

**Request to have a Monument Erected in the Wardell Cemetery (After an Advanced Cancer Diagnosis) Prior to my Death: Submission to Cheyne Willebrands, Manager of Open Spaces, Ballina Shire Council (with electronic copies sent to Councillor David Wright, Mayor, and to all Ballina Shire Councillors)**

**Abstract:**

Although I am Sydney-based I pay local Council rates on my farm at East Wardell (where I lived as a child). My ancestors (Wilson, Byrnes, Riordans) were pioneers of the Wardell district, and are all buried in the Wardell Cemetery, along with the Newports at Ballina.

In 2003 I purchased a plot in the Wilson line at the Wardell Cemetery, and had assumed that everything was alright. After an advanced cancer diagnosis (at the end of last year) I commissioned a stone memorial through Beckinsales Monumental Masons in Lismore (now finished, images attached), for ashes only (with no burial requirements).

I now understand that according to regulations my stone cannot be erected before my own death. I understand the need for regulations for an ordered society, but they are highly stressful for me at this stage, as they do not allow for other than Yes/No contingencies.

Through a complex of personal experience (of stones not being erected after a person had died (see details in more expansive notes), compounded by TV images of mass anonymous burials of uncollected bodies in open trenches in New York), I would very much like to see my stone in situ before I die.

Cheyne Willebrands, Manager of Open Spaces, Ballina Shire Council, has informed me that submissions are to be received prior to 8 May, for possible amendments to Council regulations, to be considered at a Council meeting on 20 May. Consider this my submission.

I had originally rung Councillor Sharon Parry (Ward C, which incorporates Wardell), because I read she was Council's representative on the Northern Rivers Arts Board (after a lifetime's application to the craft of verse (see *New Collected Poems*, Kardoorair Press, Armidale, 2012), and having become a serious naïve painter (and Fellow of the Royal Art Society, 2018) in my retirement from paid work (see *Stardust Painter-Poet*, Woodbine Press, 2015).

If you are in agreement with my request there is no need to read my more emotional elaboration, all focussed on one small plot land in the Wardell Cemetery. I am sending this submission to Mayor David Wright, and all Councillors of the Ballina Shire to try to build up a coalition of support for my request. It is my sincere hope that some executive sub-committee of Council (or equivalent), with the necessary authority, could have some quick email conference/vote on this one, to provide some form of green light/approval for Beckinsales to proceed on this matter (prior to the meeting of 22 May if at all possible, when hopefully this resolution could be ratified).

Edwin Wilson, 59 Burlington Street Crows Nest NSW 2065, 94374770 ([edwinwilson.com.au](http://edwinwilson.com.au))

### Elaboration:

I am a Sydney-based Poet and Painter called Edwin Wilson ([edwinwilson.com.au](http://edwinwilson.com.au)). Since 1982 I have written 30 books (poetry, about poetry, poetic memoir, novels, one science fiction, biography, social histories (about the Sydney Gardens and Domain), and art books). To have written so many books (mostly in middle life while holding down a highly demanding full-time job) required considerable discipline. On my retirement from paid work I applied this same commitment to become a serious and established (naïve) painter, and a Fellow of the Royal Art Society, with a 2014 Mullumbimby-themed exhibition ('The Mullumbimby Kid') at the Tweed Regional Gallery (Murwillumbah, with a catalogue entitled *Mullumbimby Dreaming*), and a 2016 RAS Retrospective (Lavender Bay Gallery, North Sydney) entitled 'Stardust Painter-Poet' (with a hardcover glossy catalogue of the same name) that was opened and positively reviewed by art critic John McDonald in the *Sydney Morning Herald* (April 2016).

I was born at Lismore in 1942, and spent my first five years on a then isolated farm at East Wardell, just south of Meaney's Lane. My ancestors were pioneers of the district, and they are all buried in the Wardell Cemetery. In 1968 I had planted my original (northern) Lord Howe Island Banyan Tree (between the then more narrow highway and the river, with another planted slightly further to the south), to mark the spot where my Danish 'boat person' great grandfather and his Irish famine orphan wife had moored their boat in the early 1860s (when the river was the only road, and long before any Council Building was at Cherry Street Ballina, I would suspect), to become subsistence farmers, and had built his 'log cabin' of vertical planks of the stems of cabbage palms, split into three (part of the veranda of which, and some other outhouses of the same construction were still there when I was a child).

I had inherited part of this farm after my father died (before I was born), so have effectively been paying rates (in the Ballina Shire, initially paid by my mother) for 78 years. That being so I feel justified in approaching Ballina Councillors on this matter (having virtually never bothered Council over all these years, apart from a more-recent request to possibly rename the East Wardell part of the old Pacific Highway 'Banyan Drive', and given my local history knowledge considered the selected name most appropriate). I had sent some of my books to Council as part of this request, so they may still be available somewhere.

In 2003 I purchased a plot in the Wardell Cemetery in the Wilson line, so assumed that everything was organised. At the end of last year, on receiving an inoperable and advanced cancer diagnosis, I approached Beckinsales Monumental Masons in Lismore to have a tasteful 1.8 m black granite obelisk memorial constructed (photographs attached) with a 'touch stone' (natural river stone) on top, for my ashes only (no burial, with something very Irish in my wanting to have a stone).

