

**INSTRUMENT OF DELEGATION TO COUNCIL OFFICERS UNDER THE BURIAL AND CREMATION ACT 2013  
AND BURIAL AND CREMATION REGULATIONS 2014**

**SUB DELEGATIONS**

Sub-delegates by Title:

- MAI: Manager Assets and Infrastructure
- MCCA: Manager Corporate & Community Services
- SDCO: Senior Development & Compliance Officer
- SPO: Senior Property Officer
- TCO: Tourism & Community Engagement Officer
- TLM: Team Leader Community Facilities

PROVISION	Item delegated to the CEO (unless delegation does not apply)	Date of Delegation to CEO	CEO sub-delegated power to officer and/or authorised person(s) as listed below	Conditions and Limitations	Date of sub-delegation
s8(2)	<p><b>1. <u>Offence to Dispose of Bodily Remains Except in Cemetery or Natural Burial Ground</u></b>                      1.1 The power pursuant to Section 8(2) of the Burial and Cremation Act 2013 (the Act) to grant approval to a person to inter bodily remains in a prescribed area on land within the Council's area outside a cemetery or natural burial ground</p>	June 2018	MCCS SPO	Nil	
s13(6) s13(1)	<p><b>2. <u>Opening of Interment Sites, Exhumation and Re-interment</u></b>                      2.1 The power pursuant to Section 13(6) of the Act to consult with the Attorney General in relation to an approval for the purposes of Section 13(1) of the Act where the Council is the relevant authority for the cemetery or natural burial ground.</p>	June 2018	MCCS SPO	Nil	
	<b>3. <u>Deliberately left blank</u></b>				
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s30	<b>13. <u>Issue of Interment Rights</u></b>	June 2018	MCCS	Nil	

s30(1)	<p>13.1 Subject to Section 30 of the Act, the power pursuant to Section 30(1) of the Act, where the Council is the relevant authority for a cemetery or natural burial ground, to agree to the interment of human remains in the cemetery or natural burial ground, and issue an interment right that:</p> <p>13.1.1 identifies the person to whom the interment right is issued; and</p> <p>13.1.2 identifies the person or persons whose remains may be interred pursuant to the interment right or provides that a specified person or person of a specified class may, at some future time, nominate the person or persons whose remains may be interred pursuant to the interment right; and</p> <p>13.1.3 identifies the site at which remains may be interred pursuant to the interment right or provides for determination, in a manner set out in the interment right, of the site at which the remains may be interred pursuant to the interment right; and</p> <p>13.1.4 specifies the period for which the interment right is granted; and</p> <p>13.1.5 sets out the rights to renewal of the interment right; and</p> <p>13.1.6 specifies whether the interment right may be cancelled or transferred and sets out the conditions (if any) governing its cancellation or transfer.</p>		SPO TCO		
s30(3)	<p>13.2 The power pursuant to Section 30(3) of the Act to make provision in an interment right for the interment of such number of deceased persons at the site in which remains are to be interred pursuant to the interment right as the delegate considers to be within the capacity of the site to hold</p>	June 2018	MCCS SPO TCO	Nil	
s30(4)	<p>13.3 Subject to the Act, the power pursuant to Section 30(4) of the Act, to, in relation to an interment right, permit a memorial to the deceased person to be erected at the site.</p>	June 2018	MCCS SPO TCO	Nil	
s30(5)	<p>13.4 The power pursuant to Section 30(5) of the Act where the Council is the relevant authority to, at the request of the holder of an interment right, carry out a lift and deepen procedure at the site to which the interment right relates for the purpose of interring additional human remains there.</p>	Not delegated	Nil	Only single depth burials permitted at Cemetery	
s31	<p><b>14. <u>Duration of Internment Rights</u></b></p> <p>14.1 The power pursuant to Section 31 of the Act where the Council is the relevant authority to issue an interment right:</p> <p>14.1.1 for the period specified in the interment right; or</p> <p>14.1.2 in perpetuity.</p>	June 2018	MCCS SPO TCO	Nil	
s32(1)	<p><b>15. <u>Renewal of Internment Rights</u></b></p> <p>15.1 The power pursuant to Section 32(1) of the Act where the Council is the relevant authority to, on application by the holder of an interment right and payment of the renewal fee fixed by the Council as the relevant authority, renew the interment right for a period of not less than 5 years.</p>	June 2018	MCCS SPO TCO	Nil	

