



# Sunbury Cemetery Trust

## GUIDELINES ON STATUTORY DECLARATIONS IN SUPPORT OF AN APPLICATION TO DEAL WITH A RIGHT OF INTERMENT, GRAVE OR MONUMENT, WHERE THE RECORDED OWNER IS DECEASED

Site: \_\_\_\_\_

Recorded Owner: \_\_\_\_\_

Deed granted on the: \_\_\_\_\_

The Trustees from time to time of the **SUNBURY PUBLIC CEMETERY** (“**the Cemetery Trust**”) provide the following guidelines in support of an application to:

- open a grave for the purposes of a burial, placement of cremated remains or an exhumation;
- remove a ledger to test a grave so as to establish if there is a burial space still available;
- erect, alter, repair or refurbish a monument;
- transfer or relinquish a right of burial; or
- otherwise deal with a grave, its contents or any erections upon the site.

These are guidelines only and **the Cemetery Trust** reserves the right to alter these without notice and also to require further evidence or appropriate indemnities in any particular case.

1. A **Right of Interment** is a right granted to the original purchaser from **the Cemetery Trust**. The original purchaser from **the Cemetery Trust** becomes the holder or owner of that right and **the Cemetery Trust** can only recognise that person who is noted in its records as being the owner (“**the Recorded Owner**”). As such the **Right of Interment** remains the property of **the Recorded Owner**.
2. The Recorded Owner of a Right of Interment is the only person who has the power to deal with the Right of Interment. In this context, to deal with the Right of Interment includes those various situations listed in the above introduction.

1079 Pascoe Vale Road, Broadmeadows **Postal Address:** PO Box 119, Dallas, 3047  
Telephone: 9205 2243, Facsimile: 9309 0109



3. It often happens that the Recorded Owner has died without ever transferring his or her Right of Interment during the lifetime of the Recorded Owner. The Cemetery Trust is not able to determine who has inherited the Right of Interment of the Recorded Owner (and there may be more than one person who has inherited that right – see paragraphs 5.2 and 5.3 below).
4. Where a person who is not the Recorded Owner, seeks to inter the remains of someone in a grave or otherwise deal with a grave, its contents or any erections upon the site (“the Claimant”), the Cemetery Trust requires proof by Statutory Declaration that the Claimant in fact has a legal right to request the Cemetery Trust for such permission.
5. The Statutory Declaration needs to show -
  - 5.1. Whether or not the Recorded Owner left a Will or died without leaving a Will (that is, died intestate);
  - 5.2. If there is a Will, the Claimant will need to state –
    - 5.2.1. That the Recorded Owner did not specifically leave the Right of Interment to anyone. (If so, then the Declaration will need to address what has happened to that beneficiary and whether that beneficiary has dealt with the Right of Interment in the same manner as for the Recorded Owner);
    - 5.2.2. If there was no specific gift of the Right of Interment, then the Declaration will need to set out who the Claimant knows to be the beneficiary or beneficiaries of the Recorded Owner’s residuary estate;
    - 5.2.3. Those beneficiaries of the residuary estate are, between them, entitled to the Right of Interment of the Recorded Owner. The Claimant will need to state that he or she has received the consent to the use by the Claimant of the interest of each beneficiary in the Right of Interment;
    - 5.2.4. If any beneficiary is also deceased, the Claimant will need to address in the Declaration whether that person has also died leaving a Will or intestate. Further, the Claimant will need then to ascertain who the beneficiaries are of that person in the same way as for the Recorded Owner and so on. The Claimant will need to state that he or she has received the consent to the use by the Claimant of the interest of each such beneficiary in the Right of Interment.



- 5.3. In the case of someone (whether it be the Recorded Owner or any beneficiary of the Recorded Owner) dying without a Will, that is intestate-
  - 5.3.1. The Declaration will need to detail who were the next-of-kin of the deceased and therefore entitled to a share in his or her estate. The Claimant will need to state that he or she has received the consent to the use by the Claimant of the interest of each such beneficiary in the Right of Interment;
  - 5.3.1. If any beneficiary has died without leaving a Will, then the Claimant will need to detail in the Declaration who were the next-of-kin of such deceased beneficiary. The Claimant will need to state that he or she has received the consent to the use by the Claimant of the interest of each such beneficiary in the Right of Interment.
6. It is emphasised that the Cemetery has neither the resources nor time to verify the contents of any Statutory Declaration and will only record the Declaration in the records of the Cemetery. The Claimant will be making a Statutory Declaration and accordingly is liable for the punishments set out in the *Evidence Act* 1958 for making a false declaration.
7. Furthermore, where the Claimant states that he or she has the consent of any person to the use by the Claimant of the interest of that person in the Right of Interment, the Cemetery will also require the Statutory Declaration to have accompanying it an Indemnity in the form attached hereto. If a written consent of the person who is the holder of a Right of Interment (or an interest in it) is produced, duly signed and witnessed, then an Indemnity will not be required in respect of that particular person's interest.

Please do not hesitate to contact the Cemetery Trust Office on (03) 9205 2200 if you have any questions regarding these Guidelines.