

**Investigation into improper conduct by a Council employee  
at the Mildura Cemetery Trust**

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**The Victorian Ombudsman pays respect to First Nations custodians of Country throughout Victoria. This respect is extended to their Elders past, present and emerging. We acknowledge their sovereignty was never ceded.**

# Letter to the Legislative Council and the Legislative Assembly

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To

**The Honourable the President of the Legislative Council**

and

**The Honourable the Speaker of the Legislative Assembly**

Pursuant to sections 25 and 25AA of the *Ombudsman Act 1973* (Vic), I present to Parliament my *Investigation into improper conduct by a Council employee at the Mildura Cemetery Trust*.



Deborah Glass OBE

**Ombudsman**

12 November 2019

## **Warning**

This report contains sensitive material that may cause distress or offence to some readers. Every effort has been made to describe the treatment of deceased persons and their families in this report with the utmost respect.

All reasonable attempts have been made by the Victorian Ombudsman Office to contact families who may be directly affected by the contents of the report, to discuss the issues raised in the report prior to publication.



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# Foreword

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Victoria has over 550 public cemeteries – from small pioneer plots to expansive memorial parks. Each of them is more than merely a space to house our departed. They are places of pilgrimage. They are also social records that hold personal meaning for the surviving loved ones of the deceased, and collective meaning for our society – a record in stone, brass and greenery of what we hold dear.

This investigation concerns Mildura’s Murray Pines and Nichols Point Cemeteries, managed by the Mildura Cemetery Trust. It concerns deeply troubling allegations made against the Trust’s former sexton, of potentially illegal exhumations, selling memorial chairs for personal benefit, and other misdeeds that could broadly be described as misuse of position.

The investigation found these – and more – to be substantiated, raising fundamental questions about the management of a public cemetery’s operations. The misdeeds, mistakes and incompetence described in this report go beyond the original allegations of misconduct. Some were discovered by chance, an arbitrariness matched by the way those actions seem to have been taken – without forethought or justification. The seemingly random nature of these errors and transgressions does not diminish their seriousness. If anything, the disregard for due process in handling the most sensitive of human experiences – death, grief and remembrance – only amplifies concerns.

In this report I show how transgressing regulations, even if rationalised as doing a favour for a grieving family, can do a great disservice to the community. They undermine public confidence at a time when people are more vulnerable than usual, and where trust and sensitivity are typically assumed. People engaged in the emotional process of burying a loved one should not face the added burden of those in charge making careless mistakes, breaking the law, or behaving in a manner disrespectful of the departed.

Proper management of a cemetery is not only a social and cultural responsibility. It carries a duty to maintain public health, and to enable people to mourn, farewell and remember their loved ones interred within.

The individual at the heart of these misdeeds is no longer in the job, but his troubling legacy continues. And questions must be asked about how such behaviour was able to flourish for so long. This points to no, or grossly inadequate, supervision as well as an absence of basic governance controls.

The current Trust board has, understandably, expressed shock and dismay at the contents of this report and committed both to improving practices and to supporting those affected.

The families affected have responded with dignity to the uncomfortable and distressing revelations in this report. They also recognise the broader effect of those misdeeds on the community.

I am tabling this report not only to highlight the importance of robust professional standards in public service, but as a warning about the impact on communities when those standards are not met. Good systems of public administration will never eliminate the risk of rogue operators, but good governance is vital to mitigate the damage.

Deborah Glass

**Ombudsman**

# The investigation

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## The purpose of this investigation

1. This report concerns an investigation into allegations of improper conduct by the former Sexton/Cemetery Team Leader, Darren Bock, who was employed by Mildura Rural City Council (Council) and contracted to the Mildura Cemetery Trust (Trust). Councillors from the Council are appointed as members of the Trust Board, and manage the Trust in that capacity. The Trust manages the Nichols Point and Murray Pines cemeteries in Mildura. The investigation also examined the conduct of Darren Bock's manager (the Manager) from August 2010, in respect of those allegations. At all relevant times, the Manager was in a senior financial management role at the Council and was the Accountable Officer for the Trust.

## Allegations

2. The investigation is the result of two protected disclosure complaints referred to the Ombudsman for investigation by the Independent Broad-based Anti-corruption Commission in June and August 2018.

3. The disclosures made allegations of:

- illegal exhumations of deceased persons
- conflicts of interests in promoting and selling memorial chairs for personal benefit under the guise of the Trust
- misuse of position
- improper receipts of payments for cemetery services.
- allegations of gross incompetence and neglect of professional standards in the operation of a public cemetery's operations.

4. The investigation examined allegations about the conduct of Darren Bock during his employment through the Council as Sexton/Cemetery Team Leader at the Trust. These included allegations that Mr Bock:

- conducted at least four exhumations of human remains without ensuring that exhumation licences had been issued
- sold and installed private chairs into the grounds of Murray Pines Cemetery and Nichols Point Cemetery without permission, and to the financial detriment of the Trust
- created and provided documents falsely purporting to be official Trust receipts including the Trust's letterhead, to a number of persons purchasing those chairs
- used his position as Sexton/Cemetery Team Leader to obtain a private benefit, contrary to the Victorian Public Sector Code of Conduct for Public Sector Employees and the Council's Conflict of Interest Policy
- inappropriately received cash payments for the lifting of grave ledgers<sup>1</sup>
- waived burial fees and charges to conceal errors or as favours for friends and relatives
- erected monuments without approval or authorisation, and waived fees for erecting memorial-only monuments despite having been directed by his Manager not to do so
- interred the ashes of deceased persons who had not purchased a burial plot and without recording the interment.

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<sup>1</sup> A ledger is a thick slab of stone used to cover a grave, which may also be engraved and used as a headstone. Typically, ledgers are lifted to enable additional persons (typically family members) to be buried within the same grave.

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5. The Ombudsman notified the Minister for Local Government, the Council and the Trust's Chair of her intention to investigate on 8 October 2018. Mr Bock had already resigned from his position at the Council and the Trust in August 2018.

### **Jurisdiction**

6. The Ombudsman's jurisdiction to investigate protected disclosure complaints is derived from section 13AAA of the *Ombudsman Act 1973* (Vic), which provides she has the function to investigate protected disclosure complaints about conduct by or in an authority or protected disclosure entity.
7. The Trust is a class B cemetery trust under the *Cemeteries and Crematoria Act 2003* (Vic) (the *Cemeteries Act*) and is a public statutory body, and thus an authority within the meaning of the Ombudsman Act. At all relevant times, Darren Bock was a member of Council staff (also an 'authority' within the meaning of the Ombudsman Act) and performed work for the Trust. As a consequence, the allegations about Mr Bock's conduct fall within the Ombudsman's investigative jurisdiction.

### **Darren Bock**

8. The Council employed Darren Bock to work at the Trust in 1993. He was initially employed as a gravedigger and reported to the former Sexton. Mr Bock became the Sexton/Cemetery Team Leader in 2005 after the former Sexton's departure. Mr Bock remained in this position until his resignation on 31 August 2018. The Council has noted that Mr Bock was under investigation by Council at the time he resigned from his position. As Sexton/Cemetery Team Leader, Mr Bock was responsible for day-to-day operational activities at the Murray Pines Cemetery and Nichols Point Cemetery, and managed other staff engaged by the Council to work for the Trust.

### **Mr Bock's manager**

9. Mr Bock reported to a qualified accountant who has worked as Manager, Financial Services for the Council since 2010. In that capacity, the Manager is also the Accountable Officer of the Trust, with responsibilities relating to reporting requirements under the *Cemeteries Act* and the *Financial Management Act 1994* (Vic). The Manager also worked at the Council as a Financial Accountant between 2005 and 2008. The Manager is not the subject of allegations made in the disclosures, but his actions and management of Mr Bock are relevant to this investigation.

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## Investigation scope and approach

10. The investigation made every effort to check the facts of the allegations. In addition to obtaining relevant documents and conducting interviews, investigators made several trips to Mildura to inspect the two cemeteries and speak with witnesses.

11. The investigation also involved:

- examining relevant legislation, regulations, policies and guidance materials produced by the Victorian Department of Health and Human Services (the Department), including:
  - o the *Public Administration Act 2004* (Vic)
  - o the *Cemeteries Act*
  - o the *Cemeteries and Crematoria Regulations 2015* (Vic) (the Regulations)
  - o the Department's *Manual for Victorian Class B Cemetery Trusts* (revised November 2017)
- issuing six Confidentiality Notices and one summons for a person to attend and give evidence, under the Ombudsman Act
- taking sworn evidence from six witnesses
- seeking expert advice on cemetery regulation and compliance obligations
- conducting community consultations to gauge potential cultural sensitivities around the matters being investigated
- providing a draft of this report to affected parties for comment
- consulting affected parties mentioned in the report.

12. In reaching the factual findings in this report, the investigation has been guided by the civil standard of proof, the 'balance of probabilities', taking into consideration the nature and seriousness of the conduct in question, the quality of the evidence, and the gravity of the consequences for the persons involved in the matters under investigation.

## Procedural fairness and privacy

13. This report contains adverse comments and opinions about Darren Bock, the Manager, the Council and the Trust. In accordance with section 25A of the Ombudsman Act, the Ombudsman gave Mr Bock, the Manager, the Council and the Trust a reasonable opportunity to respond to her draft report. This final report fairly sets out their responses.

14. In accordance with section 25A(3) of the Ombudsman Act, any other persons who are or may be identifiable from the information in this report are not the subject of any adverse comment or opinion. They are identified because the Ombudsman is satisfied:

- it is necessary or desirable to do so in the public interest; and
- identifying those persons will not cause unreasonable damage to their reputation, safety or wellbeing.

15. Throughout this report, case studies examine instances where Mr Bock's conduct affected specific individuals, including the families of deceased persons. Given the sensitivity of the matters detailed in these case studies, anonymised pseudonyms have been used instead of the real names of the individuals involved. The identification numbers of the relevant graves have also been changed so they cannot be identified.



# Victorian cemeteries and cemetery trusts

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***'Cemeteries not only illuminate our past but also provide a sense of community and identity.'*<sup>2</sup>**

## Cemetery trusts

16. All public cemeteries in Victoria are governed and managed by cemetery trusts.

### Legislative basis

17. The Cemeteries Act and the Regulations form the legal framework within which public cemetery trusts operate in Victoria.
18. A cemetery trust is established as a public entity under the Cemeteries Act, and its members are appointed by the Governor in Council following the Minister for Health's recommendation. Because a cemetery trust is a public entity, it is also subject to the legislative and regulatory requirements of the *Public Administration Act 2004* (Vic), as well as industry regulations.
19. The Regulations include a set of model rules for cemetery trusts, which apply in the absence of any formally-approved rules for a particular trust. Any rules established by a cemetery trust in this way must comply with the Cemeteries Act and the Regulations. The Cemeteries Act and Regulations prevail over a cemetery's rules to the extent of any inconsistency.

### Role of the cemetery trust

20. The *Manual for Victorian Class B Cemetery Trusts* (the Manual) states that as independent public entities, trusts exercise decision making in relation to the services they provide, the way they use funds, and how they employ staff:

The role of government in the Victorian cemeteries sector is to ensure the administration of the Act. As independent public entities, trusts are the decision-makers in relation to their services, expenditure of funds and employment of staff, provided these decisions are lawful.

21. A cemetery trust can therefore develop its own policies and procedures for 'the day-to-day management and operation of a cemetery', providing they are consistent with the requirements of the Cemeteries Act, Regulations and the Department's guidelines and policies.
22. Under Part 12 of the Cemeteries Act, a trust is required to consider the following when exercising its functions:
  - the funding of its perpetual maintenance obligations
  - the cultural and religious values of the community
  - the heritage values (if any) of the cemetery.
23. These legal requirements are central to understanding the seriousness of the matters described in later chapters.

### Class A and B cemetery trusts

24. Cemetery trusts in Victoria are divided into 'class A' and 'class B' trusts. Section 3(1) of the Cemeteries Act provides that a class B cemetery trust is one that is not specified as being class A.

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<sup>2</sup> Celestina Sagazio, 'Introduction' in Garrie Hutchinson, *In Memoriam. A Guide to the History and Heritage of Victoria's Cemeteries*, (State of Victoria, Department of Health and Hardie Grant Books, 2014) 8, 8.

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25. Most class A cemetery trusts in Victoria govern large public cemeteries. At present, five cemetery trusts in Victoria are specified as class A cemetery trusts:

- Ballarat General Cemeteries Trust
- Bendigo Cemeteries Trust
- Geelong Cemeteries Trust
- Greater Metropolitan Cemeteries Trust
- Southern Metropolitan Cemeteries Trust.

26. The Mildura Cemetery Trust is a class B cemetery trust. Schedule Four to the Cemeteries Act provides for the establishment of a new class A cemetery trust as 'the successor in law' of the Trust. However, on the advice of the Department, the steps required to trigger these provisions have not been taken to date in relation to Mildura.

27. The Department has published separate manuals for Victorian class A and class B cemetery trusts. These manuals are essentially identical in respect of their guidance concerning cemetery operations relevant to this investigation.

### **Role of a cemetery trust board**

28. The Cemeteries Act states that cemetery trust boards serve the community by providing cemetery services and maintaining public cemeteries. They are accountable to the Minister for Health and are responsible for the conduct and performance of the trust entity.

29. The Cemeteries Act and the Manual specify that class B cemetery trusts are controlled by a board of appointed members (between three and 11 members).

30. The Manual outlines important roles for a cemetery trust board including:

- a strategic role in setting the overall operational direction of the cemetery trust
- a stewardship role in ensuring that the trust's activities reflect public sector values and employment principles, and that the trust has arrangements in place to meet its statutory obligations.

31. Under the Public Administration Act, a cemetery trust board must also:

- comply with public sector values (section 7)
- comply with the *Code of Conduct for Directors of Victorian Public Entities* issued by the Victorian Public Sector Commission.

### **Mildura Cemetery Trust**

32. The Mildura Cemetery Trust was established around 1892. The Trust is responsible for the management of the Nichols Point and Murray Pines public cemeteries.

### **Nichols Point and Murray Pines cemeteries**

33. Nichols Point is the original public cemetery for Mildura, opening in 1898. Murray Pines Cemetery opened in 1995 as the original cemetery was reaching capacity.

34. Adjacent to Nichols Point Cemetery is a war graves plot that contains the remains of 49 servicemen of the Second World War, and there are 21 veterans buried in the main original cemetery. According to Council records, both cemeteries are located on Reserved Crown Land. Council's website states that the war graves section was established after the Second World War, and the lawn section in the 1970s.

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## Relationship with Mildura Rural City Council

35. Since the Trust's inception, the Nichols Point Cemetery has been supported by a range of local government entities. The Trust is a separate legal entity from Council, as provided for by the Cemeteries Act. However, Council provides accounting and administrative services to the Trust for a fee, to enable the two cemeteries to operate.
36. Council's website outlines the Trust's responsibilities:

The corporate body of the Mildura Cemetery Trust are responsible for providing burial facilities for mainly the community of Mildura and the surrounding areas.
37. The Trust is governed by three Councillors who act in an 'honorary' capacity. The membership of both the Council and the Trust's Board changes over time; and different Councillors served on the Board over the period relevant to this investigation. The Council advised that Board members are typically appointed for one-year terms.
38. Council's website states that the Trust no longer employs staff directly and that staff are contracted through the Council. The website also explains that the Trust has three full time contractors who perform cemetery duties.

## Oversight

39. Several oversight bodies hold formal powers over cemetery trusts in Victoria, including the Governor in Council, the Minister for Health, and the Secretary of the Department of Health and Human Services.

### Secretary's role

40. The Cemeteries Act gives the Secretary of the Department significant powers to ensure cemetery trusts meet their legal obligations.
41. The Cemeteries Act requires that municipal councils responsible for the management of a cemetery report each financial year to the Secretary. The Trust complies with this requirement.
42. Section 18A provides that the Secretary may 'from time to time ... cause to be developed and prepared policies and plans in relation to the provision of cemetery services and crematoria services'.

### Department support and guidance

43. The Department has established a Cemetery Sector Governance Support Program for 'overseeing the administration of the Act'. In addition, the Department has a number of guides and publications to support the management of cemeteries, including:
  - manuals for Victorian class A and class B cemetery trusts
  - Secretary's directions issued under section 18 of the Cemeteries Act
  - a biannual Cemetery Sector Governance Support newsletter, which addresses topical issues in cemetery governance and training programs

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- governance and finance information, addressing matters such as insurance, data security, record-keeping, fraud prevention and protected disclosures, and fee-setting
  - guidelines and forms for applying for exhumation licences.

### Department powers

44. The Department has statutory power over cemetery trusts and states that it will investigate 'significant matters' relating to trust governance and operations. Those matters include:
- fraud, such as misuse or misappropriation of trust funds
  - poor governance and/or management practices
  - poor record-keeping practices
  - conflicts of interest.
45. The Department's governance and operational training manual for class B cemetery trusts (the Manual) also states that cemetery trusts should regularly review their policies, specifically including policies that address:
- procurement and contract management
  - fraud control
  - risk management.
46. The Manual provides comprehensive guidance relating to effective financial management, and specifically states that cemetery trusts cannot charge any fee that has not been approved by the Department and published in the Government Gazette.
47. The Manual also recommends regular reviews of trust performance, and lists a number of 'indicators of healthy governance' and 'warning signs of ineffective governance'. Examples of such warning signs include situations where:
- a trust relies on the expertise of a single individual in crucial areas of its governance
  - a trust is entirely dependent on its employees.

# Exhumations

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***'So there's no such thing as a transfer at a cemetery, you know. It's an exhume. If you are up and about, it's not a transfer.'***

- a Cemetery officer

## Allegation

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Darren Bock exhumed, and/or caused to be exhumed, the bodily remains of four individuals, without ensuring that the appropriate exhumation licences had been obtained from the Department of Health and Human Services.

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48. The investigation found Darren Bock exhumed, and/or caused to be exhumed the bodily remains of four individuals, apparently without his or any other person at the Trust having obtained or applied for an exhumation licence. Conducting an exhumation without a licence is a criminal offence under section 155 of the Cemeteries Act and is punishable by up to five years imprisonment.
49. The investigation also found that a number of these exhumations were conducted without regard for occupational health and safety requirements and the Trust's own procedures manual. Further, in one case, the conduct of the exhumation involved a particular lack of sensitivity concerning the deceased's remains. One witness said Mr Bock invited several colleagues from the Council's offices to witness an exhumation he was about to conduct. In this case, multiple witnesses gave evidence that they saw Mr Bock handling the deceased's bones in the grave. This was despite the Trust's procedures requiring that exhumations be conducted behind a protective screen.
50. This chapter examines four occasions which show Mr Bock conducted an exhumation without a licence. The investigation heard evidence suggesting these were not the only instances of exhumations being performed without a licence. However, investigators could not substantiate other alleged cases with documentary evidence or first-hand witness accounts. Accordingly, those other instances are not discussed here.

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51. Council submitted to the investigation that the standard of Darren Bock's record-keeping meant that the inability to locate an exhumation licence in any particular case was not conclusive evidence that no exhumation licence was obtained. The investigation notes that the Cemeteries Act creates a positive obligation to obtain such a licence to conduct a lawful exhumation. Furthermore, the Department was provided with a draft of this report for comment; and its response did not indicate that exhumation licenses had been sought or issued for any of the exhumations described in this chapter.

## Protocols for exhumations

### Legal requirements

52. Under the Cemeteries Act, it is an indictable offence to exhume or remove human remains from a place of interment, except in accordance with the Cemeteries Act (section 155). The penalty for doing so is a fine of up to 600 penalty units or up to five years imprisonment, or both.
53. Under section 156, an exhumation can only be carried out after the Secretary of the Department grants a licence. The Cemeteries Act outlines the proper process for applying for that licence.
54. Section 156(2) of the Cemeteries Act requires that an application for an exhumation licence:
- must be in the prescribed form; and
  - must be lodged with the Secretary at least 7 days before the proposed exhumation or removal; and
  - must be accompanied by the prescribed fee.

55. Section 158 specifies that an exhumation licence is required if a person wishes to remove human remains from a place of interment and reinter those remains at another location. This other location might be within the same public cemetery, or outside that cemetery.

56. An exhumation is distinct from a 'lift and reposition', where the remains are lifted out of a grave so the grave can be dug to a greater depth. For a 'lift and reposition', the remains are re-interred in the same grave. An exhumation licence is not required to conduct a 'lift and reposition' under the Cemeteries Act.

## Procedural requirements

57. Protocols for conducting exhumations are outlined in the Manual:

Generally, an exhumation licence will be required when a trust is requested to remove bodily remains from a grave, for example, to transfer the remains from one site to another or other circumstances when it is likely that bodily remains will be removed.

58. The Manual also provides guidance on:

- the process for obtaining an Exhumation Licence
- cemetery trusts' responsibilities when exhuming, compared to the funeral director's obligations
- workplace safety issues that need to be considered when conducting an exhumation
- liaising with family members during this process.

59. Appendix 23 of the Manual contains comprehensive procedures for each stage of the exhumation process.

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60. This appendix lists seven general responsibilities for the cemetery manager/supervisor:

- Notify the Department of the day and time of exhumation
- Ensure risks are assessed (complete a Risk Assessment or Job Safety Analysis)
- Ensure risk control is agreed to by all parties
- Ensure safe work procedures are followed and supervised at all times
- If a member of the public (such as a family member or friend of the deceased) indicates they wish to attend the exhumation, advise the individual of the potentially distressing nature of the process
- Assist the nominated funeral director to liaise and consult with the family representative if they are present
- Notify the Department of the completion of the exhumation and file a report.

61. The Manual also contains a diagram illustrating the difference between an exhumation and a 'lift and reposition', which is reproduced in the context of our discussion of Mr F (see page 30). This diagram is also publicly available on the Department's website.

### Who should be present at an exhumation?

62. The Cemetery and Crematoria Association of Victoria (CCAV) has published industry standards for conducting exhumations (CCAV Standards). The CCAV Standards make clear that it is best practice for a funeral director to be present and to have access to the coffin and the deceased's remains. In other words, funeral directors are responsible for the removal of the deceased's remains from the grave where the coffin cannot be removed intact.

63. When present at an exhumation, the CCAV Standards state that funeral directors should:

Take control of the coffin once it reaches ground level or is removed from crypt, or if the coffin has disintegrated, to handle the human remains to get them to ground level or removed from crypt and enclose them in a suitable container.

64. As with the Manual, the CCAV Standards further state that during an exhumation, cemetery managers are responsible for risk assessments and control in respect of the exhumation, to ensure safe work practices are followed and supervised at all times, and to notify the Department of completion of the exhumation and file a report. The Cemetery Manager is also expected to assist the nominated funeral director in dealing with any family representatives present, and to ensure that any members of the public present for the exhumation are aware that the experience may be difficult or upsetting:

If a member of the public (such as a family member or friend of the deceased) indicates that they wish to attend the exhumation, advise the individual of the potentially distressing nature of the process.

65. The Position Description for Darren Bock's role as Cemetery Team Leader states, among other things, that the Cemetery Team Leader has responsibility to:

- co-ordinate and participate in the conduct of exhumations
- ensure that 'all exhumations are conducted in accordance with the Trust Manual and the Cemeteries and Crematoria Act'.

66. The CCAV Standards list the following responsibilities of gravediggers involved in an exhumation:

- Excavating the grave or removing the crypt shutter seal, making it safe, and exposing the coffin

- If possible, bring the coffin to the surface or remove it from the crypt, and hand it over to the funeral director
- Check and wear appropriate protective clothing and equipment
- Always work safely and be aware of hygiene risks.

### **The importance of occupational health and safety during exhumations**

67. The Manual deals with topics for cemetery trusts 'in summary form'. It contains two chapters dealing with risk management (Topic 25) and occupational health and safety (Topic 29). The Manual notes 'Trusts have a duty of care to all members of the public who enter onto cemetery property', and directs them to ensure:

all work in the cemetery, no matter by whom, is performed in a manner that is healthy and safe for the workers involved and the members of the public who may be affected by it.

68. The Manual is likewise clear that work in a public cemetery must be 'performed in a healthy and safe manner, and without risk to anybody', regardless of who is performing that work. Open graves are listed as a particular hazard, both for mourners attending at an open grave for an interment and for anyone entering an open grave for any purpose.

### **The Mildura Trust's exhumation policies, procedures and guidelines**

69. The Trust has written, accessible guidelines specifically concerning exhumations and safety precautions for working in or near any open grave. The safety precautions guidelines include the following instructions:

- A mobile phone must be readily accessible at the grave site.

