

LOCAL GOVERNMENT ACT 1995
CEMETERIES ACT 1986

SHIRE OF MERREDIN

CEMETERIES AMENDMENT LOCAL LAW 2017

Under the powers conferred by the *Cemeteries Act 1986*, the *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Merredin resolved on 21 March 2017 to make the following local law.

1. Citation

This local law may be cited as the *Shire of Merredin Cemeteries Amendment Local Law 2017*.

2. Commencement

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

3. Principal local law

In this local law the *Shire of Merredin Cemeteries Local Law* as published in the *Government Gazette* on 7 October 2002 is referred to as the principal local law. The principal local law is amended.

4. Clause 1.2 amended

In clause 1.2—

- (a) delete the definitions “mausoleum” and “vault”;
- (b) insert the following definitions in alphabetical order—

Act means the *Cemeteries Act 1986*;

animal means any animal but does not include an assistance animal;

assistance animal has the meaning given under section 9(2) of the *Disability Discrimination Act 1992* (Cth);

burial has the same meaning as given in the Act;

cemetery means the Shire of Merredin cemeteries, which the Governor, by order, has placed under the care, control and management of the Board;

dead body has the same meaning given to it in the Act;

funeral includes the burial of a dead body and all associated processions and ceremonials but does not include so much of the ceremonial that is solely a religious rite;

grant means a grant issued by the Board, of an exclusive right of burial in a grave;

grave means a specified area of the cemetery for burial;

memorial means a memorial plaque or memorial as described in this local law or as otherwise approved by the Board;

5. Clause 3.2 deleted

Delete clause 3.2.

6. Clause 3.5 amended

In clause 3.5 delete “at least twenty four hours” and insert—
not less than 2 working days

7. Clause 4.1 amended

In clause 4.1 delete “the 30th day of” and insert—
30

8. Clause 5.1 amended

In clause 5.1(a) delete “or cremation”.

9. Clause 5.2 amended

In clause 5.2 delete “or cremation” and “or clause 3.2”.

10. Clause 5.3 amended

In clause 5.3—

- (a) in the heading delete “Entry Restricted” and insert—
access and speed limitations
- (b) delete clause 5.3(2) and insert—
 - (2) This clause shall not apply to vehicles or other motorised devices necessary to assist persons with limited mobility, or to any other vehicle approved by the CEO.
 - (3) Vehicles shall proceed within the cemetery by the constructed roadway or other areas designated for the use of vehicles and shall not exceed the speed indicated by signs.

11. Clause 5.4 deleted

Delete clause 5.4.

12. Clause 5.5 deleted

Delete clause 5.5.

13. Clause 5.6 amended

Delete clause 5.6(d) and insert—

- (d) bury a dead body only when a permit to bury has been obtained for that body;

14. Part 5 Division 2 deleted

Delete Part 5 Division 2.

15. Clause 5.13 deleted

Delete clause 5.13.

16. Clause 5.14 deleted

Delete clause 5.14.

17. Clause 6.1 replaced

Delete clause 6.1 and insert—

6.1 Depth of graves

- (1) A person shall not bury a coffin within the cemetery so that the distance from the top of the coffin to the original surface of the ground is less than 750 mm.
- (2) A person, with the permission of the CEO or authorised officer, may bury a coffin so that the distance from the top of the coffin to the original surface of the ground is not less than 600 mm.
- (3) The permission of the authorised officer in subclause (2) will only be granted where in the opinion of the authorised officer exceptional circumstances require granting of that permission.

18. Clause 6.2 replaced

Delete clause 6.2 and insert—

6.2 Re-opening a grave

- (1) Subject to subclause (2), if for the purpose of re-opening a grave in the 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.
- (2) If the Minister orders the exhumation of a body in accordance with section 58 of the Act, then the Minister may further order how and by whom the cost referred to in subclause (1) should be met.
- (3) In this clause, the word *Minister* has the same meaning as is given to that expression in the Act.

19. Clauses 6.3 and 6.4 inserted

After clause 6.2 insert—

6.3 Exhumation of a coffin

- (1) Subject to subclause (2), a person shall not exhume a coffin in the cemetery for the purposes of re-burial 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 must have applied in writing to the Board requesting the exhumation and the Board must have authorised the exhumation.

6.4 Opening of coffin

- (1) A person shall not open a coffin in the 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 by the Commissioner of Police and the Board has approved the opening of that coffin.

- (2) In this clause *Commissioner of Police* means a Commissioner of Police for the time being appointed under the *Police Act 1892* and includes a person for the time being acting in that capacity in the absence of the Commissioner of Police.

20. Clause 7.7 amended

In clause 7.7 delete “6pm” and insert—

6.00pm

21. Clause 7.8 amended

In clause 7.8 delete “, other than as a temporary marker and with” and insert—

without

22. Clause 7.17 amended

In clause 7.17 delete “the 30th day of” and insert—

30

23. Clause 8.1 amended

Delete clause 8.1 and insert—

8.1 Animals

A person shall not bring an animal into or permit an animal to remain in a cemetery, other than an assistance animal, or with the approval of the CEO or an authorised person.

24. Clause 8.2 deleted

Delete clause 8.2.

25. Clause 8.3 amended

In clause 8.3 delete “8.4” and insert—

8.4(3)

26. Clause 8.4 replaced

Delete clause 8.4 and insert—

8.4 Flowers

- (1) All flowers must be placed in vases or receptacles.
- (2) No person shall plant trees, shrubs or plants in the cemetery without the prior approval of the Board.
- (3) A person may remove withered flowers from a grave or memorial and these are to be placed in a receptacle provided by the Board for that purpose.

27. Clause 8.9 inserted

After clause 8.8 insert—

8.9 Fireworks or firearms

- (1) A person shall not bring or discharge any fireworks within the cemetery.
- (2) A person shall not bring or discharge any firearms within the cemetery except members of the police service and in the case of a military funeral, when firearms may be brought into the cemetery and discharged by members of the Australian Defence Force.

28. Clause 9.2 amended

Delete clause 9.2 and insert—

9.2 Modified penalties

- (1) Any offence against this local law may be dealt with under section 63 of the Act.
- (2) The modified penalty payable in respect of an offence against this local law is set at \$50.
- (3) The prescribed form of the infringement notice referred to in section 63(1) of the Act is the form as determined by the Board from time to time.
- (4) The prescribed form of the notice withdrawing an infringement notice referred to in section 63(3) of the Act is the form as determined by the Board from time to time.

29. First Schedule deleted

Delete the First Schedule.

30. Second Schedule deleted

Delete the Second Schedule.

31. Third Schedule deleted

Delete the Third Schedule.

Dated 5 April 2017.

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

Cr KEN HOOPER, President.
GREG POWELL, Chief Executive Officer.