

Operational Policy

Community Relations and Partnerships

Request for burials and the scattering of ashes on QPWS estate

Operational policies provide a framework for consistent application and interpretation of legislation and for the management of non-legislative matters by the Department of Environment and Science. Operational policies are not intended to be applied inflexibly in all circumstances. Individual circumstances may require a modified application of policy.

Policy Issue

The Queensland Parks and Wildlife Service (QPWS) may receive requests to bury deceased people, or to provide a ceremonial site for the burial of repatriated ancestral human remains, or to scatter cremation ashes on QPWS managed areas.

Policy statement

QPWS does not generally permit burials on protected areas.

QPWS respects the cultural obligation and native title rights and interests associated with burial of repatriated remains of Aboriginal and Torres Strait Islander Peoples.

QPWS acknowledges that other individuals, with a significant involvement in the conservation of protected area or wildlife in the area, may also wish to be laid to rest or scattered on protected areas.

Burials at sea in State Marine Parks are subject to the regulatory regimes detailed below, and the burial of complete human remains in a State Marine Park requires consideration on merits.

Subject to local considerations scattering of ashes is generally acceptable.

Background

There are four identified reasons where burials on QPWS protected areas are contemplated:

- **Aboriginal or Torres Strait Islander (exercise of native title right)**

Native title is frequently found to continue to exist over national parks, and determinations by the Federal Court often grant burial as a recognised native title right. When dealing with a native title request for burial on a national park, QPWS should work closely with the Registered Native Title Body Corporate (RNTBC) for that area. A list of RNTBCs and their contact details can be found at <http://www.nativetitle.org.au/profiles.html>.

For national parks subject to a Protected Area Indigenous Land Use Agreement (ILUA), an arrangement is usually established to ensure protocols through an activity guideline. If an activity guideline on burials is already in place with the native title holders there may be existing designated areas deemed acceptable for burials. If an activity guideline is not yet in place, then QPWS and the RNTBC may wish to expedite an agreement so burials can take place in a timely and legal manner.

The RNTBC is responsible for ensuring the authenticity of the deceased person and their native title standing.

- **Aboriginal or Torres Strait Islander (not a native title right)**

Occasionally a request for burial or the scattering of ashes on a QPWS managed area may be made for a deceased Aboriginal or Torres Strait Islander person with a traditional or historical affiliation to an area, but no recognised native title right. In such circumstances, QPWS should work closely with the appropriate Aboriginal or Torres Strait Islander party for the area as recognised under the *Aboriginal Cultural Heritage Act 2003* or the *Torres Strait Islander Cultural Heritage Act 2003*. Information about Aboriginal parties and their contact details is available from the Cultural Heritage Unit of the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP).

The recognised Aboriginal or Torres Strait Islander party for the area is responsible for verifying that the deceased meets the criteria of being an Aboriginal or Torres Strait Islander with a traditional or long-standing affiliation with the area. The Native Title Work Procedures also need to be followed when considering authorisation of a burial.

- **Repatriation of human remains**

QPWS supports the Queensland Government's policy of returning Aboriginal and Torres Strait Islander ancestral remains and associated burial goods, including secret sacred objects, to Country.

Where requested by the Queensland Museum, QPWS will assist in identifying a suitable burial site on national park, obtaining relevant *Nature Conservation Act* (NCA) approvals under sections 27 and 107 as well as providing support and logistics to repatriation ceremonies. Additionally, an Organised Event Permit (OEP) may be required depending on the activities carried out for the burial. QPWS staff will determine whether or not an OEP is required.

- **Strong, long-standing association (non-Indigenous)**

QPWS may consider requests to bury or scattering the remains of a deceased person who has had a strong, long-standing involvement with the conservation of an area or its wildlife. Generally, a burial of a non-Indigenous person on a national park is not encouraged. As there are no specific legal rights, cultural heritage obligations or established protocols to follow in this circumstance, and QPWS is required to refer the applicant to the local council.

For health reasons, local councils have laws and policies regarding approvals for burials outside of recognised burial places. Staff should contact their local governments to determine the local laws and policies regarding burial outside a recognised burial place.

In most cases, burials are required to take place in a public cemetery or a recognised burial place in accordance with local government by-laws. Burials in Queensland are regulated under the *Criminal Code Act 1899*, *Coroners Act 2003*, *Aboriginal Cultural Heritage Act 2003*, *Torres Strait Islander Cultural Heritage Act 2003*, and local government by-laws.

Depending upon the nature of the request, the provisions in the NCA Authority for works under s107 to permit excavation of soil and/or the erection of a headstone and a resources permit under s27 of the NCA to interfere with natural resources may be necessary considerations. For burials at sea, provisions within the Queensland State *Marine Parks Act 2004* may also require consideration.

