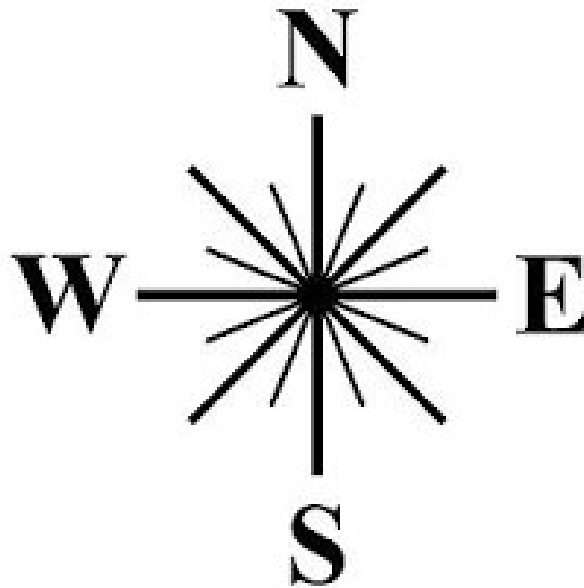
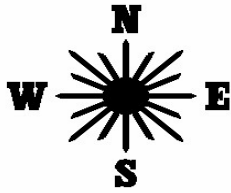


CENTRAL DARLING



SHIRE COUNCIL

CEMETERY POLICY



Title of Policy	Central Darling Shire Council Cemeteries Policy		
This applies to	Public		
Author	Tammie McMaster	Date approved:	24/11/2021
Position of Author	Cemeteries Administrative Officer	Council minute	16-11-21
Legislation, Australian Standards, Code of Practice	<p>The listed legislation acts as reference guides to the operation of Cemeteries, cremations and burials on private lands. Other legislations are referenced has limited application to the Cemetery management policy.</p>		
	<p><i>Anti-Discrimination Act 1977</i> <i>Birth Deaths and Marriages Registration Act 1995</i> <i>Cemeteries and Crematoria Act 2013</i> <i>Cemeteries and Crematoria Regulation 2014</i> <i>Coroners Act 2009</i> <i>Crown Lands Act 1989</i> <i>Crown Lands (General Reserves) By-law 2006</i> <i>Environmental Planning & Assessment Act 1979</i> <i>Environmental Planning & Assessment Regulation 2000</i> <i>Government information (public Access) Act 2009</i> <i>Health Records information Privacy Act 2002</i> <i>Heritage Act 1977</i> <i>Local Government Act 1993</i> <i>Privacy and Personal information Protection Act 1998</i> <i>Public Health Act 2010</i> <i>Public Health Regulation 2012</i> <i>State Records Act 1998</i> <i>Work Health and Safety Act 2011</i> <i>Workers Compensation Act 1987</i> <i>Workplace Injury Management & Workers Compensation Act 1998</i></p>		
Related Policies/Procedures	Central Darling Shire Council Cemeteries Procedure		

1. PURPOSE

The Central Darling Shire Council Cemetery Policy outlines the overall principles that underpin how Central Darling Shire Council manages its cemeteries to comply with legislative requirements and to provide a

dignified and responsive service to the Community.

2. APPLICATION OF THE POLICY

This policy applies to the Central Darling cemeteries, which are under the care, control, and management of the Central Darling Shire Council. This policy aims to assist at all members of the public; including Council employees, residents, visitors, and contractors, who have an interest in or are undertaking work within the Central Darling Shire Council cemeteries. Or be it an interment, or maintenance.

3. POLICY STATEMENT

Central Darling Shire Council (Council) is the operator of various cemeteries across the Shire and is responsible for the administration, maintenance, and respects the need for conservation of environmental and heritage elements within these cemeteries. The cemeteries under Council's authority include:

- Wilcannia General and Wall Memorial, Menindee Road
- White Cliffs General, Murphy's Road
- Menindee General, Cemetery Road
- Ivanhoe General, Memorial Garden, Behring Street Road
- Tilpa Historical Cemetery
- Mossgiel – Cobb Highway

4. CEMETERY MAINTENANCE

Council shall maintain lawn areas, trees and vegetation, roadways, and paths adjacent to and within the monument sections. The public are not permitted to modify or add or construct anything within the cemeteries before gaining council's consent. Council will only remove any decorations that are win blown against fence lines or generally within the grounds.

