



DRAFT Cemeteries Bylaw 2015

1. TITLE

This bylaw is the Thames-Coromandel District Council Cemeteries Bylaw 2015.

2. EXPLANATORY NOTE

This Part is made pursuant to section 146(b)(v) of the Local Government Act 2002 and section 16 of the Burial and Cremation Act 1964.

Nothing in this bylaw shall derogate from any provision of, or the necessity for, compliance with the:

- a) Burial and Cremations Act 1964;
- b) Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967;
- c) Cremation Regulations 1973;
- d) Health (Burial) Regulations 1946.

3. COMMENCEMENT

This bylaw comes into force on [date].

4. REVOCATION OF EXISTING BYLAW

All bylaws previously made by Council relating to cemeteries, or any matter dealt with in this bylaw or inconsistent with this bylaw are hereby revoked.

5. REVIEW

Review of this bylaw will be undertaken no later than 5 years after the last review.

6. DEFINITIONS

In this bylaw, definitions are as per Section 2 of the Burial and Cremations Act 1964. In addition, in this bylaw, unless the context requires otherwise:

Above Ground Vault means and above ground burial structure. Also known as mausoleum.

Act means the Burial and Cremations Act 1964.

Ashes means the cremated remains of an individual person.

Berm Cemetery means a cemetery or an area of a cemetery in which memorials of prescribed maximum dimensions are allowed to be placed on a concrete berm flush with the ground supplied by the Council.

Burial Warrant means a certificate issued by the Council authorising the burial of the person specified in that certificate.

Council means the Thames-Coromandel District Council.

District means the district of the Thames-Coromandel District Council.

Exclusive Right of Burial means the right of burial in an agreed plot within a Council cemetery.

Interment means burial in the ground, inurnment or entombment.

Natural Burials means the burial or interment of a body at a lesser depth that is free from any chemical treatment or preparation. Also known as eco burials.

Plot means a numbered lot in a cemetery where a burial or interment can occur.

Sexton means any person appointed by the Council to carry out work on its behalf in any Cemetery and includes Council's contractor.

7. PURPOSE

- 7.1. The purpose of the bylaw is to enable the Council to control and set standards for the operation of cemeteries within the boundaries covered by the Council's responsibility or ownership.
- 7.2. This bylaw applies to cemeteries and closed burial grounds administered by the Council within District.

8. DAYS / HOURS OF SERVICES AND BURIALS

- 8.1. Interment services may be held on such days and at such times as the Council shall determined as set out in Schedule 1 other than where it is necessary comply duties of Council under Section 86 of the Health Act 1956 relating to the burial of people who have died of an infectious and/or notifiable disease.

9. NOTICE OF SERVICES AND BURIALS

- 9.1. The Council shall be given preferably not less than 3 working days' notice of any burial or service.

- 9.2. If such notice is not given the burial or service may be delayed for a reasonable period of time as the Council decides, to enable the Council to complete the necessary arrangements.
- 9.3. Any extra expenses incurred shall be payable by the funeral director or the person or persons arranging the funeral.

10. EXCLUSIVE RIGHTS OF BURIAL

Purchase of Exclusive Rights of Burial

- 10.1. Council may sell the exclusive right of burial for a plot for up to 60 years (refer also clause 10.10). The selling of that right will give the purchaser, or a transferee approved by the Council, the exclusive right of burial in that plot subject to the provisions of this bylaw.
- 10.2. Burials plots sold by the Council shall be sold upon the terms and conditions as determined by the Council.
- 10.3. The exclusive right of burial may be granted for such limited period as the Council decides.
- 10.4. Only one exclusive right of burial may be pre-purchased at a time, except that the Council will provide for purchase of the adjacent plot only at the same time as another burial/interment. A request for purchase of more than one plot at a time outside this circumstance is at the discretion of the Council and will be decided by the Council's Cemeteries Activity Manager.
- 10.5. Where the Council's requirements for the granting of the exclusive right of burial have been met it shall issue a Certificate of Right of Burial to the applicant.
- 10.6. Burials shall take place in such plots as the Council shall determine and no monument or tablet shall be erected on the plot unless the exclusive right of burial has been purchased and all the prescribed fees relating to the burial have been paid in full.
- 10.7. Upon application and payment of the prescribed fees, the receptacle or urn containing the ashes of any deceased person may be buried in the appropriate portion of the cemetery set aside for that purpose or in any plot, subject to the approval of the holder of the exclusive right of burial for that plot.