I had originally rung Councillor Sharon Parry (Ward C, which incorporates Wardell), because I read she was Council's representative on the Northern Rivers Arts Board. When Cheyne Willebrands rang me back he seemed to think I was wanting to erect some 'art work' in the cemetery. This is not so, but I acknowledge I am quite deaf, so I may not have heard him properly.

My mother's father came from the small village of Tockholes in Lancashire, UK, with a pre-Christian 'touch stone' in the local churchyard (essentially a natural rounded stone on a cylindrical stone base, from which the village is believed to have derived its name), that the locals touched to get good luck.

Apart from the natural stone, the only 'art' embellishment on the memorial is a representation of flannel flowers (as flannel flowers, and other heath plants once grew in abundance at the Wardell Cemetery), and a six-lined epitaph (with a modified last couplet, from my previously published epitaph, *New Collected Poems*, p. 555):

WALK SOFTLY IN THIS SCENTED SPHERE  
A POET'S ASHES SCATTERED HERE,  
THAT WE COME FROM THE DUST OF STARS  
AND NATURE IS GOD'S AVATAR –  
TO CALL A KINDRED SPIRIT HOME,  
AND BLEST BE ALL WHO TEND THIS STONE.

To the casual visitor Wardell Cemetery may seem to be quite benign. To me it is a rich tapestry of deep and complex emotions, a vast repository of all the dramas, sadness and joys of family histories that transcend the generations.

My father, Edwin James ('Tidge') Wilson (who from all accounts had been some 'Heathcliff of the Wallum'), had been in a love triangle with two women, and sired two sons (both subsequently christened Edwin James), and had then pushed 'delete' (and it had been all hushed up). My half-brother (known as 'Jim', while I was called 'Peter' to prevent confusion), and I had been separated when we were young. I'd heard the aunties talking about Jim and suicide, then it had all been denied, and Jim was not there, so how could I find my brother if I didn't even know his name? It was Jim who found me, in 2003, when I was 61 years old (just after I'd bought my plot at Wardell Cemetery).

Our father's death had exposed Jim and I to chaos, mortality, and deprivation at an early age (and was probably part spur to my 'productivity' in later life). East Wardell was not a happy place, with a poisonous relationship between my mother and the Wilson grandmother on the farm next door (but the village of Wardell had rallied to raise Tidge's child).

Before he died Jim told me he wanted a memorial stone (for his ashes) at the Wardell Cemetery, in his biological family's line. I told him I'd see if I could transfer my plot to him, and get the next one in the line. Sadly this had not been properly organised, as I did not think Jim would become incapacitated so quickly, and nothing had been written down.

When Jim finally died (in 2008), his executor son had opposed Jim's expressed wish, going for the considerably cheaper option of a small hole in a brick wall (for his ashes to be interred at Belmont Cemetery, where his mother was buried), with the considerable irony that the Wardell Heathcliff was not buried, open coffin, up beside his greatest love (whoever that really was), as none of the women in this story (including Jim's mother, my mother, and an earlier girlfriend) are buried at Wardell.

Part of my quest had been to bring the names of Jim and I back together at the Wardell Cemetery, along with my own infant son accidentally killed in Queensland. I had wanted to arrange this stone while I was still capable of doing so, and to save my family the worry and the cost, and to have input into the wording and the design, but more importantly to make sure it actually happened (so conscious Jim did not get his Wardell stone, and that a number of my other Wardell relatives were buried in unmarked graves, including my third cousin Maggie Riordan who lived across the river from us and had been kind to the child with the 'arse out of his pants').

Ego plays a role in all of this as well, and in my seeking of some form of poetic legacy. For although I am not what you would call a fashionable poet, I am better known on the far north coast for my book, *The Mullumbimby Kid\** (and not the 2014 exhibition of the same name at Murwillumah), and would hope this memorial (and my banyan trees at East Wardell) may one day become a place of lesser literary pilgrimage. Jim had five boys, so some of his descendants may seek out this stone as well (as will some of my children's children, I would hope).

And if Council ever wanted a 'local amenity' project, the area of mangroves between my two banyan trees, if built up with landfill, could make an attractive picnic area (Banyan Park) beside the river (when the new highway moves to the other side of the river). I believe this is most probably the spot of a photograph that inspired my 'River Picnic Poem' (*New Collected Poems*, p. 207), of the earlier girlfriend (in an inverse style of A.E. Housman's 'Is my Team Ploughing?'), who had suicided on a later anniversary of Tidge's death, and the same spot, coincidentally, where our father's aunty Mary had thrown her engagement ring into the Richmond River (because of the then Religious Wars).

My 'Eileen' literary hoax, committed when I was young and silly, had made me collateral damage of the Gender Wars, having been sin-binned (for 45 years) by some of the more extremist Feminists (despite my strong support for equal pay for equal work and equal opportunity and all of that). My motivation had essentially been a 'philosophical dislike of quotas', that someone without a 'pater' had no idea of the Patriarchy, having experienced the considerable social disadvantage (in the art scene) of postcode. This action however, had certainly not helped my poetry career.