5. CEMETERY RECORDS

5.1 The cemetery authority must maintain a register of all burials carried out at the cemetery.

5.2 The cemetery authority must make in the register an entry relating to each burial immediately after the burial has been carried out.

5.3 Each entry must include the following:

5.4 The cemetery authority must keep a copy of the register and make it available for inspection on request by an authorised officer.

5.5 All burial application permits, documentation of deceased, plot reservations and Central Darling Shire Council invoices and memorandums are all recorded into cemetery archives and relevant data recorded into the Cemetery Opus Xenta software program. All documentation is freely available for public enquiry.

5.6 Council will assist with repair, restoration, or cleaning of any monument or structure at a burial site, if vandalism occurs. Council will endeavor to contact the Interment Rights Holder if damage is caused to a grave or monument. It is important that all Interment Rights Holders provide up to date contact details to Council.

5.7 Council will negotiate with Families if a Cemetery structure is deemed to be unsafe to the public in a risk assessment carried out by Council. Councils' actions, after negotiating with families will be limited to may act to remove any structure in a cemetery that has become dilapidated, unsightly, is crumbling, or deemed to be unsafe in a risk assessment carried out by Council. Council's actions will be limited to making unsafe structures safe to ensure public and employee safety.

5.8 Where subsidence is evident, Council may, after negotiation with the family, fill and compact the ground

to make the area safe.

HISTORICAL BACKGROUND

5.9 Prior to Council taking on the management of the cemeteries, the cemeteries management and records were administered by various church and community trustees, and consequently some records are incomplete, missing, or incorrect.

REQUIREMENT FOR RECORDS

The Public Health Regulation 2012, Part 8 - Disposal of Bodies, Division 3 - Handling of bodies, Section 68 Register of Burials, states:

- a) The name, age, and last address of the person whose body or remains have been buried.
- b) The date of the person's death.
- c) The date of the burial.
- d) The section and allotment where the burial has been made.
- e) The name of the person (if any) who continues to hold any right of burial in that allotment.
- f) The name of the funeral director who transported the body to the cemetery.
- g) The fees paid to the cemetery authority for the burial.

Council will ensure that:

- a) A register of burials is maintained, as required by legislation.
- b) Each burial is recorded in the burial register immediately after the service. Council will mark burial locations on a map. Printed copies of records and maps are available at Council.
- c) Registers are amended to remove or correct inaccuracies.
- d) As time permits, Council staff will investigate and locate burial records not currently held at Council and continue with the ongoing collation of burial records, where possible.
- e) Council will locate and record reservations and unmarked graves within the cemeteries, where possible.

6. FEES AND CHARGES

5.1 Cemetery fees are detailed in Council's Schedule of Fees and Charges. The Schedule is reviewed annually and implemented on 1 July each year.

7. Interment Rights of Burial and Work Permits

7.1 An Interment Rights of Burial grants the holder the authority to make decisions about the grave/plot and/or the monument, which may include:

- a) Erection or alteration of a monument.
- b) Initial and subsequent burials, where double depth interment has been provided for.
- c) Maintenance of the grave or monument.

7.2 The Interment Rights is perpetual.

7.3 A Right of burial permit is dedicated to only one deceased person.

7.4 A Work Permit grants the holder the authority to make decisions about the monument, which may include:

- a) Erection or alteration of a monument.
- b) Maintenance of the grave or monument.

7.5 The Work Permit is perpetual and may pass from the permit holder to another family member upon council being notified.

