

**POLICY TITLE      CEMETERIES POLICY**

VERSION I:            Adopted 15 February 2005

Last reviewed:        16 December 2008

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**BACKGROUND**

Under the *Local Government Act, 1993* Council is required to establish policies and procedures to control the management and operation of their cemeteries. These policies are to give due regard to and not contradict legislation and regulations relating to the operation and control of cemeteries.

The Dungog Shire Council's Policy outlines the overall principles that underpin how Council manages its cemeteries. It details the legislation to which Council is required to comply.

The Policy applies to all cemeteries owned, managed, operated or maintained by Council, including those cemeteries administered by committees established by Council pursuant to the provisions of Section 355 (b) of the Local Government Act, 1993.

**OBJECTIVE**

To provide a dignified, safe and responsive cemetery and memorial service to the community.

**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 consider the diverse religious, ethnic and cultural backgrounds of those using, working in or visiting cemeteries when making decisions relating to cemeteries, (including planning for the future use of cemeteries);
- 4) To provide equitable access to burial sites to all members of the community;
- 5) To provide conditions in cemeteries which have regard to minimising any risk to health or safety of persons working in or entering cemeteries; and
- 6) To consider conservation and heritage issues when making decisions relating to cemeteries, (including planning for the future use of cemeteries).

## POLICY STATEMENT

### 1) Management

Council does not permit any person to undertake any activity within a cemetery unless:

- i. the activity is an approved activity:
  - a) in respect of burial sites, the quiet and respectful commemoration of the dead or undertaking historical research;
  - b) the use of roadways and pathways to gain access to burial sites or amenities;
- ii. the person holds a burial right, exhumation permit, works permit or monument permit issued by Council to undertake that activity,
- iii. the agent has a current Permit to Work and meets the requirements specified on Section 2.00 "Requirements for Work Within Council Cemeteries by External Agents."

### 2) Records

Council is required to maintain certain records by clause 35A of *the Public Health Regulation, 1991*.

In order to achieve this requirement and provide information required to implement the Policy, Council shall maintain a register of all burials, exhumations and burial rights in respect of each cemetery.

### 3) Significance of Burial Sites And Monuments

Burial sites and monuments are of cultural and historical significance to the community of Dungog Shire and may confer rights to individuals.

Council in its activities relating to cemeteries will aim to observe the significance of burial sites and monuments (along with any rights associated with such burial sites and monuments) within those cemeteries in which they are located.

### 4) Burial Sites/Rights

- i. Items or human remains may only be interred at any burial site with the written permission of Council who will issue a burial right.
- ii. Burial rights may not be sold or transferred except with the express written consent of Council.
- iii. Council will at its discretion buy back a burial right by providing a refund on the original purchase price of a grave site.

### 5) Work Undertaken In Cemeteries

A person may not undertake work of any type in a cemetery unless that person and those engaged or employed by that person has a current Permit to Work and holds a valid permit for that specific activity.

## 6) Monuments

- i. Council will not issue a permit to erect a monument in respect of a burial site except for the erection of monument of a size and type approved by Council.
- ii. A permit to erect a monument will only be granted in respect of a burial site with the consent of the grantee of the burial right.
- iii. The grantee of a monument right is responsible for maintain and repairing monuments.
- iv. If Council is required to undertake any work relating to monument so as to ensure public or employee safety it may recover those costs from the grantee.

## 7) Exhumation

- i. An exhumation may only take place when an order by a Coroner or a Court permitting such exhumation is issued; or
- ii. An applicant has obtained, prior to commencing exhumation:
  - a) Approval for exhumation by NSW Department of Health in accordance with the provision of Public Health Regulation, 1991; and
  - b) Approval from Council.

### RELATED POLICIES

Requirement for works within Council Cemeteries by External Agents.

### RELEVANT LEGISLATIVE PROVISIONS

Local Government Act, 1993  
Public Health Act, 1991  
Public Health Regulations, 1991  
Occupational Health & Safety Act, 2000  
Privacy & Personal Information Protection Act, 1998  
State Records Act, 1998  
Heritage Act, 1977  
Conversion of Cemeteries Act, 1974  
Fair Trading, 1987  
Coroners Act, 1980 (NSW)  
Crown Lands Act, 1989  
Human Tissues Act, 1993 (NSW)  
Births, Deaths and Marriages Registration Act, 1995 (NSW)  
Anti Discrimination Act, 1977.

