

# Grey District Council Cemeteries Bylaw

**This bylaw was adopted by the Grey District Council on 9 March 2020, and minor amendments made on 13 July 2020 following consideration of submissions received as part of the Special Consultative procedure.**

*Note: This bylaw replaces the Cemeteries and Crematoria (NZS 9201:Part 14:1999) Model General Bylaw, The Grey District Council Monument Standard and the Cemeteries- Pre-purchasing of Plots Policy. These were revoked on 09 March 2020.*

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# GREY DISTRICT COUNCIL CEMETERIES BYLAW

## 1. TITLE

This bylaw will be known as the Grey District Council Cemeteries Bylaw.

## 2. COMMENCEMENT

This Bylaw shall come into force **on 09 MARCH 2020** and any subsequent amendment or review, on the date of its confirmation by Council.

## 3. SCOPE

3.1 The purpose of this bylaw is to:

- Regulate the use of cemeteries in the Grey District.
- Protect the public from nuisance.
- Protect, promote and maintain health and safety.
- Set Standards and maintain, if not further enhance, the quality and aesthetic appearance of Council's Cemeteries.

3.2 This bylaw is made in accordance with section 684 of the Local Government Act 1974 and the Burials and Cremations Act 1964.

## 4. APPLICATION

4.1 This bylaw applies to cemeteries under the control of Grey District Council.

4.2 Nothing in this bylaw shall prohibit any dog certified as a Disability Assist Dog while acting in that capacity from entering any premises or area where dogs are otherwise prohibited from being under the provisions of this bylaw.

## 5. DEFINITIONS

5.1 In this Bylaw, unless the context otherwise requires:

<b>Authorised Officer</b>	means any officer of the Council or any other person authorised under the Local Government Act 2002 and authorised by the Council to administer and enforce this bylaw.
<b>Berm or Garden Cemetery</b>	means a cemetery or part thereof where no fence, kerbings or monuments other than headstones shall be erected.
<b>Body</b>	has the same meaning as section 2 of the Burial and Cremation Act 1964, and means a dead human body and includes the body of a stillborn child.
<b>Burial</b>	means to bury, or place the ashes of, a dead body. The word interment has the same meaning.
<b>Internment Form</b>	means the form issued for burial by an Authorised Officer.
<b>Bylaw</b>	means the Grey District Council Cemeteries Bylaw.
<b>Cemetery</b>	has the same meaning as in section 2 of the Burial and Cremation Act 1964 and generally means any public cemetery vested in or under the control of Grey District Council.
<b>Certificate of cause of death</b>	has the same meaning as Doctors' Certificate.

<b>Closed Cemetery or Area</b>	means a cemetery which has been closed by a closing order as stated in part VI of the Burial and Cremation Act 1964.
<b>Council</b>	means Grey District Council.
<b>Cremation plot</b>	means a plot intended to only allow for the burial of ashes.
<b>Cultural Burial</b>	means burial in accordance with particular cultural and/or religious beliefs, in particular Māori values and traditions.
<b>Disability Assist Dog</b>	has the same meaning as section 2 of the Dog Control Act 1996 and generally means any dog certified to assist a person with a visual, hearing, mobility or other disability.
<b>Disinterment</b>	means the removal of human remains from a grave.
<b>Disinterment Licence</b>	means a licence issued by the Ministry of Health under section 51 of the Burial and Cremations Act 1964 for the disinterment of a body.
<b>Doctors' Certificate</b>	has the same meaning as defined in the Burial and Cremation Act 1964 and in relation to a death or a body, means a doctor's certificate referred to in section 46B or 46C relating to the cause of death or, as the case may require, the cause of death of the person whose body it is.
<b>Exclusive Right of Burial</b>	has the same meaning as section 10 of the Burial and Cremation Act 1964 and generally means the right to be buried in a particular plot within a specific cemetery.
<b>Funeral Director</b>	has the same meaning as section 2 of the Burial and Cremation Act 1964, and generally means a person whose business is or includes disposing of bodies.
<b>Grave</b>	is a plot that has or is about to have a burial.
<b>Māori Burial</b>	is a plot that has or is about to have a burial.
<b>Monument Permit</b>	A permit required from Council to enable the installation/removal (including additional inscriptions), of a monument by an approved monumnet installer.
<b>Motor Vehicle</b>	shall have the meaning assigned to it from time to time by the Transport Act 1998 and its amendments and re-enactments.
<b>Nuisance</b>	shall include but not be limited to the meaning assigned to it by the Health Act 1956 Section 29 its amendments and/or re-enactments.
<b>Person</b>	includes any individual, company or other commercial body.
<b>Plot</b>	means a numbered lot shown on a cemetery plan held by the Council.
<b>Sexton</b>	means any person(s) appointed or contracted by the Council to manage the day to day activities of any cemetery and crematorium under its jurisdiction. Such activities include arranging for the provision of the plots for burials.
<b>Single Interment</b>	means that there will be only a single grave dug which will hold no more than two bodies which are to be buried at the same time, before being refilled. No second interment can take place.

