

 <p><b>KANGAROO ISLAND COUNCIL</b></p>	<h2 style="text-align: center;"><i><b>Cemetery Policy</b></i></h2>
<b>Policy Classification</b>	Council Policy
<b>First Issued:</b>	14 November 2012
<b>Date of Next Review:</b>	July 2025
<b>Version Number:</b>	7
<b>Applicable Legislation:</b>	<p><i>Local Government Act 1999</i>  <i>Burial and Cremation Act 2013</i>  <i>Coroner's Act 2003</i>  <i>Local Government Act, 1999</i>  <i>Local Government (Exhumation of Human Remains) Regulations 2010</i>  <i>Environment Protection Act 1993</i>  <i>Births Deaths and Marriages Registration Act 1996</i>  <i>Work Health and Safety Act 2012</i>  <i>Burial and Cremation Regulations 2014</i>  <i>Births Deaths and Marriages Registration Regulations 2011</i>  <i>Family Relationship's Act 1975</i>  <i>Work Health and Safety Regulations 2012</i></p>
<b>Related Policies or Documents:</b>	<p>Planning and Design Code          Public Health (Human Remains) Fact Sheet</p>
<b>Associated Forms:</b>	Burial on Private Land Application
<b>Responsible Manager:</b>	Director Community & Development
<b>Approved by Council:</b>	10 May 2022
<b>Minutes Reference:</b>	C173:2022

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## Cemetery Policy

### 1. Preamble

- 1.1. The Kangaroo Island Council, acting as the Cemetery Authority, will efficiently and effectively operate the cemetery facilities in a caring and equitable manner that meet the needs of the community. Council has care and control of five cemeteries within the Council area; three cemeteries are currently operational, being American River, Kingscote and Penneshaw.
- 1.2. The Cemetery Policy guides management and staff in the day-to-day operation of the cemeteries under the ownership or care, control and management of the Kangaroo Island Council. It is a reference point for members of the public seeking guidance on the decision-making process.

### 2. Purpose

- 2.1. This Policy provides the Kangaroo Island Council, acting as the Cemetery Authority for Kangaroo Island, with administrative guidelines for all aspects regarding the interment of human remains, whether they be by burial or cremation and whether a burial is to take place within a defined cemetery precinct or on private land.
- 2.2. This policy will manage the cemeteries within the Kangaroo Island Council area within the guidelines of the cemetery management plan upon its inception.

### 3. Scope

- 3.1. This Policy applies to the defined cemeteries and those interments being undertaken on private properties that meet the criteria established by the *Burial and Cremation Act 2013*, *Environment Protection Act 1993*, SA Health's – Health Protection Programs located within the Kangaroo Island Council
- 3.2. The Policy applies the instruments of the *Burial and Cremation Act 2013*, *Coroner's Act 2003* and, in the case of Penneshaw Cemetery, recognises that a section of that cemetery is listed as a State Heritage site.

### 4. Definitions

- 4.1. **Authorised Officer** means a person appointed by the Minister or Kangaroo Island Council as an authorised officer under this Act.
- 4.2. **Bodily remains** means the whole or any part of a human body (whatever its physical state may be) but does not include the whole or any part of a human body that has been cremated.
- 4.3. **Cemetery** means a place set apart for the disposal and memorialisation of human remains, but does not include –
  - a) a place at which cremated remains are scattered but is not otherwise used for the disposal of human remains; or
  - b) an Aboriginal site as defined in the Aboriginal Heritage Act 1988; or
  - c) a natural burial ground; or

