

Council Policy



Policy Title:	Cemeteries and Burial
Policy Number:	14.17
Focus Area:	PP2: Getting Around
Responsibility:	Infrastructure and Environment
Meeting Adopted:	18 August 2020 [Resolution 180820/13]

OBJECTIVE

- To provide equitable and consistent administration and control of all Council cemeteries;
- To provide the community with a dignified and responsive cemetery and memorial service;
- To ensure that the Council's cemeteries are managed in accordance with statute and common law regulation; and
- To ensure the conduct of those working in the Council's cemeteries is in accordance with appropriate Work Health and Safety (WHS) standards.

POLICY

1. Introduction

The operation of cemeteries is regulated through the provision of the *Cemeteries and Crematoria Act 2013* and the associated *Public Health Act 2010* and Public Health Regulation 2012.

The cemeteries are managed by Richmond Valley Council with all bookings for burials, placement of ashes, reservations for graves or niches to be made direct to Council.

Richmond Valley has four operating cemeteries and two closed cemeteries. The cemeteries are:

- Casino Lawn Cemetery
- Coraki Cemetery
- Evans Head Cemetery
- Wyan Cemetery
- Woodburn Cemetery (closed)
- West Street Cemetery, Casino (closed)

Council acknowledges that the cemeteries are special places that require sensitive and sympathetic management. Council staff will, at all times, be mindful of this and work towards a sympathetic and consultative management of the cemeteries. There are circumstances where this may not be possible and so the following notice is provided.

Council, in its role as Cemetery Manager, reserves the right to determine what is appropriate, hazardous and acceptable. Every attempt will be made to liaise with families prior to any action being taken, however Council staff may take action to rectify situations without prior consultation with families if required.

2. Hours of Operation and Funeral Booking Times

Burials will be carried out between the hours of 9.00am and 4.00pm, Monday to Friday. Burials which require a booking time after 3.00pm will incur an additional cost to cover overtime hours that staff are required to work to service these burials. Additional fees will apply to burials taking place on Saturdays and public holidays.

Burial times have to be confirmed with Council prior to any arrangements being formalised to prevent conflicting times between ceremonies and to ensure adequate time is provided for graves to be prepared and filled during normal working hours. In most instances 48 hours (two business days) notice must be given for all burials.

The time allocated for placement of ashes or burials with no service is 30 minutes, a graveside funeral is 90 minutes, a church funeral 120 minutes and a funeral involving a requiem mass 150 minutes.

After hours burials will be considered and will depend on staff availability and conditions. Council will make every attempt to accommodate requests for burial times. There may be times when requests cannot be accommodated due to staff availability. Additional fees will apply, to cover additional costs such as the payment of overtime wages to staff.

3. Additional Services Available

Plaques and ashes will be placed in niches, memorial gardens and graves and the family/applicant will be notified when placement is completed.

Should a family wish to be present at the following times:

- when ashes are placed in a grave;
- when ashes and plaque are placed in a niche wall;
- when plaques are attached to graves in the lawn cemetery, or
- when ashes or ashes and plaque are placed in memorial gardens

Council will make every attempt to accommodate this service. However, staff availability, weather, burials and other unforeseen circumstances may mean there are times such requests cannot be accommodated.

A fee will be charged for this service in accordance with Council's Fees and Charges.

4. Planning and Layout of Cemeteries

Council will determine the layout of cemeteries and prepare a master plan.

5. Cemetery Register

A register of burial allotments detailing each section and allotment with its appropriate plot identification shall be kept and maintained up to date by the Council in accordance with the *Cemeteries and Crematoria Act 2014*.

The register may be kept in electronic or hard copy format. The location of each burial place must be identified on a plan or map that shows the sections, rows and grave numbers or other locations of remains. The register will include a current record of all burial rights.

The information contained in the burial register shall be made available to any person. A copy of any entry is available on request for which an administration charge may apply.

The following information shall be entered in the register immediately after each burial:

- the name, age, gender and late address of the deceased;
- the date of burial;
- the date of death;
- the description of the allotment in which the burial was made;
- the name of person (if any) who continues to hold any right of burial in that allotment;
- the name of the undertaker concerned; and
- details of burial fees paid.

6. Bookings for Burials

In most instances 48 hours (two business days) notice must be given for all burials within Council's cemeteries. Greater notice may be required to allow for the hand digging of graves in difficult sites.

