

INFRASTRUCTURE AND ENVIRONMENT COMMITTEE

July 29, 2025

ITEM 2BROKEN HILL CITY COUNCIL REPORT NO. 172/25SUBJECT: DRAFT CEMETERY MANAGEMENT POLICY D25/33788**Recommendation**

1. That Broken Hill City Council Report No. 172/25 dated July 29, 2025, be received.
2. That Council endorses the Draft Cemetery Management Policy for the purpose of public exhibition.
3. That the Draft Cemetery Management Policy be exhibited for public comment for a period of 28 days.
4. That a report be presented to Council at the conclusion of the public exhibition period, outlining the public submissions received and any recommended amendment arising, with a view to adopt the Draft Cemetery Management Policy.

Executive Summary:

Council's Cemetery Management Policy has been reviewed following advice from Cemeteries and Crematoria NSW (CCNSW), that a Bill to amend the *Cemeteries and Crematoria Act 2013* (NSW) (the Act) has been passed by both Houses of Parliament.

The amendments and purpose of the changes to the Act is to improve cemetery operations for Council as the Cemetery Operator, include the following:

- **Improve Regulation and Consumer Protection**
CCNSW now has greater powers to resolve complaints and oversee operator compliance.
- **Simplify Monument Repairs**
Allows others (not just interment right holders) to carry out minor repairs, with operator consent.
- **Address Burial Space Shortages**
Introduces a new exemption scheme so unused burial areas can be reused with ministerial approval.
- **Clarify Notification Requirements**
Operators must follow clear guidelines when contacting interment right holders before making changes.
- **Strengthen Governance**
Replaces the CCNSW board with a CEO-led structure for clearer oversight and accountability.
- **Respect Cultural and Religious Needs**
Updates Act's objectives to include consideration for all cultural beliefs and descendants of those interred.

The 2025 changes to the Act will significantly impact cemetery operators by introducing new compliance requirements, improving regulatory oversight, and offering greater operational flexibility. One of the most notable changes is the enhanced powers granted to CCNSW, allowing it to investigate complaints, enforce compliance, and issue mandatory codes of practice at any time. Cemetery operators will now be required to follow formal notification guidelines before carrying out any works on graves or memorials. This includes making reasonable efforts to contact interment right holders, using clear and traceable processes, and keeping records of those efforts.

Operators will also benefit from new flexibility in managing monument repairs. Under the amendments, third parties, such as family members, can undertake minor repairs if the interment right holder cannot be reached, provided the cemetery operator gives consent. This change helps reduce delays and administrative burdens in maintaining grave sites. Additionally, the legislation introduces a ministerial exemption scheme, allowing cemetery operators to apply to reuse unused or dormant burial space within existing cemeteries. This aims to address long-term land shortages and supports more sustainable cemetery operations.

Governance structures have also changed, with the dissolution of the CCNSW Board and the establishment of a CEO-led regulatory model. This is expected to streamline decision-making and improve regulatory efficiency, although it may also lead to increased direct oversight of operator practices. The Act's updated objectives further require cemetery operators to ensure their services are inclusive of all religious, cultural, and community needs, including recognition of descendants. Overall, these reforms mean operators will face increased accountability but also gain new tools to manage land use and improve service delivery. Most changes come into effect from 1 September 2025, while governance reforms commenced on 1 July 2025.

Report:

Council's Cemetery Management Policy has been reviewed following the recent changes to the *Cemeteries and Crematoria Act 2013* in accordance with the Cemetery's compliance with regulatory and legislative requirements of the Act.

The purpose of the Cemetery Management Policy is to provide a simple yet effective approach for the short and long-term management of the Broken Hill Cemetery. The policy provides guidance for understanding how Council manages the Cemetery and the framework as to how staff administer cemetery management.

The gaps identified have been included in the review of Council's Cemetery Management Policy, with the relevant regulatory and legislative requirements for cemetery authority being updated and some minor changes made to the policy as per the Act.

