
Function: Environment and Planning Department

Adopted:
Last reviewed:

Our Vision

Nambucca Valley ~ Living at its best

Our Mission Statement

‘The Nambucca Valley will value and protect its natural environment, maintain its assets and infrastructure and develop opportunities for its people.’

1.0 INTRODUCTION

This policy outlines the overall principles that underpin how Council manages its cemeteries in order to comply with legislative requirements and to provide a dignified and responsive cemetery and memorialisation service to the community. This policy applies to all cemeteries under the care, control and management of Nambucca Shire Council.

2.0 POLICY OBJECTIVE

To provide a dignified and responsive cemetery and memorialisation service to the community.

3.0 RELATED LEGISLATION

- Cemeteries and Crematoria Act 2013
- Cemeteries and Crematoria Regulation 2014
- Local Government Act 1993
- Public Health Act 2010
- Public Health Regulation 2012
- Work Health and Safety Act 2011
- Privacy and Personal Information Act 1998

4.0 PRINCIPLES

- 1 To provide places for quiet and safe remembrance of the dead.
- 2 To provide sites within cemeteries for the lawful disposal of human remains.
- 3 To provide equitable access to burial sites to all members of the community.
- 4 To provide conditions in cemeteries which have regard to minimising any risk to health or safety of persons working in or entering cemeteries.
- 5 To consider conservation and heritage issues when making decisions relating to cemeteries, including planning for the future use of cemeteries.
- 6 To provide a cost effective and sustainable cemetery service within the Nambucca Shire.

5.0 INTERMENT IN COUNCIL CEMETERIES

5.1 Interment Rights

Human remains may only be interred in a burial site with the written permission of Council who will issue an interment right.

An interment right remains in force:

- (a) If it is a perpetual interment right—in perpetuity, and
- (b) If it is a renewable interment right—until the end of the period commencing on the day on which the interment right is granted and ending on the day the interment right expires (minimum period of 25 years).

5.2 Application for Interment Right

Application can be made to Council for an interment right in a burial site. Applications must be made by completing and lodging the relevant Council application form and paying the reservation fee (if applicable) and interment permit fee as determined in Councils Fees and Charges.

Applications should be lodged with Council at least two business days before the date of interment. Applications will not be accepted for the reservation of interment sites.

The application for an interment right must be accompanied by:

- a) A completed interment right application form;
- b) In the event a reserved interment site is being used:
 - i. Proof the applicant is a grantee of the burial site reservation that relates to the proposed interment; or
 - ii. The written consent of the surviving grantee of the burial site reservation that relates to the proposed interment which permits the applicant to lodge the application; or
 - iii. A statutory declaration from the applicant stating:
 - The applicant is not the grantee of the burial site reservation;
 - The applicant does not have the consent of the surviving grantee of the burial site reservation and the reason why such consent has not or cannot be obtained;
 - The relationship between the applicant and the subject person; and
 - Signed and dated Death/Cause of Death Certificate
- c) A \$1000.00 bond for the rectification of any damage associated with interring human remains in a burial site. The payment of this bond is at the discretion of the General Manager or Manager Development & Environment based off past working practices/outcomes of the applicant or their contractor within Councils cemeteries.

Council may require further information from the applicant at any time prior to determining an application. In the event a statutory declaration is submitted in accordance with iii above, Council will take into consideration whether the applicant has a sufficient relationship with the person whose remains are to be interred to warrant granting of an interment right to the applicant.

The grantee of an interment right is to ensure the interment takes place within 14 days of the granting of the interment right.

Interment rights will be subject to conditions as outlined within Appendix 1.

5.3 Exhumation

Exhumations are not to take place unless:

- a. Prior written consent has been obtained from the Director-General of the NSW Ministry of Health; and

b. Council has issued an approval for exhumation.

This clause does not apply if an exhumation has been ordered by a Court.

An exhumation shall be performed under the direction of NSW Department of Health staff. A Council representative shall also be in attendance.

All costs incurred in carrying out an exhumation shall be paid for by the applicant.