Bookings made over the weekend cannot be made for the morning of the following working day; the afternoon of the following working day is the earliest booking available.

A burial must not take place in a cemetery unless Council has issued an Order of Burial memorandum to field staff for the burial.

Advice of coffin/casket size must be notified to Council at time of a burial booking and detailed on the application for burial.

7. Burial Permits

Permission to conduct a burial at any cemetery is issued to a funeral director in the form of a "Burial Permit". A Burial Permit must be obtained for each burial. The Burial Permit specifies the cemetery, time, date, burial site, undertaker and deceased for the particular burial.

8. Allocation of Burial Plots, Garden and Niches

If the applicant wishes to select an allotment for burial an appointment time must be arranged with cemetery administration staff, otherwise cemetery administration staff will allocate the next available plot, garden or niche.

9. Reservation of Burial Plots and Niches

An appointment time is to be arranged with cemetery administration staff to meet with the family/applicant to choose an allotment. Reservation fees must be paid at time of application.

The location of the reserved plot will be as per Council's requirements. Requests to be located adjacent to a family member will be accommodated where possible, subject to suitable available plots/niches.

10. Fees and Charges

Council will review the fees and charges for the cemeteries under its control annually. The schedule of any fees and charges will be available at any Council office or on Council's website.

11. Refund of Fees (Reservations)

If the purchaser of a Perpetual Interment Right (reservation) wishes to relinquish the Interment Right to Council, Council will refund 50% of the fee paid at the time of purchase. The original Perpetual Interment Right previously known as Licence for Burial, Right of Burial or Reservation must be returned to Council along with a written request for a refund, signed by the holder(s) of the Licence.

12. Religious/Denomination Sections within Cemeteries

Existing religious/denomination areas within cemeteries are available for general use and there are no restrictions or special requirements for the use of plots within these areas. The setting apart of various religious sections does not entitle the authorities or members of any religious group to control in any manner the making of interments in any division so set apart, or to exclude anybody from being buried therein.

The lawn cemeteries have a Catholic section and all other denominations are combined in a section. The Coraki Cemetery contains an Aboriginal section.

13. Depth of Burials

The dual depth system of burial will apply to all cemeteries under Council's control unless specifically requested by an Undertaker for single depth only.

Burial depth for single depth graves is a minimum of 1.5 metres and for dual depth graves is to a minimum of 2.1 metres. The upper surface of the coffin is to be at least 900 millimetres below natural ground surface level.

Council recognises a standard size coffin to be no greater than 1800mm in length, 600mm in width and 450mm in depth, anything greater than this is considered oversize and dimensions must be provided in the specified area of the burial application.

14. General and Lawn Cemetery Sections

a) Flowers

Flowers may be placed in vases that are securely attached to the beam or headstone and meet Council's specifications. The placement of flowers must not extend onto the lawn area or adjoining graves.

Fresh flowers, wreaths and artificial flowers will be removed from grave sites by Council staff if in their opinion they have deteriorated to such an extent as to detract from the appearance of the cemetery.

The planting of trees, shrubs or flowers in Council cemeteries by the public is not permitted.

b) Vases

Glass or ceramic containers are not be used as vases. Vases are permitted as per Council's specifications.

c) Trinkets/Ornaments

Trinkets/ornaments must be placed on the beam and should not cause offence or nuisance to other cemetery users. These items must be secured and non-breakable so that they do not cause a hazard to Council staff and other patrons.

Should items be deemed excessive, inappropriate or hazardous, these items will be removed.

15. Memorial Gardens

Council's memorial gardens have been constructed to facilitate extra availability for the community with a comparative pricing schedule. Consideration has been given for a cost effective and alternate style of interment with several options available.

a) Rose Garden – Casino Lawn

Multiple ashes to a maximum of four are permitted to be placed in existing or new plots. Fees must be paid prior to placement of each ashes and perpetual maintenance must be paid at the time of the first use of the plot.

Selected ornamental rocks may be installed in single plots however must meet an acceptable standard in line with aesthetics of the gardens ensuring specific height and width diameters are met – ornamental rocks must be no larger than 300mm x 300mm per ashes interment or 500mm x 500mm per 1 metre square plot.