## 6. BURIALS

- 6.1 Burials must take place in such plots as Council determines in any cemetery (which is not closed) vested in the Council or under its control.
- 6.2 No burial shall be made in any cemetery without an approved Internment Form.
- 6.3 An application for burial shall be applied for by:
  - a) The Funeral Director; or
  - b) The executor of the estate/appointed family member.

- 6.4 An application for burial shall be accompanied by:
- a) The doctor's certificate for the deceased person; and
  - b) Payment of the prescribed fees.
- 6.5 Any person may purchase one or more plots. The number of plots which may be sold at any time and to any applicant shall be determined by the Council and will consider factors such as number of plots already purchased by person and the availability of plots at that time.
- 6.6 Any person may pre-book a plot, however a deposit will be required for this. Council reserves the right to retain the deposit paid if the purchaser has been interred in another district and is not notified of this within 12 months. Council reserves the right to reallocate pre-booked plots if the plot has not been used within 25 years.
- 6.7 No person other than the Sexton, or assistants of the Sexton, or Council Officers' duly authorised by the Council, shall dig any grave in, or open the ground for burial in any part of any cemetery.
- 6.8 Notification of the intended burial shall be given to the Council at least twelve working hours prior to the time fixed or proposed for the funeral. Should a public holiday not make this period of notice possible, arrangements may be made directly with the Sexton, at his/her discretion, for the burial to take place as early as possible but no later than one (1) working day later.
- 6.9 The maximum number of interments in Council administered cemeteries, subject to ground conditions permitting, is as follows:
- a) Up to three caskets with no specific limit on ashes urns interred in one grave plot
  - b) No specific limit on ashes urns interred in one grave plot
  - c) Up to three ashes urns interred in one cremation plot
- 6.10 An application for an interment will only be approved if the application is no less than two hours from a previously approved interment. This is at the same cemetery and is both prior to and after an already approved interment application.

## **7. EXCLUSIVE RIGHTS OF BURIAL**

- 7.1 Any person may acquire the exclusive right of burial in a plot in a Council cemetery, by applying to Council on the prescribed form, paying the prescribed fee and complying with the terms and conditions imposed by Council.
- 7.2 Plots shall be sold upon such terms and conditions as may be decided by the Council and the exclusive right of burial may be granted in perpetuity.
- 7.3 Evidence of a purchase of the exclusive right of burial shall be recorded on a certificate of purchase.
- 7.4 Where an exclusive right of burial has been granted by Council, the fees must be paid in full to Council (or an exemption granted under this bylaw) before the burial shall take place.
- 7.5 Any owner of the exclusive right of burial in any plot in which no burial shall have taken place may, with the consent of the Council, transfer his/her interest in such plot to any other person.
- 7.6 Any application for the purchase of the exclusive right of burial in any plot not previously used for interment shall lapse unless the purchase is completed by payment within 6 calendar months from the date of the application.
- 7.7 The exclusive right of burial for a purchased plot, shall be transferred to their spouse and then to the eldest living direct descendant. This clause shall also cover the burial of an urn.
- 7.8 Direction around the exclusion right of burial shall following the owner's death shall be as follows:

1. The owners last will and testament
2. Their spouse
3. The most immediate living direct descendants
4. If dispute is seen between the immediate direct descendants, direction will be taken from the eldest direct descendant, unless otherwise directed by the Court or High Court.

