policy applies to the Broken Hill Cemetery, which is under the care, control and management of the Broken Hill City Council, since the introduction of the *Local Government (Control of Cemeteries) Amendment Act 1966*, in the early 1970's.

This policy is aimed at all members of the public; including Council employees, residents, visitors and contractors, who have an interest in or are undertaking work within the Broken Hill Cemetery.

4. POLICY STATEMENT

4.1. Cemetery Maintenance

Council shall maintain lawn areas, trees and vegetation, roadways and paths adjacent to and within the monumental sections. All shrubs, plants in the cemetery and gardens are planted and cared for by Council. Council may remove any trees, shrubs or other vegetation from the cemetery.

The public are not permitted to plant flowers, shrubs or trees in any area within the cemetery boundary without Council's written consent. Council may remove any shrubs, trees or other vegetation that have been planted on a burial site or within the Cemetery without Council's written consent.

Council is not responsible for the upkeep, maintenance, repair, restoration, or cleaning of any monument or structure at a burial site. Council will endeavor to contact the Interment Rights holder if damage is caused to a grave or monument. It is important that all Interment Rights holders provide up to date contact details to Council.

Council may act to remove any structure in a cemetery that has become dilapidated, unsightly, is crumbling, or deemed to be unsafe in a risk assessment conducted by Council. Council's actions will be limited to making unsafe structures safe to ensure public and employee safety.

Where subsidence is evident, Council may fill and compact the ground after discussing the proposed works with the Interment Rights holder, or after making reasonable attempts to contact the Interment Rights holder to discuss the proposed works.

4.2. Cemetery Records

Prior to Council taking on the management of the Cemetery in the 1970's, the cemetery management and records were administered by various church and community trustees, and consequently some records are incomplete, missing or incorrect.

A register of interments is kept by a cemetery authority in relation to interments conducted at a cemetery under Clause 63 of the *Cemeteries and Crematoria Act 2013*.

A cemetery operator must cause a register to be kept of the following events:

- *Interment rights granted by the cemetery operator in respect of interment sites into the cemetery.*
- *Memorials erected in respect of interment rights in the cemetery.*
- *Each interment conducted in the cemetery.*

4.3. Details relevant to interment rights and burials

Where the cemetery operator grants an interment right, conducts an interment and/or establishes a memorial for a interment right, the register must include:

- *The identity of each interment right holder;*
- *Contact details for the holder of the interment right;*
- *Contact details for any next-of-kin or nominated secondary contact of the right holder. Where an interment has occurred the operator must, immediately after the interment, also include on the register;*
- *Details of the deceased, including name, age and last address before death;*
- *Date of the person's death;*
- *Date of the interment;*
- *Cultural or religious practices, if any, that apply to the deceased person;*
- *Section and allotment where the interment occurred;*
- *If the relevant section or allotment of the cemetery is consecrated for use by a cultural or religious group;*
- *Name of the funeral director, if relevant; and*
- *Fees paid to the cemetery authority for the interment.*

The Cemetery authority amend the cemetery operators register from time to time for any of the following purposes:

- a) Amend to correct inaccuracies;
- b) Record any changes to interment rights as a result of a transfer, revocation, or death of the holder of an interment right.

4.4. Details Relevant to Disturbances and/or Removal of Remains

In accordance with section 46(3) of the *Cemeteries and Crematoria Act 2013* and related regulations a cemetery operator must ensure that any remains of a person that have been disturbed or removed are dealt with in accordance with any cultural or religious practices applicable to the remains.

4.5. Fees and Charges

Cemetery fees are detailed in Council's Schedule of Fees and Charges. The Schedule is reviewed annually and implemented on 1 July each year.

4.6. Rights of Interment and Work Permits

Interment Rights grant the holder the authority to make decisions about the Initial and subsequent interments, exhumations and relocations for a grave/plot/niche and/or the monument.

The Interment Rights are perpetual.

A maximum of two people may own an Interment Right.

Work Permits grant the holder the authority to make decisions about the monument, which may include:

- a) Erection or alteration of a monument;
- b) Maintenance of the grave or monument.

Work Permits are perpetual.

As of 1 January 2004, the purchase of an Interment Right includes both the Interment Rights and Work Permit. Any Interment Rights that were purchased prior to this date will require a Work Permit to be purchased separately prior to any monumental works being undertaken.

The Interment Rights do not give the holder any equity or property holding in the cemetery. There is no ownership of 'the plot' or cemetery land. It is a permit that provides conditional access and right to the specified interment site.

Interment Rights do not need to be produced when the owner is the deceased and will be interred in the plot/grave indicated on the Interment Rights as it is assumed that the person purchased the Interment Rights with the intention of their own interment.