7.6 The purchase of an Interment Right includes both the Interment Rights and Work Permit.

7.7 The Interment Rights does not give the holder any equity or property holding in the cemetery.

7.8 There is no ownership of 'the plot' or cemetery land. It is a permit that provides conditional access and right to the specified burial site.

7.9 An Interment Right does not need to be produced when the owner is the deceased and will be interred into the plot grave indicated on the interment right. It is assumed that the person who purchased the interment Right was for the intention of their own Interment.

Surrender or Transfer of Interment Rights and/or Work Permit to Council

a) Transfer of Interment Rights to another person.

Upon application by the holder, Council will transfer the ownership to another person/or persons. The original certificate must be presented to Council with the transfer section completed and signed by the Interment Right Owner.

The holder or joint holders of an Interment Rights and Work Permit granted by the Council may transfer the Interment Rights and/or Work Permit to Council.

Council will only accept the transfer of an Interment Rights and/or Work Permit if:

(a) Evidence of ownership of the Interment Rights and/or Work Permit is supplied to Council.

(b) The gravesite described in the Interment Rights and/or Work Permit to be transferred has not been used for burial of human remains including the remains from a cremation or if it has previously been used, an exhumation has occurred, and the gravesite is no longer required.

(c) The gravesite is free of structural improvements, such as headstone, marker and plantings. If a monument has been placed on a spare grave, the Interment Rights and Work Permit holder will be responsible, at their own cost, for the removal of the monument prior to the transfer of the Interment Rights and/or Work Permit to Council.

(D) Interment Right and work permits will only be issued upon receipt of pre-payment.

All spare Plots will be documented on the Cemeteries maps so as to be identified as a reservation by any family.

All spare plots will be documented into the Cemetery plans - reservation system and documented for viewing by family members wishing to identify locations.

8. GRAVE AND PLOT ALLOCATION SIZING

In Ground Plots shall be laid out in orderly row fashion, each 1200mm wide x 2400mm depth and marked on each cemetery map. Single interments shall be a minimum 1800mm depth x 700mm width. Double interments shall be a minimum of 2300mm depth x 700mm width for first interment. Second, all re-open grave shall provide a minimum of 1 metre cover to natural surface above the casket.

Interment of ashes at the head or foot of a grave is determined on a merit-by-merit basis in consultation with the family. Fees apply.

9. MONUMENTS

For the purpose of this policy, the definition of a permanent and a temporary monument is considered as the following:

- Permanent - A monument that is not easily removable. Any concrete or granite grave, headstone, slab or slope, a slope with a plaque, any masonry structures, and sculptures.
- Temporary - A monument that is easily removable. A brick (without mortar), wire, metal or wooden fence, a wooden cross, pebbles or stones, a wire cage cover (without a slab).

The holder of an Interment Rights and Work Permit is responsible for all costs relating to a monument, including maintenance and repair.

All permanent monuments and monumental work must comply with *AS 4204-1994 Headstones and Cemetery Monuments*. Families may negotiate with council to produce acceptable monumental work on gravesites.

A grave site can be marked with a wooden cross without the requirement to purchase a Work Permit.

Monuments on graves shall generally comply with erected on graves to Australian Standards *Headstones*. Council appreciates the personalisation of gravesites and requests that any memorials and monuments are of a tasteful manner. Monuments and plaques must not exceed the plot size.

Council will ensure that respect is shown at all times to all mourners. Council must ensure that respect is. Therefore, Council advise that items placed at gravesites are limited to floral arrangements and a limited number of ornaments.

10. CONTRACTOR REQUIREMENTS FOR WORK UNDERTAKEN WITHIN THE CEMETERIES

Council reserves the right to remove any obsolete articles or debris in cemetery grounds that may cause safety concerns to visitors. Any person or business providing or carrying out monument masonry services in the cemetery, including the construction, erection, repair, cleaning and restoration of structures over burial sites and spare plots, must comply with Council's requirements, and leave the sites level and clean.

Council reserves the right to decline an approval for an interment booking request, cancel or revoke an approval for proposed work or stop work in progress for failure to comply with Council requirements, via reasonable instruction.

