



# COUNCIL POLICY

## Cemetery Management

<b>Policy Number:</b>	PO132		
<b>Strategic Plan Objective</b>	Efficient, effective and professional organisation		
<b>Policy Owner:</b>	Director Development Services	<b>File Number:</b>	16/14423[V5]
<b>Responsible Officer:</b>	Property Tenure Officer	<b>Minute Reference:</b>	193/2020(12/08/2020)
<b>Date Adopted:</b>	12/08/2020	<b>Next Review Date:</b>	July 2024

### 1. POLICY OBJECTIVES

To ensure administrative matters undertaken are equitable and consistent and control practices are maintained at all cemeteries under the care control and management of the Yorke Peninsula Council (Council).

### 2. SCOPE

This policy applies to all persons undertaking administrative work for/on behalf of Council cemeteries.

### 3. DEFINITIONS

Council	Yorke Peninsula Council
Cemetery	A place set aside for the disposal and memorialisation of human remains, but does not include a place which consists of a single interment site where only the remains of 1 deceased person is interred or the remains of 2 or more members of the same family are, or are intended to be interred.
Natural Burial	Burial of human remains in the ground without preparation of the remains using chemical preservatives and by containment of the remains only in a shroud or biodegradable coffin
Natural Burial Ground (NBG)	A natural burial ground is a designated piece of land set aside for the interment of bodies in the soil in a manner that does not inhibit decomposition but allows the body to be naturally recycled.
The Act	Burial and Cremation Act 2013
Regulations	Burial and Cremation Regulations 2014
Interment	The placement of human remains in a mausoleum, vault, columbarium or other structure designed for the placement of such remains, or the burial of human remains directly in the earth or in a container

## PO132 –Cemetery Management

---

Interment Right	Is a document issued by Council following the purchase of a interment site at a cemetery or natural burial ground for the purpose of an interment or a niche for the placement of ashes.
Interment Right Holder	The person registered as holding an Interment Right
Interment Site	A portion of land within a cemetery for the purpose of an interment being a Plot, Niche or Memorial Garden Site
Bodily Remains	The whole or any part of a human body but does not include the whole or any part of a human body that has been cremated
Human remains	Means bodily remains and includes the remains of a still born child and bodily remains after they have been cremated.
Memorial	A tangible tribute to the interred such as a headstone, monument or plaque made of materials such as granite, marble, slate, sandstone or bronze.

#### 4. POLICY STATEMENT

The management of interments and granting of interment rights in Council's cemeteries is vested in the Council and delegated to its administration.

Council recognises that community cemeteries are the resting place of many district pioneers and respected citizens therefore will efficiently and effectively manage the cemeteries in a caring and equitable manner to meet the needs of its community.

Policy PO132 outlines Council's objectives in respect of Council owned and operated cemeteries and has regard to the Burial and Cremation Act 2013 and the Burial & Cremation Regulations 2014 under which Council cemetery authorities must meet revised requirements for the operation and regulation of cemeteries.

The Act provides Council the statutory framework to use natural burial grounds in addition to conventional cemetery interments if the need arises. The policies outlined within this document refer to both a cemetery and natural burial ground.

#### GENERAL

Council is responsible for the care, control and management of the following cemeteries;

- a) Ardrossan
- b) Arthurton
- c) Curramulka
- d) Edithburgh
- e) Maitland
- f) Minlaton
- g) Pink Lake (Yorketown)
- h) Port Victoria
- i) Port Vincent
- j) Stansbury
- k) Warooka

## **PO132 –Cemetery Management**

---

Under Section 53 of the Act, Council must maintain and make available to the public a register of records for each cemetery.

Council's register is maintained within Council's Cemetery Management Software, Civica. The public can access cemetery records through an on-line search function available on Council's website at <https://yorke.sa.gov.au/discover/local-history-and-heritage/cemetery-search/>

Council may enlarge, improve or embellish any part of the cemetery and take any other action that Council considers necessary or desirable for the proper management and maintenance of the cemetery.

Council may restrict interments in any part of the cemetery however does not have the authorisation to do anything that may be in breach of the terms of an interment right.

Council must in the establishment, administration, extension or improvement of the cemetery, have due regard to the customs and needs of the various ethnic and religious communities that may use the cemetery, for the disposal of human remains.

### **OPENING HOURS**

All Council cemeteries are open to the public 24 hours a day for the purpose of visiting graves or monuments or conducting or attending a funeral or religious service or for any other legitimate non-commercial purpose.

If Council has reason to suspect that a person has committed, is committing or is about to commit an offence in the cemetery, Council may require the person to leave the cemetery and a person must not fail or refuse to comply with a requirement of Council.

Council must ensure the cemetery is fenced at all times.

### **FEES**

A scale of fees for granting interment rights and associated cemetery services are to be listed in Council's Register of Fees and Charges.

