

Summary of Information Sheet

Draft Burial and Cremation Bill

Exclusive right of burial

Disclaimer

This information sheet is not legal advice and does not cover all of the requirements proposed under the draft Burial and Cremation Bill. It is intended only as a quick reference for some main provisions. The full Bill should be read for a complete picture.

Cemeteries where exclusive right of burial is allowed

The council managing a cemetery can decide whether it allows for exclusive rights of burial.

Cemeteries where there are exclusive rights of burial are:

- Alice Springs Garden Cemetery
- Alice Springs General Cemetery
- Coomalie Bush Cemetery
- Darwin General Cemetery
- Elliott Public Cemetery
- Katherine Public Cemetery
- Tennant Creek Public Cemetery
- Thorak Regional Cemetery.

Exclusive right of burial

An exclusive right of burial entitles an individual to bury human remains at a specific plot in a cemetery.

When the time comes for a burial in the plot there must still be an application for a burial permit. The council must allow the exercise of a right unless there is an appropriate reason not to.

Obligation to keep council updated with contact details

It is important that the holder of an exclusive right of burial updates the council about any change of contact details. This is so that the council can contact the holder to advise when the exclusive right of burial will expire and the council can offer a renewal of the exclusive right of burial.

Exclusive right of burial can only be granted to one individual

Only one person can hold an exclusive right of burial to a plot. The holder can, however, propose more than one burial in the plot.

One person can hold more than one exclusive right of burial. For example, an elderly parent may purchase three exclusive rights of burial so that parents and children in a family can all be buried close to each other.

Conditions on exclusive right of burial

The council may apply conditions when the exclusive right of burial is granted.

Exclusive right of burial not transferable

An exclusive right of burial cannot be transferred or sold. If the holder of an exclusive right of burial does not want it anymore, and the plot has not been used, they can surrender the right back to the council. The holder will have no further entitlements under the exclusive right of burial.

In such circumstances, the holder may be entitled to a refund of some of the fee paid for the exclusive right of burial. This will depend on the refund policy of the council at the time the exclusive right of burial was purchased.

Duration of exclusive right of burial

An exclusive right of burial may last for up to 50 years but it depends on the policy of the council when the right is granted.

Existing exclusive rights of burial which are in place at the commencement of the legislation will continue for 60 years. After 60 years, the rights may be renewed for a period determined by council.

Memorials

An exclusive right of burial entitles the holder to apply to erect a memorial at the grave site. Approval for the memorial will depend on council policy and conditions attached to the exclusive right of burial.

Renewal of exclusive right of burial

Council must take reasonable steps to notify the holder of an exclusive right of burial of the option to renew, at least 12 months before it is due to expire.

The notice must advise of the date that the right will expire, whether it can be renewed, the cost of renewal and how long it can be renewed for.

An application for the renewal of an exclusive right of burial must be in writing and accompanied by the renewal fee.