## **8. CULTURAL BURIALS**

8.1 Because cultural diversity in Grey District is changing and New Zealand European burials are not the only type of burial that people living in the district require, the Council is committed to providing for Cultural Burials of other types, including:

- a) Māori Burials; and
- b) Burials of deceased people of differing ethnicities, religions and/or cultural affiliations (other than Māori or New Zealand European).

8.2 The Authorised Officer has discretion to determine, in consultation with those people seeking to carry out a Cultural Burial, if any additional requirements are necessary in order to ensure that Cultural Burials can be carried out in a manner that is both culturally sensitive and in compliance with this bylaw and any other relevant regulation or statute. These requirements will be assessed on a case by case basis.

## **9. HOURS OF OPERATION**

9.1 Subject to section 86 of the Health Act 1956 (the burial of people who have died from an infectious and/or notifiable disease) no burial service, except with the approval of the Authorised Officer, shall take place on:

- a) Christmas Day or Good Friday, or
- b) Outside the hours of 8.00am and 4.00pm on any day.

## **10. BURIAL OF ASHES IN URNS**

10.1 An application for burial may be issued for the burial of any urn, containing the ashes of any deceased person, in any burial plot provided the exclusive right of burial in that burial plot has not been purchased, and that the burial plot is not currently being used.

## **11. FEES**

11.1 For avoidance of doubt, the person signing the application for burial is responsible for paying the prescribed fees.

11.2 In the case of an interment under the management or control of a funeral director, the Council may render an account.

11.3 All fees payable in respect of cemetery usage shall be fixed by resolution of the Council.

11.4 Council's Schedule of Fees and Charges may be amended from time to time as part of its Long Term Plan/Annual Plan process or in accordance with section 150 of the Local Government Act 2002.

11.6 Additional fees may be required for burials that occur:

- a) Anytime on a Saturday or Sunday.
- b) On any statutory holiday as set out in the Holidays Act 2003.

11.7 Additional fees may also be charged where less than one day's notice of a burial is provided to the Sexton. The requirement to charge additional fees will be at the discretion of the Sexton.

11.8 When plots are pre-purchased, the fee payable covers only the cost of that plot. Additional reasonable fees may be payable before interment can take place. These fees will be determined by the Sexton or Authorised Officer, and a receipt provided.

11.9 Out of district fees:

- a) An out of district fee shall be payable where the burial is of a deceased person not permanently residing within the boundaries of Grey District for at least two years prior to the date of death.
- b) Temporary absences of short duration from the district will not detract from the permanency of residence for purposes hereof.
- c) The Authorised Officer will determine if such fees in clause 11.6 are applicable.

11.10 Interment fees:

- a) Where application is made to the Council for the interment at reduced charges of any deceased person, the applicant shall, on making such application, furnish to the Council a certificate duly signed by him/her certifying that such deceased person has not left sufficient means to pay the ordinary charge of interment, and that his/her relatives and friends are unable to pay the same.

## **12. ERECTION AND MAINTENANCE OF MONUMENTS, HEADSTONES AND OTHER STRUCTURES**

12.1 Council, in keeping with its intention to maintain high aesthetic standards in its Cemeteries and in recognising the importance for monument work to adhere to this intention, will insist on high standards of workmanship and completion and the following specific arrangements will apply:

- a) A Monumental Mason or any persons undertaking the erection or maintenance on monuments shall pay a refundable deposit of \$500 before work commences. In instances where work is undertaken on a regular basis, a one-off deposit can be maintained with Council to cover all required work.
- b) In the event that Council is not satisfied that work undertaken by a Monumental Mason or persons meets all required standards in accordance with this bylaw, written notice will be given that work undertaken shall be rectified within a seven (7) day notice period.
- c) In the instance where the work is not rectified to the required standards within the given time frame, Council shall, with no further notice given, have the work completed to the required standards in accordance with this bylaw. This work shall be funded by the deposit of the original Monumental Mason or persons undertaking the work. Should the actual costs be higher than the \$500 deposit, the Monumental Mason or persons who originally undertook the work shall be invoiced for the additional costs including administration fees. No further work shall be undertaken by this Monumental Mason or persons until a further refundable deposit plus the payment of actual costs over and above the \$500 is received by Council.
- d) Where work undertaken by the same Monumental Mason or persons, does not meet the requirements in accordance with this bylaw, and where Council has been required to give written notice on three separate occasions within a five -year period (as detailed in Clause 13.1 (b) or (c)), Council reserves the right to terminate access to Council's Cemeteries for the purposes of any masonry work.

12.2 Installers must produce evidence that they have public liability insurance protection and/or shall take full responsibility for indemnifying Council against any claims, demands, or actions made upon Council arising out of installers' operations.

12.3 Council will maintain any plot in any cemetery for such period as the Council determine to be the useful life of the cemetery for cemetery purposes.

12.4 All Monuments, headstones and other structures must be approved by Council prior to work being undertaken.

- 12.5 All installers of monuments, headstones and other structures must supply plans and specifications and adhere to these, in accordance with the Grey District Council Cemetery Monument Standards in Appendix 2.
- 12.6 Council shall construct a continuous concrete platform or berm at ground level, of a width suitable to maintain stability. The cost of the platform shall be included in the purchase price of the plot.
- 12.7 All memorial, monument, headstone and structure work, including repair work will be done in accordance with the Grey District Council Cemetery Monument Dimensional Standard as outlined in Appendix 2, as well as comply with all related documents as outlined in Appendix 1.
- 12.8 In the course of constructing bases and erecting memorials, the adjoining roads, paths or allotments shall not be damaged. However, if any such damage occurs it shall be immediately repaired at the sole cost of the person constructing the base or erecting a memorial during the course of which works the damage occurred.
- 12.9 The fee for the purchase of a plot in any cemetery shall include an amount as prescribed by the Council for the maintenance of such plot for the period as determined by the Council.
- 12.10 For the avoidance of doubt, the maintenance of a plot does not include the maintenance of any memorial.
- 12.11 All kerbs, headstones and other monuments shall be kept in proper repair by the purchaser of the plot in the first instance and (if that purchaser shall be deceased) then by the immediate family of the deceased person who is buried in the plot.
- 12.12 If after reasonable enquiry no such person as detailed in clause 13.11 can be located, then Council will undertake the necessary maintenance.
- 12.13 Monuments, or other structures that exceed the dimensions specified in Appendix 2 - Grey District Council Cemetery Monument Dimensional Standard are not permitted.
- 12.14 Authorised Officers will carry out regular inspections of monuments, headstones and other structures to ensure compliance with this bylaw.
- 12.15 A Health and Safety Plan covering all work to be undertaken must be provided to the Authorised Officer and all work done must be in accordance with such approved Health and Safety Plan. No work can be undertaken on site without an approved Health and Safety Plan. Once a Health and Safety Plan is submitted to Council it is valid for one year from the date of acceptance.
- 12.16 Once a monument is installed, the installer shall provide a digital photograph of the monument to the Authorised Officer.
- 12.17 Monumental Masons or any persons doing work on monuments must advise Council prior to undertaking all monumental work in the cemeteries and must obtain a monument permit from Council. The permit is required to be held at all times while undertaking work and should a Council Officer require, this should be produced for inspection.
- 12.18 The removal of any vase, wreath, plant, flower or any other object shall only be done so with the authority of the sexton or Authorised Officer, except where the Council may remove any neglected or broken material of this nature.
- 12.19 Any person installing or attending to a memorial in a cemetery shall withdraw from doing so for the duration of an adjoining funeral service.
- 12.20 All installations must comply with the current accepted Standards as detailed in Appendix 1 - Relevant Legislation and Related documents of the Cemeteries Bylaw.
- 12.21 Monument work is required to be completed within 21 days of the date of commencing the work, unless Council has approved a longer time period in writing.



