

Cemeteries, Crematoria and Memorial Gardens Policy

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1. PURPOSE

This Policy is aligned with the *Crown Lands Management Act 2016* to ensure that the Crown Land Cemeteries administered by Council work within a recognised legal framework. It also reflects the requirements of the *Cemeteries and Crematoria Act 2013* (NSW). It is intended to control the administration, management and maintenance of the Shoalhaven Cemeteries and Crematoria. It provides guidance to assist in carrying out the objective functions of Cemeteries and Crematoria. It reflects statute and common law, regulation and Australian Standards that affect the management and operation of Cemeteries and Crematoria. It also sets reasonable and practical standards of conduct for those entering the Cemeteries, Crematoria and Memorial Gardens.

2. STATEMENT

2.1. Citation

This Policy may be cited as The Policy or The Shoalhaven City Council Cemeteries Policy.

2.2. Commencement

This Policy is to commence as of 28 March 2022

2.3. Application

2.3.1. This Policy applies to all Cemeteries, Crematoria and Memorial Gardens controlled, managed, administered, operated and maintained by Council.

2.4. Definitions

2.4.1. **Applicant** means the person making an application:

- 2.4.1.1. to obtain an Interment Right;
- 2.4.1.2. to obtain a work permit or other Council consent; or
- 2.4.1.3. to have the body of a deceased person interred or cremated
- 2.4.1.4. to have the remains of a cremated body interred in a Cemetery
- 2.4.1.5. to have a deceased person commemorated in a Cemetery; or
- 2.4.1.6. for any other bereavement service provided by the Council and
that is subject to an application process.

2.4.2. **Applications** to obtain or arrange:

- 2.4.2.1. An Interment Right
- 2.4.2.2. Interment
- 2.4.2.3. Plaque Inscriptions
- 2.4.2.4. Chapel Bookings
- 2.4.2.5. Cremation Service Bookings
- 2.4.2.6. Monument and Related Permits to Carry Out Work in the Cemeteries

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- 2.4.2.7. Disinterment of cremated remains from a Cemetery
- 2.4.2.8. A bereavement or pre-need service that requires a formal recording process must be made on a form approved by the Council, unless otherwise specified by a Statutory Authority
- 2.4.3. **Approved Form** means an application form which has been approved by Council, either as an appended document to this Policy or an appended document to a Safe Work Method Statement or Standard Operating Procedure, developed and adopted under Council's Work Health and Safety Policy. The only exception will be where a Statutory Authority has approved a form for a particular purpose.
- 2.4.4. **Appropriate fee** means a fee set by Council.
- 2.4.5. **AS-4204** means the Standards Australia Standard **AS 4204-2019** Headstones and Cemetery Monuments.
- 2.4.6. **Ash Processor** means the device used to process cremated remains to a fine grain.
- 2.4.7. **Burial** means the act of burying, interring or immuring the remains of a deceased person.
- 2.4.8. **Burial place** means a grave site, interment 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.
- 2.4.9. **Interment Right** see 3.1.4.
- 2.4.10. **Interment Right Holder** – see Holder
- 2.4.11. **Burial Licence** - superseded by "Interment Right" see 3.1.4.
- 2.4.12. **Burra Charter** means "The Burra Charter (The Australia International Council on Monuments and Sites (ICOMOS) Charter for Places of Cultural Significance)".
- 2.4.13. **Crown Lands** means *Crown Lands Management Act 2016*
- 2.4.14. **Casket** is a general term to describe coffins and containers used to hold human remains.
- 2.4.15. **Catafalque** means the place in the Chapel where the casket is placed prior to committal to the crematory.
- 2.4.16. **Cemetery** or **Cemeteries** means an area containing one or more burial places and that is administered or controlled by Council.
- 2.4.17. **Cemeteries and Crematoria Act** means the *Cemeteries and Crematoria Act 2013* (NSW).
- 2.4.18. **Council** means the Shoalhaven City Council.
- 2.4.19. **Cremator** means the cremation furnace or cremation incinerator.
- 2.4.20. **Crematorium** means the whole of the facility where cremation services are conducted, including the Chapel, crematory, vestry, and surrounding area.
- 2.4.21. **Crematory** means that part of the crematorium where the cremator is located and the cremation of human remains is carried out.
- 2.4.22. **Direct Service** means the delivery of human remains directly to the crematory for cremation, without a committal or funeral service at the crematorium.
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- 2.4.23. **Electronic forms** means forms that may be submitted electronically provided they are a facsimile of the equivalent approved form (2.4.3).
- 2.4.24. **Final Disposition of Ashes** means the legal disposal, interment, memorialising, collection, scattering etc of cremated remains.
- 2.4.25. **Funeral Director** means an individual or business carrying out funeral services.
- 2.4.26. **Funeral Directors procedure** means 'Funerary and Monument/Masonry Services Procedure'.
- 2.4.27. **General Plot** means a public area of the Cemetery grounds set aside for the legal disposition of cremated remains.
- 2.4.28. **Grantee** has been replaced by the term "**Holder**".
- 2.4.29. **Hearse** means a vehicle set aside for the transport of caskets containing human remains.
- 2.4.30. **Holder** means the person who has been issued with an Interment Right.
- 2.4.31. **Interment** means
(a) the placement of human remains in a mausoleum, vault, columbarium or other structure designed for the placement of such remains, or
(b) the burial in the earth of human remains (directly in the earth or in a container).
- 2.4.32. **Interment Right** means an interment right granted under these terms and conditions for the interment of human remains.
- 2.4.33. **Interment Site** means a place in a Cemetery for the interment of human remains
- 2.4.34. **Joint Holders** means two or more persons named as Joint Holders of a single Interment Right.
- 2.4.35. **Monument/Memorial** means any structure, plaque, headstone, masonry, metal work, casting or item placed over, in or around an interment site.
- 2.4.36. **Monument Mason** a tradesman mason or person possessing the skills to carry out monument masonry work.
- 2.4.37. **Monument Masons Procedure** means 'Funerary and Monument/Masonry Services Procedure'.
- 2.4.38. **Pre-need** means a service or Right purchased in advance of actual need, i.e. the entitlement of the Right has not been exercised.
- 2.4.39. **Procedure Manual** means Council's Lawn Cemetery and Crematoria Work Procedures Manual.
- 2.4.40. **Public Health Regulation** means Public Health Regulation 2012 under the Public Health Act 2010 (NSW).
- 2.4.41. **Register** means Council's formal data repository containing all the required details relating to interments, cremations, memorial sites, memorials and immurements.
- 2.4.42. **Reservation** means an Interment Right the provisions of which have not been exercised (see 2.4.38).
- 2.4.43. **Right** means Interment Right, see 3.1.4.
- 2.4.44. **Right of Burial** superseded by "**Interment Right**" (see 4).
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2.4.45. **Structures in Cemeteries** (see 2.4.35).