A maximum of 4 (four) ashes may be interred in a new plot of the rose gardens. These numbers will enable the placement of corresponding small plaques on the concrete facia/rock. The plaques for memorial plots must comply with standard sizes and designs set by Council. (See Specifications for Approved Headstones, Plaques and Fittings).

b) Camellia Garden – Casino Lawn

Multiples ashes to a maximum of two are permitted to be placed in existing or new plots. Fees must be paid prior to placement of each ashes and perpetual maintenance must be paid at the time of the first use of the plot.

A maximum of 2 (two) ashes may be interred in a new plot of the camellia gardens. These numbers will enable the placement of corresponding small plaques on the concrete facia/rock. The plaques for memorial plots must comply with standard sizes and designs set by Council. (See Specifications for Approved Headstones, Plaques and Fittings).

c) Magnolia Gardens – Casino Lawn

Multiple ashes to a maximum of two are permitted to be placed in existing or new plots. Fees must be paid prior to placement of each ash and perpetual maintenance must be paid at the time of the first use of the plot.

A maximum of 2 (two) ashes may be interred in a new plot of the camellia gardens. These numbers will enable the placement of corresponding small plaques on the concrete fascia/rock. The plaques for memorial plots must comply with standard sizes and designs set by Council. (See Specifications for Approved Headstones, Plaques and Fittings).

Note: Council will not be held responsible for any unapproved additional items placed in memorial garden plots. Consultation with Council is required for any additional items, materials, structures or ornaments before placement.

d) Gardens – Evans Head Cemetery

Multiple ashes to a maximum of two are permitted to be placed in existing or new plots. Fees must be paid prior to placement of each ash and perpetual maintenance must be paid at the time of the first use of the plot.

A maximum of 2 (two) ashes may be interred in a new plot of the gardens. These numbers will enable the placement of corresponding small plaques on the concrete fascia/rock. The plaques for memorial plots must comply with standard sizes and designs set by Council. (See Specifications for Approved Headstones, Plaques and Fittings).

16. Niche Walls

a) Flowers

Flowers may be placed in bud vases that are securely attached to the niche wall and comply with Council's specifications. Council staff will remove flowers when they have deteriorated.

b) Vases

Only bronze bud vases provided by the applicant/family may be used on niche walls and these vases must be installed by Council.

c) Trinkets/Ornaments

Trinkets/ornaments are not permitted on or adjacent to niche walls.

d) Ashes

The mixing of ashes is permitted prior to the initial interment of the ashes and placement of the plaque. The removal of the plaque and urn from the niche wall to add second ashes into the urn and the re-interment of ashes back into the wall is permitted.

Arrangement for the immurement or removal of ashes may only be made by the Perpetual Interment Right Holder or authorised representative.

Only one (1) ashes urn is permitted into "old" niche walls, up to two (2) urns may be placed into the new niche walls provided smaller containers are used.

17. Ashes – Placement in Graves

Multiple ashes are permitted to be placed in existing or new graves. Fees must be paid prior to the placement of each ashes and perpetual maintenance must be paid at the time of the first use of the plot.

A maximum of six (6) ashes may be interred into a reserved new grave and a maximum of two (2) ashes interred into an existing grave. These numbers will enable the placement of corresponding small plaques on the beam. The plaques for lawn graves must comply with standard sizes and designs set by Council. (See Specifications for Approved Headstones, Plaques and Fittings).

18. Removal of Ashes

Applications to have cremated remains removed from any cemetery under Council's control for any reason must be made in writing. The application must be signed by all applicants or their rightful successor, or a Statutory Declaration may be submitted stating that all near relations of the deceased have been advised of the request of the removal.

An exhumation fee will apply for the removal of ashes as per Council's fees and charges and must be paid prior to removal of ashes.

The holder of the Burial Licence may relinquish the Burial Licence to Council in writing after the removal of the ashes.

19. Placement of Headstones and Monuments in General Sections

The installation of headstones and monuments can only be undertaken by persons/companies that have been approved and hold the appropriate level of public liability insurance and have satisfactory Work Health and Safety procedures in place. A list of approved Monumental Masons is available from any Council office and Council's website.

Monuments and headstones must be constructed and placed wholly within the assigned burial plot.

Council may direct the removal/relocation of any monument, gravestone or other marker that has been incorrectly positioned within a cemetery.

Removal of slabs/headstones or any other monument placed on a grave site to allow the grave to be dug is the responsibility of the family of the deceased at their cost.