- A minimum of two employees are to be present at any grave being dug by hand.
- No-one should be in a grave unless at least one other person is present – if the second person needs to leave for any reason, 'the person in the grave must vacate it, and remain above ground until the second person returns to the site'.
- A detailed list of necessary safety precautions, including the need for safety equipment, communications around the use of equipment, and current immunisations for tetanus and hepatitis B.

70. The Trust's procedures for exhumations dated August 2014, include similar safety instructions. The procedures also state:

- Pre-exhumation checks should be completed with reference to the Trust's records.
- If family or friends are to be present at an exhumation, 'they are to remain clear of any works in progress and behind a protective Hessian screen'.
- The importance of making the site safe prior to and during excavation, including possibly needing to remove grave ledgers and monuments and to install shoring as excavation progresses.
- The importance of odour neutralisers, breathing masks and other protective equipment for any gravediggers likely to come into contact with human remains.

## Case studies of four exhumations conducted by Darren Bock

71. At interview during the investigation, Darren Bock declined to answer questions about exhumation allegations, asserting the privilege against self-incrimination. In examining each case, the investigation has relied on documentary evidence, business records of the Trust, and evidence from other witnesses.



### Mrs A – Case One

In this case, Mrs A was interred in the wrong grave and subsequently transferred to the correct site, without proper exhumation authorisations in place.

#### Mrs A is interred in the wrong plot

On 9 July 2015, Ms B completed an ‘Application for Right of Interment’ form in respect of her mother, Mrs A. An invoice relating to this interment shows the grave listed as ‘XY41’. A receipt was generated on the same day, also referring to XY41.

On 17 September 2015, following her mother’s death, Ms B signed an ‘Application for interment authorisation’ form. In that form, she authorises and consents to her mother being buried in plot XY41 at 10.30am on 26 September 2015.

Darren Bock completed and signed the related Funeral Booking Confirmation form on the same date. This form states the funeral will take place at the Murray Pines Cemetery, in the correct section, but lists the grave number as XY44.

The record then has the Burial Right Owner as Ms C and includes her home address. The handwriting appears to be Mr Bock’s. At the time, Ms C was the holder of the right of interment for XY44 - where Mrs A was subsequently interred in error on 26 September.

As the below excerpt from the Funeral Booking Confirmation form shows, the handwritten [XY]44 is crossed out with two lines and [XY]41 hand written next to it.

TIME AND DATE OF BOOKING	.....AM.....PM	DATE: 17 / 9 / 15
TAKEN BY WHOM	SIGNATURE: <i>Darren Bock</i>	
DAY OF FUNERAL: SAT	DATE: 26 / 9 / 15	
ARRIVAL TIME AT CEMETERY: 10.30	AM / PM	
(Tick appropriate box's as required)		
NEW GRAVE <input type="checkbox"/>	DOUBLE DEPTH <input checked="" type="checkbox"/>	TRIPLE DEPTH <input type="checkbox"/>
REOPEN GRAVE <input type="checkbox"/>	RESERVED GRAVE <input checked="" type="checkbox"/>	MAUSOLEUM <input type="checkbox"/>
LAWN GRAVE <input checked="" type="checkbox"/>	MONUMENTAL GRAVE <input type="checkbox"/>	ASHES <input type="checkbox"/>
CONCRETE LINED GRAVE (VAULT) <input type="checkbox"/>	Vault - Top Level <input type="checkbox"/>	Vault - Bottom Level <input type="checkbox"/>
MURRAY PINES CEMETERY <input checked="" type="checkbox"/>	NICHOLS POINT CEMETERY <input type="checkbox"/>	
SECTION: [REDACTED]	GRAVE NUMBER: <del>44</del> 41	
<b>DECEASED DETAILS</b>		
FAMILY NAME: [REDACTED]	PAID	

*Please check with Darren*

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Investigators cannot ascertain exactly when the amendment to the document occurred. However, it is reasonable to assume this was after Ms B raised concerns that her mother was being buried in the wrong plot.

A Cemetery Officer was the gravedigger on 26 September 2015, having been directed to perform this task by Darren Bock. At interview, the Cemetery Officer gave evidence that Mrs A was buried in the wrong grave because Mr Bock confused two graves that were close together on the same plinth in the lawn section, and the owners of the right of interment had similar first names.

As Darren Bock declined to answer any questions concerning Mrs A's exhumation, it cannot be established exactly how this apparent error occurred. Evidence suggests Mr Bock used Ms B's first name to search for the relevant right of interment holder on the Trust's cemetery booking system. This would have returned information on the rights of interment held by both Ms C and Ms B, which in turn led to Mrs A being interred in grave XY44 rather than grave XY41.

The Manual clearly states that cemetery booking systems should be designed to eliminate errors related to identifying, allocating and preparing interment locations. From a governance perspective, the Trust should have procedures to eliminate the risk of human errors, such as cross-checking by a second person.

### **Mrs A is moved to the correct grave without an exhumation licence**

The Cemetery Officer gave evidence that the exhumation of Mrs A took place 'a couple of days later'. The investigation was unable to confirm the exact date of Mrs A's exhumation as there is no paperwork or exhumation licence on file.

A Trust Officer told investigators that they had searched the Trust's records but could not find 'any paperwork indicating that any exhumation application was applied for or permit granted'.

The Trust's procedures and the CCAV Standards require that a funeral director be present at an exhumation. There is no evidence that a funeral director was present at Mrs A's exhumation.

At interview, the Cemetery Officer said there was no discussion about obtaining an exhumation licence: 'There wasn't the time. There wasn't the discussion. There wasn't even the inkling of doing it like that'. The Cemetery Officer stated that as this occurred during their first year in the job as a gravedigger, they had no idea what paperwork was required by the Department.

### **Failure to manage health and safety**

The Cemetery Officer said they contacted a Council occupational health and safety officer, following the exhumation. They said their main concern was that 'we had an open excavation with people [the family] standing around'.

For the Cemetery Officer, the greater safety concerns related to moving a suspended coffin from one place to another with the family holding onto or touching the coffin as the deceased was transferred.

There is no evidence that Darren Bock or anyone else completed a risk assessment or job safety analysis for this exhumation.

The Cemetery Officer took a photo during the exhumation process, which they subsequently provided to the investigation, to show that the exhumation had occurred. The Cemetery Officer stated that they took these photos because 'it freaked me out that I was doing it'.

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## Effect of the wrong interment and exhumation

The Cemetery Officer described how Darren Bock often talked about ‘family first, family first, family first’. Mr Bock’s failure to locate the correct plot for Mrs A’s initial interment reportedly caused considerable distress to an already grieving family. It is for this reason that the CCAV advises that interment locations should be double checked.

The Cemetery Officer said that during the funeral on 26 September 2015, Ms B realised her mother was being buried in the wrong plot and was so upset she needed to be carried away.

A few days later, during the exhumation, Mrs A’s family had to face a second burial, including the likely distress of accompanying the coffin as it was moved to the correct plot.

## Submissions from the Council

In response to a draft of this report, Council submitted that the above case:

does not explain how the cemetery staff responded to this incident, and yet it seems they would have been made aware at the time. Nor is there any evidence of the family’s response or experience of dealing with the staff about this incident. Absent such evidence, in Council’s view this case study should be restricted to the fact that interment was incorrect and the remains were exhumed.

Darren Bock exercised the privilege against self-incrimination to decline to answer questions about this case and did not make any submissions. The Cemetery Officer provided evidence about events they witnessed directly, which included their account of the family’s ‘response or experience’ to the erroneous interment and subsequent exhumation and re-burial of Mrs A.

Council also submitted that there was ‘no reference to any evidence about the exhumation licence being applied for or not being applied for’. However, it is not contested that this exhumation took place. Neither the Department, the Trust nor Council have identified any record of an exhumation licence being applied for or issued in this case.

## Summary

Although Darren Bock did not give evidence about Mrs A’s exhumation, on balance, the available evidence suggests several failures and breaches in respect of the exhumation and reinterment of Mrs A for which Mr Bock was responsible as Cemetery Team Leader:

- Failure to obtain an exhumation licence, as required under Part 12 of the Cemeteries Act
- A lack of attention to, and management of, occupational health and safety risks to both Trust staff and Mrs A’s family
- Non-compliance with the CCAV Standards, the Manual and Trust procedures concerning the proper conduct of exhumations.

The initial error in Mrs A’s case appears to have been Darren Bock’s failure to properly check the Trust’s records and locate the correct burial site. Given the consequences for Mrs A’s family, this was no small administrative mistake. Council submitted that this conclusion is speculative. However, as Mr Bock lawfully declined to answer questions about this matter, it was not possible to confirm that this was how the error arose.

As the following case studies suggest, Mr Bock's apparent error in identifying the correct site for Mrs A's grave was not an isolated mistake.



## Mrs D - Case Two

The investigation obtained evidence that the bodily remains of Mrs D were exhumed without the appropriate exhumation licence being obtained from the Department.

### Background

The investigation located a letter received by the Council dated 24 January 2003. It is signed by both the former Sexton and Darren Bock (as gravedigger). In this letter, both the former Sexton and Mr Bock raise the issue of being 'required to exhume remains to be re-interred in the newly established mausoleum'. They complain that 'Exhumations are only covered under the Gravediggers Award and not under the Local Government Award for which we are paid under'. The letter concludes:

As there are more exhumations scheduled soon due to the completion of the mausolea, I would appreciate your guidance as to whether it is reasonable for us to be directed to do this and the necessary precautions that need to be taken.

This letter demonstrates that in 2003, Mr Bock was aware that 'exhumations' were required at the completion of a mausoleum. After being shown a copy of the letter, Mr Bock confirmed at interview that this had been his understanding despite not specifically remembering the letter.

Mrs D passed away on 16 August 2015. On 19 August 2015, Mr D signed the Application for Right of Interment to plot CD55. This plot is in an underground vault (that is, a concrete chamber). Mrs D was interred in this vault on 21 August 2015.

At interview, a Cemetery Officer stated that Mrs D's interment in CD55 was a temporary measure. Mrs D was to be placed in a new mausoleum that had not been completed at the time of her death. Accordingly, 'the lids we put on it [the coffin] were particle board, where we'd normally put concrete and seal it. Because we knew we were going to move it, we just used particle board'.

The Cemetery Officer said that about three to six months later, Mr Bock instructed them to move the casket containing Mrs D's remains into the mausoleum, where it remains today.

At interview, the Cemetery Officer provided a document named 'Application for interment authorisation'. Part of that document is produced below and shows that Mrs D was 'transferred' from plot [CD]55 to plot [EF]1.

Details of interment	
Name of cemetery:	Murray Pines Cemetery TRANSFERRED TO MAUSOLEUM
Type of place of interment (e.g. grave, vault, crypt):	55 1
Location in cemetery of place of interment (e.g. grave number, section and row):	

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The document does not state the date on which Mrs D's remains were transferred to the mausoleum. However, the investigation located electronic records that show this second interment took place on 18 March 2016. This date closely coincides with the opening of the mausoleum in April 2016.

### **Failure to seek approval for exhumation**

At interview, Mr Bock claimed the privilege against self-incrimination as a lawful basis not to answer questions about this exhumation.

In a statutory declaration, a Trust officer stated that they had:

- searched the Trust's records to see if an exhumation fee had been charged in respect of Mrs D
- found no record of this charge, or any record of any exhumation application or permit being applied for or granted, in relation to Mrs D.

Darren Bock's manager (the Manager) told investigators that the apparent exhumation of Mrs D was 'sold to me as a lift and reposition' by Mr Bock. The Manager recalled that Mr Bock had made him aware that Mrs D was being moved from one location within the cemetery to another, and had incorrectly described the process as a 'lift and reposition' rather than an exhumation. The Manager agreed that an exhumation licence should have been sought in Mrs D's case, although he stated that, at the relevant time, he did not understand the difference between an exhumation and a 'lift and reposition'.

As with Mrs A, there is no evidence of a funeral director having been present, as required by the Trust's procedures and the CCAV Standards.

### **Occupational health and safety matters**

The investigation found no evidence that proper risk assessments and safety considerations were put in place as recommended by the CCAV and the Manual.

The Cemetery Officer described having serious concerns about the occupational health and safety issues as the coffin was moved. In particular, they noted leaking from the base of the coffin. The Cemetery Officer commented that they were aware, when moving the casket, that 'the body had degenerated mostly to fluid ... you could hear it'. As the Cemetery Officer knew Mrs D's family, this was also a distressing personal experience.

### What are some of the OHS issues with bodily remains?

Human bodily remains begin to break down after death. This process is accelerated by bacteria digesting cellular proteins, producing gases and organic compounds. Warm weather can accelerate the process of decomposition and liquefaction. Direct contact with such bodily remains can be highly disconcerting and can potentially cause gastroenteritis. Microorganisms involved in the decay process are not pathogenic, but infectious diseases present in the deceased's body at the time of death can potentially be spread by direct contact with their remains.

The CCAV Standards clearly state that a gravedigger's role in an exhumation is to dig out the grave and to provide the funeral director with access to the coffin and body. It is not the role of the gravedigger (in this case, the Cemetery Officer) to move coffins and bodies – that is the job of a professional funeral director.

### Refunding of site fee for CD55

Under section 44 of the Cemeteries Act, a cemetery trust 'must not waive or reduce any fees or charges that would otherwise be payable to it under this Act except on the grounds of extreme hardship or other special circumstance'. Section 83 requires a cemetery trust to refund the fee for an exercised right of interment when it is surrendered and no longer in use, minus any associated administrative, maintenance and restoration fees or costs. The Manual states that after moving a deceased person to a new location, '[o]rdinary interment charges should apply to re-inter the exhumed remains'.

The 'Funeral Booking Confirmation' form dated 18 August 2015 and signed by Darren Bock confirmed that Mrs D was to be interred into plot CD55 and the site fee was \$7,740. The document contains a Mildura Cemetery Trust stamp showing the site fee was paid on 21 August 2015.

A tax invoice issued by the Trust dated 15 April 2016 lists the following:

Site: EF1 \$20,000	
Site: Vault Refund	-\$7,740.00
Interment Mausoleum	\$1,159.09 (Tax 115.91)
Interment - Vault Refund	-\$1,531.82 (Tax 153.18)
<b>Subtotal</b>	<b>\$11,887.27</b>
Tax	-\$37.27
<b>Total</b>	<b>\$11,850.00</b>

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The invoice shows a stamp indicating that \$11,850 was paid on 26 April 2016.

The refund of the right of interment appears consistent with section 83 of the Cemeteries Act. The investigation found no documentary evidence to explain why the vault interment fee was refunded.

### **Why was the money refunded?**

At the time of the purchase and refund, one relative of the deceased was employed as a Council officer, while another was a member of another cemetery trust. There is no evidence before the investigation to support any suggestion that these relationships may have influenced the decision to refund the vault interment fee.

The investigation found a series of email messages between Darren Bock and the abovementioned Council officer in 2016, relating to the proposed purchase of another right of interment within a crypt. Those messages do not provide any information which might explain the granting of the refund.

At interview, the Manager gave evidence that the Trust had the authority to waive fees, and that this power was not delegated to Mr Bock. The Manager stated that he did not know why Mr Bock would purport to waive these fees, or whether the Trust was aware that Mr Bock had arranged to waive the fees in Mrs D's case.

### **Submissions from Council**

In response to a draft of this report, Council submitted that the arrangements recommended by the CCAV Standards are not prescribed in legislation, and are matters for the Trust to address. Although this is accurate as a statement of law, the CCAV Standards provide a guide to good practice in conducting exhumations. Council also submitted that the Manual 'recommends a funeral director be engaged where the coffin is not intact', and that in all but one case (including the exhumation of Mrs D), the requirement did not arise as the coffins of the persons exhumed in these case studies were intact. This assertion is not correct, as this part of the Manual (Appendix 23) relevantly provides:

The trust will need to identify the correct grave or crypt site (use industry best practice of verifying data records to plans as well as a site location inspection by two trained people; an authorised trust representative and the gravedigger/contractor) and provide the funeral director with access to the coffin, casket or deceased's remains. Funeral directors are responsible for the removal of the deceased's remains from the grave (if the coffin cannot be removed intact).

Similarly, the CCAV Standards make clear that funeral directors should be involved in exhumations regardless of the condition of the deceased person's coffin. Under the heading of 'General Responsibilities', the CCAV Standards include the following instruction for funeral directors:

Take control of the coffin once it reaches ground level or is removed from crypt, or if the coffin has disintegrated, to handle the human remains to get them to ground level or removed from crypt and enclose them in a suitable container.

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## Summary

The available evidence suggests several failures and breaches in respect of the exhumation and reinterment of Mrs D, concerning matters for which Darren Bock was responsible as Cemetery Team Leader:

- Failure to obtain an exhumation licence, as required under Part 12 of the Cemeteries Act
- Failure to maintain necessary records to demonstrate that the refund of the vault interment fee relating to Mrs D was warranted, given the requirements of section 44 of the Cemeteries Act and the scope of operation of section 83 of the Cemeteries Act
- Refunding an interment fee, apparently without proper authority or delegation to do so
- A lack of evidence that appropriate occupational health and safety and risk assessments were conducted prior to the exhumation of Mrs D
- Non-compliance with the CCAV Standards, the Manual and Trust procedures concerning the proper conduct of exhumations, including the direction that a funeral director be present.



## Mr E – Case Three

The investigation found evidence that the remains of Mr E were initially interred into vault plot GH20 on 4 November 2010 and exhumed and reinterred in another location within that vault around 24 June 2011.

### A Trust Officer discovers an unauthorised exhumation

On 21 February 2019, a Trust Officer made a statutory declaration outlining how they had come across a plot file in the Trust's 'Authority' computer system with a note stating that 'Mr E was exhumed & transferred from [GH20] to [GH41]'.

The Trust Officer stated that they could find no paperwork, application or permit associated with an exhumation of Mr E. However, Mr Bock's name and signature appeared in several documents which they identified as relating to Mr E's interment.

### Why was Mr E exhumed?

The Trust Officer attested that Mrs E had originally intended that she and her husband be interred in adjoining lawn plots. The Trust Officer found documentary evidence indicating that Mr and Mrs E held the right of interment for two adjoining lawn grave plots, which were relinquished in 2012. After Mr E's death, the Trust Officer believes Mrs E wanted her husband interred in a vault, with the intention of purchasing an adjoining plot for her later interment.

The Trust Officer believes that there were no adjoining vaults available at the time of Mr E's death. This meant Mr E was interred in a vault that was available (GH 20), with the intention of exhuming him and placing him in another vault when new ones were installed.

The Trust purchased new vaults on 15 November 2010, 11 days after Mr E was interred. However, these vaults were not installed until 10 May 2011, due to flooding and excavation works. The Trust Officer notes that the vaults would have been given 'time to settle' prior to use.

The Trust Officer believes those vaults would have been ready for use when Mrs E paid for a second vault on 24 June 2011. The Trust Officer therefore believed that 'the exhumation would have taken place within a few days either side of the vault purchase' by Mrs E. This appears to be a reasonable assumption, given the sequence of events recorded in the Trust's files and identified by the Trust Officer.

Timeline of events for exhumation of Mr E

Initial application for interment and amendments	
<b>31 October 2010</b>	Application for Interment Authorisation form lists a lawn grave plot. <i>[Note: This is later crossed out and replaced with GH20. This is later crossed out and replaced with GH41.]</i> The Trust Officer notes that Mrs E was also the holder of another plot, suggesting two adjoining plots had been paid for at this time.
<b>4 November 2010</b>	Mr E is interred in GH20.
<b>4 November 2010</b>	Receipt lists GH20. <i>[This is later replaced with GH41.]</i>
Trust makes vaults available, but installation is delayed	
<b>15 November 2010</b>	Invoice for vaults issued.
<b>17 November 2010</b>	Vaults delivered but unable to be installed.
<b>10 May 2011</b>	Vaults installed.
Application for second vault and double memorial	
<b>24 June 2011</b>	Mrs E purchases the Right of Interment to a second vault (GH43) and applies to establish a double memorial for GH41 and GH43.
Likely date of exhumation	
<b>(around) 24 June 2011</b>	Mr E exhumed and moved to GH41. Exact date unknown.
<b>21 February 2012</b>	Mrs E relinquishes the two lawn graves.

This sequence of events was not put to Darren Bock at interview, as he claimed the privilege against self-incrimination in refusing to answer all questions concerning the exhumation of Mr E.

### Failure to obtain an exhumation licence

The Trust Officer provided investigators with paperwork showing Mr E's body had been exhumed and moved from one vault to another.

The Application for Interment Authorisation form initially stated Mr E was to be interred in a lawn grave at Murray Pines Cemetery. This information had been crossed out and replaced with GH20. The number 20 had also been crossed out and the number 41 had been added to the form.

Please complete in block letters

4/11/10

OFFICE USE ONLY	

**Details of Deceased**

Title: [REDACTED] Given Names: [REDACTED]

Surname: [REDACTED]

Sex:  Male  Female

Date of Birth: [REDACTED] Date of Death: 31/10/2010 Age: [REDACTED]

Last Known Permanent Address: [REDACTED]

Suburb/Town: Mildura State: Vic Post Code: 3500

Religion: [REDACTED]

Did the deceased have a spouse or family partner at the time of his/her death?  Yes  No

**Details of Interment**

Name of cemetery: Murray Pines [REDACTED]

Type of location of interment (eg. grave, niche, crypt): ~~Grave~~ [REDACTED]

Location in cemetery of place of interment (eg. grave number, niche and aisle): [REDACTED] ~~20~~ 41

How many interments should the place of interment be prepared to accommodate? (If applicable, tick the number in the column of boxes below only)

1  2  3  Other (specify details)

The receipt had 'GH20' listed as the grave site, but this number is crossed out and replaced with a hand-written '41'. The receipt was dated 4 November 2010, which coincides with Mr E's burial date.

The funeral booking form for Mr E listed the grave number as '20', but this is crossed out and the words 'moved to 41' had been added to the form.

TIME AND DATE OF BOOKING	.....AM.....PM DATE: 3/11/10	
TAKEN BY WHOM	SIGNATURE: <i>Dawn Beck</i>	
DAY OF FUNERAL: THURS	DATE: 4/11/10	
ARRIVAL TIME AT CEMETERY: 1:00	AM / PM	
(Tick appropriate box's as required)		
NEW GRAVE <input type="checkbox"/>	DOUBLE DEPTH <input type="checkbox"/>	TRIPLE DEPTH <input type="checkbox"/>
REOPEN GRAVE <input type="checkbox"/>	RESERVED GRAVE <input type="checkbox"/>	MAUSOLEUM <input type="checkbox"/>
LAWN GRAVE <input type="checkbox"/>	MONUMENTAL GRAVE <input type="checkbox"/>	ASHES <input type="checkbox"/>
CONCRETE LINED GRAVE (VAULT) <input checked="" type="checkbox"/>	Vault - Top Level <input checked="" type="checkbox"/>	Vault - Bottom Level <input type="checkbox"/>
MURRAY PINES CEMETERY <input checked="" type="checkbox"/>	NICHOLS POINT CEMETERY <input type="checkbox"/>	
SECTION: [REDACTED]	GRAVE NUMBER: <del>20</del> MOVED TO 41	
<b>DECEASED DETAILS</b>		
FAMILY NAME:	[REDACTED]	

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On 24 June 2011, Mrs E applied to establish a memorial for GH41, suggesting at this time that Mr E was interred in GH41. No location reference information is crossed out on the associated form.

This memorial application was for a double monument, which also encompassed GH43. On the same day, Mrs E purchased the right of interment for GH43.

The investigation was unable to find any documentation relating to an application or approval for Mr E's exhumation to take place. At interview, the Manager did not recall Mr E's exhumation, which occurred a few months after he commenced in his role at the Trust, although he agreed that he would have expected Mr Bock to have notified him of the exhumation.

### Summary

The available evidence indicates that Darren Bock failed to apply for and obtain an exhumation licence for the exhumation of Mr E. An exhumation licence is required for any person to lawfully conduct an exhumation under Part 12 of the Cemeteries Act. As Mr Bock declined to answer questions about Mr E's exhumation on the grounds of self-incrimination, the investigation reaches no further conclusions about how this exhumation was carried out.



### Mr F – Case Four

The investigation found that on 6 March 2018, Darren Bock opened grave IJ69 at Nichols Point Cemetery. This grave contained the remains of Mr F. Mr Bock removed several bones to send for DNA testing, without an exhumation licence. While doing so, Mr Bock failed to follow protocols for the proper conduct of an exhumation, and was in breach of occupational health and safety requirements.

