

KEMPSEY SHIRE COUNCIL

CEMETERIES

Procedure 1.2.10

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1 OBJECTIVE

To provide dignified burial places in various towns and villages within the Kempsey Shire.

2 APPLICATION

- 2.1 This Procedure applies to all cemeteries, crematoriums and memorial gardens administered, operated and maintained by Council in the present and future.
- 2.2 This Procedure does not affect the operation of any Regulations under the Public Health Act 1991 relating to cemeteries and crematoriums.

3 DEFINITIONS

In this Procedure:

"Procedure Manual" means Council's "PUBLIC CEMETERIES – MANUAL FOR PROCEDURE, BURIAL AND MAINTENANCE (2002)" plan for management for public cemeteries.

- 3.1 "appropriate fee" means a fee fixed by Council.
- 3.2 "cemetery" or "cemeteries" means an area containing one or more burial places.
- 3.3 "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 dead, whether cremated or not.
- 3.4 "burial right" means exclusive right of entitlement to a burial place granted by council to a person or persons.
- 3.5 "pre-need burial right" means a burial right granted prior to need.
- 3.6 "grantee" means the person to whom a right is granted.
- 3.7 "applicant means the person making an application
 - For a burial or memorial right.
 - For a work permit or other Council consent.
 - For burial or cremation.
- 3.8 "reservations" means a pre-need burial right.
- 3.9 "register" means the Council's formal repository of data containing all the required details of a burial, cremation, memorial site, interment right or burial right.
- 3.10 "monument" means any structure, plaque, headstone, masonry, metal work, casting or item placed over, in or around a burial right.
- 3.11 "monument mason" a tradesman mason or person possessing the skills to carry out monument masonry work.

4 MANAGEMENT OF CEMETERIES

- 4.1 Planning, conduct and maintenance of cemeteries

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

- a) The setting aside of sections for different types and classes of burials;
- b) The establishment of standards of construction and design of for monuments and structures;
- c) The size, multiple use and location of burial places;
- d) Interments;
- e) The erection or installation of structures and the making of inscriptions;
- f) The carrying out of work by monument masons;
- g) The qualifications required by, and the security deposits to be lodged by, monument mason;
- h) The removal, replacement and maintenance of structures;
- i) The improvement and maintenance of cemeteries;
- j) The making of arrangements for the care of burial places on an annual or other basis;
- k) The supply of goods and services incidental to the conduct of burials and other matters relating to cemeteries, and
- l) The conduct of religious or other ceremonies of burial, cremation, disposition or commemoration.

4.1 Refusal to grant exclusive rights of memorials.

4.2 The Council may refuse to grant an exclusive right of burial to any person if, in the opinion of Council, the grant would create a monopoly or encourage dealings in such rights as a business.

5 REGISTER OF BURIAL PLACES AND CREMATION

5.1 Council shall maintain the following registers:

- A register of burial, as required by the Regulations of the Public Health Act;
- A register of cremation, as required by the Regulations of the Public Health Act, and
- A register of booked rights to a burial or memorial site.

5.2 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:

- Surname;
- Date of Burial or Cremation, and
- Burial Place location

5.3 Each register entry must contain the name and address of the owner of the burial right.

5.4 Each burial or cremation must be recorded in its respective register IMMEDIATELY after the service.

- 5.5 Registers may be amended to remove or correct inaccuracies.
- 5.6 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:
- Such applications shall be made on an approved form;
 - Each form shall be limited to a single register entry, and
 - A fee, as approved by the Council from time to time, may be charged for each application.
- 5.7 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.

6 CERTIFICATES OF EXCLUSIVE RIGHT OF BURIAL

- 6.3 The Council will issue to the owner of an exclusive right of burial a certificate, clearly showing:
- The owners name and address;
 - The amount paid;
 - The date of issue;
 - A description of the physical location of the grave, and
 - The terms and conditions under which the certificate is issued.
- 6.4 The application for a certificate must be made on a form approved by Council.
- 6.5 Any fees relating to the purchase and issue of the certificate must be paid at the time of application.

7 HOURS OF BURIAL, CREMATION AND EXHUMATION

- 7.3 Burials, cremations and exhumations shall take place only during the hours approved by Council.