The above-mentioned information is applicable to all Funeral Directors, Monument Masons and Contractors that conduct funeral services, interments, or any type of work in the cemetery.

A person shall not, in the Cemetery, construct, install, alter, restore or renovate any Monument or Memorial without appropriate negotiations with Council. Council will negotiate with family members including work permit holders to approve reasonable works which may include construction, adornments or modification to monuments on plots.

11. INTERMENTS

All requests for interments must be made to council. Reasonable works notice must be given plant availability, weather conditions and the like, generally a minimum of 48 hours notification.

12. SHARED GRAVE

For the purpose of this policy and Council's Schedule of Fees and Charges, Council considers a child to be aged between 0 and 13 years.

Interment Rights for Children are applicable as above and double depth permit depths may apply.

While Council has some records of the interred in shared graves, there are many deaths that were not registered or recorded and as such records were not maintained at the time and are not available at Council.

Many records Council obtained from community and religious trustees were incomplete and while sometimes, details such as the name and date were recorded, the location was not.

Council will not grant or apply fees for Interment Rights or Work Permit for a shared grave site.

13. EXHUMATION

An exhumation may only take place when an order by a Coroner or a Court permitting this is issued. This must be accompanied by written confirmation from a recognised undertaker that they are prepared to carry out the appropriate exhumation, and/all written consent from the deceased next of kin, executor, or other personal legal representative. Certified copy of the death certificate must be provided.

An exhumation of cremated remains does not require NSW Health approval and can be conducted with Council approval only.

14. BURYING A BODY ON PRIVATE LAND – PUBLIC HEALTH REGULATION 2012

Council considers legislation outside of the Public Health Regulations, including Environmental Planning and Assessment Act 1979 when considering approving a request to bury a body on private land.

Under the Public Health Act 2010 a Council Officer with knowledge of the policy, procedure and practice will assess the site being considered by the family for offsite graves. Any application for burial on private land must be accompanied by the necessary approvals provided by an authorised undertaker prior to any council approval.

Council's Environmental Health Officer requires an application for planning approval by owners of the land under Section 149, Environmental Planning and Assessment Act 1979.

The concurrence of adjoining property owners may be necessary in some instances.

The area should be suitably fenced to delineate the boundaries of the location and secure the location.

A restriction on the immediate use of the area adjacent to the private burial ground should be considered, if warranted to prevent building or disturbances to the grave sites.

Records of the burial site will be described and proven by actual GPS Co-Ordinates and a copy provided to council for placement on the property register.

Council will maintain a register of private burial locations.

Each grave will be permanently marked with details of the deceased and the boundaries of the grave excavation will also be permanently marked on council's records.

Above ground burial chambers are not encouraged by council.

15. MISCELLANEOUS

A person must not do any of the following within a cemetery:

- a) Damage, deface, interfere with, or alter burial sites.
- b) Damage, deface, interfere with, or alter monuments.
- c) Bury, inter, or exhume any human remains, whether cremated or not.
- d) No animals are permitted in the Cemetery unless riding a horse or leading a dog on a leash.
- e) Take part in any gathering, meeting, or assembly, except for the purpose of religious research, historical, educational, or other ceremony of burial or commemoration.
- f) Engage in trade or commerce without Council's written consent.
- g) Distribute any circulars, advertisements, paper drawn or photographic material without prior Council consent.
- h) Drive a vehicle or a vehicle and trailer having an unladen weight of more than three (3) tonnes.
- i) Drive a vehicle through a cemetery for the purpose of travelling between places outside of the cemeteries.
- j) Park a vehicle on any known burial place, verge, or plantation, or in a manner that is likely to impede traffic.
- k) Teach, learn or practice driving a vehicle.
- l) Camp or reside on any cemetery land.
- m) Possess or consume an alcoholic or intoxicating beverage or substance.
- n) Urinate or defecate.
- o) Bring or leave any rubbish, refuse, scrap metal (including remains of vehicles), rock, soil, sand or any other such substances.
- p) Remove any dead timber, logs, trees, flora, whether standing or fallen.
- q) Kill, capture or in any way interfere with any animal, bird, fish, or other fauna, whether native or introduced.
- r) Plant any tree, shrub, herbage, or other plant without prior consent.

