

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF VICTORIA PLAINS

CEMETERIES LOCAL LAW 2018

CONTENTS

PART 1—PRELIMINARY

- 1.1 Citation
- 1.2 Commencement
- 1.3 Application
- 1.4 Repeal
- 1.5 Definitions

PART 2—ADMINISTRATION

- 2.1 Powers and functions of CEO
- 2.2 Plans
- 2.3 Grant of right of burial
- 2.4 Pre-need certificate
- 2.5 Board may enter into an agreement for maintenance

PART 3—APPLICATION FOR INTERMENT

- 3.1 Application for interment permit
- 3.2 Applications to be accompanied by certificates etc.
- 3.3 Certificate of identification
- 3.4 Minimum notice required
- 3.5 Refusal of application

PART 4—FUNERALS AND MEMORIAL SERVICES

- 4.1 Fixing times for interments
- 4.2 Memorial services or processions
- 4.3 Processions
- 4.4 Conduct of interments by the Board

PART 5—INTERMENTS

- 5.1 Requirements for burials
- 5.2 Requirement for preparation of graves
- 5.3 Requirements for dimensions of graves
- 5.4 Requirements for disposal of ashes
- 5.5 Requirements for vaults and mausoleums
- 5.6 Requirement for re-opening a grave
- 5.7 Requirements for exhumation
- 5.8 Requirements for opening of coffin or removal of shroud
- 5.9 Ashes not to be held by the Board

PART 6—APPLICATIONS FOR MEMORIALS

- 6.1 Application to place memorial
- 6.2 Australian War Graves

PART 7—MEMORIALS PERMITTED

- 7.1 Limitation on dimensions of memorials
- 7.2 Specification for monument
- 7.3 Specification for headstone

- 7.4 Specification for memorial plaque base
- 7.5 Specification for memorial plaque
- 7.6 Specification for gravesite fencing
- 7.7 Display of trade names on memorials not allowed
- 7.8 Use of wood

PART 8—MEMORIALS AND OTHER WORK

- 8.1 Carrying out memorial work
- 8.2 Removal of sand, soil or loam
- 8.3 Removal of rubbish
- 8.4 Plants and trees
- 8.5 Supervision
- 8.6 Placing of grave ornaments
- 8.7 Hours of work
- 8.8 Unfinished work

PART 9—GENERAL

- 9.1 Vehicle access and speed limitation
- 9.2 Assistance animals
- 9.3 Utility services
- 9.4 Damaging and removing of objects
- 9.5 Withered flowers
- 9.6 Littering and vandalism
- 9.7 Advertising
- 9.8 Signs and directions of the Board
- 9.9 Removal from a cemetery
- 9.10 Board may close cemetery
- 9.11 Firearms
- 9.12 Liability for damage or works required to comply
- 9.13 Offence to fail to comply with notice
- 9.14 Board may undertake requirements of notice

PART 10—OFFENCES AND MODIFIED PENALTIES

- 10.1 General penalties
- 10.2 Modified penalties

SCHEDULE 1—MODIFIED PENALTIES

SCHEDULE 2—INFRINGEMENT NOTICE

SCHEDULE 3—WITHDRAWAL OF INFRINGEMENT NOTICE

**CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995**

SHIRE OF VICTORIA PLAINS

CEMETERIES LOCAL LAW 2018

Under the powers conferred by the *Cemeteries Act 1986* and the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Victoria Plains resolved on 16 May 2018 to adopt the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Shire of Victoria Plains Cemeteries Local Law 2018*.

1.2 Commencement

This local law comes into operation 14 days after the date of its publication in the *Government Gazette*.

1.3 Application

This local law applies to the following cemeteries located in the district—

- (a) Calingiri Cemetery situated on a portion of Reserve 16738 and a portion of Reserve 37801 as indicated by signs or fencing; and
- (b) Bolgart Cemetery situated on a portion Reserve 47876 as indicated by signs or fencing.

1.4 Repeal

The *Shire of Victoria Plains Local Law No. 2 Calingiri Cemetery Local Laws* published in the *Government Gazette* on 17 March 1998 is repealed.

