



**Gympie Regional Council**

Planning and Development Directorate  
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**2020/2021**

**RESERVATION CONTRACT**

**Graves and Columbarium Wall Niches**

Applicable to all cemeteries under the direct administration of  
Gympie Regional Council

**Part 1: REFERENCE INFORMATION**

<b>Item 1</b> Formation of Agreement Expiry Date of Agreement	FORMATION DATE OF AGREEMENT	<input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	<b>(OFFICE USE ONLY)</b>
	EXPIRY DATE OF AGREEMENT (Expiry date – 15 years from formation date)	<input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	

<b>Item 2</b> Council	Name:	Gympie Regional Council	Phone:	1300 307 800
	ABN	91 269 530 353	Fax:	(07) 5481 0801
	Address for Notices:	Gympie Regional Council Planning & Development Directorate PO Box 155 GYMPIE QLD 4570		

<b>Item 3</b> Reservee <small>PRIVACY STATEMENT: Gympie Regional Council collects personal information where it is directly related to a function or activity of Council and where the collection of such information may be reasonably considered as necessary for that purpose. It will only use personal information for that purpose, and will not disclose it, except as permitted under the Information Privacy Act 2009.</small>	Full Name of Reservee:	<input type="text"/>		
	Postal address for notices:	<input type="text"/>		
	Locality / Suburb	<input type="text"/>	State	<input type="text"/>
	Date of Birth	<input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>	Age	<input type="text"/>
		Phone	<input type="text"/>	

<b>Item 4</b> Allotment	Cemetery Name	<input type="text"/>
	Section in Cemetery or Memorial Garden	<input type="text"/>
	Plot/Columbarium Wall or Memorial Garden Niche Number Nominated Person 1	<input type="text"/>
	Plot/Columbarium Wall or Memorial Garden Niche Number Nominated Person 2	<input type="text"/>
	Plot/Columbarium Wall or Memorial Garden Niche Number Nominated Person 3	<input type="text"/>
	Plot/Columbarium Wall or Memorial Garden Niche Number Nominated Person 4	<input type="text"/>

NOTE: Memorial Gardens are only located at the Goomeri and Kilkivan cemeteries.

<b>Item 5</b> Reservation Fee	<input type="checkbox"/> 1 <sup>st</sup> Term: 15 Years..... \$377.00 incl GST	<input type="checkbox"/> Renewal Fee: After 15 Years..... \$189.00 incl GST
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<b>Item 6</b> Signature of Reservee	.....Date: <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
	<i>Signature</i>

<b>Item 7</b> Signature of Council	.....Date: <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> / <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
	<i>Authorised delegate of Gympie Regional Council</i>

<b>OFFICE USE ONLY</b>	LEDGER NO: T37 W1627.0001.0134 – Burials & Ashes interment fees – Cooloola	<b>FEES PAID</b>	<input type="text"/> \$ <input type="text"/>
	LEDGER NO: T37 W1630.0001.0134 – Burials & Ashes interment fees – Gunalda		
	LEDGER NO: T37 W1634.0001.0134 – Burials & Ashes interment fees – Neerdie	<b>RECEIPT NO.</b>	<input type="text"/>
	LEDGER NO: T37 W1626.0001.0134 – Burials & Ashes interment fees – Boonara	<b>DATE</b>	<input type="text"/> / <input type="text"/> / <input type="text"/>
LEDGER NO: T37 W1629.0001.0134 – Burials & Ashes interment fees – Goomeri			
LEDGER NO: T37 W1633.0001.0134 – Burials & Ashes interment fees – Kilkivan			
LEDGER NO: T37 W1635.0001.0134 – Burials & Ashes interment fees – Tansey			

## Part 2: INTERPRETATION

### 2.1 General

- (1) This Agreement is to be interpreted by reference to:
  - (a) the provisions of this Part 2; and
  - (b) the definitions in Appendix 1.
- (2) Each of those provisions applies to the Agreement unless:
  - (a) the context otherwise requires; or
  - (b) a contrary intention appears.

### 2.2 Grammatical Similarities

Where a word or phrase is specifically defined, other grammatical forms of that word or phrase bear meanings corresponding to and consistent with that definition.