### Ms G seeks help in identifying her father

Mr F was born on 25 December 1899. On 7 March 1917, he was enlisted into the Australian Imperial Force to serve the Military Forces of the Commonwealth of Australia. He was under the age of 21, and he enlisted under the name of his father. He went on to serve in both the First and Second World Wars.

In April 2017, Ms G contacted the Trust Officer by telephone seeking information about a man who was buried in a pauper's grave in Nichols Point Cemetery. Ms G believed this man may have been her father. Cemetery records confirm that a man with a name different from that of her father (and grandfather) was buried in grave IJ69 at the Nichols Point Cemetery on 29 May 1959.

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### The Trust Officer responds to Ms G

On 28 April 2017, the Trust Officer emailed Ms G to acknowledge that the Trust intended to apply to have Mr F's remains exhumed for the purpose of DNA testing. The Trust Officer also acknowledged that if parentage was proven, Ms G intended to arrange for a monument to memorialise her father. On the same day, the Trust Officer sent an email to Darren Bock advising him that there may be an exhumation from 'Common Grave - NP [IJ]69' and that this particular grave not be used for another interment until the application was approved or rejected. The Trust Officer's email noted that the Trust was 'expecting an application in the next few months'.

The Trust Officer informed Ms G that as the plot in question was a 'common grave', the right of burial was held by the Trust, and the usual application for an exhumation procedure could differ slightly. The Trust Officer therefore suggested Ms G write to the Trust Officer so they could contact the Department to seek advice on 'how we go about the application'.

In an email dated 30 April 2017, in response to the Trust Officer's email, Ms G wrote that the only way she could determine whether the man buried in Nichols Point Cemetery was her father was through DNA testing. Ms G advised that her father left her mother around 1952 and changed his name prior to his death in 1959, and was buried under his new name. Ms G concluded the email by saying, 'I would appreciate any help or advice you can give me in this matter, also any indication of the cost to exhume his body and DNA testing'.

The investigation found no further correspondence relating to this request until 22 February 2018, when the Trust Officer received a letter from a genetic testing laboratory. The laboratory's letter thanks the Trust Officer for 'assistance with specimen collection' and requested that the following samples be taken:

- Femur (12-15cm)
- Metacarpals
- Teeth (molars)

### Exhumation or 'lift and reposition': 'How did he not know?'

The Trust Officer attested in a Statutory Declaration that Darren Bock was insistent that the DNA samples could be obtained under a 'lift and reposition', which did not require an exhumation licence:

Darren was insistent that an exhumation would not be required for DNA samples to be obtained - rather that this could be done under a 'lift and reposition', and that we just charge [Ms G] an interment fee as we did not have a lift and reposition fee gazetted.

The Trust Officer said they raised doubts about whether this was the case, but that Mr Bock asserted that he was right:

I felt that as he was the Cemetery Team Leader and in having 25 years' experience in the cemetery field and coming across very authoritative in what he was saying, that I was not in a position to argue this point further.

The Cemetery Officer's evidence at interview was critical of Darren Bock's understanding of the differences between exhumations and 'lift and reposition' procedures:

... he never bothered to look up the definition of 'exhume'. If you ever talked about anything, he would call it 'a lift and reposition'. In his head, the lift and reposition went anywhere you wanted to reposition it within the country. [...] I absolutely remember the conversations where he would talk about it a lot and he would always go 'lift and reposition', like he could not get it right and he just was either unaware or thought he could really get away with it. It's got to be one of the two.

... while he was telling us it was a lift and reposition, me and [another cemetery officer], who was brand new, were standing there listening to him and looking it up on our phone and we both at different times of the conversation [said], 'This is an exhume.' And we were [two new employees] that had never had the information. [...] I'd still never seen the Cemeteries Act and I just looked it up on my phone. So, if I could do that whilst he was telling me, how did he not know the difference?

The Cemetery Officer is correct in saying the information is easily accessed online. The Manual also provides very clear information about the differences between an exhumation and a 'lift and reposition' (as per an excerpt below).

## Examples of situations where an exhumation licence may or may not be required

The following table has been developed to assist trusts to identify when an exhumation licence may or may not be required.

The following examples are not intended to be an exhaustive list and trusts should contact the department for advice if they are unclear about any aspects of exhumation requirements under the *Cemeteries and Crematoria Act 2003*.

<i>Request</i>	<i>Exhumation licence required</i>	<i>Exhumation licence not required</i>	<i>Lift and reposition procedure</i>
Where a trust is requested to remove bodily remains from a grave, for example, to transfer the remains from one site to another or other circumstances where it is likely that bodily remains <b>will be</b> removed.	√		
Where a trust is required to check a nameplate on the outside of a coffin and can ensure that the bodily remains <b>will not</b> be removed from the grave.		√	
Where a trust has provided written approval for cremated remains to be removed from a place of interment. <sup>50</sup>		√	
Where a trust is required to reposition a coffin within a burial plot and can ensure the bodily remains <b>will not</b> be removed from the grave area.		√	
Where a trust receives a request to lift and deepen a place of interment for the purposes of another interment. <sup>51</sup>			√

Source: Manual for Victorian Class B Cemetery Trusts

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The request in this instance was to obtain a number of Mr F's bones to be sent for DNA testing. As such, it was clear that the bodily remains were to be removed from the coffin and the cemetery. It is likewise clear that this was an exhumation and that an exhumation licence was required.

The investigation found no evidence that Darren Bock submitted a request for an exhumation licence before handling the bodily remains and sending samples for testing.

### **Witness accounts of Darren Bock's conduct**

On 7 October 2014, the Council officer in charge of the Council's OH&S policies and procedures sent an email titled 'Exhumation Procedure for review' to Darren Bock. The email requested that Mr Bock 'please read over [and] check that everything is still relevant. Please let me know of any changes if needed'. The Manager received a copy of this email. Less than an hour later, Mr Bock replied that the procedure looked good, adding that he thought 'every thing should stay in there as it cover [sic] everything'.

Relevantly, the August 2014 exhumation procedures which Mr Bock indicated that he had checked, state among other things:

Exhumations can only proceed in accordance with a licence issued by the Department of Human Services.

If family or friends are to be present they are to remain clear of any works in progress and behind a protective Hessian screen.

In respect of the exhumation of Mr F's remains, the investigation received evidence that Mr Bock invited a number of people to witness the exhumation; that witnesses saw Mr Bock handling Mr F's bones; and that compliance with OH&S requirements was inadequate – not least because of the lack of a protective screen.

The Trust Officer attested that the exhumation took place on 6 March 2018, and that Mr Bock invited a number of people to attend:

Darren invited [a Council officer whom he knew] to attend the 'lift and reposition'. The Trust Chairperson and I also attended part of the process, as we felt it was important in our roles to understand how the procedure took place. Other cemetery staff were at the cemetery, but kept their distance.

At interview, the Cemetery Officer confirmed the Trust Officer had witnessed the exhumation. The Cemetery Officer commented that Mr Bock 'actually invited [a number of Council employees] to come and have a look and apparently it wasn't quite as dignified as what it should have been'. The Cemetery Officer stated that they and another Cemetery Officer had left during the course of the exhumation following 'a couple of exchanges' with Mr Bock.

The Trust Chair confirmed to the investigation that she was present for the exhumation. The Trust Chair thought that 'maybe it was mentioned in our Cemetery Trust meeting before then that this would be happening [...] and if we wanted to attend'. The Trust Chair indicated that Mr Bock had put this matter forward at the meeting, and recalled that this had been presented as a rare and unusual opportunity to witness an exhumation.

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## Mr Bock handles the bones directly

The Trust Officer attested that they recalled Mr Bock standing in the grave with the exposed remains of Mr F, and that Mr Bock was not able to identify all of the requisite bones quickly:

When we arrived, Darren was down in the grave with the exposed remains of [Mr F]. The grave was quite deep, [two other people] and I were standing approximately 1 metre from the edge of the grave. ... Darren sifted through the remains and picked up one of the femurs.

According to the Trust Officer, Mr Bock could not locate the carpal bones, so he instead retrieved part of the vertebrae to send for testing. The Cemetery Officer gave evidence that he also witnessed Mr Bock searching through the bodily remains of Mr F. The Trust Officer's Statutory Declaration is consistent with the Cemetery Officer's evidence.

The Cemetery Officer recalled that they and another Cemetery Officer had been watching Mr Bock at the exhumation site:

**CEMETERY OFFICER:** He plucked this bone out from around the bloke's waist area, groin area, and said, 'Oh, this is a molar,' and I said, 'You reckon that's a molar?' and he sort of went, 'Well, a molar is a tooth.' Yeah, I'm aware of that, but why would he have a molar in his - - -

**INTERVIEWER:** Groin?  
[...]

**CEMETERY OFFICER:** Because he needed a molar. So that was a molar and it was the same if he needed 15 centimetres of a femur, so instead of taking the femur, he wanted to cut it up into 15-centimetre lots.

The Trust Chair recalled that Mr Bock was handling the body parts, and that he was wearing protective equipment which she described as 'gloves and a suit'. She added that she had not stayed for long, but was keen to learn whether Mr F was actually Ms G's father.

The investigation found no evidence that Mr Bock invited a funeral director to attend the exhumation, as required. Mr Bock's apparent direct handling of Mr F's bodily remains potentially contravenes the CCAV Standards, which state:

It is imperative that all the human remains to be exhumed are removed from the place of interment, and only the funeral director's staff or cemetery staff who have obtained their Mortuary Hygiene Certificate handle the human remains.

The Trust has separately confirmed it has no records indicating that Mr Bock ever held a Mortuary Hygiene Certificate.

Mr Bock invoked the privilege against self-incrimination as a basis to decline to answer questions about this exhumation. However, on the available evidence, Mr Bock's handling of Mr F's remains appears to have been insensitive at the very least. At best, it appears that Mr Bock behaved unprofessionally in inviting people to witness an exhumation when there was no reason for them to be present. His actions in inviting other Trust Officers to witness the exhumation, and during the exhumation process itself, suggest that Mr Bock treated this exhumation as something of a spectacle.

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## Occupational health & safety considerations

The investigation found no evidence that a risk assessment or a job safety analysis was conducted for this exhumation.

At interview, a Cemetery Officer confirmed this apparent failure to address health and safety:

**INTERVIEWER:** So Mr Bock ... hadn't turned his mind to health and safety issues?

**CEMETERY OFFICER:** No.

### Postage of bones through Australia Post – a further health and safety risk

On 6 March 2018, the Trust Officer wrote to the laboratory and Ms G advising that 'we have posted the samples via Express Post today'.

Australia Post's *Dangerous and prohibited goods and packaging guide, September 2017* (the Guide) sets out standards made pursuant to section 32 of the *Australian Postal Corporation Act 1989* (Cth) regarding 'contents of articles that must not be posted and conditions of posting and packaging for articles'. Exhumed human remains and bones are defined as either 'infectious substances' or 'non-infectious substances', based on criteria set out in the Guide, and substantial restrictions apply to sending them by post.

Regardless of their categorisation as infectious or non-infectious substances, exhumed human remains may only be sent by domestic post within Australia if the addressee is a recognised laboratory and the sender is any of the following:

- a qualified medical practitioner
- a qualified veterinary surgeon
- a public hospital, clinic or laboratory
- a member of a Commonwealth, State or Territory police force
- an authorised agent of any of the above.

No persons employed by or for the Trust qualify under any of these authorised categories.

Australia Post advised the investigation that if human remains need to be sent, this is to be done by a specialist funeral director specialising in interstate transfers of bodies or body parts through a funeral home.

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### **Record-keeping - removal and return of Mr F's remains**

The investigation found no evidence that Darren Bock, or anyone else at the Trust, made a record of which bones were removed from Mr F's grave or sent by post to the laboratory. There is likewise no record at the Trust of what was returned after the DNA testing had been completed.

A Trust Officer noted that the laboratory advised that the initial testing had not produced a result. Ms G subsequently paid for a second test to be conducted. On 24 April, the laboratory informed Ms G that Mr F's DNA sample gave a positive identification, suggesting that Mr F was her father.

The laboratory subsequently returned the remains. The Trust Officer attested: 'I gave the parcel to Darren and requested that he bury them back with the rest of Mr F's remains. I hope that he did'. The Cemetery Officer gave evidence that they believed Mr Bock had returned the bones to Mr F's grave, although they were not present for any inhumation. The investigation was unable to locate any record held by the Trust describing which bones were returned to Mr F's grave, by whom, or when this occurred.

### **The Manager's knowledge of the exhumation**

At interview, the Manager said he was aware of the background to the exhumation of Mr F, including details of Mr F's life and his daughter's efforts to locate his place of burial. The Manager said he was aware the DNA test would involve digging down and removing one of Mr F's femur bones.

The Manager said that Darren Bock had told him about the planned exhumation of Mr F's remains before it happened. The Manager said that Mr Bock did explain to him that the collection was happening but 'I don't think he explained to me at the time that he was going to have an audience. I probably wouldn't have gone along with that.' The Manager considered that inviting Trust officers to attend and watch the exhumation was 'in poor taste'.

The Manager told investigators that Mr Bock did not explain the process involved as being an exhumation. The Manager stated, 'now that I know the difference between a "lift and reposition" and an exhumation, those remains were removed and put elsewhere: that's an exhumation'.

The Manager said that he was 'not completely aware of all of the procedures' for the Trust's operational work, and was 'not really on top of' the Trust's exhumations procedures. The Manager added that he had 'a bit of a role in policies and procedures', but that the Department's guidance on exhumations was sufficient. The Manager told investigators that he was not aware of the requirement in the Trust's procedures for exhumations to be conducted behind a protective screen, and the Trust staff other than the cemetery staff would not have been aware of that requirement either.

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## Submissions from the Council

The Council submitted that the CCAV Standards are not binding, and do not impose a legal requirement for Mr Bock to have held a Mortuary Hygiene Certificate. Although this submission correctly states the law, and leaving aside the apparent lack of an exhumation licence, it does not explain why this exhumation was not conducted in compliance with the CCAV Standards.

Council also submitted that Mr Bock 'appears to have worn personal protective equipment and to have deployed a screen to keep other persons a safe distance from the excavation'. The available evidence indicates that Mr Bock was wearing personal protective equipment while conducting this exhumation. However, Council's second assertion is contradicted by the available evidence. A number of Council and Trust personnel were invited to view the exhumation, observation of which would have been impeded or wholly prevented by a protective screen. Multiple witnesses described seeing Mr Bock attempting to locate the requested bones in Mr F's grave. None of them told the investigation that they recalled seeing any protective screen.

Council's submissions queried the assertion that Mr Bock behaved insensitively in Mr F's exhumation, noting that Mr Bock declined to comment on these matters. It is difficult to accept this submission – this assertion was based on the sworn evidence of multiple witnesses, which was not contradicted or challenged by persons with knowledge of the relevant matters.

In its submissions, Council observed:

Given his role, [the Manager] may not have been provided with training regarding all of the Trust's detailed procedures, for example those relating to exhumations. Such specific training would presumably have been provided only to those directly involved in this work, and would have been provided by the Trust and/or DHHS [the Department] rather than Council.

Council's submission on this point is reasonable. The Manager was not responsible for the day-to-day operational management of the Trust's cemeteries, and had no direct role in the exhumation. The available evidence indicates that the process was not described to the Manager as being an exhumation in any case. The Manager appears to have subsequently become informed of requirements concerning exhumations. However, it must be noted that the proposed removal of Mr F's remains for DNA testing was raised at a Trust meeting. In light of this, it is unfortunate that the Trust's procedures and the legislative requirements were not examined more closely to ensure compliance in conducting this exhumation.

Council submitted that it was not clear that Mr Bock invited multiple Council and Trust officers to attend the exhumation of Mr F. Evidence from the Trust Chair, the Cemetery Officer and the Trust Officer contradict this submission. The Manager did not recall Mr Bock raising this matter at a Trust meeting, but his evidence was that Mr Bock had made him aware that this exhumation would be taking place.

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## Summary

The available evidence suggests several failures and breaches in respect of the exhumation and reinterment of Mr F, concerning matters for which Darren Bock was responsible as Cemetery Team Leader:

- Failure to obtain an exhumation licence, as required under Part 12 of the Cemeteries Act
- A lack of attention to, and management of, occupational health and safety risks associated with the exhumation and handling of Mr F's remains, particularly in respect of witnesses to the exhumation and the absence of a protective screen around the grave
- Non-compliance with the CCAV Standards, the Manual, and Trust procedures concerning the proper conduct of exhumations, including the failure to involve a suitable funeral director qualified to handle, transport and store the exhumed remains
- Handling Mr F's remains despite not holding a Mortuary Hygiene Certificate.

Sending Mr F's remains to the laboratory by post did not comply with Australia Post's Dangerous and Prohibited Goods and Packaging Guide as in force at the time. Notwithstanding Mr Bock's claim of privilege concerning questions about Mr F's exhumation, it is likely Mr Bock was the person responsible for sending Mr F's remains to the laboratory by post.

In addition to these breaches, it is concerning that Mr Bock invited other Council and Trust staff not involved in the day-to-day operational work of the cemeteries to witness the exhumation. It is likewise troubling that they attended, given the Manager's assertion that he 'probably wouldn't have gone along with' Mr Bock having an audience for the exhumation. The only reasons advanced by witnesses as legitimate bases for Council and Trust staff to attend the exhumation were the relative rarity of such requests, and the possibility that there would be a positive story about the Trust's work if testing of Mr F's DNA confirmed that he was Ms G's father.

It is not clear whether the invitation to attend was made at a Trust meeting. What is clear is that Mr Bock extended the invitation to attend the exhumation to multiple people prior to the exhumation taking place.

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## Conclusions

72. The case studies in this chapter demonstrate consistent failures by Darren Bock to ensure compliance with the Cemeteries Act, the Manual, the Trust's procedures and standard industry practices for exhumations. These failures go well beyond a mere ignorance of governance requirements.
73. Mr Bock appears to have conducted or directed four exhumations without obtaining an exhumation licence. He did so despite having approved at least one iteration of the Trust's exhumation procedures, which explicitly noted this legal requirement. One exhumation also involved a waiver of fees that the Cemeteries Act requires the Trust to collect and which Mr Bock had no lawful authority to waive. There is no evidence that the Manager or any Trust board members were aware of any impropriety in connection with these exhumations.
74. Even if Mr Bock genuinely held a mistaken belief about the differences between 'lift and reposition' procedures and exhumations, information about exhumation requirements and the difference between the two practices are readily accessible online. This information is presented in a format easily understood by people who are unfamiliar with the Cemeteries Act or the Regulations. As Cemetery Team Leader, Mr Bock had no reasonable excuse for being unaware of the difference.
75. What is apparent from the available evidence is that what presents as a willingness by Mr Bock to 'cut corners', manifests as a disregard for the deceased, their bereaved, Mr Bock's colleagues and superiors as well as his own professional obligations. His characterisation of the exhumations as 'lift and repositions' and his apparent motives as being 'good for the family' were disingenuous and self-serving.
76. The manner in which the exhumations of Mrs A, Mrs D and Mr F were performed indicates a lack of concern for occupational health and safety obligations. This put Mr Bock and other Trust cemetery staff at potential risk, as well as other persons present (most notably, Mrs A's family).
77. The serious failures identified in this chapter raise questions about how Mr Bock was managed. Other Trust personnel do not appear to have been familiar with the Trust's operational policies and procedures, industry standards, and statutory requirements for exhumations. This was understandable to an extent for non-operational staff, and appropriate action was taken following the disclosures which led to this investigation. Nonetheless, greater understanding of these matters could have prevented or detected Mr Bock's conduct much earlier. The management of Mr Bock is addressed in detail in a later chapter of this report.

# Sale of memorial seats

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## Allegations

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Darren Bock had engaged in the following conduct during his employment at the Trust:

- sold and installed private chairs into the grounds of Murray Pines Cemetery and Nichols Point Cemetery without permission, and to the financial detriment of the Trust
  - created and provided documents falsely purporting to be official Trust receipts including the Trust's letterhead, to a number of persons purchasing those chairs
  - used his position as Sexton/Cemetery Team Leader to obtain a private benefit, contrary to the Victorian Public Sector Code of Conduct for Public Sector Employees and the Council's Conflict of Interest Policy.
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78. The investigation found evidence that between 30 July 2007 and 19 December 2016 Darren Bock used his position as Gravedigger (and, later, Sexton and Cemetery Team Leader) to sell privately-made chairs for profit.
79. The investigation found no evidence that Mr Bock sought or obtained permission from the Trust at any time, to sell chairs and install them at the Murray Pines or Nichols Point cemeteries. However, the Manager told investigators that by August 2015 at the very latest, he had been told that Mr Bock was selling the chairs for a personal benefit and that he directed Mr Bock to stop selling memorial seating at the cemeteries. Mr Bock told investigators that he did not recall his Manager telling him to stop selling the chairs.
80. The investigation also found failings in the Trust's oversight of Mr Bock's actions in selling and installing the memorial seats (including his conflict of interest) and a lack of due diligence around setting policies and fees relating to memorial seats.
81. In this chapter, the term 'memorial seat' refers to the bench seats that Mr Bock sold and installed at the two sites. This is the term Mr Bock commonly used in his emails to families and in the invoices he sent on Trust letterhead. However, Mr Bock also described them as chairs, seats, garden seats and memorial chairs. On occasion, this report uses those terms where it fits the context of the discussion.

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## Memorial seating – what is allowed?



82. Approximately 175 green powder-coated metal bench seats are installed at the Murray Pines and Nichols Point cemeteries. All have a plaque, mounted in the middle of the back rest and facing forward.
83. The earliest record of a bench seat of this type was installed for a person who passed away in December 1999 (see photo above).
84. When selling, installing or maintaining memorial seating, cemetery trusts must follow the rules and guidelines laid out in the Cemeteries Act, the Regulations, the Manual and the Department's Code of Practice relating to the sale and supply of memorial products and services in Victorian public cemeteries. Implementing the code is mandatory for all trusts that engage in the sale of memorial products.
85. The Cemeteries Act defines a memorial as 'a monument, tombstone, headstone, ledger, cenotaph, plaque or other method of memorialising a deceased person where that memorial is within a public cemetery'. The investigation considers that a memorial seat is a 'memorial'.

## A cemetery trust can supply memorials, subject to certain conditions

86. Under section 112 of the Cemeteries Act, a cemetery trust 'may sell and supply memorials'.
87. The Department's Code of Practice highlights that in doing so, cemetery trusts have a potential advantage over alternative suppliers because they are usually the first point of contact for bereaved parties. Both the Code and the Manual draw attention to the principle of 'competitive neutrality':

Any cemetery trust that does so [that is, sells and supplies memorials], must ensure it is informed about and complies with the principles of competitive neutrality to encourage a fair and equitable environment for the sale and supply of memorialisation goods and services.

## Commissions and promotion are inappropriate

88. The Manual states that in supplying a memorial product, it is inappropriate to pay commission:

It is inappropriate for any third party to be paid a commission (tips, rewards or discounts) by the trust for selling rights of interment, plaques, cremation memorials or any other items on its behalf.
89. The Regulations are clear that memorial products must not be marketed or promoted within a public cemetery:

35 Commercial activities

A person must not, in a public cemetery, initiate unsolicited contact with another person for the purpose of promotion or marketing of the supply of goods or services relating to the interment, cremation or memorialisation of the dead.

Penalty: 20 penalty units

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90. In addition, the Council's Conflict of Interest policy explicitly states that its staff – including those working for the Trust – are employed to serve the community's interests:

Conflict of Interest is about transparency, Councillors & staff hold positions of public trust and should work to serve the interests of the community, not themselves or someone else's private interests.