1.5 Definitions

In this local law, unless the context otherwise requires—

Act means the *Cemeteries Act 1986*;

approved material means—

- (a) any variety of non-fabricated, naturally occurring stone or rock; or
- (b) any fabricated compound or fabricated aggregate which, in the opinion of the Board, has similar durability and aesthetic qualities as the materials specified in paragraph (a) above, suitable for decorative purposes and monumental sculpture, but not glass, porcelain, ceramics or any pottery;

ashes means so much of the remains of a dead body after the due processes of cremation as may be contained in a standard sized cremation urn;

authorised person means a person—

- (a) appointed by the Board for the purposes of performing any function or exercising any power, other than the giving of infringement notices, conferred upon an authorised person by this local law; or
- (b) authorised under section 64 of the Act to give infringement notices;

Board means the local government;

business day means any week day other than a public holiday in Western Australia;

cemetery means a cemetery under the care and control of the Board;

CEO means the chief executive officer, for the time being, of the Board;

coffin means a coffin or other receptacle used for the transportation of a dead body to the grave site, or the receptacle used for the burial of a dead body in a grave;

Commissioner of Police means the Commissioner of Police for the time being appointed under the *Police Act 1892* and includes any person for the time being acting in that capacity;

district means the district of the local government;

funeral has the meaning given to it by the Act;

funeral director means a person—

- (a) holding current membership of—
 - (i) the Australian Funeral Directors Association, or
 - (ii) the National Funeral Directors Association; or
- (b) a person authorised by the personal representative of a deceased person, and approved by the CEO;

grant of right of burial means a right granted under clause 2.3 for immediate burial of a dead body, and for the purposes of this local law, includes placement of ashes in a grave, niche wall, memorial garden or under a memorial plaque, or scattering of ashes within the cemetery;

headstone means a memorial designed for placement at the head of a grave, commemorating a grave or the placement of ashes;

interment includes, as the case may be—

- (a) burial of a dead body;
- (b) placement of ashes in a grave, niche wall, memorial garden or under a commemorative plaque; or
- (c) scattering of ashes;

interment permit means a single funeral permit issued by the Board under section 20 or 21 of the Act which entitles the holder to conduct the interment of a person named in the permit, and includes placement or scattering of ashes;

local government means the Shire of Victoria Plains;

mausoleum means a burial chamber wholly above or partially above and below ground level, so constructed as to allow the deposition of dead bodies into a compartment in the wall or floor and being sealed from view;

memorial has the meaning set out in the Act;

memorial plaque means a panel, plate or tablet designed or used for purposes of bearing a commemorative inscription;

memorial work means to install, repair, renovate or remove a memorial;

monument means a sculpture, statue, cover of a grave or other form of memorial approved by the Board commemorating a grave or the placement of ashes, other than a headstone or memorial plaque;

niche wall means a structure for the placement of a container of ashes in a compartment secured with a covering memorial plaque;

personal representative means—

- (a) the administrator or executor of an estate of a deceased person;
- (b) the person who, by law of practice, has the right to apply for administration of the estate of the deceased person; or
- (c) a person having the lawful custody of a dead body;

pre-need certificate means the purchase of a certificate made under clause 2.4 setting aside for use of the person who wishes to secure the use of the grave, niche or memorial position, prior to any grant of right of burial made under clause 2.3;

Schedule means a Schedule to this local law;

set fee refers to fees and charges set by a resolution of the Board and published in the *Government Gazette*, under section 53 of the Act;

standard grave means a grave which does not exceed any of the following dimensions—

- (a) 2m long;
- (b) 1.2m wide; and
- (c) 2.1m deep;

utility services means municipal or public services and includes the supply of water, electrical power and gas and also includes refuse, building waste and sewerage disposal services;

vault means a below ground lined grave with 1 or more sealed compartments constructed to specifications approved from time to time by the Board; and

vehicle includes every conveyance and every object capable of being propelled or drawn on wheels, tracks or otherwise, other than a wheelchair or baby stroller, and includes a bicycle and a skateboard.

PART 2—ADMINISTRATION

2.1 Powers and functions of CEO

Unless a matter is specified to be determined by the Board, the CEO shall exercise all the powers and functions of the Board in respect of a cemetery.

2.2 Plans

- (1) The Board shall establish and maintain a plan of each cemetery showing—
- (a) the location of areas set aside for burials, niche walls, memorial gardens, and placement of ashes in a garden;
 - (b) the location of an area to be used only for burials of persons of a particular religious denomination;
 - (c) the location of different areas of the cemetery to which different requirements for memorials apply;
 - (d) the location of areas set aside for the works and other uses as specified in sections 24(2)(a) and (b) of the Act; and
 - (e) any restricted areas.
- (2) The Board may from time to time establish and vary the boundaries of any area referred to in subclause (1).
- (3) The plans referred to in subclause (1) shall be open for inspection by members of the public during normal office hours of the Board.

