
CEMETERIES POLICY:

Part 1 - Burial Placements and Burial Licences

Part 2 - Scattering of Ashes

Part 3 - Monumental Work in Cemeteries

Part 4 - Maintenance of Significant Historic Graves



STATUS:

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City & Community Outcomes

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INTRODUCTION

Blue Mountains City Council provides a Burials and Ashes Placement Service, which is supported by the provision of nine cemeteries across the Local Government Area. Primary direction on the management of the cemeteries is provided through the Burials and Ashes Service Plan, the Cemeteries Assets Management Plan and the Blue Mountains Cemeteries Conservation Management Plans with supporting policies as required.

DEFINITIONS

Appropriate fee means a fee set by Council.

Ashes mean the cremated remains of a deceased person.

Ashes plot means an area set aside for the burial of human remains that have been cremated.

Burial means the act of burying, interring or immuring the remains of a deceased person.

A Burial Licence, previously known as a burial right, is a purchased permission, granted by a cemetery reserve trust, that confers an exclusive right to bury the remains of one or more persons in either a specified grave plot or specified ashes plot. It is purchased permission to use a piece of land for disposal of human remains.

Burra Charter means "The Burra Charter (The Australia International Council on Monuments and Sites (ICOMOS) Charter For Places Of Cultural Significance)".

Cemetery or cemeteries means an area containing one or more burial places and that is managed for that purpose by Blue Mountains City Council.

Council means the Blue Mountains City Council.

Funeral Director means an individual or business carrying out funeral services.

Grave plot is an area set aside for the burial of human remains that have not been cremated, although ashes may be placed in a grave plot.

Holder means the person who has been issued with a Burial Licence.

Monument means any structure, plaque, headstone, masonry, metal work, casting or item placed over, in or around a burial place.

Monument Mason means a tradesman mason or person possessing the skills to carry out monument masonry work and offering them as a service.

Public Health Regulation means "Public Health Regulation 2012 under the Public Health Act 2010 (NSW)".

Register means Council's formal data repository containing all the required details relating to burials, cremations, memorial sites, and immurements.

The Policy means this Policy.

RELEVANT LEGISLATION

Legislation/Guidelines	Requirement
Local Government (Control of Cemeteries) Amendment Act (1967)	Discharged the denominational trustees responsible for cemeteries and transferred control of public cemeteries (with exceptions such as Rookwood Necropolis) to the relevant local government authority. The Local Government Authority then became the trustee of the cemeteries in their area, 'charged with the care, control and management thereof'
Crown Lands Act(1989)	Defines principles for the use and management of Crown land, which may be under Trust to Council including: Lease and licences of Crown Lands (Part 4, Divisions 3 and 4); and Dedication, Reservation, Reserve Trusts and Plans of Management for Crown Lands (Part 5)
Crown Lands Act 1989 and By-laws there-under; Crown Lands (General Reserves) By-Law 2006", and Crown Lands (General Reserves) Amendment (Sustainable Burials) By-law 2011.	Defines principles for the use and management of Crown land, which may be under Trust to Council including: Lease and licences of Crown Lands (Part 4, Divisions 3 and 4); and Dedication, Reservation, Reserve Trusts and Plans of Management for Crown Lands (Part 5) Provides various direction on burial licences
Workers Compensation Act 1987, Occupational Health and Safety Act (2000), Occupational Health and Safety Regulation (2001)	Outlines the obligations, management and monitoring of health and safety risks including requirements for employees, employers and the general public
Public Health Act (2010)	An Act relating to the maintenance of proper standards of health for the public. The regulation gives direction on burial methods, grave depth, disposal of ashes and related requirements.
Environmental Planning and	Empowers local government to protect items and areas of

