

VETERANS

Managing the burial sites and cremated remains of Veterans

Guidelines for cemetery managers

Background

The Tasmanian *Burial and Cremations Act 2002* ('the *Act*') was in part amended in 2018 and now includes, and specifically recognizes, the special service and contribution of veterans to Tasmania, and also reflects community expectations for managing veterans' burial sites and cremated remains. Cemeteries represent a rich source of valuable historical information about a community and they also hold significant importance for the ex serving community, historians, students, community members and researchers alike.

Cemeteries are sacred places and form an important part of the history of each community. The sanctity of graves and interred cremated remains of veterans must be preserved in perpetuity. That they are buried at home in Tasmania, Australia does not diminish the respect we should have for the dignified maintenance of their graves than were they to be buried in a Commonwealth War Graves Commission cemetery anywhere throughout the world.

This new section of the *Act* is intended to ensure that:

- i. The burial sites (graves) of veterans, including graves under the Office of Australian War Graves, including the headstones, plaques and/or memorials are preserved and cannot be interfered with in any way, (except for maintenance work on the grave) and that they are preserved in perpetuity.
- ii. Identified veterans' cremated remains cannot be interfered with nor removed and scattered, but rather they are preserved in situ in perpetuity
- ii. That historical military memorabilia such as plaques, stained glass windows/panels, bunting or flags and photographs are preserved and not removed or passed into private ownership.

The amended *Act* provides cemetery managers with a range of options to help manage the sanctity of identified veterans' burial sites and cremated remains, and any military memorabilia that is of historical significance.

How to use these guidelines

These guidelines should be read in conjunction with the relevant sections of the *Act* and should assist cemetery managers to manage and preserve veterans' burial sites and cremated remains, including any historical military memorabilia.

Part 1 provides guidance on how cemetery managers can identify veterans' burial sites and cremated remains.

Part 2 provides options for managing veterans' burial sites and cremated remains.

Part 3 provides guidance on expiry notices and identifying options.

Cemetery managers should follow advice on policies to ensure consistent application of these options. Cemetery managers should also ensure that they keep comprehensive records of decisions made about veterans' burial sites and the cremated remains, including the process followed to reach each decision.

Part 1: Identifying the burial sites and cremated remains of veterans.

A veteran is defined in Part 1 – Preliminary, paragraph 7 (new paragraph to be included in the *Act*) of the *Act* as 'a person who has performed service or duty within the meaning of the *Veterans Act 2005*'.¹

Cemetery managers could identify that a deceased person was a veteran by reference to:

- i. the memorial or grave (such as an official Office of Australian War Graves memorial)
- ii. or by the Rising Sun emblem; the Royal Australian Navy emblem; the Royal Australian Air Force emblem, or by the wording inscribed on a headstone or plaque referencing military service.
- iii. the cemetery or church records, for example, where there are war-related causes of death on the death certificate.
- iv. notification by family members, interested community members and through the Returned and Services League (RSL) – Tasmania Branch. Cemetery managers may require documentation to confirm a deceased individual's veteran status; this should be requested in a sensitive and considerate manner. Cemetery managers are not expected to make independent enquiries into whether a deceased individual might be a veteran where there is no indication of veteran status.

1. The *Veterans Act 2005* defines service or duty as;
 - (a) any naval, military or air service in any proclaimed war; or
 - (b) any special defence undertaking within the meaning of section 6 of the Defence (Special

- Undertakings) Act 1952 of the Commonwealth; or
 - (c) any peacetime activities, including peace keeping activities; or
 - (d) any training activities, including activities conducted in conditions simulating war or war-like activities.
2. Cemetery managers seeking information as to whether a deceased individual was a veteran might wish to consult the service records available online via the National Archives of Australia (see<www.naa.gov.au>).