2.3 Grant of right of burial

- (1) Upon payment of the set fee, a grave, niche compartment or memorial location shall be granted right of burial for a period in accordance with section 25(1) of the Act.
- (2) Upon payment of the set fee, a grant of right of burial shall be extended for a further period in accordance with section 25(2) or (4) of the Act.
- (3) A grant of right of burial made and recorded at the commencement of this local law, shall remain valid for the periods specified by the Act.
- (4) If the Board refuses to grant an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

2.4 Pre-need certificate

- (1) Prior to issue of a grant of right of burial, and upon payment of the set fee, purchase of a pre-need certificate for a specific position of gravesite, niche compartment or memorial location may be approved for a period not exceeding 5 years.
- (2) Upon payment of the set fee, a pre-need certificate may be renewed for a further period not exceeding 5 years.
- (3) Cancellation of a pre-need certificate may be made by the person holding the pre-need certificate or authorised representative at any time.
- (4) For avoidance of doubt, a pre-need certificate is not a grant of right of burial.
- (5) If the Board refuses to grant an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

2.5 Board may enter into an agreement for maintenance

The Board may enter into an agreement with the holder of a grant of right of burial under clause 2.3 or holder of a pre-need certificate under clause 2.4 for the maintenance of an area of a cemetery at the expense of the holder.

PART 3—APPLICATION FOR INTERMENT**3.1 Application for interment permit**

- (1) A funeral director may apply for approval for an interment of a dead body in a cemetery.
- (2) A funeral director, the personal representative of a deceased person whose body has been cremated, or other person approved by an authorised person may apply for approval for interment of ashes in a cemetery.
- (3) An application for an interment permit under subclause (1) or (2) of—
- (a) a dead body shall include details of—
 - (i) proposed burial method for the dead body in accordance with clause 5.1; and
 - (ii) the vehicle transporting the dead body to the gravesite; or
 - (b) ashes shall include details of the proposed interment arrangements for the ashes in accordance with clause 5.4(2).
- (4) An application under subclauses (1) or (2) shall be accompanied by the set fee.

3.2 Applications to be accompanied by certificates etc.

An application under clause 3.1(1) shall be accompanied by—

- (a) a certificate issued under clause 3.3; and
- (b) either a medical certificate of death or a Coroner's order of burial.

3.3 Certificate of identification

- (1) Prior to the dead body being removed to a cemetery, a person who personally knew the deceased shall identify the dead body and shall provide a certificate of identification, unless—
- (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
 - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

- (2) A funeral director shall provide a certificate, where—
- (a) in the opinion of the funeral director, the dead body is not in a fit state to be viewed; or
 - (b) after reasonable effort the funeral director is unable to arrange for a person to identify the dead body.

3.4 Minimum notice required

An application for interment shall be made to the Board at least 4 business days prior to the day proposed for interment, otherwise an extra fee may be charged.

3.5 Refusal of application

- (1) The Board may refuse an application for a interment permit—
 - (a) if in the opinion of the Board, either the coffin specifications or the details of the vehicle transporting the dead body to the gravesite are inadequate or inappropriate; or
 - (b) on any other grounds.
- (2) The Board may refuse an application for a pre-need certificate.
- (3) If the Board refuses to approve an application under subclause (1) or (2), written notice of the refusal is to be given to the applicant.

PART 4—FUNERALS AND MEMORIAL SERVICES

4.1 Fixing times for interments

- (1) On receipt of a completed application form and the satisfaction of all other requirements of the Act and this local law, the Board may—
 - (a) approve a time for the interment; and
 - (b) dig or re-open any grave that is required.
- (2) The time approved for an interment is at the discretion of the Board but will be as near as possible to the time requested by the applicant.
- (3) Except with the permission of the Board and subject to such conditions as may be applied, a person shall not carry out a burial—
 - (a) on a Saturday, a Sunday or a public holiday;
 - (b) commencing at any time other than between the hours 9:00 am to 2.00 pm; or
 - (c) to conclude later than 3.00 pm.

4.2 Memorial services or processions

A person shall not conduct a memorial service or procession within a cemetery unless that person has the permission of the Board.

4.3 Processions

The time fixed by the Board for interment shall be the time at which the procession is to arrive at the cemetery gates, and, if not punctually observed, then the applicant who applied to hold the interment under clause 3.1 shall if required, pay the set fee for being late.

4.4 Conduct of interments by the Board

When conducting an interment, or for the purposes of deciding whether to conduct an interment, under section 22 of the Act the Board may—

- (a) require a written request to be made for the Board to conduct an interment;
- (b) in its absolute discretion, charge any person requesting it to conduct an interment the set fee for the conduct of that funeral;
- (c) where no fee is applicable or a reduced fee has been charged by it for the conduct of the interment, determine the manner in which the interment shall be conducted;
- (d) specify an area in a cemetery for the interment;
- (e) conduct the funeral notwithstanding the failure of a person to make any application or to obtain any consent required under this local law; and
- (f) do or require anything which is considered necessary or convenient for the conduct of the funeral by the Board.

