

TEMORA SHIRE COUNCIL



Temora Shire Council Cemeteries Policy

ACTIVE

Review Details

ABOUT THIS RELEASE

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REVIEW

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PLANNED REVIEW

Planned Review Date	Revision Description		Review by
October 2021	Review		Belinda Bushell

1. PURPOSE

The policy will assist in the administration, management and maintenance of the Temora Shire cemeteries. It provides effective guidelines that will assist in ensuring the objective functions of the cemeteries are carried out in accordance with statute and common law, regulation and National Standards. It will also ensure the conduct of those entering the cemeteries is in accordance with reasonable and practical standards.

2. STATEMENT**2.1 Citation**

This Policy may be cited as 'The Policy" or "The Temora Shire Council Cemeteries Policy".

2.2 Commencement

This Policy is to commence as of ?

2.3 Application

2.3.1 This Policy applies to all cemeteries and memorial gardens administered, operated and maintained by Council.

2.3.2 This Policy does not affect the operation of the Public Health Act (Disposals of Bodies) 2002 NSW relating to cemeteries and crematoriums.

2.4 Definitions

2.4.1 *Applicant* means the person making an application –

- a) For a burial or memorial right;
- b) For a work permit or other Council consent;
- c) For burial or cremation;
- d) In accordance with the Regulations of the Public Health Regulations 2012, has applied to have human remains cremated.

2.4.2 *Application Forms* for:

- a) Rights of Burial,
- b) Burials,
- c) Plaque Inscriptions
- d) Cremation Service Bookings
- e) Monument and Related Permits to Carry Out Work in the Cemeteries Shall be in a format approved by the Council.

2.4.3 AS-4204 means the Australian Standards Association's Standard 'AS 4204-1994 Headstones and Cemetery Monuments'.

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

2.4.5 Burra Charter means "The Burra Charter (The Australia International Council on Monuments and Sites (ICOMOS) Charter for Places of Cultural Significance)".

2.4.6 By Law or Crown Lands Bylaw means Crown Lands (General Reserves) By Law 2006.

- 2.4.7 Casket is a general term to describe coffins and casket used to hold human remains.
- 2.4.8 Public Health Regulation means ‘Public Health Regulation (Disposal of Bodies) 2012’.
- 2.4.9 Reservations means a pre-need burial right.
- 2.4.10 Interment Right is a written undertaking by the Temora Shire Council (Council) to grant a license to occupy a specific grave, burial site or immurement chamber, without interference once the remains of a deceased person have been placed in it.
- 2.4.11 Structure In Cemeteries means any monument, memorial, foundation, vault, table, headstone, gravestone, kerbing, rail or other structure used to mark or commemorate a grave or place of remembrance in a cemetery or memorial gardens.
- 2.4.12 The Policy means this Policy.

3. PROVISIONS

3.1 Management of Cemeteries

3.1.1 Administration

3.1.1.1 Council is responsible for the administration and management of plot and niche purchases, transfer of interment rights, approvals for monumental works, issuing approvals to work in cemeteries, maintenance of cemetery grounds and the interment of ashes into the columbarium walls.

3.1.1.2 Council offers to burial options within its operational cemeteries – interment into a plot or interment into a niche in the columbarium wall (available only at the Temora Lawn Section and Ariah Park Lawn Section) at the completion of the application process the applicant will be issued with the interment right. The interment right is a legal document that will only be issued once for any individual plot or niche.

3.1.1.3 In accordance with legislation Council will collect the information necessary to meet its requirements for a cemetery register. Council’s cemetery register is available at Council.

3.1.1.4 Reservations in the Temora and Ariah Park Lawn Cemeteries are only permitted on special application to Council and in such cases where permitted, a non-refundable deposit of 150% of the current interment fee is to be paid. The balance of the interment fee at the actual time of interment is to be paid at the presiding rate (see Fees and Charges).

NOTE: No reservations are to be taken without receiving payment.