- d) a place which consists of a single interment site where only –
  - a. the remains of 1 deceased person; or
  - b. the remains of 2 or more members of the same family, are, or are intended to be, interred.
- 4.4. **Cemetery Authority** means the Kangaroo Island Council, being the body currently responsible for the administration of a cemetery.
- 4.5. **Council** means the Kangaroo Island Council.
- 4.6. **Cremated remains** means bodily remains that have been reduced by cremation.
- 4.7. **Disposal authorisation** means an authorisation to dispose of human remains granted under the *Coroners Act 2003* or a corresponding authorisation as defined in the Act.
- 4.8. **Domestic partner** means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not.
- 4.9. **Funeral director** means a person who carries on the business of arranging for the disposal of human remains.
- 4.10. **Human remains** means bodily remains and includes –
  - a) the remains of a still-born child; and
  - b) bodily remains after they have been cremated.
- 4.11. **Interment of human remains** means –
  - a) the placement of human remains in a mausoleum, vault, columbarium or other structure designed for the placement of such remains; or
  - b) the burial in the earth of human remains (directly in the earth or in a container).
- 4.12. **Interment right** means an interment right issued under the Act by the relevant authority for a cemetery or natural burial ground.
- 4.13. **Interment site** means
  - a) a mausoleum, vault, columbarium or other structure in which human remains are interred; or
  - b) a site in which human remains are buried.
- 4.14. **Lease** means an interment right, which is issued under the Act by the relevant authority for a cemetery or natural ground.
- 4.15. **Medical practitioner** means a person registered under the Health Practitioner Regulation National Law to practice in the medical profession (other than as a student).
- 4.16. **Memorial** means –

- a) a gravestone, plaque, cenotaph or other monument; or
- b) any other structure or permanent physical object used to memorialize a deceased Person, must be approved by Council.

4.17. **Memorial Plaque** means the type of plaque.

4.18. **Private Property Burial Site** means a burial site situated on private land as approved by Council in accordance with the *Burial & Cremation Act 2013*, the Environment Protection Act 1993 and SA Health's – Health Protection Programs.

4.19. **the Act** means the *Burial and Cremation Act 2013*

4.20. **the Regulations** means the *Burial and Cremation Regulations 2014*

## **5. Policy Statement**

5.1. This policy will manage the cemeteries within the Kangaroo Island Council area within the guidelines of the cemetery management plan:

### **5.1.1. Penneshaw Cemetery (Some sections are Heritage listed).**

- i. Hog Bay Road, Penneshaw
- ii. Burial Allotments
- iii. The Penneshaw Cemetery is a listed place of State Heritage significance, which is under Council's care and control
  - 1. Burials are permitted with approval from Council
  - 2. Prior to all works within this cemetery (erection of headstone, plaques, urns etc.) a development application must be submitted through the PlanSA online portal and will be referred to Heritage SA ( DEW) for approval.

### **5.1.2. American River Cemetery**

- i. Redbanks Road, American River
- ii. Burial Allotments and Brick Columbarium Niche and Memorial Wall

### **5.1.3. Kingscote Cemetery**

- i. Seaview Road/ Cordes Road, Kingscote
- ii. Burial Allotments and Brick Columbarium Niche and Memorial Wall

5.2. The Pioneer Cemetery (Reeves Point) and Emu Bay Cemetery are no longer in active use but are maintained, due to their historical significance.

### **5.2.1. Pioneer Historical Cemetery (Reeves Point)**

- i. Seaview Road, Kingscote

- ii. This cemetery holds the remains of the Early Settlement inhabitants who arrived on Kangaroo Island in 1836.

#### **5.2.2.Emu Bay Historical Cemetery**

- i. Wallaby Run, Emu Bay.
  - ii. A small area set aside for burials and plaques have been placed to identify those persons known to be buried within the vicinity of this Cemetery.
- 5.3. The Cemeteries shall be considered open daily throughout the year from dawn to dusk. No person other than an employee duly authorised by the Kangaroo Island Council shall be permitted to enter or remain within the Cemetery grounds after dark.
- 5.4. The scale of fees and charges for cemetery services are reviewed yearly and are current from 1st July to 30th June annually. The current Schedule of Fees and Charges is available on the Kangaroo Island Council website [www.kangarooisland.sa.gov.au](http://www.kangarooisland.sa.gov.au).
- 5.5. Kangaroo Island Council will, upon payment of the appropriate fee, as set down in the current fees and charges, grant an exclusive interment right in the next designated space in an orderly system within the cemetery as approved by the Cemetery Authority.
- 5.6. Any new section of a cemetery that is developed and opened for use will be managed in accordance with this policy.
- 5.7. The Cemetery Authority requires notification from the authorised Funeral Director three business days' notice prior to an interment being confirmed.
- 5.8. The erection of vaults in Council cemeteries is NOT permitted.
- 5.9. **Interment Rights.**
- 5.9.1. The Cemetery Authority can pre-sell interment rights for any of the cemeteries on Kangaroo Island.
  - 5.9.2. An Interment Right Notice will be issued along with Interment Rights and conditions. Payment will be charged as per Councils fees and charges.
  - 5.9.3. A plot number or niche will be provided at the time the Interment Right is issued and payment is received.
  - 5.9.4. A double interment right may be purchased for the columbarium walls. This means adjacent niches are issued for the 2 interments. This applies the same as Burials.
  - 5.9.5. Multiple interments are permitted in an interment site, being either a columbarium niche or gravesite, with the requirement that each person is required to be issued with an interment right.