PART 5—INTERMENTS

5.1 Requirements for burials

A person shall not bring a dead body into a cemetery unless—

- (a) the Board has approved an application for the burial of that dead body made under clause 3.1(1);
- (b) it is enclosed in a coffin which bears the name of the deceased person indelibly inscribed in legible characters on a plate affixed in a clearly visible position; and
- (c) under the plate referred to in paragraph (b) there is a substantive lead strip bearing the surname of the deceased person stamped in legible characters, each character being not less than 10 mm in height.

5.2 Requirement for preparation of graves

- (1) A person shall not dig or prepare a grave or fill a grave, unless that person has the permission of the Board.
- (2) Regardless of prior grant of right of burial under clause 2.3 or gravesite approved upon application made under clause 3.1, the Board may direct the digging or preparation of a grave in an alternate position, where—
 - (a) evidence of a prior interment is found, or known to have occurred;
 - (b) access to the position is constrained;
 - (c) the digging or preparation of the grave is unreasonably difficult; or
 - (d) utility services may be interfered with.
- (3) Where an alternative position for the grave is directed under subclause (2), the Board is to advise the funeral director immediately.

5.3 Requirements for dimensions of graves

- (1) A person shall not bury a dead body in a cemetery other than in a standard grave, unless that person has the permission of the Board.
- (2) Every grave prepared by the Board shall be dug at least 1.8m deep and shall not exceed 2.3m in depth, unless otherwise determined by the Board.
- (3) A person shall not bury a dead body within the cemetery so that the distance from the top of the coffin to the original surface of the ground is—
 - (a) subject to paragraph (b), less than 1600mm, unless that person has the permission of an authorised person; or
 - (b) in any circumstances less than 750mm.
- (4) The permission of the authorised person in subclause (3) shall not be granted unless in the opinion of the authorised person exceptional circumstances require granting of that permission.

5.4 Requirements for disposal of ashes

- (1) Except in accordance with an approved application under clause 3.1(2), a person shall not bring or dispose of the ashes of a deceased person into a cemetery.
- (2) The person approved under clause 3.1(2) may dispose of the ashes of that deceased person in a cemetery by one of the following methods, if that method is available—
 - (a) placed within the perimeter of an authorised gravesite's at a depth of at least 600mm;
 - (b) placed in a vault or mausoleum;
 - (c) placed in a niche wall;
 - (d) scattered in an area approved by the Board; or
 - (e) placed in a memorial garden.
- (3) The Board may require a person making an application under clause 3.1(2) to provide additional information reasonably related to the application before determining the application.
- (4) The Board may—
 - (a) approve an application under clause 3.1(2) unconditionally or subject to any conditions; or
 - (b) refuse to approve an application under subclause(2).
- (5) Where an application under clause 3.1(2) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (6) If the Board refuses to approve an application under clause 3.1(2), written notice of the refusal is to be given to the applicant.

5.5 Requirements for vaults and mausoleums

- (1) A person shall not construct a vault or mausoleum within a cemetery, except with the specific approval of the Board.
- (2) A vault or mausoleum within a cemetery shall at all times remain the property of the Board.
- (3) An application under subclause (1) shall be in writing and shall be accompanied by payment of the set fee.
- (4) The Board may require a person making an application under subclause (1) to provide additional information reasonably related to the application before determining the application.
- (5) The Board may—
 - (a) approve an application under subclause (1) unconditionally or subject to any conditions; or
 - (b) refuse to approve an application under subclause (1).
- (6) Where an application under subclause (1) has been approved subject to conditions, the applicant must comply with each of those conditions, as amended.
- (7) If the Board refuses to approve an application under subclause (1), written notice of that refusal is to be provided to the applicant.
- (8) A person shall not place a dead body in a vault or mausoleum except—
 - (a) in a closed coffin;
 - (b) in a soundly constructed and sealed chamber; and
 - (c) in accordance with subclause (9).

(9) The number of burials in a chamber must not exceed the number for which the chamber was designed.

5.6 Requirement for re-opening a grave

- (1) A person shall not reopen a grave without the approval of the Board.
- (2) If for the purpose of re-opening a grave in a cemetery, the Board finds it necessary to remove plants, grass, shrubs or other like matter from the grave, then the person ordering the re-opening of that grave shall bear the cost of the removal and any necessary reinstatement.