Legislation/Guidelines	Requirement
Assessment Act (1979)	heritage significance through Local Environmental Plans (LEPs) and Development Control Plans (DCPs). Development consent is required for work that may impact on the heritage significance of an item. DCPs can provide detailed management policies for those items identified in an LEP.
The Heritage Act (1977)	Protects the State's natural and cultural heritage. Outlines obligations in relation to the NSW Heritage Council, State Heritage Register, Heritage Agreements, protection of relics, excavations, interim heritage orders, exemptions under the Act, minimum standards of maintenance and repair and State Agencies bound by the Act.
The Burra Charter	A conservation charter which outlines a set of principles and procedures to guide practice, detailing standards embodying good practice when dealing with sites of historical significance.
Work Health and Safety Act (2011) Work Health and Safety Regulation (2011)	Outlines the obligations, management and monitoring of health and safety risks including requirements for employees, employers and the general public
Public Health Act (2010) And Public Health Regulation 2012 Part 8 Disposal of bodies	An Act relating to the maintenance of proper standards of health for the public. The regulation gives direction on burial methods, grave depth, disposal of ashes and related requirements.
AS 4204-1994 Headstones And Cemetery Monuments.	Specifies minimum structural design criteria, performance and renovation requirements for cemetery monuments and crematoria memorial gardens above and below the natural ground surface.

RELEVANT COUNCIL DOCUMENTS

Document	Direction
Blue Mountains Cemeteries Conservation Management Plan (4 Volumes), Hubert architects, 2003	Identifies significant graves and recommends, among other things, maintenance of the significant graves to preserve heritage values.
Heritage schedules of LEP 1991 and 2005	List the following cemeteries as having heritage value; Megalong Cemetery, Blackheath Cemetery, Mount Irvine Cemetery, Wentworth Falls Cemetery, Springwood Cemetery, Faulconbridge Cemetery and Mount Victoria Cemetery
Cemeteries - Asset Management Plan	Identifies as a high risk <i>“Maintenance at the cemeteries does not meet public expectations.”</i> And <i>“Alienation of burial space due to unused burial rights”</i>
Sustainable Blue Mountains 2025	The key direction of Using land for living has, under the objective 2.2, <i>“Manage the City’s cemeteries as settings for remembering, honouring and appreciating those who have gone before and plan for future interment requirements for the City.”</i>
Service Business Plan 2013-2023, Burial an Ashes Placement	Recommends to <i>“Develop protocols and practices to improve burial options”</i>
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Cemeteries - Asset Management Plan	Identifies as a high risk <i>“Non compliant or unsafe third party assets”</i>
Protocol:	Receipt of Ashes for Council Storage (13/40342)

It is important to note that Paragraph 4^() of the Policy Statement of Burial Licences, in Part 1 of the Cemeteries Policy, will not come into force until Part 4 of the Cemeteries and Crematoria Act 2013 is formally proclaimed. This is not expected to be until at least late 2015.*

Part 1 – Burial Placements and Burial Licences

OBJECTIVE

To ensure that Blue Mountains City Council's cemeteries are managed to provide burial opportunities to the community for as long as possible.

BACKGROUND

1. Blue Mountains City Council, as reserve trust manager for Council's cemeteries, has up until now sold burial licenses in perpetuity. A portion of the licenses are never taken up, resulting in unusable plots within the cemeteries. According to Council records, there are currently over one thousand burial licences without burials in Council cemeteries.
2. Council records for burials and burial licences are incomplete and unreliable. While record keeping has improved significantly in the recent past, records prior to around 1980 may not record date of sale, address of owner at time of sale, or whether the burial licence has since been used. If records are uncertain whether or not a burial has taken place within a particular plot, a simple probing process which Council staff undertake can indicate whether or not a burial has taken place.
3. Council has, up until now, allowed the sale of any number of burial licences to grave or ashes plots in advance to any member of the public. New legislation now limits the sale to no more than two burial licences for grave plots per person. The limitations of this are partly off-set by the option for multiple burials within one grave plot; using double or triple depth burials.
4. Standard practice at most cemeteries has been to sell burial licences for an indefinite period. There is no legal direction on how long a burial licence must be issued for, although the directions for disposal of burial licences indicates that this process should take place after fifty years. Selling a burial licence for a fixed period would simplify the process of allowing unused burial licences to become available to the public if not used within fifty years

A proportion of purchases of burial rights are to allow a spouse to be buried alongside their husband or wife. The Bureau of Statistics indicates that men, on average, are widowers for 2-3 years and women are, on average, widows for 4-6 years before either re-marrying or dying. While this implies a short length of license is sufficient, Council has records of at least one instance of a burial license being taken up forty years after purchase.