<b>Date adopted</b>	<b>Minute No</b>	<b>Authority</b>
15 February 2005	32453	Council resolution
30 January 2009	34315	Council resolution



# REQUIREMENTS FOR WORKS WITHIN COUNCIL CEMETERIES BY EXTERNAL AGENTS

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## DESCRIPTION

- 1.1 Council has a responsibility to ensure that all activities conducted within its cemeteries comply with the requirements of the OH&S Act 2000 and the OHS Regulation 2001.

This Guideline sets out Council's requirements when those activities are carried out by external agents, their employees or subcontractors employed by them.

An Agent must be able to prove compliance to these requirements and will be issued with a Permit to carry out works when they do so.

## THE WORK PERMIT

- 1.1.1 Council requires all agents who wish to work within Council's cemeteries to have a Permit to Work. Council's requirements for the Permit are specified in Section 2.0

The permit will be reissued annually on application by the Agent and subject to audit by Council's Representative.

Operational requirements for works within Council's Cemeteries are specified in Section 3.0 & shall be complied to maintain the Permit.

## SCOPE

- 1.2 **Agents** include;  
Funeral Directors, Monumental Masons, their employees and any second parties that carry out services for them.

**Services** shall include;

Excavation & site restoration, landscaping, funeral services, equipment maintenance, construction and maintenance of structures and monuments, lifting & transport and the disposal of surplus materials.

## RESPONSIBILITIES

- 1.3 **Council's Manager of Environmental Services** (Council's Representative) is responsible for;
- Managing Council's cemeteries with safety and consideration
  - These Guidelines
  - The issue of work permits subject to the applicant satisfying the requirements of these Guidelines
  - Auditing and assessing the activities of the applicant at nominated periods
  - Endorsing or voiding the permit depending on the results the assessment
  - The maintenance of the site other than when an agent is carrying out their activities
  - Monitoring activities on the site

**The Service Provider** shall be responsible for;

- Making application for the permit and providing sufficient conforming data to allow its issue
- Maintaining a management system capable of ensuring continuous maintenance of the Guidelines requirements
- Providing insurances, labour and equipment that conform to these requirements
- Informing the Community Facilities Co-ordinator of their intention to enter and carry out activities on the Site.
- Managing the Site and carrying out the work in compliance to this document and any Acts or Regulations pertaining to the works, particularly the OH&S Act 2000, OHS Regulation 2001, Australian Standards & WorkCover Codes of Practice
- Maintaining documented proof of that compliance

2.0 **Permit requirements**

2.1 The Permit;

- Authorises persons to undertake works within a Cemetery (Section 5) Where applicable, the grantee or agent engaged to undertake work on their behalf, must hold a specific permit issued by Council to undertake that activity (such as right of burial, monumental mason permit, exhumation permit)
- Will be reissued annually on application by the Agent and subject to audit by Council's Representative.
- May be suspended or cancelled by Council for non-compliance to these Council's requirements. Five days notice in writing will be given.

**PERSONNEL**

ASPECT	COUNCIL'S REQUIREMENTS <i>All required records are to be available for inspection by Council's Representative on request.</i>	When/where Required
2.2 Contractor, employees & subcontractors	Record of Construction Industry Induction	Available on request 2 working days notice
	Record of training, tickets & certification for each appropriate to duties	

**INSURANCES**

2.3 Workers Compensation Insurance as per OH&S Act 2000	Certificate of Currency.	Submitted with Permit application
	Statutory Declaration stating that Worker's Comp premiums and payments to Supplier staff & sub-contractors will be maintained.	
Public Liability Insurance to \$10,000,000	Certificate of Currency Insurance against the death or injury to any third party or parties or loss of or damage to any property including loss of use of property whether it is damaged or not whatsoever caused during the course of the service provision.	
Motor vehicle/mobile plant insurance to \$20,000,000	Certificate of Currency In the case of any motor vehicle used in the performance of the contract, a Motor Vehicle Insurance covering accidental damage, fire and theft. The policy shall be for a sum not less than the full market value of the vehicle. In addition, where such vehicles are:  <b>Registered Vehicles</b> a) Insurance against any injury to any third party or parties under a Compulsory Third Party Insurance as required by the <i>NSW Motor Accidents Act 1988</i> ; and b) Insurance against loss of or damage to any property whatsoever caused by the use of the vehicle when being driven by the Service Provider, its employees or any person not employed by the Service Provider. The policy shall have a limit of indemnity of not less than \$20,000,000 and shall be extended to include "CTP Gap Coverage Endorsement" cover and shall note the interest of the Principal as an insured.	