Burials on State land, including State forests, may affect potential use of the land.

Procedure for considering requests for burials

The Chief Executive (or delegated authority) may authorise a burial or the scattering of ashes in a national park where:

- a native title right in accordance with traditional lore and customs exists;
- the deceased was an Aboriginal person or a Torres Strait Islander with a traditional or long-standing affiliation with the area;
- the Queensland Museum is facilitating the repatriation of human remains (and associated burial objects) from their collection; and
- the deceased had a strong, long-standing involvement with conserving the area or its wildlife.

For national parks subject to joint management arrangements protocols in any Indigenous Management Agreement must be followed.

Criteria to assess a request include:

- acceptability of the proposed environmental disturbance;
- enjoyment of other visitors to the national park;
- future access (or restricted access) to the burial site;
- management considerations, such as fire management;
- landscape considerations such as drainage and future erosion;
- cultural protocols of the Traditional Owners after liaising with the RNTBC or the relevant Aboriginal party identified under the *Aboriginal Cultural Heritage Act 2003* or *Torres Strait Islander Cultural Heritage Act 2003*; and
- Local government approval and related considerations.

Outside of joint management national parks, the Chief Executive (or delegated authority) may grant a written authority for works under s107 of the NCA to allow for excavation of soil and/or the erection of a headstone and a resources permit under s27 of the NCA to interfere with natural resources.

In all instances of proposed activities involving a group of people on QPWS managed areas (including for burials), the activity organiser is requested to notify QPWS. It is a requirement that a representative of the bereaved party provide a notification via the online notification form (<http://www.des.qld.gov.au/licences-permits/recreation/group-activity-notification.php>) to enable QPWS to determine whether or not an OEP is required.

If local government refuses the application for burial on a national park, officers should not consider the matter further. If the local government approves the request for burial on a national park officers should formally consider the request.

The representative of the bereaved party is to be informed that funeral arrangements should not progress until QPWS have assessed the request. They are also to be informed of other relevant QPWS policies restricting the bringing of flowers onto national park and the limitation on memorials and plaques.

The representative of the bereaved party is to provide in writing:

- written approval from the local Council;
- the exact site of the proposed grave;

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- proposed means of excavation;
- proposed route and access and egress;
- proposed method of marking the burial site;
- proposed date and time of burial; and
- an estimate of the number attendees – in case a Groups Activity Permit is required.

Assessment of the request to conduct a burial should be treated with the highest work priority and a notification should be provided to the Regional Director that a request has been received and is being assessed.

Approval

The Regional Director will consider a recommendation and refer the matter to their respective Executive Director for the delegate's consideration.

The delegate may apply conditions covering, where relevant:

- arrangements for maintaining the grave into the future;
- acknowledgement of QPWS policy regarding headstones;
- acknowledgement that relatives or descendants will not have exclusive access to the grave and that access may be occasionally restricted;
- acknowledgements that approval of the burial does not imply permission will be given for the future burial of family members; and
- acknowledgement of any other consents or clearances.

Alternatively an application may be rejected for reasons to be stated. The decision is to be advised in writing and sent by hand, email, facsimile or post to the applicant.

Advice and records

Staff are to monitor activities to assess any undue impact on the area and to ensure conditions are adhered to.

Staff must keep at least two records of each approved burial on a QPWS managed area. One set should be kept at the park or forest office. The other should be filed in the Regional office: the location of the burial, and information regarding the burial, may be captured on QPWS information management systems. However, it is important to remember that the information may be sensitive and, in most cases, should not be released to the public.

Staff may notify the Cultural Heritage Coordination Unit, DATSIP, for an Aboriginal burials inclusion on the State's Aboriginal Cultural Heritage Database. However, the location should not be provided to DATSIP without permission from the relevant Traditional Owner representatives.

Legislation

Aboriginal Cultural Heritage Act 2003

Forestry Act 1959

Native Title Act 1993 (Cth)

Nature Conservation Act 1992

Nature Conservation (Protected Areas Management) Regulation 2006

Queensland State Marine Park Act 2004

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NRM Native Title Work Procedures and other DES workplace policies

Recreation Areas Management Act 2006

Torres Strait Islander Cultural Heritage Act 2003

Reference material

Burials on lands administered under the *Land Act 1994* PUX/901/653 Version 3 – SLM/901/653

Cultural Heritage Policies

Operational Policy: Approval to bring flowers onto QPWS managed areas

Operational Policy: Memorials and plaques

Disclaimer

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Approved By

Ben Klaassen

Signature

14 September 2015

Date

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