3.1.2 Planning Conduct and Maintenance of Cemeteries

Council will make such provisions as it consider necessary for the following:

- 3.1.2.1 The setting aside of sections for different types and classes of burials;
- 3.1.2.2 The establishment of standards of construction and design of monuments and structures;
- 3.1.2.3 The size, multiple use and location of burial places;
- 3.1.2.4 Interments and entombments in vaults;
- 3.1.2.5 The carrying out of work by funeral directors in the cemeteries
- 3.1.2.6 The erection or installation of structures and the making of inscriptions;
- 3.1.2.7 The carrying out of work by monument masons in the cemeteries;
- 3.1.2.8 The qualifications required by; and the security deposits to be lodged by, monument mason;
- 3.1.2.9 The removal, replacement and maintenance of structures;
- 3.1.2.10 The improvement and maintenance of cemeteries;
- 3.1.2.11 The making of arrangements for the care of burial places on an annual or other basis;
- 3.1.2.12 The supply of goods and services incidental to the conduct of burials and other matters relating to cemeteries
- 3.1.2.13 The conduct of religious or other ceremonies of burial, cremation, disposition or commemoration.

3.1.3 Interment Right

- 3.1.3.2 An interment right does not grant the holder ownership over that piece of land, rather, it gives exclusive entitlement to the holder to inter the remains of a deceased person in the reserved plot and section.
- 3.1.3.3 An interment right will be granted in perpetuity.
- 3.1.3.4 Council reserves the right to refuse or grant an interment right and will only issue an interment right for plots that have been surveyed by Council.
- 3.1.3.5 Interments will only be permitted in Council cemeteries with written approval issued by Council. Funeral directors, monumental masons and grave diggers must first contact Council to determine the allocation of a burial plot or confirmation of an existing reservation or reopening of a burial plot.
- 3.1.3.6 Following the death of the holder of the interment right, the interment right becomes the part of the estate of the deceased and any disputes over ownership are a civil matter in which Council does not become involved. Interested parties must seek their own legal advice regarding the matter and then provide documentation to prove a legitimate claim to the interment site for subsequent applications to proceed.
- 3.1.3.7 Council holds the exclusive right to close a section of any cemetery and to refuse to issue an interment right for a closed section. Although a cemetery may appear to have vacant land

available for burials, there may be reserved plots or unknown/unmarked graves preventing further use.

- 3.1.3.8 Council does not permit the placement of new vaults or crypts in any cemeteries under its authority.

3.1.4 Transfer of Interment Right

- 3.1.4.2 Council will not reimburse fees paid for an unwanted plot or niche. If the interment right for a plot or niche is resold privately, then Council is to be notified. The original interment right will be required and a transfer is not legally complete until Council has endorsed the transfer.
- 3.1.4.3 Council will only accept the transfer of an interment right if:
- (a) The interment site, as described in the interment right, has not been used for interment.
 - (b) The interment site is free of structural additions, for example a headstone, marker, etc.
- 3.1.4.4 Council reserves the right to refuse to accept the transfer of an interment right from the holder.

3.1.5 Register of Burial Places and Cremation

- 3.1.5.2 A register of burial, as required by the Regulation of the Public Health Act, must be kept in respect of all burial places.
- 3.1.5.3 A register of cremation, as required by the Regulations of the Public Health Act, must be kept in respect of each cremation.
- 3.1.5.4 A register of Rights of Burial granted must be kept.
- 3.1.5.5 Each register, which may be kept in written, printed or electronic form, must contain sufficient information to allow for simple cross-referencing of entries by –
 - a) Surname
 - b) Date of Burial or Cremation
 - c) Burial Place location
- 3.1.5.6 Each register entry must contain the name and address of the owner of the burial right.
- 3.1.5.7 Each burial or cremation must be recorded in its respective register IMMEDIATELY after the service.
- 3.1.5.8 Registers may be amended to remove or correct inaccuracies.
- 3.1.5.9 The Council, must on application made by any person, make available to the person a copy of any entry made in the burial or cremation registers.
- 3.1.5.10 Such applications shall be made on an approved form and/or written correspondence;
- 3.1.5.11 Each form shall be limited to a single register entry;
- 3.1.5.12 A fee, as approved by the Council from time to time, may be charged for each application.

- 3.1.5.13 The registers will be used in any proceedings requiring evidence of the identity of the holder of an exclusive right that has been granted in respect of any burial or memorial site.

3.1.6 Reservation

- 3.1.5.1 The Council will issue to the owner of a reserved plot an approved form, clearly showing –
a) The owners name and address;
b) The amount paid;
c) The date of issue;
d) A description of the physical location of the grave;
e) The terms and conditions under which the certificate is issued.
- 3.1.5.2 The application for a reserved plot must be made of a form approved by Council.
- 3.1.5.3 Any fees relating to the purchase and issue of the certificate must be paid at the time of application.

