

CEMETERIES ACT 1986
LOCAL GOVERNMENT ACT 1995
Shire of Narembeen

CEMETERIES AMENDMENT LOCAL LAW 2021

Under the powers conferred by the *Cemeteries Act 1986* and *Local Government Act 1995* and under all other powers enabling it, the Council of the Shire of Narembeen resolved on 17 February 2021 to make the following local law.

PART 1—PRELIMINARY

1. Citation

This local law may be cited as the *Shire of Narembeen Cemeteries Amendment Local Law 2021*.

2. Commencement

The local law comes into operation on the day it is published in the *Government Gazette*.

3. Principal local law

This local law amends the *Shire of Narembeen Cemeteries Local Law 2020* as published in the *Government Gazette* on 16 June 2020.

4. Clause 1.5 amended

In clause 1.5—

- (a) delete the definitions—
 - (i) **grant of right of burial**; and
 - (ii) **pre-need certificate**; and
- (b) insert in alphabetical order—
 - grant** means a grant issued by the Board for an exclusive right of burial in a specified area of the cemetery;
 - holder** in relation to a grant includes—
 - (i) a person issued with a grant by the Board, or
 - (ii) a person for the time being appearing to the Board to be the holder of a grant.

5. Part 2 amended

(1) Insert the following headings—

- (a) Prior to clause 2.1 insert—“*Division 1—General*”; and
- (b) Prior to clause 2.3 insert—“*Division 2—Right of burial*”.

(2) Delete clause 2.3 and replace it with—

2.3 Issuing of grants

The Board may from time to time issue to a person a grant for the term specified in the Act, upon—

- (a) written application by that person; and
- (b) payment of the set fee.

(3) Delete clause 2.4 and replace with—

2.4 Right of holder

(1) Subject to this local law, to the prior approval of the Board and to the terms and conditions (if any) imposed by the Board, a grant confers on the holder, during the term of the grant, an exclusive right—

- (a) to be buried in an area of the cemetery specified in the grant; and
- (b) to carry out monumental works on a gravesite specified in the grant.

(2) The Board, in its absolute discretion, may determine from time to time the number of dead bodies or ashes which may be placed in the grave.

(3) The Board or an authorised officer may request the holder to produce the grant before the exercise of any of the rights referred to in subclause (1) and the holder shall forthwith comply with that request.

(4) If the location stipulated in the grant of right of burial is significantly and adversely affected prior to or at the time of burial by unforeseen conditions such as flooding, a high water table, rock, large tree roots or any other significant matter the Board may allocate any other gravesite of the grantee’s choosing that is not already subject to a grant.

2.5 Renewal of grant

(1) Where, at any time during the term of a grant, a holder—

- (a) makes written application; and
 - (b) pays a set fee, the Board must renew the grant for a further term of twenty five (25) years commencing on the expiry date of the grant.
- (2) The set fee for the issue of a new grant pursuant to this clause shall be determined by the Board from time to time.
- (3) The Board may request the holder to deliver an existing grant to it prior to issuing a new grant.
- (4) The holder shall forthwith upon receiving a request by the Board in accordance with subclause (3) deliver the existing grant to the Board.

2.6 Replacement of grant

- (1) The Board may—
- (a) upon the written application of a holder; and
 - (b) upon the production of evidence to the satisfaction of the Board, issue a new grant to replace a grant which is lost or destroyed.
- (2) Notwithstanding subclause (1), the Board may prior to issuing a replacement grant, require the holder to make a statutory declaration in a form determined by the Board.
- (3) The replacement grant issued by the Board shall be deemed to be the original grant.

2.7 Transfer of grant

A holder who desires to transfer a grant to another person shall make an application to the Board in a form determined by the board and upon receipt of the application the Board may grant permission in accordance with section 26 of the Act.

2.8 Exercising the rights of holder

If evidence is produced in writing to the satisfaction of the Board that a holder is unavailable or not immediately ascertainable, or has died and has not specifically bequeathed a grant, then the rights conferred upon that holder may be exercised by a holder's personal representative or a person acting expressly on behalf of a personal representative. If those persons are unavailable or not immediately ascertainable, the Board may approve any other person.

- (4) In current clause 2.5, delete the words 'or holder of a pre-need certificate under clause 2.4'.
- (5) Renumber current clause '2.5' to '2.9'.

6. Part 3 amended

- (1) Delete clause '3.5(2)'.
- (2) Renumber clause '3.5(3)' to clause '3.5(2)'.

7. Clause 5.4(2)(a) amended

In clause 5.4(2)(a) replace the word 'gravesite's' with 'gravesite'.

8. Clause 9.11(1) amended

In clause 9.11(1) delete the word 'and' after the word 'displayed'.

9. Part 11 inserted

After clause 10.2 insert—

'PART 11—OBJECTIONS AND APPEALS

11.1 Objections and appeals

The provisions of Division 1 of Part 9 of the *Local Government Act 1995* and regulation 33 of the *Local Government (Functions and General) Regulations 1996* shall apply to a decision made by the local government under this local law as to whether it will—

- (a) grant a person a permit or authorisation;
- (b) vary or cancel a permit or authorisation; or
- (c) give a person a notice.

10. Contents listing amended

The Contents is amended as follows—

- (a) prior to clause 2.1 insert heading—'*Division 1—General*';
- (b) prior to clause 2.3 insert heading—'*Division 2—Right of burial*';
- (c) delete clauses 2.3 to 2.5 and replace with—
 - 2.3 Issuing grants
 - 2.4 Right of holder
 - 2.5 Renewal of grant
 - 2.6 Replacement of grant

- 2.7 Transfer of grant
- 2.8 Exercising the rights of holder
- 2.9 Board may enter an agreement for maintenance
- (d) after clause 10.2 insert—

PART 11—OBJECTIONS AND APPEALS

- 11.1 Objections and appeals
-

Dated 17 day of February 2021.

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

RHONDA COLE, Shire President.
DAVID BLURTON, Acting Chief Executive Officer.