2.4.46. **The Policy** means this Policy.

3. PROVISIONS

3.1. Management of Cemeteries

3.1.1. Compliance with **Crown Lands Management Act 2016 and Regulations there-under**

3.1.1.1. The conditions and the provisions of the *Crown Lands Management Act 2016* shall apply.

3.1.1.2. Administrative, management and operational procedures and controls set out or implied in the Regulations shall be complied with.

3.1.2. Compliance with **Cemeteries and Crematoria Act 2013 and Regulations there-under.**

3.1.2.1. The requirements and provisions of the *Cemeteries and Crematoria Act 2013 (NSW)* shall apply.

3.1.2.2. Administrative, management and operational procedures and controls set out or implied by the Act and Regulations shall be complied with.

3.1.3. Planning Conduct and Maintenance of Cemeteries

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

3.1.3.1. The setting aside of sections for different types and classes of interments.

3.1.3.2. The establishment of standards of construction and design of monuments and structures.

3.1.3.3. The size, multiple use and location of interment sites.

3.1.3.4. Interments and entombments in vaults.

3.1.3.5. The carrying out of work by Funeral Directors in the Cemeteries.

3.1.3.6. The erection or installation of structures and the making of inscriptions.

3.1.3.7. The carrying out of work by Monument Masons in the Cemeteries.

3.1.3.8. The qualifications required by, and the security deposits to be lodged by, Monument Masons.

3.1.3.9. The removal, replacement and maintenance of structures.

3.1.3.10. The improvement and maintenance of Cemeteries.

3.1.3.11. The making of arrangements for the care of interment sites on an annual or other basis.

3.1.3.12. The supply of goods and services incidental to the conduct of interments and other matters relating to Cemeteries.

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- 3.1.3.13. The conduct of religious or other ceremonies of interment, cremation, disposition or commemoration.

3.1.4. Interment Rights

The granting of Interment Right in a Cemetery administered or managed by the Council shall be in accordance with the *Crown Lands Management Act 2016* and the *Cemeteries and Crematoria Act 2013*.

- 3.1.4.1. Council may grant an Interment Right in respect of an interment site in a Cemetery.
- 3.1.4.2. An application for an Interment Right must be in an approved form and must be accompanied by the appropriate fee.
- 3.1.4.3. An Interment Right may be granted to one or to two or more persons as Joint Holders.
- 3.1.4.4. Council will not grant an Interment Right to a person if the granting of the Right will result in the person holding (including jointly holding) Interment Rights for more than two (2) burial places in the Cemeteries administered or managed by the Council unless approved by the Statutory Authority.
- 3.1.4.5. An Interment Right entitles the person or persons to whom it is granted an exclusive entitlement to inter or immure the remains of a deceased person in the interment site in respect of which it is granted.

3.1.5. Transfer of Interment Right to person other than Council

- 3.1.5.1. Council may, on application, transfer an Interment Right from one person or two or more persons as Joint Holders to one person or two or more other persons as Joint Holders.
- 3.1.5.2. An application under subclause (1) may be made only by the Holder of the Interment Right concerned or, if the Interment Right is held by Joint Holders, by all the Joint Holders.
- 3.1.5.3. An application for the transfer of an Interment Right must be in the approved form and accompanied by the appropriate fee.

3.1.6. Transfer of Interment Right to Council

- 3.1.6.1. The Holder or Joint Holders of an Interment Right granted by the Council may transfer the Interment Right to Council.
- 3.1.6.2. Council will only accept the transfer of an Interment Right if:
- a) The interment site described in the Interment Right to be transferred has not been used for interment of human or other remains, including the remains from a cremation.
 - b) The interment site is free of structural improvements, such as headstone, marker, plantings etc.
- 3.1.6.3. Council may refuse to accept the transfer of an Interment Right from the Holder.
- 3.1.6.4. If Council accepts the transfer of a Interment Right it will compensate the Holder by refunding half of the current fee for a similar Interment Right in a Cemetery administered or managed by the Council, less any unpaid fees that are due to Council in respect of the Right being transferred.

3.1.7. Grant of Interment Right may be refused

- 3.1.7.1. The Council may refuse to grant or transfer an Interment Right if, in Council's opinion, the grant or transfer would tend to create a monopoly or encourage dealing in Interment Rights unless approved by Cemeteries and Crematoria NSW.

3.1.8. Interment Right to pass to surviving Holder

- 3.1.8.1. On the death of a Joint Holder of an Interment Right, the remaining Joint Holder is, or Joint Holders are, entitled to the Interment Right.

3.1.9. Interment Rights may be bequeathed

- 3.1.9.1. The Holder of an Interment Right may bequeath the Right as if it were the Holder's personal estate.
- 3.1.9.2. A person to whom an Interment Right devolves as a result of a bequest does not become the Holder of the Right until the register is amended to indicate that fact.
- 3.1.9.3. On application made by a person to whom an Interment Right has devolved as a result of a bequest, Council will amend the register so as to indicate that the person has become the Holder of the Interment Right.
- 3.1.9.4. An application under this clause must be on an approved form and accompanied by the appropriate fee.
- 3.1.9.5. For the purposes of section 49 (5) of the Act, the time by which the Cemetery operator must be notified of the death of the bequeather is 12 months after the executor or administrator becomes aware of the death.

3.1.10. Rules of intestacy to apply to Interment Rights not bequeathed

- 3.1.10.1. If the Holder of an Interment Right dies and has not bequeathed the Right, the Right is to be dealt with as if it were personal property forming part of the estate of an intestate.
- 3.1.10.2. A person to whom an Interment Right devolves as a result of intestacy does not become the Holder of the Right until the Cemetery register is amended to indicate that fact.
- 3.1.10.3. On application made by a person to whom an Interment Right has devolved as a result of intestacy, Council must amend the register so as to indicate that the person has become the Holder of the Right.
- 3.1.10.4. An application under this clause must be on an approved form and accompanied by the appropriate fee.