	15.2 Deliberately left blank	N/A	Nil		
s33(1)	<b>16. <u>Transfer of Internment Rights</u></b> 16.1 The power pursuant to Section 33(1) of the Act to transfer an interment right	June 2018	MCCS SPO TCO	Nil	
s38(1)	<b>17. <u>Re-use of Internment Sites</u></b> 17.1 Subject to the Act, the power pursuant to Section 38(1) of the Act, if an interment right expires, to, where the Council is the relevant authority: 17.1.1 re-use the interment site to which the interment right related; and 17.1.2 remove any memorial to a deceased person erected on or at the site.	June 2018	Nil	Currently not requirement to re-sue interment sites.	
s39(2)	<b>18. <u>Ownership of Memorial</u></b> 18.1 The power pursuant to Section 39(2) of the Act, to, where the Council is the relevant authority for a cemetery or natural burial ground in which a memorial is situated, deal with and dispose of the memorial in accordance with the Act	June 2018	MCCS SPO TCO	Nil	
s40	<b>19. <u>Duty to Maintain Memorial</u></b> 19.1 The power pursuant to Section 40 of the Act to enter into an agreement with the holder of an interment right in respect of an interment site in a cemetery or natural burial ground for which the Council is the relevant authority for the maintenance of a memorial at that site.	June 2018	MCCS SPO TCO	Nil	
s41(1)	<b>20. <u>Power to Require Repair, Removal or Reinstatement of Memorial</u></b> 20.1 The power pursuant to Section 41(1) of the Act, if a memorial to a deceased person in a cemetery for which the Council is the relevant authority becomes unsafe, to, by notice in a form approved by the Minister given personally or by post to the owner of the memorial, require repair, removal or reinstatement of the memorial within the period specified in the notice.	June 2018	MCCS SPO TCO	Nil	
s41(2)	20.2 The power pursuant to Section 41(2) of the Act, if the required work is not carried out within the time allowed in the notice, to have the work carried out and recover the cost of doing so as a debt from the owner of the memorial	June 2018	MCCS SPO TCO	Nil	
s41(3) s41(4) s41(5) s42(1)	20.3 The power pursuant to Section 41(3) of the Act, subject to Sections 41(4) and (5) of the Act, if: 20.3.1 a memorial to a deceased person in a cemetery for which the Council is the relevant authority becomes unsafe; and 20.3.2 urgent action to repair, remove or reinstate the memorial is considered necessary by the delegate, to, instead of giving a notice under Section 42(1) of the Act, have the work carried out and recover the cost of doing so as a debt from the owner of the memorial.	June 2018	MAI MCCS SPO TCO	Nil	
s42(1)	<b>21. <u>Power of Relevant Authority to Dispose of Unclaimed Memorial</u></b> 21.1 The power pursuant to Section 42(1) of the Act, if: 21.1.1 2 years or more have elapsed: 21.1.1.1 since an interment site in a cemetery or natural burial	June 2018	TCO MCCS MAI	Nil	

	<p>ground for which the Council is the relevant authority, has expired; or</p> <p>21.1.1.2 since a cemetery for which the Council is the relevant authority was dedicated as park lands or converted into a public park or garden; and</p> <p>21.1.2 a memorial to a deceased person interred in the cemetery or natural burial ground is situated at the interment site or elsewhere in the cemetery or natural burial ground; and</p> <p>21.1.3 the Council as the relevant authority for the cemetery or natural burial ground has given notice of its intention to remove and dispose of the memorial:</p> <p>21.1.3.1 by public advertisement in a newspaper circulating throughout the State; and</p> <p>21.1.3.2 by written notice affixed to the memorial; and</p> <p>21.1.4 the Council as the relevant authority has taken reasonable steps to give written notice to the owner of the memorial of its intention to remove and dispose of the memorial; and</p> <p>21.1.5 6 months have elapsed since the cemetery authority gave notice under this subsection and no person has claimed the memorial within that period,</p> <p>to remove the memorial from the cemetery or natural burial ground and dispose of it as the delegate thinks fit.</p>				
	<p><b>22. <u>General Powers of Relevant Authority</u></b></p> <p>22.1 The power pursuant to Section 43 of the Act where the Council is the relevant authority for a cemetery, natural burial ground or crematorium to:</p> <p>22.1.1 enlarge the cemetery, natural burial ground or crematorium; and</p> <p>22.1.2 improve or embellish the cemetery, natural burial ground or crematorium; and</p> <p>22.1.3 restrict interments in any part of the cemetery or natural burial ground, except as may be required by interment rights granted before the commencement of the Act; and</p> <p>22.1.4 take any other action that the delegate considers necessary or desirable for the proper management and maintenance of the cemetery, natural burial ground or crematorium.</p>	June 2018	TCO SPO MCCS MAI TLCF	Nil	
s45(1) s45(2)	<p><b>23. <u>Power to Restrict Interments in any Part of Cemetery or Natural Burial Ground</u></b></p> <p>23.1 The power pursuant to Section 45(1) of the Act, subject to Section 45(2) of the Act, where the Council is the relevant authority for a cemetery or natural burial ground to restrict interments in any part of the cemetery or natural burial ground.</p>	June 2018	TCO SPO MCCS	Nil	
	<b>24. <u>Deliberately left blank</u></b>				
s47(1)	<b>25. <u>Deliberately left blank</u></b>				
	<b>26. <u>Deliberately left blank</u></b>				
	<b>27. <u>Deliberately left blank</u></b>				
s50(2)	<p><b>28. <u>Public Access to Cemeteries, Natural Burial Grounds and Crematoria</u></b></p> <p>28.1 The power pursuant to Section 50(2) of the Act where the Council is the relevant</p>	June 2018	TLCF MCCS	Nil	

