

 <p>DISTRICT COUNCIL OF TUMBY BAY</p>	<b>POLICY# 10.08</b> <b>Cemeteries</b>	Version No:	<b>2.0</b>
	<b>POLICY AREA</b> <b>Community Facilities &amp; Services</b>	Issued:	Jan 2018
		Next Review:	Jan 2022

## 1. Purpose

This policy outlines the District Council of Tumby Bay objectives in respect of Council owned and operated cemeteries and natural burial grounds and crematoria. 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 requirements for the operation and regulation of cemeteries, natural burial grounds and crematoria within the Council area.

## 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 located, owned or operated by Council in the townships of:

- Tumby Bay
- Port Neill
- Lipson
- Koppio

The District Council of Tumby Bay does not operate any crematoria or natural burial grounds.

The management of burials and granting of interment rights in Council facilities is vested in the Council and delegated to its administration.

Existing cemetery plot leases 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.

## 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.

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The holder of the interment right (Attachment 1) may use the site only for interment of human remains consistent with this Policy and the [Burial and Cremation Act 2013](#).

Council will not grant interment rights in perpetuity.

Interment rights may be issued for the following:

#### **4.1 Grave sites (for new interments) for single or double depth system of burial.**

The site can be used to accommodate family members and the term of the interment right is 99 years with renewal rights for a second period on the application of an interment right holder or authorised person. (See section 30 of [the Act](#).) The maximum number of interments of bodily remains in a double depth grave is two.

#### **4.2 Memorial or niche walls**

The term of an interment right for ashes, in a memorial or niche wall is for a period of 99 years with a second period available on the application of an interment right holder or authorised person. (See section 30 of [the Act](#).)

#### **4.3 Scattering of ashes**

No interment right is required for scattering of cremated remains in a cemetery. (See section 36 of [the Act](#).)

### **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 wall 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. (See Attachment 2) 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.

At the time of adoption of this policy the re-use of interment sites at cemeteries is not foreseen.

## **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 “metropolitan Adelaide” and outside the boundary of a township. The request must be made on the application form (Attachment 4) appended to this policy.

### **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](#).

All interments in Council owned/operated cemeteries are to be approved by Council on the application form appended to this Policy. (See Attachment 3) Interments of bodily remains 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 engaged 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
- 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 Headstones or Plaques**

Approval of Council is required prior to the installation of a memorial or plaque on any interment site. Application for Council approval is to be made on the Application for a Headstone or Memorial Form available from the Council Website.

## **8.2 Installation of headstones or plaques**

Only Council staff or a recognised monument mason approved by Council shall install a headstone or plaque.

## **8.3 Ornaments**

Ornaments, vases, aged flowers and wreaths may be removed from sites, if Council forms the opinion that the items have deteriorated to the extent that they are unsightly.

## **8.4 Lighting**

Solar powered lights or spikes on individual sites are prohibited.

## **8.5 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.

## **8.6 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 or natural burial ground 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](#).)

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 formally reviewed every four years, or following amendment to the legislation. Minor variations can be approved by Council at any time following consideration of a recommendation and report from the Chief Executive Officer.

This policy and the Register of Cemeteries will be available for inspection at the Council offices listed below during ordinary business hours. The policy is available to be downloaded, free of charge, from Council's internet site: [www.tumbybay.sa.gov.au](http://www.tumbybay.sa.gov.au)

Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer of Council.

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**Strategic Link:**

**Delegation: Nil**

**Documentation:** Interment Right (Attachment 1)  
Transfer of Interment Right (Attachment 2)  
Burial Application (Attachment 3)  
Burial Application for permission to inter bodily remains on land other than a cemetery or natural burial ground (Attachment 4)  
LGA "Guide for Councils to the Burial & Cremation Act 2013"

**Authority:** Adopted by Council: 13/02/2018 {Motion 9c/022018}

SIGNED: .....  
Responsible Officer

Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

## Interment Right

## Attachment 1

The District Council of Tumby Bay hereby grants interment rights to

\_\_\_\_\_ (the "Interment Right Holder")

of \_\_\_\_\_

for the exclusive right of interment of human remains / interment of cremated human remains

/ memorialisation without human remains at \_\_\_\_\_ Cemetery

in the site designated below for a term of 99 years.

The Interment Right Holder may extend this interment right for further terms.

The interment right is granted in accordance with the *Burial and Cremation Act 2013* and is subject to the rules of the Authority which are in force during the term of this interment right. The interment right can be extended for a further period not exceeding the initial term for payment of an approved fee.

The Interment Right Holder or an authorised person can apply to have the Interment Right transferred to another party.