3.1.11. Council may determine the Holder of an Interment Right

This clause applies if there is a dispute or other doubt about who holds the Interment Right for a particular interment site in a Cemetery.

- 3.1.11.1. A person who believes he or she is the Holder of the Interment Right may apply to Council for a decision that the person holds the Interment Right.

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- 3.1.11.2. As soon as practicable after receiving the application Council must determine whether the person holds or does not hold the Interment Right for the interment site.
- 3.1.11.3. However, Council may determine that the person holds the Interment Right for the interment site only if:
- (a) at least twenty eight (28) days before making the decision, Council:
 - i. displays a notice about its intention to make the decision in a prominent position at the Cemetery, and
 - ii. displays a notice about its intention to make the decision in a prominent position at the Cemetery, and
 - iii. publishes a notice about its intention to make the decision in at least one newspaper circulating throughout the State, and
 - iv. takes any other steps it considers reasonable in the circumstances to determine who holds the Interment Right for the interment site, or
 - (b) in the reasonable opinion of Council it is not possible to follow the procedure in paragraph (a) because it is necessary to make an urgent decision due to the imminent interment of a person who was related by blood or marriage to, or who was in a domestic relationship with:
 - i. the Applicant, or
 - ii. a person interred in the interment site.
 - (c) If Council decides that the person holds the Interment Right for the interment site, Council is taken to have revoked any other Interment Right for the interment site.

3.1.12. Revocation of Interment Rights

- 3.1.12.1. Council may revoke an Interment Right, or any previous authority or Council, has granted if the right conferred by the Right is not exercised within fifty (50) years after it is granted.
- 3.1.12.2. Before revoking an Interment Right under this clause, Council must cause notice of its intention to do so to be sent, by registered post, to the person (if any) shown in the register of interment sites as the Holder of the Interment Right.
- 3.1.12.3. If no response to the notice is received within twenty eight (28) days after the date on which it is sent, a second notice of Council intention is to be given by means of an advertisement, identifying the interment site and the name of the Holder:
- a. displayed in a prominent position at the Cemetery, and
 - b. published in at least one national and one local newspaper.
- 3.1.12.4. If no response to the second notice is received within six (6) months after the date on which it is advertised, final notice of

Council's intention is to be sent, by registered post, to the person (if any) shown in the register as the Holder of the Interment Right allowing the Holder twenty eight 28 days from the date of the notice within which to enter into negotiations of the kind referred to in subclause (6).

- 3.1.12.5. If Council has insufficient information to properly address the notice referred to in subclause (3.1.12.2) or (3.1.12.4), Council is not required to send that notice but may in that case begin the notification process by means of the notice referred to in subclause (3.1.12.3) and may take any other notification action it considers appropriate.
- 3.1.12.6. At any time before the expiry of the period for responding to the final notice referred to in subclause (3.1.12.4) (or, in the circumstances referred to in subclause (3.1.12.4), within twenty eight (28) days after the last date on which an advertisement referred to in subclause (3.1.12.3) (b) is published) the Holder of the Interment Right concerned may enter into negotiations with Council for:
- a. the sale of the Interment Right to Council, or
 - b. the retention of the Interment Right.
- 3.1.12.7. Any notice required to be displayed or published under this clause may relate to more than one interment site.

3.1.13. **Compensation**

- 3.1.13.1. If Council revokes the Interment Right for an interment site, whether granted before or after the commencement of this clause, the former Holder of that Right is entitled:
- a. to be granted an Interment Right:
 - i. for an alternative interment site in the same Cemetery (and, if available, in the same general location) as the original interment site, and
 - ii. for an equivalent period to that for which the original Interment Right was granted, or
 - b. to be paid by Council, by way of compensation, an amount equal to half of the fee payable (as provided by Council's current scale of fees) for the granting of an Interment Right, less any fees due to Council in respect of the Right being revoked:
 - i. for an alternative interment site in the same Cemetery (and, if available, in the same general location) as the original interment site, and
 - ii. for an equivalent period to that for which the original Interment Right was granted.
- 3.1.13.2. If there is no alternative interment site available, or if there is no applicable scale of fees, the amount of compensation referred to in subclause (3.1.13.1) (b) is to be half of the fee payable for the granting of an Interment Right under the most recent applicable scale of fees, varied in proportion to any variation in the Consumer Price Index (All Groups Index) for

Sydney that has occurred between the date on which that scale was established and the date of revocation of the Interment Right.

- 3.1.13.3. Council must ensure that any report on its accounts contains an estimate of its contingent liability with respect to any Interment Rights it has revoked.
- 3.1.13.4. Council may elect whether the former Holder of the revoked Interment Right is to be granted an alternative interment site or paid compensation.
- 3.1.13.5. Despite clause 3.1.5, if the former Holder of the revoked Interment Right is granted an Interment Right for an alternative interment site, that Right may not be transferred by the former Holder within five (5) years after the date on which it was granted.
- 3.1.13.6. An application for an entitlement under this clause:
 - a. must be on an approved form , and
 - b. must be accompanied by the appropriate fee, and
 - c. must be lodged with Council within six (6) years after the date on which the relevant Interment Right was revoked.
- 3.1.13.7. In this clause, former Holder of a revoked Interment Right means the person who held that Right immediately before it was revoked.

3.1.14. Interments into interment sites in respect of which Interment Rights have been granted

- 3.1.14.1. The remains of a deceased person may not be interred in an interment site in respect of which an Interment Right has been granted unless:
 - a. the person was the Holder of the Right immediately before he or she died or the Holder of the Right gives written consent to the person's remains being interred in the interment site, and
 - b. where another person is already interred in the interment site, the interment site has been dug to a depth to accommodate the remains of another deceased person.
- 3.1.14.2. Once an interment has occurred in an interment site, the authority over the site devolves to the estate of the deceased whose remains were interred in the interment site, except when there are Joint Holders (see 3.1.8).
- 3.1.14.3. The Applicant for the interment shall be regarded as the person representing the estate of the deceased person whose remains are interred in the interment site unless the Executor of the estate of the deceased steps forward..
- 3.1.14.4. When there are two or more interments in an interment site, the authority over site will devolve to the estate of the last deceased person to be interred in the interment site.
- 3.1.14.5. On the death of the spouse or a child of the Holder of an Interment Right, the remains of the spouse or child may be

interred in the interment site to which the Right relates without the written consent of the Holder of the Right if Council is satisfied:

- a. that the Holder is not available to give consent to the interment, and
- b. that consent to the interment would be given if the Holder were available, and
- c. where another person is already interred in the interment site, the interment site has been dug to a depth to accommodate the remains of another deceased person.

