

Operational policy

SLM/2013/433
Formerly PUX/901/227
Version 1.10
21 October 2021

Cemeteries Exhumation

Purpose

To provide advice on the exhumation of human remains from trust land for cemetery purposes.

Rationale

Exhumations are normally dealt with in terms of local laws under the *Local Government Act 2009*. Where the local government is the trustee of trust land for cemetery purposes and does not have a local law, Councils may approve exhumations under the Land Act (Ministerial) Delegation Local Government (No 1) 2013.

Policy

A request for approval to exhume a body from a cemetery will be considered provided the remains have been interred for a period of at least 12 months from the date of initial burial.

However, special consideration will be given to requests to exhume remains in the first 12 months of burial where:

- extenuating circumstances exist
- it is proposed to reinter the remains in a new burial plot and
- evidence is provided that there will be no health risk as certified by Queensland Health.

Approval for exhumation of remains for reinterment in a new burial plot will be considered upon lodgement of:

- written confirmation from a recognised Undertaker that they are prepared to carry out the exhumation
- the written consent to the proposed exhumation by the nearest living relative to the deceased
- a certified copy of the Death Certificate and
- details of the new burial place where reinterment is to take place.

Ministerial approval will not be given for exhumation of remains for subsequent cremation purposes prior to expiry of a 12 month period from date of initial burial.

Approval for authorising exhumation of remains for cremation purposes will be considered upon lodgement of:

- written confirmation from a recognised Undertaker that they are prepared to carry out the exhumation
- the written consent to the proposed exhumation by the nearest living relative to the deceased
- a certified copy of the Death Certificate

- a completed declaration in accordance with the provisions of the *Cremations Act 2003* and its Regulations and
- the written approval of Queensland Health if required.

Where the remains are being exhumed for cremation purposes, approval will be subject to compliance with all relevant State/Territory legislation and regulations.

Exhumation requests by the Coroner or for any scientific purposes will be referred to the Attorney-General.

Approvals will be subject to any requirements, by-laws and/or regulations of the local government.

Legislation

Section 83 of the *Land Act 1994* – Exhumations

Section 20 of the *Coroners Act 2003* - Exhuming or Recovering Cremated Remains

Section 83 of the *Coroners Act 2003* – Authority to Exhume

Local Government Act 2009

Schedule 1 of the *Local Government Regulation 2012*

Cremations Act 2003

Related documents

Operational Policy - Burials on lands administered under the *Land Act 1994* (SLM/2013/402 = PUX/901/653)

Human Rights

The department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. To the extent an act or decision under this document may engage human rights under the *Human Rights Act 2019*, regard will be had to that Act in undertaking the act or making the decision.

Approval

Position	Name	Effective Date
Executive Director, Operations Support	Mandy Downes	9 May 2018

Version history

Version	Date	Comments
1	24/12/1997	Endorsed
1.1	01/07/2005	Conversion project – New Word/XML template
1.2	01/11/2007	Minor amendment to include “as certified by Queensland Health”
1.3	02/02/2011	Minor updates to reflect departmental name change to DERM

1.4	01/11/2012	Minor updates to reflect departmental name change to DNRM
1.5	13/03/2013	Updated to change government logo
1.6	27/06/2013	Minor update to approval process
1.7	12/03/2014	Update to new DNRM template and minor amendment to refer to Ministerial delegations
1.8	20/06/2016	Minor amendment to review and insert text on new template
1.09	09/05/2018	Updated to new format and new name DNRME
1.10	21/10/2021	Updated to new template and new department name Department of Resources

Further information

- Contact your nearest business centre (https://www.resources.qld.gov.au/?contact=state_land), or
- Refer to <https://www.qld.gov.au/environment/land/state>, or
- Call 13 QGOV (13 74 68).

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