5.7 Requirements for exhumation

- (1) Subject to subclause (2), a person shall not exhume a coffin in a cemetery for the purposes of reburial within 12 months after the date of its interment.
- (2) Subclause (1) shall not apply where the exhumation is ordered or authorised pursuant to the Act.
- (3) Subject to subclause (1) and (2) prior to any other exhumation, the holder of a grant of right of burial must have applied in writing to the CEO requesting the exhumation and an authorised person has authorised the exhumation.

5.8 Requirements for opening of coffin or removal of shroud

A person shall not open a coffin in a cemetery unless—

- (a) the coffin is opened for the purposes of the exhumation of a dead body; or
- (b) that person has produced to the Board an order signed or authorised pursuant to the Act and an authorised person has approved the opening of that coffin or removal of the shroud.

5.9 Ashes not to be held by the Board

The Board shall not accept custody of ashes of a deceased person.

PART 6—APPLICATIONS FOR MEMORIALS

6.1 Application to place memorial

- (1) Upon payment of the set fee, the Board may approve an application to place a memorial with or without conditions, including restricting use of materials such as wood, dimensions of a memorial etc, so as not to detract from the amenity of a cemetery.
- (2) The Board may require the written consent of the holder of the grant of right of burial of the grave, the personal representative of a deceased person, or other person to the satisfaction of the CEO to accompany an application for a memorial made under section 30 of the Act.
- (3) Where written consent is not able to be produced, the Board may approve with or without conditions or decline an application in its absolute discretion.
- (4) If the Board refuses to approve an application under subclause (2), written notice of that refusal is to be provided to the applicant.

6.2 Australian War Graves

Notwithstanding anything in this local law to the contrary, the Office of Australian War Graves—

- (a) may place a complying memorial on a military grave; and
- (b) is not required to pay the set fee for any memorial that is placed upon a military grave.

PART 7—MEMORIALS PERMITTED

7.1 Limitation on dimensions of memorials

- (1) No part of a memorial, including any grave cover, kerbing, boundary marker or enclosure is to extend beyond the standard dimensions of a gravesite.
- (2) No part of a monument above its base shall extend horizontally beyond its base.
- (3) Notwithstanding subclause (1), on request of the personal representative, the Board may approve a memorial over adjoining multiple gravesites—
 - (a) where the persons interred are of the same family; or
 - (b) for another acceptable reason.

7.2 Specification for monument

- (1) A monument in a cemetery—
 - (a) shall be made of approved material;
 - (b) shall be placed on a base of approved material;
 - (c) the portion not being a grave cover, shall comply with the following specifications—
 - (i) unless a greater height is approved by the Board, the overall height of a monument above the original surface of the grave shall not exceed 1.2m;
 - (ii) the height of the base of the monument above the original surface of the grave shall not be less than 150mm nor more than 450mm;
 - (iii) the width of the base of the monument shall not exceed 1.2m;
 - (iv) the length of the base of the monument measured along the length of the grave shall not exceed 600m;

- (d) the portion being a grave cover, shall comply with the following specifications
 - (i) unless a greater height is approved by the Board, the overall height of a monument above the original surface of the grave shall not exceed 300mm;
 - (ii) the width of the grave cover shall not exceed 1.2m;
 - (iii) the length of the grave cover shall not exceed 2.4m; and
 - (e) shall have foundations extending to a depth of 1m unless concrete beam foundations are approved by the Board.
- (2) Subject to subclause (3) a memorial plaque may be attached to a monument that has been or is being erected.
- (3) The provisions of clause 7.5 apply to plaques that are attached to a monument.

7.3 Specification for headstone

- (1) A headstone shall—
- (a) be made of approved material;
 - (b) be placed on a base of approved material;
 - (c) comply with the following specifications—
 - (i) be placed on proper and substantial foundations extending to a depth of 1m unless concrete beam foundations are provided;
 - (ii) the height of the base of the headstone above the highest point of the original surface of the grave shall not be less than 150mm nor more than 200mm;
 - (iii) the overall height of the headstone, including the base, shall not exceed 1.2m;
 - (iv) the length of the base of the headstone measured across the width of the grave shall not exceed 1.2m;
 - (v) the width of the base of the headstone measured along the length of the grave shall not exceed 300mm; and
 - (vi) no part of a headstone above its base shall extend horizontally beyond that base; and
 - (d) have foundations extending to the bottom of the grave unless concrete beam foundations are approved by the Board.
- (2) Subject to subclause (3) a memorial plaque may be attached to a headstone erected or being erected within a cemetery.
- (3) The provisions of clause 7.5 apply to plaques that are attached to a headstone.