Further inclusions are the requirements for consumer contract with the introduction of the Contract for Perpetual Interment Right for new interments/burials, improvement to the process of conducting monumental repairs/restoration and cultural and religious practices for a cemetery operator.

<p>New Policy Item added Item 4.7 Contract for Perpetual Interment Rights Addition to Part 4 of the <i>Cemeteries and Crematoria Act 2013</i>. Consumer Contracts for sale of Perpetual Interment Rights for new interments/burials.</p>	<p>Part 4 of the <i>Cemeteries and Crematoria Act 2013</i> introduced two types of Interment Rights, perpetual and renewable, and a series of obligations in relation to Interment Rights.</p> <p>A Perpetual Interment Right Contract is the agreement for the sale of the right to have human remains interred in a specific location within the cemetery. The right is to remain undisturbed indefinitely. This contract is between Council and the individual purchasing the Interment Right, and it outlines the terms and conditions of the interment, including the location, related services and payment details.</p>
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<p>New Policy Item added Item 4.12 Monument Repairs/Restoration</p> <p>Making it simpler to repair monuments.</p> <p>New Division, Sections 70A-70I and Section 68 in the <i>Cemeteries and Crematoria Act 2013</i>.</p>	<p>In accordance with the <i>Cemeteries and Crematoria Act 2013</i>, Division 2A, Sections 70A-70I and Section 68A, non-right holders will be able to repair a monument and undertake minor works, if the Interment Right holder is unavailable or deceased and the appropriate consent is granted by Council.</p> <p>To obtain Council consent a Statutory Declaration will be required stating the non-right holder's intentions and identifying their relationship to the interred. Upon receipt of Council consent the non-right holder will be able to:</p> <ul style="list-style-type: none"> • Repair or remediate a monument (actions aimed at restoring its original state). • Carry out minor works to realise the right holder's original intentions, such as adding a name, date of birth and death, or portrait. • Erect a monument at an unmarked grave, if more than five (5) years have passed since the last interment/burial. <p>Requests to erect a monument on an unmarked grave, dated prior to 1970, will require the non-right holder to purchase the 'Interment Right for an Old Grave'. This is offered at a lesser fee for the purpose of identifying unmarked graves at the Broken Hill Cemetery, as outlined in Item 4.9 in this Policy.</p> <p>An Interment Right, including Work Permit is to be purchased for works on unmarked graves, dated after 1970, that do not have an existing Interment Right.</p> <p>Interment Rights purchased before 2004, will require a Work Permit to carry out works on a grave.</p>
<p>New Policy Item added Item 4.21 Religious and Cultural Requirements.</p> <p>Strengthening respect for Religious and Cultural Requirements (Amendment to Section 46(1)(b) of the <i>Cemeteries and Crematoria Act 2013</i>)</p>	<p>Religious, cultural and spiritual practices are an important element of cemetery and crematoria operations, and this is reflected in regulatory requirements.</p> <p>Council will take all reasonable steps to meet religious and cultural requirements in all areas of the cemetery, including in parts of the cemetery dedicated to religious or cultural groups in accordance with Section 46(1)(b) of the <i>Cemeteries and Crematoria Act 2013</i>.</p>

The recent review of the Cemetery Management Policy in accordance with the legislated changes to the *Cemeteries and Crematoria Act 2013*, also identified the following inclusions and amendments to the Policy:

<p>Policy Item 4.3 Details Relevant to Interment Rights and Burials</p> <p>Amended to include additional information to improve record-keeping and the register, Sections 63(9), 65 and 67 in the <i>Cemeteries and Crematoria Act 2013</i>.</p>	<p>Item 4.3 moved to Item 4.5 to improve flow of policy.</p> <p>Inclusion</p> <p>b) Record any changes to Interment Right as a result of a transfer, revocation, or death of the holder of an Interment Right and update the Interment Right Certificate and reissue any time the holder of the Right changes in accordance with Sections 63(9), 65 and 67 of the Act.</p>
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Policy Item 4.4 Details Relevant to Disturbance and/or Removal of Remains	Item 4.4 moved to Item 4.20 to improve flow of policy.
Policy Item 4.5 Fees and Charges	Item 4.5 moved to Item 4.4 to improve flow of policy.
Policy Item 4.6 Interment Rights and Work Permits Amended Item title Amended to include additional information as outlined in changes to the <i>Cemeteries and Crematoria Act 2013</i> . Streamlining the revocation of unused rights (Sections 52 and 53) Inclusion of Revoke/Resell unused Interment Rights.	Inclusions Interment Rights were introduced in NSW in 2018 with the commencement of Part 4 of the <i>Cemeteries and Crematoria Act 2013</i> , replacing common law rights previously known as 'Burial licences', 'burial' permits or 'Exclusive Rights'. Interment Rights are perpetual and 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. An Interment Right may be jointly owned by up to two individuals. All decisions must be made together, requiring the consent of both right holders. <ul style="list-style-type: none"> • <i>Revoke/Resell unused Interment Rights.</i> According to Part 4 Section 52 and 53 of the <i>Cemeteries and Crematoria Act 2013</i>, if an Interment Right for a grave remains unused for 50 years, Council may revoke the Interment Right, to resell it. However, Council must make every effort to notify the Interment Right holders before taking any action.
Policy Item 4.15 Interments Amended to include additional information	Item 4.15 moved to Item 4.3 to improve flow of policy. Inclusion Burial of animal remains in any part of the cemetery is strictly prohibited.
Policy Item 4.19 Mohammedan Section of the Cemetery Amended Item title and wording	Item 4.19 moved to Item 4.21.1 to improve flow of policy. Amended 4.21.1 Muslim Section of the Cemetery Interment Rights in the Muslim Section (formerly known as the Mohammedan Section) of the Broken Hill Cemetery are treated differently to other sections of the Cemetery due to historical reasons. Several members of the Muslim community have been provided with the Interment Rights at no charge, resolved at the Council's Ordinary Meeting held 30 April 2014.
Policy Item 4.20 Prohibited Activities within the Cemetery Amended to include additional information	Item 4.20 moved to Item 4.22 to improve flow of policy. Inclusion Burial of animal remains in any part of the cemetery is strictly prohibited.
New Policy Item 4.23 Scattering of Ashes Amended to include additional information	Inclusion The scattering of ashes on any Council owned land is subject to application for approval and is assessed on a case by case basis.
Policy Item 8 Definitions Amended definition	Interment - Refers to the placement of human remains – whether bodily remains through burial or cremated remains through ash interment – either below ground or within above-ground

	structures.
Additional Definitions included in Policy	Interment Right Contract - Refers to agreement between the cemetery operator (Council) and the Interment Right holder.
	Interment Right Holder - Is a person recorded in the cemetery register as the right holder. A right may be held individually, or jointly with another right holder.
	Perpetual - Refers an Interment Right grants the holder the right to have human remains buried in a specific location within a cemetery, with that right enduring indefinitely. This means the remains may remain undisturbed at that location permanently, and the interment right can be passed down to descendants or transferred to another person.

Community Engagement:

The Draft Cemetery Management Policy will be placed on public exhibition as per Section 335(d) of the *Local Government Act 1993*.

Strategic Direction:

Key Direction:	4	Our Leadership
Objective:	4.1	Openness and transparency in decision making
Strategy:	4.1.4	Support the organisation to operate within its legal framework

Relevant Legislation:

- *Anti-Discrimination Act 1977*
- *Births, Deaths and Marriages Registration Act 1995*
- *Cemeteries and Crematoria Act 2013*
- *Coroners Act 2009*
- *Crown Land Management Act 2016*
- *Heritage Act 1977*
- *Human Tissue Act 1983*
- *Local Government Act 1993 Section 335(d)*
- *Privacy and Personal Information Protection Act 1998*
- *Public Health Act 2010*
- *Public Health Regulation 2022*
- *State Records Act 1998*
- *Work Health and Safety Act 2011*

Financial Implications:

There are no financial implications to review the Policy.

Attachments

1. [↓](#) Draft Cemetery Management Policy

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