There is another (almost unbelievable) poetic link as well, for in my mother's family tree there is a putative (illegitimate) connection to the lesser poet, Horace Walpole (and a farmer's son is certainly not concerned if his breeding stock were married or not). This may help explain how a posthumous child from East Wardell (from soldier, sailor, farmer, fisherman, emancipist stock), could have aspired to serious 'art' (both poetry and painting),

when before the electronic age I would have been statistically less likely to become a published poet (*Songs of the Forest*, Hale & Iremonger, 1990) than to be 'kicked to death by a mule back on the farm'. Incredibly Walpole had written social histories (as had I), and books about art and gardening (as had I), plus the first Gothic novel (*The Castle of Otranto*) in the English language (when I had written my own Gothic novel (and Australian 'Deep North' *Wuthering Heights*), entitled *Cedar House*, when on reflection Jim and I had both had rather Gothic childhoods). But even more significantly Walpole had published his friend Thomas Gray's poem, 'Elegy Written in a Country Churchyard' (with its 'mute inglorious Milton' reference, that could have been my father or myself, had I stayed on the farm).

Current Council regulations are that my memorial (now finished) cannot be erected until I have actually died, and that the computer system only has a Yes/No capacity (thinking very much 'within the box', both literally and metaphorically). I have put some purple prose into this submission, to try to convey the strong emotions behind such an apparently bland request. Old 'uncle' Horace had said 'This world is a comedy to those that [who?] think, a tragedy to those that [who?] feel'. I heartily concur, and am not playing the 'tragedy' card in this context (knowing that I have had a 'gifted' life, given my humble origins), but the 'feeling' card. For part of any 'giftedness' I may have had (through having a high-functioning AS personality), has been the parallel 'affliction' of 'feeling' everything in life with a passionate intensity (part of the genesis of my poetry).

I don't know how long I have to live, but my health is now severely compromised, and I am conscious of diminished and diminishing capacity. Jim died of cancer so I know what is ahead of me. I also understand the need for regulations for an ordered society, but would hope this matter could be expiated, as it has been incredibly stressful to have met with bureaucratic roadblocks at this stage.

It is my sincere wish that the Mayor (or his delegated representative, or an executive sub-committee of Council with the necessary authority, however it works), could have some quick email conference/vote on this one, to provide some form of approval/green light for Beckinsales to proceed on this matter (and hopefully prior to the meeting of 22 May, when hopefully this resolution could then be ratified). Such action should not set any significant precedent, as I doubt most people would know, or even care, and I can't see there being queues of people in the street (apart from the unemployed, and this current Coronavirus and economic crisis could get much worse (if the world is hit with a second wave)).

In these uncertain times (with (the evening of 10 April) TV images of open trench graves full of coffins stacked like sardines, for anonymous mass burials in New York, where one of our sons is currently in residence and unable to leave, with his wife and children in Australia), it would give me much greater peace of mind to see my stone in situ before I die, symbolic of my coming back to my heartland.

\* My first book of poetic memoirs, *The Mullumbimby Kid*, covers my early years (at Wardell, Brunswick Heads, Mullumbimby, Tweed Heads, and Armidale), before moving to Sydney as a Junior Secondary Science teacher, aged 19 (and going on to do a BSc (in chemistry and botany) at the University of New South Wales).

**POLICY NAME:** (REVIEW)  
**CEMETERY MANAGEMENT POLICY**

**POLICY REF:** C01

**MEETING ADOPTED:** 26 May 2016  
 Resolution No 260516/29

**POLICY HISTORY:** 240311/29



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### OBJECTIVE

- To provide the community with a dignified and responsive cemetery and memorialisation service.
- To ensure that the Shire's cemeteries are managed in accordance with statute and common law, regulation: and
- To ensure the conduct of those working in the Shire's cemeteries is in accordance with appropriate Work Health Safety (WHS) standards.

### POLICY

#### 1. INTRODUCTION

The cemeteries are managed by Ballina Shire Council with all bookings for burials, placement of ashes, reservations for graves or niches to be made direct to Council. The ordering and placement of plaques is also managed by Council.

Ballina Shire has five operating cemeteries and one closed cemetery that has been converted into a park. The cemeteries are:

- East Ballina Cemetery
- Alstonville Cemetery
- Wardell Cemetery
- Tintenbar Cemetery
- Rous Cemetery
- Pioneer Cemetery (closed)

Pioneer Memorial Park on Hill Street, East Ballina is the location of Ballina's original (European) cemetery known as the Pioneer Cemetery. The Pioneer Cemetery was declared a Rest Park in 1957 with the construction of the commemorative wall coinciding with this declaration. The commemorative wall contains historic headstones from the original Pioneer Cemetery.

All the shire cemeteries have recognised heritage values and are therefore historically important to the Ballina Shire. Each cemetery's heritage values stem from its own particular social and community history. These values are taken into consideration with the ongoing management of cemeteries.

Council acknowledges that the cemeteries are special places that require sensitive and sympathetic management. Council staff will at all times be mindful of this and work towards a sympathetic and consultative management of the cemeteries. There are circumstances where this may not be possible and so the following notice is provided.

**Council, in its role as cemetery manager, reserves the right to determine what is appropriate, hazardous and acceptable. Every attempt will be made to liaise with families prior to any action being taken, however Council staff may take action to rectify situations without prior consultation with families if required. All applications require proof of executor and a copy of the death certificate, together with other supporting documentation that may be required with the application.**

### 2. HOURS OF OPERATION & FUNERAL BOOKING TIMES

The hours of operation in which burials will be undertaken for the shire cemeteries are 9.00am to 3.00pm (Monday to Friday). Burials which require a booking time after 2.00pm will incur an additional cost to cover overtime hours that staff are required to work to service these burials.