- *Transfer of Interment Rights to another person*

Upon application Council will transfer the ownership of Interment Rights from the existing holder to a person or persons. The original Certificate must be presented to Council with the transfer section completed and signed by the Interment Right holder.

- *Surrender of the Interment Rights and/or Work Permit to Council*

The holder or joint holders of the Interment Rights and Work Permit granted by the Council may surrender the Interment Rights and/or Work Permit to Council.

Council will only accept surrender of the Interment Rights and/or Work Permit if:

- o Evidence of ownership of the Interment Rights and/or Work Permit is supplied to Council.
- o The plot described in the Interment Rights and/or Work Permit to be surrendered has not been used for the interment of human remains including the remains from a cremation.
- o If the plot has been previously occupied and an exhumation has occurred.
- o The plot is free of structural improvements, such as headstone, marker and plantings. If a monument has been placed on a spare plot, the Interment Rights and Work Permit holder will be responsible, at their own cost, for the removal of the monument

prior to the surrender of the Interment Rights and/or Work Permit to Council.

- Council will reimburse the applicant for the amount paid for the Interment Rights and/or Work Permit at the time of the original purchase, or if paid prior to the introduction of decimal currency an amount determined by Council.
- *Interment Rights and/or Work Permit to pass to surviving holder.*

If jointly owned, upon the death of one of the joint holders of the Interment Rights and/or Work Permit, the remaining joint holder is entitled to the full ownership of the Interment Rights and Work Permit.

If all original holders of the Interment Rights are deceased, the right of ownership will pass to the beneficiaries of the estate of the most recently deceased holder or to the person(s) nominated in the estate. If a further interment or further monumental work is requested, all persons with an interest must agree to the interment or works by completing a Statutory Declaration.

Upon interment application made by a person to whom an Interment Rights has devolved as a result of a bequest, Council will amend the interments register to indicate that the person has become the holder of the Interment Rights and/or Work Permit. A new certificate will be issued, and the original certificate will no longer be valid.

4.7. Interment Rights for Spare Plots/Niches and Pre-Selection of Spare Plots/Niches

All spare plots/niches purchased incur a fee as per Council's Schedule of Fees and Charges. If a specific plot is requested by the applicant an additional fee will apply. Only upon payment shall an Interment Rights and Work Permit be issued.

- *Available Locations for Spare Plots/Niches:*
 - *General Sections*
 - *Denomination Sections*
 - *Cremation Wall*

All spare plots/niches will be marked with a reservation marker (peg) by Cemetery Staff to identify this as a spare plot.

Council will permit a maximum of two (2) spare plots/niches to be purchased by any one individual at any one time.

- *Spare plots are not available for pre-purchase in the Rose Garden or Native Garden; however, the following exemption applies:*
 - *At the time of an interment one adjacent plot may be pre-purchased for a future interment, subject to a sloper being placed at the site of the spare plot within three months of the plot purchase.*

4.8. Interment Rights and Work Permits for Old Graves dated prior to 1970

Council introduced a reduced fee for the Interment Rights of a grave, for the purpose of erecting a monument and/or border on an unmarked grave, where no records can be located to verify the interment rights holder.

Should any further application be made for an interment subsequent to the issue of the reduced Interment Rights, then the difference between the fee paid and the current fee for interment rights will be levied.

An application for the purchase of an Interment Rights for Old Grave must be submitted to Council on the cemetery operations application form.

4.9. Grave and Plot Allocation Sizing

- *In Ground Plots:*
 - *2100mm length;*
 - *700mm width;*

- *First Interment is dug at 1800mm in ground depth;*
 - *Reopen interments are dug at 1200mm in ground depth.*
 - *Interment of ashes at the head end or foot end of a grave is determined on a merit-by-merit basis, at the time of application. Fees apply.*
- *Rose Garden:*
 - *Plot Allocation Size - 450mm x 400mm.*

4.10. Monuments

For the purpose of this policy, the definition of a permanent and a temporary monument is considered as the following:

- *Permanent - A monument that is not easily removable. Any concrete or granite grave, headstone, slab or sloper, a sloper with a plaque or masonry structures and sculptures;*
- *Temporary - A monument that is easily removable. A brick (without mortar), wire, metal or wooden fence, a wooden cross, pebbles or stones or a wire cage cover (without a slab).*

The holder of the Interment Rights and Work Permit is responsible for all costs relating to a monument, including maintenance and repair.

A grave can be marked with a wooden cross without the requirement to purchase a Work Permit.

Name plates on crosses must be engraved to survive weather and age deterioration.