5. The purchase of burial licenses is a pre-requisite of a pre-paid funeral.
6. Council has, up until now, allowed clients to select a burial license anywhere in the cemetery resulting in inefficient placement of graves across the site. Pre-plotting of all potential sites is not possible as sometimes extra wide graves are required or rock is encountered.
7. Unused ashes plots are not a significant issue compared to grave plots as they use so much less space.

It is important to note that Paragraph 4^() of the Policy Statement of Burial Licences, in Part 1 of the Cemeteries Policy, will not come into force until Part 4 of the Cemeteries and Crematoria Act 2013 is formally proclaimed. This is not expected to be until at least late 2015.*

PROCEDURES

Council has a standard form and a fee, determined annually, for the application and purchase of a burial licence.

All prospective purchasers of burial licences shall be made aware of the conditions imposed by this policy and by the relevant monumental masonry protocols.

Council shall maintain registers to record all burial licences granted by Council. The minimum information required shall be:

- The full name of the holder
- The birth date of the holder
- The gender of holder
- The marital status of the holder
- The full residential address of the applicant or holder

Details about the holder of a Burial Licence issued on a pre-need basis (reservation) shall not be made public.

Where an ashes plot licence is purchased, this shall be indicated on site.

Council will issue to the holder a burial licence certificate, clearly showing:

- the holder's name and address or the joint holders' names and addresses;
- In the case of joint holders, each holder may receive a copy of the certificate
- amount paid;
- date of issue;
- a description of the location of the burial place; and
- the key terms and conditions under which the certificate is issued.

Any fees relating to the purchase and re-issue of a burial licence certificate must be paid at the time of application.

POLICY STATEMENT

1. Burial placements

New burials may only be placed adjacent to an existing burial except where a burial license is held, or a new row is warranted.

2. Burial licences

Burial licenses for grave plots can only be purchased in conjunction with a funeral, either an on-demand funeral or pre-pay funeral, except in the case below;

- To accommodate the desire for family members or loved ones to be buried adjacent to each other, an additional burial license can be purchased adjacent a license being purchased in conjunction with a funeral.

The dimensions of a burial license shall be a maximum of:

- 1000mm X 2400mm for adult burial places;
- 900mm X 1500mm for children's burial places.

A larger size can requested, at a proportional increase in cost, to accommodate monumental masonry or oversize coffins if required.

A burial licence for an ashes plot can be purchased at any time and in any quantity.

It is important to note that Paragraph 4^() of the Policy Statement of Burial Licences, in Part 1 of the Cemeteries Policy, will not come into force until Part 4 of the Cemeteries and Crematoria Act 2013 is formally proclaimed. This is not expected to be until at least late 2015.*

(* see note above) From the introduction of this policy, burial licences and ashes plot licences sold by Blue Mountains City Council cemeteries grant the right for interment within the following 25 years only. Once an interment has occurred the licence becomes perpetual. If an interment has not occurred within 25 years, the right can be renewed for a further twenty five years within a year of the end of this period, for the cost of administration only. If not renewed then Blue Mountains City Council may revoke the licence.

Burial licences and Ashes plot licences sold before the introduction of this policy in 2014 will be held in perpetuity except as outlined below.

For burial or ashes plot licences greater than fifty years old that research indicates have not been taken up, Council may seek to revoke the burial licence by the process outlined in the Crown Lands (General Reserves) By-law 2006, or any legislation that replaces it in the future.

Where an owner no longer requires a burial or ashes plot licence, Council can buy back the license for the price originally paid or exchange it with another license within the cemetery. Other transfers of ownership shall be as outlined in the Crown Lands (General Reserves) By-law 2006, or any legislation that replaces it in the future.

Nothing in this policy prescribes or restricts the type or nature of the burial that takes place within the plot described in the burial license.

Part 2 – Scattering of Ashes

OBJECTIVE

To provide guidance on where ashes can be scattered on public land in the Blue Mountains that meets the needs of grieving people, but minimises the potential for distressing other members of the community.

BACKGROUND

Not everybody wishes to place ashes in a cemetery.

