

**INQUIRY INTO CEMETERIES AND CREMATORIA
AMENDMENT REGULATION 2018**

Organisation: The National Trust of Australia (NSW)
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The Hon. Scott Farlow MLC
Chair
Inquiry into the Cemeteries and Crematoria Amendment Regulation 2018
Regulation Committee
NSW Parliament Legislative Council
Macquarie Street
SYDNEY NSW 2000

***Submission from the National Trust of Australia (NSW) to the Inquiry
into the Cemeteries and Crematoria Amendment Regulation 2018***

In 1980, the National Trust established its Cemeteries Committee with the following aims:

- To promote recognition, protection and conservation of cemeteries in New South Wales.
- To identify, document and assess the significance of cemeteries in New South Wales.
- To recommend appropriate cemeteries for inclusion in the National Trust Register.
- To provide expert technical advice and assistance on matters relating to cemetery conservation and management.

The Committee includes people with expertise in various fields, including archaeology, architecture, landscape design, history, genealogy, geology, town planning, monumental masonry and cemetery management. The work the committee carries out is voluntary. The committee meets regularly to consider specific issues and to assess the heritage significance of cemeteries.

The Trust commenced listing cemeteries on its Register in 1946 and has largely completed a survey of NSW and maintains a sites database from which approximately 700 cemeteries have been listed on the Trust Register.

On 26 February, 2014 the Board of the National Trust adopted a NSW Cemeteries Policy -

1. The National Trust supports and promotes the use of the *ICOMOS Burra Charter* in relation to the conservation of cemeteries. In any cemetery conservation or maintenance programme, the Trust considers that all features of the existing fabric of the cemetery must be taken into consideration. The Trust strongly endorses the concept that proper conservation plans should be prepared for cemeteries of heritage significance.
2. The National Trust will act in accordance with the *Australian Natural Heritage Charter* which is based on an ethos of respect for natural heritage where it exists in cemeteries and burial grounds and acknowledges four fundamental principles, defined in the Charter, - intergenerational equity, existence value, uncertainty and precaution. The Precautionary Principle is now enshrined in the Environment Protection and Biodiversity Conservation Act, 1999.
3. The National Trust recognises the importance of planning for the ongoing conservation, management and maintenance of cemeteries throughout NSW. The Trust will aim to educate and advise the wider community on the proper care and management of cemeteries and burial grounds across NSW. The



Trust has prepared the *Guidelines for Cemetery Conservation* which is based on sound conservation principles for this purpose.

4. The National Trust believes that in most instances the authority responsible for the cemetery has an obligation to carry out maintenance in a way which prevents damage or loss of significant elements of the cemetery. Funding for cemetery repair projects which are not part of the normal cemetery maintenance programme is regarded by the Trust as the joint responsibility of the relevant authority, public funds and the relatives of the deceased. The Trust generally supports appeals for approved cemetery conservation projects that are carried out in accordance with accepted conservation principles and an appropriate management plan.
5. The National Trust will maintain a database of burial grounds and continue to list on its Register significant cemeteries. The Trust will also oppose activities and development proposals located in the vicinity of or within cemeteries in NSW that would adversely affect a cemetery's significance.

Comments to Inquiry

The National Trust is pleased to provide the following comments to the Regulation Committee for its Inquiry into the Cemeteries and Crematoria Amendment Regulation 2018.

The new proposals relate to matters arising when a Cemetery Operator intends to reuse a burial plot after the burial right expires.

The level of protection of Heritage Values under Local Environmental Plans and State Heritage Register Listing appears to be maintained under Renewal Schemes created under the older Crown Lands Act and newer legislation. Implementation of Renewal Schemes remain subject to the approval of the Heritage Council.

Rules for the constitution of Heritage Advisory Committees are set out.

The National Trust would consider it appropriate to notify Operators of Cemeteries listed on the SHR that members of the National Trust may be suitable members for these new Advisory Committees. The proposed amendments to the regulations relating to Part 4 of the Cemeteries and Crematoria Act 2013 do not appear to pose any new or additional threats to the Heritage values of future grave monuments when they become subject to removal at the end of the term of their burial Right.

It would be mutually beneficial if the National Trust could be notified by Cemetery Operators when Heritage Committees are being formed.

The task of cemetery "heritage advisory committees" will be critically important, but the Trust was unable to locate any gazetted Guidelines, as promised by the "Cemeteries Agency" (which appears to be the central administration for the State's cemeteries). Until these are accessible it will be difficult to comment on heritage issues.

The rights of next-of-kin also appear to be underplayed. This was always the case, and was understandable as there were significant administrative problems keeping up with the burial rights holders. However the change to renewable tenure should also bring the next-of kin and their opinions into the picture. Only time will tell if the Regulations are adequate in this regard.

Thank you for the opportunity for the National Trust to present to the Committee.

Graham Quint
Director, Conservation
The National Trust of Australia (NSW)