

 <p>Mackay REGIONAL COUNCIL</p>	COUNCIL POLICY	
	Cemeteries	
	POLICY NO	067
	DEPARTMENT	Development Services
	PROGRAM	Parks, Environment and Sustainability
ENDORSED BY COUNCIL	25 October 2017, Folio 47801	

1.0 Scope

This policy applies to all cemeteries administered, operated and maintained by Mackay Regional Council (MRC). This policy all applies to applications for burial of human remains on private property.

2.0 Purpose

The purpose of this policy is to provide guidelines for MRC staff and users of MRC Cemeteries and the parameters which would be considered for approval for burial of human remains on private property.

3.0 Reference

- *Local Government Act 2009*
- *Local Government (Cemetery) Regulations 2010*
- *Local Law and Subordinate Local Law 4 - (Local Government Controlled Areas, Facilities and Roads) 2011*
- *Subordinate Local Law No 1.9 (Operation of Cemeteries)*
- *Subordinate Local Law No 1.13 (Undertaking Regulated Activities Regarding Human Remains) 2011*
- *Public Health Act 2005*
- *Public Health Regulation 2005*
- *Workplace Health and Safety Act 2011*
- *Workplace Health and Safety Regulations 2011*
- *Births, Deaths and Marriages Registration Act 2003*
- *Births, Deaths and Marriages Registration Regulation 2003*
- *Heritage Act 1992*
- *Qld Heritage Act 1992*
- *Qld Heritage Regulation 2003*
- *Public Records Act 2002*
- *Information Privacy Act 2009*
- *Burials Assistance Act 2012*
- *Land Act 2009 – Cemeteries Exhumation Policy PUX/901/227*
- Cemetery Application

Related Documents

- MRC Cemeteries Monument Handbook
- MRC Information Privacy Policy
- MRC Right to Information Policy
- MRC Records Management Policy

4.0 Definitions

To assist in interpretation the following definitions shall apply:

Authorised Person means person with the delegated authority within MRC.

Appropriate Fee means a fee according to MRC's Schedule of Fees and Charges.

Approved form means all forms which is required to undertake a service within MRC Controlled Cemeteries.

Burial mean the act of burying the remains of a deceased person.

Burial Place shall mean a grave site, vault site, memorial site or other place for the disposition or commemoration of the remains of the deceased, whether cremated or not.

Burial Site/Plot shall mean a grave site, vault site, memorial site or other place for the disposition or commemoration of the remains of the deceased, whether cremated or not.

Burial Rights means exclusive rights to a burial site granted by MRC to a person (there is no entitlement to any "real estate" or property as such).

Burial Right Holder means the person who has been issued with the burial rights, whose name and details appear upon the approved form at the time of application from the Funeral Director to conduct a service.

Cemetery or cemeteries means an area containing one or more burial places and that is administered or controlled by MRC.

Council shall mean the Mayor and Councillors of Mackay Regional Council.

Exceptional Circumstances shall mean – death is imminent

Funeral Director means an individual, or business carrying out a funeral service

Grave means a burial place of a deceased person remains

Memorial Garden means a place to remember a deceased person and where ashes may or may not be interred.

Monument means any structure, plaque, headstone, masonry, metal work, casting or item placed over, in or around a burial plot/site/niche

Monument mason means a qualified tradesman mason or person possessing the skills to carry out monument masonry work

MRC shall mean Mackay Regional Council.

Niche/s refers to the hollow space in a Columbarium Wall to place cremated remains.

Owner means person who the burial rights has been issued to.

Operating Entities' means former MRCs prior to amalgamation of MRC

Person means who has been issued the burial rights to a plot/niche/site.

Private Property means an area not a public place and not owned by MRC.

Reservation means to pre-purchase a burial right for a burial site/plot/niche

Register means MRC's formal repository of data containing all the required details of a deceased person

Scattering refers to respectfully dispersing the cremated remains of a deceased person

Site means a site at the MRC's Garden of Memories

5.0 Background

The purpose of this policy to ensure that all cemeteries within the MRC area operate consistently within the same framework and according to the same regulations, and offer fair and equitable services.

6.0 Management of Cemeteries

6.1 Operations within MRC Cemeteries

6.1.1 Days and Hours of Operations

MRC operates cemetery services during the hours of 7.30am to 4.00pm on all normal work days only.

No Burials shall be allowed to take place at any other time unless in cases of great urgency (such as those involving a health risk, an extraordinarily long weekend or circumstances surrounding the death that have a local, state or national significance).

Such a request is to be submitted on the approved form and will be reviewed and considered for approval by the authorised person. MRC's fees and charges will also apply in such instances.