Transfer of Exclusive Rights of Burial

- 10.8. The person who holds an exclusive right of burial in any plot may transfer that right subject to the approval of the Council and on payment of the prescribed transfer fee. The Council may at its discretion purchase back any unused plot on such terms and conditions as it thinks fit at any time.
- 10.9. The Council may request a statutory declaration from the applicant as proof that they have the right of ownership (through succession or otherwise) to the exclusive right of burial. Unless the Council has cause to doubt otherwise, the provision of a statutory declaration will satisfy the Council's responsibility to evidence ownership of Exclusive Right of Burial.

Lapse of Exclusive Rights of Burial

- 10.10. If no burial has taken place after 60 years from the original date of sale of the exclusive right of burial in a plot the right lapses and the Council shall not be liable for any refund of any fees paid.

- 10.11. For the avoidance of doubt, Council may identify plots where exclusive right of burial has expired and make these available for use.

11. FEES

- 11.1. The Council may in accordance with the provisions of section 150 of the Local Government Act 2002 set prescribed fees for all services provided for the operation and maintenance of cemeteries under its jurisdiction.
- 11.2. These are prescribed in the Council's current Annual Plan and/or Long Term Plans.
- 11.3. Unless specifically stated to the contrary, burials and related services will only be carried out on payment of the prescribed fee or fees.
- 11.4. Any request for waiver of fees is at the discretion of the Council and will be decided by the Council's Cemeteries Activity Manager.

12. OUT OF DISTRICT FEES

- 12.1. At the discretion of Council an out of district fee shall be payable where the burial is of a deceased person who was not a resident or rate payer of the District for at least twelve months prior to date of death.
- 12.2. This fee shall not apply where the burial is of a deceased person who resided in the District for a continuous period of at least ten years during their lifetime.

13. BURIAL WARRANTS

- 13.1. No burial shall be made in any cemetery without a Burial Warrant being issued and presented to the Sexton as authority for burial.

14. GRAVE PLOTS AND GRAVES

- 14.1. No person other than the Sexton or his/her assistants or any other person duly authorised by the Council shall dig any grave in, or open the ground for burial in, any part of the cemetery.
- 14.2. The Council provides for a variety of plot types at its various cemeteries. Not all plot varieties are available at all cemeteries. **Schedule 2** contains details of the plot types available.
- 14.3. A casket for an adult burial plot should not exceed 2130mm long x 610mm high x 760mm wide.
- 14.4. If a larger casket is required the Council must be advised at least one day in advance so that arrangements can be made for burial in the area designated for oversize caskets.
- 14.5. For the first interment, standard plot (dig) sizes for casket interments are 1200mm wide x 2400mm long x 1900mm deep.

- 14.6. In the case of a second interment, the casket shall preferably be buried to a depth that ensures a minimum of 1 metre soil cover between the top of the casket and the surface of the earth. Circumstances where this is not possible require prior consent of the Council.
- 14.7. Natural burials are treated differently and are dug to the depth of the casket or shroud plus no less than 1 metre of soil between the top of the casket or shroud and the surface of the earth and can be accommodated only in full burial plots within lawn, full berm or monumental cemeteries. In the case of a natural burial plot only one body per plot is permitted.
- 14.8. Standard plot (dig) sizes for ashes interments are 400mm long x 400mm wide x 600mm deep.
- 14.9. Requests to inter ashes into plots that have existing concrete tops will be dealt with on a case by case basis and are subject to approval by the Council.
- 14.10. The Council may provide a designated area of the cemetery for the interment of stillborn and neonatal children and that area will be marked accordingly. Berms will be provided and memorials allowed in accordance with the standards for berm cemeteries detailed in **Schedule 2**. Nothing in this clause shall in any way affect the right of the relatives of a stillborn or neonatal baby to arrange for its body to be buried within other plots within the cemetery.
- 14.11. The wall niches in the Columbarium Wall at Totara Memorial Park Cemetery do not take a standard sized ashes casket, all ashes caskets for this area must be no greater than 290mm long x 110mm high x 140mm wide.
- 14.12. For the RSA Ashes wall at Totara Memorial Park Cemetery, the ashes casket size must be no greater than 290mm long x 110mm high x 140mm wide.
- 14.13. For the Whangamata Public Ashes Wall, the ashes casket size must be no greater than 290mm long x 210mm high x 140mm wide.
- 14.14. No animal(s), including birds or fish, either as ashes or as a body, may be interred in a Council cemetery unless placed in a sealed casket with the deceased.