### **13. VEGETATION**

- 13.1 No person shall plant any vegetation in any cemetery except with the written permission of the Authorised Officer.
- 13.2 Vegetation planted in any portion of any cemetery may only be trimmed, or removed, with the written permission or by order of the Authorised Officer.

### **14. MOTOR VEHICLES**

- 14.1 Where there is no vehicle access road within a cemetery, no person shall take any motor vehicle of any kind into any cemetery unless prior approval has been granted by an Authorised Officer.
- 14.2 No person, having obtained approval under 14.1 above, will exceed any sign posted speed limit within any cemetery. Where no speed limit has been signposted, no person will drive in any cemetery at a speed greater than 20 km/h.
- 14.3 All vehicles (other than hearses) shall yield unconditional right of way to any funeral procession.
- 14.4 Every person driving or conducting any motor vehicle in any cemetery shall stop or move such vehicle as directed by the Sexton. For the avoidance of doubt, the Sexton or Authorised Officer may, at their discretion, require the driver of any motor vehicle to immediately remove the vehicle from any cemetery.
- 14.5 No person shall drive or conduct any motor vehicle in any cemetery except in accordance with and in the direction indicated by traffic notices displayed in the cemetery.

### **15. MISCONDUCT AND SOLICITING**

- 15.1 No person shall:
  - a) Breach the conditions of use of a cemetery as set out in this bylaw;
  - b) Prevent, interrupt, or delay a funeral service;
  - c) Advertise or solicit for any work to be done in (or in connection with) any cemetery; and
  - d) Allow any animal, other than a Disability Assist Dog, to accompany them into any cemetery.
- 15.2 No person shall, in any cemetery, perform any tasks in relation to any plot except at the specific request of a purchaser of plots or their representatives.
- 15.3 No commercial photographers shall attend any cemetery service for the purpose of taking photographs or other images, unless consent has been granted by the Funeral Director or the executor of the estate/appointed family member.
- 15.4 No person shall operate a drone or unmanned vehicle within the confines of any cemetery at any time, regardless of if a funeral is taking place or not without having first obtained the written approval of the Sexton or Authorised Officer.

### **16. DISINTERMENT**

- 16.1 Any person seeking to disinter a body from a Council operated cemetery must first apply for a Disinterment License form the Ministry of Health under section 51 and section 55 of the Burial and Cremation Act 1964.
- 16.2 Once a Disinterment License has been issued and provided to the Council, arrangements can be made with the Council for the disinterment to take place, subject to the payment of such fee or fees as the Council shall determine and the below considerations:
  - a) Where a Disinterment License has been obtained and the intention is not to remove the body and reinter it in a different cemetery, there is no requirement that family approval be obtained before disinterment can take place.

- b) Where the reason for disinterment is for the removal of the body from its current resting place and reburial in a different cemetery, the Council requires that in addition to a Disinterment License that the applicant provide the written consent of the spouse/partner and children of the deceased. Where the deceased has been buried for in excess of 50 years the approval of the deceased's spouse/partner and children, is not required. Where the reason for disinterment is for the removal of the body from its current resting place and reburial in a different cemetery, and written approval is not provided, and the deceased has been buried for less than 50 years, the applicant must apply to the High Court for an order authorising the disinterment, regardless of if a Disinterment License has been obtained for not. No burial plot may be reopened to allow for a second interment except with the prior written consent of an Authorised Officer.

## **17. TRIBUTES**

- 17.1 All vases or containers for flowers shall be housed in insets set into the base on which the memorial is placed and shall not be placed in such a way as to interfere with the maintenance of the area.
- 17.2 The Council reserves the right to remove and dispose of any adornments or tributes not contained within insets (or otherwise controlled so they will not leave the plot) after a reasonable period.
- 17.3 Where adornments or tributes have been left in a manner that may impact on the use and/or operation of the Cemetery in any way, the Council may remove them immediately. This includes tributes left on grass areas.