Commencement \_\_\_\_\_ Expiring on \_\_\_\_\_

### Type of interment right

Tick appropriate box

- |                                        |                          |
|----------------------------------------|--------------------------|
| Single Depth Interment                 | <input type="checkbox"/> |
| Double Depth Interment                 | <input type="checkbox"/> |
| Ashes Interment                        | <input type="checkbox"/> |
| Memorialisation without human remains. | <input type="checkbox"/> |

Site location \_\_\_\_\_

\_\_\_\_\_  
**Signed (CEO)**

\_\_\_\_\_  
**Date**

## Transfer of Interment Right

## Attachment 2

### Application for transfer of interment right

Type of interment right: \_\_\_\_\_

Site location: \_\_\_\_\_

Currently in the name(s) of: \_\_\_\_\_

Please select and complete all details for either A (current interment right holder/s) or B (authorised Person) below and sign in front of a JP on page 2.

**A. I, the current registered interment right holder, do solemnly and sincerely declare that:**

I, (full name) \_\_\_\_\_ (date of birth) \_\_\_\_\_  
 of (address) \_\_\_\_\_  
 (telephone) \_\_\_\_\_ (mobile) \_\_\_\_\_  
 (email) \_\_\_\_\_

(And) I, (full name) \_\_\_\_\_ (date of birth) \_\_\_\_\_  
 of (address) \_\_\_\_\_  
 (telephone) \_\_\_\_\_ (mobile) \_\_\_\_\_  
 (email) \_\_\_\_\_

**do hereby authorise the transfer of my rights, title and interest in this interment right.**

**OR**

**B. I, the authorised person, do solemnly and sincerely declare that:**

I, (full name) \_\_\_\_\_ (date of birth) \_\_\_\_\_  
 of (address) \_\_\_\_\_  
 (telephone) \_\_\_\_\_ (mobile) \_\_\_\_\_  
 (email) \_\_\_\_\_

Being a person having the right to exercise a Power of Attorney for the interment right holder. (Please attach a copy of the Power of Attorney) : OR

Being a person entitled to exercise the rights granted to the interment right holder upon the interment right holder's death, and being the **highest ranking person** of entitlement in relation to the deceased interment right holder, and having provided proof of my identity (Council has the right to determine the criteria to determine the relationship and entitlement of any person claiming a substituted right)

**do hereby request the interment right to be transferred to the new interment right holder as detailed below.**

I, the CURRENT INTERMENT RIGHT HOLDER/S or AUTHORISED PERSON, understand that the said interment right (*Interment Right Number:* \_\_\_\_\_) is unencumbered and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1936*.

Signed:

\_\_\_\_\_

Interment right holder  
of authorised person

Signed:

\_\_\_\_\_

Interment right holder  
2

**This section must be signed in front of a Justice of the Peace or Commissioner of Affidavits.**

Declare and subscribed at \_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_ Year \_\_\_\_\_

Before me (Full Name) \_\_\_\_\_

A Justice of the Peace or (Si of Commissioner for Affidavits

\_\_\_\_\_

**NEW INTERMENT RIGHT HOLDER (1 ONLY – PLEASE INSERT FULL DETAILS)**

Title:  Dr  Mr  Ms  Mrs  Miss

Full Name: \_\_\_\_\_

of: \_\_\_\_\_

Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Tel (W) \_\_\_\_\_ Tel (H) \_\_\_\_\_

Mobile \_\_\_\_\_

Email: \_\_\_\_\_

**hereby accept the transfer of the above interment right to my name.**



**NEW INTERMENT RIGHT HOLDER TO SIGN – not in front of JP**

I \_\_\_\_\_  
(Full name of new interment right holder)

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

## Burial Application

## Attachment 3

### Burial Authority

This form must be completed by the interment right holder or a person authorised to exercise the interment right in accordance with Section 35 of the *Burial and Cremation Act 2013* (see overleaf).

### DECEASED DETAILS

Title:  Dr  Mr  Ms  Mrs  Miss Gender:  M  F

First Name/s: \_\_\_\_\_ Last Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Date of Death: \_\_\_\_\_ Age: \_\_\_\_\_

Last Known Address: \_\_\_\_\_

Suburb: \_\_\_\_\_

State: \_\_\_\_\_ Postcode: \_\_\_\_\_

The deceased person died of natural causes  Yes  No

Authorisation for the Certificate of Identification was issued by -

\_\_\_\_\_

### INTERMENT LOCATION – please select ONE ONLY

A Council to allocate new interment right

B Existing location at \_\_\_\_\_ Cemetery

Name of right holders/s \_\_\_\_\_ Right Number: \_\_\_\_\_

Plot Details: \_\_\_\_\_ Expiry Date: \_\_\_\_\_

Current Address: \_\_\_\_\_

Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

Double Depth Interment Right? :  Yes  No

Previous Interment?:  Yes  No

Name of Previous Interment \_\_\_\_\_

**INSTRUCTION FOR INTERMENT – please enter details and indicate as applicable**

Coffin Size (in millimetres) \_\_\_\_\_  
Length x Width

Name of Funeral Company: \_\_\_\_\_

Arranger Name (please print) \_\_\_\_\_ Arranger Signature: \_\_\_\_\_

**AUTHORISED PERSON DETAILS**

Title:  Dr  Mr  Ms  Mrs  Miss Gender:  M  F Date of Birth: \_\_\_\_\_

First Name/s: \_\_\_\_\_ Last Name: \_\_\_\_\_

Address: \_\_\_\_\_

Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

Mobile \_\_\_\_\_ Tel (H) \_\_\_\_\_ Tel (W) \_\_\_\_\_

Relationship to Deceased: \_\_\_\_\_ Email: \_\_\_\_\_

**I acknowledge that I have read and understand my rights and responsibilities and declare that I am the interment right holder or a person authorised to exercise the interment right in accordance with the conditions listed below.**