15. RESPONSIBILITY FOR ARRANGEMENTS

- 15.1. The Funeral Director, or those responsible for funeral arrangements, must ensure that the remains are in a suitable receptacle when presented for interment, and ensure that all equipment associated with the burial is provided at the time of burial.
- 15.2. Any extra expenses incurred by the Council shall be the responsibility of the Funeral Director or those persons arranging the funeral.

16. DISINTERMENT/EXHUMATION

- 16.1. Disinterment of a body must be conducted pursuant to sections 51 and 55 of the Burial and Cremation Act 1964.

16.2. Casket disinterment will only be carried out upon receipt of a disinterment licence issued by the Ministry of Health and Cemetery Burial Warrant and Authority to open form, completed by the funeral director.

17. FLORAL TRIBUTES

- 17.1. Flowers, wreathes and other floral tributes may be placed on burial site at the time of interment.
- 17.2. At any stage 14 days after the date of interment, Council may remove from a burial site any flowers, wreaths or floral tributes placed there at the time of interment and cause the surface of the burial site to be levelled off and sown in grass.
- 17.3. After a burial site has been levelled off and sown as described above, artificial or natural cut flowers may be placed in a container or containers set in recesses in the monument or the base of the monument. Containers may not be placed within 150mm of the edge of the berm in berm cemeteries.
- 17.4. Any object or artificial or natural cut flowers placed or remaining on any burial site which is not a permitted floral tribute, or which have become unsightly, or any receptacle which has been broken or damaged, may be removed by the Sexton and may be destroyed or disposed of by the Sexton or Council as it shall see fit. The Council shall be under no liability to any person in respect of such removal, distribution or disposal.

18. ERECTION AND MAINTENANCE OF MONUMENTS

- 18.1. Any person wishing to install a cemetery memorial in any part of a cemetery must apply on the prescribed form for Council approval to carry out such work.
- 18.2. All monuments and tablets shall be designed and installed to the standard described in New Zealand Standard for Headstones and Cemetery Monuments NZS4242.
- 18.3. In addition, the Council has guidelines for the design and installation of monuments at its various cemeteries included as **Schedule 2** which must be complied with.
- 18.4. Once written approval from the Council has been received, the applicant must provide the Council with not less than 3 working days' notice before commencement of the work. All work must be completed within 60 days from the date of approval. The applicants must notify the Council upon completion of installation to allow inspection of the memorial.
- 18.5. Any monument or tablet must comply with the requirements of and to the satisfaction of the Council and must be erected by a Council-approved contractor.
- 18.6. The Council may carry out regular audits of monuments and tablets to ensure their safety.
- 18.7. No monument or tablet other than those approved by the Council shall be erected within the precincts of a cemetery.
- 18.8. All vases and containers for flowers in cemeteries shall be placed in such a manner as approved by the Council.

- 18.9. No person shall place any kerbing, fencing or other erection on the grassed part of any lawn cemetery.
- 18.10. The construction of above ground vaults is not permitted in any cemetery unless by prior agreement with the Council.
- 18.11. No person shall without the written permission of the Council remove from any cemetery or grave any monument or tablet, except that the Council may cause to be removed any neglected or broken material of this nature.
- 18.12. All memorials shall be kept in proper order and repair by the owner of the plot or their representatives. Should a memorial fall into a state of decay or disrepair, it may at any time be dealt with by the Council pursuant to the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967. A photographic record of the memorial shall be taken prior to removal and retained in the Council's cemetery records.