6.1.2 Work Undertaken within MRC Cemeteries

MRC does not permit any person to undertake any activity within a MRC controlled cemetery unless the activity has been approved by MRC

6.1.3 Preparation of Graves

MRC cemetery staff only shall be allowed to prepare graves in any MRC controlled cemetery.

6.2 Register of Burial Places

6.2.1 A register of burial, ashes placement or scattering of ashes will be kept in respect of all burial places.

6.2.2 A register of reservation plots/sites/niches which will include the number of the plot, name and address of the deed holder must be kept in respect of each reservation.

6.2.3 Each register, which may be in written, printed or electronic form, must include the name of deceased, date of death, date of interment, age, name of Rights of Burial holder, name of Funeral Director and location of interment site of every person whose remains are interred in the cemetery.

6.2.4 The register may not include interments in historical and monumental cemeteries due to loss of records from previous operating entities.

6.2.5 Each register entry must contain the name and address of the owner of the burial right with the exception of the historical records where this information may not have been obtained or kept by previous operating entities.

6.2.6 Any burials undertaken in MRC Controlled Cemeteries shall be registered by MRC with Department of Justice, Births, Deaths and Marriages Section through their approved software system.

6.3 Burials not within a Local Government Cemetery

6.3.1 MRC shall consider an interment of a deceased person on private property. Application must be made on the approved form and will only be approved by the authorised officer within MRC.

6.3.2 The interment cannot take place until such approval is granted.

6.4 Burial Rights

6.4.1 Burial Rights may not be sold.

6.4.2 A burial right on a vacant or reserved plot/s or vacant or reserved niche/s, may be surrendered or sold back to MRC.

The ability to transfer Burial Rights may only be applied to vacant reserve plots or niches.

For those purchased more than 10 years ago – 70% of the original purchase price will be refunded.

For those purchased less than 10 years ago – 80% of the original purchase price will be refunded.

6.5 Burial Right Holder

- 6.5.1 A 'Burial Rights Holder' is the person who has been issued with the burial rights, whose name and details appear upon the approved form at the time of application from the Funeral Director to conduct a service or at the time of application for pre-purchase of a plot, niche or site.
- 6.5.2 There can be up to two Burial Rights Holder per plot/niche/site
- 6.5.3 The purchaser of the plot/niche/site is the person who signs the initial approved form.
- 6.5.4 The Burial Rights Holder has the right to be buried in that grave and the right to authorise the burial of others in that grave (up to the permitted number as determined by MRC).
- 6.5.5 All interments and modifications where the next of kin is not the Burial Rights Holder of the plot/niche/site, permission must be obtained in writing (by way of approved form) from the Burial Rights Holder.
- 6.5.6 On the death of the Burial Rights Holder, the Burial Rights follows the lines of succession of the holder. However, where such rights may be questioned by families, MRC at its' absolute discretion, will abide by the *Australian Federal Court Case 'Smith vs Tamworth City Council 1997'*.
- 6.5.7 The Burial Rights Holder must comply with all rules and regulations which apply to the operation of MRC's cemeteries.

Note: MRC acts in good faith when it relies on the advice provided by the Burial Rights Holder, and does not accept any responsibility for allowing a service that might be subject of a later dispute between family members.

6.6 Reservation of Plot, Niche or Site

- 6.6.1 Reservations of vacant plots will not be considered at any MRC cemeteries, in most instances.

- 6.6.2 In the case of exceptional circumstances, MRC will consider an application from either the Funeral Director or a family member (usually next of kin) on the approved form.
If approval is granted in such instance, payment of the plot is required immediately.
- 6.6.3 Reservation of vacant niche or site will be considered at any MRC cemeteries on receipt of the approved form and payment of such as per MRC's fees and charges.
- 6.6.4 Where reservation of a vacant plot/s is for the sole purpose of constructing a vault or mausoleums, MRC requires construction to be completed within two months from the date of issue of the Rights of Burial.
- 6.6.5 All burial plot/niche/site are allocated by MRC cemetery staff.
- 6.6.6 Reservation of a plot will also be considered at the time of a burial of deceased person, where the relatives of the deceased are provided the opportunity to 'reserve' an adjoining grave, however is limited to one (1) double plot.