- 5.9.6. The first interment right being purchased at full cost and each subsequent interment right thereafter being free of charge, noting that the cost of burial / placement still be charged.
- 5.9.7. It is noted that the columbarium site capacity will preclude the interment of all ash volume and residual ash volume will remain the responsibility of the relatives of the deceased parties. All blended ashes into a niche with the columbarium shall be identified by a single plate / plaque identifying all interred remains.
- 5.9.8. The Cemetery Authority will honour all previously purchased licences and leases for the period of 99 years commencing on the date of purchase of said lease.
- 5.9.9. All sites previously leased that are still required are registered in the Council Cemeteries Module in Council Records.
- 5.9.10. All previously purchased lease holders will be contacted to confirm:
- i. The purchase of a lease
  - ii. Name of lease holder
  - iii. Details of the lease
  - iv. Contact details
  - v. If the lease is still required.
- 5.9.11. If a lease has been pre-purchased, and where that allotment has not been used (within the 99 year period ), the Lease may not be transferred from one allotment to another and ownership will automatically transfer to the Cemetery Authority.
- 5.9.12. If an Interment Right has been pre-purchased, the Interment Right may not be transferred to another person. If the Interment Right is no longer required and the Interment Right holder relinquishes the Interment Right, ownership of that Interment Right will transfer to the Cemetery Authority.
- 5.9.13. The Cemetery Authority issues Interment Rights for interment sites for a period not exceeding 99 years.
- 5.9.14. Interment rights issued for 99 years, expire 99 years after the first interment at the interment site for single depth and 99 years from the second interment for double depth.
- 5.9.15. If ashes are interred in an interment site, the date of expiry is 99 years from the date of the interment of ashes.
- 5.9.16. An interment right is required for the interment of ashes in any previously used interment site.
- 5.9.17. The Cemetery Authority has the right to refuse any application for an Interment Right.



5.9.18. Interment Rights (or licence or lease issued prior to August 2014) for interment sites that are unused or no longer required after the initial period of 99 years expires shall lapse. A new interment right may then be issued.

- a. **Unused site** - an application for Expired Burial or Columbarium Memorial form must be completed and forwarded to the Kangaroo Island Council to relinquish his/her Interment Right. On surrender of an unexercised interment right, the former holder of the interment right will be entitled to a refund in accordance with the Regulations (Reg 34).
- b. **Used site** - an application for Expired Burial or Columbarium Memorial form must be completed and forwarded to the Kangaroo Island Council to extend his/her interment right for used sites. Fees will apply in accordance with Council's current fees and charges schedule.

5.9.19. No interment shall, under any circumstances, be permitted in any of the cemeteries or columbarium's until an interment right has been signed, particulars of the deceased person recorded by the Cemetery Authority, and confirmation that the burial may go ahead at the requested site.

5.9.20. The Cemetery Authority will be offering Interment Rights for Single or Double depth plot for a term of 99 years. The Right to a Double depth Interment is to be paid for and issued at the same time, with the 99 year period commencing from the date of the second burial. When a single depth interment Right is applied for, the Cemetery Authority makes no commitment that any adjacent site will be kept available for other family members unless an interment Right for the adjacent site/s is also issued.

5.9.21. The Cemetery Authority shall keep Registers, records and plans as required by section 53 of the Act (from the time that section 53 comes into operation).