**INSURANCES  
cont**

ASPECT	COUNCIL'S REQUIREMENTS <i>All required records are to be available for inspection by Council's Representative on request.</i>	When/where Required
2.3 Unregistered plant	Proof of cover either as part of motor vehicle or public liability cover.  Note: Any damage arising as a result of the plant being used as a "tool of trade" is to be covered by either an extension of the Service Provider's Comprehensive Motor Vehicle Insurance or the liability endorsed onto the Service Provider's Public Liability Insurance.	

**SITE**

2.4 Site specific induction	Records of Site Inductions for each site for each employee/sub-contractor and when there is a change of activity or conditions	Available on request on site
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**WORKS &  
SERVICES**

2.5	<p>The digging, preparation &amp; filling of graves</p> <p>The conducting of services at the grave site including management of mourners</p> <p>The site preparation and erection of monuments</p> <p>Construction &amp;/or maintenance of landscaping &amp; infrastructure</p> <p>Construction &amp; maintenance of structures (buildings etc)</p>	<p>Compliance to the Specifications set out in Section 3.0</p> <p>Risk Assessments, Procedures &amp;/or Safe Work Method Statements or equiv that demonstrate identification, assessment &amp; treatment of hazards affecting the site, plant, personnel, the public and the activity</p> <p>&amp;/OR</p> <p>System documentation and samples that demonstrate on-site Risk Assessment &amp; Treatment</p>	<p>By audit</p> <p>Submitted with Permit application</p>
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**WASTE &  
SURPLUS  
DISPOSAL**

2.6	Any possible waste or surplus materials generated by works are identified & their transport & disposal nominated.	Statement detailing possible waste/surplus & its safe transport & disposal	Submitted with Permit application
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## 3.0 **Specifications for works in cemeteries**

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### 3.1 **COUNCIL DOES NOT DIRECTLY ENGAGE FUNERAL INDUSTRY STAFF TO UNDERTAKE WORK IN ITS CEMETERIES.**

Typically;

- a) The grantee of a Right of Burial engages Funeral Industry professionals as an agent (contractor) to undertake services and work on their behalf on Council land, then;
- b) The agent provides services or undertakes work on Council land. The agent, their employees and sub-contractors are subject to Council's requirements

## **GENERAL CONDITIONS FOR INTERMENT**

- 3.2 a) Except as otherwise agreed to in writing by Council, interments may only take place at any burial site between 9.00am and 4.00pm weekdays.
- b) The Permit holder shall notify the Council's Environmental Services Section of any activity proposed including times of commencement and completion.
- c) Forty eight hours notice is required for a burial in any of Council's cemeteries. This requirement may be waived in special circumstances by application to the Environmental Services Manager
- d) Human remains may only be interred at any burial site with the written permission of Council, confirming the location of a reserved or existing site or the allocation of a new site.
- e) All procedures involved with the burial process and transporting of human remains are in accordance with Public Health Act 1991 and Regulations 2002 and the OH&S Act 2000.

## **BURIAL SERVICES**

- 3.3 The Agent shall ensure that any persons attending a service at the burial site does not:
  - a) Damage any part of the cemetery, including but not limited to any burial site or monument in the vicinity of the service;
  - b) Place any floral or other tribute in a location not specifically approved in the subject burial right;
  - c) Bring to the cemetery any animal (other than a guide dog);
  - d) Does not park a vehicle on any known burial site, verge of plantation, or in a manner that is likely to impede traffic;

## **GRAVE DIGGING**

- 3.4 The Agent shall ensure that all persons engaged to undertake grave digging:
  - a) Implement effective safety measures as developed by the risk assessment. This may include the erection of barricades, protective restrains or reinforced covers to limit access to the site so as to ensure public safety and the installation of internal shoring of an approved type
  - b) Dig graves within the specifications of 1.2m x 2.4 m;
  - c) Dig graves to double depth – all new burial plots are sold as suitable for double depth unless specified otherwise;
  - d) Install external support of an approved type to ensure safety around grave site for every occurrence of activity;
  - e) Provide suitable persons are available to assist funeral staff in maintaining safe conditions around the grave site.