The ashes of a cremated person pose no health risk to the public.

Council is occasionally approached for permission to scatter ashes in public places and direction is needed as to where it is suitable. Some direction comes from the Department of Health and the Public Health Regulation and other direction comes from the assumption that some members of the community would not like to have accidental contact with human remains even where there is no associated health risk.

This policy does not apply to the burial of ashes within Council cemeteries.

PROCEDURES

This policy shall be available on Council's website and Council shall respond in writing to any requests for permission to scatter ashes.

Council will not keep a register of whom or where ashes have been scattered within parks and reserves, nor will they be registered in Council cemetery records. However copies of the correspondence sent will be filed within Council's electronic document management system.

POLICY STATEMENT

Ashes may be scattered on any part of public land, without a burial licence and with the permission in writing from Blue Mountains City Council, with the following exclusions;

- into a water body,
- directly onto a footpath, walking track, playing field or in the vicinity of a picnic table,
- High tourism sites, including district parks and prominent lookouts such as Echo Point,
- Lookouts where there may be rock climbers or bushwalkers below, and
- Places where people may pick or harvest plants for consumption.

The ashes are to be scattered rather than placed in one solid mass.

Care should be taken when scattering ashes, be aware of the direction of wind and proximity of family members and other park users.

No permanent memorial items shall be placed where ashes are scattered without approval. See separate policy for the placement of memorials.

Part 3 – Monumental Work in Cemeteries

OBJECTIVES

1. Ensure that monumental works in Blue Mountains cemeteries do not create a hazard to the public or staff.
2. Ensure that monumental works are not damaged by the normal earth settling process that follows a burial.
3. Ensure that monumental masonry is not placed at a time that means future use of the burial rights exposes cemetery staff to risk
4. Ensure that monumental masons place monumental work in a way that ensures no cemetery space is alienated from future use.

BACKGROUND

1. While Council does not own or manage the monumental works within cemeteries, there is a duty of care to ensure that the public and workers are safe while in the cemeteries.
2. As the ground settles significantly in the first 6 months after a burial, any structure built on the ground around a grave may become damaged.
3. Where monumental masonry is in place where a grave needs to be dug, risk occurs to cemetery staff, and their work can be made considerably more difficult.
4. Council has experienced problems where monumental masons have placed monumental work incorrectly; this can alienate grave sites from use and introduce extra hazards to cemetery staff.

PROCEDURES

1. Information on the content of this policy shall be made available to funeral directors, to the families of all prospective burials and to all monumental masons.
2. Council has a form for applications to install monumental masonry in Blue Mountains City Councils. This form needs to be approved and the appropriate fee paid prior to any works. The form for application to undertake monumental masonry is to include the name and contact details of the monumental mason who will undertake the works to allow Council staff to confidently identify those responsible for any problems arising.
3. Council cemetery staff shall be available, with reasonable notice, to meet once with monumental masons to indicate where on site monumental masonry is to be placed.

POLICY STATEMENT

1. Monumental work within cemeteries

Council will not repair monuments. With the exception of those graves noted in the Historic Graves policy, Council's actions will be limited to making unsafe structures safe to ensure public and employee safety.

Council may remove, demolish, alter or require the removal, demolition or alteration of any structure or any adornment, within a cemetery as it deems necessary to preserve the fabric of the cemetery or public and staff safety.

If the work required is urgent, no notice shall be given. If the matter is not urgent Council shall seek to advise the monument owner via letter to the last known address, if records available, and notice on the works prior to works.

All future monumental work is to comply with the Australian Standards' Standard "AS 4204-1994 Headstones and Cemetery Monuments", and the site and surrounds are to be left in a clean and acceptable condition on completion.

2. Monumental work timing and placement

Monumental work may not be placed until at least six months after the date of burial.

If monumental work is placed in a multi-depth or multi-width grave prior to the second burial, and if the monumental work or headstone is required to be removed for the safe excavation of the second grave, then it will be the responsibility of the funeral director to arrange for a monumental mason to remove and replace the monumental items.

Monumental work, other than a headstone, may only be placed on a double grave prior to the second burial if the hole for the second burial has been pre-dug and backfilled with a suitable soil type.