6.0 WORK UNDERTAKEN IN CEMETERIES

A person may not undertake work of any type in a cemetery unless that person, and those engaged by that person, have written approval from Council for the works. Conditional approvals are granted as part of an interment right or approval to erect or repair a headstone/monument. Approval for any other works will only be considered after lodging a separate written application to Council. Council must be provided with a copy of a valid Public Liability insurance policy.

6.1 Monumental Burial

Traditionally, *monumental burials* have been provided in all Council cemeteries since their establishment. Given the increased maintenance costs associated with *monumental burials*, Council will only permit them to be undertaken as infill within existing *monumental burial* sections of Councils cemeteries. In areas where Council has made provision for *monumental lawn burials*, *monumental burials* will not be permitted.

Applications are to be submitted to Council using the appropriate form for the erection/repair of headstones/memorials and the applicable fee paid, as determined by Council's Fees and Charges. Council will not issue a monument permit in respect of a burial site except for the erection of a headstone/monument of a size and type that complies with the following:

- The headstone and/or kerbing may be installed 3 months after the burial (to allow for subsidence and settlement).
- Headstones must be set on a concrete slab which is placed level and pillared/piered into the ground.
- The headstone/monument must not be any higher than 850mm above natural ground level, and must not exceed the width of the burial plot, being 1200mm.
- All work must comply with Australian Standard AS4204-1995 'Headstones and Cemetery Monuments'.
- General conditions contained within Appendix 2.

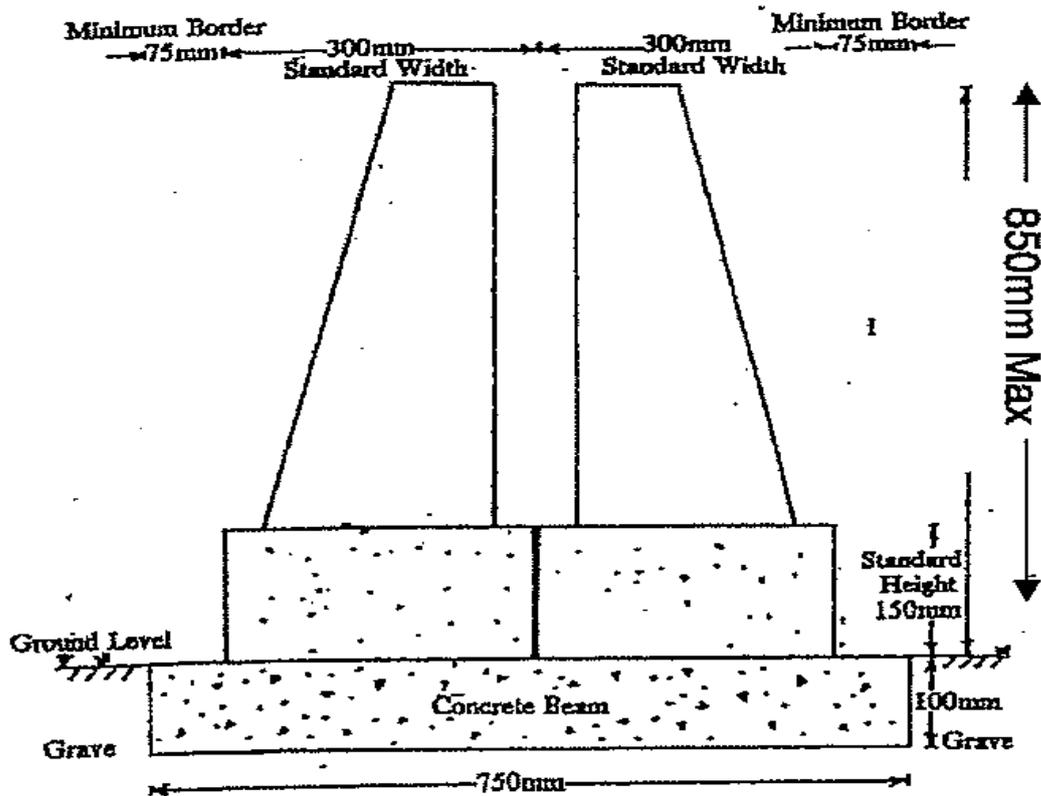
6.2 Monumental Lawn Burial

Council will install concrete beams within areas of its cemeteries to facilitate the establishment and future growth of *monumental lawn burial* sections which will phase out the expansion of *monumental burial* sites. *Monumental lawn burial* sections are non-denominational.