6.7 Interments – Burial and Ashes

- 6.7.1 No burial or ashes, under any circumstances, shall be permitted in a MRC-controlled cemetery until an application on the approved form has been received and approved by MRC either in writing or verbally.
- 6.7.2 Funeral Directors and/or the applicant are to ensure that permission to inter a deceased person or their ashes in an existing plot; niche or site is the Burial Rights Holder or has obtained written permission from the Burial Rights Holder. The Funeral Director, not the applicant, will be invoiced for the entire cost of full body interments.
- 6.7.3 All burial plot/niche/site are allocated by MRC cemetery staff.
- 6.7.4 Specific cultural/religious requirements are to be advised at the time of application on the approved form. Council will endeavour to grant the requirement of each request based on certain criteria; however the final decision shall be made by the authorised person.
- Muslim cultural burials may only be conducted at the Sarina cemetery in the area designated for this purpose as this site due to its location, best meets the needs of our Muslim community.
- 6.7.5 Animal burials are prohibited in all MRC cemeteries.
- 6.7.6 Coffin and Ashes Burial
- No more than two (2) coffin interments shall be buried in the same singular burial plot. No more than eight (8) ashes burials shall be buried in the same burial plot.

No coffin shall be buried so that the lid is less than 900 millimetres below the surface.

6.7.7 Grave Sizes

Grave sizes shall be as follows, in line with *Local Government (Cemetery) Regulations 2010*:

- Single burial plot 2.4m x 1.2m (2 interments only)
- Double burial plot 2.4m x 2.4m (4 interments only)
- Triple burial plot 2.4m x 3.6m (6 interment only)

6.7.8 Depth of Grave

All graves within a cemetery for persons eight (8) years of age and upwards shall be sunk at least two (2) metres and children under eight (8) years not less than 1.4 metres.

6.7.9 Scattering of ashes are permitted in all MRC cemeteries at no charge. If a person wishes this to be recorded in MRC Cemetery Record, the appropriate approved form is required and appropriate fee will apply.

6.7.10 Burial within Vaults and Mausoleums

Any burials within a vault or mausoleums, the funeral service must be held in the morning. All family and mourners are required to depart from the cemetery by 1.00 p.m. This allows adequate time for the proper sealing of the vault or mausoleum.

6.7.11 Number of Burials within Vaults and Mausoleums

The number of burials permitted within a vault or mausoleum shall be:-

- (a) Single (2.4m x 1.2m) Vault:- Three (3) persons.
- (b) Double (2.4m x 2.4m) Vault:- Six (6) persons.

6.7.12 Removal of existing ashes within any niche or site at MRC cemeteries, notification is required.

6.8 Headstones, Monuments, Plaques, Vaults and Mausoleums at Cemeteries

6.8.1 A person shall not, in any MRC-controlled cemetery construct or install any monument, memorial, foundation, vault, table, headstone, gravestone, kerbing, railing or other structure, and/or make any inscription or carry out any adornment unless;

1. Application has been made on the approved form along with payment of appropriate fee prior to any construction or installation of such;

2. Written approval is obtained by the Burial Rights Holder;
 3. It is in accordance with the standards required within that cemetery and;
 4. Approval has been given in writing by MRC's cemetery staff.
- 6.8.2 Headstones, monuments, plaques, vaults and mausoleums are the responsibility of the burial rights holder.
- 6.8.3 MRC will not be liable for the repair, maintenance, upkeep or preservation of any plaque or item placed on the grave, site or niche. The responsibility for the costs of repairs and maintenance to plaques, monumental and historical graves, site or niche and headstones, lies with the Burial Rights Holder.
- 6.8.4 Qualified Stone-masons and/or qualified tradespersons are to ensure the person making application to install any headstone; monument, plaque; vault or mausoleum is either the Burial Rights Holder or has obtained written permission from the Burial Rights Holder.
- 6.8.5 Monuments, gravestones, kerbing, railing and other structures are not permitted within lawn sections of MRC controlled cemeteries.
- 6.8.6 No 'homemade' vaults or mausoleums will be permitted.
- 6.8.7 MRC shall allow vaults or mausoleums to be constructed from waterproof materials only by approved qualified persons i.e. stonemasons.
- 6.8.8 Vaults and mausoleums are permitted only at Mackay City, Walkerston, Sarina, Marian and Mirani Cemeteries.
- 6.8.9 MRC cemetery staff may, without notice, remove and dispose of any headstone/monument etc that does not comply with MRC's requirements.
- 6.8.10 MRC shall not be liable nor recompense anyone for damage to headstone/monuments etc.
- 6.9 Vases, Flowers, Memorabilia and Ornaments on Graves
- 6.9.1 Vases, flowers, memorabilia and ornaments on burial plot/niche/site must comply with MRC requirements as determined by MRC's Cemetery Supervisor for each MRC-controlled cemetery.
- 6.9.2 MRC cemetery staff may, without notice, remove and dispose of any object that does not comply with MRC's requirements.
- 6.9.3 MRC shall not be liable nor recompense anyone for damage to vases, flowers, memorabilia or ornaments on a grave, site or niche.