3.1.14.6. The only compensation that Council is liable to pay to the Holder of an Interment Right in the event that it permits the Holder's spouse or child to be interred in the interment site without the consent of the Holder is an amount equivalent to the fee currently charged by Council for the grant of a Interment Right in respect of a comparable interment site.

3.1.15. **Disturbing remains of a deceased person**

To ascertain whether any cultural or religious practices apply to the remains of a deceased person for the purposes of section 46 (3) of the Act, a Cemetery operator is to:

- a. consult the Cemetery operator's register, and
- b. if the information is not recorded in the register—make enquiries of the deceased's next-of-kin, and
- c. if the information is not reasonably ascertainable from that source—make enquiries of the cultural or spiritual leader in the community who is relevant to the remains (including by reference to the part of the Cemetery in which the interment site is located), and

Note. Information to assist in identifying relevant cultural or spiritual leaders for various cultural or religious groups is available on the web page relating to Cemeteries and Crematoria NSW on the Department of Industry website.

- d. if the information is not reasonably ascertainable from that source—take any other steps the Cemetery operator considers reasonable in the circumstances to ascertain whether any cultural or religious practices apply to the remains.
- e. A Cemetery operator is to make all reasonable efforts (including taking such time as is reasonably necessary) in making the enquiries referred to in subclause (1).

Note. Clause 15 (b) requires the steps taken to ascertain information, and the information ascertained, under this clause to be recorded in the Cemetery operator's register.

3.1.16. **Register of Interment Rights, Interments and Cremations**

3.1.16.1. A public register of Interment Rights, as required by the Regulations of the *Public Health Act 2010* and the *Cemeteries and Crematoria Act 2013* must be kept in respect of each Interment Right granted. The minimum information required shall be the:

- Full name of the Holder

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- Date of birth of the Holder
 - Gender of Holder
 - Marital status of the Holder
 - Occupation of the Holder
 - Religion of the Holder
 - Full residential address of the Holder
 - Full name, and residential address of the Applicant, if the Applicant is not the Holder
 - Relationship of the Applicant to the Holder
 - Full name and address of a secondary contact for the Holder
 - Relationship of the secondary contact to the Holder

- 3.1.16.1.1. A public register of interments, as required by the Regulations of the *Public Health Act 2010*, and the *Cemeteries and Crematoria Act 2013* in respect of each interment.
- 3.1.16.1.2. A public register of cremations, as required by the Regulations of the *Public Health Act 2010*, and the *Cemeteries and Crematoria Act 2013* in respect of each cremation.
- 3.1.16.1.3. 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:
 - a) Surname
 - b) Date of Interment or Cremation or Reservation
 - c) Interment or Memorial location
- 3.1.16.1.4. Each interment or cremation must be recorded in its respective register immediately after the service.
- 3.1.16.1.5. Registers may be amended to remove or correct inaccuracies.
- 3.1.16.1.6. Council must, on application made by any person, make available to the person a copy of any entry made in an interment or the cremation register.
 - a) Applications made under this provision shall be made on an approved form.
 - b) Each form shall be limited to a single register entry search.
 - c) A fee, as approved by Council, may be charged for each application.
- 3.1.16.1.7. The registers will be used in any proceedings requiring evidence of the identity of the Holder of an Interment Right.

3.1.17. **Certificates of Interment Rights**

- 3.1.17.1. Council will issue to the Holder a certificate, clearly showing:
 - a) the Holder's name and address or the Joint Holders' names and addresses;

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- b) In the case of Joint Holders, each Holder may receive a copy of the certificate
- c) amount paid;
- d) date of issue;
- e) a description of the location of the interment site; and
- f) the key terms and conditions under which the certificate is issued.
- 3.1.17.2. Application for a copy of a Certificate must be made on the form approved by Council.
- 3.1.17.3. Any fees relating to the purchase and re-issue of a Certificate must be paid at the time of application.
- 3.1.18. **Hours of Interment, Cremation and Exhumation**
- 3.1.18.1. Interments, cremations and exhumations shall take place only during the hours approved by Council.
- 3.1.19. **Applications for Interments**
- 3.1.19.1. Applications for Interments must be made on the approved forms.
- 3.1.19.2. An Interment application must be made in respect of an existing Right
- 3.1.19.3. The Applicant for an interment must be:
- the executor of the estate for the deceased person to be interred; or
 - the next of kin to the deceased person to be interred; or
 - any other person having an interest in the estate of the deceased person to be interred; or
 - in the case of an indigent burial, an authorised representative of the statutory authority ordering the interment.
- 3.1.20. **Interment Orders**
- 3.1.20.1. There shall be no Interment Order issued unless there is an application made under 3.1.19.1.
- 3.1.20.2. Interments cannot take place unless an Interment Order has been issued by Council.
- 3.1.20.3. The issue and processing of an interment order shall be in accordance with Council's Work Health and Safety Policy (POL20/12).
- 3.1.20.4. All interments shall comply with the Public Health Regulation and Council's Work Health and Safety Policy (POL20/12).
- 3.1.21. **Exhumation**
- 3.1.21.1. Exhumations are **NOT** to take place unless:
- a) Prior written consent has been obtained from the Director-General of the Department of Health (NSW), if required; and
 - b) Order for Exhumation has been issued by Council.
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c) This clause does not apply if an exhumation has been ordered by a Court or the New South Wales Coroner.