- **Part 2: Options for managing the burial sites or cremated remains of veterans.**
- **2.1 Allowing a veteran's burial site and cremated remains to remain interred in perpetuity**
- Where possible, when a family has not taken action in response to Part 3, division 2 section 34 (1) of the 2002 *Act*, relating to the burial site or cremated remains of an identified veteran, cemetery managers should leave the remains in place. The cemetery managers should update their records to reflect that the remains are now interred in perpetuity and that the cemetery manager is now the responsible custodian of the veteran's remains.
- However, cemetery managers should also consider any views expressed by family members. Family members might prefer that the remains be relocated for perpetual interment (for example, to be near other family members). Cemetery managers are not required to actively seek out these views (other than via the section 34 (1) notice)), and are not bound by these views. They should follow the policy guidelines as set out in the *Act* with regard to the views and wishes of family members.
- **2.2 Moving an identified veteran's burial site or cremated remains to an alternative location**
- As an alternative to leaving the remains in place in perpetuity, cemetery managers may relocate the burial site or the cremated remains of identified veterans to another appropriate place of interment, where no action has been taken by the family in response to section 34 (1). The removal must be undertaken with suitable respect.
- However, it is expected that this option would only be used where it is not possible or viable to leave the remains interred in perpetuity at their original location, or where requested by family members as described above at 2.1.
- The place of interment to which the remains are relocated is deemed to be perpetual and is the responsibility of the cemetery manager. The relocation place should be clearly recorded.

- [2.3 Moving “other remains” with an identified veteran’s burial site or cremated remains.](#)
- The *Act* allows cemetery managers who move an identified veteran’s burial site or cremated remains, to also move any remains that were interred with the identified veteran’s remains, or any remains of a family member that were interred in the vicinity of the identified veteran’s remains (‘the other remains’).
- This allows a cemetery manager to ensure that, in managing an identified veteran’s remains, they are not separated from the remains of the veteran’s loved ones.
- If the “other remains” are interred in a separate place of interment the *Act* provides that the “other remains” may only be moved after appropriate notice to the family of the “other remains” (section 34 (1)).
- [2.4 Memorialisation](#)
- If a cemetery manager relocates the remains of an identified veteran and/or a veteran’s grave (and any “other remains” as set out above), the cemetery manager should also relocate any associated memorial where practicable. Where this is not practicable (for example, because a plaque will not fit at the new place of interment) the cemetery manager should establish a new equivalent memorial, including the original inscription.
- Part 2, Division 3, section 25 of the *Act* allows cemetery managers to expend cemetery revenue for the maintenance, repair or restoration of memorials for the burial site or cremated remains of identified veterans, or the establishment of a memorial that is equivalent to the memorial it replaces.
- It is therefore expected that cemetery managers would bear the costs of memorialisation associated with relocating the burial site or cremated remains of identified veterans, such as repairing a plaque or headstone that is damaged during the relocation, or establishing a new equivalent memorial for a plaque or headstone that is damaged beyond repair or does not fit the new location.
- There is no power to expend revenue on memorialisation for “other remains” that are relocated with an identified veteran’s remains; however, under Part 2 section 25 of the *Act*, cemetery managers could establish a combined memorial for the veteran and the “other remains”.
- Part 2 of the *Act* is intended to apply in conjunction with the cemetery manager’s powers to remove and re-establish or replace memorials under Part 2 of the *Act*, when relocating

veterans' remains. It is not expected that cemetery managers would use section 25 to bear the costs of memorialisation associated with identified veterans' remains in any other circumstances.

- **Part 3: Expiry notices and identifying options**
- Part 3 division 3 section 34 of the *Act* requires cemetery managers to provide to the deceased members family, at least 12 months notice should a veterans' grave be under consideration for exhumation and/or removal to another site.
- The information that the cemetery manager is required to include in the section 34 notice varies according to whether the cemetery manager is able to identify the deceased as a veteran, as outlined in Part 1. The cemetery manager will be guided by the family members of the deceased's wishes in respect of a section 34 notice.

- **Historical military memorabilia**

In the event of a church being sold into private ownership, any historical military memorabilia identified must be preserved in perpetuity. Historical military commemorative memorabilia contained within churches should be removed prior to the sale of a church and handed to the nearest municipal council or to the nearest Returned and Services League (RSL) Sub-Branch for preservation.

Historical military memorabilia within churches includes but is not limited to the following where militaria, and/or memories of military service are referenced:

- a. Wall plaques.
- b. Bunting or flags
- c. Stained glass panels/windows.
- d. Photographs, pictures.
- e. Foundation stones

Should the military commemorative memorabilia not be removed by the Diocese prior to sale, the preservation of the memorabilia will become the responsibility of the purchaser (the cemetery manager).

The cemetery manager should then be required to contact the local Returned and Services League Sub-Branch or local municipal council offices for guidance on the removal of the memorabilia and the overseeing of the preservation of these historically important artefacts.