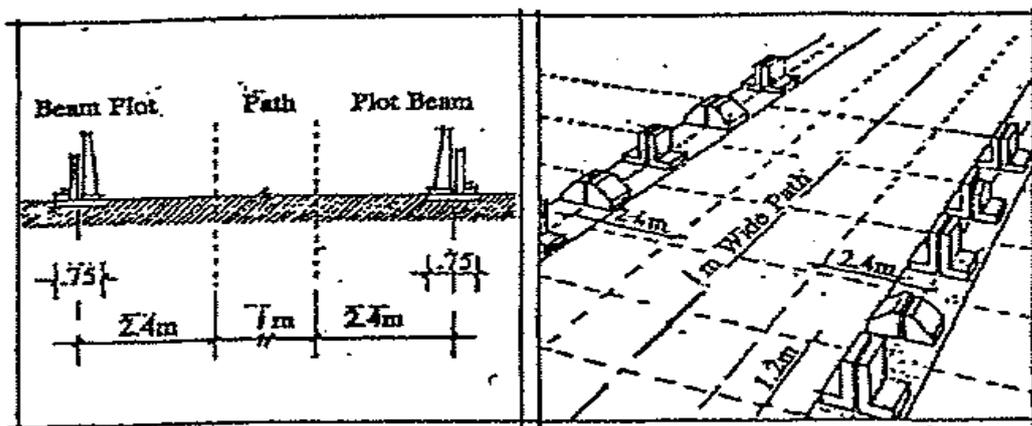
Applications are to be submitted to Council using the appropriate form for the erection of headstones/memorials and the applicable fee paid, as determined by Council's Fees and Charges. Council will not issue a monument permit in respect of a grave site except for the erection of a headstone of a size and type that complies with the following:

- The headstone must be installed on the concrete beam.
- The headstone can have the option of up to two flower containers of the same product as the headstone.
- Kerbing, edging or markers of any description cannot be placed on or around the perimeter of the grave.
- The headstone can be of a recumbent "desk" style affixed to the beam or an upright headstone set on a base (1000mm maximum length x 300mm maximum wide) affixed to the beam with a maximum height of 850mm above the highest point of the beam within the grave site (including base) as illustrated below:
- General conditions contained within Appendix 2.

Dimensions of Monumental Work in Headstone Only Area



Cross Section of Concrete Beam and Monumental Work Showing Spacing Requirements



6.3 Application for the erection or repair of headstone/monument

A monument permit will only be granted, pending completion of Council's application form and payment of the prescribed fee, and in respect of a burial site with the consent of the grantee of the interment right or the provision of necessary proof as outlined within section 5.3.

7.0 MANAGEMENT

7.1 Maintenance

Council will maintain and repair all columbarium walls, gardens, roadways and pathways within each cemetery. Council does not maintain or repair monuments. The *grantee* of an interment right must maintain and repair the monument to which the interment right and monument permit relate.

Where Council considers that a monument is at risk of collapse due to its condition which may result in harm to a person or an adjoining burial site, Council may take such action as is required to ameliorate that risk. Such action includes:

- The removal of the monument. In *monumental burial* sections, the headstone is to be laid on the ground within the grave site with inscriptions face up so the identity of the interred person(s) can be identified. If this is not possible due to space or public safety reasons, the monument is to be removed and a plaque located within the grave site which identifies the person(s) interred at that site.
- The repair and/or modification of the monument.

Prior to undertaking the above actions, Council will attempt to contact the *grantee* of the interment right and monument permit to provide the opportunity to reinstate the monument prior to Council undertaking any works.

