



# Funerary & Monument / Masonry Services

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## **1. PURPOSE**

This procedure provides information to providers of Funerary and Monumental / Stone Masonry services that are not workers engaged by Council. The Procedure advises them of their responsibilities with regard to Work Health Safety (WHS), Risk Management and Public Liability whilst undertaking their activities at the chapel, cemeteries, crematorium and memorial gardens, controlled and managed by the Council.

This procedure should be read in conjunction with the Induction Handbook (D08/61429).

## **2. STATEMENT**

The procedure includes all chapels, crematoria, memorial gardens and any cemeteries for which Shoalhaven City Council is the Reserve Trust Manager, Devolved Manager under Section 48 of the Local Government Act, administrator or controller. It includes the operational cemeteries at:

- Nowra
- Berry
- Kangaroo Valley
- West Cambewarra
- Conjola
- Sandridge Memorial Gardens (Mollymook)
- The Shoalhaven Memorial Gardens & Lawn Cemetery (Worrige)

and any others that are controlled or administered by Council.

### **2.1. Duty of Care**

Council has a legal responsibility to provide a duty of care to providers and the public to ensure they are not exposed to any risk of injury or illness in the Work Health Safety (WHS) Act 2011 (WHS Act).

## **3. PROVISIONS**

### **3.1. Definitions**

- 3.1.1. Council - Shoalhaven City Council
- 3.1.2. Provider – Funerary and Monumental / Stone Masonry Service Provider
- 3.1.3. WHS Act – Work Health Safety Act 2011
- 3.1.4. WHS – Work Health Safety
- 3.1.5. Regulation – The Public Health Regulation 2012
- 3.1.6. Cemetery - Cemetery means any cemetery, memorial garden or crematorium facility administered, managed or controlled by Shoalhaven City Council
- 3.1.7. Induction Handbook – Corporate Induction Handbook for Funerary & Monument Masonry Services Providers (D08/61429)

3.1.8. PCBU – Person Conducting a Business or Undertaking

3.1.9. Funerary Service Provider - Is usually a PCBU and its employees, which arranges and conduct funerals on the instruction of the families and estates of the deceased.

As part of Funerary services a representative will liaise with Council's Bereavement Services Unit to commit the deceased's body to a cemetery or the crematorium. The committal may involve as little as delivering the body, to gatherings of several hundred people at a cemetery or the crematorium chapel, where they participate in the funeral service.

A Funerary Service Provider's primary function is to care for the deceased, co-ordinate and control the flow of service to ensure that it is carried out according to the accepted custom, tradition and clients' needs, and that it commences and finishes punctually and in a safe manner.

Funerary Service Providers are subject to the Public Health Act (NSW) 2010 and regulations under the Act, especially the "Public Health Regulation 2012", as amended.

3.1.10. Monument/Stone Masonry Service Provider - Is usually a PCBU and its employees which, upon instructions from a third party will construct, erect, restore, repair and sometimes remove monuments, headstones and other structures over specific graves in the cemeteries.

Monument / Stone Masonry involves many building construction tasks. As such, it is "construction work". Monuments shall be constructed in accordance with and meet the requirements of AS 4204 Monuments and Headstones in Cemeteries. All work must be conducted in a professional, safe and tradesperson-like manner.

3.1.11. Work Permit - A permit issued by the Council to allow commencement of Funerary or Monument/Stone Masonry Services in the Shoalhaven City Council cemeteries. This may include:

- **Burial Order Permit** – A permit issued by Council allowing a Licence of Burial to be issued in a specific burial site allotment in a cemetery
- **Cremation Permit** – A permit issued under the Public Health Regulation (Disposal of Bodies) as amended allowing a cremation authority to cremate a body
- **Monument Work Permit** - a permit issued by Council to allow the construction, erection, repair, restoration or cleaning of a monument or headstone over a specific burial site allotment in a cemetery

**3.2. Roles – Funerary Service Provider and Monument/Stone Masonry Service Provider**

Council and the individual Providers each have an obligation in law to ensure that when they carry out their work in a cemetery that they do so safely and effectively and without creating risks to themselves, Council employees or the general public.

Providers contribute to the quality of the service Council provides in the cemeteries. Providers also perform important functions that assist the local community.

