
Cessnock City Council Cemetery Policy

Date Adopted: **16/03/2022** Revision: **4**

1. POLICY OBJECTIVES

- 1.1. To provide a dignified and responsive cemetery and memorialisation service to the community.
- 1.2. To provide places for quiet and safe remembrance of the deceased
- 1.3. To provide sites within cemeteries for the lawful disposal of human remains
- 1.4. 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
- 1.5. To provide equitable access to burial sites to all members of the community
- 1.6. To provide conditions in cemeteries which have regard to minimising any risk to health or safety of persons working in or entering cemeteries
- 1.7. To consider conservation and heritage issues when making decisions relating to cemeteries including planning for the future use of cemeteries

2. POLICY SCOPE

- 2.1. This policy applies to:
 - 2.1.1. Council Officials and approved contractors,
 - 2.1.2. Funeral industry operators,
 - 2.1.3. Members of the community, and
 - 2.1.4. All cemetery sites for which Council is the cemetery operator.

3. POLICY STATEMENT

INTRODUCTION

- 3.1. Under the *Local Government Act 1993 (NSW)*, *Cemeteries and Crematoria Act 2013 (NSW)* (**the Act**) and *Cemeteries and Crematoria Regulation 2014* (**the Regulation**), Council as a 'Cemetery Authority' is required to establish policies and procedures in regard to the control of the management and operation of Council's cemeteries.
- 3.2. 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.

4. PROCEDURES

- 4.1. Cessnock City Council has produced a set of guidelines and permits to compliment this policy:
 - 4.1.1. Council's Cemetery Masterplan contains guiding principles that inform the development and operation of all of the cemeteries under its care, control and management.
 - 4.1.2. Council's *Works within Council Cemeteries Guideline*, states the requirements for working within Councils cemeteries.
 - 4.1.3. Permits for specified works, exhumation or monumental work.

5. Fees

- 5.1. Fees and charges apply to Cemetery services. These fees are reviewed annually and can be found in Council adopted [fees and charges](#).

6. SIGNIFICANCE OF BURIAL SITES AND MONUMENTS

- 6.1. Burial sites and monuments are of cultural and historical significance to the community of Cessnock and may confer rights to individuals.
- 6.2. 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.
- 6.3. Where a grave site is over 50 years old, it is subject to the *Heritage Act 1977*. Council must assess the significance of the proposed works and the significance of the grave and may refer the matter to the NSW Heritage Office for consideration prior to any works occurring.
- 6.4. Council has a number of its cemeteries listed under Council's Local Environmental Plan, and are recognised as being of local significance.

7. INTERMENT SITES / RIGHTS

- 7.1. Council will grant an interment right entitling the person or persons to whom it is granted the exclusive right of interment in a specified interment site in perpetuity.
- 7.2. Council resolved on 12 December 2018 that it would not offer renewable interment rights at any of its cemeteries.

8. MONUMENTS

- 8.1. Council will not issue a monument permit in respect of a burial site except for the erection of a monument of a size and type approved by Council. Council's *Works within Council Cemeteries Guideline* will provide a detailed outline of the permitted monument size and shape.
- 8.2. A monument permit will only be granted in respect of an interment site with the consent of the interment right holder.
- 8.3. The interment right holder is responsible for maintaining and repairing monuments. All monuments and monumental work must comply with AS 4204-2019 Headstones and Cemetery Monuments.

- 8.4. If Council is required to undertake any work relating to a monument so as to ensure public or employee safety it may recover these costs from the perpetual interment right holder.

9. EXHUMATION

- 9.1. The *Cemeteries and Crematoria Act 2013 No 105* states that:

1. *Exhumations are not to take place:*

a) *except in accordance with the requirements of the regulations made under the Public Health Act 2010, and*

Note. See Division 4 of Part 8 of the Public Health Regulation 2012.

b) *unless an order for exhumation has been issued by the cemetery operator.*

2. *Without limiting subsection (1), any exhumation is to be carried out in accordance with any cultural or religious practice applicable to the deceased person whose remains are to be exhumed.*

- 9.2. Exhumations can also occur where Council receives appropriate directions from the relevant government agencies.