3.1.6 Hours of Burial, Cremation and Exhumation

Burials, cremations and exhumations shall take place only during the hours approved by Council. The hours are as follows and exclude Sundays or Public Holidays:

- (a) Monday to Friday – 10:00am to 3:00pm
(b) Saturday – 9:00am to 11:00am

NOTE: If special application is made for outside of the abovementioned hours than Council will need to apply an additional fee (See Fees & Charges).

- 3.1.7 Exhumation
- 3.1.7.1 Exhumation is NOT to take place unless –
a) Prior written consent has been obtained from the Director General Of The Department of Health (NSW) and
b) Order for Exhumation has been issued by Council.
- 3.1.7.2 This clause does not apply if any exhumation has been ordered by a court.

3.2 Miscellaneous

- 3.2.1 A person must not do any of the following (within a cemetery) –
- a) Damage, deface, interfere with or alter burial places;
 - b) Damage, deface, interfere with or alter monuments;
 - c) Bury, inter or exhume any human remains, whether cremated or not;
 - d) Enter or remain in a cemetery between sunset and sunrise;
 - e) Cause or permit an animal that is under the person's control to enter or remain in a cemetery;
 - f) Take part in any gathering, meeting or assemble, except for the purpose of religious, research, historical, educational or other ceremony of burial or commemoration; or
 - g) Engage in trade or commerce without the written consent of the council;
 - h) Distribute any circulars, advertisements, paper drawn or photographic material without prior council consent;
 - i) Drive a vehicle at a speed of more than 8 kilometres per hour;
 - j) Drive a vehicle or a vehicle and trailer having an unladen weight of more than 3 tonnes;
 - k) Drive a vehicle through a cemetery for the purpose of travelling between places outside of the cemetery;
 - l) Park a vehicle on any known burial place, verge or plantation, or in a manner that is likely to impede traffic;
 - m) Teach, learn or practice driving a vehicle;
 - n) Camp or reside on any land;
 - o) Possess or consume an alcoholic or intoxication beverage or substance except from that directly associated with a funeral service;
 - p) Urinate or defecate;
 - q) Bring into or leave any rubbish, refuse, scrap metal (including remains of vehicles), rock, soil, sand or any other such substances;
 - r) Remove any dead timber, logs, trees, flora, whether standing or fallen;
 - s) Kill, capture or in any way interfere with any animal, bird, fish or other fauna, whether native or introduced;
 - t) Plant any tree, shrub, herbage or other plant without prior consent.

Penalty: Offenders may be prosecuted under Common Law, Statute Law, The Heritage Act, The Health Act (NSW 1991), The Criminal Code or fined under Section 632 of the Local Government Act.

- 3.2.2 Subsection 3.2.1 e) does not prevent a person from leading or walking a dog on a leash.
- 3.2.3 Council's written consent is required to legally carry out any act that might otherwise give rise to an offence under this clause.

3.3 Requirements for Graves

3.3.1 The dimensions of a grave shall be a maximum of –

- a) 1000mm x 2400mm for adult graves;
- b) 900mm x 1500mm for children's graves.

3.3.2 The number of interments permitted in a grave shall be in strict accordance with the Regulations of the Public Health Act (NSW) Regulation. For the purpose of this clause –

- a) 3 infants shall be treated as one adult (infant being defined as up to 1 year old);
- b) 2 children shall be treated as one adult (child being defined as from 1 year to 7 years old);
- c) Prior written consent has been obtained from the Director-General of the Department of Health (NSW) to vary the number of interments.

3.3.3 This section does not affect the interment of cremated remains.

- (a) The interments of cremated remains are to be buried at a minimum of 300mm below finished ground level. The site is to be returned to its previous state and not cause disruption to surrounding graves.

3.4 Above Ground Entombment

All entombments above ground shall be in accordance with the Cemeteries & Crematoria Association of New South Wales policy document.

3.5 Monuments and Inscriptions

3.5.1 A person shall not, in a cemetery –

3.5.1.1 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) A material and design approved in writing by the Council;
- b) Carried out to the standard of workmanship required by the Council;
- c) An constructed in accordance with AS4204- "Monuments & Headstones" (1994)

3.5.1.2 Make any inscription or carry out any adornment, unless it is approved by the Council and made or carried out to the standard required by the Council.