Council will set burial times to prevent conflicting times between ceremonies and to ensure adequate time is provided for graves to be prepared and filled during normal working hours. In most instances 48 hours notice must be given for all burials.

The time allocated for a graveside funeral service is one hour. The time allocated for a burial is 30 minutes, with the latest booking time for a service being 1:30pm.

An additional fee will be charged should funerals take longer than the allotted time and which result in Council staff working outside normal working hours. This fee will be based on the additional cost incurred by Council for the payment of staff.

After hours burials will be considered and will depend on staff availability and conditions. Council will make every attempt to accommodate requests for burial times. Weekend or public holiday burials are generally not provided. However, in exceptional circumstances and if staff are available, a booking may be accepted. There may be times when requests cannot be accommodated due to staff availability. Additional fees will apply, to cover additional costs such as the payment of overtime wages for staff.

### 3. APPOINTMENTS

Appointments are necessary for plaque orders, and the completion and payment of Applications, Permits and Statutory Declarations.

### 4. ADDITIONAL SERVICES AVAILABLE

Plaques and ashes will be placed in niches, graves or in memorial gardens and the family/applicant interment right holder will be notified when placement is completed.

Should a family wish to be present at the following times:

- when ashes are placed in a grave;
- when ashes and plaque are placed in a niche wall;
- when ashes and plaque are placed in a memorial garden; and / or
- ~~when plaques are attached to graves in the Lawn Cemetery;~~

Council will make every attempt to accommodate this service. However staff availability, weather, burials and other unforeseen circumstances may mean there are times such requests cannot be accommodated.

~~A fee will be charged for this service in accordance with Council's Fees and Charges.~~

### 5. PLANNING AND LAYOUT OF CEMETERIES

Council will determine the layout of cemeteries and prepare master plans for each cemetery.

## 6. CEMETERY REGISTER

A register of burial allotments detailing each section and allotment with its appropriate plot identification shall be kept and maintained up to date by the Council in accordance with the regulations under the *Public Health Act 1991 2010*.

The register may be kept in electronic or hardcopy format. ~~The location of each burial place must be identified on a plan or map that shows the sections, rows and grave numbers or other locations of remains.~~ The register will include a current record of all ~~burial rights~~ the deceased's details and interment right holder.

## 7. BOOKINGS FOR BURIALS

A burial must not take place in a cemetery unless Council has ~~issued an order for the burial.~~ received notification and accompanying burial application from a funeral home. The date and time of the burial is to be approved by Council.

Advice of the coffin/casket size must be provided in writing to Council at the time of a burial booking and detailed on the Application for Burial Permit together with any special requests regarding the placement of soil.

Council will accommodate a maximum of two burials per day.

## 8. ALLOCATION OF BURIAL LOTS & NICHES

If the applicant family wishes to select an allotment for a burial on-site an appointment time must be arranged with cemetery staff through Council's Cemetery Officer. Contact details are to be advised by the Funeral Director.

## 9. RESERVATION OF BURIAL LOTS & NICHES

An appointment time is to be arranged with cemetery staff to meet with the family/applicant to choose an allotment. Reservation fees are non-refundable and must be paid within two weeks of a booking, otherwise the reservation will lapse. Only one reservation may be made per person. Council does not contact families at the request of individuals to facilitate the release of reservations or provide the addresses of burial-licence interment right holders to the public.

The location of the reserved plot will be as per Council's requirements. Requests to be located adjacent to family members will be accommodated where possible. Only one transfer of reservation or location is permitted.

## 10. RELIGIOUS/DENOMINATIONAL SECTIONS WITHIN CEMETERIES

Existing religious/denominational areas within cemeteries are available for general use and there are no restrictions or special requirements for the use of plots within these areas.

All new burial areas in shire cemeteries will be non-denominational and available for use by all. The cemeteries will not offer specific or restricted areas for religious groups.

The Bunjum Section of the Wardell Cemetery is the only exception to this regulation. The Bunjum section of the Wardell cemetery is managed collaboratively with Aboriginal community members and is dedicated to the burial of people of Aboriginal descent and their families. The management of the Bunjum section of the Wardell cemetery is in response to historic circumstances and Aboriginal cultural protocols.

### 11. LAWN CEMETERY SECTIONS

#### a) Flowers

Flowers may be placed in vases provided by Council or placed on the beam near the plaque. The placement of flowers must not extend onto the lawn area or adjoining graves.

Fresh flowers, wreaths and artificial flowers will be removed from grave sites by Council staff if in their opinion they have deteriorated to such an extent as to detract from the appearance of the cemetery.

Planting of trees, shrubs or flowers in Council cemeteries by the public is not permitted.

#### b) Vases

Glass or ceramic containers are not to be used as vases. Council provides plastic vases or alternatively non breakable containers may be used.

#### c) Trinkets/Ornaments

Trinkets/Ornaments must be placed on the beam and should not cause offence or nuisance to other cemetery users. These items must be secured and non breakable so that they do not cause a hazard to Council staff and other patrons.

Should items be deemed excessive, inappropriate or hazardous, these items will be removed. If possible Council will contact the family/applicant interment right holder prior to removal; however there may be circumstances items need to be removed immediately.