7.4 Specification for memorial plaque base

- (1) A memorial plaque base shall—
- (a) have the following dimensions—
 - (i) at ground level of 85mm wide and 105mm long;
 - (ii) front elevation of 30mm;
 - (iii) back elevation of 85mm; and
 - (iv) all measurements to be within 5mm;
 - (b) be constructed of materials approved by the Board;
 - (c) be in a position approved by the Board; and
 - (d) have foundations as approved by the Board.
- (2) The provisions of clause 7.5 apply to plaques that are attached to a memorial plaque base.
- (3) Upon application, the Board may permit an exemption from any of the requirements of subclause (1)(a), but shall not delegate the decision to permit an exemption to the CEO.

7.5 Specification for memorial plaque

- (1) A memorial plaque shall be made of—
- (a) admiralty bronze not exceeding 20mm in thickness;
 - (b) polished or brushed stainless steel not exceeding 8mm in thickness;
 - (c) stone, and—
 - (i) if placed upon a headstone, monument or memorial plaque base, shall not exceed 50mm in thickness; or
 - (ii) if it is not to be placed upon a headstone, monument or memorial plaque base, shall not be less than 100mm in thickness; or
 - (d) other material approved by the Board.
- (2) A memorial plaque placed on a monument, headstone or other item shall not extend beyond the physical dimensions of the monument, headstone or other item on which it is affixed.
- (3) A memorial plaque to be placed on a commemorative wall shall—
- (a) have the following dimensions—
 - (i) individual plaques—to be of a size and appearance consistent with other memorial plaques used in that location or for that purpose, as determined by the Board;

- (ii) if a backing plate with multiple plaques attached—multiple plaques to be not more than 2 plaques wide subject to allowing a 10mm border and a maximum of 10mm between plaques; and
 - (iii) all measurements to be within 5mm; and
 - (b) be placed in such a manner and in a position approved by the Board.
- (4) Upon application, the Board may permit an exemption from any of the requirements of subclause (3)(a) but shall not delegate the decision to permit an exemption to the CEO.

7.6 Specification for gravesite fencing

Any fencing used as a memorial or part of a memorial shall—

- (a) be a picket fence made of white powder coated aluminium or other materials approved by the Board;
- (b) have concrete foundations not less than 250mm square and 750mm deep not more than 1200mm apart, or concrete beam foundations approved by the Board;
- (c) unless otherwise approved by the Board, comply with the following specification—
 - (i) in length, not be more than 2400mm in length, nor less than 900mm;
 - (ii) in width, not be more than 1200mm in width, nor less than 900mm; and
 - (iii) in height, not less than 450mm, nor more than 550mm from the original surface of the grave.

7.7 Display of trade names on memorials not allowed

A person shall not display any trade names or marks on a memorial.

7.8 Use of wood

No wooden fence, railing or construction other than a cross, shall be allowed on or around a grave, other than as a temporary marker or with the permission of the Board.

PART 8—MEMORIALS AND OTHER WORK

8.1 Carrying out memorial work

- (1) A person shall not carry out memorial work within a cemetery unless that person is authorised by the Board to do so under clause 6.1.
- (2) All material required in the erection and completion of any memorial work shall be prepared before being taken to a cemetery.
- (3) The Board may place restrictions on the hours of work, access to a cemetery or other matters considered appropriate.
- (4) Memorial works shall be suspended during the conduct of any funeral within a cemetery.
- (5) Work is not permitted to be left unattended in an untidy or unsafe state.

8.2 Removal of sand, soil or loam

No sand, earth or other material shall be taken from any part of a cemetery for use in the construction of any memorial or other work, or cause any material to be removed from a cemetery except with the written approval of the Board.

8.3 Removal of rubbish

All refuse, rubbish or surplus material remaining after approved memorial works are completed shall be immediately removed from a cemetery by the person carrying out the same.

8.4 Plants and trees

No trees or shrubs shall be planted on any grave or within a cemetery except such as shall be approved by the Board.

8.5 Supervision

All workers, whether employed by the Board or by any other person, shall at all times while within the boundaries of a cemetery be subject to the supervision of the Board and shall obey any directions of the Board.

8.6 Placing of grave ornaments

- (1) A person shall not place vases or other grave ornaments—
 - (a) outside the perimeter of a grave in a cemetery as defined in the plans kept and maintained under section 40(2) of the Act; or
 - (b) outside of an area set aside by the Board as a memorial plaque section.
- (2) The use of glass, porcelain, ceramics or pottery is not permitted, other than that already in place at commencement of this local law.

8.7 Hours of work

Except in accordance with the permission of an authorised person, a person shall not carry out memorial or other work within a cemetery—

- (a) during a funeral; or
- (b) other than between the hours of 8:00 am and 5:00 pm on a business day.