The fees will be in accordance with the adopted Register of Fees and Charges which are reviewed by Council on an annual basis and are available to the public via Council's website and/or by request at all Council offices.

### **ISSUE OF INTERMENT RIGHTS**

Interment rights may be granted by Council in accordance with Section 30 of the Act and for one or more sites within a cemetery on completion of an application and payment of the appropriate fee. The interment right gives the holder the exclusive right to authorise the interment of human remains in the allotted site or the placement of ashes within a niche/memorial garden or allotted site consistent with this policy and the Act.

In considering applications and/or renewal of interment rights, Council will allocate a site on the basis of the next available site in the current marked section of the cemetery which assists with accurate location of interments. Consideration should be given however to a request by the potential interment right holder for another vacant and available site.

Council do not issue interment rights in perpetuity.

#### Prior to 1 July 2013

The policy was adopted at the 9 October 2007 Council meeting to grant a 99 year interment right with the renewal of the interment right / fee not to be actively pursued at the expiration of a current term.

#### Effective 1 July 2015

Interment rights may be issued for new interment sites (Burial, Memorial Garden or Niche Wall sites)

The site can be used to accommodate family members and the term of the interment right is 99 or 50 years with renewal rights for a second period on application by an interment right holder or authorised person (In accordance with Section 30 of the Act).

### Scattering of Ashes

No interment right is required for scattering of cremated remains in a cemetery or on Council owned land however prior approval of Council is required which may be refused.

## **RENEWAL OR TRANSFER OF INTERMENT RIGHTS**

### Renewal

At the expiry of the interment right period Council may, on application by the interment right holder or an authorised person, renew or extend an interment right on payment of an appropriate fee.

### Transfer / Relinquishment

A person/s holding an interment right for an unused burial site, memorial garden site or niche may seek approval of Council to relinquish their right (Section 34 of the Act) or transfer (Section 33 of the Act) their right to another person/s. Council will not unreasonably withhold its approval however administrative costs for a relinquishment will be at the cost of the interment right holder in accordance with Schedule 1 of the Regulations. The request to transfer must be by completed application form or a relinquishment by a request in writing and both will require proof of identity by way of Drivers Licence or similar photo identification and proof of payment of interment right.

### Lost documentation

Council may issue a replacement (copy) of an interment right upon receipt of a Statutory Declaration by the interment right holder or authorised person, which sets out the circumstances in which the formal documentation was lost.

## **INTERMENTS**

### Documentation

All applications for a right to inter bodily remains in a Council cemetery must be accompanied by appropriate documentation in accordance with Section 12 of the Act and Regulation 9 of the Regulations.

All interments in Council cemeteries are to be approved by Council in writing by completing the relevant application form.

The interment site is to be marked out by Council staff prior to the excavation of the site to ensure the correct site has been allocated.

Interments are to be undertaken by the funeral company specified in the Burial Authority and preparation of the interment site is to be undertaken by Council or a contractor authorised by Council.

### Burial of human remains on private property

The Burial and Cremation Act 2013 requires human remains to be buried within a lawfully established cemetery or approved natural burial ground.

Burial on private property may be permitted only if the property is located outside of Metropolitan Adelaide or a township. Burial on private property is subject to the approval of Council and the permission of the land owner. The burial is subject to the requirements of the Burial and Cremation Regulations 2014. Bodily remains are not permitted to be disposed of by burial at sea, without the approval of the Attorney-General.

There are no Environment Protection Authority codes or guidelines to abide by in relation to the scattering of cremated remains.

### **REUSE OF INTERMENT SITES**

Council encourages the interment right holder and/or relative to extend an interment right once it has expired and will make every reasonable effort to contact the interment right holder, and/or relatives of the interment right holder to advise them of the expiry of the interment right.

In the event that a right of interment is not renewed Council will take reasonable steps, in writing, to advise a holder of the right of its impending expiration, twelve months prior to its expiration.

If the holder of the right does not renew the interment right by the expiration date:

- a. Burial site – the interment site is deemed to have expired and Council has the right to reuse the site in accordance with legislation.
- b. Memorial Garden / Niche – the holder of the interment right may -
  - a. Instruct Council to move the interred remains to an unmarked location in the cemetery; or
  - b. Collect the remains for private disposal

and Council has the right to reuse the site in accordance with legislation.

### **DISPOSAL / EXHUMATION / REMOVALS & RE-INTERMENT OF HUMAN REMAINS**

An interment right holder is required to comply with the Act and the approval given by Council prior to:

- a. Reopening an interment site containing bodily remains
- b. Removing or relocating human remains.

The process of excavating and/or modification of a site must be undertaken by a Council employee or a contractor approved by Council. Confirmation of a burial site must be verified by Council's administration prior to any excavation or other work on the site.

