

GUIDE G7 | CEMETERIES & CREMATORIA NSW

Guide to heritage advisory committees

Issued under section 69 of the *Cemeteries and Crematoria Act 2013*

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More information

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Introduction

This guide has been developed and published to assist operators with the establishment and management of heritage advisory committees as provided for under the *Cemeteries and Crematoria Act 2013* (the **Act**).

The Act predominantly places the responsibility for heritage advisory committees with cemetery operators; hence this guide is voluntary only, except where the Act otherwise provides.

Under section 69 of the Act, cemetery operators offering renewable rights must establish a heritage advisory committee:

- if burial licences or other entitlements for a fixed term were offered by the cemetery before the commencement of Part 4 of the Act, then the committee must be formed as soon as possible
- in any other case, at least three years before the first renewable interment right granted is due to expire.

The information used for this guide is drawn from committees of the NSW Heritage Council and *NSW Boards and Committees Guidelines* issued by the NSW Department of Premier & Cabinet.

Role and terms of reference for a heritage advisory committee

Under section 69 (2) of the Act, a cemetery operator is required to establish a heritage advisory committee before removing any memorial that has not been reclaimed or before moving any bodily remains from an interment site. A cemetery operator required to establish a heritage advisory committee must seek the advice of the heritage advisory committee as to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the memorial and the appropriate action to take to preserve its value. Committees generally should have terms of reference to aid in their operation and function, which must include this objective.

Where operators, such as large Crown cemetery operators, have an existing heritage advisory committee established or an equivalent committee in function, this mandated responsibility can be added to the committee's existing activities. Smaller cemetery operators, such as those in the local government sector, may wish to establish a heritage advisory committee but have limited resources to do so. In these circumstances they may wish to consider whether a local historical committee or equivalent could be co-opted to provide this purpose. Such an arrangement would still require a formal appointment process.

The following optional elements may be included to ensure a comprehensive heritage advisory function which supports the mandatory aspects required by the Act:

- advise on policies and strategies relating to conservation, management, communication and celebration of heritage items in the cemetery
- ensure Aboriginal heritage in the cemetery (where applicable) is managed in a manner consistent with the broad Aboriginal social and cultural values of respectful exchange, community and undertaking duties with the dignity of First Peoples.

Appointment to the committee

Preferably, the size of a heritage advisory committee should be matched in relation to the size and complexity of the cemetery.

Taking into account any guidelines issued by Cemeteries & Crematoria NSW, the Act specifies in section 69 (4) that a heritage advisory committee consists of such persons as the cemetery operator considers qualified to be on the committee.

To have the qualifications, knowledge, experience and skills in areas relevant to the functions of the committee, members could be drawn from:

- various relevant disciplines such as archaeology (historic), conservation, local government, natural heritage, planning, property, Aboriginal heritage, heritage landscape, Australian history and cultural landscapes
- formal qualifications, for example in town planning, archaeology (historical), landscape architecture, landscape heritage, conservation of environmental heritage, property and environmental law.

Where specialist skills and expertise is not readily available internally, this can be sourced externally on a needs basis, if required.

Once suitable members are selected, cemetery operators should issue an appointment letter or another suitable instrument of appointment to committee members that states the term of the appointment and the commencement and end dates.

Term of office of committee members

A heritage advisory committee member holds office for a term as specified in the instrument of appointment. A defined fixed term represents best practice. A reasonable term of office for committee members could be for three years. It is also a well-accepted convention to limit the number of reappointment terms to three consecutive periods.

Any appointment should also be able to be terminated by the cemetery operator at any time. For example, termination of an appointment to a committee may be required where:

- the member is no longer able to commit adequate time to his or her role
- there is a conflict of interest that cannot be mitigated.

Role of the Chair

Under section 69 (6) of the Act, one of the advisory committee members is to be appointed as Chair of the committee, either by the instrument of appointment, or another instrument made by the cemetery operator.

The Chair of the committee is responsible for leading the activities of the advisory committee, which may include:

- ensuring the committee performs its function
- facilitating the conduct of meetings to allow frank and open discussion
- ensuring individual members make an effective contribution.

