



## Cemetery and Memorials Policy

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Applicable Legislation	<i>Burial and Cremation Act 2013</i> <i>Burial &amp; Cremation Regulations 2014</i> <i>Local Government Act 1999</i> <i>Planning, Development and Infrastructure Act 2016</i> <i>Development Act 1993</i> <i>Heritage Places Act 1993</i> <i>Unclaimed Goods Act 1987</i>

### 1. Preamble

The Wesleyan Church opened the Walkerville cemetery in 1849. The cemetery has historical significance as the resting place of many of the district's pioneers and respected citizens, and is recognised by McDougall & Vines (Conservation and Heritage Consultants) as having "high aesthetic and memorial value as a representative example of an early village cemetery of the 1840s and 1850s". Council is therefore committed to maintaining the historic nature and appeal of the Wesleyan Cemetery to ensure its longevity.

### 2. Purpose

As Council is committed to ensuring that the Wesleyan Cemetery is efficiently and effectively managed in a respectful manner, while also meeting the needs and expectations of the community, this policy sets out terms of reference and outlines Council's objectives for the operational management of Wesleyan Cemetery as they relate to both the interests of the Town of Walkerville and provisions pursuant to the *Burial and Cremation Act 2013* (Act) and the *Burial & Cremation Regulations 2014* (Regulations).

### 3. Definitions

Words and phrases used in this policy have the same meaning as they do in the Act and the Regulations, however, for the purpose of further clarification:

3.1 **Allotted site** means a specific plot or site within the cemetery that has been allocated to the person holding the interment right for the purpose of interring cremated remains.

- 3.2 **Authorised Officer** means a person authorised by Council to ensure the administration and enforcement of s.59 of the Act.
- 3.3 **Council** carries the same meaning as Council in the *Local Government Act 1999*, and for the purpose of this policy also means to the Corporation of the Town of Walkerville.
- 3.4 **Cremated Remains** carries the same meaning a Cremated Remains in the *Burial and Cremation Act 2013*, but for the purpose of clarity means the whole or any part of a deceased human body that has been reduced by the process of cremation.

#### 4. Principles

- 4.1 All existing interment reservations in place at the time of this Policy first being adopted will be honored and any renewal of interment rights will have regard to the basis on which the original burial sites were allocated.
- 4.2 All fees and charges will be in accordance with the published Council Fees and Charges Schedule.
- 4.3 While the Wesleyan Cemetery will not be segregated into areas based on religion or ethnicity, for the purpose of ss.22 & 23 of the Act, Council will have regard to the customs and specific needs of all those who apply for an interment permit, and will seek to accommodate any such customs and/or needs where reasonably in line with this policy's objectives.
- 4.4 In considering applications and/or renewals of interment rights, Council will have regard to:
- the Cemetery's local historical significance as a burial place for many of the township's pioneers;
  - the need for each cemetery site to be managed and maintained to a standard consistent with the significance and importance of a family memorial place;
  - the availability of remaining sites and their allocation to:
    - 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.

#### 5. Issue of Interment Rights

- 5.1 Pursuant to the provision of the *Burial and Cremation Act 2013*, interment rights may only be granted for interment of cremated remains.
- 5.2 Interment rights will only be granted by Council (whether for one (1) or more sites within a cemetery) subject to the completion of an application form and payment of relevant fees.
- 5.3 An interment right gives the holder the exclusive right to inter cremated remains in the allotted site only.
- 5.4 Council will not grant interment rights in perpetuity, but will grant rights up to and including an initial period of 50 years, with a subsequent term made available upon application (pursuant to section 5 of this policy).

5.5 Interment rights may be issued for the following applications:

**5.5.1 Mausoleum**

Council may approve an application for the construction of an above ground structure when the structure's design and specification:

- are consistent with Council's objectives for the cemetery;
- reflect the historic nature and relevance of the cemetery; and
- all relevant approvals and permits have been obtained.

**5.5.2 Vaults**

Similarly, Council may approve an application for the construction of a water tight vault (distinct from a mausoleum) of either single or dual capacity depth, subject to:

- appropriate soil and ground water conditions;
- the design and specifications being consistent with Council's objectives, the historic nature and relevance for the cemetery;
- Council's building supervisor or an approved contractor overseeing the construction; and
- all relevant approvals and permits have been obtained.

**5.5.3 Memorial or niche walls**

Council may approve interment rights for cremated remains contained within an urn to be positioned in a memorial or niche wall and/or the erection of a plaque, pursuant to the terms of this policy.

