

FRANKLIN
HARBOUR



Cemetery Policy



Cemetery Policy

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| Name of Council | District Council of Franklin Harbour |
| Responsibility: | Governance |
| Version: | 1.0 |
| Effective date: | 13 February 2019 |
| Last revised date: | 10 May 2017 |
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| Next review date: | 13 February 2023 |
| Applicable Legislation: | <i>Local Government Act 1999</i> Burial and Cremation Act 2013 Burial and Cremation Regulations 2014 |
| Related Policies: | |
| Related Procedures: | |

1. Purpose

This policy outlines the District Council of Franklin Harbour's objectives in respect of Council owned and operated cemeteries. It has regard to the *Burial and Cremation Act 2013* (the Act) and the *Burial & Cremation Regulations 2014* under which Council cemetery authorities must meet revised requirements for the operation and regulation of cemeteries within the Council area. Council recognises that these community cemeteries are the resting place of many of the district's pioneers and respected citizens and will efficiently and effectively manage them in a caring and equitable manner to meet the needs of its community.

2. Definitions

Words and phrases used in this policy have the same meaning as they do in the *Burial and Cremation Act 2013* and/or the *Burial & Cremation Regulations 2014*.

3. Principles

The policy applies to cemeteries owned or operated by Council in the townships of Cowell. Each cemetery is overseen by Council constituted under section 41 of the *Local Government Act 1999*.

The management of burials and granting of interment rights in Council facilities is vested in the Council and delegated to its administration. Existing reservations issued by Council prior to the development of this policy will be honoured by Council and renewal of interment rights will have regard to the basis on which the original burial sites have been allocated.

The cemeteries will not be segregated into areas based on religion or ethnicity in accordance with section 22 of the Act. Council will have regard to the customs and specific needs of all those who apply for an interment permit.

In considering applications and/or renewal of interment rights Council will have regard to:



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- the Cemetery's local historical significance as a burial place for many of the pioneers of the area
- the need for each cemetery site to be managed and maintained at a standard consistent with its significance and as an important family memorial place
- remaining interment sites available, recognising relatives of people already interred in the cemetery, people with a long association to the area, and those who have made contributions to the well-being and social fabric of the community.

4. Issue of interment rights

Interment rights may be granted by Council for one or more sites within a cemetery on completion of an application and payment of the appropriate fee. The interment right gives the holder the exclusive right to bury or inter human remains in the allotted site. The holder of the interment right may use the site only for interment of human remains consistent with this Policy and the *Burial and Cremation Act 2013*.

Interment rights may be issued for the following:

- 4.1** Grave sites (for new interments) for a single or dual depth system of burial. The site can be used to accommodate human remains and cremated remains. The interment right is 50 years with renewal rights available on the application of an interment right holder or authorised person. (See section 30 of the Act.)
- 4.2** Mausoleum - Council may approve an application for construction of an above ground structure subject to Council specifications.
- 4.3** Memorial or niche walls - The term of an interment right for ashes, in a memorial site or niche wall is for a period of 50 years with renewal rights available on the application of an interment right holder or authorised person. (See section 30 of the Act.)
- 4.4** Vaults - Council may on application approve the construction of a water tight vault (distinct from a mausoleum) of either single or dual capacity depth. Approval will be subject to soil and ground water conditions, design and specifications. Construction will be in accordance with the specifications provided and subject to supervision of Council's building supervisor or a contractor approved by Council. (See section 30 of the Act.)
- 4.5** Scattering of ashes - No interment right is required for scattering of cremated remains in a cemetery. However, prior approval of the Council is required.(See section 36 of the Act)



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5 Renewal or transfer of Interment rights

- 5.1** Renewal - At the end of the interment right period Council may, on application of the interment right holder or an authorised person, renew or extend an interment right on payment of an appropriate fee. (See section 32 of the Act.)
- 5.2** Transfer or surrender of interment rights - A person/family holding an interment right for an unused burial site or memorial/nich wall site may seek approval of Council to surrender (section 34 of the Act) or transfer (section 33 of the Act.) the right to another person/family. Council will not unreasonably withhold its approval. However, administrative costs for the surrender, formal transfer and recording in Council's register will be at the cost of the holder of the interment right in accordance with Schedule 1 of the Regulations.
- 5.3** Lost documentation - Council may issue a replacement (copy) of an interment right upon receipt of a Statutory Declaration by the interment right holder or an authorised person which sets out the circumstances in which the formal documentation was lost.