**3.3. Rights and Responsibilities**

3.3.1. Shoalhaven City Council shall:

- Provide information on Council policies and procedures impacting on activities
- Consult regularly on matters that will impact on Providers when they work in a cemetery
- Regularly review the role of Providers whilst at Council managed/controlled facilities through consultation
- Maintain adequate processes to ensure Providers maintain acceptable behaviour when working in the cemeteries
- Endeavour to provide a safe working environment
- Provide relevant insurance cover and provide statements on request
- Respect the confidentiality and maintain provisions of the Privacy and Personal Information Protection Act 1998 (PPIPA)
- Comply with the requirements of The Government Information (Public Access) Act 2009 (NSW) (GIPA Act)

3.3.2. Funerary and Monument /Stone Masonry Service Providers shall:

- Complete their work in cemeteries in accordance with legislative and regulatory requirements
- Complete their work in cemeteries in accordance with Council's approved plans and policies
- Follow any guidelines, policies and procedures relevant to their role
- Ask for help/seek assistance when needed, ask questions when more information is required
- Provide proof of identity to Shoalhaven City Council if required
- Provide details of attendance utilising the Burial Form as a register, identifying the principle on each occasion they attend a cemetery/crematorium to undertake their work
- If construction work is undertaken a (WorkCover) National Construction Induction qualification (White Card) must be held by the Funerary and / or Monument/Stone Masonry Service provider, a copy of which must be shown to Shoalhaven City Council

**3.4. Permission To Carry Out Work In A Cemetery**

3.4.1. Application

Anyone wanting to conduct funerary and monument / stone masonry activities at a Shoalhaven City Council cemetery or its crematorium must formally apply to Council to obtain approval and if necessary, a work permit, before commencing work.

3.4.2. Application Form

All application forms shall be in a format approved by the Council. Application forms are available to download in PDF format via the Shoalhaven City Council website [www.shoalhaven.nsw.gov.au](http://www.shoalhaven.nsw.gov.au) or at <http://cremweb.shoalhaven.nsw.gov.au>. All providers and their associates are required to complete the form prior to the commencement of their activities in Shoalhaven City Council cemeteries.

The form shall be submitted to the Bereavement Services Manager. The details on these forms shall be retained by Shoalhaven City Council's Bereavement Services Unit and entered into a database of those Providers.

3.4.3. A centralised register, to ensure that all appropriate information required for WHS, Risk Management and Insurance purposes relating to Providers, will be maintained by the Bereavement Services Unit. Information contained in the register is held in accordance with Privacy and Personal Information Protection Act 1998 (PPIPA).

3.4.4. **Withdrawal of Permission to Carry out Work in a Cemetery**

In instances of misconduct or breaches of relevant responsibilities or non compliance with Legislative/Regulatory requirements or non conformance with Council Policy and Procedure (eg, no Work Permit), the Bereavement Services Manager may withdraw permission to carry out work in a cemetery and request that the service provider leave the premises, or not permit access to a cemetery. Where necessary, the Bereavement Services Manager shall act to enforce this requirement.

### **3.5. Work Health Safety**

When working in cemeteries, Providers are not considered to be employees of Council; however, they are still subject to a statutory duty as prescribed in the Work Health Safety Act 2011.

Before Providers are permitted to undertake their work in a cemetery, a risk assessment of the activity must be undertaken by the holder of the work permit to identify the hazards. This should include:

- Checking the surrounding area for hazards, weather conditions and ground should be considered and other people working in or visiting the surrounding areas,
- Confirming the activity is relevant to the duties of Providers,
- Checking the activity does not place Providers, Shoalhaven City Council staff or public at any risk to their health and safety,
- Confirming that the Providers have the knowledge, skills and training required to undertake the activity in a safe manner.

Providers are responsible for advising Bereavement Services Unit staff of any hazards in accordance with Section 3 of the "Induction Handbook" (D08/61429).

3.5.1. **Council's Responsibility**

Bereavement Services Unit staff shall inform Providers of any WHS matter and/or known hazards which may impact on their activity. Council is to ensure the following matters are addressed before the activity is commenced:

- The potential hazards have been identified
- A risk assessment has been completed
- Consultation has been undertaken with the Provider regarding safe work methods
- Risk management procedures have been developed by Providers
- Providers are provided with information and instruction with regard to risk management procedures
- Any plant or equipment to be used by Providers is safe

- Advise Funerary and Providers of the requirement to keep records and attendance details, tasks undertaken and information on incidents, including near misses, which must be reported to Council

### 3.5.2. Providers responsibilities for-Work Health Safety

While undertaking activities in a cemetery, Providers have responsibilities with the respect to the Work Health Safety Act 2011.