3.6 Funeral Directors & Monument Masons

- 3.6.1 At the completion of a service of interment or burial. An identification cross is to be temporarily installed. This identification is to clearly mark the surname and plot number (if applicable).
- 3.6.2 Any person or business providing or carrying out monument masonry services in a cemetery, including the construction, erection, repair and restoration of structures over burial plots, must comply with the Policy.
- 3.6.3 Any person or business providing or carrying out funeral directing services in a cemetery must comply with the requirements of the Policy.

3.7 Removal of Structures

- 3.7.1 A person may not
 - 3.7.1.1 Remove a monument, memorial, foundation, vault, table headstone, gravestone, kerbing, rail or other structure from a cemetery without the written permission of the Council.
 - 3.7.1.2 Erase, correct, or require the erasure or correction of wording of any inscription that has been constructed, installed, made or carried out –
 - a) Without the written consent of the Council; or
 - b) Otherwise than in accordance with an approval given by Council.
- 3.7.2 The Council may –
 - 3.7.2.1 Remove, demolish, alter or require the removal, demolition or alteration of any structure or any adornment, or
 - 3.7.2.2 Where any work that has been approved is not completed within a reasonable time, remove or demolish such partially finished work as it deems necessary to preserve the fabric of the cemetery and public safety.

3.8 Removal and replacement of structures on request

When notice to open a grave, vault or crypt for a lawful purpose is given in accordance with Council's Policy, the Council may:

- 3.8.1 Arrange for the removal of any part of the structure to enable the safe opening of the grave or vault, after;
 - a) The lodgment of proof of ownership
 - b) The payment of the scheduled fees and related costs;
- 3.8.2 Require the grantee or applicant to make good the repair of the structure affected by
 - a) Within 14 days of the interment or service date.

3.9 Maintenance of Structures

- 3.9.1 The Council shall not be responsible for the upkeep, maintenance, repair etc. of any monument or structure;
- 3.9.2 The Council's responsibility for any structure in a cemetery is limited to its preservation as defined in the Burra Charter, i.e. 1.6
Preservation means maintaining the fabric of a place in its existing state and retarding deterioration".
- 3.9.3 The maintenance, repair or restoration of a structure in a cemetery is the responsibility of the state or heirs and successors of the deceased person buried or commemorated in the respective (burial) plot.
- 3.9.4 The Council may act to remove any structure which has become dilapidated, unsightly, is crumbling, or deemed to be unsafe by a risk assessment conducted by the Council.
- 3.9.5 The Council may remove any trees, shrubs or other vegetation from any cemetery where, in its opinion, it is in the interest of the cemetery to do so.
- 3.9.6 The Council has adopted to replace the rows in the Temora Lawn Cemetery. These replacements are as per Council scheduled capital works programs.

3.10 Unsafe Monuments

Council is responsible for the health and safety of those visiting and working in the cemeteries. When hazards, including unsafe structures, are identified Council will act promptly to eliminate them.

3.10.1 Identification and Reporting

Identification of unsafe structures shall be by Risk Assessment and/or Hazard reporting as prescribed in the Council's Occupational Health, Safety & Rehabilitation Manual. Consequent actions under this clause will be thoroughly documented and supported with photographs. All actions will be recorded against the respective cemetery register entry.

3.10.2 Subsidence

Where subsidence is evident, Council will fill and compact the ground in the normal manner.

3.10.3 Repair of Monument

Council WILL NOT repair monuments. Council will only act to make structures safe to ensure public and employees safety.

3.10.4 Category 1 Monuments

- 3.10.4.1 Structures identified as unsafe or a hazard will be secured with temporary barriers and warning signs.
- 3.10.4.2 Council will attempt to write to the last known applicant for the burial plot, giving 30 days' notice for the applicant or deceased's estate to arrange for the proper repair or restoration or complete removal of the structure.
- 3.10.4.3 When there is no record of an applicant, a single public notice will be placed in the local press media advising that within 30 days Council will take reasonable action to eliminate the risk or hazard posed by the unsafe structure.
- 3.10.4.4 Reasonable action may include laying a headstone down and removing crumbling or deteriorating concrete, aggregate or stone materials.

3.10.5 Heritage Monuments

- 3.10.5.1 Monuments 50 years and older are considered to be of heritage significance and require additional approvals from Council's Heritage Advisor before work may commence.
- 3.10.5.2 When assessing requests for work on heritage monuments, Council must consider:
 - (a) The National Trust Guidelines for Cemetery Conservation.
 - (b) The Temora Shire Council Local Environmental Plan 2010 which lists three (3) Temora Shire Council cemeteries as being local heritage significance.