### 2.3 Parties

Reference to a Party includes:

- (1) in the case of a natural person, that person and his/her personal representatives and assigns (transferees); and
- (2) in the case of a corporation, the corporation, its successors and assigns (transferees).

### 2.4 Imputed Acts

Reference (whether direct or indirect) to a person's act includes the act of another person, if the law deems the other person's act also to be the first-mentioned person's act because of the legal relationship between the two.

*Example: The act of an employee, in the performance of that person's duties as employee, is imputed to his/her employer; that is, it is deemed by law also to be the act of the employer.*

### 2.5 Miscellaneous References

- (1) Reference to the singular includes the plural, and vice versa.
- (2) Reference to a gender includes each other gender.
- (3) Reference to a person includes a corporation, a firm, and a voluntary association.

- (4) Reference to an Act includes an Act that amends, consolidates or replaces an Act.
- (5) Reference to a section or other provision of an Act includes a section or provision that amends, consolidates or replaces the section or provision.
- (6) Reference to money is a reference to Australian dollars and cents.
- (7) Reference to a time of day is a reference to Australian Eastern Standard Time.
- (8) Reference to writing is a reference to reproduction of words, figures, symbols and shapes in visible form.

### 2.6 Headings and Notes

The table of contents, the headings, and any footnotes and endnotes:

- (1) exist for convenience only; and
- (2) are to be disregarded when interpreting the Agreement.

### 2.7 Contra Proferentem Interpretation

A provision of the Agreement is not to be interpreted against the interest of a Party merely because the Agreement or the relevant provision was drawn by or on behalf of that Party.

### 2.8 Severance

If:

- (1) a provision of the Agreement is void, voidable, illegal or unenforceable; or
- (2) the Agreement would be void, voidable, illegal or unenforceable unless the provision were deleted from it,

the provision will be deemed deleted from the Agreement.

## Part 3: BACKGROUND

- 3.1** The Resevee wishes to reserve a right to burial in the Allotment.
- 3.2** Council has agreed to reserve a right to burial in the Allotment in favour of the Resevee for the Reservation Term.
- 3.3** This document records the terms of that agreement.

## Part 4: RESERVATION CONDITIONS

### 4.1 Reservation of Right to Burial

- (1) This Agreement (and the Reservation Fee paid, if applicable) reserves a right to burial in the Allotment for the Reserver (and Nominated Person/s in circumstances where clause 4.6 applies) for the Reservation Term.
- (2) This Agreement is not a sale of, or lease, or permit, over the Allotment in favour of the Reserver or the Nominated Person/s.

### 4.2 Reservation Charges

- (1) This clause applies only where one or more of the Nominated Person/s is less than sixty (60) years of age on commencement of this Agreement.
- (2) The Reserver must, at the time he/she executes this Agreement, pay to Council the Reservation Fee.
- (3) Subject to clause 4.9(3), the Reservation Fee is non-refundable.

### 4.3 Exercising the Right to Burial/Interment

- (1) The Reserver (or his/her executors) may only exercise the reserved right to burial afforded under this Agreement if and when:
  - (a) the Reserver (or his/her executors) pays the Purchase and Interment Fees; and
  - (b) the Reserver (or his/her executors) have obtained all necessary approvals and permits for the interment.

### 4.4 Maximum Number of Reservations

- (1) Unless the Reserver has Council's written approval, the Reserver may only reserve a maximum of four (4) allotments at any cemetery, at any time.
- (2) The Reserver must list the Nominated Person/s for each Allotment at Item 4 of this Agreement.
- (3) If, at the time of entry into this Agreement, the Reserver has already reserved the maximum number of Allotments at any cemetery, this Agreement is void.

### 4.5 Assignment of Right to Burial

- (1) If the Reserver wishes to change the Nominated Person/s, the Reserver must apply in writing to Council requesting a variation of this Agreement.
- (2) Council may, in its discretion, permit or refuse any application for variation made under clause 4.5(1).
- (3) Council will only consider a request for variation under this clause at the time the Reserver wishes to exercise the right to burial of a third party.
- (4) The right to burial reserved in this Agreement is a personal right, exercisable only by the Reserver (or his/her executors).