**5.5.4 Scattering of cremated remains**

Council approval is not required for the scattering of cremated remains on private or public land, however Council requests that sensitivity and consideration is shown to the community, residents and visitors in the immediate area when undertaking this process.

The scattering of cremated remains within Wesleyan Cemetery grounds is not permitted.

**6. Renewal or Transfer of Interment Rights**

**6.1 Renewal**

Pursuant to s.32 of the Act, at the end of the interment right period Council may, upon application by the interment right holder or an authorised person, renew or extend an interment right upon completion of the relevant application form and payment of associated fee(s).

**6.2 Transfer or surrender of interment rights**

A person/family holding an interment right for an unused site or memorial wall, may seek the approval of Council to surrender (s.34 of the Act) or transfer (s.33 of the Act) the right to another person/family. Council will not unreasonably withhold its approval, however, all costs associated with the surrender or formal transfer and recording will be borne by the holder of the interment right (in accordance with Schedule 1 of the Regulations).

### 6.3 Lost documentation

Council may issue a copy/replacement of an letter confirming 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.

## 7. **Reuse of Interment Sites**

In the event of a right of interment not being renewed by the holder, Council will take reasonable steps to advise the holder of the impending expiration at least twelve (12) 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 will be deemed to have expired and Council has the right to reuse the site in accordance with the legislation;
- (for the interment of cremated remains) the holder of the interment right may:
  - instruct the Council to move the interment remains to an unmarked location in the cemetery; or
  - collect the remains for private disposal.

## 8. **Disposal of Cremated Remains**

### 8.1 Documentation

Applications for a right to inter cremated remains in a council cemetery must be accompanied by appropriate documentation (in accordance with s.12 of the Act and s.9 of the Regulations). Pursuant to the requirements of the Act, Council cannot allow the disposal of cremated remains without sighting 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 cremated remains granted by the Minister or the Registrar (under s.12 of the Act).

8.2 All interments in Council owned/operated cemeteries are to be approved by Council using the appropriate 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.

### 8.3 Register/Records & Plans

Pursuant to s.53 of the Act, 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 will be made available for inspection by members of the general public during normal Council office hours.

### 8.4 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 cremated remains in a cemetery;
- reopening an interment site containing bodily remains;

- removing or relocating cremated remains.

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

## **9 Memorials within Cemeteries**

### **9.1 Headstones or Plaques**

All headstones, monuments, structures and plaques, require Council approval prior to erection within a cemetery. The maximum headstone height permitted will be no greater than 1m high. Applications for headstones exceeding this height will be assessed on a case by case basis and the decision will be at the discretion of the CEO or delegated Officer. Only Council approved contractors may manufacture headstones within the cemeteries. Unapproved headstones, monuments, structures and plaques may be removed by the Council.

### **9.2 Installation of headstones or plaques**

Only Council staff or a contractor approved by Council shall install a headstone or plaque.

### **9.3 Removal of Top Stones**

Council will not remove top stones erected as part of a memorial for the interment of additional cremated remains. Removal arrangements must be made through a nominated stone mason, as approved by the Funeral Director carrying out the burial. Removal costs of top stones will be the responsibility of the Funeral Director.

### **9.4 Ornaments**

Flowers and wreaths may be placed on sites, but the placement of ornaments, trinkets or tributes on or adjacent to a site is not permitted. The Council has the right to remove any unattached ornament, trinket or tribute, broken masonry, decayed or broken wreath or dead flowers, cut down or remove any plant on any site within the cemetery grounds that is, in the opinion of Council's delegated Officer, unsightly, offensive or overgrown.

9.5 Where a removed item may, in the opinion of the Council, be of some value to the Interment Right Holder, it will be recorded within the cemetery register and placed in storage for a period of three (3) months from the date of removal. Council will (so far as the Interment Right Holder can be located by reasonable endeavours) notify the Interment Right Holder of the items removed from the cemetery. If contact is unable to be made between Council and the Interment Right Holder, after the period of three (3) months from the date of removal, items will be disposed of at Council's discretion.

### **9.6 Alcohol**

Alcoholic beverages and/or containers (whether in full or empty, or sealed or unsealed containers) are not permitted to be placed on sites within the cemetery grounds.

## 9.7 Plantings

No plantings on memorials or within the cemetery are permitted without the prior consent of Council.

## 9.8 Lighting

Solar powered lights or spikes on individual sites are prohibited.