Monument sizing is as follows:

- *Grave*

Monuments erected on a grave shall adhere to Australian Standards AS 4204-1994 *Headstones and Cemetery Monuments* and AS 4425-1996 *Above-Ground Burial Structures*. Council appreciates the personalisation of graves and requests that any memorials and monuments are of a tasteful manner which cannot be deemed as offensive.

Monuments must not exceed the grave allocation size of 2750mm x 1375mm.

- *Rose Garden*

All plots must be marked with a Sloper and a Plaque.

Monument sizing in the Rose Garden is:

- *Large Base - 450mm x 400mm;*
- *Standard Base - 300mm x 300mm;*
- *Standard Sloper - 250mm x 200mm;*
- *Plaque - standard 152mm x 152mm.*

Monuments and plaques must not exceed the plot allocation size of 450mm x 400mm.

If Council is required to undertake any work relating to a monument to ensure public or employee safety, any costs associated may be at the expense of the interment rights holder.

4.11. Tributes - Ornaments, Floral and Other

Council's first priority remains public safety and must ensure that respect is shown at all times to mourners and visitors. Therefore, Council request that items placed at gravesites are limited to floral arrangements and a limited number of ornaments.

- *Rose Garden*

Tributes must not exceed the plot allocation size of 450mm x 400mm. Any items exceeding this plot allocation may be removed.

- *Cremation Wall*

The Cremation Wall is designed to reflect a plaque and a single flower holder only. Any other

ornaments and tributes that obstruct any niches are not permitted and may be removed. Council will send notification to the Interment Rights holder to advise that ornaments and tributes will be removed.

- *All Areas*

Council reserves the right to remove any tributes on a gravesite, niche or plot that cause safety concerns to visitors, Council staff and Council equipment, or interferes with any maintenance work or burials, or encroaches upon other graves and plots. This includes food and drink products, including alcohol.

4.12. Contractor Requirements for Work Undertaken within the Cemetery

Any person or business providing or conducting monumental masonry services in the Cemetery, including the construction, erection, repair, cleaning and restoration of structures over burial sites and spare plots, must comply with Council's requirements, policies and procedures.

Council requires specific valid insurance documents to be retained on file at Council prior to any works being undertaken. The required information will be noted on the Application for Permit to undertake works in the Broken Hill Cemetery. Council will require the signed application form to be submitted prior to a permit being approved before commencement of any works being undertaken on Council property.

Council reserves the right:

- To decline an application for interment request
- Cancel or revoke a permit for proposed work
- Stop work in progress for failure to comply with Council Contractor requirements.

The above-mentioned information is applicable to all Funeral Directors, Monumental Masons and Contractors that conduct funeral services, interments, or any type of work in the Cemetery.

In the Cemetery a person shall not:

- Construct, install, alter, restore, renovate or improve any monument, memorial, foundation, vault, table, headstone, gravestone, kerbing, railing or other structure, unless it is of:
 - a material and design approved in writing by Council;
 - conducted to the standard of workmanship required by Council; and
 - *constructed or maintained in accordance with AS 4204-1994 Headstones and Cemetery Monuments and AS 4425-1996 Above-Ground Burial Structures;*
 - Make any inscription or conduct any adornment, unless approved by Council and made or carried out to the standard required by Council.
 - Erase, correct, or require the erasure or correction of, wording of any inscription that has been constructed, installed, made or carried out without Council's written consent;
- Remove a monument, memorial, foundation, vault, table, headstone, gravestone, kerbing, rail or other structure from the Cemetery without Council's written permission;
- Do any of the above without first having a permit to work in the Broken Hill Cemetery.

4.13. Interments

All requests for interments must be made to Council, with the provision of 48 hours notification. Late notification will incur a fee.

4.14. Children's Section of the Cemetery

Council considers a child to be aged between 0 and 13 years.

Council's Schedule of Fees and Charges will apply in relation to all interments in the Children's Section of the Cemetery, also known as and marked on the Cemetery Map as General 1.

No fee is applicable when placing a memorial plaque on the garden wall or in the garden bed border of General 1, where no remains are being interred. Council request that the details of the memorialised child and the person placing the memorial plaque submit their contact details to Council so that Council can record appropriate details.

4.15. Garden of Remembrance

The Returned Services League, Garden of Remembrance is situated within the Cemetery. The walls within the garden contain plaques of service men and women who were either killed in battle or who have since passed on. Any enquiries are to be directed to the Broken Hill Returned Services League Subbranch.

