

# CEMETERY RELATED ACTIVITIES POLICY

## LOCAL LAW POLICY



### 1 Scope

This policy supports Rockhampton Regional Council's local laws relating to the undertaking of regulated and restricted activities regarding human remains on private land and in cemeteries operated by Council. This policy does not apply for privately operated cemeteries regulated under *Subordinate Local Law No. 1.9 (Operation of Cemeteries) 2011*.

### 2 Purpose

The purpose of this policy is to:

- (a) Provide a framework for the management and operation of Council's cemeteries;
- (b) Outline the holder of burial rights processes;
- (c) Provide a framework for the management of cemetery related activities outside a cemetery; and
- (d) Ensure a safe and respectful environment.

### 3 Related Documents

#### 3.1 Primary

*Subordinate Local Law No. 1.13 (Undertaking Regulated Activities regarding Human Remains) 2011*

*Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2019*

#### 3.2 Secondary

*Births, Deaths and Marriages Registration Act 2003*

*Coroners Act 2003*

*Information Privacy Act 2009*

*Land Act 1994*

*Local Government Act 2009*

*Local Law No. 1 (Administration) 2011*

*Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2011*

*Public Health Act 2005*

*Queensland Heritage Act 1992*

*Work Health and Safety Act 2011*

Accounts Receivable (Sundry Debtors) Policy

Burial Rights Application Form

Authorisation for Exercise of Burial Rights

Burial/Disturbance of Human Remains on Private Property Application Form

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Cemetery Memorial Guide Fact Sheet

Cemetery Related Activities Procedure

Cemetery Service Exhumation or Disinterment of Ashes Request Form

Cemetery Service Request Form

Memorial Installation Permit Application Form

Refund, Exemption and Reduction of Fees and Charges Policy

#### 4 Definitions

To assist in interpretation, the following definitions apply:

Adornment	Any item placed on a grave, columbarium wall or ashes plot for the purpose of decoration.
Ashes	Processed remains recovered from the cremation of human remains.
Authorised Person	An employee appointed the relevant powers under <i>Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2019</i> or <i>Local Law No. 1 (Administration) 2011</i> .
Burial	The act or practice of burying human remains.
Burial Rights	The right to use a site for the interment of human remains or ashes.
Cemetery	An area containing one or more sites each of which may be used for the exercise of a burial right including a lone site, a family site or a larger collection of sites each of which is to be used for the exercise of burial rights.
CEO	Chief Executive Officer A person who holds an appointment under section 194 of the <i>Local Government Act 2009</i> . This includes a person acting in this position.
Columbarium	Area or wall established for the interment of ashes and/or placement of memorialisation.
Council	Rockhampton Regional Council
Delegated Officer	An employee appointed to a position with the relevant sub-delegation under <i>Local Law No. 1 (Administration) 2011</i> , SLL 1.13 or <i>Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2019</i> .
Disturbance of Human Remains	As defined in <i>Local Law No. 1 (Administration) 2011</i> , includes interfering with remains, removal of remains and opening of a site of burial.
Employee	Local government employee: (a) The CEO; or (b) A person holding an appointment under section 196 of the <i>Local Government Act 2009</i> .
Exhumation	The act of digging something out of the ground (especially human remains) where it has been buried. To remove from a site; disinter.
Funeral Service	Any burial, ashes interment, exhumation, chapel or garden services or refreshments/wake event conducted in one of Council's cemeteries.
Grave	A hole dug in the ground to receive a coffin or human remains.
Grave Cover	A conforming structure as detailed in the Cemetery Related Activities Procedure.