3.1.21.2. All costs incurred in carrying out an exhumation shall be paid by the Applicant or instructing authority.

3.2. Miscellaneous

3.2.1. A person must not do any of the following within a Cemetery:

- 3.2.1.1. Damage, deface, interfere with or alter interment sites;
- 3.2.1.2. Damage, deface, interfere with or alter monuments;
- 3.2.1.3. Bury, inter or exhume any human remains, whether cremated or not;
- 3.2.1.4. Enter or remain in a Cemetery between sunset and sunrise;
- 3.2.1.5. Cause or permit an animal that is under the person's control to enter or remain in a Cemetery;
- 3.2.1.6. Take part in any gathering, meeting or assembly, except for the purpose of religious, research, historical, educational or other ceremony of interment or commemoration;
- 3.2.1.7. Engage in trade or commerce without Council's written consent;
- 3.2.1.8. Distribute any circulars, advertisements, paper drawn or photographic material without prior Council consent;
- 3.2.1.9. Drive a vehicle at a speed of more than eight (8) kilometres per hour;
- 3.2.1.10. Drive a vehicle or a vehicle and trailer having an unladen weight of more than three (3) tonnes;
- 3.2.1.11. Drive a vehicle through a Cemetery for the purpose of travelling between places outside of the Cemetery;
- 3.2.1.12. Park a vehicle on any known interment site, verge or plantation, or in a manner that is likely to impede traffic,
- 3.2.1.13. Teach, learn or practice driving a vehicle;
- 3.2.1.14. Camp or reside on any Cemetery land;
- 3.2.1.15. Possess or consume an alcoholic or intoxicating beverage or substance;
- 3.2.1.16. Urinate or defecate;
- 3.2.1.17. Bring or leave any rubbish, refuse, scrap metal (including remains of vehicles), rock, soil, sand or any other such substances;
- 3.2.1.18. Remove any dead timber, logs, trees, flora, whether standing or fallen;
- 3.2.1.19. Kill, capture or in any way interfere with any animal, bird, fish or other fauna, whether native or introduced;
- 3.2.1.20. Plant any tree, shrub, herbage or other plant without prior consent.

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- 3.2.2. Clause 3.2.1.5 does not prevent a person from riding a horse or leading or walking a dog on a leash.
 - 3.2.3. Council's written consent is required to legally carry out any act that might otherwise give rise to an offence under this clause.

3.3. Requirements for Interment Sites

- 3.3.1. The dimensions of an interment site for the interment of the body of a deceased person shall be a minimum of:
 - 3.3.1.1. 1200mm X 2400mm for adult interment sites;
 - 3.3.1.2. 900mm X 1500mm for children's interment sites.

3.4. The number of interments permitted in an interment site shall be in strict accordance with the Public Health Regulation.

3.5. Above Ground Entombment

- 3.5.1. All immurements shall be in accordance with
 - 3.5.1.1. Council's Work Health and Safety Policy
 - 3.5.1.2. The *Public Health Regulation (Disposal of Bodies) 2012 NSW*

3.6. Funeral Directors and Monument Masons

- 3.6.1. Any person or business providing or carrying out monument masonry services in a Cemetery, including the construction, erection, repair, cleaning and restoration of structures over burial places, must comply with the requirements of Council's Funeralary and Monument Masonry Services Procedure.
- 3.6.2. Any person or business providing or carrying out funerary services in a Cemetery must comply with the requirements of Council's Funeralary and Monument Masonry Services Procedure.

3.7. Monuments and Inscriptions

Any person working in a Cemetery must comply with requirements of Council's Work Health and Safety Policy.

- 3.7.1. A person may not carry out any work in a Cemetery, including the erection of structures over interment sites in the Cemetery, unless
 - 3.7.1.1. They are a Council employee instructed to do so by Council
 - 3.7.1.2. A contractor acting under instructions of Council
 - 3.7.1.3. A Funeral Director or Monument Mason acting in accordance with the requirements of Council's Funeralary and Monument Masonry Services Procedure.
- 3.7.2. A person shall not, in a Cemetery:
 - 3.7.2.1. Construct, install, alter, restore, renovate or improve any monument, memorial, foundation, vault, table, headstone, gravestone, kerbing, railing or other structure, unless it is of:

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- a) a material and design approved in writing by Council;
 - b) carried out to the standard of workmanship required by Council; and
 - c) constructed or maintained in accordance with AS4204-2019 Headstones and Cemetery monuments.
- 3.7.2.2. Make any inscription or carry out any adornment, unless it is approved by Council and made or carried out to the standard required by Council.

3.8. Removal of Structures

3.8.1. A person may not:

- 3.8.1.1. remove a monument, memorial, foundation, vault, table, headstone, gravestone, kerbing, rail or other structure from a Cemetery without Council's written permission;
- 3.8.1.2. erase, correct, or require the erasure or correction of, wording of any inscription that has been constructed, installed, made or carried out:
 - a) without Council's written consent; or
 - b) otherwise than in accordance with an approval given by Council.

3.8.2. Council may:

- 3.8.2.1. remove, demolish, alter or require the removal, demolition or alteration of any structure or any adornment, or
- 3.8.2.2. where any work that has been approved is not completed within a reasonable time, remove or demolish such partially finished work as it deems necessary to preserve the fabric of the Cemetery and public safety.

3.9. Removal and replacement of structures for the purpose of interment

3.9.1. Where notice is given to open an interment site, vault or crypt for a lawful purpose and is in accordance with this policy, it shall be the Applicant's responsibility to:

- 3.9.1.1. Arrange for the removal of any part of the structure to enable the safe opening of the interment site. To make good the repair of the structure affected under this provision within fourteen (14) days of the interment or service date.

3.10. Maintenance of Structures

3.10.1. Council shall not be responsible for the upkeep, maintenance, repair etc of any monument or structure over an interment site.

3.10.2. Council's responsibility for any structure in a Cemetery is limited to its preservation as defined in the Burra Charter, ie, 1.6 Preservation means maintaining the fabric of a place in its existing state and retarding deterioration

- 3.10.3. The cleaning, repair or restoration of a structure in a Cemetery is the responsibility of the Interment Right Holder.
- 3.10.4. Council 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.
- 3.10.5. Council may remove any shrubs, trees or other vegetation that has been planted on an interment site without Council's written consent
- 3.10.6. 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.

3.11. Unsafe Monuments

- 3.11.1. When hazards, including unsafe structures, are identified Council will act to eliminate them.

3.11.2. Identification and Reporting

Identification of unsafe structures shall be by Risk Assessment and/or Hazard reporting as prescribed in Council's Work Health, Safety and Policy (POL20/12). Actions carried out under this clause will be thoroughly documented and supported with photographs. All actions will be recorded against the respective Cemetery register entry.

3.11.3. Unsafe monument – notice of action

The notice given to the Holder of the Interment Right for an interment site affected by an unsafe monument or structure shall be notified in accordance with the following schedule, which is derived from the Initial Risk Rating determined by the Risk Assessment.

