

## BURIAL ON PRIVATE RURAL LAND

### Summary:

The purpose of this policy is to set standards for having areas of land set aside by rural land owners as private cemeteries.

<b>Policy Number</b>	3.021
<b>File Number</b>	N/A
<b>Document version</b>	V6.0
<b>Adoption Date</b>	23 September 2020
<b>Approved By</b>	Council
<b>Endorsed By</b>	Council
<b>Minute Number</b>	196/20
<b>Consultation Period</b>	N/A
<b>Review Due Date</b>	August 2023 – 3 years
<b>Department</b>	Office of Chief Corporate
<b>Policy Custodian</b>	Manager Planning & Development Services
<b>Superseded Documents</b>	N/A
<b>Related Legislation</b>	
<b>Delegations of Authority</b>	Manager Planning & Development Services

### 1. Overview

The intention of this policy is to standardise Council's requirements for having areas of land set aside by rural land owners as private cemeteries.

### 2. Policy Principles

To provide direction and guidance for the establishment of private rural cemeteries.

### 3. Policy Objectives

To set clear standards for the establishment of private rural cemeteries.

### 4. Policy Statement

- Establishment of a 'cemetery' is a land use which is permitted with development consent under the provisions of Tenterfield Local Environmental Plan 2013 – a Development Application must be lodged with

Council for assessment and determination to allow for a private rural cemetery.

- Total minimum area of rural land that can apply/support a Private Rural Cemetery (PRC) being 40 hectares (100 acres). This size has a significant impact on future owners as they may wish to subdivide but are unable due to the location of the PRC;
- Recommended size for PRC allocation of 15 metres X 15 metres (225m<sup>2</sup>);
- Geotechnical report – or site located on elevated land, not low lying or within 100 metres from a watercourse;
- Proof of ownership of the land;
- Burials for family only;
- Identification of how many burials can take place in the area proposed;
- Council will consult with owners/occupiers of dwellings and dwelling sites immediately adjoining the proposed PRC.
- Direct access should be maintained by means of a formal Right of Carriageway and have reasonable and safe pedestrian and vehicular access;
- The boundary of the PRC to have an appropriate stock proof fence;
- PRC must be at least 40 metres from the property boundary;
- Council to ensure advice of the PRC is provided within any Planning Certificates relating to the parcel of land;
- All burial locations should be described and drawn by a registered surveyor together with GPS details of the location and shall be forwarded to Council for placement on the relevant property file;
- Council to maintain a register of all private rural burials;
- All graves necessitate permanent markers (minimum size 200 X 200mm) plaque placed on concrete plinth or rock;
- An application to have a grave location on private property approved by Council in accordance with the *Public Health (Disposal of Bodies) Regulation* as amended shall be lodged with Council showing all of the abovementioned details and together with the appropriate application fee;
- Council will not approve the burial in or on any land if there is risk of contamination of a drinking water supply or a domestic water supply;
- No private burial area shall take place until the excavated grave has been inspected and approved by an authorised Council Officer;

- Grave must have minimal depth of 900mm from top of casket;
- A registered undertaker must present application for Right of Burial together with a death certificate to Council prior to a *Permit for Burial* being issued and subsequent burial taking place;
- The existence of the PRC is to be designated on the land title as a permanent record, a copy of the amended title or planning instrument (88b) is to be provided to Council for its records;
- Installation of ashes do not require any approval from Council, however details of the deceased shall be forwarded to Council in order to maintain accurate records of all burials within the Shire.
- The application for a PRC, any burials in the PRC and the cemetery itself must satisfy relevant provisions of the Public Health Act & Regulations, and relevant NSW Health Policy and Council Policy.

Variations from the Proposed Policy:

- That the Chief Executive be authorised to vary this policy where deemed appropriate in light of the circumstances of the case to do so. Where a variation is sought the applicant must provide a comprehensive submission to accompany the application.
- Council may notify affected neighbour/s of an application for a variation.
- If the variation is to reduce the setback distance, the applicant must detail what measures are to be undertaken to mitigate any impacts on affected neighbours. These measures are to be determined following proper consultation of the proposal with all affected neighbours.
- For the purposes of section 41(1) (d) of the Births, Deaths and Marriages Registration Act 1995, the following information is required from a funeral director or other person who arranges for the disposal of human remains:
  - (a) Date and place of death of the deceased;
  - (b) Sex, date of birth (or age at death) and place of birth of the deceased;
  - (c) Occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death;
  - (d) Proposed date of disposal of the remains of the deceased;
  - (e) Full name and business address of the funeral director or other person who is arranging the disposal of the remains;
  - (f) If the deceased was born outside Australia, the period of residence in Australia of the deceased before death;

- (g) Whether or not the deceased was of Aboriginal or Torres Strait Islander origin or both Aboriginal and Torres Strait Islander origin;
- (h) The marital status of the deceased immediately before death;
- (i) If the deceased had married;
  - (i) Only once - the date of marriage (or age of the deceased at the date of the marriage), the place of marriage and the full name (including maiden family name) of his or her spouse, or;
  - (ii) More than once - the date of each marriage (or age of the deceased at the date of each marriage), the place of each marriage and the full name (including maiden family name) of each spouse;
- (j) The full name and maiden family name (if any) of any de facto partner of the deceased;
- (k) The given names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children);
- (l) the full name, maiden family name (if any) and occupation of each parent of the deceased.

Application Fees:

The application fee will be charged as per Council's adopted Fees & Charges at the time of payment.

**5. Scope**

To provide direction and guidance for the establishment of private rural cemeteries.

**6. Accountability, Roles & Responsibility**

**Elected Council**

Not applicable.

**Chief Executive, Executive and Management Teams**

Not applicable.

**Management Oversight Group**

Not applicable.

**Individual Managers**

Manager Planning & Development Services.

**7. Definitions**

"cemetery" means a building or place used primarily for the interment of deceased persons or pets or their ashes, whether or not it contains an associated building for conducting memorial services (*Tenterfield LEP 2013*).

The above definition includes “private rural cemetery” being located on private land in accordance with this policy.

#### **8. Related Documents, Standards & Guidelines**

Births, Deaths and Marriages Registration Act 1995 No 62;  
Public Health Act 2010 No 127;  
Public Health Regulation 2012.

#### **9. Version Control & Change History**

<b>Version</b>	<b>Date</b>	<b>Modified by</b>	<b>Details</b>
V1.0	23/09/09	Council	Adoption of Original Policy (Res No. 1231/09)
V2.0	22/08/12	Council	Review/Amended (Res No. 311/12)
V3.0	27/03/13	Council	Review/Amended (Res No. 74/13)
V4.0	23/03/16	Council	Review/Amended (Res No. 52/16)
V5.0	23/08/17	Council	Review/Amended (Res No. 168/17)
V6.0	23/09/20	Council	Review/Amended (Res No. 196/20)