5.9.22. A notice or document required or authorised to be given or sent to, or served on, a person shall comply with section 65 of the Act and may –

- i. be given to the person personally
- ii. be posted in an envelope addressed to the person at the person's last known nominated contact, residential, business or registered address; or
- iii. be left for the person at the person's last known nominated contact, residential,
- iv. business or registered address with someone apparently over the age of 16 years; or
- v. be transmitted by fax or email to a fax number or email address provided by the person (in which case the notice or document will be taken to have been given or served at the time of transmission).

5.9.23. Opening of interment sites, exhumation or re-interment must be carried out in accordance with Section 13 of the Act and Regulation 11.



#### **5.10. Burials**

- 5.10.1. The Cemetery Authority offers in the first instance double depth interments and single depth interments at the Kingscote, American River and Penneshaw Cemeteries.
  - i. The expiration date for both single and double depth interment is 99 years. In the case of a double depth, this period begins from the second recorded interment in the gravesite.
- 5.10.2. Coffins shall be interred at the prescribed depth as defined by the Regulations (R.15).
- 5.10.3. No grave shall be left open after interment. Specifically -
  - i. No more than two (2) coffin interments shall be buried in the same interment site.
  - ii. In all interment sites there may be a maximum of two (2) people buried in coffins and a maximum of four (4) cremated remains.
  - iii. No bodily remains or human remains may be removed from the interment site, except in accordance with the Act and the Regulations.
  - iv. Each interment shall be in accordance with the Regulations.
  - v. A person must not inter, or cause, suffer or permit the interment of, bodily remains in a cemetery or natural burial ground so that any of the remains are at a depth of less than 1 metre from the surface of the ground, in accordance with regulation 15.
- 5.10.4. All sites in the operational cemeteries on Kangaroo Island will be identified by site numbers and marked with signage approved by the Cemetery Authority.
  - i. Temporary grave markers will be fitted to all sites by the Funeral Directors and may only be used for a period of 12 months from the date of interment.
- 5.10.5. Temporary grave markers and permanent basic plaques only apply to burial sites.

#### **5.11. Burial on Private Property**

- 5.11.1. Burial on private property is subject to the approval of the Council and the permission of the land owner pursuant to section 8(2)(a)(i) of the Burial and Cremation Act 2013. The burial is subject to the requirements of the Burial and Cremation Act 2013 and Regulations 2014.
- 5.11.2. Council will receive applications and may grant permission for a burial on private land outside the boundary of a township. The request must be made on the appropriate Council application form. Evidence of formal approval from the land owner must be provided at the time of the application.

## **5.12. Interment of Ashes/Columbarium**

- 5.12.1. No person shall inter cremated remains in Council's cemetery gravesites or columbarium unless an interment right has first been issued for such purpose and the appropriate fee paid in full and receipts issued.
- 5.12.2. Ashes may be interred in a previously used gravesite. An interment right fee will be paid as per Kangaroo Island Council Schedule of Fees and Charges.
  - i. All interments of cremated remains will be completed by the Asset Services Department of the Kangaroo Island Council.
  - ii. The expiration date of the interment right for cremated remains interred in a previously used burial site will be 99 years from the date of the first burial/interment.
  - iii. All columbarium plaques will be placed in the designated walls by using the next available site in an orderly system (with the exception of purchased double interment rights).
  - iv. Cremated remains interred in the columbarium will expire 99 years from the interment of the first deceased person.
  - v. Double (adjacent) interment sites can be purchased for columbarium walls upon the application for, payment and issuing of a double Interment Right.
  - vi. All double interment rights will be identified by a single plaque on each.
  - vii. Multiple interments are permitted to an interment site, with the requirement that each person is required to be issued with an interment right. The first interment right being purchased at full cost and each subsequent interment right thereafter being free of charge, noting that the cost of placement still be charged.
  - viii. It is noted that the columbarium site capacity will preclude the interment of all ash volume and residual ash volume will remain the responsibility of the relatives of the deceased parties. All blended ashes into a niche within the columbarium shall be identified by a single plate / plaque identifying all interred remains.