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Holder of Burial Rights	For a site, means the lawful holder of the right to inter human remains or ashes, install or repair a memorial, exhume human remains or disinter ashes within a Council cemetery.
Human Remains	As defined in <i>Local Law No. 1 (Administration)</i> , the body or part of the body of a deceased person. Excluding ashes.
Interment	The placement or burial of human remains or ashes into a site.
Memorial	As defined in <i>Subordinate Local Law No. 4 (Local Government Controlled Areas, Facilities and Roads) 2019</i> , includes: (a) A headstone; (b) An inscribed plaque or commemorative plate; (c) Monumental, ornamental or other structure/s erected on a grave site; and (d) Anything else erected or placed to mark the site where human remains have been buried or placed, or to commemorate a deceased person.
Niche	Space in a columbarium to place ashes.
Ownership	The right of possessing something.
Qualified Undertaker	As defined in SLL 1.13, a person who carries on the business of disposing of human remains.
Region	Rockhampton Regional Area defined by the Local Government Areas of Queensland.
Reservation	Existing pre-paid interments or burial rights and/or sites registered with Council in advance of actual need for use for interment.
Site	A place set aside for the interment of human remains or ashes, including a grave, niche, plot or memorial.
SLL 1.13	<i>Subordinate Local Law No. 1.13 (Undertaking Regulated Activities Regarding Human Remains) 2011</i>
Stonemason	A trade qualified mason or person possessing the skills to competently and professionally carry out monumental masonry work to a tradesperson-like standard.

## 5 Policy Statement

### 5.1 Management of Council Cemeteries

Council is committed to:

- (a) The provision of interment and memorialisation services to the community;
- (b) Servicing the deceased and their families with dignity and respect;
- (c) Preserving the history of Council's cemeteries and maintaining records for genealogy research;
- (d) Maintaining Council's cemetery grounds to meet community needs and expectations; and
- (e) Planning for the future interment needs of the Region's communities.

### 5.2 Administration of Council Cemeteries

Burial rights do not commence until payment has been received and an Authorisation for Exercise of Burial Rights given by the CEO or authorised person.

Council maintains records and plans about each interment and reservation (except where historically this information was not retained).

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### 5.2.1 Reservation of Burial and Ashes Sites

Existing reservations of interments and/or sites at all cemeteries and registered with Council are honoured.

Reservation of vacant burial site/s are not considered by Council; however, where exceptional circumstances exist, an individual, or qualified undertaker acting on their behalf, may apply in writing to Council requesting the reservation of a single burial site and must provide relevant documentation supporting the request for example, letter from doctor confirming terminal illness. Each application is considered on a case-by-case basis by an authorised person and the applicant is advised of the outcome of their application within five business days. Where approved, payment in full for the cost of the burial site must be made when submitting a Cemetery Service Request Form. Payment of interment fees may be made as required.

Ashes garden site/s at Rockhampton Memorial Gardens and Gracemere Cemetery may be reserved as either single, double or family plots. Payment in full for the cost of the plot must be made at the time of submitting a Cemetery Service Request Form. Payment for interments, markers and plaques may be made as required.

Instances where historic administration practices conflict with this policy are dealt with on a case-by-case basis.

### 5.3 Hours of Operation

Interments and exhumations take place during the hours approved by Council, between 9am and 4pm Monday to Friday. Approval is required outside of these times and additional fees will be incurred in accordance with Council's Fees and Charges.

Council's cemeteries are open to the public daily from sunrise to sunset or as Council may determine. To preserve the history and nature of a site, the following cemeteries are closed between the hours of 9pm – 5am daily:

- (a) Memorial Gardens;
- (b) South Rockhampton Cemetery; and
- (c) North Rockhampton Cemetery.

Access to the above sites between 9pm – 5am requires approval by a delegated officer.

### 5.4 Council Cemeteries Burial Rights and Holder of Burial Rights

A burial rights holder is the person nominated as the holder of burial rights in the approval issued by Council and can only be assigned to one of the following:

- (a) A relative of the deceased person; or
- (b) A family member of the deceased person; or
- (c) Another person who has a proper association with the deceased person.

Council does not assign burial rights to a qualified undertaker or an employee of a qualified undertaker, unless that person has a proper association with the deceased person.

The holder of burial rights for a site in a Council cemetery, has:

- (a) The right to be interred in the site; and
- (b) The right to authorise the interment of others (each of whom must be specified in writing by the holder of burial rights) in the site.

For existing sites where the holder of burial rights holder is unknown the burial rights are assigned by Council based on historical records and other available information.

The holder of burial rights may not transfer the burial rights without Council's written consent.

Burial rights are not transmissible on the death of the holder of burial rights.