8.8 Unfinished work

A person who does not complete any work before 5:00 pm on a business day shall leave the work in a neat and safe condition to the satisfaction of the Board.

PART 9—GENERAL**9.1 Vehicle access and speed limitation**

- (1) A person must only drive a vehicle on a vehicular access way or the constructed roadway or other areas designated for the use of vehicles within a cemetery, unless otherwise authorised by the Board.
- (2) A person driving a vehicle, within a cemetery, shall not exceed the speed limit of 20km per hour, and shall comply with the signs and directions in the cemetery.

9.2 Assistance animals

This local law is subject to any written law and law of the Commonwealth about assistance animals as defined in the *Disability Discrimination Act 1992 (Commonwealth)* section 9(2).

9.3 Utility services

- (1) Other than with the approval of the Board, a person shall not—
 - (a) connect any device or equipment to any utility services supplied on or at a cemetery; or
 - (b) alter or interfere with utility services infrastructure located in the cemetery.
- (2) The Board may recover from a person the reasonable costs incurred by the Board for the supply to and use of any utility services by that person at a cemetery.

9.4 Damaging and removing of objects

Subject to clause 9.5, a person shall not damage, remove or pick any tree, plant, shrub or flower in a cemetery or any other object or thing on any grave or memorial or which is the property of the Board without the permission of the Board.

9.5 Withered flowers

A person may remove withered flowers from a grave or memorial and these are to be disposed of in an appropriate manner.

9.6 Littering and vandalism

A person shall not—

- (a) damage, deface or interfere with any monument or gravesite in any manner whatsoever;
- (b) break or cause to be broken any glass, ceramic or other material in or upon a cemetery; or
- (c) discard, deposit, leave or cause to be discarded, deposited or leave any refuse or litter in a cemetery other than in a receptacle provided for that purpose.

9.7 Advertising

- (1) A person shall not advertise or carry on any trade, business or profession in a cemetery without the approval of the Board.
- (2) Upon payment of the set fee, the Board may consider and give approval subject to such conditions as the Board thinks fit.

9.8 Signs and directions of the Board

- (1) The Board may display, mark, place or erect a sign within a cemetery specifying conditions relating to the use of that cemetery.
- (2) A person shall obey all signs displayed, marked, placed or erected by the Board within a cemetery and any other lawful direction by the Board.

9.9 Removal from a cemetery

- (1) Any person failing to comply with any provisions of this local law or behaving in a manner that in the opinion of the Board is inappropriate in a cemetery may in addition to any penalty provided by this local law be ordered to leave the cemetery by an authorised person.
- (2) A person to whom an order under subclause (1) is given must comply with that order.

9.10 Board may close cemetery

The Board may—

- (a) temporarily close a cemetery or any part of it;
- (b) exclude from a cemetery the public and all persons or so many of the public or so many persons as the Board consider to be necessary;
- (c) regulate, prohibit or restrict access to a cemetery or any part of it; or
- (d) direct persons to leave a cemetery or any part of it, for purposes of—
 - (i) a funeral or public convenience;
 - (ii) maintenance, redevelopment or extension of a cemetery;
 - (iii) public safety; or
 - (iv) other operational reasons.

9.11 Firearms

Upon application, and subject to the approval of the Commissioner of Police, an authorised person may permit an honour guard and discharge of firearms in a volley salute for a deceased military or police officer.

9.12 Liability for damage or works required to comply

(1) Where a person—

- (a) causes damage to any grave, memorial, structure, building, furniture, plant or any other item or thing in a cemetery;
- (b) does a thing not authorised by this local law; or
- (c) does not do a thing required by this local law,

the Board may by notice in writing to that person require that person within the time required in the notice to, at the option of the Board—

- (d) pay the costs of reinstating the property to the state it was in prior to the occurrence of the damage;
- (e) pay the costs of replacing that property;
- (f) pay the costs of works required to comply with this local law; or
- (g) carry out works required to comply with this local law.

(2) On a failure to comply with a notice issued under subclause (1), the Board may recover the costs referred to in the notice as a debt due to it.

9.13 Offence to fail to comply with notice

Whenever the Board gives a notice under this local law requiring a person to do any thing, if a person fails to comply with the notice, that person commits an offence.

9.14 Board may undertake requirements of notice

Where a person fails to comply with a notice referred to in clause 9.13, the Board may do the thing specified in the notice and recover from the person to whom the notice was given, as a debt, the costs incurred in so doing.