Initial Risk Rating	Notification process
EXTREME	No notification – immediate action to be taken to make the structure safe.
HIGH	The Holder shall be notified to take action within SEVEN (7) days to remedy the structure. If the Holder cannot be contacted, a sign giving seven (7) days' notice that the Holder should act to make the structure safe shall be displayed at the interment site. If, after the period of notice, no action has been taken by the Holder of the Interment Right, Council will take steps to make the monument safe.
MEDIUM	The Holder shall be notified to take action within FOURTEEN (14) days to remedy the structure. If the Holder cannot be contacted, a sign giving FOURTEEN (14) days' notice that the Holder should act to make the structure safe shall be displayed at the interment site. If, after the period of notice, no action has been taken by the Holder of the Interment Right, Council will take steps to

	make the monument safe.
LOW	The Holder shall be notified to take action within TWENTY-EIGHT (28) days to remedy the structure. If the Holder cannot be contacted, a sign giving TWENTY-EIGHT (28) days' notice that the Holder should act to make the structure safe shall be displayed at the interment site. If, after the period of notice, no action has been taken by the Holder of the Interment Right, Council will take steps to make the monument safe.

3.11.4. Subsidence

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

3.11.5. Repair of Monument

Council will not repair monuments. Council's actions will be limited to making unsafe structures safe to ensure public and employee safety.

3.12. Lawn Cemetery Portions

3.12.1. Council will ensure that:

- 3.12.1.1. It maintains, preserves, and repairs lawn Cemetery interment sites;
- 3.12.1.2. Interment sites are not enclosed with any railing or kerbing except where culturally required;
- 3.12.1.3. No headstone, statue or other structure is erected or constructed over an interment site in a Lawn Portion;
- 3.12.1.4. No tree, shrub or other plant is placed or planted on any interment site in a Lawn Portion other than by Council at its absolute discretion.

3.12.2. Artificial flowers are permitted in Lawn Cemetery portions provided they are securely fixed into a vase approved by Council.

3.12.3. Artificial flowers are not permitted in 'Bush Walk Garden' areas at the Shoalhaven Memorial Gardens and Lawn Cemetery or the Sandridge Memorial Gardens, Mollymook.

3.12.4. Grounds maintenance staff will, without notice, remove and dispose of artificial flowers that:

- 3.12.4.1. in their opinion, are not securely fixed in the vase;
- 3.12.4.2. are left loose or strewn about by wind, animals etc; or
- 3.12.4.3. have faded, deteriorated or become untidy in appearance.

3.12.5. Council shall place over each interment site in the Lawn Portion, as soon as practicable after an interment has taken place, and upon receipt of written instructions from the Applicant, a memorial plaque, supplied by Council, of a standard size and type as determined by Council.

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- 3.12.6. The Holder must arrange for a cast bronze plaque to be placed at the interment site within eighteen (18) months of the interment date. If after eighteen (18) months the cast bronze plaque has not been finalised, Council will act to do so.
 - 3.12.7. Where Council acts to place the plaque (under the provisions of vi) the plaque shall have on it the full name of the deceased, their date of birth (if available), their date of death and their age as recorded in the Cemetery's interment register.
 - 3.12.8. The Applicant for the interment or their delegate may apply to privately supply and fix a memorial plaque in Lawn Cemetery portions provided that:
 - 3.12.8.1. a formal application in accordance with this policy has been lodged with Council;
 - 3.12.8.2. all fees as scheduled by Council for the lodgement of the application have been paid;
 - 3.12.8.3. the design and type of plaque is consistent with the requirements determined by Council; and
 - 3.12.8.4. Council has given its written approval.
 - 3.12.9. Council will not be liable for the repair, maintenance, upkeep or preservation of any plaque or item placed on an interment site in a Lawn Cemetery under the provisions of this section of the Policy.
 - 3.12.10. When a plaque is placed under clause v, the applicant must pay any costs incurred if they issue subsequent instructions to alter or replace the plaque.

3.13. Monument Lawn Portions

- 3.13.1. Council will ensure that:
 - 3.13.1.1. It maintains, preserves, and repairs monument Lawn Cemetery interment sites.
 - 3.13.1.2. Interment sites are not enclosed with any railing or kerbing except where culturally required.
 - 3.13.1.3. Only cut flowers are left at interment sites in Monument Lawn Cemeteries.
 - 3.13.1.4. Cut flowers are placed in vases of a type approved by Council.
 - 3.13.1.5. No tree, shrub or other plant is placed or planted on any interment site in a Monument Lawn portion other than by Council at its absolute discretion.
- 3.13.2. Council will ensure that each interment site in a Lawn Monument portion shall be marked with a permanent headstone and sub-socket, as defined in section 3.13.11 of this Policy, within eighteen (18) months of the date of interment.
- 3.13.3. A fee for the procurement of the headstone and sub-socket must be paid by the Holder of the Interment Right prior to interment.
- 3.13.4. If instructions for the headstone have not been finalised after 15 months a final letter will be sent to the Interment Right Holder stating that