#### d) Potted Plants

Potted plants are permitted and may be placed on the beam. Ceramic pots should not be used only unbreakable containers. Pots must not encroach on the lawn or adjacent graves. The pots must be secured to prevent them from blowing over and they must be an appropriate size for the space available.

Planting of trees and shrubs in Council cemeteries by the public is not permitted.

### 12. GENERAL CEMETERY SECTIONS

#### a) Flowers

Flowers may be placed in vases on the beam and headstone monument or, if in place, on top of a grave cover. The placement of flowers must not encroach on the lawn, adjacent graves or walkways.

Fresh flowers, wreaths and artificial flowers will be removed from grave sites by Council staff if in their opinion they have deteriorated to such an extent as to detract from the appearance of the cemetery.

Planting of trees and shrubs in Council cemeteries by the public is not permitted.

**b) Vases**

Glass or ceramic containers are not to be used as vases. Council provides plastic vases or alternatively non breakable containers may be used.

**c) Trinkets/ornaments**

Trinkets/Ornaments must be placed on the beam and should not cause offence or nuisance to other cemetery users. These items must be secured and non breakable so that they do not cause a hazard to Council staff and other patrons.

Should items be deemed excessive, inappropriate or hazardous, these items will be removed. If possible Council will contact the ~~family/applicant-~~ interment right holder prior to removal; however there may be circumstances items need to be removed immediately.

**d) Plants**

Plants are permitted in pots or planted into the grave area if the grave has been contained by an edging. Such plants may be placed on the beam, ~~headstone monument~~ or in the grave. The plants or pots must not encroach on the lawn, adjacent graves or walkways. Pots must be secured to prevent them from blowing over and they must be an appropriate size for the space available.

Planting of trees and shrubs in Council cemeteries by the public is not permitted.

### 13. NICHE WALLS

**a) Flowers**

Flowers may be placed in bronze vases provided by Council. Larger bunches of fresh flowers may be placed at a niche wall and not contained in a vase. Council staff will remove flowers when they have deteriorated.

**b) Vases**

Only bronze side lug vases ordered and installed by Council may be used on niche walls. Vases are required to be placed on the right hand side only (allowing one vase per niche).

**c) Trinkets/ornaments**

Trinkets/ornaments are not permitted on or adjacent to niche walls ~~or on plaques~~.

### d) Ashes

One ashes urn only ~~is to be immured~~ **is to be interred**. The mixing of ashes is permitted prior to the initial ~~immurement~~ **interment** of the ashes and the placement of the plaque. An additional fee is charged for the mixing of ashes.

**A maximum of two ashes are to be mixed together.** The removal of the plaque and urn from the niche wall to add second ashes into the urn ~~and the re-immurement of ashes back into the wall~~ is not permitted. **Plaques are not to be removed to add additional names.**

Arrangements for the placement of ashes may only be made by the ~~Burial-Licence holder/Executor-interment right holder~~ **Burial-Licence holder/Executor-interment right holder** or family member in possession of the ashes. Applications for the removal of ashes will require a statutory declaration. ~~unless made by the Burial-Licence interment right holder.~~

## 14. MEMORIAL GARDENS

### a) Flowers

Fresh flowers may be placed at a memorial plaque and Council staff will remove the flowers when they have deteriorated.

### b) Vases

Vases may not be placed in Memorial Gardens.

### c) Trinkets/Ornaments

Trinkets/Ornaments are not permitted in Memorial Gardens.

### d) Plants

Additional plants may not be planted in the Memorial Gardens by the public.

## 15. ASHES - PLACEMENT IN GRAVES

Multiple ashes are permitted to be placed in existing or new graves. When purchasing a new grave for the placement of ashes only, full fees must be paid prior to the ashes or ~~headstone~~/monument being placed.

A maximum of six ashes may be interred in a new grave, and a maximum of four ashes interred in an existing grave. These numbers will enable the placement of corresponding small plaques on the beam. The plaques for lawn graves must comply with standard sizes and designs set by Council and must be ordered and placed by Council.

It is a requirement that details of the interment are memorialised on a plaque, ~~headstone~~ or monument.

Plaques are only to be located on the desk of the beam at Alstonville Cemetery.

Proof of executor of deceased is required to support all applications and supporting documentation.

### 16. ASHES - PLACEMENT IN MEMORIAL GARDENS

A maximum of one ashes urn is permitted to be placed in the Memorial Garden directly behind the plaque. Mixed ashes are allowed in the one urn for placement; however urns will not be removed to provide add further mixed ashes. Plaques are not to be removed to add additional names.

### 17. REMOVAL OF ASHES

Applications to have cremated remains removed from any cemetery for any reason, must be made in writing. The application must be signed by all applicants the interment right holder or their rightful successor, or a Statutory Declaration may be submitted stating that all near relations of the deceased have been advised of the request for removal.

The Holder of the Burial Licence may Interment Right must relinquish the Burial Licence site back to Council in writing after the removal of the ashes. There is no refund of money provided at this time.

### 18. PLACEMENT OF HEADSTONES—AND MONUMENTS IN GENERAL SECTIONS

Application for consent to carry out monumental works, which includes the placement of monuments and repairs to monuments, must be made in writing to Council.

An application fee must accompany the application and the application must be received two weeks prior to the date of proposed works.

To ensure that the monument is correctly located Council will mark the site where works are to be undertaken.