In particular, Providers, through their actions or omissions, are not to place themselves or other persons at risk while undertaking work in a cemetery. Depending on the nature of the activity, the responsibilities for Providers may include the following:

- Be aware of and follow the approved risk management procedures for the activity
- Use plant or equipment in accordance with the correct procedures
- Bring to the attention of the Bereavement Services staff any matter which could affect the safe undertaking of the activity
- Report to the appropriate person as soon as practical any incidents or near misses which relate to health and safety
- Observe the directions of the Bereavement Services staff responsible for the site

### 3.5.3. Induction Training

Council will provide Induction Training sessions for Providers working in Council cemeteries and crematoriums. This will include the following:

- WHS Induction Training
- Hazard identification including risk assessment processes
- Responding to an emergency
- Emergency evacuation

The Induction Training will be provided every two (2) years by Shoalhaven City Council accredited representatives and periodically for the new employees of Providers. Periodic update / refresher training sessions may be required, dependent on any legislative or policy framework changes. The sessions must be attended to maintain the currency of approvals. The Induction Handbook is available by downloading in PDF format via the Shoalhaven City Council website or at <http://cremweb.shoalhaven.nsw.gov.au>.

## **3.6. Conduct Standards**

Conduct Standards are provided in the Induction Handbook for Funerary and Monument/Stone Masonry Service Providers working in Council's Cemeteries, Crematorium and Memorial Gardens. All providers of Funerary and Monument/Stone Masonry Services are required to observe these requirements.

## **3.7. Media Protocol**

Providers are not permitted to make any comments to the media on behalf of Council.

## **3.8. Privacy and Personal Information Protection Act**

Council will obtain personal information from Providers including names, address, telephone numbers, child protection screening (where applicable) and other contact details. Personal information obtained by Council is governed by the Privacy and Personal Information Protection Act 1998 (PPIPA). This legislation provides direction for the collection, protection, storage, disposal, access and use of personal information by Council.

Council will take all reasonable care to protect personal information from misuse, loss, unauthorised access, modification or disclosure. To ensure that personal information held by Council is current, please notify Council if any of your details change. For further information, please contact Council's Public Officer.

### **3.9. Insurance**

#### **3.9.1. Provision of Information**

All parties must, before commencing work in a Shoalhaven City Council managed cemetery, provide Council with evidence that they have their own current insurance policies for:

- Workers' compensation
- Public liability cover to a minimum of \$20,000,000 issued by an Australian Prudential Regulatory Authority (APRA) endorsed company - this Procedure should note the interest of Shoalhaven City Council.

The currency of these insurances shall be maintained for the period of time during which Providers will be undertaking their business upon Council premises and copies of renewed documentation will be required to be submitted to Council's Bereavement Services staff when they fall due.

#### **3.9.2. Personal Property**

Providers' personal items are not covered by Council's insurance whilst undertaking their activities on Council premises.

### **3.10. Use of Council Equipment**

Providers may be provided with Council equipment to assist in performing some activities. If a licence or qualification is required to operate plant or equipment, Providers must provide evidence of such qualification or license prior to use of equipment. Care must be taken to ensure that equipment is used correctly and within the guidelines or instructions provided.

Council's insurance policy does not cover any wilful or deliberate damage to Council property. Damage must be advised to the Bereavement Services Manager and reported on the relevant forms.

### **3.11. Grievance Procedure**

If a Funerary or Monument/Stone Masonry Service Provider has a grievance about any aspect of their tasks, other Funerary or Monument/Stone Masonry Service Providers or Council staff, the following process should be followed:

1. Refer the matter to the Bereavement Services Manager
2. If process 1 does not resolve the problem, then the issue should be notified to the Business and Property Manager



3. If the matter remains unresolved, the Funerary or Monument/Stone Masonry Service Provider may request the matter be referred to the Director of Assets and Works or other authorised officer for review

#### **4. IMPLEMENTATION**

The Assets and Works Group of Council will administer this procedure.

#### **5. REVIEW**

To be reviewed within 1 year of the election of a new Council or earlier should circumstances arise to warrant revision.

#### **6. APPLICATION OF ESD PRINCIPLES**

Encouraging the protection of native vegetation when working in cemeteries.

## **APPENDIX 1 - REFERENCES**

- “Right of Burial” and “License of Burial” defined in common law notably SMITH V TAMWORTH CITY COUNCIL, SUPREME COURT OF NSW EQUITY DIVISION 1997
- Public Health Regulation 2012
- AS4204 – Australian Standards Association “Monuments and Headstones in Cemeteries”
- The Burra Charter (The Australia ICOMOS charter for places of cultural significance).