7.2 Prohibited Activities

The following provisions apply to all Council cemeteries:

- Ornaments and kerbing/edging of any description including concrete, timber, treated logs, ferrous material, bricks or stones cannot be placed around or within any grave site without the prior approval of Council. Approval will not be given within *monumental lawn burial* sections.
- Flowers may only be placed in the containers that form part of the monument.
- The placing of glass containers, vases or jars inside the cemetery boundary is prohibited.
- Plants, trees and shrubs are prohibited in/on or around any grave site.
- No plaques shall be erected on a columbarium wall or within a memorial garden other than the design, and style purchased through Council.
- No monument, memorial, inscriptions or token plant, floral tributes or containers are to be erected or placed on or within a columbarium wall, memorial garden or surrounds without Council's written consent.

Council reserves the right to remove without notice any unauthorised works or excessive/incorrectly located tributes.

7.3 Signposting

Council will ensure that each cemetery is adequately signposted or otherwise marked to ensure that persons working or otherwise entering cemeteries can properly locate burial sites and columbarium walls.

7.4 Records

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.

7.5 Availability of Cemetery Register Information

Information will be available during Council's ordinary business hours. The provision of information will be determined by Council's responsibility under the Privacy and Personal Information Protection Act 1998, or otherwise as outlined in the Government Information (Public Access) Act 2009.

7.6 Storage of cremated remains pending interment

Council may, at its absolute discretion and without responsibility, hold cremated remains for placement in a burial site at the request of the grantee of an interment right or; if there is no surviving grantee, the legal representative of the deceased person.

Prior to accepting possession of the remains, fees for the interment of the ashes in a columbarium wall and associated plaque must be paid to Council.

Such remains must be provided in a sealed container labelled with the name of the deceased person, that person's dates of birth and death, and the name and other contact details of the person who has requested that the remains be held by Council. A register of retained ashes is maintained by Council.

Except as otherwise agreed to in writing, remains will be held for a period of six months after which those remains will be placed in a columbarium wall within a Council cemetery or as otherwise determined by Council, without notice to the person who has requested the remains be held by Council.

DICTIONARY

applicant - means any person making application for an interment right, monument permit, exhumation permit, or work permit.

burial site - means land and/or structures within a cemetery used for the purpose of interring human remains (including cremated human remains) and may be a:

- a) grave site (for the interment of human remains or cremated human remains in the ground); or a
- b) memorial site (for the for the interment of human cremated remains in a columbarium wall or garden)

Council - means Nambucca Shire Council

columbarium wall – A wall in which ashes are interred.

exhumation - means the removal of human remains from a grave site.

grantee - means a person granted an interment right, exhumation permit, monument permit, or work permit by Council.

grave site – means land within a cemetery used exclusively for the purposes of interring human remains (whether cremated or not) beneath the surface of the land of the grave site.

interment right - means an exclusive right granted by Council for the interment of human remains within a burial site.

interment of human remains – means

- a) The placement of human remains in a mausoleum, vault, columbarium or other structure designed for the placement of such remains, or
- (b) The burial in the earth of human remains (directly in the earth or in a container).

memorial site – means land within a cemetery or part of a structure constructed on land within a cemetery used exclusively for the purpose of interring cremated remains.

monument – means any structure, plaque, headstone, masonry, metal work, casting or item placed over, in or around a burial site.

monument permit – means right granted to the grantee to place a monument over, in or around a burial site.

monumental burial – Traditional covering of a burial plot with monumental work (headstone & kerbing).

monumental lawn burial – A headstone is placed on the grave on a concrete beam with the balance of the plot covered in lawn.

perpetual interment right – Refer to section 47 of the Cemeteries and Crematoria Act 2013.

renewable interment right - Refer to section 47 of the Cemeteries and Crematoria Act 2013.

work permit – means a permit allowing a person, company or organisation to engage in specific works within a cemetery.