19. WORK PRACTICES

- 19.1. No person erecting or repairing any cemetery memorial or carrying out other work in any cemetery shall use any footpaths or other part of the cemetery for placing or depositing there, any tools, planks or materials for a longer time than is reasonably necessary to complete the work.
- 19.2. Any person installing or attending a monument or tablet or carrying out any other work in a cemetery shall withdraw for the duration of a nearby funeral service. Such person shall also remove tools, planks and other materials which may obstruct access to an adjoining service for the duration of said service.
- 19.3. Any rubble and earth not required in the filling in of the grave or in connection with the levelling will immediately be removed either from the cemetery or to a place within the cemetery approved by the Sexton.

20. VEGETATION

- 20.1. No tree or shrub shall be planted in any part of any cemetery without the prior consent of the Council.
- 20.2. No person shall disturb, damage, take or pick any cutting or flower from any tree, shrub, plant or other vegetation in any cemetery without the consent of the Council.

21. VEHICLES

- 21.1. Unless authorised by the Council, no person shall take any vehicle of any kind into any cemetery except during the hours of daylight.
- 21.2. Within cemeteries, vehicles may only be driven on access ways which are open to vehicular traffic and park only in designated parking areas.
- 21.3. Every person driving or in charge of any vehicle in any cemetery shall stop or move such vehicle as directed by the Sexton or other authorised officer.

- 21.4. All vehicles (other than hearses) shall yield unconditional right of way to any funeral procession.
- 21.5. Any person driving a vehicle in a cemetery shall obey all signs or notices concerning traffic movement and parking displayed in that cemetery.
- 21.6. No vehicle shall be driven at a greater speed than indicated on any road within the cemetery, and in any other direction other than indicated by traffic notices. In the absence of speed limit signs, no vehicle may be driven at a speed greater than 5 kilometres an hour in any cemetery.

22. SOLICITING OF ORDERS

- 22.1. No person shall, within any cemetery advertise or solicit any order from any other person for any work in connection with a cemetery or for the sale, preparation, or supply of any article, material, or thing to be set up, affixed, placed or used in any cemetery.
- 22.2. No person shall without the consent of the funeral director or other person responsible for the funeral take any photographs or moving images at a funeral.

23. BURIAL OF POOR PERSONS

- 23.1. Where application is made to the Council for the interment of a deceased poor person, the applicant shall provide an order signed by a Justice of the Peace, certifying that:
- a) Such deceased person has not left sufficient means to pay the prescribed fee; and
 - b) The cost of burial is not covered by an Accident Compensation or Government entitlement or subsidy; and
 - c) The deceased person's relatives and friends are unable or unwilling to pay the same.
- 23.2. No monuments are permitted on a poor person's grave as the Exclusive Right of Burial has not been purchased and belongs to the Council. If a family or other party wishes to erect a monument on a poor person's grave this can be facilitated upon payment of all cemetery fees and charges paid at the current rate.

24. SERVICES AREAS WITHIN CEMETERIES'

- 24.1. Areas of cemeteries may be laid out as Services Cemeteries. Those eligible for burial there are as defined in the Veterans Affairs New Zealand publications.
- 24.2. Commemoration is by way of a plaque as described in the above-mentioned publications or by any other means as approved by Veterans Affairs.

25. MISCONDUCT

- 25.1. No person shall unlawfully or improperly interfere with, interrupt or delay the carrying out of any funeral service or ceremony within any cemetery.
- 25.2. No person will bring into or exhibit in any cemetery any article that is a nuisance or is offensive to any other person
- 25.3. A person entering or present in a cemetery shall not behave in a manner that creates a nuisance or is offensive or is likely to create a nuisance or be offensive to any other person.

26. ANIMALS

26.1. Except with the prior written permission of the Council, no person shall allow any animal into any cemetery unless that animal is:

- a. a domestic animal, as defined in section 2 of the Dog Control Act 1996.
- b. a disability assist dog pursuant to section 2 of the Dog Control Act 1996.

26.2. Every person in control of any animal in a cemetery must ensure it is kept in a manner that the animal does not create nor is likely to create a nuisance to any person in the cemetery.

27. RECORDS

27.1. The Council will keep plans of the cemeteries it controls, records of all rights of burial granted, and a record of all burial in the cemeteries.

27.2. Plans and records will be available for inspection by the public on request at the offices of the Council during normal office hours.

28. OFFENCES AND PENALTIES

28.1. Every person who fails to comply with any part of this Bylaw commits an offence and shall be subject to the penalty provisions outlined in the offences, penalties, infringement offences, and legal proceedings provisions of the Act and the other enabling enactments.