## **5.13. Memorial Walls**

- 5.13.1. No person shall place a plaque on a memorial wall in any of Council's cemeteries unless an interment right has first been issued for such purpose and appropriate fee paid in full and receipts issued.
- 5.13.2. All placements of memorial plaques will be completed by the Cemetery Authority.
- 5.13.3. The expiration date of the lease will be 99 years from the date of the placement of the plaque.

- 5.13.4. All memorial wall plaques will be placed on the designated walls by using the next available site in an orderly system.
- 5.13.5. Any plaque placed on a memorial wall in any of Council's cemeteries must have an Interment Right.

#### **5.14. Memorial Headstones**

- 5.14.1. No person shall erect, a memorial headstone or any other structure on any allotment in Council's cemeteries, unless a duly authorised contractor or registered builder has completed an "Application for a Memorial" form and paid the appropriate application fee as outlined below.
- 5.14.2. All placements of memorial headstones are undertaken by the company supplying the memorial headstone only.
- 5.14.3. Monuments or headstones are not to exceed a height of 900mm, maximum width 1 metre, 350mm deep with a removable concrete stand. (The height of the concrete stand is included in the height of 900mm).

#### **5.15. Memorial Plaques**

- 5.15.1. All memorials plaques shall be of a design, dimension and quality as outlined below:
  - i. Standard size plaques for gravesites set upon a cement plinth: width 381mm x height 279mm
  - ii. Standard size plaques for single columbarium: width 145mm x height 127mm
  - iii. Standard size plaques for memorial walls: width 145mm x height 127mm
  - iv. Standard size plaque for American River columbarium and Memorial Wall is 220mm x 220mm
- 5.15.2. Each memorial plaque shall be set up on a footing and shall be erected by Cemetery Authority employees, or an approved contractor, in a place or position as directed by the Cemetery Authority.
- 5.15.3. The Cemetery Authority shall not be responsible for the upkeep, maintenance or repair or replacement of any memorial (e.g. plaque, monument or structure).
- 5.15.4. The Cemetery Authority may act to remove any structure that has become unsafe in its opinion.
- 5.15.5. Repair to memorial plaques must be undertaken and completed within three (3) months from notification by the Cemetery Authority. If not repaired within this time frame, removal of the plaque / monument will take place by the Cemetery Authority and held for a period of six (6) months. During the six (6) month period reasonable actions will be taken by the Cemetery Authority to locate any next-of-kin in relation to these matters. After the six (6) month

period has expired at its sole discretion the Cemetery Authority determine an outcome, which may include repair, replace, removal and/or disposal of the monuments/plaques in question.

#### **5.16. Landscaping**

- 5.16.1. No ornaments, floral or other tributes are to be placed on or in the lawn areas outside the extent of the approved plinth as they may interfere with maintenance operations.
  - i. No plantings on memorials to take place within the Cemetery grounds.
  - ii. Glass jars and containers that detract from the general appearance of the cemetery may be removed at council's discretion and without notice.
  - iii. Aged flowers and wreaths may be removed at the cemetery authority's discretion without notice.
- 5.16.2. No unauthorised person may landscape or change the landscaping of any portion of the cemetery. The cemetery authority may alter or transfer any landscaping, monument or memorial garden at any time as it may determine.

#### **5.17. Responsibilities**

- 5.17.1. The Chief Executive Officer is responsible for ensuring compliance with this policy.
- 5.17.2. The Council is responsible for keeping a Register which must contain the information required by section 53 of the Act and Regulation 36.
- 5.17.3. The Funeral Directors or person responsible for interment are responsible for the removal of the deceased and forwarding documents that validate the sighting of the name plate/s and death certificate/s of the deceased to Council's Business Support Department.
- 5.17.4. The Council is responsible for all records of the siting of name plates and death certificates prior to interment as sighted by the responsible Funeral Director or other person arranging for the disposal of bodily remains.
- 5.17.5. The Asset Services Department or Contractors are responsible for interments which include:
  - i. Shoring the Grave
  - ii. Covering the Grave
  - iii. Decanting of Ashes
  - iv. Placement of Ashes
  - v. Placement of Plaques and cement plinths

vi. Maintenance of the cemetery.