20. Placement of Headstones and Memorial Plaques in Lawn Cemeteries

The installation of headstones and memorial plaques can only be undertaken by persons/companies that have been approved and hold the appropriate level of public liability insurance and have satisfactory Work Health and Safety procedures in place. A list of approved Monumental Masons is available from any Council office and Council's website.

Headstones and plaques must be constructed and placed wholly within the assigned burial plot or niche lot.

Council has in place specifications for the size and style of headstones and plaques for graves and plaques for memorial gardens and niche walls within its Lawn Cemeteries. (See Specifications for Approved Headstones, Plaques and Fittings).

21. Headstones/Monuments Maintenance and Repair

Headstones and monuments in the general section of the Council's cemeteries are the responsibility of the holder of the burial licence. Should these items be damaged, vandalised or fall into disrepair it is the responsibility of the burial licence holder to make repairs.

If the headstones or monuments are dangerous, Council may conduct works to make the area safe. This work may involve the placement of a headstone on the ground to prevent it from falling and will not ordinarily include repairs or reinstatement of the headstone.

The placement of headstones or monuments may only be made by monumental masons that have been approved and hold the appropriate level of public liability insurance and have satisfactory Work Health and Safety procedures in place. A list of approved Monumental Masons is available from any Council office and Council's website.

Council does not carry any liability for damage caused by vandals.

22. Plaques – Lawn, Memorial Gardens and Niche Walls

All memorial plaques affixed to niche walls and lawn graves must comply with standard sizes and designs set by Council. (See Specifications for Approved Headstones, Plaques and Fittings).

Plaques and vases placed on niche walls and lawn graves that do not comply with Council specifications may be removed by Council without notice.

23. Burials on Private Property

Council may approve burials on private property subject to the following provisions:

- The payment of a fee in accordance with Council's Fees and Charges;
- The private land having a minimum area of 5 hectares;
- The inspection of a gravesite prior to burial by a Council Environmental Health Officer;
- The granting and registration of a right-of-way on the property from the nearest public road to the gravesite. The right-of-way should provide future visitor access to the grave site and shall be sufficient area to allow any future service requirements;

- The submission of a location plan of the gravesite prepared by a registered surveyor;
- An 88B instrument to be implemented to provide the long-term location of the grave site.

Detailed requirements are contained in *Guidance on Burying Body on Private Land – Public Health Regulation 2012* and the Public Health Regulation 2012.

Clause 66(1)(c) of the Public Health Regulation 2012 provides that:

“a person must not place a body in a grave or vault unless that grave or vault is located on private land where the area of landholding is five hectares or more and the location has been approved for that purpose by the local authority”.

Richmond Valley Council will assess such applications based on the process and requirements of the *Guidance on Burying Body on Private Land – Public Health Regulation 2012* and the Public Health Regulation 2012.

Council will endeavor to process applications as expeditiously as possible. It is noted that the extent of information and assessment required would not normally allow an approval to be achieved within days of the death of a person.

24. Funeral Ceremonies on Beaches, Parks and Public Reserves

Applications for funeral ceremonies on beaches, in parks and public reserves will be considered and where such requests can be accommodated, without inconveniencing or causing distress to the wider community, consent will be provided.

Such applications/requests will be considered on an individual basis and conditions may apply to approvals.

A bond fee (as per Council’s Fees and Charges) will be charged for the use of public land for a funeral or memorial ceremony. General maintenance of public areas is carried out in accordance with Council’s maintenance schedule and cannot be changed to accommodate special requests such as funeral services.

25. Exhumations

Exhumations may not take place unless:

- Prior written approval has been obtained from the Director General of NSW Health and in accordance with the regulations under the *Public Health Act 2010* and the Public Health Regulation 2012;
- Exhumations shall be carried out in accordance with “Exhumations of Human Remains 2013 produced by Health NSW;
- All necessary applications and approvals are to be provided by the Funeral Home;
- An Order for exhumation has been issued by Council.

This section does not apply if an exhumation order has been issued by a Coroner or a Court.

26. Contractors Working at Cemeteries

All contractors undertaking work within Council's cemeteries must prior to undertaking work, furnish Council with the following documents/information:

- Company name if applicable
- Names of employees that represent you at Council Cemeteries
- Copy of Certificate of Currency for Public Liability Insurance which specifically indemnifies Council of works carried out on the site to a minimum value of \$20,000,000.