3.11 Lawn Cemetery Sections

3.11.1 The Council will ensure that it –

- 3.11.1.1 Maintains, preserves, and repairs lawn cemetery grave surrounds, not monument plaques;
- 3.11.1.2 Graves are not enclosed with any railing or kerbing;
- 3.11.1.3 Only cut flowers are left at burial places in lawn cemeteries;
- 3.11.1.4 Cut flowers are placed in vases of a type approved by Council;
- 3.11.1.5 Artificial flowers are permitted in lawn cemetery sections provided they are securely fixed into a vase approved by council;
- 3.11.1.6 Grounds maintenance staff will, without notice, remove and dispose of artificial flowers that:
 - a) In their opinion, are not securely fixed in the vase;
 - b) Are left loose or strewn about by wind animals etc.;
 - c) Have faded or become disheveled.
- 3.11.1.7 No headstone, statue or other structure is erected or constructed over a grave in a lawn section;

- 3.11.1.8 No tree, shrub or other plant is placed or planted on any grave in a lawn section other than by Council at its absolute discretion.
- 3.11.2 The Council shall place over each grave in the Lawn Section, as soon as practicable after a burial or interment has taken place in that grave, and upon receipt of written instructions from the grantee, a memorial plaque, supplied by the Council, of a standard size and type as determined by the Council.
- 3.11.3 The applicant for the burial of their delegate may apply to privately supply and fix a memorial plaque in Lawn Cemetery Sections provided that –
 - 3.11.3.1 A formal application in accordance with PART 6 of this policy has been lodged with Council;
 - 3.11.3.2 All fees as scheduled by Council for the lodgment of the application have been paid;
 - 3.11.3.3 The design and type of plaque is consistent with the requirements determined by Council;
 - 3.11.3.4 Council has given its written approval.
- 3.11.4 Council will not be liable for the repair, maintenance, upkeep or preservation of any plaque or item placed on a grave in a lawn cemetery under the provisions of this section of the Policy.
- 3.11.5 When a plaque is placed and approved at the time of interment and, the applicant or grantee chooses to alter or replace the plaque. The applicant or grantee must pay any costs incurred.

3.12. Monument Sections

- 3.12.1 The Council will ensure that –
 - 3.12.1.1 It maintains preserves and repairs the ground surface around cemetery graves;
 - 3.12.1.2 Graves are not enclosed with any railing or kerbing;
 - 3.12.1.3 Only cut flowers are left at burial places in Monument Lawn Cemeteries;
 - 3.12.1.4 Cut flowers are placed in vases of a type approved by Council;
 - 3.12.1.5 Artificial flowers are permitted in lawn cemetery sections provided they are securely fixed into a vase approved by Council;
 - 3.12.1.6 Grounds maintenance staff will, without notice, remove and dispose of artificial flowers that:
 - a) In their opinion, are not securely fixed in the vase;
 - b) Are left loose or strewn about by wind, animals etc.; have faded or become disheveled
 - 3.12.1.7 No tree, shrub or other plant is placed or planted on any grave in a monument lawn section other than by Council at its absolute discretion.

- 3.12.2 In a monument section, the grantee shall –
 - 3.12.2.1 Only erect a headstone of a type and design that is in keeping to its surroundings or the like;
 - 3.12.2.2 Make a formal application to the Council.
 - 3.12.2.3 Pay all fees for the lodgment of the application.
- 3.12.3 Council will not be liable for the repair, maintenance, upkeep or preservation of any headstone or structure placed on a grave.

3.13 Cremation

- 3.13.1 Cremation shall be in strict accordance with the Public Health Regulations and the procedures approved by Council from time to time
- 3.13.2 The disposition of cremated remains shall be in accordance with the Public Health Regulations.

4. IMPLEMENTATION

The Environmental Services Department will administer the Policy.

5. REVIEW

This policy will be reviewed within one year of the election of every new Council, or earlier should circumstances arise to warrant revisions.

6. APPLICATION OF ESD PRINCIPLES

The policy assists in achieving practical allocation of minimizing resources, primarily rights of burial (graves and burial plots) within cemeteries and memorial gardens.

It also encourages all new structures (monuments etc.) to be built in accordance with the best practices and standards, thereby making them as sustainable as possible.