**Authorised Person’s Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**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):

- |                                                                                                                                        | Attached                 |
|----------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| a certificate of identification for the body; <b>and</b>                                                                               | <input type="checkbox"/> |
| a partial certificate of cause of death; or                                                                                            | <input type="checkbox"/> |
| a disposal authorisation; or                                                                                                           | <input type="checkbox"/> |
| an authorisation to dispose of human remains granted<br>by the Minister or the Registrar under section 12 of <a href="#">the Act</a> . | <input type="checkbox"/> |

In addition Regulation 17 requires an identification plate to be attached to a coffin, (or receptacle in the case of cremations) or placed on top of the remains if interred without a coffin.

## **Your rights and responsibilities:**

### **New interment right**

- If a new interment right is being requested in order to facilitate this burial, the Authorised Person will become the interment right holder.
- In signing this Burial Authority, the Authorised Person acknowledges receipt of a Statement by the Funeral Director if a new interment is required.
- An interment rights will only be granted to one interment right holder.

### **Authority to exercise the interment right**

- Only the interment right holder may exercise an interment right, provided that if the interment right holder is deceased the interment right may be exercised by the person representative of the deceased interment right holder (by definition the Executor or Administrator of the Deceased Estate) in accordance with section 35 of the *Burial and Cremation Act 2013*.
- If there is no personal representative the interment right may be exercised in accordance with regulation 32 of the *Burial and Cremation Regulations 2014* as follows:
  - by the spouse of domestic partner of the deceased interment right holder; or
  - if there is no surviving spouse or domestic partner – by the eldest living relative of the deceased interment right holder in the following descending order of priority:
    - a child;
    - a grandchild or great-grandchild;
    - a brother or sister;
    - a parent;
    - a grandparent;
    - an aunt or uncle;
    - a nephew or niece;
    - a cousin;
    - any other blood relative

## Burial Application

## Attachment 4

### Request for permission to inter bodily remains on land other than a cemetery or natural burial ground.

Application can only be made for sites outside township boundaries.

#### DECEASED DETAILS

Title:  Dr  Mr  Ms  Mrs  Miss Gender:  M  F

First Name/s: \_\_\_\_\_ Last Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Date of Death: \_\_\_\_\_ Age: \_\_\_\_\_

Last Known Address: \_\_\_\_\_

Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

The deceased person died of natural causes  Yes  No

Authorisation for the Certificate of Identification was issued by \_\_\_\_\_

#### INTERMENT LOCATION AND DETAILS

Address of property: \_\_\_\_\_

Suburb/Township: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

General description of the area to be used \_\_\_\_\_

\_\_\_\_\_

Coordinates of the location \_\_\_\_\_

Intended interment depth \_\_\_\_\_

(Interment must be of at least 1 metre) at a depth

**Please attach a map showing the intended location of the grave or natural burial site. Identify any features and estimate the distance to surrounding structures. NB The site must be at least 20 metres away from any building, structure or water well.**

Attached  Yes  No

**LAND OWNER DETAILS**

Title:  Dr  Mr  Ms  Mrs  Miss

First Name/s: \_\_\_\_\_ Last Name: \_\_\_\_\_

Address: \_\_\_\_\_

Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

Tel (W) \_\_\_\_\_ Tel (H) \_\_\_\_\_ Mobile \_\_\_\_\_

Relationship to Deceased (if any): \_\_\_\_\_ Email: \_\_\_\_\_

**NB Proof of permission of the land owner must be provided.**

Attached  Yes  No

**FUNERAL DIRECTOR DETAILS**

Name of Funeral Company: \_\_\_\_\_

Arranger Name (please print) \_\_\_\_\_ Arranger Signature: \_\_\_\_\_

**AUTHORISED PERSON DETAILS**

Title:  Dr  Mr  Ms  Mrs  Miss Gender:  M  F Date of Birth: \_\_\_\_

First Name/s: \_\_\_\_\_ Last Name: \_\_\_\_\_

Address: \_\_\_\_\_

Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

Tel (W) \_\_\_\_\_ Tel (H) \_\_\_\_\_ Mobile \_\_\_\_\_

Relationship to Deceased: \_\_\_\_\_ Email: \_\_\_\_\_

**I acknowledge that I am a person authorised to exercise the interment.**

**Authorised Person's Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Documentation

All applications 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):

Attached

- 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](#).

In addition Regulation 17 requires an identification plate to be attached to a coffin, (or receptacle in the case of cremations) or placed on top of the remains if interred without a coffin.