## **COMPLETING AN INTERMENT**

- 3.5 That on completion of an interment at the grave site the agent shall ensure that;
  - a) All planks, building equipment, protective coverings and soil are removed from adjoining burial sites or monuments, ensuring all such burial sites and monuments are cleaned thoroughly and washed if necessary;
  - b) The burial site, adjoining land, adjoining burial sites and monuments in the vicinity of the burial site are left in a neat and tidy condition;
  - c) All flowers and cards relating to the interment are either removed from the cemetery or placed on the grave mound within the grave site;
  - d) Any excess soil is placed to an area designated by Council within the cemetery by Council for that purpose, or from the cemetery;
  - e) Place a marker or cross or bearing the deceased's name;
  - f) Ensure any dislocated slabs are replaced on the grave site within fourteen days of the completion of the interment;

## MONUMENTAL WORKS

- 3.6 Council controls the design, erection and maintenance of monuments in its Cemeteries by the issue of a Monument Permit.  
Council will only grant a monument permit with the consent of the grantee of the burial right. The granting of a monument permit confers no burial right in respect of any burial site.

## Work restrictions

- 3.6.1 No person shall construct, erect, inscribe or remove any monument in a cemetery unless;
- a) An application to Council for the issue of a monument permit has been made on the appropriate form and accompanied by sketches, drawings, specifications and other particulars that clearly demonstrate the design of the proposed monument, and;
  - b) Council has issued a written monument permit. The Permit is issued on application by Council's Environmental Services Section.
  - c) The agent only carries out work at the site and cemetery designated in the issued Permit
  - d) The monument is of a size and type approved by Council;
  - e) Work is limited to that described in the permit and must be undertaken by qualified tradesmen in accordance with Monumental & Headstones in Cemeteries (1994) AS4204 & the OH&S Act 2000;
  - f) The Service Provider accepts responsibility for the immediate and effective repair of any damage to other monuments, burial sites or Council property while carrying out work in the Cemetery;
  - g) Does not park a vehicle on any known burial site, verge of plantation, or in a manner that is likely to impede traffic.

## Requirements

- 3.6.2
- a) Council reserves the right to order removal of or remove offending, unauthorised or non-conforming work without notice.
  - b) Council will not be liable for the future care, maintenance, preservation, conservation or restoration of the construction, erected or placed over the grave
  - c) Except as otherwise agreed to in writing by Council, installations may only take place at any burial site between 9.00am and 4.00pm weekdays.

## Graves over 50years old

- 3.6.3 Where a grave site is over 50 years old, it is subject to the Heritage Act 1977. Council will not issue a monument permit in respect of a burial site, which is over 50 years unless the proposed works conform to the requirements of the National Trust.

## CREMATED REMAINS FOR INTERMENT

- 3.7 Cremated remains for interment are to be supplied to Council in a sealed container labelled with the name of the deceased person and their dates of birth and death
- a) The container is to be of the suitable size to fit Council's columbarium walls (small brick size)
  - b) Where the ashes cannot be contained within the standard container the applicant/grantee is to be advised by their agent and their wishes as to the disposal of the remainder determined. Council shall be notified in writing of these requirements. Where all the ashes are to be interred in a columbarium wall the remaining ashes are to be supplied in a small sealed container and Council will endeavour to place in the columbarium wall in close proximity to niche and plaque.



4.0

## Incident & accident reporting

The Service Provider must immediately advise the Council's Cemeteries Representative of:

- any accident involving the death of or personal injury to any person;
- any dangerous occurrence (whether or not injury is sustained) requiring the completion of a WorkCover Authority Accident Report;
- any accident involving loss of time or incident with accident potential such as equipment failure, slides, cave-in and the like;
- any safety breaches issues by the WorkCover Authority;
- any safety dispute between the Service Provider and its employee's agents or subcontractors.

If requested, the Service Provider must furnish a written report in the form directed by the Council's Representative. The Service Provider must, as soon as practicable after notification of any safety breach or hazard, take all measures necessary to remedy that breach or hazard.

5.0

## Cemeteries in Dungog Shire

<b>OPERATIONAL</b>	
Dungog Cemetery	<i>Cemetery Road, Dungog</i>
Dungog Lawn Cemetery	<i>Cemetery Road, Dungog</i>
Clarence Town Cemetery	<i>Cemetery Road, Clarence Town</i>
Paterson Cemetery	<i>Webbers Creek Road, Paterson</i>
Munni Cemetery (also known as Quartpot)	<i>Salisbury Road, Munni</i>
Salisbury Cemetery	<i>Off Salisbury Road, Salisbury</i>
Belgrave Cemetery (also known as Eccleston)	<i>Allyn River Road, Eccleston</i>
Bandon Grove Cemetery	<i>Chichester Dam Road, Bandon Grove</i>