10. RESPONSIBILITIES

10.1. Customer Service

10.1.1. Provide assistance with the lodgement of cemetery related enquiries and processing where necessary.

10.2. Cemetery Officer

10.2.1. Process and manage all cemetery administrative requests and enquiries.

10.3. Vegetation and Civic Spaces Coordinator

10.3.1. Supervision of all operational tasks within Council's cemeteries.

10.3.2. Ensure compliance with relevant current Australian cemetery standards and regulations.

10.3.3. Assist Cemetery Officer with cemetery enquiries.

10.4. Open Spaces and Community Facilities Manager

10.4.1. Manage Council's overall compliance with this policy and applicable legislation, regulations and standards.

10.5. Reporting

10.5.1. Council shall maintain a register of all interments, exhumations and perpetual interment rights in respect of each cemetery in order to comply with legislation and to provide information for historical research references for the public.

10.6. Records management

10.6.1. Staff must maintain all records relevant to administering this policy in accordance with Council's [Records Management Policy](#).

10.6.2. Council is required to maintain certain records under the Act and Regulation, *Cemeteries and Crematoria Act 2013 (NSW)*, *Public Health Act 2010 (NSW)*, *Public Health Regulation 2012 (NSW)*, *State Records Act 1998*, and the *Local Government Act, 1993*.

11. POLICY DEFINITIONS

Act	means the <i>Cemeteries and Crematoria Act 2013</i> (NSW).
Council	means Cessnock City Council
exhumation	means the removal of a dead person's remains (not being cremated remains) from a grave or vault, but does not include their removal from one vault for immediate transfer to another vault in the same cemetery or their temporary removal for the purposes of reburial in the same grave or vault or the re-interment of those remains in accordance with section 55 (4).
Perpetual interment right	Previously known as a right of burial, right of interment and burial licence. This is a legal document, which gives the licensee the exclusive right to use the specified piece of land for burials and to place a monument over the grave.
Regulation	means the <i>Cemeteries and Crematoria Regulation 2014</i> (NSW).

12. POLICY ADMINISTRATION

Business Group	Works and Infrastructure
Responsible Officer	Vegetation and Civic Spaces Coordinator
Associated Procedure (if any, reference document(s) number(s))	Works within Council Cemeteries Guideline (DOC2013/019554)
Policy Review Date	Three years from date of adoption unless legislated otherwise
File Number / Document Number	DOC2013/043467
Relevant Legislation (reference specific sections)	<p>This policy supports Council's compliance with the following legislation:</p> <p><i>Anti-Discrimination Act 1977</i> <i>Births, Deaths and Marriages Registration Act 1995</i> <i>Cemeteries and Crematoria Act 2013 (NSW)</i> <i>Cemeteries and Crematoria Regulation 2014 (NSW)</i> <i>Conservation of Cemeteries Act 1974</i> <i>Coroners Act 1980</i> <i>Crown Lands Management Act 2016</i> <i>Heritage Act 1977</i> <i>Human Tissues Act 1983</i> <i>Local Government Act 1993</i> <i>Occupational Health and Safety Act 2000</i> <i>Occupational Health and Safety Regulation 2001</i> <i>Privacy and Personal Information Protection Act 1998</i> <i>Public Health (Disposal of Bodies) Regulation 2002</i> <i>Public Health Act 2010</i> <i>Public Health Regulation 2012</i> <i>State Records Act 1998</i></p>
Relevant desired outcome or objectives as per Council's Delivery Program	<p><i>A connected, safe and creative community</i></p> <p><i>Objective 1.2.6a: Review and Update the Cemetery Strategic Plan</i></p>
Related Policies / Protocols / Procedures / Documents (reference document numbers)	<ul style="list-style-type: none"> ▪ Records Management Policy (DOC2019/038769) ▪ Guidelines for Works within Council Cemeteries (DOC2013/019554) ▪ Cemetery Strategy (DOC2013/044147) ▪ Cemeteries Masterplan Report (DOC2018/040017)

13. POLICY AUTHORISATIONS

No.	Authorised Function	Authorised Business Unit / Role(s)
TBA	Determine applications to conduct works in Council Cemeteries.	Vegetation and Civic Spaces Coordinator
TBA	Determine applications for perpetual interment rights and order of interment.	Cemetery Officer

14. POLICY HISTORY

Revision	Date Approved / Authority	Description Of Changes
1	5 March 2003 / DC&RS 26/2003 – 781)	New policy adopted
2	21 April 2010 (PM22/2010)	Periodic review
3	18 September 2013 (PM91/2013 - 581)	Periodic review
4	16 March 2022 (W17-2022)	Periodic review

15. Appendices