



Department of
**Local Government, Sport
and Cultural Industries**



East Rockingham Pioneer Cemetery – Ministerial Exemption to Closure Order Policy and application form

East Rockingham Pioneer Cemetery – *Cemeteries Act 1986*

Purpose

This policy is intended to provide guidance to individuals seeking to be buried at the East Rockingham Pioneer Cemetery (**Cemetery**) and require a ministerial exemption to the East Rockingham Pioneer Cemetery Closure Order 2024 (**Closure Order**).

Before reading this document:

Please note:

- The Minister for Local Government's (the Minister's) power to grant exemptions from the Closure Order is prescribed in the Closure Order itself.
- The City of Rockingham (the City) is the Cemetery Board of the Cemetery and has the final decision on burials.
- This policy should be read in conjunction with the Closure Order and the *Cemeteries Act 1986* (the Act).

Additional information

For more information, please visit the DLGSC website at: <https://www.dlgsc.wa.gov.au/local-government/community/cemeteries-and-burials>.

If you have questions relating to this document, please email legislation@dlgsc.wa.gov.au.

For a Translating and Interpreting Service (TIS) telephone 13 14 50.

Background

In 2009, the City sought the Governor's approval to close the Cemetery. Under the terms of the Cemeteries (East Rockingham Pioneer Cemetery Closure) Order 2009 (2009 Closure Order), the Cemetery was closed on 1 July 2009 and from that date only those with a right of burial at that date could be buried at the Cemetery; no further grants of burial could be issued in relation to the Cemetery and no existing grants could be renewed.

This created a scenario where a large number of people would be unable to be buried in the cemetery due to their grant expiring prior to them being deceased.

To assist these people, the Governor replaced the 2009 Closure Order with the Closure Order. The Closure Order:

- lists people who can be buried at the Cemetery despite its closure,
- provides the Minister with a power to exempt any person from the terms of the Closure Order.

The Minister's power is delegable and has been delegated to the Director General of the Department of Local Government, Sport and Cultural Industries (DLGSC). This delegation does not preclude the Minister from determining a matter directly, if the Minister wishes to do so.

This policy document is designed to explain how DLGSC will assess and make these decisions under delegation.

Where can this power be used?

The Minister's power to exempt a person from the Closure Order can only be used in relation to the East Rockingham Pioneer Cemetery. It cannot be used in relation to any other cemeteries.

What are the limitations of this power?

The Closure Order only provides the Minister (and the DLGSC Director General via delegation) the power to exempt a person from the Closure Order, so that the Closure Order no longer prevents them from seeking a grant of right of burial from the City of Rockingham.

The power does not allow the Minister to, amongst other things:

- exempt a person from burial fees (burial fees are determined by the City);
- compel the City to bury a person in a specific location, such as a grave already reserved for another person; or
- overrule any of the policies or local laws which the City have imposed over the Cemetery (e.g. rules relating to monuments or headstones).

Factors relating to approval

The Minister's exemption power is only intended to be used in rare cases, where a person has a legitimate expectation of burial in the Cemetery. The Cemetery remains closed.

When assessing an application, the DLGSC will consider relevant factors, including:

- The applicant's history relating to the Rockingham district;
- Whether the applicant previously held a grant of burial in relation to the Cemetery;
- Where a grant previously held by the applicant has expired, the circumstances leading to that expiry;
- Whether the applicant has immediate family who are already buried in the Cemetery;
- Whether the Cemetery has sufficient space to allow for the burial; and
- Whether the burial is supported by the City.

Assessment process

In assessing a request for an exemption, the DLGSC will generally be guided by the following process:

1. Has the applicant completed the application form?
 - All relevant information provided.
2. What is the City's position on this application?
 - City to be consulted by email to provide feedback.
 - If necessary, the City will be asked to verify claims made by applicant (e.g. family buried in cemetery, previous grants held).
3. Is an exemption appropriate in the circumstances?
 - Does the application meet all the factors for consideration.
4. Final decision
 - Report and recommendations provided to the person delegated the Minister's power under the Closure Order.
 - Potentially contentious decisions are referred to the Minister.
5. Communication of outcome
 - Letter to applicant advising of the decision.
 - Letter to the City advising of the decision.

Frequently Asked Questions?

- Can I apply for an exemption while I am still alive?

Yes. A person can apply for an exemption while they are still alive. Alternatively, they can leave instructions to their Executor or family to make an application after they have passed away.

- If I receive an exemption, do I need to be buried in the Cemetery?

No. If you change your mind later and decide you no longer wish to be buried at the Cemetery you are free to do so.

- Does an exemption cost any money?

No. The DLGSC does not charge any application fee to apply to be exempt from the Closure Order.

However, if an exemption is granted and the City decides to allow the burial, the City is entitled to charge burial fees and other potential charges.

What other issues need to be considered?

The City continues to be the Cemetery Board for the Cemetery. Accordingly, all burials in the Cemetery require the City's approval to proceed.

While the Minister (and the DLGSC via delegation) have the power to exempt a person from the terms of the Closure Order, the Minister does not have any other powers relating to the Cemetery, including but not limited to, the power to:

- Exempt a person from cemetery burial fees;
- Compel the City of Rockingham to conduct a burial against its wishes; or
- Overrule any of the policies or local laws which the City have created to apply over the Cemetery (e.g. a local law which restricts burials to particular dates or times).

While the City may elect to reduce or exempt a person from burial fees or other fees, this is wholly at the City's discretion.

Please note:

If a person receives a ministerial exemption from the Closure Order, the person is still responsible for obtaining all necessary approvals from the City in relation to the burial, the installation of grave markers or any funeral ceremony occurring on the cemetery grounds.

Application form

I would like to apply for an exemption from the Closure Order relating to the East Rockingham Pioneer Cemetery.

1. Applicant details

I am filling out this form on behalf of	Myself <input type="checkbox"/>
	Another person <input type="checkbox"/>
Name of person	
Contact details: <ul style="list-style-type: none"> • Phone • Email • Residential/postal address 	

2. Personal circumstances of applicant

Did the person previously have a grant of right of burial in relation to the Cemetery?	
If so, please provide (if known): <ul style="list-style-type: none"> • The grant number • The year it was issued • The last time it was renewed • What gravesite it relates to 	
Does the person have any direct family relatives buried in the cemetery? If so, please provide their names and relation to the person.	

<p>Does the person have a long-term connection to the Rockingham district:</p> <p>e.g. individual who has lived in the district for a period of longer than 20 years;</p> <p>e.g. several generations of family living in the Rockingham district over an extended period;</p>	
<p>Have the City of Rockingham been contacted in relation to this matter?</p> <p>If yes, does the City support the proposal?</p>	

Submission of application

Executive Director
 Local Government
 Department of Local Government Sport and Cultural Industries
 GPO Box 8349 Perth Business Centre WA 6849

OR

Email: legislation@dlgsc.wa.gov.au

Department of Local Government,
 Sport and Cultural Industries
 PO BOX 8349
 Perth Business Centre WA 6849
 Email: info@dlgsc.wa.gov.au
 Website: www.dlgsc.wa.gov.au