## **18. OFFENCES AND PENALTIES**

- 18.1 Every person who breaches this bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.
- 18.2 Where a Monument, Structure or Headstone contravenes the Cemetery Monument Dimensional Standard as detailed in Appendix 2 or any provision thereof, it will be dealt with in terms of clause 19.1
- 18.3 In the event of persistent breaches of the Standard, Council may apply for an injunction denying the relevant perpetrator the right to work in the Cemeteries.

## **19. REVOCATIONS**

- 19.1 This bylaw revokes Council's acceptance and use of the Model General Bylaw, Part 14 - Cemeteries and Crematoria (NZS 9201:1999)

## **APPENDIX 1: RELEVANT LEGISLATION AND RELATED DOCUMENTS**

- Burial and Cremation Act 1964
- Burial and Cremation Amendment Act 2016 (effective 7 November 2018)
- Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967
- Cremation Regulations 1973
- Dog Control Act 1996
- Health Act 1956
- Health (Burial) Regulations 1946
- Holidays Act 2003
- Local Government Act 1974 Section 698
- Local Government Act 2002
- Reserves Act 1977
- Resource Management Act 1991
- Transport Act 1998.
- Health and Safety at Work Act 2015
- Building Act 2004
- NZS 4242:2018 Standard for Headstone and Cemetery Monuments
- NZ Master Monumental Masons Association (NZMMA) best practice guideline

# **Grey District Council Cemetery Monument Dimensional Standard**

## Introduction:

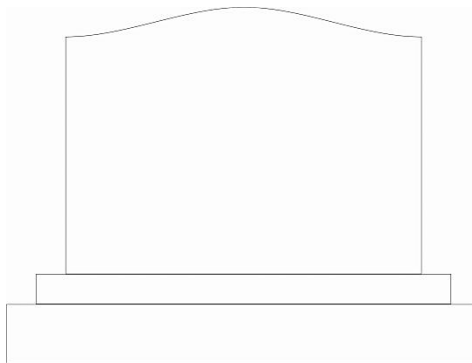
Council is justifiably proud of the visual appeal of its cemeteries. In order to maintain this appeal, Council insists on measures of uniformity, order and unrelenting quality. This extends to standards of competence of persons doing work in the cemeteries.

This Standard outlines the requirements of monuments installed, the qualification and associative requirements on installers of monuments and general standards of quality and excellence.

## The standard:

### Part 1: Dimensional requirements for Monuments in Grey District Cemeteries

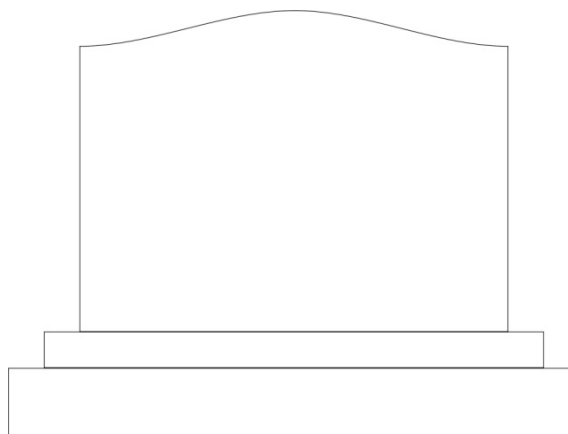
1. **Matai Section at Gladstone and any new cremation burial sections that are developed in the future (Cremation Plots)**



Base: Shall be 800mm long x380mm wide x100mm high

Overall monument size shall be a maximum of 1150mm high (including base) and 700mm long.

2. **Rimu & Kowhai Sections at Gladstone, Lawn Sections at all Cemeteries and any new full burial sections that are developed in the future (Full Burial Plots)**



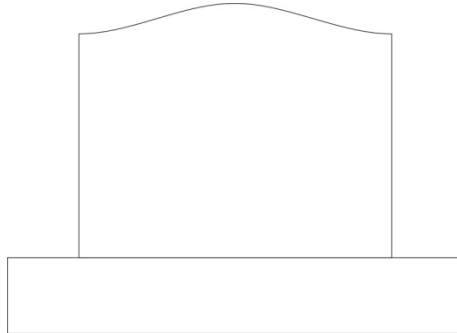
Base: shall be either 915mm Long x 380mm wide or 1100mm Long x 450mm wide.