16. IMPLEMENTATION

Roles and Responsibilities

The following Council officers are responsible for the implementation and the adherence to this policy:

- General Manager
- Inspection Officer, EHO
- Other respective council staff.

Communication

This Policy will be communicated to the community and staff in accordance with Council's Policy and Procedure Process Framework and Council's Business Paper Process.

Following adoption by Council the Policy will be made available on Council's website and hard copies available for the public perusal at Councils administration offices and post offices.

18. REVIEW

This policy may be reviewed to incorporate the needs of the community and to meet legislation requirements from time to time.

Legislative and legal framework

This policy may be read in conjunction with aspects of the following legislation but not limited to the full

meaning of any one document.

- *Anti-Discrimination Act 1977.*
- *Births, Deaths and Marriages Registration Act 1995.*
- *Cemeteries and Crematoria Act 2013 - Sect 66.*
- *Conservation of Cemeteries Act 1974.*
- *Coroners Act 1980.*
- *Crown Lands Act 1989. Crown Lands (General Reserves) By-Law 2006. Crown Lands (General Reserves) Amendment (Sustainable Burials) By-law 2011.*
- *Heritage Act 1977.*
- *Human Tissues Act 1983.*
- *Local Government Act 1993.*
- *Local Government (Control of Cemeteries) Amendment Act 1966.*
- *Privacy and Personal Information Protection Act 1998.*
- *Public Health (Disposal of Bodies) Regulation 2002.*
- *Public Health Act 1991.*
- *Public Health Regulation 1991.*
- *State Records Act 1998.*
- *Work Health and Safety Act 2011.*

Council’s Code of Conduct provides for Council employees to incorporate the wishes of all family members in the execution of all actions in the cemeteries as applicable to this policy.

19. DEFINITIONS

Adult	A person aged 18 years and 1 day over
Applicant	The person making an application for an Interment Rights of Burial, Work Permit, enquiry, burial, relocation or exhumation.
Burial/Interment	The placement of the remains of a deceased person in a grave or plot.
Burial Site/Grave Site	Shall mean a gravesite, for the remains of the dead, weather, cremated or not
Child	A person aged 0 up to 18 years of age
Council	Central Darling Shire Council
Interment Rights of Burial	a certificate that provides a person with the authorisation of who can be interred or exhumed from a burial site. The Interment Rights does not give the holder any equity or property holding in the cemetery.
Interment Rights Holder	the owner / purchaser of the Interment Rights of Burial and recorded as such in Council's register. In some circumstances, the Interment Rights Holder refers to a surviving member of the original holder's family, their executor or administrator, Power of Attorney, their heir, or successor. Ownership may be formally transferred or bequeathed by a Will. There is no entitlement to any 'real estate' or property as such.
Exhumation	the removal of the remains of a deceased person from a grave site

Fee	a fee fixed by Council in its annual Schedule of Fees and Charges. Fees are updated each year and typically come into effect as of the 1st of July each year.
Funeral Director/Undertaker	person(s) whose business is the management of funerals and conducts a funeral and burial
Grave	an occupied burial site
Monument	any structure, plaque, headstone, masonry, slope, metal work, casting or item placed over, in or around a burial right
Monumental Mason	a tradesman mason or person possessing the skills to carry out monumental masonry work.
Plot	An unoccupied burial site
Pre-Selection	the selection of a spare plot at a specific location
Register	the Council's formal repository of data containing all the required details of burial, cremation, memorial site or right of burial. (Note: limited records may only be available).
Slab	the slab of concrete or other stone covering the gravesite
Slope	Sloping monument
Spare Plot	An unoccupied burial site that has been selected, purchased and marked as a spare plot for a future burial.