## 9.9 Ownership and maintenance of memorials

The ownership of plaques, monuments and other approved structures remains the responsibility of the interment right holder. In accordance with s.41 of the Act, the Council may issue a notice on the owner of a memorial requiring repairs, removal or reinstatement of the memorial. While Council is not responsible for the upkeep, repair or maintenance of memorials, Council may upgrade, renew or maintain historical or locally significant memorials under the advice and direction of either the Wesleyan Cemetery Advisory Committee or Council's Heritage Advisor. Council reserves the right to remove any structure deemed to be unsightly and/or in poor condition. Any costs incurred by Council for the removal of the aforementioned are recoverable, and deemed to be borne by the owner.

## 9.10 Power to dispose of unclaimed memorials

Council may, after giving notice (in accordance with s.42 of the Act), remove and dispose of unclaimed memorials.

## **10 Community Memorial Sites in Public Open Spaces**

10.1 When requests for the placement of commemorative plaques, seats and memorials in public open space, Council will consider the balance between the desire to commemorate events or individuals and the ongoing enjoyment of natural, uncluttered open areas before any decision is made. Any existing plaque, seat or memorial cannot be taken as a precedent for future approvals.

10.2 All applications will be assessed by the Council on a case-by-case basis. While Council will not grant Memorial Plaques in perpetuity, Council will approve an initial ten (10) year term, with the option for the donor to renew. In instances, where the plaque is considered to be of long-term historical/cultural value, Council may choose to extend the renewal period indefinitely at no additional cost to the donor.

10.3 Applications for the installation of a memorial seat may be submitted to the Group Manager, Asset & Infrastructure in writing, detailing:

- the name of the person(s) to be commemorated;
- the proposed inscription / text to be used on the plaque;
- the preferred location of the seat; and
- a summary of the reasons for commemorating the individual (eg outlining their service to the community, achievements) and the contribution they have made to the Town of Walkerville.

10.4 No new memorial or plaque will be considered which commemorates a person, event or occasion that is already memorialised within the district, unless extenuating circumstances apply.

- 10.5 The design and material selected for the plaque is determined by Administration to ensure consistency and compliance with Council's branding style guide and suitability for the location.
- 10.6 Each plaque will feature the Council logo.
- 10.7 The size will be influenced by the location and size of the item that the plaque is affixed to. Council will attend to the installation of the plaque and maintain the plaque according to its ongoing maintenance program.
- 10.8 Personal items are not to be placed at or fixed to the memorial seat.
- 10.9 All care will be taken to maintain and care for the seats, however if the seats or plaques are vandalised or damaged, Council will not take responsibility for the damage. Council may repair or remove the seat if deemed unsafe or irreparable, but any cost associated in the repair or replacement will be the responsibility of the Applicant.
- 10.10 Any memorial plaque and/or memorial seat deemed by the Council to be at the end of its useful life will be removed.
- 10.11 Council reserves the right to remove the seat and/or plaque, if:
- the seating is situated in an area to be redeveloped; or
  - the site changes significantly in character and the item is not deemed suitable for the site.

## **11 Temporary Roadside Memorials**

- 11.1 While the Town of Walkerville does not endorse the installation of roadside memorials, it understands that these types of memorials are often erected on impulse. It is Council's responsibility to provide a safe and efficient road network for all road users, therefore, any temporary roadside memorial found will have a "notice for removal" placed at the site to inform the responsible person that it will be removed within 60 days from the date of the notice. If it has not been removed within the allocated 60 days, Council will remove the memorial and store for a further period of 30 days. If unclaimed, the items will be disposed of in accordance with the *Unclaimed Goods Act 1987*.
- 11.2 Roadside memorials placed in a location where there is risk to road safety will be immediately removed by Council. Roadside memorials may not be located on, near, attached to, interfere with or obscure:
- traffic islands, medians or roundabouts;
  - roadside infrastructure or traffic control devices;
  - design deflection zone of barrier;
  - traffic signals;
  - intersections (including T intersections);
  - curves;
  - urban or rural freeways (including freeway ramps);
  - edge of road seals;
  - road signs; and/or
  - the edge of shared paths.

## **12 Availability of Policy**

This Policy and the Register of Cemeteries will be available for inspection at the Council's offices during normal business hours and on Council's website [www.walkerville.sa.gov.au](http://www.walkerville.sa.gov.au) . Copies can also be provided to interested members of the community upon payment of a fee in accordance with Town of Walkerville Council's Fees and Charges Schedule.