8 ORDER FOR BURIALS

- 8.3 Burials are NOT to take place unless a BURIAL ORDER has been issued by Council.
- 8.4 The issue of a burial order shall be in accordance with Council's Procedure Manual.
- 8.5 Burial shall be in accordance with the Regulations of the Public Health Act (NSW) and Council's Procedure Manual.

9 EXHUMATION

- 9.3 Exhumations are NOT to take place unless:
- Prior written consent has been obtained from the Director-General of The Department of Health (NSW); and
 - An Order for exhumation has been issued by Council.
- 9.4 This clause does not apply if an exhumation has been ordered by a Court.

10 MISCELLANEOUS

- 10.1 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 not under the person's control to enter or remain in a cemetery without proper supervision;
 - f) Take part in any gathering, meeting or assembly, except for the purpose of religious, research, historical, educational or other ceremony of burial or commemoration;
 - g) Engage in trade or commerce or distribute any circulars, advertisements, paper drawn or photographic material;
 - h) Drive a vehicle at a speed of more than 8 kilometres per hour;
 - i) Drive a vehicle or a vehicle and trailer having an unladen weight of more than 3 tonnes;
 - j) Drive a vehicle through a cemetery for the purpose of travelling between places outside of the cemetery;
 - k) Park a vehicle on any known burial place, verge or plantation, or in a manner that is likely to impede traffic;
 - l) Teach, learn or practice driving a vehicle;
 - m) Camp or reside on any land;
 - n) Possess or consume an alcoholic or intoxicating beverage or substance except from that directly associated with a funeral service;
 - o) Urinate or defecate;
 - p) Bring into or leave any rubbish, refuse, scrap metal (including remains of vehicles), rock, soil, sand or any other such substances;
 - q) Remove any dead timber, logs, trees, flora, whether standing or fallen;
 - r) Kill, capture or in any way interfere with any animal, bird, fish or other fauna, whether native or introduced, or
 - s) 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).
- 10.2 The Criminal Code subsection (1.e) does not prevent a person from leading or walking a dog on a leash.
- 10.3 Council's written consent is required to legally carry out any act that might otherwise give rise to an offence under this clause.

11 REQUIREMENTS FOR GRAVES

11.1 The dimensions of a grave shall be a minimum of:

- 1000mm X 2400mm for adult graves.
- 900mm X 1500mm for children's graves.

11.2 The number of interments permitted in a grave shall be in strict accordance with the Regulations of the Public Health Act (NSW).

11.3 For the purpose of part 3.2:

- Prior written consent has been obtained from the Director-General of the Department of Health (NSW) to vary the number of interments.
- Where a coffin containing the deceased remains is interred in a grave, the upper surface of the coffin shall be at a depth not less than that required by the Regulations of the Public Health Act (NSW) which is 900mm.

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

12 ABOVE GROUND ENTOMBMENT

All entombments above ground shall be considered on an individual basis upon a written application to Council.

13 MONUMENTS AND INSCRIPTIONS

13.1 A person shall not, in a cemetery:

- i) construct or install 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 the Council;
 - Carried out to the standard of workmanship required by the Council, and
 - Constructed in accordance with Australian Standards Association AS4425- "Monuments & Headstones" (1996).

13.2 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.

14 MONUMENT MASONS

14.1 A person shall not carry out any work as a monument mason within a cemetery unless with the written consent of the Council.

14.2 The Council may issue approval to undertake work as a monument mason to any person it considers to be suitably qualified to undertake such work.

- Any person may apply to work as a monument mason in a cemetery, and must provide the application is in writing.

14.3 The Council may suspend or cancel approval of any person by giving notice in writing.

14.4 This clause shall not apply to employees of Council while engaged in their employment under the instructions of Council.

15 REMOVAL OF STRUCTURES

15.1 The Council may:

- Remove, demolish, alter or require the removal, demolition or alteration of any structure or any adornment, or
- Erase, correct, or require the erasure or correction of wording of any inscription that has been constructed, installed, made or carried out:
 - Without the written consent of the Council; or
 - Otherwise than in accordance with an approval given by Council.

15.2 Where any work that has been approved is not completed within a reasonable time, the Council may remove or demolish such partially finished work as it deems necessary to preserve the fabric of the cemetery and public safety.