PART 10—OFFENCES AND MODIFIED PENALTIES**10.1 General penalties**

A person who commits a breach of any provisions of this local law commits an offence and shall on conviction be liable to a penalty not exceeding \$500, and if the offence is a continuing one to a further penalty not exceeding \$20 for every day or part of a day during which the offence has continued.

10.2 Modified penalties

(1) The offences specified in Schedule 1 are offences which may be dealt with under section 63 of the Act.

(2) The modified penalty payable in respect of an offence specified in Schedule 1 is set out in the fourth column of Schedule 1.

(3) The infringement notice referred to in section 63(1) of the Act shall be in the form set out in Schedule 2.

(4) The notice withdrawing an infringement notice referred to in section 63(3) of the Act shall be in the form set out in Schedule 3.

SCHEDULE 1—MODIFIED PENALTIES

[cl. 10.2]

Item	Clause	Nature of offence	Modified Penalty \$
1	4.2	Conducting a memorial service or procession without permission	50
2	5.1	Failure to obtain approval to bring a dead body into a cemetery	50
3	5.2(1)	Unauthorised digging, preparation or filling of grave	50
4	5.3(1)	Unauthorised burial of dead body	50
5	5.4(1)	Unauthorised disposal of ashes	50
6	5.5(1)	Unauthorised construction of vault or mausoleum	50
7	5.6(1)	Unauthorised reopening of a grave	50
8	5.7(1)	Unauthorised exhumation of a coffin	50

Item	Clause	Nature of offence	Modified Penalty \$
9	5.8	Unauthorised opening of a coffin or shroud	50
10	7.7	Use of trade name or mark on a memorial	50
11	7.8	Unauthorised use of wood on a gravesite	50
12	8.1	Unauthorised construction of a memorial	50
13	8.2	Unauthorised use of materials taken from within a cemetery	50
14	8.3	Failure to remove rubbish and surplus materials	50
15	8.4	Unauthorised planting of tree or shrub	50
16	8.5	Failure to comply with direction of the Board	50
17	8.6	Unauthorised placing of grave ornaments	50
18	8.7	Works carried out during unauthorised times	50
19	8.8	Failure to leave uncompleted works in a tidy and safe condition	50
20	9.1(1)	Driving vehicle other than on vehicular access way or constructed roadways or within designated areas	50
21	9.1(2)	Exceeding speed limit	50
22	9.3	Interference with utility services	50
23	9.4	Damaging or removing object	50
24	9.5	Failure to dispose of withered flowers appropriately	50
25	9.6	Littering and/or vandalism	50
26	9.7	Unauthorised advertising and/or trading	50
27	9.8(2)	Failure to obey sign or lawful direction within cemetery	50
28	9.9(2)	Failure to comply with order to leave cemetery	50
29	9.13	Failure to comply with notice within specified period	50

—————

SCHEDULE 2—INFRINGEMENT NOTICE

[cl. 10.2(3)]

Shire of Victoria Plains

INFRINGEMENT NUMBER:		
To:		
Address:		
	It is alleged that:	
At:		
On:	Day	Date
Location:	Calingiri Cemetery	Bolgart Cemetery
	You committed the following offence:	
Contrary to:	<i>Shire of Victoria Plains Cemeteries Local Law 2018</i>	
Schedule 1 reference:	Item No:	Clause:
Offence:		

Brief description:	
The modified penalty for the offence is:	\$
	If you do not wish to have a complaint of the alleged offence heard and determined by a court, the amount of the modified penalty may be paid at the Shire of Victoria Plains within a period of 28 days after the giving of this notice.
Name of authorised person:	
Position:	
Signature:	
Date:	
	Payments may be made— (a) EFT to BSB—633 000 A/c—118 278 670 (b) In person at—Shire of Victoria Plains, 28 Cavell Street, Calingiri during business hours (c) By mail to—Shire of Victoria Plains PO Box 21, Calingiri 6569 Please make cheques payable to Shire of Victoria Plains.

SCHEDULE 3—WITHDRAWAL OF INFRINGEMENT NOTICE

[cl. 10.2(4)]

Shire of Victoria Plains

To:	
Address:	
	It is advised that:
Infringement Notice No:	
Dated:	
For the alleged offence of:	
	has been withdrawn.
The modified penalty of:	\$
Reason for withdrawal: (Delete whichever does not apply)	No further action will be taken. <hr/> It is proposed to institute court proceedings for the alleged offence.
Name of authorised person:	
Position:	
Signature:	
Date:	

Dated: 8 June 2018.

The Common Seal of the Shire of Victoria Plains was affixed by authority of a resolution of Council in the presence of—

D. S. LOVELOCK, President.
G. M. TEEDE, Chief Executive Officer