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A holder of burial rights for an unused site may surrender those rights to Council. Any refund of any purchase price paid for the burial rights will be at the sole discretion of Council upon receipt of a written application for refund and processed in accordance with Council's Refund, Exemption and Reduction of Fees and Charges Policy.

The exercise of burial rights, including an interment, and the installation, maintenance or modification of a memorial at a site must not be undertaken without the written consent of:

- (a) The holder of burial rights for the site; or
- (b) If the holder of burial rights is deceased and the burial right to be exercised is the maintenance or modification of a memorial at the site – a member of the family of the holder of burial rights, or another person who has a proper interest in the maintenance or modification of the memorial.

Each of the following persons are responsible for the costs of the acquisition, installation, repair, maintenance and modification of any memorial associated with a site:

- (a) The holder of burial rights for the site;
- (b) If the holder of burial rights is deceased – a member of the family of the holder of burial rights;
- (c) Another person who has a proper interest in the maintenance and modification of the memorial.

A holder of burial rights must comply with the rules and regulations of Council which apply to the operation of the Council cemetery from time to time.

The holder of burial rights acknowledges that Council reserves the right to vary the rules and regulations which apply to the operation of a Council cemetery at any time, and from time to time, in any manner deemed appropriate by Council.

If Council grants an approval to exercise burial rights for a site:

- (a) The holder of burial rights for the site is the person nominated as the holder of burial rights in the approval;
- (b) The holder of burial rights may exercise the burial rights for the site; and
- (c) A person other than the holder of burial rights may not exercise the burial rights for the site, for example, if a person other than the holder of burial rights applied and paid the prescribed fee for the grant of the burial rights, but the person is not nominated as the holder of burial rights, the person may not exercise the burial rights for the site.

Council reserves the right to cancel the right of the holder of burial rights to exercise burial rights in respect of a site in the following circumstances:

- (a) Non-compliance with the rules and regulations for the time being of the Council cemetery in which the site is situated;
- (b) If a maximum number of persons may be interred in the site from time to time – the maximum number of persons have been interred in the site;
- (c) Non-compliance with a relevant statutory requirement; and/or
- (d) Permitting one or more persons to be interred in the site would have a detrimental impact on public health and safety.

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The right of a holder of burial rights to exercise burial rights in respect of a site comes to an end on the occurrence of the last of the following:

- (a) The death of the holder of burial rights unless the holder of burial rights has not nominated themselves to be interred into the site; or
- (b) If the holder of burial rights nominates, in writing, one or more persons who may be interred in the site, the earlier of:
  - (i) The date on which the last of the nominated persons are interred in the site;
  - (ii) One year after Council becomes aware there are no surviving nominated persons; or
  - (iii) The date on which the last of the nominated persons give notice to Council that they wish to surrender their rights to be interred in the site.

For a site in respect of which burial rights have been granted to a holder of burial rights, Council (alone) may, in its absolute discretion, and provided Council has no reason to believe that the holder of burial rights for the site would have objected, permit a person to be interred in the site if the person is:

- (a) A relative of the holder of burial rights;
- (b) A member of the family of the holder of burial rights; or
- (c) Another person who has a proper association with the holder of burial rights.

On the death of the holder of burial rights, the right of the holder of burial rights to authorise the interment of persons other than the holder of burial rights in the site comes to an end.

If the right of a burial rights holder to exercise burial rights at a site comes to an end, ownership rights of the site reverts back to Council.

Council acts in good faith when it relies on information and advice provided by an applicant for burial rights. If the relevant activity later becomes the subject of a dispute between relatives or family members of a person whose human remains or ashes are interred at the Council cemetery, Council does not accept any responsibility for, as the case may be:

- (a) Allowing an interment;
- (b) Allowing the erection of a memorial;
- (c) Permitting a memorial to be maintained; or
- (d) Allowing human remains interred within a Council cemetery to be disturbed.

## 5.5 Interment/Burial

No interment or burial is permitted in a Council cemetery until Council approval has been granted.

No burial of human remains, excluding ashes, is permitted outside a Council cemetery until Council approval has been granted.