16 REMOVAL AND REPLACEMENT OF STRUCTURES ON REQUEST

16.1 Where notice to open a grave or vault for a lawful purpose is given in accordance with Council's Procedure Manual, the Council may arrange after:

- The lodgement of proof of ownership, and
- The payment of the scheduled fees and related costs.

16.2 the removal of any part of the structure to enable the safe opening of the grave or vault:

- Require the grantee or applicant to make good the repair of the structure affected within 14 days of the interment or service date.

17 MAINTENANCE OF STRUCTURES

17.1 The ownership of monuments or other structures is deemed to be with the person or persons (or their heirs and successors) who caused the monument or structure to be constructed:

- The Council shall not be responsible for the upkeep, maintenance, repair etc of any monument or structure;
- The owner is responsible for the upkeep, maintenance and repair of the monument;
- The Council may act to remove any structure which has become dilapidated or unsightly, and
- 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.

18 UNSAFE MONUMENTS

Any monument identified as posing a safety risk is accorded a category ranking:

CATEGORY	Criteria
1	Monuments over 750mm in height that <ul style="list-style-type: none">• are likely to collapse or fall over at any time• have significant sections or parts separating from the main monument, irrespective of cause (subsidence, deterioration etc)

2	Monument 750mm or less in height <ul style="list-style-type: none"> • are likely to collapse or fall over at any time • have significant sections or parts separating from the main monument, irrespective of cause (subsidence, deterioration etc)
3	Monuments that are affected by subsidence and are leaning by more than 10 degrees, but are otherwise deemed to be in sound condition.

18.1 Identification and Reporting

Any identification of unsafe monuments and consequent actions under this clause will be thoroughly documented and supported with photographs. All actions will be recorded against the respective cemetery register entry.

Subsidence

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

18.2 Repair of Monument

1 Council WILL NOT repair monuments. Council will only act to ensure public and employee safety.

2 CATEGORY 1 Monuments

- a) The area surrounding the monument is to immediately be secured with barriers and danger signs.
- b) The Council will make reasonable efforts to contact the grantee of the burial right and instruct the grantee to take immediate steps to repair the monument.
- c) A public notice, clearly identifying the grave:
 - Indicating Council's intent to make the monument safe unless the grantee acts within SEVEN days, and
 - Reserving Council's right to recover the costs relating to the handling of the monument from the grantee is to be placed in the local press.
- d) If contact has NOT been made with the GRANTEE within seven days of the public notice, the Council will take steps to make the monument safe.
 Note: Making the monument safe will (usually) consist of laying the headstone face down on the ground of the grave. This method, which preserves the inscription, is recommended by the National Trust.

18.3 CATEGORY 2 - Monuments

Same as CATEGORY 1, except that the notice and action period will be extended from SEVEN to FOURTEEN DAYS.

18.4 CATEGORY 3 – Monuments

- The Council will make reasonable efforts to contact the grantee to the site and instruct the grantee to take steps to repair the monument;

- A single public notice, clearly identifying the grave and indicating to the grantee that he or she should take steps to repair the monument will be placed in the local press, and
- Council will continue to monitor the site until such time as the monument is identified as CATEGORY 1 or CATEGORY 2.

19 LAWN CEMETERY SECTIONS

19.1 The Council will ensure that it:

- Maintains, preserves, and repairs lawn cemetery graves;
- Graves are not enclosed with any railing or kerbing;
- Cut and plastic flowers provided by families are left at burial places in Lawn Cemeteries;
- Cut and plastic flowers provided by families are placed in vases of a type approved by Council;
- Approved vases are flower urns and metal vases ONLY. Glass jars and other vases will be removed at Council's absolute discretion;
- Due to the effects of UV rays, discoloured and worn plastic flowers will be removed from memorials at Council's absolute discretion;
- No headstone, statue or other structure is erected or constructed over a grave in a lawn section, and
- 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.

19.2 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.

19.3 The grantee may apply to privately supply and fix a memorial plaque in Lawn Cemetery Sections provided that:

- An application has been lodged with Council;
- All fees as scheduled by Council for the lodgement of the application have been paid;
- The design and type of plaque is consistent with the requirements determined by Council, and
- Council has given its written approval

19.4 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.

19.5 That the provision of vertical burials in the lawn cemeteries be considered in accordance with cemetery practises.

VARIATION

Council reserves the right to review, vary or revoke this procedure which will be reviewed periodically to ensure it is relevant and appropriate.