## Darren Bock's sale of memorial seats

91. The investigation identified that Darren Bock privately sold memorial seats in the cemeteries managed by the Trust, and arranged for at least one such seat to be restored after it had been installed.
92. At interview, Mr Bock stated that he had commenced taking requests for memorial seats in 'about 2000', and that he had acted as 'basically a middleman' in receiving these requests. Mr Bock said that one of his relatives had manufactured the metal chairs which he sold, stating that he passed along the payments which he received for the chairs in their entirety to his relative. In a 2012 email, Mr Bock wrote to a purchaser that 'the seats are done by my [relative]'.
93. Mr Bock told investigators that he did not approach anyone about purchasing memorial seating, stating that 'it wasn't my role to be selling a chair.' He added that if someone was interested in purchasing a chair, they would come to him. In respect of grieving families, Mr Bock told investigators: 'I'm not there to try and sell other products to them.'
94. Contrary accounts to Mr Bock's were given by a former Sexton and a Cemetery Officer.
95. At interview, the Cemetery Officer said they had been present on a number of occasions when Mr Bock had attempted to sell chairs to people attending the Trust's cemeteries. The Cemetery Officer had never seen Mr Bock receive the money for these memorial seats, but they had seen Mr Bock installing them. According to the Cemetery Officer, Mr Bock kept a number of chairs stockpiled at the Nichols Point Cemetery:
- I'm not sure what the catalyst was, but he stockpiled some and they were everywhere at Nichols Point and they had like old blankets over them ... .
96. The former Sexton told investigators that he had seen Darren Bock approach families at the cemetery and had heard him ask them 'whether they wanted to buy chairs'. The former Sexton confirmed that this had happened in his presence, and added that he would walk away when Mr Bock was doing so:
- I didn't like to be selling anybody anything. [...] I had enough respect for the families that were - I'd looked after them enough at the lawns and that, without going buying -- worrying about buying chairs. I'd never been interested in that sort of thing.
97. Regulations dating back to 1988 provide that a person must not solicit or promote commercial activities in a public cemetery. Approaching visitors to a cemetery to offer to sell them memorial seating would fall within the scope of this prohibition.

### Submissions from Darren Bock

98. Mr Bock submitted to the investigation that the Cemetery Officer's recollection that he kept a stockpile of memorial seats at the Nichols Point Cemetery was mistaken, save that on one occasion he stored three sold seats in a shed at the Nichols Point Cemetery pending their installation.



### Case study - 'I fixed it up so you can pay me...'

In mid-2015, Mr Bock arranged for a memorial seat to be restored.

On 9 July 2015, he advised the owner, 'Just letting you know your chair [is done] and its back in its place. Cost \$180'.

On 20 August 2015, he sent a reminder to the owner, 'Hi [name], just seeing how things are going'.

On 25 August 2015, the seat owner asked about payment options, mentioning the Council: 'Hi Darren, Sorry for the delay, thanks for your patience, where do I pay the money to, the council, just let me know'.

Mr Bock replied: '... No I fixed it up so you can pay me, let me [know] wot [is] the easiest for you [You can] see me at work or I can call through and see you. All good thanks'.

99. Mr Bock said he 'did not initiate any proactive, unsolicited approach to, or contact with, any member of the public in the cemetery grounds to promote, sell or propose to sell any memorial seats to them.' Instead, he 'was often approached by members of the public enquiring about the seats and how they might organize one to be installed.'

#### Legislative basis for establishing memorials, including memorial seats

100. Section 98 of the Cemeteries Act provides that a person may apply to a cemetery trust for approval to establish or alter a memorial or a place of interment in a cemetery. Section 99 provides that the cemetery trust may approve or refuse such applications, and any approvals may be granted subject to 'any other terms or conditions the cemetery trust thinks fit'.
101. Section 100 permits the cemetery trust to require the removal of memorials established or altered without approval, or which do not comply with the terms imposed by the cemetery trust on any such approval. A process flowchart for applications and memorials is included in the Manual.

#### Private gain through the sale of memorial seats

102. The earliest email evidence of Mr Bock providing a memorial seat and 'decal plaque' (his term) is 30 July 2007.
103. From then until 19 December 2016, Mr Bock used his Mildura Rural City Council email address to negotiate the sale and location of memorial seats and the wording of the plaques to be mounted on each seat.
104. The Trust's financial records show that the Trust received no money from the sale of any memorial seating by Mr Bock. The investigation also found no evidence that Mr Bock issued, created or obtained any type of legitimate cemetery permit relating to his apparent sale of the memorial seating.

#### Darren Bock negotiated sales during work hours

105. The following email dated 12 August 2008 shows that Mr Bock sold memorial seating using his Council email address and work computer during business hours:

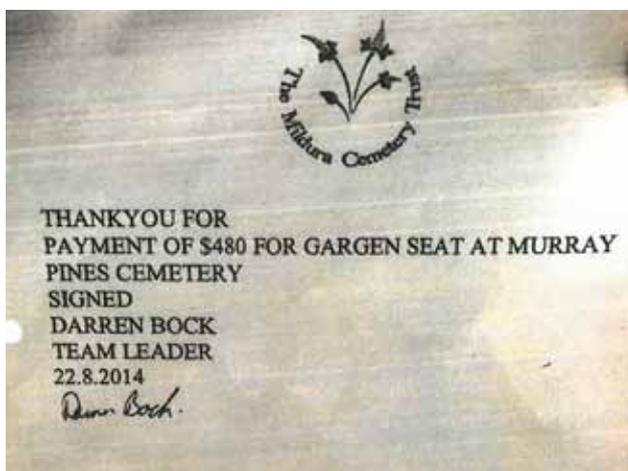
Hi [name] I would like to know if you are still interested in buying a chair to be placed at the Nichol-point cemetery. If you are the cost [is] 240 for the chair 20 for the concrete pads and dia [dyna] bolts so that's a total of 260.00. you can contact me on [Mr Bock's mobile number] 8.00-5.00 daily if you are still interested I can get some more details from you. thank-you regards Darren

## Payments were directed to Darren Bock's private address or bank details

106. The investigation found evidence that payments were directed to Mr Bock's home address or personal bank account.
107. On 14 August 2008, Mr Bock sent an email advising a purchaser of a memorial seat to send a \$260 cheque to his [Mr Bock's] private home address, which Mr Bock had included in the email.
108. On 14 October 2014, Mr Bock sent an email providing a purchaser with his private banking details to arrange payment for a memorial seat and a purported 'cemetery permit' fee (discussed later in this chapter).
109. On 14 November 2016, Mr Bock sent a purchaser a receipt that listed his [Mr Bock's] name, home address and mobile phone number and went on to explain:
- I put it in my name ... hope that is ok with you. Cheque is fine or cash wot ever is easier for you.
110. It appears that none of the money made by selling these chairs was provided to the Trust.

## Receipts were issued on Trust letterhead

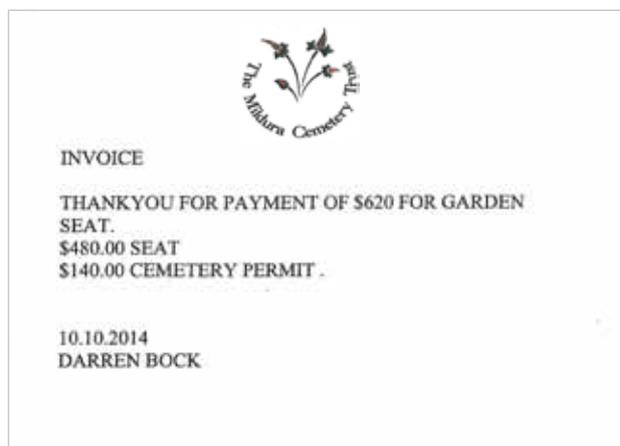
111. The investigation was provided with a photocopy of a receipt found in a Trust vehicle, on Trust letterhead.



112. When shown this receipt at interview, Mr Bock said:

Some of the families that I dealt with - not all of them - some of them would say, 'Could you just write me up a receipt.' So there may have been other family members that put in to purchase that memorial seat. So that was to help them just say, 'Look, yes, we bought a seat at the cemetery.' [...] I recall one incident that a family rang me and said could I do up a - I called it a mock receipt [...]. I just done that because they had to take it to their solicitor because of the funds held in the estate and they wanted to take money out of the estate to purchase a chair because that's what they wanted to do with the money. So my thinking at the time: that I was doing the right thing and helping the families out by giving them this bit of paper with a - I honestly didn't think that I was doing anything wrong by giving them that [...] sort of receipt.

113. The investigation located a further copy of an invoice created by Mr Bock on Trust letterhead.
114. Despite the explanation provided by Mr Bock, none of the money from the sale of the memorial seats was paid to the Trust. This suggests the Trust's letterhead was used to provide a veneer of legitimacy for payments that appear to have been received for private gain.



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### Authority to sell and install chairs at Merbein cemetery

115. Between 1 and 3 September 2014, an email chain shows that Mr Bock sold a memorial chair for \$480 and agreed to deliver it to the Merbein Cemetery. Mr Bock's emails in this correspondence were sent from his Council email address. The Merbein Cemetery is governed by the Merbein Cemetery Trust. It is not known if Mr Bock had permission or the authority of that cemetery trust to sell and install his memorial chairs in that cemetery.

### Submissions from Darren Bock

116. In submissions responding to a draft of this report, Mr Bock reiterated that he did not gain any personal financial reward from the purchase of memorial seats by members of the public. Mr Bock submitted that in every instance, he passed the full purchase price paid to his relative who made the seats.

### Submissions from the Council

117. The Council submitted that Darren Bock's sale of a memorial chair to be delivered to the Merbein Cemetery was 'irrelevant to complaints concerning his conduct working for the Mildura Cemetery Trust'. However, this incident is relevant to the course of Mr Bock's conduct. It demonstrates Mr Bock's sale of memorial chairs was not limited to the Trust's cemeteries, and was conducted using Council resources even when the memorial seats were installed in another cemetery.

### Darren Bock charges a non-existent 'cemetery permit' fee

118. From October 2014, Mr Bock's invoices begin to reference a 'cemetery permit fee' of \$140. This is in addition to the usual \$480 for a memorial seat.

119. The first mention of this found by the investigation is in an email on 7 October 2014:

... sorry its been so long, finally i can offer you a seat. It will be the same as the other ones at the cemetery. now the cost chair \$480.00, **cemetery permit \$140.00** [emphasis added], total \$620.00.

120. For the next two years, until 19 December 2016, records indicate that Mr Bock continued to charge the \$140 'permit fee' on his sales of memorial seats.

121. Mr Bock appears to have sold one memorial seat on 20 January 2016 without charging a permit fee, but it appears that this was a replacement seat.

122. The Trust has a Schedule of Fees, which lists the amounts the Trust charges for various services. For a cemetery trust to charge fees for particular cemetery services (such as installing memorial seating), those fees must be included in the trust's Schedule of Fees approved by the Secretary of the Department. Between October 2014 and December 2016, there was no listed fee for the purchase or installation of memorial seating in the Trust's Schedule of Fees. None of the 'cemetery permit fees' and invoices raised by Mr Bock as described in his emails were provided to the Trust.

### Darren Bock's evidence regarding the 'cemetery permit fees'

123. At interview, Mr Bock was asked about the 7 October 2014 email and the \$140 'cemetery permit fee'. Mr Bock said that he had not charged the \$140 permit fee in most cases, despite including it in the costings he provided. He asserted he had only charged the permit fee on seven chairs, and that he had done so because 'they were the last seven chairs that I was going to put in' prior to the commencement of formal arrangements by the Trust regarding memorial seats made from recycled plastic.

124. When it was put to Mr Bock that he had charged the 'permit fee' of \$140 on other chairs installed between October 2014 and December 2016, Mr Bock responded that he did not recall charging that fee for every chair.
125. Mr Bock stated that he had kept the \$140 permit fees for those chairs, in cash, while waiting for the Trust's new schedule of fees to be approved and gazetted. He told investigators that he still had this money. Mr Bock claimed that he had told his Manager that he had these funds, and that he should provide that money to the Trust when the chair permit fee was implemented.

### Submissions by Darren Bock and his Manager

126. In response to a draft of this report, Mr Bock submitted:
- the Trust (later) decided to charge a 'cemetery permit fee' in respect of the memorial seating
  - his Manager 'worked out and settled upon' a fee of \$140
  - a fee of \$140 was added to the price of the last seven memorial seats purchased before the introduction of a new recycled plastic chair design, at his Manager's instruction.
127. The Manager denied that Mr Bock had told him about collecting the \$140 'cemetery permit fee', or that he (Mr Bock) would provide the funds retained from the sales of chairs to the Trust once a permit fee was gazetted. The Manager told investigators that this permit fee was for the recycled chairs, rather than the metal chairs Mr Bock was installing. The Manager submitted:
- At no point did Mr Bock inform [me] that he would provide the funds he retained from the sale of the chairs to [the Trust] once the chair permit fee was implemented
- Possible removal of ashes with intention to install additional seating**
128. The former Sexton told investigators he recalled an occasion when Mr Bock had tried to relocate interred ashes to install a memorial seat.
- I came up to him and I said to him 'What are you doing?' And he said 'I'm moving these. I'm going to put a chair here. The family want a chair.' I said 'You can't move the ashes, you're not allowed to do that.' And the next minute we got - someone rang from the office, rang me or did -- yeah, they rang me and I went over and told him. The family seen him doing it and they went to the office and complained.
129. The former Sexton did not specify when this had taken place, other than that it had occurred during his employment as the Trust's Sexton. According to the former Sexton, he had a brief conversation with Mr Bock after telling him that he (Mr Bock) could not relocate the ashes to install a chair:
- He said 'No-one ever visits it.' I said 'It's not the point.'
130. The former Sexton stated that in the end, the chair was not installed at that location.
131. At interview, Mr Bock denied that he had dug up a cremated person's ashes or removed the associated monument for the purpose of placing a chair on that location:
- The only incident I recall similar to that allegation, that we placed a chair in a garden bed and it was sitting over ashes that were in that site.
132. He said that the ashes in question had been interred at the cemetery for several years. He relocated the chair installed over the ashes:
- ... probably a week or so later, maybe - I'm unsure of the time line - a family came out and said, 'These are ours' so we just removed the chair. We moved the chair to a different location. [...] - I don't recall moving any ashes under that circumstance.

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## Darren Bock is directed not to sell memorial seating

133. The Manager told investigators that around late 2014 or early 2015, the Trust Chair at the time spoke with him directly to raise her concerns about Mr Bock selling and installing memorial seating at the Trust's cemeteries. The Manager said that this took place in an informal conversation, rather than during a Trust meeting:

I couldn't tell you her exact words, but she was concerned that Darren was selling chairs to people during cemetery time on the cemetery grounds and pocketing the money.

134. The Manager said he then directed Mr Bock to cease selling the chairs. The Manager believed that Mr Bock had complied with this instruction, and did not recall Mr Bock being upset, surprised or angered by receiving it: 'He agreed that that should stop.' The Manager's recollection was that the conversation had been brief and that Mr Bock had not asked him to explain further why he could no longer sell memorial seating at the Trust's cemeteries:

I don't recall there being any more than pretty much what I've said, because it's come from the Chair from the Cemetery Trust that 'This has been happening and this needs to cease because this is not part of the cemetery.'

135. The Manager told investigators that he did not take any further steps to confirm that Mr Bock had stopped selling memorial seating at the cemeteries.

136. Mr Bock told investigators he did not recall having a conversation where his Manager specifically told him to stop selling or installing chairs. However, he added that he was aware that the Trust intended to have a fee for memorial chairs gazetted and to develop a policy concerning their purchase and installation. Mr Bock did recall a conversation with the Trust Chair about memorial seating, although this concerned putting a formal process around chair purchases to be handled through the Trust's records officers.

137. The Cemetery Officer's evidence was that Mr Bock had told them that he (Mr Bock) had been told to stop installing the memorial seating at the Trust's cemeteries:

I know he was told to stop it. I know he was told to stop it because he would tell me he was being told to stop it.

138. On the available evidence, it seems more likely the Manager told Mr Bock to stop selling memorial seating at the cemeteries following his conversation with the Trust Chair.

## The Trust's memorial seat policy and fee schedule

### Legal requirements in setting cemetery fees

139. Under section 39 of the Cemeteries Act, a cemetery trust can set fees and charges, which must be provided to the Secretary of the Department for approval (in line with section 40 of the Cemeteries Act). Cemetery trusts cannot charge any fee that has not been approved by the Department and published in the Victorian Government Gazette.



**The Mildura cemetery trust**

Would like to thank you for your purchase of a memorial chair, we are of the belief that this only enhances the beauty of the cemetery, and can be appreciated by all. Please fill in form below encase contact may be needed.

**Chair policy**

Chairs can be removed if become a hazard to the public .O.H.S  
The trust cannot be held accountable for vandalism/damage.  
The trust will not do any maintenance on the chair.  
All chairs must be approved by the Mildura cemetery trust.  
After 10 years there will be a renewal permit fee .

140. All approved fees are published online. The Department publishes guidelines on its website to guide cemetery trusts in setting fees. Those guidelines and the Manual highlight the importance of transparency in setting fees:

When setting fees and charges, trusts should ensure there is a direct relationship between the fees charged for cemetery services and the actual cost of these services. Establishing a direct relationship between the fees charged and the service provided will ensure trust fees are transparent and can be easily justified to the community by the trust.

141. Under section 98 of the Cemeteries Act, a person must apply to the relevant cemetery trust before 'establishing or altering a monument or memorial' and that application must be accompanied by the relevant cemetery trust fee.

### **First mention of a 'Chair Policy'**

142. On 1 August 2007, the Trust's Executive Officer at the time, who was also a Senior Finance Officer at Council, authored a document titled 'Mildura Cemetery Trust - Schedule of fees as from 1 July 2007'. However, there was no listing for memorial seats in the Schedule.
143. The first mention of a 'Chair Policy' is in a document created by Mr Bock on 6 October 2014 (see above). In part, it states 'All chairs must be approved by the Mildura cemetery trust. After 10 years there will be a renewal permit fee'.
144. Despite this, as at March 2015 the Trust still did not have a memorial seat fee in its Schedule of Cemetery Fees. Based on email exchanges, no fee appeared to have been authorised and no fee had been gazetted for installing memorial seating in either the Murray Pines or Nichols Point cemeteries prior to 2017.
145. Nevertheless, the Trust did have a process for approving requests for chairs, as the case study on the next page shows.



## Case study - Ms H's Memorial Recycled Bench

At a Trust meeting held on 2 March 2015, minutes show an item listed as: 'Chair request by [Ms H], Recycled chair will be allowed'.

Records show the then Chair of the Trust wrote to Ms H and advised her:

The Trust, at its last meeting agreed to your request to place a recycled seat at the Nichols Point site. It will be important to liaise with Darren Bock the cemetery Manager as to the best placement for this seat.

...

The Cemetery Trust operates as an independent body from Council and is bound by laws under a specific Act of Parliament. This Cemetery and Crematoria Act, under section 44, prevents us from waiving or reducing any statutory fees or charges. We often get requests for a reduction of costs but have not been able to do this in any of the cases due to legal obligations. This means we must charge the statutory costs to install this seat as published in the government gazette.

Documentary evidence shows that on 22 May 2015, Mr Bock purchased a recycled 'Bench seat [for] Ms H. Mr Bock marked the invoice for '\$595'.

The investigation found that on 26 June 2015, one of the Trust's Finance Officers sent an email to Mr Bock asking him if the Trust was 'adding on a permit fee?'

Mr Bock replied: 'Hi no fee and its [Ms H] \$640 total, trust approved this one from her letter ...'

### Submissions from the Manager

146. The Manager submitted this case study demonstrates that the Trust Chair at the time had 'substantially more input into the installation of memorial chairs than the Manager'. He contended:

As this was under [the Trust Chair's] supervision, who was Chair of the Trust at this time, [the Manager] reasonably believed that the chairs were being sold and installed properly and in accordance with the [Trust's] policies and processes.

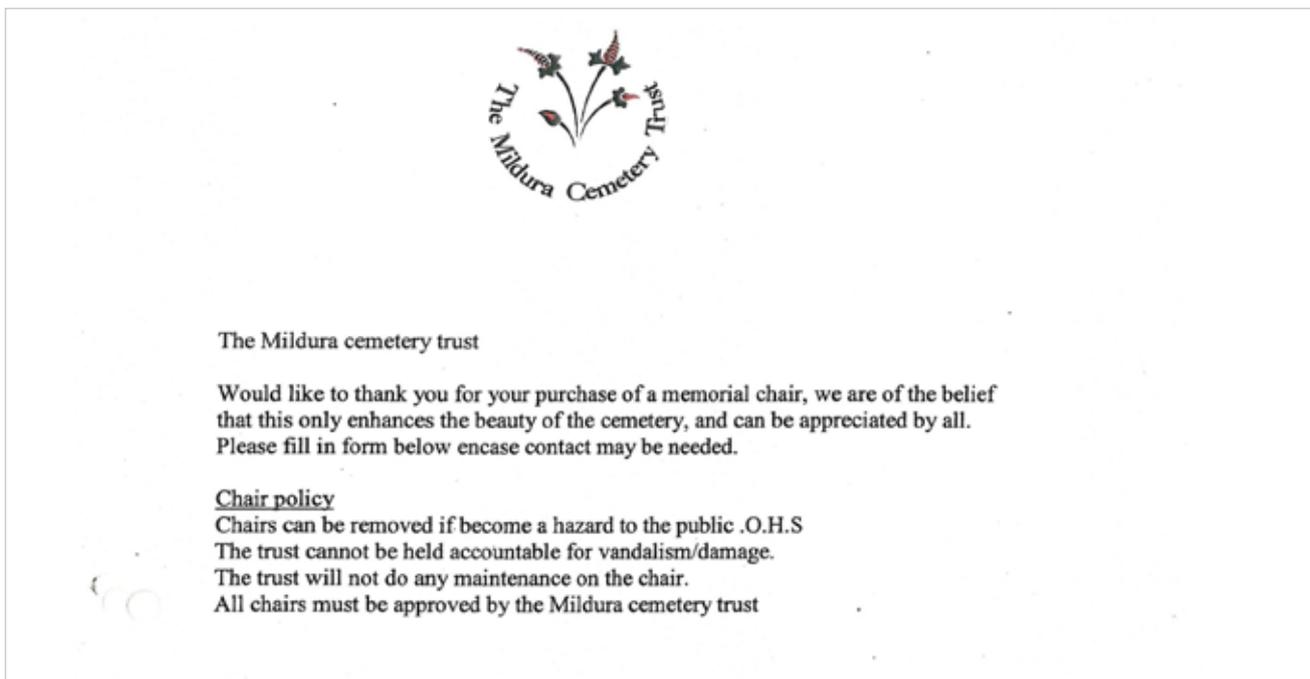
147. This submission regarding the level of the Trust Chair's involvement is plausible. However, accepting it would mean that the Manager - as the Trust's Accountable Officer, the Council's Manager Financial Services and Mr Bock's direct manager - did not apparently question why memorial seats were being installed without the Trust charging a fee, or whether this complied with relevant legislation, policies and procedures.

148. It is untenable to assert that this case provided a reasonable basis for the Manager to assume that all memorial seating at the Trust's cemeteries was being sold and installed in accordance with the Trust's policies and processes. The case study concerns a recycled plastic bench, as distinct from Mr Bock's metal chairs. The bench was intended to memorialise three people who had made significant contributions to the Mildura community. The decision about whether to permit the installation of this chair was made at a Trust meeting, rather than by private arrangement between Mr Bock and a purchaser.

149. The process involved in approving Ms H's request for a recycled memorial bench would not necessarily have caused the Manager or any Trust member to begin enquiring about the metal chairs Mr Bock installed. However, the very fact that the Trust discussed and determined this request at a Trust meeting suggests that the Trust had not authorised installing chairs except where a similar process had been followed. There are no similar requests for memorial seating described in the minutes and agenda from other Trust meetings obtained by investigators, many of which the Manager is recorded as having attended.

### Formalising the Policy - a slow journey

150. On 17 July 2015, Mr Bock sent an email to his Manager with a revised version of the Mildura Cemetery Trust Chair Policy. The title of the email is 'chair invoice'. This document (see below) does not mention any renewal/permit fee, as contemplated in Mr Bock's document from 6 October 2014.



151. Minutes of Trust meetings held between 22 July 2015 and 3 May 2017 show the issue of memorial seats recurred several times. In most cases, Mr Bock was listed as the responsible person for actioning or progressing such items.

152. The 22 July 2015 minutes show that the issue of memorial seating was being raised again. This meeting took place five days after Mr Bock sent his 'revised policy' to his Manager.