Exhumation of human remains is only permitted without Attorney - General approval when;

- a) Only cremated remains are interred at the site; or
- b) Additional human remains can be interred without disturbing bodily remains; or
- c) A lift and deepen procedure is carried out in accordance with 'Part 2 (11) Lift and Deepen Procedure' of the Regulations.

### **CONTROL OF ANIMALS**

Other than exercising dogs, the public must not ride, drive or exercise animals in the cemetery unless they first have the approval of Council.

All dogs in the cemetery must be kept on a leash of no more than two metres in length and held by a person capable of controlling the dog, preventing it from becoming a nuisance or a danger to others.

It is the dog owner's responsibility to collect dog faeces and dispose of them via a rubbish bin.

## **GENERAL CONDUCT IN THE CEMETERIES**

A person must not remove, damage, deface or interfere with;

- a. Any building, memorial, other fixture or structure in a cemetery; or
- b. Any part of the cemetery grounds including a tree, shrub, plant, flower or lawn.

In addition a person whilst within the cemetery grounds is not permitted to;

- a. Disturb a funeral service, cause a nuisance or breach the peace; or
- b. Discharge a firearm (except at an armed services funeral); or
- c. Consume alcohol other than as part of a funeral service, as authorised by Council; or
- d. Deposit refuse except in receptacles provided for the purpose.

A person must not cause any nuisance and must at all times conduct themselves in a manner that respects the rights and safety of others.

A person must seek Council approval before erecting any structure in the cemetery such as a shelter or Niche wall.

All visitors, contractors or other persons in a cemetery are subject to the direction and supervision of Council. A person must not refuse to comply with direction or supervision of Council otherwise they may be required to leave the cemetery.

All children entering the cemetery must be under the supervision of an adult.

## **MAINTENANCE**

Council will maintain the area of the cemetery including pathways, roadways, plants, fencing and structures and may reposition any tribute that impedes the maintenance of the surrounds of the interment site.

For the safety and security of the general public, workers and the environment, landscaping of cemetery grounds, niche walls and memorial sites is not permitted by the public. This includes the placement of jars, bottles and potted plants.

Council may remove from an interment site any unattached ornament, empty flower container, broken masonry, decayed or broken wreath or dead flowers. Council may prune, cut down or remove any plant on an interment site in the cemetery that is, in the opinion of Council, unsightly or overgrown.

In the event the surface of any interment site in the cemetery sinks below the level of the natural surface of the ground, Council may cause the site to be filled up to that level.

## **TRANSPORT OF BODILY REMAINS WITHIN THE CEMETERY**

A person must comply with the provisions of the Regulations relating to the handling, storage and transport of bodily remains.

## **MEMORIALS (includes plaques, monuments and other approved structures) AND TRIBUTES**

Council must first be notified in writing of the intention to install a memorial in the cemetery and approval given to proceed with the installation.

Any plaque placed on a memorial wall/garden in any of Council's cemeteries must have an Interment Right.

All works must be carried out by a registered member of the Monumental Masons Association Inc. in accordance with the provisions of Australian Standard AS4204-1994. These standards ensure that memorials and stone work are manufactured in accordance with Australian standards ensuring structural integrity and a high level of workmanship is maintained.

## **PO132 –Cemetery Management**

---

Plaques placed on a memorial wall/garden in any of Council's cemeteries must be attached by a registered member of the Monumental Masons Association Inc or a Funeral Director.

The design and wording of all memorials will be tasteful and in keeping with the existing ambience of Council managed cemeteries. If a proposed memorial and/or memorial wording is significantly different, a discussion with the Property Tenure Officer on a case by case basis can be arranged on request.

Ownership of memorials remains with the interment right holder.

Tribute containers are to be non-breakable unless they are purpose designed receptacles which are a permanent feature of a monument.

### Maintenance of Graves, Plaques, Monuments and Structures

The ownership of plaques, monuments or other structures installed or constructed is deemed to be with the Interment Right Holder (or their heirs and successors)

The Interment Right Holder is responsible for the upkeep, maintenance, repair etc of any plaques, monument or structure.

The Council may act to remove any structure that has become dilapidated, unsafe or unsightly. Except in circumstances where there is a risk to the safety of persons or damage may be imminent to nearby sites, Council will take reasonable steps to contact the Interment Right Holders to provide an opportunity to take required actions to remedy the interment site.

In accordance with Section 42 of the Act Council may also dispose of any structure or tribute that it deems to be unsightly, offensive, breakable, in poor condition or dilapidated.

### **LANDSCAPING**

No person, except an officer of Council may landscape or change the landscaping of any portion of the cemeteries.

All plants and trees in the cemeteries remain the property of the Council.

### **TRAFFIC REGULATIONS**

All South Australian general road rules apply within the cemetery.

As stated in the Regulations, a person must not drive a motor vehicle within the cemetery in a dangerous or careless manner without reasonable consideration for others.