### 4.6 Assignment of Right to Burial to the Nominated Person/s

- (1) This clause applies if the Reserver dies prior to the expiration of the Reservation Term.
- (2) A Nominated Person may exercise the right to burial in his/her assigned Allotment for the remainder of the Reservation Term. The benefit of that right automatically passes to the Nominated Person/s upon the death of the Reserver.

### 4.7 Reservation Renewal - Reserver

- (1) Reserver may only renew the Reservation if the Reserver:
  - (a) applies to Council, in writing, to renew the Reservation no more than 6 months, but at least 3 months, prior to the expiration of the Reservation Term; and
  - (b) enters into a further reservation contract with Council and pays any further reservation fee payable to Council at that time (set by Council in its sole discretion), prior to the expiration of the Reservation Term.
- (2) If the Reserver does not renew the Reservation in accordance with clause 4.7(1), Council may, at the expiration of the Reservation Term, permit the

Allotment/s to be reserved by any other person.

- (3) Council has no obligation to advise the Reseree in relation to the expiration, or imminent expiration, of the Reservation Term.

#### **4.8 Reservation Renewal – Nominated Person/s**

- (1) If the Reseree dies prior to the expiration of the Reservation Term, a Nominated Person may renew the reservation of his/her assigned Allotment if the Nominated Person:

- (a) applies to Council, in writing, to reserve the Allotment no more than 6 months, but at least 3 months, prior to the expiration of the Reservation Term; and

- (b) enters into a reservation contract with Council and pays any reservation fee payable to Council at that time (set by Council in its sole discretion), prior to the expiration of the Reservation Term.

- (2) If the Nominated Person does not renew his/her Reservation in accordance with clause 4.8(1), Council may, at the expiration of the Reservation Term, permit the Allotment to be reserved by any other person.

- (3) Council has no obligation to advise the Nominated Person/s in relation to the expiration, or imminent expiration, of the Reservation Term.

#### **4.9 Termination**

- (1) The Reseree may, at any time during the Reservation Term, immediately terminate this Agreement by written notice to Council. In the event of the Reseree terminating this agreement, the Reseree forfeits all money paid to Council as a result of entering into this agreement.

- (2) Council may immediately terminate the Agreement, by notice in writing to the Reseree:

- (a) if Council no longer controls the land upon which the Allotment is situated; or

- (b) if Council is required to terminate under any Act,

without incurring any liability or refunding the Reservation Fee.

- (3) Council may for any reason terminate this Agreement by written notice to the Reseree without incurring any liability or refunding the reservation fee/s.

#### **4.10 Assignment of Agreement**

- (1) The Reseree or Nominated Person (in circumstances where clause 4.6 applies) must not assign his/her interest under this Agreement without Council's consent in writing.

- (2) Consent under clause 4.8(1) must not be unreasonably withheld by Council, but may be subject to conditions.

### **Part 5: MISCELLANEOUS**

#### **5.1 Entire Agreement**

This Agreement constitutes the entire agreement of the parties in respect of the matters dealt with in this Agreement and supersedes all prior agreements, understandings and negotiations in respect of the matters dealt with in this Agreement.

#### **5.2 Governing Law**

This Agreement shall be construed in accordance with and be governed by the laws of the State of Queensland and the parties hereby submit to the non-exclusive jurisdiction of the Courts of Queensland.

#### **5.3 GST**

- (1) To the extent that anything done by any party under this Agreement is a taxable supply, the consideration payable in respect of that taxable supply (the "original consideration") shall be increased by the rate of GST prevailing at the time that the taxable supply is made. The increased consideration must be paid at the same time and in the same manner as the original consideration. Where appropriate the parties to this Agreement will issue tax invoices and adjustment notes as required by law.

- (2) The amount payable pursuant to any reimbursement provision contained in

this Agreement shall not exceed the GST-inclusive price paid by the reimbursed party.

- (3) In consideration of the mutual premises contained in this clause 16 ("the GST Clause"), the parties to this Agreement agree that, in the event of conflict or inconsistency between the provisions of the GST Clause and any other provision of this Agreement, the GST clause shall prevail.