27. Perpetual Interment Right (Reservation)

Council only issues perpetual interment rights (in perpetuity), Council does not offer renewable interment rights.

A Perpetual Interment Right (reservation) is issued for an upper depth of a grave when a burial in the lower depth of new grave or interment or immurement of ashes occurs or a new reservation for a grave, memorial garden or niche right is made.

The Interment Right entitles the holder to request the erection of monuments, placement of plaques and additional interments at the specified allotment.

The arrangement of the erection of monuments, headstones, placement of plaques or additional burials, can only be done by the person who holds the Interment Right.

The Interment Right is issued to the person identified as the holder of the Interment Rights on the Burial Application – which is completed when arranging the funeral.

a) Who should hold the Exclusive Perpetual Interment Right?

Consideration should be given to who will be named the holder of the Interment Right. The holder of the Interment Right will be granted the right to place a memorial, headstone or plaque and the wording to be placed on the grave. The holder also has the right to determine how a second burial will be managed and must provide consent for any exhumations.

Typically, it is recommended that the executor of an estate be nominated as the holder of the Interment Right.

When making reservation arrangements joint names may be applied to an Interment Right, this will ensure that the right passes to the person that the holder wishes to manage their affairs.

b) Transfer of Interment Right

Council may on application transfer an exclusive burial licence from one or more persons to one or more other persons.

The written application must be made by the holder(s) of the interment right and be signed by the holder(s) of the interment right.

c) Right to refuse to grant or transfer a Burial Licence

Council may refuse to grant or transfer an exclusive interment right if, in its opinion, the grant or transfer would tend to create a monopoly or encourage dealing in such rights as a business.

d) Exclusive Perpetual Interment Right to pass to surviving joint holder

On the death of a joint holder of an exclusive interment right, the remaining joint holder(s) will be entitled to the exclusive interment right.

e) Exclusive Perpetual Interment Right may be bequeathed

An unused interment right can be bequeathed as part of a personal estate. If the holder dies and has not used or bequeathed the interment right, it forms part of the estate. The person(s) to whom a burial licence devolves does not become the holder of the right until the register has been amended. An application with the appropriate documentation, must be received by Council notifying the change.

If the holder of the interment right dies and has not used or bequeathed the interment right, it is dealt with as the personal property of an estate (that is a deceased estate with no legal will).

f) Revocation of Exclusive Rights of Burial

The rights of Council and the holder of an interment right where Council wishes to revoke an interment right are covered in the *Cemeteries and Crematoria Act 2013*.

THE 'INTERMENT RIGHT' IS A LEGAL DOCUMENT AND SHOULD BE KEPT IN A SAFE PLACE.

28. Vaults and Crypts

The construction of vaults and crypts in Richmond Valley Council cemeteries is not permitted.

29. Vehicle Control

Vehicles, unless otherwise authorised, are restricted to formed roads and carparking areas. Authorised vehicles include Funeral Director's vehicles, Council and other Statutory Authority vehicles. Those vehicles with a disabled parking permit attached or a funeral director's vehicle, are permitted to drive off formal roads and carparks to facilitate access for persons with disabilities or the transport of the deceased, at the direction of Council staff.

30. Activities Not Permitted in Cemeteries

- Buying or selling of goods;
- Distributing handbills, circulars, advertisements and the like;
- Take part in any meeting other than a religious or commemorative nature related to a burial or placement of ashes;
- Discharge any firearms, except at a military funeral;
- Wantonly damage or disturb any gravesite;
- The placement of ashes in existing grave (see prohibited actions);

- Filming (unless approval has been provided by Council and the undertaker conducting the service);
- Walk an unleashed dog;
- Carrying out any work within a cemetery.

31. Prohibited Actions

A person must not, without lawful authority, in a cemetery:

- Disturb or interrupt any service, procession or cortege; or
- Inter any human remains (whether cremated or not).

Penalty units will apply as per the *Cemeteries and Crematoria Act 2013*.

32. ANZAC Memorial

The Commemoration Section of the Office of Australian War Graves provides bronze plaques and terrazzo crosses for eligible war veterans. The Department of Veteran Affairs advises the Office of Australian War Graves of the veteran's entitlement.

REVIEW

This policy will be reviewed by Council at the time of any relevant legislative changes, compliance requirements or at least every four years.

Version Number	Date	Reason / Comments
1	18 August 2020	New policy