APPENDIX 1 – CONDITIONS OF INTERMENT RIGHT

1. All works must be undertaken in accordance with the Nambucca Shire Council Cemetery Policy
2. All grave sites must be excavated to double depth to facilitate the burial of at least 2 coffins.
3. This interment right permits the grantee to do the following:
 - a) Inter human remains, ashes and any specified items in the subject burial site.
 - b) Prevent any person from interring any remains in the subject burial site;
 - c) Prevent any person from erecting any monument on or over the burial site;
 - d) Engage any undertaker to inter human remains, ashes or items in the burial sites;
 - e) Where the interment right is for a grave site:
 - Exclude any person (other than an employee of Council acting in their capacity as an employee of Council) during any grave digging works;
 - Prevent the exhumation of interred remains from the grave site (except where such exhumation has been ordered by a coroner or a court).
4. This interment right does not:
 - a) Permit the grantee to exclude any person from having access to the burial site (except where necessary to ensure works undertaken do not cause pollution or cause a danger to any person working or visiting the cemetery in which the burial site is located);
 - b) Authorise the construction or erection of a monument on the subject burial site. A grantee of an interment right requires a monument permit before erecting or constructing a monument on a burial site.
5. The grantee and any agent such as a funeral director or sub-contractors must:
 - a) Ensure any person undertaking any works on a burial site holds a relevant work permit issued by Council with respect to those works or works of that type.
 - b) Ensure that no monument (except as permitted by a monument permit), plant tributes, floral tributes, or containers not approved by Council, are erected, planted, or placed on or about the burial site to which the interment right relates.
 - c) Repair, maintain and preserve any monument placed on or in a burial site in accordance with a monument permit.
 - d) Remove any monument placed on or in a burial site that is not approved by a relevant monument permit.
 - e) Notify Council of any change of address within seven days; otherwise Council will assume the current address for the grantee is the address set out in the application.
 - f) Ensure that as part of the burial process:
 - i. The human remains to be interred have been placed in a coffin to which a lid has been securely sealed.
 - ii. The upper surface of the upper most coffin interred in the grave site is not less than 900mm below the natural surface level of the soil of the burial site.
 - iii. Cremated remains to be interred in a burial site are placed in a suitable sealed container.
 - g) Inform Council in writing that the interment has been completed within 14 days of the interment.

- h) Remove all planks, building equipment, protective coverings, waste, and excess soil; with the ground surface surrounding the grave site returned to its condition prior to the commencement of any works.
 - i) Ensure any excess soil is placed in the area designated by Council within the cemetery for that purpose or removed from the cemetery.
6. Those undertaking grave digging must:
- a) Erect barricades, protective restrains or reinforce covers to limit access to the site of the grave digging so as to ensure public safety.
 - b) Ensure that the ground on which any machinery or plant is located is sufficiently stable to ensure the support of the working load of that machinery or plant equipment and that the operation of that machinery or plant equipment will not come into contact with any power line, service conduit or monument.
 - c) When at a location that is more than 500 metres from the nearest occupied building or not within the direct line of sight of a person capable of providing assistance, have access to:
 - i. A reliable system of communication, such as a two-way radio or mobile phone.
 - ii. A first aid kit.
 - iii. Instruction in basic first aid principles.
 - iv. Access to a motor vehicle.
 - d) Use a properly constructed and placed ladder for entering and exiting graves during grave digging, with any such ladder to extend from the base of the excavation to at least 600mm above the top of the grave site.
 - e) Wear an approved safety helmet in good order.
 - f) Ensure that prior to the commencement of excavation all ground support material, tools, equipment and personnel are available at the site.
 - g) Be aware of the soil types prior to the commencement of excavation. Where any doubt exists, works should be conducted as if the soil type is the most unstable soil type, being sandy soil. This requires that:
 - i. Where the overall depth of the grave is less than 1.5 metres, 2 box shoring sets to be used to within 200mm of the base of the grave;
 - ii. Where the overall depth of the grave is between 1.5 and 2.1 metres, 3 box shoring sets to be used to within 400mm of the base of the grave.
 - iii. That each box shoring comprise Oregon timber of a size of not less than 200mm x 75mm cross-section with a stress rating of not less than F14 with each box shoring set to include:
 - Longitudinal timbers cut to the length of the grave site, with 3 such longitudinal timbers to form one wall 600mm x 75mm on one side of the grave and the other 3 longitudinal timbers to form another wall 600mm x 75mm; and
 - spreaders, being the width necessary to accommodate the width of any coffin to be interred in the grave site.
 - iv. That shoring box sets be inserted as the excavation progresses, by firstly installing the longitudinal timbers along the width of the grave and secondly forcing the spreaders between the longitudinal timbers using timber mallet.
 - v. That after the coffin is placed in the grave, the shoring box set be removed, two longitudinal timber runners and 2 spreaders at a time, as the grave is filled with soil.
7. All care is to be taken to ensure the safety of the public in general. A minimum of \$20 million public liability insurance cover is to be maintained for the duration of the works by the person/company undertaking the works within the cemetery. Council is to be nominated as an interested party on the policy. Council is not to be held responsible for any negligence caused by the undertaking of