<p><b>New Chair Sales</b></p> <p><i>The issue of chair sales has been raised again. Pricing and permits are to be discussed next meeting.</i></p>	<p><b>D.Bock</b></p>
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153. Two months later, on 16 September 2015, the minutes suggest a fee amount of \$1,000 had been set for memorial seating at the Murray Pines Cemetery. The minutes do not indicate how the figure was arrived at or provide a clear statement as to whether the motion to establish a fee was passed:

**5. New Business continued**

<p><b>Chair Sales</b></p> <p><i>Motion: Offer two seat options at a cost of \$1,000 (permit &amp; small plaque included) to be offered for sale at the Murray Pines Cemetery. The cost of seating at the Nichols Point Cemetery to be determined at a later date.</i></p> <p><i>Moved: [REDACTED]</i></p> <p><i>Seconded: [REDACTED]</i></p> <p><i>The new policy/procedures regarding the chairs was also discussed briefly. Further discussion to occur next meeting.</i></p>	<p><b>D.Bock</b></p>
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154. On 28 October 2015, the minutes show that the Manager was tasked with calculating a new fee (aligned to the Department’s ‘justification table’) and reporting back to the Trust.

155. In these same minutes, Mr Bock is tasked with drafting a new chair policy.

<p><b>New Chair Sales</b></p> <p><i>Fee to be calculated using the justification table as set by the Department of Health. The new price is to be reported to the Trust before submission.</i></p>	<p>[REDACTED] [The Manager]</p>
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<p><b>New Chair Sales (continued)</b></p> <p><i>[REDACTED] suggested a time frame be placed on the ownership of the chairs, possibly 10 years. After this time the Trust has the right to remove the chair if required.</i></p> <p><i>Recycled Plastic Chairs approved for sale.</i></p> <p><i>Moved: [REDACTED]</i></p> <p><i>Seconded: [REDACTED]</i></p> <p><b>New Chair Policy</b></p> <p><i>Action: To be drafted by Darren Bock</i></p>	
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156. On 2 December 2015, Mr Bock sent an email to his Manager titled ‘Chairs’:

Hi,  
 I have a couple of questions on the chairs. I have three family’s [sic] that would like them, and before xmas.  
 Do I say no until it is all sorted out with fee’s etc.  
 Can I get them and will sort it out after everything is done. I have told them that they could be looking a \$1000.00 per seat.  
 Let me know wot you think, I’m happy either way’.

157. The 17 December 2015 meeting minutes show that the chair issue was raised again. However, the minutes record that the question of fees (the Manager's action from the October meeting) was dismissed as 'not applicable'. No context is given in the minutes as to why, although the Manager submitted that this was due to a lack of progress on the fees since the previous meeting and there was no need to discuss it.

158. Whether Mr Bock had progressed any action toward drafting a policy is unclear from the minutes, which state only: 'This is now waiting for an application to D.O.H [Department] for approval'.

<b>Memorial Chair Policy</b> This is now waiting for an application to D.O.H. for approval.	<b>D.Bock</b>
<b>New fee price setting</b> Chairs & Plaques: N/A	 [The Manager]

159. The next mention of chair fees and policies is on 10 August 2016, eight months later. The minutes from this meeting state the policy was 'drafted' and 'ongoing'. The minutes record that 'Everything sold needs to be applied for and gazetted. Fee justification model must be used for rocks and chairs.'

<b>Memorial Chair Policy</b> Drafted. Ongoing. Everything sold needs to be applied for formally and gazetted. Fee justification model must be used for rocks and chairs. Term on right of chairs should be 10 years. Chairs need to be in brochure  is preparing.	<b>D. Bock</b>
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160. The investigation found evidence that prior to this meeting, on 1 June 2016, Mr Bock sent a copy of the 'The Mildura Cemetery Trust, Chair Police [sic]' to the Trust Finance Officer. This confirms that a policy was being circulated, but had not yet been approved by the Trust.

161. The 1 March 2017 minutes again show the policy has been drafted, but needs to be 'fine-tuned':

<b>Memorial Chair Policy</b> Ongoing. Policy has been drafted. To be fine-tuned prior to next meeting. Price must be gazetted prior to any memorial chair tenure approvals. Price indication of approx. \$1k for 10 year tenure.	<b>D. Bock</b>
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162. The 3 May 2017 minutes show, once again, that the chair policy is still to be finalised, and lists the anticipated fee as \$100. It seems likely that this figure should have been \$1,000, given the discussions from previous meetings.

<b>Memorial Chair Policy</b> Fee to be gazetted, and policy finalised prior to next meeting. Anticipated sale cost - \$100. Standard application for Memorial Chair has been finalised.	<b>D. Bock</b>
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163. These extracts from the Trust's meeting minutes suggest that the Trust was aware of the memorial seating which had been installed and considered the issue sufficiently important to include in Trust meetings. Despite this, nearly two years passed before any formal policy was finalised or any gazetted fee established.

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## Did the Trust know of Darren Bock's activities?

164. Email evidence suggests that as early as 2009, two Council Finance Officers were aware that Mr Bock was selling chairs:

- On 18 February 2009 Mr Bock sent an email titled 'seat' to a Finance Officer: '... I hope the seat is what you had in mind ...',
- On 22 April 2009, a Council Officer sent an email to a Finance Officer regarding a query from a member of the public, described in the email as 'cemetery query (making a chair)'.

165. Council submitted, and the available evidence suggests, that neither of these Council Officers had any ongoing responsibilities involving the Trust's management or operational activities.

166. The previous section of this chapter shows that members of the Trust were aware that memorial seats were being installed, as the topic was raised at multiple meetings. The minutes of the Trust meeting on 4 December 2013 show an item under 'New Business' that states: '*Seats in new areas? D. Bock to check for a local supplier*'. An email from Mr Bock to a commercial supplier of outdoor furniture on 9 March 2010 suggests that the Trust may have been looking for 'seating and sign board [to be] put up through our cemetery', given that Mr Bock's email requests prices for a number of products which he would then take to Trust meetings.

167. Mr Bock said that in around 2000, he had told his Manager at the time at the Council that the family of a person buried in one of the Trust's cemeteries asked him about having a garden seat installed near their relative's grave. He put this idea to his former manager:

So I put it to [the former manager] and that at the time that I could purchase - not me - the family could purchase a seat and have it in the cemetery with a memorial on the little diamond thing in the middle of the chair with 'Loving memory of So-and-so,' and we would put it roughly - if you sat on it, you could pick up your loved one because it was so blank - you know, the cemetery, there was nothing there.

168. Mr Bock said his former manager told him to proceed:

So at that point in time, once we had the conversation, I was told to go ahead. He had no issues with that and the family would purchase the seats. So all the costing around the seat would be on the families and I would just put them in the area that they wanted.

169. The former Sexton told investigators that Mr Bock was 'known to make money on the side with his chairs', and that he (the former Sexton) 'even fronted the Trust about it'. The former Sexton assumed the Trust must have given Mr Bock permission to install memorial seating, because 'you can't put anything out there without permission to do so or a permit'. The former Sexton's evidence was that he had told the Trust's Executive Officer at the time that he was concerned that too many chairs were being installed in the cemeteries, but that no action was ultimately taken.

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170. It is not clear why neither the Council nor the Trust appear to have acted sooner on the issue of the installation of memorial seating. The Trust was aware that memorial seats were being installed, that there was no current policy governing their purchase or installation, and that a fee needed to be gazetted for them. However, the investigation found no documentary evidence to show that Council officers or Trust members knew that Mr Bock or his relative were benefiting from the sale of the memorial seats.

### **Submissions from Darren Bock**

171. In his submissions in reply to a draft of this report, Mr Bock stated that his Manager and the Trust were aware at all relevant times of the memorial seats and Mr Bock's installation of them. Mr Bock's submissions reiterated that 'there was no revenue passing to the Trust from their installation', and that the Trust 'had no obligation to undertake seat maintenance or otherwise bear seat maintenance costs'.

172. Mr Bock's submissions raise two points of concern. The first is the statement that the Trust did not receive any revenue for the seats installed in the Trust's cemeteries. From at least 2015, the Trust was aware that Mr Bock was installing memorial seats on cemetery grounds. If Mr Bock was doing so in his official capacity, the Trust should have been charging a fee for this service. But Mr Bock was acting in his private capacity, he was installing the seats on Crown land managed by the Trust and providing at least an apparent financial advantage to one of his relatives, while taking advantage of his position to do so.

173. The second concern is the assertion that the Trust had no maintenance obligations in respect of the memorial seats. This claim is not consistent with Part Two of the Cemeteries Act, which requires cemetery trusts 'to properly and efficiently manage and maintain' each public cemetery for which they are responsible. Cemetery trusts must also have regard to their obligations 'in relation to funding of the perpetual maintenance' of public cemeteries. Installing metal seating on cemetery grounds – and thus, becoming responsible for their upkeep – without receiving any payment runs contrary to the Trust's obligations.

### **Why didn't the Trust ask questions?**

174. The most reasonable explanation for why the Trust did not ask questions about the paucity of financial records is that they believed the 'memorial seating' was being donated by bereaved families to the benefit of the public visiting the cemeteries. This is consistent with Mr Bock's account of his conversation with his Manager at the time. This explanation also accounts for the lack of enquiry into how the memorial seating was being made and sold.

175. A number of Trust documents also support this explanation. The minutes of a Trust meeting on 25 October 2001 show that a Trustee moved a motion including that 'a letter of thanks be prepared under the signature of the Chairman to each donor of a seat at Murray Pines Cemetery'. This motion was carried. Letters were subsequently sent to chair donors, thanking them for their 'contribution of a memorial seat'. One such letter, dated 22 May 2002, is reproduced on the next page. It was sent in the name of the Trust Chair at the time.

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Dear [REDACTED]

**DONATION OF A MEMORIAL SEAT**

On behalf of the Trustees of the Mildura Cemetery Trust, I would like to thank you for taking a keen interest in making the cemetery more pleasant for those who visit.

Your contribution of a memorial seat is much appreciated and I am sure that it will give many hours of enjoyment to yourself and other visitors.

Once again, I thank you.

Yours faithfully

176. The footer to the letter indicated it was sent as part of a mail merge, suggesting that by 2002 there was already more than one metal memorial seat installed in the Murray Pines Cemetery.

177. It is unclear why these letters were sent, but there are no records that show Mr Bock - or anyone else - informed the Trust that these memorial seats were being donated to the Trust. An examination of the Trust's minutes throughout these years shows the Trust did not move any motions to accept or deny a memorial seat donation.

178. The Trust's 2003 Annual Report and the 2005 Annual Report both contain the following sentence on the 'Cemetery Operations Report' section for the Murray Pines Cemetery:

There continues to be seating donated by relatives of the deceased, as memorials, for use by all who visit the cemetery.

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## Failures of governance

179. While Darren Bock's conduct described earlier in this chapter is clearly serious and may potentially be unlawful, it also gives rise to a significant conflict of interest for Mr Bock. The investigation highlighted serious failures to identify and act on Mr Bock's clear conflict of interest in selling and installing memorial chairs manufactured by one of his relatives while working as the Cemetery Team Leader.

### The Council's Conflict of Interest policy

180. The *Local Government Act 1989* (Vic) includes provisions regarding the identification and disclosure of conflicts of interests for Councillors and members of Special Committees exercising the statutory powers, duties and functions of the Council. The Council's Conflict of Interest Policy extends these obligations to Council staff:

Conflict of Interest is about transparency, Councillors & staff hold positions of public trust and should work to serve the interests of the community, not themselves or someone else's private interests.

It is the responsibility of each Councillor or staff member to identify a Conflict of Interest and disclose this when necessary. Failure to disclose Conflicts of Interest is a breach of the Act in which penalties can apply.

181. This policy adopts the same definitions of 'direct' and 'indirect' interests in the Local Government Act in describing what may give rise to a conflict of interest. These include:

- direct interests, where 'there is a reasonable likelihood that the benefits, obligations, opportunities or circumstances of the person would be directly altered if the matter is decided in a particular way' and which specifically includes financial interests
- indirect financial interests, where a person 'is likely to receive a benefit or incur a loss, measurable in monetary terms, as a consequence of a benefit received or loss incurred by another person who has a direct or indirect interest in the matter'.

### The Code of Conduct for Victorian Public Sector Employees

182. The Trust performs the public functions of a class B cemetery trust under the Cemeteries Act in its operation of the Nichols Point and Murray Pines public cemeteries. It is a public entity for the purposes of the Public Administration Act 2004. Accordingly, the Code of Conduct for Victorian Public Sector Employees 2015 (VPS Code) applies to employees of the Trust. Among other things, the VPS Code requires that public officials avoid 'any real or apparent conflicts of interest', declare any identified conflicts, and manage any conflicts that cannot be avoided.

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183. Mr Bock was a Council employee, but was engaged to perform operational work at the Trust's cemeteries and took direction from his Manager as the Trust's Accountable Officer. Mr Bock told investigators that his understanding had been that the Trust was separate from the Council, and 'it wasn't till years later that we realised that we were council employees. We just thought we worked for the cemetery'.
184. On either reading of his employment arrangements while performing work for the Trust, Mr Bock had a substantial conflict of interest in respect of the sale of memorial seating. Whether under the Council's Conflict of Interest policy or under the VPS Code, Mr Bock was obliged to identify and disclose this conflict of interest.

## Actions of current and former Trust members and officers

### A former Trust Chair

185. A former Trust Chair told investigators that she recalled raising the issue of memorial seating at Trust meetings. She stated that she was concerned about the number of seats being installed, which in her words were 'appearing at [Murray Pines Cemetery] like mushrooms after spring rain'. She did not recall precisely when she became aware that Mr Bock was selling and installing memorial seating, although she believed that the Trust made money by selling chairs to the families of deceased persons which were then placed near family graves.
186. The former Trust Chair recounted that during her tenure, which concluded in 2016, the Trust was 'coming out of real financial difficulties' and there was a focus on financial sustainability. She stated that financial reporting to the Trust at meetings was 'at a high level and we didn't get breakdowns of how much income came from what sources specifically'. The issue of maintenance was also raised at Trust meetings, with her noting that one seat had needed to be re-coated at the Trust's expense, which was unacceptable. She commented that Mr Bock had suggested that the Trust could say that the seats remained the property of the purchaser and that they could be removed if the purchaser did not maintain them and they became unsafe. The former Trust Chair then made enquiries into the provenance of the chairs:
- It was at this stage, (date uncertain) that I discovered who was making the seats after we asked why we weren't getting more durable ones. When I realised it was [a relative] of Darren Bock, there was no tender process, no advertising for supply, we asked Darren to cease installation on the grounds of cronyism and conflict of interest.
187. She said that the Trust had begun looking at options for seats which could be purchased through the Trust, although this had not been finalised by the time she left the role of Trust Chair.
188. The former Trust Chair also told investigators that following the discussion around Mr Bock's conflict of interest in supplying the seats, she had a number of discussions with the Manager. Specifically, she recalled asking the Manager to 'make several checks on sales of chairs', to ensure the sales ceased through the supplier that had been used, and to check 'whether all monies had been banked'.

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189. This last comment indicates that the former Trust Chair believed that the proceeds from chair sales were being – or should have been – received by the Trust similar to other cemetery fees which were payable. There was no gazetted memorial seating fee in the Trust’s schedule of fees at the time.

### Submissions from the Manager

190. The Manager submitted that he did not recall the former Trust Chair making this request, adding that there would have been no point in checking the Trust had received payments. The Manager submitted that as the sales were not being processed through the Trust, ‘there would have been no benefit in checking the records to see if monies had been banked as it’s clear that they would not have’.
191. The Manager is correct to note that a check of the Trust’s records would not have identified any payments relating to sales of memorial seating. However, the absence of any such payments would have confirmed that the Trust was not receiving any fees for the seats Mr Bock installed. Had the Manager checked the Trust’s relevant records, he would have discovered this and presumably reported it to the Trust. This finding would likely have led to further action, given the former Trust Chair’s account of the Trust’s financial circumstances at the time.

### The former Trust Executive Officer

192. From early 2005, it is reasonable to assume that the former Trust Executive Officer at the time was aware the seats existed, as the investigation sighted email communication between Mr Bock and the Executive Officer on a matter unrelated to memorial seating, but where a memorial seat is clearly visible in a photograph.
193. The former Sexton told investigators that he believed that Mr Bock had been making money from the sale of memorial seating, and that he had raised this with the Trust Executive Officer, his manager at the time.
194. The former Sexton said he had found it very difficult to manage Mr Bock in the last few years before his resignation as Sexton, as Mr Bock ‘wanted to do what he wanted to do’ and would not necessarily follow his instructions. He believed Mr Bock had ‘gone around’ him to the former Trust Executive Officer, which explained the lack of action.
195. Mr Bock submitted that the former Sexton’s recall of events is incorrect, and that the former Executive Officer contacted him directly about work-related matters and to issue him with work directions while excluding the Sexton from the process. Mr Bock added that he was uncomfortable with the former Executive Officer doing this, as he perceived himself as being caught between the two. Mr Bock submitted that he ‘was moved to ask the Trust Executive Officer to address the situation with the Sexton’ as a result.

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196. It is not necessary to decide whose evidence should be preferred on this point. Mr Bock continued to sell and install memorial seating in the Trust's cemeteries after 2005.

### The Manager

197. On 6 December 2014, Mr Bock sent an untitled email to his Manager. The email suggests the Manager knew about Mr Bock wanting to charge a \$140 permit fee for each chair:

... also could you get the Trust [Chair] to pass that chair concept we put a \$140 permit fee on each chair and are not responsible for up keep/wear tear, and nearly each chair we put in family buy and do a garden so we have a win all round ...

198. However, there is no direct documentary evidence to suggest the Manager knew that Mr Bock was selling the seats for private gain at this time. The Manager told investigators that he had not been aware that Mr Bock was receiving money directly into his personal bank account for the chair sales. The most likely explanation for their inaction in respect of the memorial seating prior to 2015 is that they believed the seats were donated by the families of deceased persons interred in the Murray Pines and Nichols Point cemeteries.

199. The Manager submitted that the installation of memorials 'is a day-to-day operational task under the responsibility of the cemetery department leader', and that he had not considered the memorial seating to be a potential issue until he 'was made aware by [the Trust Chair] that they were being installed improperly by Mr Bock.'

200. The Manager's evidence was that he directed Mr Bock to cease selling the chairs after a conversation with the Trust Chair, and that the matter did not progress to disciplinary action or formal discussions at any Trust meeting. The Manager believed that Mr Bock had complied with this instruction, although he did not take any further steps to confirm that Mr Bock had stopped selling the seating. The Manager conceded that a Trust employee selling memorial seating at Trust cemeteries and possibly pocketing the proceeds of sale could warrant investigation and disciplinary action.

201. The Manager told investigators that Mr Bock subsequently approached him for direction about requests for chair purchases. The Manager gave Mr Bock an explanation which demonstrated an awareness that the Trust needed to take further steps before more chairs could properly be sold and installed:

... [Mr Bock] did bring it up later on ... around, 'I've had people approaching me for memorial chairs, so what are we doing about it as far as the Trust goes?' And I said, 'Well, the Trust needs to agree on a policy decision, we then need to go and work out a fee, we need to get that fee gazetted. All of that's got to happen before we can actually do anything.' And I know he came to me a few times in between having that conversation and telling him to cease and when we actually got the policy approved and the fee set.

202. Despite the Manager's direction, the available evidence indicates that Mr Bock continued to sell memorial chairs up until at least December 2016, and that the proceeds of sale were not provided to the Trust.

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## Differing accounts of the Trust Chair's conversation with the Manager

203. The Manager's recollection of his conversation with the Trust Chair at the time is difficult to reconcile with the former Chair's statements. The former Trust Chair indicated that she believed the Trust was – or should have been – receiving money from the sale of the memorial seating organised by Mr Bock. This is consistent with her observation that the Trust had recently emerged from serious financial difficulties and was looking to maximise its revenue. However, the Manager's evidence was that the Trust Chair's concerns 'were that Darren was selling the chairs on the cemetery grounds and pocketing the money'.

204. One explanation for the apparent inconsistency between these accounts is that the Trust Chair wanted to determine whether the money from sales of the memorial seats by Mr Bock had in fact been paid to the Trust. An alternate explanation is that the Trust Chair wanted the Manager to check the Trust's records to assess whether (and how much) the Trust had been paid for the memorial seating installed at the Murray Pines Cemetery.

## The current Trust Chair

205. The current Trust Chair has been chair of the Trust since March 2017.

206. The Manual specifies that the responsibilities of a Chair of a cemetery trust may include 'ensuring that there are no potential conflicts of interest or duty'. It also says that the Chair will manage the induction of new members in the Trust, as well as:

... managing the principal relationships of the board, for example, relationships with cemetery managers and senior staff, committees of the board, the department and minister.

207. At interview, the Trust Chair stated she had managed the induction of new Trust members and extended that induction to staff involved with the Trust. Documents and information received by the investigation support the Chair's statement, and it seems likely that these actions provided Council officers and Trust staff with the knowledge of how to properly disclose concerns about conflicts of interests and duties.

208. The Trust Chair told investigators she was not aware that Mr Bock had been selling memorial seating at the cemeteries, and she did not have first-hand knowledge of how the seats were being made and sold. She believed the Manager had been the person who first raised the issue with her. She said she was 'horrified':

... it horrified me that, number one, you're dealing with grieving honest people who are not necessarily thinking straight; number two, he's using Cemetery Trust resources for his own income; and then number three, cash on the side should never exist. So that's what I mean, on every level that did not sit with me very well at all.

209. The Chair appeared to recognise the seriousness of Mr Bock's actions and was concerned that the practice had continued into her tenure as the Chair. She told investigators she had met with the former Trust Chair, but she did not recall her mentioning the chairs as an issue.

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## Conclusions

210. The documentary evidence shows that between 2007 and 2016 Mr Bock used his Council mobile phone and email address to privately sell and install memorial chairs, including arranging the various plaques and inscriptions on each chair.
211. These chairs were made by one of Mr Bock's relatives, although this fact apparently remained unknown to the Trust until at least 2014. They were apparently sold and installed during Mr Bock's ordinary work hours. This practice continued even after Mr Bock was instructed to stop installing the seats.
212. In doing so, Mr Bock:
- personally benefited from, and provided a benefit to one of his relatives by arranging and installing memorial seating at the Trust cemeteries, during his ordinary hours of employment
  - used his position to propose purchases of memorial seating to mourners attending the cemetery
  - failed to disclose and manage his direct interest in the sale of the memorial seating, as required by the Council's Conflict of Interest policy and the VPS Code
  - misled Trust members about the basis on which the chairs were being purchased and installed at the cemeteries.
213. While the Trust paid for the concrete footing pads and dyna bolts used to install the chairs (approximately \$20 each), there seems to have been a genuine degree of ignorance on the part of the Trust about how the unsanctioned seats were being financed. Likewise, the Trust members do not seem to have been aware of how many memorial seats were being installed by Mr Bock.
214. Trust members must carry some responsibility for not having ensured proper policies, fees and systems were put in place in a timely way once the Trust became aware of the memorial seats' existence. The current Trust board inherited these arrangements; and to their credit, steps have been taken since the disclosures were made to improve the Trust's governance and operations. Members of a cemetery trust have an important stewardship role in ensuring that the trust's activities reflect public sector values and employment principles, and that the trust has arrangements in place to meet its statutory obligations.

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### 'An abundance of chairs'

215. Mr Bock's actions in installing 'an abundance of chairs' (as one witness described them, and as the photo below illustrates) also shows a disregard for the culture and heritage of the cemeteries.

216. To allow approximately 175 chairs to be placed throughout a cemetery is potentially in breach of Part 2 of the Cemeteries Act, which requires that class A and class B cemetery trusts must keep in mind the cultural and religious values of the community and the heritage values of public cemeteries.

217. The Manual states:

Victorian cemeteries fulfil a number of functions. They are a place to inter deceased people, a significant link to Victoria's heritage, and areas of cultural, historical and ecological significance. A cemetery trust must always take these different functions into consideration when undertaking any works or maintenance within the cemetery. This includes erecting a new structure, removing native vegetation and any other key works that could have a significant impact on the character of the cemetery.

218. The installation of so many chairs also has a direct financial impact on the Trust. The Trust did not receive any income for any chairs sold by Mr Bock, having assumed that the seats were being donated by the families of persons interred in the cemeteries. As a result, the Trust lost potential income from chairs sold and installed at the cemeteries. Mr Bock continued to install chairs after the Trust had determined its own policy and processes for the purchase and installation of approved chairs, apparently undercutting the Trust's prices and taking advantage of the high level of contact with families and mourners which his position afforded him.

219. The current Trust Chair grasped the seriousness of this matter after being told by investigators that approximately 175 memorial seats had been installed at the cemeteries during Mr Bock's tenure:

How? How has this happened? [...] How did I not see 175 chairs when I was out there?