### **DRIVERS TO COMPLY WITH DIRECTIONS OF COUNCIL**

A person must, while in charge of a motor vehicle within a cemetery, comply with any lawful directions of Council as to the driving or parking of vehicles.

All motor vehicles must remain on the designated roadways unless otherwise directed by Council.

Council may issue parking fines under Regulation 24 of the Regulations.

### **ESTABLISHING A NEW CEMETERY**

Subject to the Act, any person may establish a cemetery, natural burial ground or crematorium. Refer to Part 2 Division 1 of the Act for further information.

Council may set apart any part of a cemetery as a natural burial ground or may set any part of the cemetery or natural burial ground for the interment of human remains in accordance with the customs and practices of a particular religion.

## **CLOSURE AND CONVERSION OF CEMETERIES**

For requirements refer to Part 3 Division 2 of the Act and Regulation 28 of the Regulations.

## **STATE HERITAGE REGISTER**

The Clan Ranald interment sites at Edithburgh Cemetery are listed on the State Heritage Register and require new headstones / memorial and alteration work to be approved by an appointed Heritage Advisor.

Check the State Heritage Register website at [www.planning.sa.gov.au](http://www.planning.sa.gov.au) for cemeteries that may be newly listed.

## **WAR GRAVES**

The Office of Australian War Graves (OAWG) is committed to maintaining official memorials in perpetuity.

Where a full monument is required the OAWG will provide and maintain the headstone with a bronze plaque which may also include an optional religious emblem and personal inscription. The memorials are concrete with a rendered finish.

The plaque placed on a wall niche of a memorial garden site will be arranged by the OAWG and be inscribed in a standard format.

## **NEGLECTED CEMETERIES AND NATURAL BURIAL GROUNDS**

If Council is of the opinion that a cemetery or NBG within its area is in a neglected condition or fails to comply with the requirements of the Act, Council may, by notice in writing, require the governing body to remedy the conditions of neglect or non-compliance in accordance with Section 46 of the Act.

## **AUTHORISED OFFICERS**

Council may appoint authorised officers to ensure administration and enforcement of Section 59 of the Act.

## **5. COMPLAINTS**

All complaints relating to the management of Council cemeteries should be directed to the Property Tenure Officer.

## **6. REVIEW**

This policy will be reviewed every three years and as deemed necessary in consideration of any changes to legislation and relevant standards, codes and guidelines.

## **7. TRAINING**

Training needs in regard to Cemetery Management will be reviewed as necessary in consideration of any changes to legislation and relevant standards, codes and guidelines.

## **8. RELATED COUNCIL POLICIES AND DOCUMENTS**

PR079	Administering new cemetery plans
PR080	Administering a new cemetery interment right
PR081	Administering a new cemetery interment
PR082	Requirement for additional cemetery interment sites
PR083	Transfer of a cemetery interment right – existing applicant
PR084	Relinquishment of an existing cemetery interment right



## PO132 –Cemetery Management

PR085	Transfer of a cemetery interment right - legal incapacity of existing applicant
SF018	Cemetery Interment Right
SF018A	Cemetery Interment Right Terms and Conditions
SF172A	Application for new cemetery Interment Right
SF172B	Interment Authority
SF173	Transfer of cemetery interment right declaration
SF217	Interment Authority – Permission to inter bodily remains on private land other than a cemetery

### 9. REFERENCES AND LEGISLATION

Burial and Cremation Act 2013

Burial and Cremation Regulations 2014

Local Government Act, 1999 – Schedule 2 Subsidiaries.

Local Government (Exhumation of Human Remains) Regulations 2005

OHSW Regulations 1995 Division 5.5

Australian Standard for Monuments AS204-1994

Coroners Act 2003

Cremation Act 2000

Cremation Regulations 2001

Births, Deaths and Marriages Registration Act 1996

Births, Deaths and Marriages Registration Regulations 1996

### 10. COUNCIL DELEGATION

<b>Delegate:</b>	Chief Executive Officer.
<b>Sub Delegate:</b>	Director Development Services

### 11. VERSION HISTORY

Archived Policy Name	Policy Number	Date Adopted	Last Reviewed
Cemetery Management – Monuments and Plaques	PO129	12/08/08	08/06/10
Cemetery Management – Relinquishment of Lease	PO130	12/08/08	08/06/10
Cemetery Management – Transfer of Lease	PO131	12/08/08	12/07/11
Cemetery – General	PO132	12/08/08	08/06/10
Cemetery Management [V1]	PO132	12/08/08	
Cemetery Management [V2]	PO132	12/06/2013	

**PO132 –Cemetery Management**

---

Cemetery Management [V3]	PO132	09/09/2015	01/03/2018
Cemetery Management [V4]	PO132	11/04/2018	06/07/2020