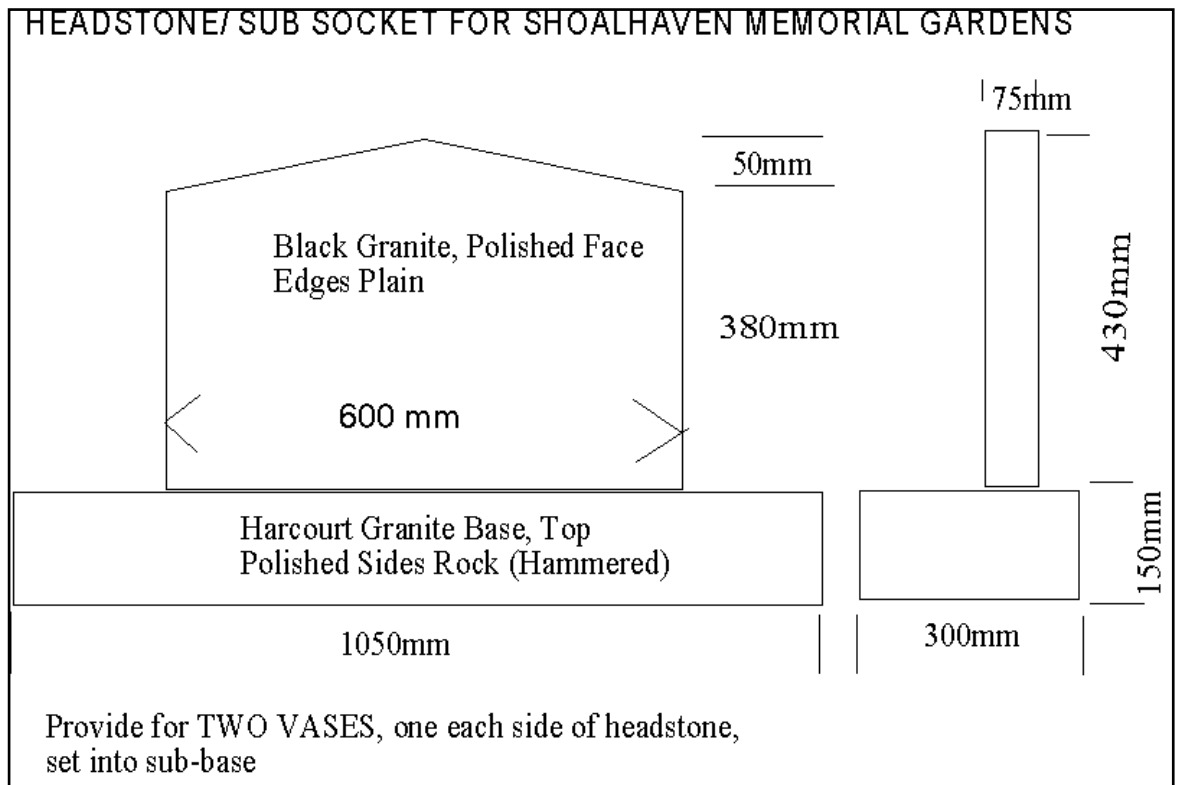
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- Council will act to place a headstone with a basic inscription on the grave site unless the Estate acts by the end of the 18 month period.
- 3.13.5. If after eighteen (18) months the Holder of the Interment Right has not issued instructions for the headstone and sub-socket, Council will act to do so.
- 3.13.6. Where Council acts to place the headstone (under the provisions of 3.12.5) the headstone shall have on it the full name of the deceased, their date of birth (if available), their date of death and their age as recorded in the Cemetery's interment register.
- 3.13.7. The Holder of the Interment Right or their delegate may apply to privately supply and fix a headstone and sub-socket in Lawn Monument portions provided that:
- 3.13.7.1. a formal application in accordance with k of this policy has been lodged with Council;
- 3.13.7.2. all fees as scheduled by Council for the lodgement of the application have been paid;
- 3.13.7.3. the design and type of headstone is consistent with the requirements determined by Council; and
- 3.13.7.4. Council has given its written approval.
- 3.13.8. If the Holder of the Interment Right chooses to procure their own headstone under section 3.12.7 of this policy, the fee originally paid to Council (section ii) for the headstone shall be refunded in full to the Holder of the Interment Right.
- 3.13.9. Council will not be liable for the repair, maintenance, upkeep or preservation of the headstone and sub-socket placed on an interment site in a lawn monument Cemetery or portion under the provisions of section 3.12.7 of this Policy.
- 3.13.10. All monument work must comply with Australian Standard AS 4204-19 Headstones and Cemetery Monuments as the minimum standard of work.
- 3.13.11. Minimum Standards for Headstones in the Monument Beam Section:
- 3.13.11.1. **The Base** (Sub-socket)
- a) The base upon which the headstone is mounted must be LIGHT TO MEDIUM GREY GRANITE or a NATURAL STONE that has a porosity similar to monument quality granite stone - sub bases derived from granite other than Harcourt can be used.
 - b) Each base must measure 1050mm long, 300mm deep (wide) and 150mm high measured from the top of the provided concrete beam.
 - c) The top of the base MUST be polished
 - d) The front, left and right sides of the base must be 'rock hammered'
 - e) The back of the base can be sawn or polished.
 - f) The base must provide cored holes for at least two flush mounted vases.
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- g) The base MUST be placed and secured, on the provided beam in accordance with AS4204-19 dowel specifications..

3.13.11.2. The Headstone

- a) Headstones must be manufactured from best quality, monument grade 'granite'.
- b) The face of the headstone MUST be polished
- c) The back and edges can be polished, sawn or 'bush rock hammered'
- d) Each headstone must be between 550mm and 800mm wide at its base.
- e) The overall width of each headstone must be no more than 800mm
- f) Each headstone must be between 450mm and 600mm high, measured from the top of the base (sub-socket)
- g) The headstone must be secured to the base using dowels as directed in AS4204-19 as a minimum standard.
- h) Lettering must be inscribed into the face of the headstone; surface mounted lettering is NOT allowed.
- i) Cast bronze plaques fixed to the headstone are permitted in place of inscribed lettering.
- j) Alternative stone to granite may be considered upon application, however the general principals of this section must be observed.

3.13.11.3. Example for Lawn Monument Beam Headstone:



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- 3.13.12. Council accepts responsibility for the care and maintenance of any headstone it has provided in a Monument Lawn portion.
 - 3.13.13. Council will not maintain, repair or restore any headstone it did not provide in a Monument Lawn portion.
 - 3.13.14. Artificial flowers are permitted in Monument Lawn portions provided they are securely fixed into a vase approved by Council.

3.14. Memorial Gardens

- 3.14.1. Council shall be the sole provider and installer of all plaques in the Memorial Gardens it manages.
- 3.14.2. Artificial flowers are not permitted in 'Bush Walk Garden' areas at the Shoalhaven Memorial Gardens and Lawn Cemetery or the Sandridge Memorial Gardens, Mollymook.
- 3.14.3. Grounds maintenance staff will, without notice, remove and dispose of artificial flowers that:
 - 3.14.3.1. in their opinion, are not securely fixed in the vase;
 - 3.14.3.2. are left loose or strewn about by wind, animals etc
 - 3.14.3.3. have faded, deteriorated or present an untidy appearance.