29. DISPENSATIONS

29.1. The Council may at its discretion waive any of the requirements of this bylaw except any prescribed by statute if it believes good reason to do so exists.

Signed on Behalf of Thames-Coromandel District Council by;

District Mayor

Date

Chief Executive

Date

SCHEDULE 1: DAYS / HOURS OF SERVICES AND BURIALS

1. Burials and interments may be held as follows:

Day of Week	Summer Period (1 October to 31 March)	Winter Period (1 April to 30 September)
Monday – Saturday	8:00 am – 3:30 pm	9:00 am – 2:00 pm
	The latest funeral cortege arrival time for casket burials at the cemetery is 3:30pm.	The latest funeral cortege arrival time for casket burials at the cemetery is 2:00pm.
	The cemetery must be cleared by the funeral cortege no later than 5:00pm.	The cemetery must be cleared by the funeral cortege no later than 3:30pm.

2. Burials may take place on Sundays and Public Holidays between 10:00am and 1:00pm by prior arrangement and agreement with the Council and on payment of any prescribed additional fees.
3. Burials may take place at other times and days by prior arrangement and agreement with the Council and on payment of any prescribed additional fees.
4. No burials shall take place on Christmas Day, Easter Good Friday, Easter Monday, or Anzac Day.

SCHEDULE 2: CEMETERIES AND PLOT TYPES

The Council provides the following plot types at its various cemeteries.

Cemetery	Lawn Cemetery	Cremation Berm Cemetery	Full Berm Cemetery	Memorial Garden	Columbarium Wall	Family Ashes Plot	Monumental Cemetery
Buffalo Cemetery	Yes	Yes	Yes	Yes	No	Yes	Yes
Colville Cemetery	Yes	Yes	Yes	No	No	Yes	Yes
Mercury Bay (Ferry Landing) Cemetery	Yes	Yes	Yes	No	No	Yes	Yes
Omahu Cemetery	Yes	Yes	Yes	No	No	Yes	Yes
Tairua Cemetery	Yes	Yes	Yes	No	No	Yes	No
Totara Memorial Park Cemetery	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Whangamata Cemetery	Yes	Yes	Yes	Yes	Yes	Yes	No

1. Lawn Cemeteries

In areas of cemeteries laid out as lawn cemeteries the following provisions shall apply:

- a) Lawn cemeteries may inter either ashes or full body remains. A maximum of twelve sets of ashes may be interred in a lawn cemetery plot.
- b) No grave shall be enclosed with any railing or kerbing or similar and no headstone, monument, cross, marker or memorial shall be placed on any grave except a memorial plaque or tablet which complies with the following conditions:
 - i. The inscription and design or representation shall be approved by Council and be designed in accordance with NZS 4242.
 - ii. All plaques or tablets intended to be placed on any grave in any lawn cemetery shall, with the appropriate base, be supplied and installed by persons approved by the Council.
- c) No tree, shrub or other plantings shall be planted in any part of any lawn cemetery.

2. Cremation Berm Cemeteries

In areas of cemeteries laid out as cremation berm cemeteries the following provisions apply:

- a) Cremation berm cemeteries may inter only crematorial ashes. **A maximum of two sets of ashes may be interred in a cremation berm cemetery plot.**

- b) Monuments may be erected on a continuous concrete berm, 550mm wide if single berm and 850mm wide if double, constructed by the Council at the head of the graves, and shall comply with the following conditions:
 - i. The monument may be set directly on the berm or on a base. The monument and/or base must be of a permanent material approved by the Council and must be placed equidistant from the side boundaries of the plot.
 - ii. If a base is used, its maximum dimensions shall be height 150mm, depth (front to back) 275mm, and width 825mm. There must be a distance of at least 150mm between the edge of the base or monument and the front edge of the berm. If the rear edge of the berm adjoins a garden, the base should be a minimum of 80mm clear from that edge, but if there is lawn to the rear of the berm a minimum of 150mm should be allowed. In either case this area must be kept clear, both front and rear.
 - iii. The combined height of the monument and base shall not exceed 600mm, and no part of the monument may extend beyond the maximum allowable dimensions of the base.
 - iv. The design and inscription on the monument shall be approved by the Council. There shall be no inscriptions on the rear face of any memorial in a double berm section.
 - v. Delivery and installation of monuments will be at the expense of the owner and will be carried out at times agreed with the Sexton.
- c) No tree, shrub or other plantings shall be planted in any part of any cremation berm cemetery.