The installation of headstones and monuments can only be undertaken by persons a licenced and qualified mason who hold the appropriate level of public liability insurance and have satisfactory Work Health and Safety procedures in place.

Guidelines for the construction and placement of monuments and headstones are as follows:

- Less than one metre in height unless certified by a structural engineer;
- Located wholly within the assigned burial plot.
- Detailed drawings

### 19. PLAQUES/MONUMENTS - MAINTENANCE AND REPAIR

Plaques and monuments in the general sections of the Shire cemeteries are the responsibility of the holder of the burial licence interment right. Should these items be damaged, vandalised, or fall into disrepair it is the responsibility of the burial licence interment right holder to make repairs. Council approval is required prior to the commencement of works.

If plaques or monuments are **dangerous unstable** Council may conduct works to make the area safe. This work may involve the placement of a **headstone monument** on the ground to prevent it from falling and will not ordinarily include repairs or reinstatement of the **headstone monument**.

The placement of **headstones** or monuments may only be made by licenced and qualified masons with an approved monument application. Monuments are not permitted where there is no deceased record.

Council does not carry any liability for damage caused by vandals.

### 20. PLAQUES - LAWN, NICHE AND MEMORIAL GARDEN

All memorial plaques affixed to niche walls, memorial gardens and lawn graves must comply with standard sizes and designs set by Council. Additional charges apply for ceramic photos, **colours**, additional motifs and extra lines on plaques. Council is responsible for the ordering and placement of plaques and photos.

Plaques and vases placed on niche walls, memorial gardens or lawn graves that do not comply with Council standards may be removed by Council without notice.

The cost of placing plaques that are placed on niches, memorial gardens and lawn cemetery graves are included in the fees for the interment **or immurement** of the deceased. It is important that the **lawn** plaques are placed in a timely manner, generally within 12 months. If a plaque application has not been received within 12 months, Council will write to the **Burial Licence interment right** holder. If no response is received Council **will may** place a plaque with the name of the deceased and the date of death. This will complete Council's obligation in acquitting the plaque fee.

### 22. BURIALS ON PRIVATE PROPERTY

Periodically Council receives enquiries regarding burials on private land.

Council has a role in the approval process for such burials which is summarised in this policy. Detailed requirements are contained in *NSW Health Guidelines Burials on Private Land – Approval by Local Authority* and the *Public Health (Disposal of Bodies) Regulation 2002*.

*Clause 22(1)(c) of the Public Health (Disposal of Bodies) Regulation 2002 provides that:*

*“ a person must not place a body in any grave or vault unless that grave or vault is located on private land where the area of landholding is five hectares or more and the location has been approved for that purpose by the local authority” .*

Ballina Shire Council will assess such applications based on the process and requirements of the *NSW Health Guidelines Burials on Private Land – Approval by Local Authority* and the *Public Health (Disposal of Bodies) Regulation 2002*.

Council will endeavour to process applications as expeditiously as possible. It is noted that the extent of information and assessment required would not normally allow an approval to be achieved within days of the death of a person.

**23. FUNERAL CEREMONIES ON BEACHES, PARKS AND PUBLIC RESERVES**

Applications for funeral ceremonies on beaches, in parks and public reserves will be considered and where such requests can be accommodated, without inconveniencing or causing distress to the wider community, consent will be provided.

Such applications/requests will be considered on an individual basis and conditions may apply to approvals.

A fee will not be charged for the use of public land for a funeral or memorial ceremony. General maintenance of public areas is carried out in accordance with Council's maintenance schedule and cannot be changed to accommodate special requests such as funeral services.

**24. EXHUMATIONS**

Exhumations may not take place unless:

- Prior written approval has been obtained from the Area Director of the Department of Health and in accordance with the regulations under the *Public Health Act 1994 2010*;
- Exhumations shall be carried out in accordance with "Guidelines for Approval and Approval Procedures for Exhumations" produced by the Public Health Unit (NSW);
- All necessary applications and approvals are to be provided by the Funeral Home;
- An Order for exhumation has been issued by Council.

This section does not apply if an exhumation order has been issued by a Coroner or a Court. **Allotments are released back to Council with no refund of monies applicable.**

**25. CONTRACTORS WORKING AT CEMETERIES**

Any work undertaken in Shire cemeteries must have prior consent and / or lodgement of the required application.

**26. EXCLUSIVE BURIAL LICENCE INTERMENT RIGHT**

An **exclusive burial rights interment right** is issued whenever a burial or interment or **immurement** of ashes occurs or a reservation for a grave, niche or memorial garden right is made.

The **Burial-Licence interment right** entitles the holder to request the erection of monuments, placement of plaques and additional interments at the specified allotment.

The arrangement of the erection of monuments, placement of plaques or additional burials, can only be done by the person who holds the **Burial-Licence interment right**.

The **Burial-Licence interment right** is issued to the person identified as the holder of the **Burial-Licence right** on the Burial Application - which is completed when arranging the funeral at the Funeral Home.

**a) Who should hold the ~~Exclusive Burial Licence~~ Interment Right?**

Consideration should be given to who will be named the ~~holder of the Burial Licence~~ ~~interment right~~ holder. The holder of the ~~Burial Licence~~ ~~interment right~~ will be granted the right to place a memorial, ~~headstone~~ or plaque and the wording ~~for the inscription~~ ~~to be placed on the grave~~. The holder also has the right to determine how a second burial will be managed and must provide consent for any exhumations.