- 5.17.6. The interment right holder or member(s) of the family have the responsibility to maintain the memorial plaque/headstone in good order during the 99 year period, and to remove the memorial plaque/headstone at the expiry of the 99 year period.
- 5.17.7. The interment right holder or member(s) of the family have the responsibility to maintain the ashes/urn/plaque in good order during the 99 year period, and to remove the ashes/urn/plaque at the expiry of the 99 year period.
- 5.17.8. It is the responsibility of the interment right holder to notify the cemetery authority (Kangaroo Island Council) of any change to their mailing address or contact details.
- 5.17.9. Kangaroo Island Council will not accept any responsibility for damage to monuments through acts of vandalism, ageing, and deterioration. Repair is the responsibility of the family members.

## 6. Availability

- 6.1. This policy is available for inspection at the Council office at 43 Dauncey Street, Kingscote and the Council Office at Penneshaw during ordinary business hours.
- 6.2. It is also available for inspection, download or printing, free of charge, from Council's website [www.kangarooisland.sa.gov.au](http://www.kangarooisland.sa.gov.au)
- 6.3. Any grievances in relation to this policy or its application should be forwarded in writing addressed to the Chief Executive Officer, Kangaroo Island Council, PO Box 121, Kingscote SA 5223

SIGNED:



Chief Executive Officer

Date: 10 May 2022

History		
Date Reviewed:	Version:	Reason for Amendment:
November 2012	Version 1	Adopted 14 November 2012 (minute 13.2)
April/May 2014	Version 2	Introduction of Burial and Cremation Act 2013 and Regulations 2014
13 June 2017	Version 3	Periodic Review with amendment plus Council Resolution inclusions in section 4 and 6. Ref# C202:2017.

16 June 2017	Version 4	Format amendment [numbering correction only.]
11 July 2017	Version 5	Text amendment for clarity.
8 October 2019	Version 6	Periodic Review
10 May 2022	Version 7	Removal of reference to the KI Development Act, Change to Burial on Private Land & New Policy Template.



# Application for Burial – Land other than Council Cemetery

Please return completed application form to:

In Person: Kangaroo Island Council, 43 Dauncey Street, Kingscote  
Penneshaw Community Business Centre, 99 Middle Terrace, Penneshaw  
By Post: PO Box 121, Kingscote SA 5223  
Fax: 08 8553 2885  
Email: [kicouncil@kicouncil.sa.gov.au](mailto:kicouncil@kicouncil.sa.gov.au)  
Website: [www.kangarooisland.sa.gov.au](http://www.kangarooisland.sa.gov.au)

## Applicant / Authorised Person

Name:	<input type="text"/>		
Address:	<input type="text"/>		
Phone:	<input type="text"/>	Fax:	<input type="text"/>
Email:	<input type="text"/>		
Relationship to the Deceased ( <i>provide evidence</i> )	<input type="text" value="In"/>		

## Interment Location and Details

Address of Property:	<input type="text"/>		
GPS Coordinates Latitude:	<input type="text"/>	Longitude:	<input type="text"/>
General Description of the area to be used:	<input type="text"/>		
Interment Depth:	<input type="text"/>		

## Landowner Details

Name:	<input type="text"/>
Address:	<input type="text"/>

Email:

Phone:

Fax:

Relationship to  
Deceased (if any):

### Deceased Details

FULL Legal Name:

Last Known  
Address:

Date of Death:

Age:

Gender:

The deceased person died from natural causes: YES

NO

Authorisation for the  
Certificate of  
Identification was  
issued by:

### Funeral Company Details

Company:

Name:

Telephone:

Email:

Interment Date:

Interment Time:

*For the application to be assessed the following documents must be attached:*

- ☐ Evidence that the Applicant is the personal representative of relative of the deceased
- ☐ Written approval of the owner of the land on which the burial is to occur
- ☐ Plan/map of the property detailing the exact location of the burial and surrounding structures
- ☐ A copy of the Certificate of Title for the land on which the burial is to occur
- ☐ Written consent of anyone with an interest in the land on which the burial is to occur (i.e. Mortgagee or easement holder)
- ☐ A copy of the death certificate (or if not available, Doctor's Certificate of Cause of Death and Partial Certificate of Cause of Death)