the works. A copy of the certificate of currency must be submitted to Council prior to the commencement of works.

8. Council may, at any time and by notice in writing to any grantee of the interment right, revoke the interment right if, in the opinion of Council, the grantee has failed to comply with or has breached any of these conditions.
9. The granting of this interment right does not restrict the ability of Council to:
 - i. Re-construct, re-align or alter the position of a memorial site to which the interment right relates.
 - ii. Establish any new burial sites within a cemetery.
 - iii. Restrict access to any burial site as Council considers necessary to undertake routine maintenance of structures within the cemetery, to protect the safety of people working or entering a cemetery, or to undertake any work necessary to prevent or contain pollution within a cemetery.

APPENDIX 2 - CONDITIONS FOR ERECTION OF HEADSTONE/MONUMENT

1. All works must be undertaken in accordance with the Nambucca Shire Council Cemetery Policy
2. All monuments and monumental work must comply with *AS4204-1995 Headstones and Cemetery Monuments*.
3. The grantee is responsible for maintaining and repairing the monument. Where Council considers that a monument is at risk of collapse due to its condition which may result in harm to a person or an adjoining burial site, Council reserves the right to remove the monument.
4. For monumental lawn burials:
 - i. The headstone must be installed on the concrete beam.
 - ii. The headstone can have the option of up to two flower containers of the same product as the headstone.
 - iii. Kerbing, edging or markers of any description cannot be placed on or around the perimeter of the grave. The area is to be kept clear to allow lawn maintenance to be undertaken by Council.
 - iv. The headstone can be of a recumbent "desk" style affixed to the beam or an upright headstone set on a base (1000mm maximum length x 300mm maximum wide) affixed to the beam with a maximum height of 850mm above the highest point of the beam within the grave site (including base).
5. For monumental burials:
 - i. The headstone and/or kerbing is to be installed 3 months after the burial (to allow for subsidence and settlement).
 - ii. Headstones must be set on a concrete slab which is placed level and pillared/piered into the ground.
 - iii. The headstone/monument must not be any higher than 850mm above natural ground level and must not exceed the width of the burial plot, being 1200mm.
6. All care is to be taken to ensure the safety of the public in general. A minimum of \$20 million public liability insurance cover is to be maintained for the duration of the works by the person/company undertaking the works within the cemetery. Council is to be nominated as an interested party on the policy. Council is not to be held responsible for any negligence caused by the undertaking of the works. A copy of the certificate of currency must be submitted to Council prior to the commencement of works.
7. Ensure that the ground on which any machinery or plant is located is sufficiently stable to ensure the support of the working load of that machinery or plant equipment and that the operation of that machinery or plant equipment will not come into contact with any power line, service conduit or monument.
8. Remove all planks, building equipment, protective coverings, waste, and excess soil; with the ground surface surrounding the grave site returned to its condition prior to the commencement of any works.
9. Ensure any excess soil is placed in the area designated by Council within the cemetery for that purpose or removed from the cemetery.

---oo0oo---