Typically it is recommended that the executor of an estate be nominated as the ~~holder of the Burial Licence~~ ~~interment right holder~~.

When making reservation arrangements joint names may be applied to a ~~Burial Licence~~ ~~reservation~~, this will ensure that the right passes to the person that the holder wishes to manage their affairs.

**b) Transfer of ~~Burial Licence~~ Interment Right**

Council may on application transfer an ~~exclusive burial~~ ~~interment right~~ from one or more persons to one or more other persons.

The written application must be made ~~and signed~~ by the ~~holder(s) of the burial licence~~ ~~interment right holder(s)~~ ~~and be signed by the holder(s) of the burial licence~~. A fee will be charged for this transfer in accordance with Council's Fees and Charges.

**c) Right to refuse to grant or transfer a ~~Burial Licence~~ Interment Right**

Council may refuse to grant or transfer ~~exclusive burial licence~~ ~~an interment right~~ if, in its opinion, the grant or transfer would tend to create a monopoly or encourage dealing in such rights as a business.

**d) ~~Exclusive Burial Licence~~ Interment Right to pass to surviving joint holder**

On the death of a joint holder of an ~~exclusive burial licence~~ ~~interment right~~, the remaining joint holder(s) will be entitled to the ~~exclusive burial licence~~ ~~right~~.

**e) ~~Exclusive Burial Licence~~ Interment Right may be bequeathed**

The holder of a ~~burial licence~~ ~~an interment right~~ may bequeath the ~~Burial Licence~~ ~~right~~. The person(s) to whom a ~~burial licence~~ ~~right~~ devolves does not become the holder of the right until the register has been amended. An application, with the appropriate documentation, must be received by Council notifying of the change.

If the holder of a ~~burial licence~~ ~~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 the intestate.

**f) Revocation of ~~Exclusive Rights of Burial~~ ~~Perpetual Interment Right~~**

The rights of Council and the holder of ~~interment right~~ ~~a burial licence~~ where Council wishes to revoke a ~~burial licence~~ ~~right~~ are covered in ~~Crown Lands (General Reserves) By-Law 2006 Clause 33~~ ~~Cemeteries and Crematoria Act 2013 Section 52~~

**THE 'BURIAL LICENCE' INTERMENT RIGHT IS A LEGAL DOCUMENT AND SHOULD BE KEPT IN A SAFE PLACE.**

### 27. VAULTS & CRYPTS

The construction of vaults and crypts in Ballina Shire Council cemeteries is not permitted.

### 29. OTHER ACTIVITIES REQUIRING PRIOR APPROVAL

- Buying or selling of goods.
- Distributing handbills, circulars, advertisements and the like.
- Take part in any meeting other than a religious or commemorative nature related to a burial or placement of ashes.
- The placement of ashes in existing grave (see prohibited actions).
- Filming.
- Carrying out any work within a cemetery.

### 30. PROHIBITED ACTIONS

#### The unauthorised placement of ashes in existing graves

The placement of ashes in existing graves must be approved by Council. Council must maintain a register of all burials and interment of ashes in shire cemeteries, the placement of ashes in such a manner means that the ashes are not recorded in the cemetery register.

The placement of ashes in a grave must only be carried out with the consent of the holder of the **Burial Licence interment right** and Council.

### 31. ANZAC MEMORIAL SECTIONS

The Commemorations Section of the Office of Australian War Graves (OAWG) provides bronze plaques and terrazzo crosses for eligible war veterans. The Department of Veteran Affairs advises OAWG of the veteran's entitlement.

#### a) Plaques

Plaques provided by the OAWG must be placed at the same time that the ashes are being placed. The OAWG do not permit the placement of a plaque without the placement of the ashes.

Council permits a reservation of niche on the ANZAC walls for deceased's spouse/partner.

The ashes of deceased must be placed behind the plaque on the ANZAC wall when the plaque has been provided by the OAWG.

#### b) Terrazzo crosses

Terrazzo crosses must only be placed in the Anzac Section of the East Ballina Cemetery. These crosses are provided by the OAWG to eligible war veterans. A bronze plaque is placed in front of the terrazzo cross for the spouse (if not a war veteran) and when required the plaque cost is then borne by the family.

In instances when the OAWG has not advised the veteran's eligibility to the next-of-kin, interment ~~or immurement~~ in the Anzac Section is still permitted. Costs and associated placement of plaques or terrazzo crosses is the responsibility of the family.

**BACKGROUND**

Given the complexity of statutory requirements and increasing community expectations to improve service, maintain cemeteries, keep accurate records, and ensure that appropriate WHS practices apply to all parties carrying out cemetery work; it became evident that a policy was required to provide guidance on:

- what services and service levels Council will provide with respect to cemeteries;
- requirements with respect to decorations and adornments in the lawn, memorial gardens, niche walls and general sections of the cemeteries; and
- OHS WHS requirements for all parties required to carry out work in the cemeteries.