6.9.4 The installation of porcelain photos, ceramic tiles, raised attachments to plaques and any other item apart from a plaque of bronze, granite or other approved material is not permitted in the Lawn cemetery. People that install these items do so entirely at their own risk and cost.

6.10 Planting of Trees and Shrubs

6.10.1 A person shall not, plant any tree, plant, shrub or material in any MRC controlled cemetery without the permission of MRC cemetery staff.

6.11 Exhumation

6.11.1 MRC will not allow exhumation of human remains that have been interred for a period of greater than six (6) days and less than six (6) months, unless extenuating circumstances exist to the satisfaction of the authorised person.

6.11.2 All arrangements for exhumation are to be made with a Funeral Director.

6.11.3 Permission for exhumation can only be granted to the next of kin of the deceased person and must be made by way of a written application by a Funeral Director to MRC.

6.11.4 All requirements of the MRC must be met prior to the exhumation being approved by the authorised person.

6.11.5 In the case where a notice has been served on MRC by the State Coroner for an exhumation, all arrangements are undertaken by that Department.

6.11.6 MRC will not compensate or reimburse the Burial Right Holder for such plot, nor will MRC find a replacement plot.

6.11.7 The Burial Right Holder will be responsible for the removal of any headstone, plaque or memorials of plot, once the exhumation has been completed.

6.12 Ex and Current Returned Service Personnel of the Australian Defence Forces within MRC Controlled Cemeteries.

6.12.1 The Australian War Graves Commission and the Department of Veteran Affairs (Federal Government) are responsible for all enquiries relating to reimbursement of funeral costs etc, erecting of an approved war grave monument and any other matters pertaining to Ex and Current Returned Service Personnel of the Australian Defence Forces.

6.12.2 MRC is only responsible to record the death with the Department of Justice, Births Deaths and Marriages, once application on the approved form has been received by the Funeral Director.

- 6.12.3 If there are any further interments in a recognised Australian War Grave, MRC is to notify that Department of the details. No approval is required.
- 6.12.4 The Australian War Graves Commission is responsible for the maintenance and up-keep of any headstones/monuments on recognised graves.
- 6.12.5 Any work to be done on a recognised war grave must have the approval of the Australia War Grave Commission.

6.13 Maintenance of Monuments – monuments on unpurchased graves

6.13.1 Pre 1994

Any person that has been maintaining a monument that was erected on an unpurchased gravesite prior to 1994, shall be allowed to carry out repairs or upgrading without the need to purchase the grave site.

6.13.2 Post 1994

Where a vacant/reserve plot is determined not to be purchased by a family and no deed has been issued, a land purchase fee will be required at the time of a burial in that plot and prior to the construction or maintenance of any monument/headstone on that plot.

6.14 Application for Burial of Human Remains on Private Property

6.14.1 Application

The applicant is required to demonstrate the connection to the private land upon which the application for private burial is subject.

A written application addressed to the Chief Executive Officer must be made meeting the following conditions before approval can be considered:

- The details of the Deceased. A Cemetery Application must be registered with MRC.
- Why the applicant wishes the burial to take place on private property.
- The owner of the private property must provide their written consent.
- The owner of the private property must state how long they have owned the property;
- A map with the exact location of the grave site including GPS coordinates are required by MRC in order to meet state legislative requirements.
- The exact details of the grave site (i.e. depth and size of the grave).

- A minimum depth of 900 mm of soil is to cover the top of the coffin.

Criteria for a private burial site (defined as ‘cemetery’ under the planning scheme) where planning scheme assessment is not triggered and this Policy applies:

- A private burial site has a maximum of four (4) grave sites; and
- A grave site/s must have the following minimum property boundary setbacks:
 - side and rear boundaries – 10m;
 - Arterial road (front boundary) – 20m;
 - Sub-arterial, collector and access roads (front boundary) – 10m; and
- A private burial site is only located on land zoned Rural.

Burial sites not complying with the above criteria will trigger assessment (material change of use) against the planning scheme.

6.14.2 Approval

The Chief Executive Officer shall be authorised to approve or reject applications. Insufficient reasons or evidence of timeframe of ownership of private property shall be suitable avenues to refuse an application.

7.0 Review of Policy

This policy will be reviewed when any of the following occur:

1. The related documents are amended or replaced.
2. Other circumstances as determined from time to time by a resolution of Council

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three years.

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
2	Review of Policy	Amendments	Council	28.09.16
3	Review of Policy	Amendments	Council	25.10.17