



Item No: 16.1.3  
File No: 2.67.2.3  
Date: 21 November 2016  
Attachment: A

**Meeting:** Council  
**Title:** Request to Bury Ashes  
**Responsible Manager:** Chief Executive Officer, Kiki Magro  
**Author:** Protocol, Compliance & Governance Officer, Deb Bria  
**Key Focus Area** Nil  
**Type of Report:** **Decision Required**

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Pursuant to Section 83(5) of the *Local Government Act 1999*, the Chief Executive Officer indicates that the matter contained in this report may, if the Council so determines, be considered in confidence pursuant to Section 90(2) of the *Local Government Act 1999* on the basis that the information contained in the attached report is information of the nature specified in subsections 90(3)(a) of the Act being:

*information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead)*

#### **Recommendation (Public)**

##### Pursuant to s90(3)(a)

Pursuant to section 90(2) of the *Local Government Act 1999* the Council orders that all members of the public, except Council's Chief Executive Officer, Kiki Magro, General Manager, Heather Barclay & Protocol Compliance & Governance Officer, Deb Bria be excluded from attendance at the meeting for Agenda Item entitled Request to Bury Ashes

The Council is satisfied that, pursuant to section 90(3)(a) of the Act, the information to be received, discussed or considered in relation to this Agenda Item is information the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead), being Mr Graham Mussared.

The Council is satisfied that the principle that the meeting be conducted in a place open to the public has been outweighed in the circumstances because disclosure of details may prematurely be disclosed before the details have been discussed with Mrs Mussared.

## **Recommendation (Confidential)**

### **Recommendation**

1. That Council:

approves the request from Mrs Mussared to bury her husband's ashes under a tree in the Linear Park is approved

OR

refuses the request from Mrs Mussared to bury her husband's ashes under a tree in the Linear Park

2. That Administration write to inform Mrs Mussared of Council's decision.

## **Recommendation (Confidential)**

### Pursuant to s.91(7)

That having considered Agenda Item [...] Request to Bury Ashes in confidence under section 90(2) and (3)(a) of the *Local Government Act 1999*, the Council, pursuant to section 91(7) of that Act orders that the report, attachments and minutes relevant to this Agenda Item be retained in confidence for a period of 12 months excepting that Council authorises the release of the minutes to Mrs Mussared to enable enactment of the resolution and that pursuant to Section 91(9)(c) of the *Local Government Act 1999* the Council delegates to the Chief Executive Officer the review and power to revoke this Order

and

That Council resolves to end its confidential deliberations pursuant to Section 90(2) of the *Local Government Act 1999* Council and re-admit the public.

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## **Summary**

A request has been received to bury ashes under a tree along the Linear Park within the Council area Pursuant to Council's Local Government Land By-Law 2015, the request is presented to Council for consideration and determination.

## **Background**

Correspondence has been received from Mrs Mussared seeking approval to place the ashes of her late husband, Dr Graham Mussared under a tree along the Linear Park within the Council area. (Attachment A).

Mrs Mussared's request states that Mr Mussared lived in Vale Park for over 40 years. In reviewing Council records, Administration can confirm that Mr Mussared purchased a property in Vale Park in 1972 additional to this in 1974 also purchased and operated a Medical Clinic on Northcote Tce Gilberton prior to relocating to Walkerville Tce.

## **Discussion/Issues for Consideration**

Council's Local Government Land By Law 2015, adopted by Council at its 20 July 2015 Ordinary meeting, in part stipulates the following:

*Part 2 Management of Local Government Land*

#### *4. Activities requiring permission*

*A person must not on any local government land, without the permission of Council*

#### *4.19 Funerals and scattering ashes*

*Conduct or participate in a funeral ceremony or scatter ashes on land to which the Council has resolved this sub-paragraph will apply.*

To date Council has not had cause to determine criteria in regards to clause 4.19.

In light of the above, the request is provided to Council for consideration.

Statistical information to date, indicates that 85% of the population are now being cremated and should this request be approved it may set a precedent for future applications, recognising that the Linear Park is a public space, well utilised for social gatherings.

It is also important to note that the Linear Park is under the care and control of Council with land ownership being with the State Government. However, Councils By-Law continues to apply.

### **Options for Consideration**

#### Option 1

The request from Mrs Mussared is approved and Administration writes to inform Mrs Mussared of the outcome.

#### Option 2

The request is refused and Administration writes to inform Mrs Mussared of the outcome.

### **Analysis of Options**

#### Option 1

Is aligned with the request.

#### Option 2

Is not aligned with the request.

### **Financial Implications**

There are no financial implications with this request.

### **Community Implications**

The Linear Park is utilised by the wider community and the request may not be suitable for the location.

### **Governance Implications**

Presenting the request for Council's consideration is in alignment with Council's Local Government Land By-Law.

### **Preferred Option & Reasoning**

Administration will be guided by Council.

## Attachment

Attachment A	Letter of request
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19 October 2016

2.67.2.3

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Dear Ray,

I am writing to you in regard to my late husband, Dr Graham Mussard. He died in June last year, and I have yet to bury his ashes. For over 40 years he lived in Vale Park, near Linear Park, and I was wondering whether we could place his ashes beneath an existing, or a new tree, somewhere in Linear Park, in the council area of Walkerville.

If Council approved, I would be more than happy to purchase a tree.

Thank you for your consideration.

With Kind Regards,

Rosemary  
Mussard