Monumental work, other than a headstone, on a triple or larger site is not to be placed until after all burials in the row have occurred. If any burials in a multi-grave site are double depth, the second level burials cannot occur until after each grave in the group has its lowest placement. However the second placement can occur after monumental work has been placed.

Monumental work is to be placed exactly as indicated by Council staff.

3. Monumental Work quality

If monumental work is not placed as indicated on site by cemetery staff, or not in accordance with the requirements of this policy, Council is empowered to have it adjusted and to recover the costs from the owner of the monumental masonry.

Part 4 – Maintenance of Significant Historic Graves

OBJECTIVES

1. To ensure that the value to the community of significant graves is not lost over time.
2. To give direction on the resourcing of the maintenance of graves in Blue Mountains Cemeteries.

BACKGROUND

Council does not own the monumental work on graves and relatives and descendants of the person interred are responsible for any maintenance of graves as required. Where no person is undertaking maintenance on a grave, Council is only responsible to the extent of ensuring that the Cemeteries are safe for the public to visit.

In the case of graves which are not being maintained but have significant heritage value, Council may choose to maintain those graves to retain the value that they offer to the community. Restoration and maintenance to old graves can require the services of specialist trades, varying with what the grave is made from, and may cost Council significant sums of money. The *Blue Mountains Cemeteries Conservation Management Plan*, prepared for Council by Hubert Architects in 2003, provides direction on which graves are of particular historic value.

The Burra Charter is recognised as the leading document providing direction on retention of heritage values over time, and reference to this ensures work is suitable to the site.

PROCEDURES

Details about the condition of the historic graves shall be collected and stored with other cemetery asset inventory data.

POLICY STATEMENT

Council shall undertake maintenance and restoration works, where resources permit and as required, for those historic graves noted in Schedule 1.

Council shall not undertake maintenance and restoration works on other graves within Blue Mountains Cemeteries unless necessary to ensure the safety and well being of staff and visitors to the cemeteries, or in line with a Conservation Management Plan.

Where Council can contact descendants of the deceased, works shall be determined collaboratively and with reference to the Burra Charter.

Additional graves can be added to the schedule of significant graves, by Council resolution, where the person was a long term resident of the Blue Mountains area who made a significant contribution to the Blue Mountains or to Australian society.

SCHEDULE 1 - Significant graves

Cemetery	Name on grave
Springwood Cemetery	Norman Lindsay (1874-1964)
Springwood Cemetery	William John Curtis (1874-1964)
Springwood Cemetery	Francis Smith (1793-1836)
Faulconbridge Cemetery	Henry Parkes (1815-1896)
Wentworth Falls Cemetery	Sir William Cullen (1855-1935)
Wentworth Falls Cemetery	Elizabeth Lilla Murray (1852-1916)
Wentworth Falls Cemetery	Somerville Murray (1832-1919)
Wentworth Falls Cemetery	Ehrenreich (Harry) Andreas (1879-1955)
Wentworth Falls Cemetery	Peter Board (d.1945)
Wentworth Falls Cemetery	Dr Malcom Sinclair (d.1941)
Wentworth Falls Cemetery	Dr Robert Lamb (1862-1907)
Wentworth Falls Cemetery	Rev. Stephen (1845-1928)
Wentworth Falls Cemetery	Mrs Harriet Childe (1853-1910)
Blackheath Cemetery	Francis Boyce (1844-1931)
Blackheath Cemetery	Caroline Stewart (1840-1918)
Blackheath Cemetery	Francis Boyce (1872-1940)
Blackheath Cemetery	Mel Ward (1903-1966)
Blackheath Cemetery	Nicholas Delany (1855-1928)
Blackheath Cemetery	Henry Mortlock (1845-1915)
Blackheath Cemetery	John Cliff (18-45-1902)
Blackheath Cemetery	Lucy Cliff (1840-1905)
Blackheath Cemetery	Thomas Cliff (1866-1943)
Blackheath Cemetery	Eleanor Dark (1901-1985)

Refer to the *Blue Mountains Cemeteries Conservation Management Plans* for more detail on these graves. The documents are available on Blue Mountains City Council's website.