6. Reuse of Interment sites

In the event that a right of interment is not renewed Council will take reasonable steps, in writing, to advise a holder of the right of the impending expiration of the right twelve months prior to its expiration. If the holder of the right does not renew the interment right by the expiration date:

- for a burial site: the interment site is deemed to have expired and Council has the right to reuse the site in accordance with the legislation
- for an ashes interment site: the holder of the interment right may:
 - a. instruct the Council to move the interment remains to an unmarked location in the cemetery, or
 - b. collect the remains for private disposal and Council has the right to reuse the site in accordance with the legislation

7. Disposal of Human Remains

- 7.1** On rural land - In accordance with sub-section 8(2) of the Act, the Council will receive applications and may grant permission for a burial on private land outside the boundary of a township. The request must be made by submitting an application form.
- 7.2** Documentation - All applications for a right to inter bodily remains in a Council cemetery must be accompanied by appropriate documentation in accordance with section 12 of the Act and Regulation 9 of the Regulations. Council cannot allow disposal of human remains without seeing (and recording the details of):
- a certificate of identification for the body; and
 - a partial certificate of cause of death; or
 - a disposal authorisation; or
 - an authorisation to dispose of human remains granted by the Minister or the Registrar under section 12 of the Act.



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All interments in Council owned/operated cemeteries are to be approved by Council on the application form. Interments are to be undertaken by the funeral company specified on the Burial Authority. Preparation of the interment site is to be undertaken by Council or a contractor authorised by the Council.

- 7.3** Register/Records & Plans - Under section 53 of the Act, the Council as the “relevant authority” must maintain, and make available to the public, documentation for each cemetery. Copies of the registers and plans of the cemetery are available for inspection by members of the public during Council office hours.
- 7.4** Access to an interment site - A holder of an interment right (including those who have existing Interment Rights) is required to comply with the Act and the approval given by Council, prior to:
- interment of human remains in a cemetery or natural burial ground
 - reopening an interment site containing bodily remains
 - removing or relocating human remains.

The process of excavating and/or modification of a site must be undertaken by a Council employee or a contractor approved by the Council. Confirmation of a burial site must be verified by Council’s Administration prior to any excavation or other work on the site.

8. Memorials

- 8.1** Lighting - Solar powered lights or spikes on individual sites are prohibited.
- 8.2** Ownership and maintenance of memorials - The ownership of plaques, monuments and other approved structures remains with the Interment right holder. The Council is not responsible for the upkeep, repair or maintenance of any memorial. In accordance with section 41 of the Act, the Council may issue a notice on the owner of a memorial requiring repairs, removal or reinstatement of the memorial. Council may act to remove any structure that it deems to be unsightly, in poor condition or dilapidated, or repair it consistent with section 41 of the Act at the owner’s cost.
- 8.3** Power to dispose of unclaimed memorials - Council may, after giving notice in accordance with section 42 of the Act, remove and dispose of the memorial.

9. Service fees and charges

Council will annually determine a “Schedule of fees and Charges” for services provided at cemeteries as part of its budget process.

10. Neglected cemeteries

If Council is of the opinion that a cemetery within its area is in a neglected condition or fails to comply with the requirements of the Act the Council may, by notice in writing, require the governing body to remedy the conditions of neglect or non-compliance. If those remedial works are not undertaken in accordance with the Act the Council may undertake the work and recover the costs from the governing body or Interment right holder. (See section 46 of the Act)



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The Authority on which the notice is issued can apply to the District Court for a review of the decision.

11. Authorised Officers

Council may appoint authorised officers to ensure administration and enforcement of section 59 of the Act.

12. Further information

This Policy will be available for inspection at Council's principal office during ordinary business hours and on the Council's website www.franklinharbour.sa.gov.au. Copies will also be provided to interested members of the community upon request, and upon payment of a fee in accordance with Council's Schedule of Fees and Charges.

Related documents:

- Interment right application
- Right of Interment Certificate
- Transfer of interment right declaration
- Burial application form
- Application for placement of cremated remains
- Register of leases and Burials
- Application for interment approval for interment other than in a public cemetery

SIGNED:

A handwritten signature in black ink, appearing to be 'BOP'.

Responsible Officer

Date: 14/2/2019