

**POLICY 3131****THE TRANSFER OF SALE OF A RIGHT OF BURIAL****1. Objective/Scope**

Oberon Council administers the Cemeteries Register and Register of Rights of Burials for the Oberon Cemetery; Black Springs Cemetery; Shooters Hill Cemetery; O'Connell Cemetery; Porters Retreat Cemetery; and Burruga Cemetery.

A Right of Burial is granted either when a reservation is made or when an interment occurs. The holder of the Right of Burial is the person who made the original reservation or the person identified as the holder on the Application for Burial Permit.

The following guidelines are determined and enforced by Oberon Council in relation to the transfer or sale of a Right of Burial.

2. Holder of the Right of Burial is deceased and has been interred elsewhere. The Right of Burial has been bequeathed.

Where the holder of a Right of Burial is deceased but they have been interred elsewhere (i.e. the reservation or Right of Burial has not been utilised) and they have specifically bequeathed the Right of Burial to another person that person or persons may make application to Oberon Council to request the Right of Burial register be amended.

If the Right of Burial has been specifically bequeathed the person/s to whom it has been devolved must make application to Oberon Council requesting the transfer of the Right of Burial into their name/s. Such a request must be accompanied by a certified copy of the Last Will and Testament of the original Right of Burial holder as well as proof of the identify of the applicant/s.

A person to whom a Right of Burial has devolved as a result of a bequest does not become the holder of the Right of Burial until the register is amended to indicate that fact.

A person to whom a Right of Burial has devolved as a result of bequest who wishes to sell the Right of Burial must in the first instance arrange the Right of Burial to be transferred to themselves.

Oberon Council may require any other documentation from the applicant/s in order to be satisfied of the validity of the transfer request.

**3. Holder of the Right of Burial is deceased and has been interred elsewhere
The Right of Burial has not been bequeathed**

Where the holder of a Right of Burial is deceased but they have been interred elsewhere (i.e. the reservation or Right of Burial has not been utilised) and they have not specifically bequeathed the Right of Burial to another person the Right of Burial is to be dealt with as if it were personal property forming part of the estate of the intestate.

Person/s to whom a Right of Burial devolves as a result of intestacy does not become the holder of the Right of Burial until the register is amended to indicate the fact.

Such a request must be accompanied by a certified copy of the Last Will and Testament of the original Right of Burial holder as well as proof of the identity of the applicant/s.

In the event that there are multiple beneficiaries not all of whom wish to become an owner of the Right of Burial, those not wanting the Right of Burial must provide a letter stating that they relinquish their rights.

In the event that a copy of the Last Will and Testament is not able to be obtained, a certified Death Certificate issued by the NSW Registry of Births, Deaths and Marriages which identifies the spouse and children will be required as well as a Statutory Declaration by the applicant explaining the circumstances as well as proof of the identity of the applicant/s.

A person to whom a Right of Burial has devolved as a result of intestacy who wishes to sell the Right of Burial must in the first instance arrange the Right of Burial to be transferred to themselves.

Oberon Council may require any other documentation from the applicant/s in order to be satisfied of the validity of the transfer request.

4. The Holder of a Right of Burial wishes to sell the Right of Burial

Where the holder of a Right of Burial wishes to sell it to another person they must request that Oberon Council transfer the Right of Burial. Such a request must be accompanied by proof of the identity of both the holder and the purchaser of the Right of Burial.

A person to whom a Right of Burial has been sold does not become the holder of the Right of Burial until the register is amended to indicate that fact.

Oberon Council may require any other documentation from the applicant/s in order to be satisfied of the validity of the transfer request.

The holder of a Right of Burial may request that Oberon Council buy back the Right of Burial. Such a request must be accompanied by proof of the identity of the applicant/s and a copy of the Right of Burial paperwork. If the applicant/s cannot produce the Right of Burial paperwork a Statutory Declaration stating that they request Oberon Council to purchase the Right of Burial must be supplied.

In this case Oberon Council reserves the right to either buy back or refuse to buy back the Right of Burial.

A decision to buy back or refuse to buy back a Right of Burial will be determined by either the Director of Technical Services or the General Manager.

Should Oberon Council agree to buy back the Right of Burial the cost will be determined as the price originally paid by the holder of the Right of Burial, less an administration fee.

Oberon Council may require any other documentation from the applicant/s in order to be satisfied of the validity of the buy-back request.

Staff Assistance

Council staff are available to assist with any queries relating to the cemetery. An appointment can be made by telephoning the Administration Centre during office hours on (02) 6329 8100.

Fees and charges

The fees for Cemetery and Burial services are reviewed annually; therefore quotes provided may be subject to change.

Related Documentation

- Guidelines for the Oberon Lawn Cemetery Policy 3129
- Cemeteries and Crematoria Act 2013

Approving Authority	Oberon Council
Contact	Director of Technical Services
Approval	19 November 2019 Report Item 13.06 Resolution 11 191119
Revision Date	November 2021
Issue Date to Staff	November 2019