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## Submissions from Darren Bock

220. Mr Bock submitted that he took his duties and responsibilities in his employment 'most seriously', and that he maintained the cemetery grounds as best he could within the limits of the training, resources and management support available. Mr Bock noted that it was ultimately the Trust's responsibility to be mindful of heritage values and the cultural, historical and ecological issues significant to its cemeteries. Mr Bock added that Trust members visited the cemeteries on numerous occasions over the years, and that none 'made any adverse comments to him about the seats'.

221. Mr Bock's submission does not address the financial impacts on the Trust of the installation of so many memorial seats, apparently without authority and without the Trust receiving any payment for them. The ongoing cost of maintaining the seats clearly became a concern for the Trust, given the former Trust Chair's statement that it was 'unacceptable' for the Trust to bear their upkeep costs.

# Other conduct

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## Allegations

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Darren Bock had engaged in the following conduct during his employment at the Trust:

- receiving cash payments from funeral directors to lift ledgers (grave lids) to enable interment of additional persons in a single grave
  - digging additional graves at the end of plinth rows to facilitate additional burials in those locations
  - failing to ensure that grave plinths were properly numbered or marked
  - inadequately maintaining grave sites
  - mismanaging a number of burials, resulting in the sale of the right of interment for at least one occupied grave and the burial of at least two people in the wrong graves.
- 

222. Considered separately, each of these incidents may seem less significant than those examined in the previous chapters. Taken together, they raise serious questions about Mr Bock's management of the Trust's cemeteries and his operational competence. That a number of these matters were discovered purely by chance only strengthens concerns about Mr Bock's diligence in his duties.

### Receipt of cash payments to lift ledgers

223. It was alleged, and the investigation found, that Darren Bock received cash from funeral directors for lifting the lids of graves (ledgers) to allow for another subsequent interment. As there is no fee scheduled for lifting a ledger, the Trust could not properly have charged a fee for this service and Trust staff should not have been involved. This task should have been referred to a stonemason to perform. The investigation received evidence that a person from a local funeral parlour and Mr Bock had been 'butting heads' because Mr Bock had refused to provide a receipt for a cash payment, and that Mr Bock had said 'this was the way it's always been done'.

224. It was also alleged that Mr Bock would share this cash payment with other grounds staff at the Trust. When those staff tried to refuse, it was alleged that Mr Bock told them that this was the way things had always been done, and encouraged them to accept the money.

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## Darren Bock's evidence

225. Darren Bock told investigators that the practice of receiving cash payments for lifting ledgers had commenced between 1996 and 1998, when he was a gravedigger. He said that the practice continued until 'maybe 2015 or 2016'. He could not recall exactly how many times he had been paid to lift a grave ledger, but believed that he would have done so 'between maybe three and six' times per year. Mr Bock stated that he would receive cash cheques for \$150 for each such service, which would be divided among staff carrying out the task.
226. When asked about how the payments were distributed, Mr Bock told investigators that '[i]t was understood by the staff that anyone who was involved in it would receive payment – equal share of whatever the payment was.' Mr Bock stated that 'all the staff knew [...] that if we were doing a ledger they would be entitled to \$50.'
227. Mr Bock denied that cemetery staff had ever told him that they were not comfortable about accepting these payments, but said he stopped the practice of lifting ledgers out of concern for the health and safety of one of his subordinates, who had been struggling with lifting the heavy stone slabs.
228. Mr Bock confirmed that, to his knowledge, local stonemasons would typically charge around \$350 for this service, and said he did not know how the figure of \$150 had been determined. Mr Bock considered that the payments for lifting a grave ledger were separate from the Trust's schedule of fees for cemetery services, and that the practice saved time and money for funeral directors (and by extension, the families of the deceased persons).

229. Mr Bock gave evidence that he did not report receiving these payments to his managers. He confirmed that the arrangement was between certain funeral directors and the Trust's cemetery staff, and that to his knowledge, the Trust was not aware of the arrangements. Mr Bock agreed that in hindsight, this practice presented financial risks and impacts for the Trust. These risks and impacts concerned occupational health and safety for cemetery staff, and money not received by the Trust for services rendered at the Trust's cemeteries.

## A Cemetery Officer's evidence

230. A Cemetery Officer told investigators that the number of ledgers being lifted 'could have been anywhere between three and five' per year during their employment at the Trust. They said they could not recall the first time this took place, but had been 'taken aback' when Mr Bock had handed them \$50 following a ledger lifting. Mr Bock had described the payments to grounds staff as being a 'CCAV payment' for lifting the ledgers.
231. The Cemetery Officer remembered that after they had worked at the Trust for some time, they had spoken with the other gravedigger about Mr Bock being involved in lifting ledgers:
- Generally, we'd do it maybe two times a year, maybe three, not many. Anyway, a year had gone past and then we'd lifted a ledger and I did say to [another Cemetery Officer], 'Why, every time we lift a ledger, all of a sudden [Mr Bock] is hands on?' We don't ever see him and all of a sudden he's here with his couple of crowbars and he's taking over.

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232. The Cemetery Officer recounted an instance when they overheard Mr Bock speaking with a funeral director about a planned ledger lifting, which had made them suspicious of the arrangement:

... it came to this year where we were about to lift a lid, lift a ledger, and I was standing next to him while he was on the phone to a funeral director and he said, 'No, no, you can't invoice me. I can't have anyone tracing it back to me.' And I just - it just ... It made my blood run cold.

233. The Cemetery Officer told investigators that immediately after Mr Bock finished that telephone call, they asked Mr Bock about the conversation. They said Mr Bock told them that the funeral director had wanted to invoice him for the ledger lifting in order to invoice the deceased's family. This had led to Mr Bock's refusal to be invoiced and his subsequent comment.

234. According to the Cemetery Officer, after this conversation with Mr Bock, they spoke with the other member of the Trust's cemetery staff and told them not to accept any payments from Mr Bock connected with lifting grave ledgers:

I said, 'If he offers you \$50, I would recommend you don't take it. It's not what he says it is.'

235. The Cemetery Officer told investigators that they subsequently told Mr Bock that they did not want any payment for lifting a grave ledger. The Cemetery Officer claimed that Mr Bock then had a conversation with the other Trust cemetery staff member, telling them that they no longer received payments for lifting grave ledgers:

I went back to him [Mr Bock] and said, 'You can have that money. It doesn't bother me. I'm not touching it. I'm not losing my job for 50 bucks a year.' And then he was - he didn't say much and half an hour later, I believe he came up to [the other cemetery staff member] and told [them] a general story [about] how he used to get paid to lift ledgers but we don't do that any more.

236. The Cemetery Officer said they subsequently looked up the Trust's secondary employment policy, which they understood to require Trust staff not to take additional payment for work performed in the course of their normal hours of employment. They told investigators that they had provided a copy of the secondary employment policy to Mr Bock.

237. The Cemetery Officer observed that they had previously been told by Mr Bock that these payments were an ordinary approved payment. The Cemetery Officer had some misgivings about this explanation, and noted that there were legitimate additional payments for assisting with exhumations, and that this had assuaged their initial concerns: 'I didn't have access to the correct information, but now I do. I wish I did then.'

### **Submissions from Darren Bock**

238. Mr Bock submitted that the Cemetery Officer's recollection of having overheard a telephone conversation between him and a funeral director was mistaken. He submitted that the alleged conversation did not take place by telephone. Alternately, Mr Bock submitted that if this conversation did in fact take place as alleged - which Mr Bock denied - it was not conducted in the Cemetery Officer's presence nor within their hearing.

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### The former Sexton's evidence

239. The former Sexton told investigators that when he was employed at the Red Cliffs cemetery, undertakers would pay him to lift grave ledgers. He considered that this would have been reasonable at the time, but that 'as far as our cemetery, I don't think that would ever happen because that was part of the job'. He explained that ledgers were heavy and lifting them could be difficult: 'You have to know how to do it. It's awkward.'
240. The former Sexton believed that the Trust had not charged undertakers for lifting ledgers when he had been involved in the process. He noted that some ledgers could be lifted relatively easily, but far greater care was required for more ornate or polished ledgers.

### The Manager's evidence

241. At interview, the Manager said he was not personally aware that Mr Bock was lifting ledgers at the request of funeral directors and being paid \$150 to do so. He said he had become aware of the allegation when it was raised by a member of Trust staff. The Manager said he did not investigate the matter further, as by that time, it had been reported and was already being investigated.

### Poor operational management of the cemeteries

242. Another of the allegations related to Darren Bock's poor cemetery management practices. A site inspection of the Nichols Point and Murray Pines cemeteries confirmed a number of poor management practices, and identified that these practices had the potential to adversely affect cemetery operations.

### Darren Bock selling grave sites which did not exist

243. Concrete plinths are laid in designated areas that allow for heavy stone and concrete monuments to be laid at the head of each grave. Graves at the end of these plinths are often the first to sell, as they can be easily found and there is more room for families when they visit these graves.
244. Investigators questioned Mr Bock about the burial of two deceased persons, Mr I and Mrs J, into graves he had dug that were outside the designated grave sites at the end of plinths. This meant that each of these two graves had no concrete plinth at their head, and that the plinth needed to be extended as a result.
245. In respect of these grave sites, it was alleged that:
- the plinths had been poorly finished, with one not being made to the same standard as the rest of the concrete plinth row
  - Mrs J's plot number was not consistent with the numbering of the other plots within the row, and had been 'tacked on' to the end
  - Mr I's plot was also added to the end of the plinth and the addition to the plinth was roughly finished.

### Mr I

246. Mr I died on 15 January 2016. Mr I's family members applied for a right of interment on the following day. The application form records the plot to which the right of interment related as 'KL59'. Mr I was interred in grave KL59 on 20 January 2016.

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247. At interview, Mr Bock was asked if he recalled the circumstances regarding the interment of Mr I:

**MR BOCK:** Yes. I was approached by [Mr I's family], explaining that their loved one or family member was two or three rows up further and they were always going to purchase one and they didn't. So I looked at the area that they were requesting and there was ample room for us to extend the beams. Then I proceeded to say to them, 'Leave it with me and I'll have a chat to my manager and I'll get back to you' because the funeral was within - you know, he'd already passed away. So I contacted [my Manager] and explained to him what the situation was and that there was no reason why we couldn't extend that beam because at the end of the day the cemetery is going to be filled up and we're going to be looking for ground at some point, and this wasn't going to impact on anybody else around that area.

So I contacted the family and said, 'Look, we can go ahead with it' because [my Manager] was in agreeance. So we had the funeral and then I explained to them that we wouldn't have a plinth there on the day of the funeral but we would put one in after the - you know, as soon as possible. That was basically that scenario, yes.

**INVESTIGATOR:** And to your knowledge is that outside of the procedures or policy of the cemetery to have plinths at the end of the - or have an interment and then add the plinth?

**MR BOCK:** I couldn't say it's outside the policies or procedures. I just looked at it and said, 'Well, we can do this. Is there any reason why we can't do it?'

**INVESTIGATOR:** And you're saying that you sought direction from your manager in relation to doing that.

**MR BOCK:** Yes, and then explained to him the whole situation, that this was a family there/here. ... and added that if we put this beam in here we can actually sell the other side of it, which is going to create an extra amount of funds for it because of another site fee and so on and so on.

248. The Manager told investigators that he was not specifically aware that Mr I had been placed in a new grave added to the end of the relevant plinth. However, he said he was aware that this practice had occurred in the past, agreeing that this was poor practice and commenting that such practices had since stopped:

... what I've been made aware - and you can actually see where, yes, somebody wants to go close to a family member, there are no plots left, there is a little bit of space on the end of that plinth, well, I'll just brew up some cement and I'll make my own little, and sell that either side. Which is, again, a bit of an issue. That practice doesn't happen anymore. But, yes, I am aware of there has been instances of that.

249. The investigation subsequently learned that Mr I's family considered Mr Bock's actions in this case to have provided a positive resolution.

### Mrs J

250. The original allegation involving the burial of Mrs J was that Mr Bock had added her grave to the end of a plinth, and that he had done so because Mrs J could not otherwise be buried next to her partner (who was buried at the end of that plinth row) as Mr Bock had sold the adjacent grave site:

[Mrs J] was the partner of [Mr K]. [Mr K] was buried on the end of the plinth row. It is my guess that Darren had promised her a plot beside [Mr K], but then went on to sell it - so Mr Bock added the additional plot to the end of the row to smooth things over with her.

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251. Mr Bock stated that he recalled Mrs J's interment when he was shown a picture of the headstone on the grave of Mrs J. He declined to answer further questions about Ms J's interment, citing the privilege against self-incrimination. Mr Bock's claim of privilege was accepted, noting section 115 of the Cemeteries Act provides that:

A person must not inter bodily remains in a public cemetery unless the cemetery trust responsible for the public cemetery has granted an interment authorisation for the interment.

Penalty: 600 penalty units or 5 years imprisonment or both.

252. At interview, a Cemetery Officer spoke about Mrs J's burial:

She was put in a hole. The family didn't want her in there. She was already in there. We hadn't filled her in. Again, I wasn't there. I was at the other cemetery and I can't recall whether they just closed the lid and then the next day we dug another hole and put her in that or they put dirt on there and then exhumed her.

... but I know she went down the hole and the family didn't want her in with [Mr K] [...] even though she owned - she had burial rights of that hole. She owned the hole. So, she was then - I believe she was left in the ground and then we dug just a hole at the end where there was no beam and then we put her there ...

253. Despite the information in the Trust's records, the investigation understands that Mrs J wished to be buried in a grave adjacent to Mr K, rather than in the same plot as Mr K.

## Documentary records

254. The investigation examined the documentation relating to the interment of Mrs J.

255. Mr K passed away on 6 June 2009. Mr K was Mrs J's partner at the time of his death. On 9 June 2009, Mrs J purchased the right of interment for grave MN35. On the same day, Mrs J signed an Application for Interment Authorisation for the interment of Mr K's remains.

256. The Funeral Booking Confirmation form, completed and signed by Mr Bock on 7 June 2009, recorded that grave MN35 was a new grave and was to be dug to 'double depth' (see excerpt on the next page). The investigation was advised this is common practice, unless there is a specific request for single depth only. The Trust has a practice to dig all new graves to a double depth to allow a second interment, unless specifically requested otherwise.

257. The original Funeral Booking Confirmation form for Mr K's burial into grave MN35, signed by Mr Bock, contains several errors. The funeral day is crossed out and overwritten, and the original grave number appears to have been recorded as MN37, with the number 7 overwritten with a number 5. A subsequent notation in brackets appears to refer to a grave number that had previously been reserved, with another number overwritten by what appears to be the number 33.

258. Mrs J passed away on 10 January 2016. On 11 January 2016, Mr Bock completed and signed a Funeral Booking Confirmation form for Mrs J (see excerpt on the next page). This record lists the funeral taking place on Friday 15 January 2016, into a 'REOPEN GRAVE'. This record is consistent with Mrs J's remains being interred into grave MN35 rather than MN35A, as Mr K had been interred in grave MN35.

Completed Funeral Booking Confirmation form for Mr K



MILDURA CEMETERY TRUST  
FUNERAL BOOKING CONFIRMATION

FUNERAL DIRECTOR:	[REDACTED]
CONTACT NAME:	[REDACTED]
TELEPHONE NUMBER	PHONE: [REDACTED]
FAX NUMBER:	FAX: [REDACTED]
TIME AND DATE OF BOOKING	.....AM. 4:30 PM DATE: 7.6.9.....
TAKEN BY WHOM	SIGNATURE: <i>[Signature]</i>

DAY OF FUNERAL: ~~WED~~ - THURS DATE: 10.6.9

ARRIVAL TIME AT CEMETERY: 10:30 AM/PM

(Tick appropriate box's as required)

- 4-5
- NEW GRAVE  DOUBLE DEPTH  TRIPLE DEPTH   
 REOPEN GRAVE  RESERVED GRAVE  MAUSOLEUM   
 LAWN GRAVE  MONUMENTAL GRAVE  ASHES   
 CONCRETE LINED GRAVE (VAULT)  Vault - Top Level  Vault - Bottom Level   
 MURRAY PINES CEMETERY  NICHOLS POINT CEMETERY

SECTION: [REDACTED] GRAVE NUMBER: [REDACTED] 35 ( [REDACTED] 39 )

Completed Funeral Booking Confirmation form for Mrs J



MILDURA CEMETERY TRUST  
FUNERAL BOOKING CONFIRMATION

FUNERAL DIRECTOR:	[REDACTED]
CONTACT NAME:	[REDACTED]
TELEPHONE NUMBER	PHONE: [REDACTED]
FAX NUMBER:	FAX: [REDACTED]
TIME AND DATE OF BOOKING	.....AM.....PM DATE: 11.1.16.....
TAKEN BY WHOM	SIGNATURE: <i>[Signature]</i>

DAY OF FUNERAL: FRIDAY DATE: 15.1.16

ARRIVAL TIME AT CEMETERY: 1:30 AM/PM

(Tick appropriate box's as required)

- NEW GRAVE  DOUBLE DEPTH  TRIPLE DEPTH   
 REOPEN GRAVE  RESERVED GRAVE  MAUSOLEUM   
 LAWN GRAVE  MONUMENTAL GRAVE  ASHES   
 CONCRETE LINED GRAVE (VAULT)  Vault - Top Level  Vault - Bottom Level   
 MURRAY PINES CEMETERY  NICHOLS POINT CEMETERY

SECTION: [REDACTED] GRAVE NUMBER: [REDACTED] 35A

259. Mr K's first name is written in the section of the Funeral Booking Confirmation form for Mrs J titled 'Deceased details'.

260. The next relevant document is a signed Application for interment authorisation form dated 21 January 2016, six days after Mrs J's funeral. This document records an application by Mrs J's family for the interment of Mrs J into grave 'MN35A'. The form names Mrs J as the holder of the right of interment. This application specifies the funeral parlour that organised the interment of Mrs J.

261. The form records that the relevant funeral service occurred on 15 January 2016 and gives the details of the type of place of interment as a 'pre-purchased/pre-need' grave.

262. Mrs J's family also completed an Application for Right of Interment form, which is signed and dated 21 January 2016. The details of the right of interment sought are recorded on the form as 'Murray Pines Cemetery, MN35A'. The Trust stamp on this document records that this grave was paid for on 27 January 2015, but this appears to be an error, as the associated invoice records the date of payment as 27 January 2016. It is clear that Mrs J's funeral was held on 15 January 2016, and that at the time of her death Mrs J was already the holder of the right of interment for grave MN35.

### Consent of holder of the right of interment

#### Consent of holder of the right of interment (continued)

Has the holder of the right of interment been informed of this application?  Yes  No

If no, give reasons why the holder of the right of interment has not been informed of this application:

*Now Deceased*

If yes, does the holder of the right of interment consent to this application?  Yes  No

If yes, please obtain the holder's signature below.

Signature of holder of right of interment: \_\_\_\_\_

Date: / /

#### Other matters

Details of the funeral director or the person otherwise arranging for the interment of the human remains:

Company name (if applicable): \_\_\_\_\_

Title: \_\_\_\_\_

Surname: \_\_\_\_\_

Address: \_\_\_\_\_

Suburb/town: \_\_\_\_\_

Post code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

#### Matters relating to interment

Service type:  service both ends  meet at cemetery  no attendance

Location: \_\_\_\_\_

Date: *15/01/2016*

Time: *12.30pm*

Special service requirements: \_\_\_\_\_

Other remarks: \_\_\_\_\_

Details of the type of place of interment:  new  pre-purchases/pre-need  reopen

Signature of Applicant \_\_\_\_\_

Date *21-1-16*

#### Warning

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## Trust procedures

263. On 15 January 2016, when the Funeral Director delivered Mrs J's body to the Murray Pines Cemetery, the Trust's Booking Procedure (dated September 2014) included specific instructions about receiving all appropriate forms and payments prior to the time of a funeral:

The Funeral Director must provide the Trust Officer at the Mildura Rural City Council the appropriate interment forms (specified by the Department of Human Services) and payment of all fees NO LATER THAN FOUR (4) HOURS PRIOR TO THE SCHEDULED TIME of the funeral. (emphasis and capitalisations in original)

## Conclusions regarding Mrs J's interment, exhumation and re-interment

264. Although the Cemetery Officer's evidence about their knowledge of the interment of Mrs J was somewhat imprecise, it is consistent with the available documentary evidence. Mr Bock stated at interview that he recalled Mrs J's interment, but lawfully declined to provide further evidence about it.
265. The Cemetery Officer's evidence was that:
- they believed Mrs J's remains were interred into grave MN35 on the day of her funeral, 15 January 2016
  - on the following day, Mrs J's remains were exhumed from this grave and she was reinterred into the new grave MN35A.
266. Mrs J's grave is outside the designated grave area. The grave was purchased on 21 January 2016, six days after Mrs J's funeral and ten days after the Funeral Confirmation Form was completed on 11 January 2016. Grave MN35A was paid for on 27 January 2016.
267. The investigation found no documents that related to the burial of Mrs J into grave MN35, although Mrs J had held a right of interment in that grave since 2009. Nor did it identify any documentation that would have permitted anyone to inter Mrs J's remains on 15 January 2016 into grave MN35A, as the relevant documents were created after that date. The investigation found no exhumation licence relating to Mrs J.
268. The forms completed on 21 January 2016 cannot be accepted as accurate statements as to where Mrs J was initially interred. Mrs J's remains were interred after her funeral on 15 January 2016.
269. Had Mrs J been interred in grave MN35A immediately after her funeral, as the application for interment authorisation and the Funeral Confirmation Form dated 11 January 2016 appear to suggest, a subsequent application to authorise her interment in that grave would have been unnecessary. For the same reason, it would not have been necessary for Mrs J's family to complete an application for a right of interment for Mrs J on 21 January 2016 if she had been buried in grave MN35A following her funeral.
270. Taking all of the available evidence into account, Mrs J was interred into grave MN35 on 15 January 2016, and her remains were subsequently exhumed and re-interred into a newly created grave, referenced as MN35A, where she remains today. This reinterment appears to have been completed in accordance with Mrs J's wishes.
271. A necessary consequence of this conclusion is that the grave number in the Funeral Confirmation Form dated 11 January 2016 and signed by Mr Bock must have been altered at some point to state that Mrs J was to be interred in grave MN35A rather than in grave MN35.

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## Misnumbering and poor lettering of graves and rows

272. Investigators conducted inspections of both the Nichols Point and Murray Pines cemeteries, and identified other poor cemetery management practices by Darren Bock.

### Grave plinths missing the numeral 5

273. The investigation found that, in recent years, a large area of land within the Nichols Point Cemetery became available. This allowed for several hundred grave sites to be created in a large lawn area. The investigation heard evidence that when the concrete plinths were being laid, Mr Bock had either lost or failed to ensure that the contractors pouring the wet concrete had all of the number stamps to number each grave. This resulted in hundreds of new grave sites being numbered without the numeral 5.

274. At interview, Mr Bock said:

I suppose it falls back on to me that I should have picked it up but because of my workload and, you know, everything that was going on, I probably didn't have the time to sit and go and check what contractors were doing over many years because it was just - I just didn't have the staffing and the time. That's probably one of the instances that I can remember that there's a mistake.

275. Mr Bock asserted that the contractors were responsible for imprinting the numbers into the wet concrete.

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All of the concrete plinths in this photograph are missing the number 5



Number 5 missing, grave number 50 is number 0



Number 45 is numbered 4



Number 8 is missing from plot 48



One of 60 numbers that had to be corrected in one grave row



Black cover placed over a very faint concrete stamp



### Incorrect lettering in plinth rows

276. The investigation heard evidence that during the concrete pouring of plinths in the Nichols Point Cemetery, Mr Bock had either lost or not ensured that the contractors pouring the concrete were in possession of the letter F. These capital letters are imprinted at each end of a plinth to identify the row of graves. As a consequence, the letter E was stamped on multiple rows.

277. A member of the Trust staff estimated that they had identified in excess of 100 incorrect grave numbers. All of these graves must be corrected to ensure the actual graves match the Trust's electronic grave mapping computer system, in order to identify which graves are available for sale and those that have either been sold, put on hold, or have someone interred within.

278. Investigators also identified letters at the beginning of rows which had not been properly pressed into the wet concrete. As a result, these letters were quite faint and hard to read. Since Mr Bock's departure in August 2018, this has in part been rectified by using marked blocks to clearly identify each row.

279. The image above shows a black cover has been placed over a very faint concrete stamp of the letter D to clearly show that it is in fact Row D. The alloy stamp of number 42 on the right was placed to correct a number 2 wrongly stamped into the concrete beam.