Burials must be arranged and conducted by a qualified undertaker.

Payment for all services arranged within a Council cemetery by a qualified undertaker must be made by the qualified undertaker in accordance with the Accounts Receivable (Sundry Debtors) Policy.

Where a qualified undertaker has an outstanding debt greater than 60 days, new service bookings will not be confirmed until after payment for that service has been made.

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### 5.5.1 Interment/Burial in Council Cemeteries

For all interments/burials in all Council Cemeteries:

- (a) Payment of the prescribed fee must be made prior to confirmation of any interment or burial service, except under paragraph 5.5 above.
- (b) Ashes interment may be arranged through a qualified undertaker or directly with Council.
- (c) New burial sites are allocated at Council's discretion.
- (d) Digging of burial sites is undertaken by Council.
- (e) Where required, Council takes all due care to remove grave tops and memorials to carry out interments.
- (f) Where required, Council may engage the services of a stonemason to remove, reinstate and/or repair grave tops and memorials at the burial right holder or applicant's expense.
- (g) No more than two coffin interments are conducted in the same burial site, except at the Memorial Gardens where up to four coffin interments may take place within a crypt (where conditions allow). If depth cannot be met for the second interment, it is at Council's discretion if a new site is required.

Stored ashes may be held by Council at its discretion for a maximum of three months. After this period the family is contacted to finalise arrangements or collect. If arrangements are not made or ashes not collected within two months, Council may proceed with interment into a Council determined site.

### 5.5.2 Burials Outside a Cemetery

Applications for burials of human remains outside a cemetery must be submitted on the Burial/Disturbance of Human Remains on Private Property Application Form at least 10 working days prior to the proposed service and must include details and evidence as detailed in *SLL 1.13* including but not limited to the following:

- (a) Confirmation the burial will be undertaken by a qualified undertaker;
- (b) Proposed burial information and burial site details including proximity to buildings of any nature, water courses and adjoining properties; and
- (c) Details of how ongoing access to the site at which the deceased is to be buried will be secured should the owner dispose of their interest in the land.

Burials must be carried out in accordance with the following:

- (a) Grave sites are a maximum of 2,750mm x 1,200mm;
- (b) No more than two coffin interments are conducted in the same burial site without a delegated officer's approval;
- (c) Coffins shall be interred at a minimum full (double) depth of 1,800mm for the first interment and 1,200mm for the second interment; and
- (d) Minimum cover of coffin or similar enclosed container shall be 750mm from the top of the container to natural ground level where practicable.
- (e) If depth cannot be met for the second interments, it is at Council's discretion if a new grave is required.

### 5.6 Disturbance of Human Remains

Approval of the disturbance of human remains may be granted if the disturbance is within six working days of a burial or after six months of a burial. A request to disturb human remains is considered at Council's discretion in accordance with Council's local laws and the provisions within this policy.

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### 5.6.1 Exhumation or Disinterment in a Council Cemetery

A Cemetery Service Exhumation or Disinterment of Ashes Request Form must be completed for exhumation of human remains or disinterment of ashes in a Council cemetery and is only accepted when accompanied by payment of the application fee (where applicable) and the written consent of:

- (a) The holder of burial rights for the site;
- (b) If a holder of burial rights is deceased – a member of the family of the deceased person;  
or
- (c) Another person who has a proper interest in the human remains or ashes.

Council acts in good faith when it relies on information and advice provided by an applicant and does not accept any responsibility for exhumation of human remains or disinterment of ashes.

#### 5.6.1.1 Exhumation of Human Remains

Unless legal documentation exists, the applicant must demonstrate that they have consulted all living next of kin of the deceased and produce a document of authorisation signed by all parties.

Exhumations of human remains are carried out, once approved by a delegated officer, in conjunction with a qualified undertaker.

Council discourages the exhumation of human remains after 60 years from the date of burial due to a number of factors including rate of decay, inconsistent burial practices and natural ground movement.

#### 5.6.1.2 Disinterment of Ashes

The disinterment of ashes may be conducted by Council once approved by a delegated officer.