Overall monument size shall be a maximum of 1150mm high (including base) and 800mm long.

**Note** that there is a minimum gap between monument bases which could become a safety issue if people attempt to walk over graves and between grave stones. To counter this and out of respect to the deceased and their loved ones this practice is discouraged on health and safety grounds. Respectful practices will be

encouraged by cemetery users by the placement of signs advising people to walk around and not over or between graves and grave headstones. This will also remove the risk of unintentional damage occurring to monuments in the future.

**3. Totara Section at Gladstone and Cremation Berms at all Cemeteries and any new cremation burial sections that are developed in the future (Cremation Plots)**

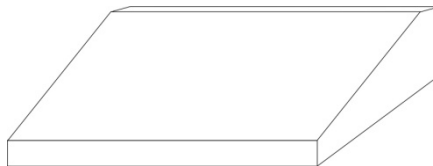


Base: Shall be 600mm long x200mm wide x100mm high

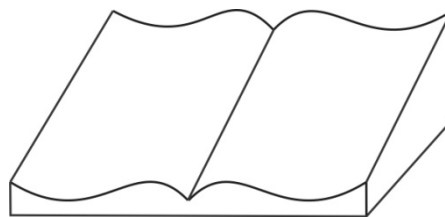
Overall monument size shall be a maximum of 600mm high (including base) and 500mm long.

**4. Kauri Section at Gladstone and any new cremation burial sections that are developed in the future (Cremation Plots)**

**Recumbent Desk**



**Book**



Monument sizes shall be up to

Length: 400mm

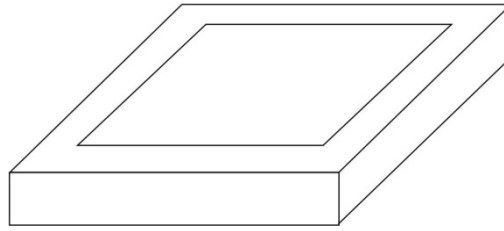
Width: 230mm

Height at front: 50mm

Height at back: 150mm

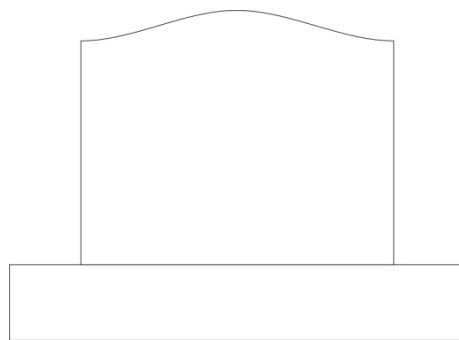
**5. Ashes Bank Section at Karoro and any new cremation burial sections that are developed in the future (Cremation Plots)**

**Plaque**



Monument size shall be 560mm long x 410mm wide.

**6. Children's Section at Karoro Cemetery and any new full burial sections that are developed in the future (Full Burial Plots)**



Base: Shall be 600mm long x 200mm wide x 100mm high.

Overall monument size (including base), can be up to 600mm high and 500mm long.

**7. Rules relation to these sizes**

1. Monuments must be installed 460mm from front of berm to back of headstone (Gladstone Only).
2. There shall be one base and monument per plot berm with the exception that if a plot owner has purchased two adjacent plots they may apply to install one monument over the two plots provided the maximum length is no greater than twice the maximum lengths stated above. All other dimensions to stay the same.
3. Monument shapes are indicative only and each monument can be constructed within the maximum height sizes shown.
4. Monument base sizes are set as shown above.
5. Monuments and or panel size and layout shall not be inconsistent with the typical detail above. That is a flat panel cannot be installed in a berm area where a vertical headstone is required.
6. With the exception of recumbent desk, book and plaque type (cremation plot monuments), all panels on monuments shall be upright.
7. All measurements outlined above will be strictly enforced with the tolerance of + or – 5mm.