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## Maintenance of grave sites

280. The investigation asked Darren Bock about a rose bush that had been planted on a grave at the Nichols Point Cemetery, which investigators had identified during a site inspection. Mr Bock explained that the Trust had a policy to eliminate glass vases, and that sometimes relatives of a deceased person would place a plant on a grave. Mr Bock added that he had not removed or directed the removal of the rose bush, and did not want to upset the deceased's relatives by removing it, stating that 'sometimes it's easier to give a little bit':

it was more to keep families happy and if it meant us just going around it and that, I don't, I didn't think it was such a big deal.

281. Mr Bock was asked if he had anything else to say about these cemetery management practices:

**INTERVIEWER:** Do you have any further thing you want to say in addition to that - ... point that you're making there?

**MR BOCK:** With anything like that, I always basically conduct it myself that I was trying to do the best for the families, and in saying that I always try to be honest and open with the managers or any dealings that I had over the 25 years. My whole thing was to try and be as honest and as open but also be acceptable that if I was told, 'We don't want you to do that,' or, 'That's the wrong thing to do,' that's basically - you just had to do that because that was - so while nobody was basically telling me I was doing something wrong or I wasn't, you know, doing anything - you know, I was doing a good job, I just believed that I was doing a good job and I thought that, you know, the feedback that I got probably on my files and that may attest to that - of the letters and, you know, the

...

From the families and -

**INTERVIEWER:** From the grieving families?

**MR BOCK:** Yes. And, you know, my belief that my work with the funeral directors and stuff like that was the same thing. I think they respected how I ran the cemeteries and what I did to try and help everyone out and make sure things went as smoothly as what I possibly could make things do.

## Alleged mismanagement of burials

282. The investigation obtained information about several incidents relating to the mismanagement of burials conducted within the Nichols Point and Murray Pines cemeteries, including multiple instances of people being interred in the wrong graves.

### Sale of, and interment in, a grave previously sold to another person

283. On 6 June 2018, Darren Bock sold burial plot OP63 for the interment of Mrs L. All of the paperwork for her interment was correctly filled out.

284. On 9 June 2018 Mrs L was interred into grave PQ103. The right of interment in this grave had been purchased by another person, Mr M, in March 2018. Mr M had purchased the right of interment in this specific grave as it was located on the right of the grave in which his wife had been buried. This plot had apparently been incorrectly stamped as PQ63 at the time of construction.

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285. Mr M discovered that Mrs L had been buried in the grave on the right of Mrs M's, which he believed he had already purchased for his own interment. A Cemetery Officer told investigators that they had spoken with Mr M at the cemetery, and that Mr M was very distressed to discover that the grave to the right of his wife's had apparently been sold despite his having had a lengthy and emotional conversation with Mr Bock about his wife a few days earlier.

286. After this mistake was brought to the attention of Trust staff, Mrs L was lawfully exhumed and buried in the correct plot. Had Mr M not raised the matter or if no monument had been erected for Mrs L, this mistake might have gone unidentified for years (until Mr M needed to be interred).

### **Inaccurate records resulting in sale of an occupied grave**

287. In August 2017, a woman enquired about purchasing plot QR17, a plot next to her relative, for the interment of the ashes of both her parents. A check of the Trust's 'Authority' computer system indicated that this plot was available for purchase as its ownership had been relinquished in October 2010. A witness said that the woman 'was delighted' to be told that the plot was available, and that she paid for and purchased this plot.

288. In May 2018, a Trust Officer contacted the woman to arrange a time for the interment of her parents' ashes. The interment service was booked for 16 June 2018. On 28 May 2018, Darren Bock reported to the Trust that he had checked plot QR17 and found that someone had already been buried in that grave. A further check of that grave on 'Authority' showed it had no interment.

289. It was alleged that Mr Bock said that Mrs N was interred in plot QR17. The 'Authority' system indicated Mrs N was interred in QR15 on 30 June 2011, almost seven years earlier. It was alleged Mr Bock then dug down into the earth within plot QR15 and said he was convinced that the ground had not been disturbed.

290. It remains uncertain how this error in the interment records arose. The investigation is satisfied that the record is incorrect and that Mrs N was actually interred in grave QR17. However, as a result of this error, alternative arrangements had to be made for the interment and memorialisation of the woman's parents.

### **Absence of records for interment of ashes and installation of memorial**

291. A Trust Officer told the investigation that in March 2018 they received a telephone call from a woman enquiring about whether there was a plot available next to the plot where her mother's ashes were interred. The Trust Officer found no record that the caller's mother was interred in the Trust's cemeteries. The caller reportedly told the Trust Officer that she had attended a ceremony for the interment and that Darren Bock had been present for it. The Trust Officer told the investigation that they asked Mr Bock about this, and that Mr Bock had said that the monument for the caller's mother 'just turned up over a weekend'.

292. The Trust Officer stated that they asked the caller if her family had paid for a plot for the interment. The caller replied that they had, and that Mr Bock had assisted with placing the memorial monument. The Trust Officer subsequently confirmed that there was a memorial placed on that plot, and entered the details into the Trust's records. Prior to this, there was no record of the memorial in the Trust's systems. Neither was there any evidence that the Trust had been paid the gazetted fee for the installation of the memorial.

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293. On 15 May 2018, the Trust Officer sent Mr Bock an email asking if there were ashes interred in the grave or only a memorial. Mr Bock responded that he would check. The following day, Mr Bock sent the Trust Officer a further email stating: 'No sign of ashes, so maybe it's just a memorial.' The investigation has been unable to confirm whether any ashes are currently interred at the memorial's location.

294. This sequence of events was put to Mr Bock at interview. Mr Bock did not specifically remember interring the woman's mother's ashes, and stated that '[i]f there was ashes in there, there would have been paperwork that would have to have been lodged.'

I do remember this family inquiring about these ashes and there was no record and my recollections are that because there was no record we couldn't presume that there was someone there or there wasn't someone there.

295. After being told by investigators that ashes had been interred beneath the relevant memorial, Mr Bock told investigators that 'I couldn't tell you how they got there'.

### **The wrong plot is opened for a funeral**

296. The investigation found that in February 2018, a woman was scheduled to be buried at Murray Pines Cemetery in the same plot as her husband. On attending the cemetery as part of the funeral procession, a family member of the deceased reportedly discovered that their mother was about to be interred in the wrong plot, some distance from the intended location.

297. The family member was apparently distraught to find that a new plot had been dug for their mother's interment, rather than their father's plot being reopened as had been planned. The funeral party was reportedly advised to wait until the correct plot was opened for the burial to proceed as intended.

### **A stonemason discovers a person had been buried in the wrong grave**

298. In November 2017, a stonemason contacted the Trust and advised that he had just attended at the Nichols Point Cemetery to install a monument at grave ST132. The stonemason said that the ground for this plot appeared undisturbed, which he considered to be unusual given the deceased was supposed to have been buried there only five months earlier. The stonemason said that the soil on nearby grave ST134 appeared to have recently been disturbed.

299. A check of the Trust's 'Authority' computer system and associated hard copy documentation reported that the person for whom the memorial had been prepared was correctly buried into grave ST132. A similar check was then conducted on ST134. The Trust's records showed that plot ST134 had been reserved, but that there had been no interments in that grave.

300. An email was then sent to Darren Bock explaining what had been found. Mr Bock responded that the other gravediggers had dug the wrong grave. It is not clear who was responsible for this error. The investigation was advised that Mr Bock had later visited the families of the holders of the right of interment for graves ST132 and ST134. The rights to these plots were subsequently exchanged between the two. This avoided the need to conduct an exhumation, notwithstanding that one person had initially been buried in the wrong grave.

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### Monument permit fee waived due to burial of deceased in wrong grave

301. The Trust received an application to establish a memorial for grave WX3. The form was dated 22 March 2017 and is recorded as having been processed by the Trust on 1 May 2017. The occupant of this grave was interred in January 2016. It was alleged that Darren Bock had instructed Trust staff to waive this permit fee because the deceased had been buried in the wrong grave, two years earlier.
302. The application form to establish the deceased's memorial includes a handwritten note stating 'No fees due to being place [sic] in wrong grave number'. A Trust Officer stated that this note was in Mr Bock's handwriting. It is not known who had buried the deceased in the wrong grave.
303. Completed forms held by the Trust record two different interment locations for the deceased – plots UV3 and WX3. The Trust invoice sent to the funeral director records 'WX3' as the interment plot. The grave site details appear to have been changed from UV3 to WX3 in a funeral booking form for the deceased (dated 10 January 2015, which appears to be an error). An Application for Right of Interment form by one of the deceased's relatives for an adjoining plot, dated 30 December 2015, also appears to have been amended to conceal the original plot reserved and insert plot WX3. At the very least, these last two forms indicate that Trust records were altered after their creation to reflect where the deceased had actually been buried.

### Submissions from Darren Bock about cemetery management and records

304. Darren Bock made the following submissions in response to a draft of this report:
- When he commenced working at the cemeteries now managed by the Trust, the then Sexton had been managing their operations. The Sexton and the Council had been responsible for maintaining and managing the physical cemetery records.
  - He had been trained 'on the job' by the Sexton, and received no formal, structured or relevant training on records management.
  - The on-site shed at the Nichols Point Cemetery where the Sexton and Mr Bock performed administrative and paperwork tasks was not connected by telephone line for between five and six years, and was not connected to Council's IT network for approximately six to seven years. (It is assumed that these periods of non-connection begin from the date he was first employed to work at the Trust's cemeteries.)
  - He was appointed as Sexton after the former Sexton's resignation and 'inherited the work practices followed by the former sexton and his hardcopy cemetery records'.
  - At that time, Council was aware that Mr Bock had limited skills and experience in practical record keeping and the use of computers and computer-based records systems. He received only 'ad hoc and rudimentary training in these areas'.

- He did not receive any formal training on an ongoing basis or at all on any duties or obligations he may have had under relevant legislation or CCAV procedures.
- His workload and duties, and the resources, training and support available to him 'left him little time to attend to administrative tasks and development of his administrative skills'.
- He identified the cemetery mapping system he was required to use contained errors prior to his using it, and he informed a Council records officer of any errors he identified.
- The Records Officer was employed on a part-time basis. It was this officer's role to provide all new cemetery information (such as new burials and reservations of grave sites), and details of any errors and corrections Mr Bock identified, to a Council Officer responsible for maintaining the mapping system data.
- Updates and corrections to the mapping system data were regularly made four to six months after he notified the Records Officer of that information. At one point, this delay extended out to 12 months. The Manager explained to the investigation that this was due to budgetary and resource constraints.
- These systems and resource deficiencies, and the resultant errors in mapping system data 'were the fault and responsibility of the Trust and Council'. Mr Bock did not have the time and resources available to update the mapping system data himself.

305. As Sexton (and later as Cemetery Team Leader), Mr Bock was responsible for the proper operational management of the cemeteries. Mr Bock could undoubtedly have benefited from additional resources, training and management support from Council.

306. However, the available evidence indicates that Mr Bock did not take steps to ensure that he was aware of relevant legislative obligations and sound cemetery management practices. These were key responsibilities listed in his position description. It is not satisfactory to assert, as Mr Bock has, that these matters were properly for the Trust and the Council to address. As the following chapter notes, and as Mr Bock himself submitted, Mr Bock was not an active participant in his performance reviews. Mr Bock appears not to have used this process to obtain the necessary skills to perform his role appropriately.

307. Mr Bock's submissions about his actions in identifying errors for correction in the Trust's records are noted. However, this chapter demonstrates that Mr Bock was responsible for several instances of poor practices and failures to ensure good cemetery management (some of which were only identified in the course of this investigation). Furthermore, all of the incidents examined in this chapter took place between 2011 and 2018. They occurred several years into Mr Bock's tenure as Cemetery Team Leader, and they were not the products of historical record-keeping errors inherited by Mr Bock.

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## Conclusions

308. This chapter has examined various instances of improper conduct, poor practices and avoidable errors connected with Darren Bock's actions or neglect while employed at the Trust. Mr Bock's actions show his failures to know and understand the relevant legislation, rules, regulations and procedures applicable to the daily works and operations of the Trust cemeteries. In particular, the practice of lifting grave ledgers also presented appreciable occupational health and safety risks, which could have resulted in substantial liabilities for the Trust and the Council.

309. It is troubling that so many basic errors occurred during Mr Bock's tenure as Sexton/Cemetery Team Leader at the Trust. However, several of the events described above were the result of compounded errors – that is, they were mistakes or questionable actions which resulted from inadequate record-keeping, failures to properly ensure grave plots were adequately numbered and marked, or efforts by Mr Bock to rectify previous errors (such as interring a person in the wrong grave). The understandable concerns which arise from these incidents intensify when they are considered alongside Mr Bock's involvement in exhumations apparently conducted without a licence and the sale and installation of chairs in Trust cemeteries without Council approval considered in the preceding chapters. All together, they present a picture of a senior employee who was acting improperly, under minimal supervision, and with little or no accountability.

310. It is highly likely that, had it not been for the disclosures made about Mr Bock's conduct, these issues and practices would have continued largely unimpeded. The Trust's management structures, and particularly the management of Mr Bock, are examined in more detail in the following chapter.

# Management of Darren Bock's conduct

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311. The preceding chapters have examined allegations about the conduct of Mr Bock. This conduct took place over a period of several years, where Mr Bock worked under multiple managers and was subject to the directions of the Trust's Board. This chapter examines the management and oversight practices at the Trust over the period covering the allegations considered by the investigation, including instances where Mr Bock's conduct became known to his superiors and the actions taken (or not taken) in response to them.

## Management requirements

312. The Trust is a class B cemetery trust. The Manual for Victorian Class B Cemetery Trusts recommends regular review of each cemetery by its trust.

Cemetery trusts have an obligation to regularly review all aspects of its cemetery and operations to:

- identify potential risks
- take action to remove or diminish potential threats, harm and loss.

Matters for such a review include:

- asset management
- financial management and fraud
- human resource management
- the needs of different communities
- record management
- relationship management of funeral directors and stonemasons.

313. The Department's training manual for cemetery trust members states that in using 'business judgement', cemetery trust members 'don't hide, filter, or play down unpleasant information'. The cemetery trust board's function is to steer the cemetery trust, including strategic responsibilities in setting the overall operational direction of the trust. The board also has a stewardship role in ensuring that the trust's activities reflect public sector values and employment principles and meet its statutory obligations.

314. The training manual states that the Chair of a trust is responsible for the induction of new members, which the current Chair appears to have fulfilled, in sending new Trust members on induction training, and providing them with the relevant induction materials. What the Trust's successive Boards and Chairs appear not to have ensured, which the training manual requires, is:

... managing the key relationships of the trust, for example, relationships with cemetery managers and senior staff, the department and the Minister for Health.

315. During the time of Darren Bock's employment considered by the investigation, the essential linkages of operational management to the governance of the Trust appear to have been disconnected. To a considerable extent, this allowed Mr Bock's conduct to go unchecked.

316. The Department's training manual also makes clear in relation to management expectations, that:

For the larger Class B trusts that employ staff, one of the most important duties they have is to select and work with a CEO/manager. This requires a clear understanding of the role of the manager, and how it relates to the trust.

Managers are generally responsible for:

- interpreting and implementing the trust's policy directives
- running the organisation in line with government and legislative requirements
- preparing and implementing policies and procedures
- efficiently and effectively allocating resources (budget management)
- developing and maintaining good relationships with the local community and other stakeholders
- alerting trust members to critical issues for the trust.

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317. The training manual further clarifies that there should be 'a formal statement outlining the boundaries between trust and management responsibilities that includes what authorities the trust retains and what are delegated to management.' The manual anticipates the problems that can arise from inadequate communication between operational management and corporate governance. Mr Bock's conduct in respect of exhumations, memorial seating and the other matters examined in previous chapters can in part be understood as a consequence of such a communication breakdown; and his conduct flourished in a managerial and governance vacuum.

### **Background to the Trust's operational staff arrangements**

318. An internal document written by the then Trust Secretary, dating back to August 2000, describes the staffing and administration of the cemeteries:

There were two staff working in the cemetery with little supervision or direction ... One employee lives rent free in a Trust house. Both employees are on the same award band.

The administration is handled by the Mildura Rural City Council rates office, and most records were on cards. The Sexton's wife also maintains some records and is paid accordingly. The Trust pays an annual fee of \$30,000 to Mildura Rural City Council for the provision of such services.

319. This document was prepared during the time of the former Sexton, who lived at Nichols Point Cemetery. Mr Bock, who was the gravedigger at the time, confirmed these arrangements at interview.

320. When the Murray Pines Cemetery was established, Mr Bock reported to the former Sexton. In practice, the Sexton and Mr Bock were effectively responsible for separate cemeteries. It appears both were relatively unsupervised and were paid comparable salaries. If the Sexton and Mr Bock were paid in a similar manner, it would have been challenging for the Sexton to maintain formal supervisory authority over Mr Bock, despite his position as Mr Bock's manager. These challenges would have been compounded by the physical distance between Mr Bock and the Sexton, and by practical and technological impediments to maintaining direct communications.

321. The establishment of the Murray Pines Cemetery was reportedly difficult, particularly in respect of construction, contract management, landscaping and infrastructure. An internal Trust report states that the community and the staff 'were reluctant to embrace the new site, and with all of the above delays, it was a difficult process'. To make the operation of the new cemetery even more challenging, the business plan within the internal report notes that '[n]o manuals for procedures, rules or regulations existed for staff or burials' at the Trust at that time. Mr Bock told investigators that he received little formal training in respect of cemetery management, and that most of his knowledge about his role was received from the Sexton at the time.

322. The consequence of the lateral structural relationships of their roles and the practical isolation of working in different locations was that Mr Bock, from at least as early as 2000, worked largely unsupervised, in an environment that lacked any locally produced guidance material.

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## Management and direction of Darren Bock

323. The Cemetery Team Leader position description states that the holder – in this case, Mr Bock – reports to the Trust's Executive officer. The Trust's Annual Report for 2017-18 states that 'there are no executive officers of the Trust'. At interview, the Manager confirmed that he was Mr Bock's direct manager in practice: 'I'm his supervisor. He reports to me.' As noted in earlier chapters, Mr Bock also attended regular Trust meetings to provide operational updates and information to the Trust Board. In this sense, he was also subject to the direction and management of the Trust members.

### Management of Mr Bock

324. The Manager and Mr Bock both gave evidence that they had a regular, scheduled weekly meeting. Mr Bock told investigators the Trust meetings 'could vary from once every three months to once every four or five months', depending on the Councillors who formed the Trust's Board. Mr Bock stated that if a matter at the cemeteries required urgent attention from the Trust Board, he could relay that message to his Manager at Council for a faster response.

325. The Manager told investigators that Mr Bock's role 'has a great deal of autonomy because he's the specialist in that field'. He believed he had 'a very good working relationship' with Mr Bock until he received complaints from other Trust staff about Mr Bock's actions:

My impression of his view a while back was that he respected me as his supervisor and would do as requested. I have had feedback from his staff contrary to that. ... That was that Darren would say, 'This is my cemetery, I'll run this how I want.'

I trusted that he would do the right thing and that he was doing the right thing. Yes, I trusted him and that trust is now gone, but I didn't really have any reason not to. There wasn't anything that was being flagged to me about anything, like, inappropriate.

326. The Manager's evidence was that Mr Bock's conduct was not directly insubordinate, despite Mr Bock acting contrary to instructions and apparently failing to ensure compliance with legislative requirements in exhumations and occupational health and safety:

It wasn't so overt that he didn't respect me as a manager but he thought he was entitled to run the cemetery the way he wanted to run it.

327. The Manager considered that Mr Bock did not engage particularly strongly with performance review and competency management efforts which the Manager had implemented. The Manager's comments on Mr Bock's performance reviews between 2013 and 2017 invariably complimented Mr Bock on his work, while encouraging him to '[d]evelop a systems view for MCT [the Trust]'. However, the Manager considered that he could not force Mr Bock to be more engaged in that process:

There was no consequence that he didn't utilise our performance review process to the best that it could be. I would say that his level of engagement around the performance review process was quite relaxed, but, again, I can't make him. This is supposed to be his process, I can't make him. I don't feel that I can make him or force him to put more effort into something that is supposed to be his. I put my effort in, he didn't put his in.

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## Submissions from the Manager

328. In response to a draft of this report, the Manager submitted that performance reviews are part of the standard protocols implemented by the Council and utilised by the Trust. These protocols are mandatory for every supervisor to conduct with their respective employees as part of the annual performance review process.
329. The Manager added that by failing to engage in this process, Mr Bock 'forfeited the opportunity to respond to the grades, comments and recommendations he made about Mr Bock's performance.' As noted earlier, Mr Bock's low level of engagement with the performance review process also limited his ability to identify and pursue opportunities for formal training that may have assisted him in performing his duties.

## Submissions from Darren Bock

330. Mr Bock submitted that he 'at no time represented himself as a manager with manager-level authority with respect to the cemeteries or otherwise'. He described his Manager's evidence on this point as 'mistaken'.
331. Mr Bock also submitted that his performance reviews with his Manager were usually conducted several months in arrears, and that:
- ... in some instances [his Manager] merely signed them off as a formality and did not engage with him to discuss his performance, or any resourcing and training needs to perform his role, and in particular did not raise any adverse performance issues with him.

## Why did the Manager not investigate the memorial seating issue?

332. The Manager told investigators that he did not commence a disciplinary process with Mr Bock after becoming aware of evidence that Mr Bock was installing memorial seating in the Murray Pines Cemetery, for which the Trust was not being paid. Similarly, the Manager did not recommend Mr Bock's actions be investigated. The Manager told investigators he did not think it was his role to either initiate or recommend an investigation.
333. The Manager also submitted that the proper course was for him to advise his superior at the Council, who would decide whether to take action. The Manager agreed that he had pursued less confrontational options in managing Mr Bock; and denied that he had managed Mr Bock in this way because of their personal relationship, explaining that his management style 'is quite passive'.
334. The Manager separately submitted that he had 'reasonably discharged his duties' as they related to any decision to investigate or take disciplinary action against Mr Bock. There is some force in this submission: the Manager had substantial responsibilities in his role as the Council's Manager Financial Services. However, this does not explain why he apparently took no steps beyond one verbal instruction to Mr Bock to stop selling the memorial seating.

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335. The Manager was the Accountable Officer at the Trust, at a time when the Trust had recently endured financial difficulties. His position description included budget-setting and management as explicit performance criteria. It would have been well within the Manager's authority to investigate whether the Trust was receiving monies properly payable to it – or whether the Trust was receiving payments for fees which had not been gazetted. The Manager's submissions confirmed that he was alert to both of these potential issues following a conversation with the former Trust Chair.
336. Other circumstances suggest that the Manager should have taken greater action on the memorial seating issue. In 2015, there was no set fee payable to the Trust for installing a memorial seat. The Manager would have known this, as the Trust's meeting minutes record discussions about drafting a memorial seating policy and having a fee gazetted.
337. The Trust's Chair had directly expressed her concerns to the Manager about the proliferation of seats within the Trust's cemeteries. For these reasons, it would have been appropriate – and within the Manager's direct authority – to confirm the number and value of payments made to the Trust for these memorial seats for at least the preceding 12 months. Such enquiries would have identified that the Trust was not receiving money for the memorial seating installed by Mr Bock.

## Submissions from the Manager

338. Having reviewed a draft of this report, the Manager reiterated that he raised the issue of Mr Bock's installation of memorial chairs with his manager, who would be responsible for determining what action to take. The Manager submitted that in combination with instructing Mr Bock to cease selling or installing chairs, this adequately discharged his responsibilities. Consistent with his evidence at interview, the Manager submitted that his role in relation to Mr Bock was 'supervisory, not disciplinary'. The Manager added that it was beyond his authority to commence an investigation, citing the Council's Fraud Control Policy and its Fraud and Corruption Control Plan.

The Fraud Control Policy (section 4.4, page 4) directs Council Managers, such as [Mr Bock's Manager], to "report any such suspicions [of fraud or corruption] to the Chief Executive Officer or General Managers, for an independent investigation or advice".

The Fraud and Corruption Control Plan specifically provides that Council Managers are to "report suspected fraud" (section 5.2, page 4) and all employees must "not attempt to personally undertake an investigation" (section 7.3, page 8).

339. The Manager also submitted that his actions went beyond one verbal instruction to Mr Bock to stop selling the memorial chairs, asserting that the Manager's conduct demonstrated 'a positive call to action to those in Council who were in the position to investigate and impose disciplinary action as they deemed necessary'. The Manager contended that it was reasonable for him to expect that Mr Bock would comply with a verbal instruction, and that this was 'a sufficiently decisive action to take in the circumstances'.