3. Full Berm Cemeteries

In areas of cemeteries laid out as full berm cemeteries the following provisions apply:

- a) Full berm cemeteries may inter ashes or full body remains. A maximum of twelve sets of ashes may be interred in place of full body remains.
- b) Monuments may be erected on a continuous concrete berm, 750mm wide for single berm and 1200mm for double berm, constructed by the Council at the head of the graves, and comply with the following conditions:
 - i. If a base is used, its maximum dimensions shall be height 250mm, depth (front to back) 420mm, and width 1050mm. There must be a distance of at least 150mm between the edge of the base or monument and the front edge of the berm. If the rear edge of the berm adjoins a garden, the base should be a minimum of 80mm clear from that edge, but if there is lawn to the rear of the berm a minimum of 150mm should be allowed. In either case this area must be kept clear, both front and rear.
 - ii. The combined height of the monument and base shall not exceed 1000mm, and no part of the monument may extend beyond the maximum allowable dimensions of the base.
 - iii. The design and inscription on the monument shall be approved by the Council. There shall be no inscriptions on the rear face of any memorial in a double berm section.
 - iv. Delivery and installation of monuments will be at the expense of the owner and will be carried out at times agreed with the Sexton.
- c) No tree, shrub or other plantings shall be planted in any part of any full berm cemetery.

4. Ashes Memorials

- a) As well as the provision of cremation berm cemeteries, the Council may also set aside areas for the scattering of ashes with or without commemoration plaques.
- b) No tree, shrub or other plantings shall be planted in any part of any full berm cemetery.

5. Memorial Garden

In areas of cemeteries set out as memorial gardens, the following provisions shall apply:

- a) Ashes are to be interred in a garden with an approved plaque fixed to a berm or other approved location as determined by the Council.
- b) A maximum of two sets of ashes may be interred in each plot.
- c) The approved plaques are to be provided by those persons requiring them at their own cost, but installation, removal or reinstatement of such plaques shall only be carried out by persons duly authorised by the Council.
- d) No tree, shrub or other plantings shall be planted in any part of any memorial garden.

6. Columbarium Wall

In areas of cemeteries with a columbarium wall, the following provisions shall apply:

- a) Ashes are to be held in perpetuity in a suitable container in a niche in the Columbarium Wall.
- b) A commemorative plaque of brass measuring no more than 185mm wide by 135mm high must be installed over the niche and approved by the Council.
- c) The plaques are to be provided by and at the cost of those persons requiring them, and may be fixed or removed only by persons duly authorised by the Council. No article other than an approved ash container may be placed in a niche and no thing other than an approved plaque may be fixed to the wall.
- d) No person may remove any container from any niche in the Columbarium Wall without the consent of the Council.

7. Family Ash Plot

In areas of cemeteries laid out as a family ash plot, the following provisions shall apply:

- a) Ashes are to be interred in a monumental plot.
- b) A maximum of twelve sets of ashes may be interred in each plot.
- c) Monuments may be erected on a continuous concrete berm 750mm wide.
- d) The design and inscription on the monument shall be approved by the Council. The approved monument is to be provided by those persons requiring them at their own cost. Installation, removal or reinstatement of such monuments shall only be carried out by the Council.
- e) No tree, shrub or other plantings shall be planted in any part of any family ashes plot.

8. Monumental Cemeteries

In areas of cemeteries laid out as Monumental Cemeteries the following provisions shall apply:

- a) Monumental cemeteries may inter either ashes or full body remains. A maximum of twelve sets of ashes may be interred in each plot.
- b) Monuments must be designed in accordance with NZS 4242 and must be approved by the Council.
- c) All monuments must be supplied and installed by persons approved by the Council.
- d) With the prior consent of the Council, shrubs and other planting may be undertaken in the monumental cemetery.
- e) All plantings shall be kept in proper order by the owners of the plot or their representatives. Should any plantings fall into a state of disrepair or impede access or safety for others it may at any time be dealt with by the Council.