#### 5.4 Notices (General)

- (1) This clause 5.4, together with clauses 5.5 and 5.6, governs notices under this Agreement unless a provision of the Agreement specifically provides otherwise.
- (2) A notice must be in writing.
- (3) The Party giving the notice, or one of its Officers, may sign the notice.

#### 5.5 Service of Notices

A notice may be:

- (1) delivered;
- (2) posted; or
- (3) transmitted by facsimile,

to the intended recipient at its Address for Notices.

#### 5.6 Receipt of Notices

- (1) A notice that is delivered personally or posted will be deemed received:
  - (a) if personally delivered, at the moment of delivery;
  - (b) if posted to an address in Australia, 2 Business Days after posting;
  - (c) if posted to an address outside Australia, 5 Business Days after posting.
- (2) A notice sent by facsimile transmission will be deemed received at the time of receipt specified in a Confirmation Report, if the report discloses that the transmission was received at or before 5.00pm.

- (3) If the Confirmation Report discloses that the transmission was received after 5.00pm, the notice will be deemed received at 8.30am on the Business Day following the date of receipt disclosed in the report.

#### 5.7 Nature of Agreement

Irrespective of whether it records the passage of consideration between the Parties, this Agreement is a deed.

*[Appendix follows]*

**APPENDIX 1**

*[Interpretation Provisions]*

*[Clause 0]*

**Definitions**

In this Agreement, each of the following expressions bears the meaning shown opposite:

<b>Act</b>	Includes: <ol style="list-style-type: none"><li>(1) an Act passed by the Commonwealth Parliament or the Queensland Parliament.</li><li>(2) subordinate legislation made under any such Act.</li><li>(3) a direction or requirement made under any such Act or subordinate legislation by a competent entity.</li><li>(4) a licence, authorization, consent, approval, or exemption granted under any such Act or subordinate legislation.</li><li>(5) a planning instrument.</li><li>(6) a local law.</li></ol>
<b>Address for Notices</b>	For each Party: <ol style="list-style-type: none"><li>(1) its address or facsimile number shown in Part 1;</li><li>(2) such other address or facsimile number as it has notified to the Party giving it a notice as its address or facsimile number for notices under this Agreement; or</li><li>(3) if it is not at the address or facsimile number the subject of paragraph (1) or paragraph (1) of this definition, its last principal place of business or facsimile number known to the Party giving it a notice.</li></ol>
<b>Agreement</b>	This document and the agreement it evidences.
<b>Allotment</b>	The grave or columbarium wall niche detailed at Item 4.
<b>Business Day</b>	A day, other than a Saturday, Sunday or public holiday, upon which banks are open for business in the locality to which a notice under this Agreement is to be sent.
<b>Confirmation Report</b>	In relation to a facsimile transmission: a transmission confirmation report produced by the sender's facsimile machine, which report: <ol style="list-style-type: none"><li>(1) contains the identification code of the intended recipient's facsimile machine; and</li><li>(2) indicates that the transmission was received without error.</li></ol>
<b>Cost</b>	Includes loss, liability, damage, and expense.
<b>Council</b>	The entity detailed at Item 2.
<b>GST</b>	The goods and services tax under the GST Act.
<b>GST Act</b>	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cwlth)</i> , including other GST-related legislation.
<b>Item</b>	A numbered item of information in Part 1.
<b>Nominated Person</b>	Means a person specified at Item 4 of this Agreement.

<b>Party</b>	A party to this Agreement, including a Nominated Person in circumstances where clause 4.6 applies.
<b>Purchase and Interment Fees</b>	Fees payable to Council at the time the Reserver exercises their right to burial, as determined by Council from time to time.
<b>Reservation</b>	The reserved right to burial in the Allotment.
<b>Reservation Fee</b>	The amount detailed in Item 5.
<b>Reservation Term</b>	The period of fifteen (15) years from: <ol style="list-style-type: none"><li>(1) The date upon which this Agreement was formed.</li><li>(2) In the absence of evidence establishing a different date, that date in the date specified at Item 1.</li></ol>
<b>Reserver</b>	The person(s) detailed at Item 3.

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