3.15. Cremation

- 3.15.1. Cremation shall be in strict accordance with the Public Health Regulation and the procedures approved by Council.
- 3.15.2. All cremations shall be carried out under the supervision of a Council officer employed for that purpose.
- 3.15.3. The disposition of cremated remains shall be in accordance with the Public Health Regulations.
- 3.15.4. The scattering of cremated remains is permitted only in those areas of the Cemeteries designated for the purpose.
- 3.15.5. The interment or immurement of cremated remains in a Council Cemetery shall be subject to the same process that applies to interments under this Policy.
- 3.15.6. **Inspection of the Crematorium**
Public inspection of the crematorium and crematory is permitted:
 - 3.15.6.1. by appointment, made with the Shoalhaven Bereavement Services Manager; and
 - 3.15.6.2. under the direct guidance and control of the Shoalhaven Bereavement Services Manager or other suitably qualified Council employee.
- 3.15.7. **Conditions of Acceptance of a Cremation Service**
Notwithstanding the Public Health Regulation, a cremation service will only be accepted when:
 - 3.15.7.1. the human remains to be cremated have been contained in a casket or coffin suitable for cremation;

3.15.7.2. all statutory requirements, particularly in relation to the *Public Health Regulation 2012*, the *Cemeteries and Crematoria Act 2013*, the *Coroners Act 2009* and the *Local Government Act 1993* have been met; and

3.15.7.3. such fees as required by Council to carry out the cremation service have been paid.

Note: Council may, at its discretion, delay a service arriving later than the agreed to schedule for the service.

3.15.8. **Companion Animals in the Chapel**

Dogs, cats and other companion animals are not permitted inside the Chapel at any time.

3.15.9. **Clearing of Chapel Area**

The Chapel concierge shall ensure that the Chapel area is cleared of mourners, flowers etc prior to the scheduled time of the next service or within the hour of the current service, whichever is sooner.

3.15.10. **Removal of Items from Casket or Body**

Council accepts no responsibility for the items (flowers, covers, jewellery, ornaments etc.) left on or in the casket once it has been accepted into the crematory. Council will remove and dispose of visible hazardous, combustible, volatile, or other visible item as is deemed necessary to ensure the safe progress of work.

3.15.11. **Viewing of Cremation**

Immediate family members may, by application, appointment and payment of the prescribed fee, observe from the viewing area set aside for the purpose, the committal of the casket into the cremator. Visitors under these provisions must leave the area when requested to do so by a Council Officer or an employee directly involved with the operation and maintenance of the crematorium.

3.15.12. **Access to the Crematory**

Only Council employees acting under instructions to do so may enter the crematory. Non-employees, members of the public, Funeral Directors and employees not directly involved in the operation and maintenance of the cremator may only enter the crematory when accompanied by the Shoalhaven Bereavement Services Manager or another suitably qualified Council employee.

3.15.13. **Opening of Caskets in the Crematory**

Caskets or coffins shall not be opened when held in the crematorium.

3.15.14. **Obtaining Instructions for Disposition**

If no instructions for final disposition have been issued by the Applicant for the cremation, every reasonable effort must be made to contact the Applicant, in writing, after:

3.15.14.1. Fourteen (14) days,

3.15.14.2. Ninety (90) days, and

3.15.14.3. Six (6) months
of the cremation date.

3.15.15. **No Instructions for Disposition**

In accordance with the *Public Health Regulation 2012*, if no instructions for disposition have been received within nine (9) months of the cremation date, Council will direct the remains to be interred in the General Plot.

4. **SPECIAL PORTIONS SET ASIDE**

4.1. **Royal Australian Navy (Naval) Portion And The Military Portion**

- 4.1.1. The land measuring approximately 40m x 20m on the southern side of the Royal Australian Naval Section of Nowra General Cemetery (see Attachment A) shall be administered and operated by Council.
- 4.1.2. The portion will be called the “Military Portion of Nowra General Cemetery” (Military Portion).
- 4.1.3. The “Military Portion” will be administered under this policy and the Funerary and Monument Masonry Procedure.
- 4.1.4. Interment Rights in the “Military Portion” will only be granted to:
 - 4.1.4.1. Those who have served in an Australian Defence Force and their spouses and partners.
 - 4.1.4.2. The members of the Defence Forces of Allies who served with the Australian Defence personnel in war, their spouses and partners. Council’s fees for Interment Rights will be calculated and set to recover costs and to provide for future maintenance and preservation work, as set out in the *Crown Land Management Act 2016*.
- 4.1.5. The standard of monuments shall be the same as applies to the established interment sites in the Naval Section
- 4.1.6. The foundations for the monuments shall be constructed by Council.
- 4.1.7. The fee for the Interment Right, including the foundations for the monument, will be the same as the one for Shoalhaven Monument Lawn Cemetery, Worrigeer.
- 4.1.8. Interment site digging and related services shall be same as those applying to Nowra General Cemetery.
- 4.1.9. Within twelve (12) months of it occurring, each interment in the “Military Portion” shall be marked with a standard brown cast bronze plaque measuring 380mm x 280mm and the plaque must be fixed to the plinth of the monument.
- 4.1.10. A refundable “monument surety deposit” shall be charged at the time of the first interment.
- 4.1.11. The “monument surety deposit” shall be refunded to the applicant for the interment once the monument has been constructed and the permanent marker has been fixed to it.
- 4.1.12. If a monument and permanent marker have not been constructed over the interment site after twelve (12) months of the first interment, Council may

permanently retain the surety deposit and seek to recover costs to complete the construction.

4.1.13. The Royal Australian Navy will continue to give directions and instructions and meet all costs associated with the planning, development, maintenance and preservation of those portions of the Nowra General Cemetery it retains for its exclusive use.

4.1.14. Council will give reasonable assistance to the RAN in the management of the Naval Cemetery, on a cost-recovery basis.

4.2. To meet the cultural needs of members of the community

4.2.1. In accordance with Cemeteries and Crematoria Act 2013, the cultural needs of the members of the Jewish faith will be addressed by the allocation of an area in the Lawn Monument Portion of the Shoalhaven Memorial Gardens and Lawn Cemetery for the exclusive use of the Jewish community. Persons to be interred there will be affirmed by designated Jewish authority.

4.2.2. In accordance with the Cemeteries and Crematoria Act 2013, the cultural needs of members of the community will be addressed if possible once these needs have been officially established.

5. IMPLEMENTATION

City Services Group through Commercial Services via Bereavement Services will administer the Policy.

6. REVIEW

This policy will be reviewed within one (1) year of the election of every new Council, or earlier should circumstances arise to warrant revision.

7. APPLICATION OF ESD PRINCIPLES

The policy assists in achieving practical allocation of diminishing resources, primarily Interment Rights and interment sites, within the Cemeteries and Memorial Gardens.

It also encourages all new structures (monuments etc) to be built in accordance with the best practices and standards, thereby making them as sustainable as possible.