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340. The available evidence indicates that the Manager responded appropriately when he received disclosures about Mr Bock's conduct in early 2018. His actions at that time merit positive recognition. However, he appears to have taken no 'decisive action' other than a single verbal direction to Mr Bock to limit the ongoing sale of the memorial seating between 2015 and the receipt of the disclosures in 2018. There is no evidence that the Manager either followed up on this instruction or examined whether the Trust had received any payments for the memorial seats sold and installed by Mr Bock. Both of these courses of action were clearly within the responsibilities of the Manager's role at Council and would have been appropriate supervisory measures.

### **Understanding of Mr Bock's position and management within the Trust**

341. On paper, the Manager was Mr Bock's manager in his capacity as Accountable Officer of the Trust. In practice, this does not accurately describe how the Manager managed Mr Bock. The apparent relative rarity of visits to the cemeteries by the Trust Board, or by its individual members, may also have contributed to the working and oversight arrangements that ultimately developed.

### **The current Trust Chair**

342. The current Trust Chair was aware that the Manager was Mr Bock's manager. She was conscious that the Trust's structure was 'very different' for a Victorian cemetery trust. At interview, she stated that the Trust relied on its 'operational arm' for day-to-day processes and to handle exhumations processes.

343. She said her understanding was that Mr Bock and his Manager were responsible for different parts of the Trust's work:

I suppose I see Darren as the manager of the operational side of it. ... Or did. And then I suppose I put [the Manager] more in the governance side of it.

344. The Trust Chair stated that Mr Bock 'always spoke at the [Trust meetings] as if he knew everything' relating to the Trust's operational work. Her evidence is supported by the contents of Trust meeting minutes, including several from meetings conducted years prior to her election. These minutes each include a specific item for Mr Bock to provide an 'Operations Update' or 'Operational Review'. The Manager would provide financial information and answer questions from the Trust Board. Mr Bock was also trusted because of his length of service in cemetery operations:

... he'd been there forever [...] he had apparently been there a very long time, like 25 years or something like that.

345. The Trust Chair agreed that she had understood Mr Bock 'as very much an island', and it was her evidence that it was not apparent from Trust meetings that the Manager had oversight of Mr Bock's 'operational arm' of the Trust.

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## The Manager

346. The Manager appears to have placed considerable trust in Mr Bock, based on his experience and working relationship over several years. After being told of Mr Bock's attitude, the Manager did not speak with Mr Bock or take steps to inform the Trust Board or Council:

**INTERVIEWER:** So Mr Bock was saying that he was the manager of the cemetery, effectively, not you?

**THE MANAGER:** Yes.

**INTERVIEWER:** Did you, on learning that, communicate any concern in respect of that to other members of the council or the cemetery trust? ...

**THE MANAGER:** No, I don't - no, not like it didn't go to trust level, the cemetery trust level. I sort of kept that to myself to just keep a bit of an eye on it.

**INTERVIEWER:** Okay. You didn't take that information to Mr Bock and ask him to respond?

**THE MANAGER:** No, no, we didn't.

347. The Manager's management of Mr Bock was hampered by geographical distance, his reliance on Mr Bock's judgement and expertise, and Mr Bock's apparent disregard for the Manager's instructions. However, as Mr Bock's manager, there is little evidence he did more than occasionally ask Mr Bock about broad operational issues which may have required his attention.

## Submissions from the Manager

348. The Manager submitted that he was allocated two hours per week to attend to all Trust-related work, as distinct from his responsibilities as the Council's Manager Financial Services. During those two-hour sessions, the cemetery managers - Mr Bock at all relevant times for this investigation - 'provide updates and raise any concerns or complaints to the Manager'.

349. The Manager submitted that his reliance on Mr Bock's knowledge, expertise and judgement was not merely a product of his own management style, but also the manner in which the Trust managed its cemeteries, including the level of administrative support from Council. The Manager submitted that in the circumstances, this reliance was 'an unavoidable necessity'. He contended that this accounted for the relative rarity of cemetery visits by him and by Trust members.

350. The Manager's other duties took precedence over his Trust-related responsibilities. Various factors hampered his ability to manage Mr Bock more actively. However, he appears to have relied almost entirely on Mr Bock to identify and provide information about the Trust's cemeteries. The Manager gave evidence about Mr Bock's asserted statements that he (Mr Bock) ran the Trust's cemeteries.

351. The Manager told Mr Bock to stop selling memorial seating at the cemeteries, but apparently did not pursue the matter further until he received the disclosures about Mr Bock's conduct. Nor did the Manager make any other enquiries - for example, about the number of chairs installed or whether the Trust had received payment for them. Such steps would have been entirely appropriate in his capacity as Mr Bock's manager and as the Council's Manager Financial Services.

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## Failure to act on inappropriate emails

352. The investigation obtained two emails from Mr Bock to his Manager in 2012 and 2013, each of which contained pornographic images. These emails were sent from Mr Bock's work email address to the Manager's Council email address, and their content clearly contravened Council's email policy. Mr Bock told investigators that another person had originally sent him the pornographic emails, and that he had forwarded them on to his Manager.
353. Investigators asked the Manager about these emails and whether his receipt of these emails, and apparent inaction in response, potentially affected his ability to manage Mr Bock. The Manager did not agree that this compromised his ability to manage Mr Bock in any way. When asked if he had been concerned that these materials might be used by Mr Bock to hamper any formal disciplinary processes, the Manager stated that 'I haven't really given that a thought, to be honest' and added that he 'wouldn't have been concerned about that'.
354. Both Mr Bock and the Manager gave evidence that these emails were not considered or used as leverage against any performance management or disciplinary process. The Manager's inaction and apparently tacit acceptance after receiving these emails from Mr Bock through their Council email accounts was a serious failure, despite the Manager's preference for a 'passive' management style. The breach of the Council's email policy was not only serious in itself, it had the potential to affect the Manager's ability to take proper action about Mr Bock's conduct in the future.

## Submissions from the Manager

355. The Manager told the investigation he regretted 'failing to object to the inappropriate email correspondence' from Mr Bock. However, he submitted that these were the only inappropriate emails passing between him and Mr Bock while he was Mr Bock's manager. The Manager also submitted that the receipt of these emails 'did not have the potential to, nor did they, impact on' his management of Mr Bock.

## Submissions

356. In submissions responding to a draft of this report, Council observed that the investigation 'considers allegations ranging over many years, across varying statutory regimes, and involving many iterations of Council and its staff and members of the Trust'. Council submitted that the report failed to acknowledge these circumstances, and therefore risked treating current and former Trust members and Council officers unfairly – particularly the current Trust Board and the Manager – by implying that they bore responsibility 'for Mr Bock's alleged behaviour over many years'.
357. In respect of the sale and installation of memorial chairs and accepting cash payments to lift grave ledgers, Mr Bock's actions extend beyond the tenure of any of the current Trust Board members and the period when the Manager was his manager. Until 2015, successive Trust Boards and the Manager appear to have mistakenly believed that the memorial seats were donated by bereaved relatives. Certainly, Council Officers responded appropriately after receiving the disclosures about these aspects of Mr Bock's conduct.

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358. However, other matters examined by the investigation – in particular, the exhumation case studies and examples of deficient operational management of the Trust’s cemeteries – involve relatively recent conduct. These matters occurred between 2011 and 2018. Different Councillors were members of the Trust Board between 2011 and 2018, but the Manager was Mr Bock’s manager throughout that period. The available evidence indicates that Trust Board members and the Manager largely deferred to Mr Bock’s experience in cemetery operations. This was reasonable to an extent, particularly given their other responsibilities. However, the absence of effective supervision of Mr Bock meant that the practices examined by this report were allowed to continue up until the disclosures were made.

359. Council also submitted that it was unlikely that the Manager’s lack of action after receiving emails from Mr Bock containing pornographic images ‘could have had any impact on the Manager’s management of Mr Bock.’ Council’s submissions accepted that the emails were inappropriate, breached Council’s email policy and ‘ought to have been actioned under that policy’. Despite this, Council submitted this failure to act had ‘no relevance to the subject matter of the Ombudsman’s investigation’.

360. The Manager’s lack of action suggests that he was disinclined to censure Mr Bock even when confronted with an obvious contravention – such as a direct violation of Council policy. This example is instructive as it demonstrates that, even if the Manager had been familiar with the operational aspects of cemetery management, it seems unlikely that he would have managed Mr Bock in a manner that could have prevented or addressed the conduct examined by this investigation.

## Conclusions

361. The practical difficulty of having Trust members inspect or supervise operational staff makes the Manager’s position far more important as a conduit for information and rapid action. Indeed, Mr Bock’s and the current Trust Chair’s evidence confirms as much. The permissive and detached approach taken on operational matters by the Trust’s Board over many years doubtless contributed to the current Trust Chair’s conceptualisation of the operational and financial arms of the Trust’s work being separately managed.

362. Concerns about Mr Bock’s conduct in respect of the management of the Murray Pines Cemetery, and later as the Cemetery Team Leader, were not addressed as swiftly as they ought to have been. Historical factors contributed to Mr Bock’s lack of knowledge about legislative compliance and proper processes for exhumations. The failure to act more swiftly on concerns about Mr Bock’s other conduct, particularly in receiving payments for lifting grave ledgers and selling memorial seating, points to problems with how Mr Bock was managed. On the available evidence, and regardless of the reasons for his inaction, the Manager bears substantial responsibility for not taking steps to address these issues after they were brought to his attention.

363. The matters examined in this report appear to have been long-running problems for the Trust, and it is unfortunate that matters progressed as they did prior to the disclosures. However, this investigation demonstrates the value of protected disclosures in bringing such matters to light. Considerable credit is due to those who raised these concerns and to those Council Officers who received and responded to the disclosures.



# Conclusions

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364. This investigation identified several instances of apparent improper conduct by Mr Bock.
365. Over a period of nearly 20 years, Mr Bock installed metal seating manufactured by one of his relatives at the Trust's cemeteries. He did so during his ordinary working hours, and he benefited personally and deprived the Trust of opportunities to collect additional revenue. The Trust did not receive payments in connection with the sale and installation of these chairs. It appears that until 2015, the Trust's members (and possibly also the Manager) were led to believe these chairs were donated by bereaved relatives for use by cemetery visitors. The Trust now has a formal process and gazetted fee for the purchase of memorial chairs.
366. Over a similar period, Mr Bock benefited personally through direct arrangements with funeral directors to receive payments for lifting grave ledgers. Mr Bock distributed the monies he received amongst the Trust's cemetery staff and was apparently the ongoing architect of the arrangement. His resistance to being invoiced for this service suggests that he was aware that it was not appropriate. Both this conduct and the sale and installation of memorial seating involved Mr Bock being paid directly for providing cemetery services that were part of his role.
367. As the Cemetery Team Leader, Mr Bock also failed to have proper regard to legislative requirements concerning exhumations and occupational health and safety. His position description explicitly required him to ensure compliance with relevant legislative and OH&S requirements. It is unlawful to conduct an exhumation, which involves disinterring and relocating a deceased person's remains, without a licence issued by the Department.
368. In contrast, a 'lift and reposition' (which does not require a licence) involves removing and reintering remains in the same location, typically after digging the grave to a greater depth. Mr Bock either did not properly understand the difference between an exhumation and a 'lift and reposition' procedure, or was not concerned to learn or observe it. The evidence suggests that neither the Manager nor any Trust Board members were aware of any improprieties in connection with these exhumations.
369. In addition to these serious deficiencies, Mr Bock appears to have contributed to poor administration and management of the Trust's cemeteries. He mismanaged a number of burials, waived fees without authorisation, dug additional graves outside of designated areas, and enabled other mistakes by failing to ensure that graves and plots were properly numbered. It seems that Mr Bock took unilateral steps to 'smooth over' mistakes he had made, and in some cases modified Trust records after his errors came to light.
370. Mr Bock's conduct was able to continue for such an extended period of time for a number of reasons. The Trust Board is comprised wholly of Councillors, with its membership regularly changing. The Trust members act in an honorary capacity and rarely have reason to physically attend the cemeteries. They rely on the Trust's Accountable Officer (the Manager) to be the main source of information and reporting. It appears that over several years, the Trust came to view Mr Bock as having primary authority over operational matters. The Trust's submissions observed that responsibilities were effectively divided, with Mr Bock managing cemetery operations and the Manager managing financial and governance matters, and that the Board's understanding was that Mr Bock and the Manager were responsible for different parts of the Trust's work.

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371. Mr Bock was employed by the Council and contracted to work for the Trust from 1993, under the supervision of the then Sexton. The opening of the Murray Pines Cemetery in 1995 meant the Sexton and Mr Bock were functionally responsible for separate cemeteries, limiting the Sexton's direct oversight of Mr Bock. When the Sexton left the role in 2005, Mr Bock was promoted to that position and became responsible for the operation of both cemeteries.

372. In addition to his responsibilities as a senior financial officer at the Council, the Manager became the Trust's Accountable Officer (and Mr Bock's supervisor) in 2011. The Manager's oversight of Mr Bock was inadequate in ensuring that Mr Bock was complying with instructions not to install additional memorial seating. In part, this can be attributed to the Manager's physical separation from the operational work conducted by the Trust and his other responsibilities at Council. The Manager also conceded that he was not familiar with the Trust's procedures for exhumations when the events described in the case studies took place.

373. The Manager submitted that he had appropriately discharged his responsibilities as Mr Bock's manager by directing Mr Bock to stop selling memorial seating in the cemeteries. The Manager could not reasonably be expected to be managing Mr Bock as closely as he might have for a Council employee working from the same location. However, it was not enough simply to expect that Mr Bock would comply with a direction to cease a practice that had been taking place for 15 years or more at that time. Having received credible reports that Mr Bock had disregarded this instruction, which the Manager claimed had originated from the then Trust Chair, the Manager should have acted more decisively.

374. It is even more concerning that the Manager took no remedial action when Mr Bock told him that he had collected permit fees for installing memorial chairs at a time when the fee schedule had not yet been gazetted. Trust meeting minutes indicate that the Manager was aware that the process for confirming the new fee schedule was ongoing. Despite this, it appears he did nothing in response to this information. His passive endorsement of inappropriate emails from Mr Bock only heighten these concerns.

### Further steps required

375. The deficiencies identified in this report give rise to a credible suspicion that they are far from the only instances of improper conduct and maladministration during Mr Bock's tenure at the Trust. In particular, the four exhumation case studies and the circumstances surrounding Mrs J's reinterment all warrant further investigation to determine whether any criminal offences may have been committed.

376. The installation of so many memorial seats at the Trust's cemeteries, apparently without formal approval, potentially raises issues under section 20 of the *Charter of Human Rights and Responsibilities Act 2006* (Vic). Persons buying the chairs through Mr Bock likely believed in good faith that they were purchasing a right to property installed on cemetery premises, typically near their deceased loved ones, through a long-serving Trust officer. Any actions taken to rectify Mr Bock's actions over 20 years will need to have regard to the impact on the chair-owners' property rights.

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## Improvements at the Trust

377. The current Trust Chair has informed the investigation that since the disclosures were made, several changes and improvements have been implemented including:

- a new interment booking confirmation process, which incorporates scrutiny of bookings by funeral directors (who make the initial requests), the Cemetery Team Leader and the Cemetery Support Officer at the Trust
- a new process for operational Trust staff to identify graves to be prepared for a funeral or other activity
- generating official Right of Interment permits for the holders of those rights, as distinct from simply providing receipts
- an online public grave search/mapping portal, which allows Trust staff, stonemasons, funeral directors and members of the public to locate specific graves
- cross-referencing of plots within all sections of the Trust's cemeteries (the final part of which is expected to be completed within the next 12 months)
- digitising hardcopy Trust records for ease of reference by Trust staff
- online permit application and payment processes for monuments and memorials, which are now conducted through email and EFT
- improved grave/plinth row marking and labelling
- making the Trust's Complaints Register accessible to all staff, with Trust board members reviewing the Register's content for recurrent issues
- increasing the Trust's office hours to make it easier for members of the public to contact the Trust.

378. The Trust Chair also noted there is now a higher level of communication and information-sharing amongst Trust staff, with the objective of improving knowledge and understanding of cemetery operations and current issues. The Trust has also carried out maintenance and improvement works at the cemeteries to address safety risks.

379. In submissions responding to a draft of this report, members of the current Trust Board commented that they 'have been shocked and saddened by the content of this report, particularly regarding the further distress it may cause affected families'. Separately, one Trust Board member – who was appointed to the Trust Board after the conduct examined in this report occurred – expressed his shock and dismay 'as to the extent of deception and poor work practices that have taken place'. The Trust's submissions added that the Board intended 'to put in place appropriate procedures and suitably trained and compassionate staff'. It is evident that the Board has already begun implementing these changes.

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## Council's response

380. After reviewing a draft of this report, Council stated it was:

committed to working with the Trust and DHHS [the Department] to resolve the historical governance issues surrounding the cemeteries and to seek to find a better arrangement and structure. This will likely entail a full review of the Trust's governance structure, policies and procedures.

381. Council's submissions also suggested a recommendation that such a review be undertaken by the Trust and the Department, with Council's input. Council submitted the review should consider, among other things:

- Council's ongoing role (if any) in the management of the Trust
- whether it would be appropriate to adjust the Trust's Board and governance structures, including longer terms and appointing persons other than Councillors with specific and relevant skills
- additional training for Trust staff, whether or not they are employed by Council.

382. Council also expressed concerns about the impact of the issues identified by the investigation on the affected families and others in the community. Council undertook to work with the Trust and the Department to identify and provide appropriate support for individuals and families affected by the matters examined in this report.

383. The Trust and the Council also provided a response to the Ombudsman's recommendations (see pages 96-97). The Ombudsman commends this response, and in particular notes the genuine apology to families affected and to the community.

# Recommendations

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The subject matter and findings of this investigation give rise to five recommendations pursuant to section 23(2A) of the Ombudsman Act.

## Improper conduct

Mr Bock conducted and/or directed the exhumations of deceased persons interred at the Trust's cemeteries. In each case, the investigation identified no evidence that any exhumation licence had been sought or granted for the exhumation. The facts in the case of Mrs J also suggest that she was exhumed and interred in a different plot without an exhumation licence.

Part 12 of the Cemeteries Act provides that a valid exhumation licence is required to exhume a deceased person's remains from a place of interment. Section 155 states that it is a criminal offence to exhume or remove human remains from any place of interment, unless the exhumation is conducted in accordance with that Act.

### Recommendation 1

That Mr Bock's conduct in respect of the exhumation case studies and Mrs J be referred to Victoria Police for investigation.

## Action by the Trust and the Council

Even allowing for mitigating factors, the Manager's oversight of Mr Bock was inadequate. The Manager's approach to managing Mr Bock did not cause the events and conduct examined by the investigation. However, particularly in respect of the sale and installation of memorial chairs, the Manager's passivity did allow poor practices and improper conduct to continue unimpeded. His failure to act in response to Mr Bock's obvious breaches of Council policies (by sending pornographic materials from Mr Bock's Council email address) is likewise concerning.

The Manager acted appropriately in respect of the disclosures that led to this investigation. However, those disclosures may have been unnecessary had the Manager been more active in his management of Mr Bock, and more inquisitive in his oversight of the Trust's operational work.

### Recommendation 2

That Council consider whether to take disciplinary action or management action in respect of the Manager

The investigation has identified areas for improvement in the Trust's activities, as well as potential training opportunities to address those areas. Some action has already been taken - for example, the formalisation of the Trust's policy on memorial chairs and the gazetting of a fee for the purchase of an approved form of memorial seating.

The Council, the Trust and the Department have all indicated their willingness to cooperate to improve the Trust's governance, performance and procedures.

### Recommendation 3

That the Council and the Trust work with the Department to improve governance, training and processes for the cemeteries managed by the Trust

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It appears that the purchasers of the memorial seating sold by Mr Bock believed in good faith that Mr Bock was authorised to sell these seats on the terms that he did. What to do with these seats (as distinct from those specifically authorised by the Trust) is a matter for the Trust to determine.

However, action that is ultimately taken by the Trust should recognise that the purchasers of Mr Bock's chairs were also deceived as to their legitimacy. The purchasers appear to have believed that they were buying property (the chairs) to be installed as permanent memorials of their loved ones. As the Trust is a public statutory body and subject to the Charter of Human Rights and Responsibilities Act, the Trust's actions should take account of the purchasers' applicable human rights. This might reasonably be addressed by the Trust and affected people reaching an arrangement to install suitable replacement memorials in place of the chairs sold and installed by Mr Bock.

#### **Recommendation 4**

That suitable replacement memorials be installed where memorial chairs sold by Mr Bock are removed.

#### **Support for persons affected**

This report addresses improper conduct and poor operational practices at the Trust's cemeteries. It should not be forgotten that every instance of such conduct or practice considered by the investigation relates to the care and handling of a deceased person. Their surviving relatives and friends will undoubtedly be distressed to learn of those events. The investigation is also mindful that the conduct identified in this report may not be limited to the cases investigated, and other families may have questions about their own experiences.

Where it has been possible to do so, investigators have contacted the families of the deceased persons to inform them of the relevant content of this report prior to its publication.

To their credit, the Council and the Trust have undertaken to provide counselling support to the relatives of the deceased persons affected by Mr Bock's conduct, and to others who may be affected by the report.

#### **Recommendation 5**

That the Council and the Trust provide suitable support to individuals and families affected by the contents of this report, including further investigation into individual circumstances, as necessary.

#### **Mildura Rural City Council and Mildura Cemetery Trust response:**

Accepted all five recommendations.

A letter jointly signed by the Council's Chief Executive Officer and the Trust's Chair is on the following pages.



Mildura Rural City Council



29 October 2019

[REDACTED]  
Victorian Ombudsman's Office  
Level 2, 570 Bourke St  
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[REDACTED]  
**INVESTIGATION BY THE VICTORIAN OMBUDSMAN OF PROTECTED  
DISCLOSURE COMPLAINTS CONCERNING THE CONDUCT OF A MILDURA  
RURAL CITY COUNCIL EMPLOYEE WORKING FOR THE MILDURA  
CEMETERY TRUST**

This letter is sent on behalf of Mildura Rural City Council (**Council**) and the Mildura Cemetery Trust (**Trust**).

Council and the Trust have been provided with a copy of the Ombudsman's draft report and recommendations in connection with this investigation.

Council and the Trust are acutely aware of the importance of the proper provision of cemetery services to the community and are greatly concerned about the matters raised in the draft report. Council and the Trust apologise wholeheartedly to those families affected and acknowledge the impact that both the events outlined in the report and the findings of the investigation will have on them and on others in our community.

Although Council and the Trust are separate legal entities operating under different legislative structures, both Council and the Trust are committed to working together alongside the Department of Health and Human Services (**Department**) to clarify and improve the governance arrangements around the Nichols Point and Murray Pines cemeteries. Both organisations want to move towards a clearer and more accountable structure to ensure that these special places for the community are better managed. Council and the Trust deeply regret the historical events highlighted by the draft report. Upon learning of these matters, Council and the Trust immediately commenced implementing corrective processes. Council and the Trust have also cooperated fully throughout the investigation.

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To: Victorian Ombudsman's Office

29 October 2019

Page 2

Council and the Trust are committed to providing assistance to those affected by the Ombudsman's report. Council has made, and will continue to make, available counselling to those families directly impacted by the matters raised in the report.

Council and the Trust agree with and endorse the Ombudsman's draft recommendations and will work together to ensure that the issues are addressed and the recommendations implemented. In relation to each of them:

1. the Trust confirms that it will refer Mr Bock's conduct in respect of the exhumation case studies and Mrs J to Victoria Police for investigation;
2. Council confirms that it will investigate and consider whether to take any disciplinary or management action in respect of the Manager;
3. as noted above, Council and the Trust confirm that they will work with the Department to resolve the historical governance issues surrounding the cemeteries and to seek to improve training and processes;
4. the Trust agrees to ensure that suitable replacement memorials be installed if the memorial chairs sold by Mr Bock are removed; and
5. Council and the Trust have provided and will continue to provide suitable support to individuals and families affected by the contents of the Ombudsman's report, including further investigation into individual circumstances, as necessary.

Yours sincerely



**SARAH PHILPOTT  
CHIEF EXECUTIVE OFFICER  
MILDURA RURAL CITY COUNCIL**



**MIN POOLE  
CHAIR  
MILDURA CEMETERY TRUST**

SC-MP/ew

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