4.16. War Graves

The NSW Government Department of War Graves and Returned Services League (RSL) are exempt from the payment of the Interment Rights in relation to a grave purchased for eligible ex-service men and women. Council's fee for a Work Permit will apply for any monumental work to be undertaken. Once a monument has been erected, the headstone or plaque is not to be altered in any manner.

The NSW Government Department of War Graves and Returned Services League (RSL) will order a brass plaque for the Rose Garden or the Garden of Remembrance Memorial Wall.

If a subsequent interment is requested, consent must be obtained from the NSW Government Department of War Graves before an application is accepted by Council. Council will apply a fee for the Interment Rights in accordance with Council's Schedule of Fees and Charges. A plaque for the subsequent interment can be placed on the grave attached in the centre of the slab, not on an existing or new headstone.

If the grave is damaged during the reopen process for a subsequent interment, the NSW Government Department of War Graves will be advised and will be required to arrange for the grave to be repaired.

4.17. Shared Grave

Historically, shared graves were used for the interment of persons without means, babies born without life and infants.

Often the deceased were interred in a grave site designed specifically for the purpose of a shared grave, or interred with the next available burial, such as being placed in the grave with an unrelated adult who was being interred.

While Council has some records of the interred in shared graves, there are many interments that were not registered or recorded and as such records were not maintained at the time and are not available at Council. Many records Council obtained from community and religious trustees were incomplete and while sometimes, details such as the name and date were recorded, the location was not.

Council is empathetic towards relatives and understand that this is a sensitive topic. Council respects the rights of relatives who do wish to acknowledge or do not wish to acknowledge an interred person at the Cemetery and as such the following applies:

- a) Due to multiple relatives potentially having an interest in purchasing the Interment Rights and Work Permit for a shared grave, Council is unable to determine an appropriate person to grant these permits.
- b) Due to the sensitive nature of a shared grave and the fact that some deaths of infants were not discussed within the family, it is impossible for Council to locate and contact each interred persons relative to confirm if they object to a sale of any permits.
- c) Council respects the rights of families mentioned in point b) and will not allow for one relative to name any interred person in the shared grave on any monument, plaque or cross who is not related to that person.
- d) Due to points a), b) and c), Council is unable to permit the purchase of an Interment

Rights and Work Permit for a grave that was used as a shared grave. As such, Council will not grant or apply fees for the Interment Rights or Work Permit for a shared grave site.

- e) Council will allow for a relative to purchase and to place a Plaque or a non-permanent fixture on the grave site with the details of their interred relative only.

- f) Council advise that the plaque must reflect that the grave is a shared grave through the mandatory wording 'Resting with Others in this Shared Grave'. While this will recognise it is a shared grave with other people interred, it will not reveal any personal information of others interred.

4.18. Exhumation

An exhumation may only take place when an Order by a Coroner or a Court is issued, or an applicant has obtained; prior to commencing the exhumation both:

- Approval for exhumation by NSW Department of Health in accordance with the provision of Public Health (Disposal of Bodies) Regulation, 2012; and
- Approval from Council as per the *Cemeteries and Crematoria Act 2013*, Section 66

An exhumation of cremated remains does not require NSW Health approval and can be conducted with Council approval only.

4.19. Mohammedan Section of the Cemetery

Interment Rights in the Mohammedan Section of the Cemetery are treated differently to other sections of the Cemetery due to historical reasons.

Several members of the Mohammedan community have been provided with the Interment Rights at no charge, resolved at the Council's Ordinary Meeting held 30 April 2014.

All further interments in this section for those not specified in Council's resolution, will have the Interment Rights fee applied at the time of burial.

4.20. Prohibited Activities within the Cemetery

A person must not engage in any of the following activities within the Cemetery:

- Damage, deface, interfere with or alter grave sites;
- Damage, deface, interfere with or alter monuments;
- Bury, inter or exhume any human remains, cremated or not;
- Scatter of ashes anywhere in the cemetery without prior approval;
- No animals are permitted in the Cemetery unless riding a horse or leading a dog on a leash;
- Take part in any gathering, meeting or assembly without Council knowledge or that could be deemed disrespectful;
- Engage in trade or commerce without Council's written consent;
- Distribute any notices, advertisements, paper drawn or photographic material without prior Council consent;
- Drive a vehicle at a speed of more than twenty (20) kilometres per hour;
- Drive a vehicle or a vehicle and trailer having an unladen weight of more than three (3) tonnes;
- Drive a vehicle through the Cemetery for the purpose of travelling between places outside of the Cemetery;
- Park a vehicle on any known grave site, verge or plantation, or in a manner that is likely to impede traffic;
- Teach, learn or practice driving a vehicle;

- Camp or reside on any Cemetery land;
- Possess or consume an alcoholic or intoxicating beverage or substance;
- Urinate or defecate;
- Bring or leave any rubbish, refuse, scrap metal (including remains of vehicles), rock, soil, sand or any other such substances;
- Remove any dead timber, logs, trees, flora, whether standing or fallen;
- Kill, capture or in any way interfere with any animal, bird, or other fauna, whether native or introduced;
- Plant any tree, shrub, herbage, or other flora without prior Council consent.