	authority for a cemetery, natural burial ground or crematorium, to, if the delegate has reason to suspect that a person has committed, is committing or is about to commit an offence in the cemetery, natural burial ground or crematorium, require the person to leave the cemetery, natural burial ground or crematorium.		MAI SDCO		
	<b>29. Deliberately left blank</b>				
	<b>30. Deliberately left blank</b>				
s56(1)	<b>31. Power of Public Trustee to Act on Behalf of Holder of Interment Right etc</b> 31.1 The power pursuant to Section 56(1) of the Act, if reasonable attempts by the Council as the relevant authority for a cemetery or natural burial ground to ascertain or locate: 31.1.1 the holder of an interment right in relation to the cemetery or natural burial ground; or 31.1.2 the owner of a memorial erected in a cemetery or natural burial ground, fail, to request the Public Trustee act on behalf of the holder or owner.	June 2018	MCCS SPO TCO	Nil	
s58(2)	<b>32. Authorised Officers</b> 32.1 The power pursuant to Section 58(2) of the Act to appoint as an authorised officer a specified officer or employee of the Council, or an officer or employee of the Council of a specified class.	June 2018	Nil	Nil	
s58(3)	32.2 The power pursuant to Section 58(3) of the Act to make an appointment under Section 58 of the Act subject to conditions limiting the period during which, the area within which or the purposes for which the appointee may exercise the powers of an authorised officer.	June 2018	Nil	Nil	
s58(7)	32.3 The power pursuant to Section 58(7) of the Act to, at any time, revoke an appointment made under Section 58 of the Act, to vary or revoke a condition of such an appointment or impose a further such condition.	June 2018	Nil	Nil	

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	<b>33. <u>Filling of Sunken Interment Sites</u></b> 33.1 The power pursuant to Regulation 16 of the Burial and Cremation Regulations 2014 (the Regulations), if the surface of an interment site in a cemetery or natural burial ground for which the Council is the relevant authority, sinks below the level of the natural surface of the ground, to cause the site to be filled up to that level.	June 2018	MAI TLCF	Nil	
	<b>34. <u>Deliberately left blank</u></b>			Nil	
	<b>35. <u>Deliberately left blank</u></b>			Nil	
	<b>36. <u>Power of Relevant Authority in Relation to Things on Interment Sites</u></b> 36.1 The power pursuant to Regulation 26 of the Regulations where the Council is the relevant authority for a cemetery or natural burial ground to: <ul style="list-style-type: none"> <li>36.1.1 cause to be removed from an interment site in the cemetery or natural burial ground any unattached ornament, empty flower container, broken masonry, decayed or broken wreath or dead flowers; and</li> <li>36.1.2 cause to be pruned, cut down or removed any plant on an interment site in the cemetery or natural burial ground that is, in the opinion of the delegate, unsightly or overgrown.</li> </ul>	June 2018	TCO MAI TLCF	Nil	
	<b>37. <u>Power of Relevant Authority to Require Persons to Leave Cemetery or Natural Burial Ground</u></b> 37.1 The power pursuant to Regulation 27(1) of the Regulations, where the Council is the relevant authority for a cemetery or natural burial ground to, if the delegate has reason to suspect that a person has committed, is committing or is about to commit an offence in the cemetery or natural burial ground, require the person to leave the cemetery or natural burial ground.	June 2018	MCCS MAI SDCO TLCF	Nil	