Role of a committee member

The role and responsibility of a committee member includes:

- supporting the committee to perform its function
- attending meetings and participating in the recommendation-making process
- assisting and advising a cemetery operator on heritage matters covered by section 69 of the Act.

Accountability of committee members

To provide confidence to cemetery operators of the value and probity of heritage advisory committees, operators may wish to ensure the following aspects are covered:

- **induction:** provide each committee member with a copy of the code of conduct; committee terms of reference; history and background to the cemetery; the cemetery's operating environment including trends, issues and community stakeholder groups.
- **code of conduct:** the committee code of conduct defines its values and minimum standards of behaviour expected of its members when acting as an adviser to a cemetery operator. The cemetery's own code of conduct may be suitable in this regard.
- **ethical decision-making:** recommendations of the committee should be made in light of the cemetery's commitments and obligations, the code of conduct and any applicable regulatory requirements.
- **conflict of interest:** committee members should be mindful of any real or perceived conflicts of interest that arise between duties to the committee and his or her personal interests. For example, conflicts of interest may arise from:
 - professional and business interests and associations
 - family relationships
 - personal beliefs or attitudes that affect impartiality.

A committee member has a duty to declare any private interest that may impinge on a committee recommendation or the provision of advice to a cemetery operator.

- **Use of information:** committee members should not disclose information or documents acquired as a consequence of their membership, other than as required by law, or when the committee member has been given proper authority to do so by the operator.
- **Gifts and benefits:** committee members should be aware that it is illegal to seek, offer or receive money or gifts in order to obtain a benefit or favour. Members must also not accept gifts or benefits that could place them under an actual or perceived financial or moral obligation to another organisation or individual.

Further information and resources can be obtained from the Independent Commission Against Corruption (ICAC) www.icac.nsw.gov.au.

Frequency and conduct of meetings

In accordance with section 69 (7) of the Act, the procedure for the calling and holding of meetings of a heritage advisory committee is to be determined by the committee. The Cemeteries and Crematoria Regulation 2018 (**Regulation**) requires that a heritage advisory committee must meet at least once a year.

The Regulation provides a basic procedure for the calling of meetings. The frequency and duration of meetings will be determined by the history, level of heritage value and level of heritage activity in the cemetery. This will vary from operator to operator.

A notice specifying the date, time and place for a meeting and the business which will be transacted will be provided to committee members at least seven days before each meeting. The seven days' notice to committee members is not required for an extraordinary meeting that may be called in an emergency.

The committee is to be provided with a sufficient level of information by the cemetery operator on which a recommendation can be based in respect of the removal of any memorial and any appropriate action to take as specified by the Act and the Regulation.

The committee may invite the cemetery operator or any other person to attend meetings to advise or inform the committee on any relevant matter.

It is expected that a recommendation to a cemetery operator will normally be made on a consensus basis as the heritage advisory committee is advisory only.

An extraordinary meeting may be called at any time if or when circumstances warrant.

The Regulation states that the Chair of the committee must call an extraordinary meeting if the Chair receives a request in writing signed by at least two members of the committee.

Quorum for a heritage advisory committee

A quorum should be established within the accepted convention for a minimum number for the efficient discharge of business, such as fifty per cent of the membership of the committee.

Secretariat support for the heritage advisory committee

The heritage advisory committee is to be administratively supported by the cemetery operator providing secretariat functions that include the timely preparation and distribution of agendas, papers and taking of minutes of meetings that include actions and recommendations.

Review of a heritage advisory committee

Cemetery operators may also wish to undertake a periodic review of the function of the heritage advisory committee to determine its level of efficiency and effectiveness. Monitoring the operation of a committee assists informed decisions being made to effectively and appropriately support the cemetery operator comply with the Act.

A formal review may consider if the committee is fulfilling its functions and objectives and the outcomes of its work in meeting the requirements of the Act.

Further information

For more information about the role of heritage advisory committees, contact:

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