5. IMPLEMENTATION

5.1. Roles and Responsibilities

The following Council Officers are responsible for the implementation and the adherence to this policy:

- General Manager
- Director Infrastructure and Environment
- Strategic Asset Management Coordinator
- Council staff

5.2. Communication

This Policy will be communicated to the community and staff in accordance with Council's Policy, Procedure and Process Framework and Council's Business Paper process. Following adoption by Council the Policy will be made available on Council's website.

5.3. Associated Documents

The following documentation is to be read in conjunction with this policy.

- Cemetery Operations Application Form
- Construction of Private Works on Council Reserve
- Broken Hill City Council Website – Cemetery Operations

6. REVIEW

Review of this policy will incorporate relevant legislation, documentation released from relevant state agencies and best practice guidelines.

The standard review period will be within each term of Council following the Local Government Elections, or as required to ensure that it meets legislation requirements and the needs of the community and Council. The responsible Council officer will be notified of the review requirements three (3) months prior to the expiry of this policy.

The Director Infrastructure and Environment is responsible for the review of this policy.

7. LEGISLATIVE AND LEGAL FRAMEWORK

This policy is to be read in conjunction with the following:

- Australian Standard AS 4204-1994 Headstones and Cemetery Monuments;
- Australian Standard AS 4425-1996 Above-Ground Burial Structures.
- *Anti-Discrimination Act 1977*;
- *Births, Deaths and Marriages Registration Act 1995*;
- *Cemeteries and Crematoria Act 2013*;

- *Coroners Act 2009*;
- *Crown Lands Act 1989*;
- *Crown Land Management Act 2016*;
- *Heritage Act 1977*;
- *Human Tissue Act 1983*;
- *Local Government Act 1993*;
- *Privacy and Personal Information Protection Act 1998*;
- *Public Health Act 2010*;
- *Public Health Regulation 2012*;
- *State Records Act 1998*;
- *Work Health and Safety Act 2011*.

Council employees shall refrain from personal activities that would conflict with proper execution and management of Council's Cemetery Management Policy. Council's Code of Conduct provides guidance for recognising and disclosing any conflicts of interest.

8. DEFINITIONS

'Adult' shall mean a person aged 13 years and 1 day and over.

'Applicant' shall mean the person making an application for an Interment Rights, Work Permit, enquiry, burial, relocation or exhumation. This could be a Funeral Director, Monumental Mason or a family member or friend.

'Interment' shall mean the placement of the remains of a deceased person in a grave, plot, or niche.

'Grave Site' shall mean a grave site, vault site, memorial site or other place for the commemoration of the remains of the dead.

'Child' shall mean a person aged 0 up to 13 years of age.

'Council' shall mean the Broken Hill City Council.

'Interment Rights' shall mean a certificate that provides a person with the authorisation of who can be interred or exhumed from a grave. The Interment Rights do not give the holder any equity or property holding in the Cemetery.

'Exhumation' shall mean the removal of the remains of a deceased person from a grave.

'Fee' shall mean a fee fixed by Council in its annual Schedule of Fees and Charges.

'Funeral Director' shall mean person(s) whose business is the management of funerals and conducts a funeral and/or interment.

'Grave' shall mean an occupied burial site.

'Monument' shall mean any structure, plaque, headstone, masonry, metal work, casting or item placed over, in or around a grave or plot.

'Monumental Mason' shall mean a tradesman mason or person possessing the skills to carry out monumental masonry work.

'Plot' shall mean:

- An unoccupied burial site;
- A burial site within the Rose Garden.

'Pre-Selection' shall mean the selection of a spare plot at a specific location.

'Register' shall mean the Council's formal repository of data containing all the required details of burial, cremation, memorial site or right of burial. (Note: limited records are available prior to 1973).

'Slab' shall mean the slab of concrete or other stone covering the grave site.

'Spare Plot' shall mean an unoccupied grave site that has been selected, purchased and marked as a spare plot for a future interment.

'Old Grave' – shall mean an unmarked grave with no headstone or monument present.

'Sloper' shall mean a concrete or granite block with a sloping face, where the inscription on a bronze plaque is placed. These are commonly used in the Rose Garden and Native Garden at the Broken Hill Cemetery.