**DEFINITIONS**

<b>Applicant</b>	<p><del>the person making an application for a:</del></p> <ul style="list-style-type: none"> <li><del>• Burial or memorial right</del></li> <li><del>• work permit or other Council consent</del></li> <li><del>• burial or immurement of ashes.</del></li> </ul>
<b>Application forms</b>	<p>forms for</p> <ul style="list-style-type: none"> <li><del>• Burial Licence</del></li> <li>• Burials</li> <li>• Plaque inscriptions</li> <li>• <del>Immurement and</del> Interment of ashes</li> <li>• Monument and related permits to carry out work in the cemeteries</li> <li>• Reservations.</li> <li>• <b>Statutory Declarations</b></li> </ul>
<b>Beam</b>	<p>a strip of concrete laid at the head of a grave on which a monument or plaque is placed.</p>
<b>Fee</b>	<p>a fee fixed by Council and published in Council's Annual Fees and Charges.</p>
<b>Cemetery or Cemeteries</b>	<p>an area containing one or more burial places and administered or controlled by Council.</p>
<b>Coffin/Casket</b>	<p>a general term for coffins and caskets used to hold human remains.</p>
<b>Council</b>	<p>Ballina Shire Council.</p>
<b>Crypt</b>	<p>a constructed below ground burial chamber which contains a coffin.</p>

## 10.3 Policy (Review) - Cemetery Management Policy

Ballina Shire Council

(REVIEW) Cemetery Management Policy

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<b>Disposal of Ashes</b>	the disposal, interment, memorialising, collection, scattering etc of cremated remains.
<b>Funeral Director</b>	an individual or business operating funeral services.
<b>General Section</b>	of a Cemetery refers to an area where graves are located and these graves may have covers over the whole area of the grave and or an individual selection of a <del>headstone or</del> monument.
<b>Grantee</b>	person to whom an <del>Exclusive Burial Licence</del> <b>interment right</b> is granted.
<del><b>Headstone</b></del>	<del>masonry structure placed at the head of a grave on a beam.</del>
<b>Inurnment</b>	process of placing cremated remains in an urn.
<del><b>Immurement</b></del>	<del>the act of placing an urn in a niche wall and closing it up.</del>
<b>Interment</b>	<del>the practice of placing a body or ashes in a burial right or grave site.</del> the placement of human remains in a <b>Mausoleum, vault, columbarium or other structure or the burial in the earth of human remains (directly in the earth or in a container)</b>
<b>Lawn Cemetery</b>	burial area in which a concrete beam is provided for the location of standard plaques and the remainder of the cemetery is mown grass.
<b>Memorial Garden</b>	garden area, path or the like in which ashes may be placed and a standard plaque located. A plaque may be located in such areas without the placement of ashes.
<b>Monument</b>	any structure, headstone, masonry, metal work, casting or item placed over, in or around a burial right or grave site.
<b>Monumental Mason</b>	tradesperson mason or person possessing the skills to carry out monumental masonry work.
<b>Niche</b>	<del>immurement site or</del> place in a wall where a container containing the ashes of a deceased person may be <b>placed. Interred.</b>
<b>Niche Wall</b>	wall containing a number of <del>immurement sites or places</del> <b>interment sites where in-which</b> containers of ashes may be placed.
<b>Plaque</b>	bronze sign that is attached to a beam, <del>headstone monument</del> or niche wall.

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<del>Pre-need</del>	<del>burial interment right granted prior to need which reserves a plot or niche for use in the future.</del>
<b>Public Health Regulation</b>	Public Health Regulation (Disposal of Bodies) 2002.
<b>Register</b>	Council's formal data repository containing details of a burial, memorial site, <del>immurement right</del> , interment right, or burial right.
<b>Reservation</b>	<del>pre-need burial</del> Interment right granted which reserves a plot or niche for use in the future.
<b>Burial Licence Interment Right</b>	is a written undertaking by Ballina Shire Council to grant a <b>licence right</b> to occupy a specific grave, burial site or niche without interference once the remains of the deceased person have been placed in it. The <b>Burial Licence interment right</b> also entitles the holder to request the erection of <b>plaques/headstones monuments</b> and additional interments at the specified cemetery allotment.
<b>The Policy</b>	Cemetery Management Policy.
<b>Vault</b>	is an above ground structure in which bodies may be placed rather than buried into the ground.

### SCOPE OF POLICY

This policy applies to:

- Council employees
- Councillors
- Community members
- Contractors
- Funeral Industry

### RELATED DOCUMENTATION

Related documents, policies and legislation:

- Public Health Act ~~1919~~ 2010
- Local Government Act 1993
- Cemeteries and Crematoria Act 2013
- Cemeteries and Crematoria Regulation 2014
- ~~Crown Lands Act 1989~~
- Crown Land Management Act 2016
- Crown Land Management Regulation 2018
- ~~Crown Land (General Reserves) By-law 2006~~
- ~~Q~~WH&S Act 2011 & Regulations
- WHS Regulation 2017
- Public Health Regulation 2002 (Disposal of Bodies)
- Guidelines for the Funeral Industry - NSW Health

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- Guidelines for Approval and Approval Procedures for Exhumations - Public Health Unit (NSW)
- AS 4204:2019 - Headstones and Cemetery Monuments
- ~~Guidelines for Safe Working Practices in Cemeteries & Crematoria in NSW~~
- Cemetery and crematorium operator code of practice 2018
- AS 3600:2018 Concrete Structures
- Ballina Shire Council Fees & Charges
- Ballina Shire Council Cemeteries Register
- ~~Alstonville Cemetery – Master Plan and Management Plan~~
- ~~Monuments & Memorials on Public Land~~

### REVIEW

The Cemetery Management Policy is to be reviewed every four years or as required.