Ashes cannot be disinterred and transferred to another site in a Council cemetery unless the existing site is surrendered and a new site purchased in a Council cemetery.

If a memorial exists, the family is responsible for the disposal or fees are applied.

### 5.6.2 Reopen of a Grave in a Council Cemetery

Reopening of a grave for a further interment requires approval from Council's authorised person.

### 5.6.3 Disturbance of Human Remains Outside a Cemetery

Applications must be made on a Burial/Disturbance of Human Remains on Private Property Application Form. Applications are considered in accordance with *SLL 1.13*. The approval holder must ensure the site is prepared in accordance with the conditions of approval and the following:

- (a) Ensure privacy of the site and restrict view of the prescribed activity to visitors to the site;
- (b) Ensure the safety of all persons who may be involved in or affected by the undertaking of the prescribed activity;
- (c) Return any remaining spoil to the grave and top up where required;
- (d) Ensure any spillage of waste contaminant or other material is cleaned up immediately, not by hosing, sweeping or otherwise releasing the waste contaminant or material into any stormwater system or other waters; and
- (e) Ensure the human remains are removed securely from the site.

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## 5.7 Memorials in Council Cemeteries

No memorials are to be installed, repaired or removed unless:

- (a) In accordance with this policy and the Cemetery Related Activities Procedure;
- (b) All fees are paid, forms completed and submitted; and
- (c) Written approval from Council's authorised person is received.

If placing a plaque and/or marker on a grass top grave in a monumental cemetery, a concrete beam must be installed to ensure the plaque and/or marker is sufficiently raised off the ground to mitigate damage to the installation and ensure maintenance activities can be undertaken efficiently and safely.

In monumental cemeteries grave covers, beams or adornments of any kind are not permitted to be installed or placed on the site for a period of 12 months following a burial. This is to ensure ground subsidence is managed and the site is stable.

## 5.8 Adornments

Conforming and non-conforming adornments are outlined in the Cemetery Related Activities Procedure.

Conforming adornments must be placed on the beam or grave cover. No adornments are to be placed on any grassed areas as this presents difficulties in efficiently maintaining the cemeteries.

Adornments are not permitted on top of or on the ground in front of columbarium or memorial walls, however fresh or limited artificial flowers may be placed in conforming vases on graves, memorial blocks, garden plots or columbarium walls. These should be placed in non-breakable vases/receptacles. Withered and/or deteriorated floral arrangements will be removed and disposed of at Council's discretion.

Additional floral adornments may be kept for a period of one week after a funeral, provided they do not impede adjacent graves. After this time, it is the responsibility of the family to remove the additional floral adornments from the grave in order for grave subsidence to be managed.

The placement of non-conforming adornments such as glass vases or receptacles, ornaments, flags, photo frames, candles, toys, wind chimes, solar lights, alcohol containers or items with a metal stem/stake are not permitted and will be removed. These items can be a safety hazard for visitors, cemetery employees and vehicular traffic, and present difficulties in efficiently maintaining the cemeteries.

The installation of paving, fencing or extended footpaths around the perimeter of a grave is not permitted as these create a tripping hazard for visitors, and present difficulties in efficiently maintaining the cemeteries.

Permanent planting of bushes, shrubs, flowers or trees is not permitted, and any such item/s will be removed by Council employees.

Whilst maintaining the highest level of personal integrity and respect for the property, adornments placed on memorial blocks at Rockhampton Memorial Gardens may need to be removed, at Council's discretion, to enable mowing, surface maintenance or for other health and safety reasons. Except for perished items such as deteriorated floral arrangements, reasonable attempts will be made to contact the holder of burial rights to collect the item/s as soon as practical. Where an item fails to be collected, the item will be retained for up to four weeks in a secure location before being considered by an authorised person to be abandoned and disposed.

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## 6 Review Timelines

This policy is reviewed when any of the following occur:

- (a) The related information is amended or replaced; or
- (b) Other circumstances as determined from time to time by Council.

## 7 Document Management

Sponsor	Chief Executive Officer
Business Owner	General Manager Community Services
Policy Owner	Manager Community Assets and Facilities
Policy Quality Control	Legal and Governance



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