



Memorial Policy

Policy Classification	Council Policy
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Version Number:	1
Applicable Legislation:	<i>Burial and Cremation Act 2013</i> <i>Local Government Act 1999</i> <i>Road Traffic Act 1961</i>
Related Policies or Documents:	By-Law 3 – Local Government Land 2017 By-Law 4 – Roads 2017 Kangaroo Island Council Lands Management Plan Leases, Licences and Permits Policy Public Place Naming Policy
Associated Forms:	Memorial Set Location Guide
Responsible Manager:	Director Works and Infrastructure Director Corporate Services
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Memorials Policy

1. Preamble

- 1.1. Council recognises that members of the community may wish to use public open spaces to commemorate a person or group of people who have lived in and/or contributed to the local community through the installation of a memorial.
- 1.2. Council has a responsibility to maintain a safe and amenable streetscape and understands that all memorials need to be managed appropriately.
- 1.3. Council has the power under legislation and by-laws to regulate the access to and use of local government land, certain public places and roads or road related areas.
- 1.4. Council licences seats, for a period of ten (10) years, in locations across Kangaroo Island where Memorial Plaques can be attached.

2. Purpose

- 2.1. This policy provides guidance for the community for the design, approval, placement, maintenance and removal of memorial seats and roadside memorials on Council owned or managed public open space including, but not limited to, parks, gardens, roads and road reserves.
- 2.2. Council aims to be consistent in its approval and management of memorial seats and roadside memorials and ensure the design and placement of these memorials is consistent with the community interest and does not result in particular locations reaching saturation point or interfere with the intended purposes of the area.
- 2.3. Council has the right to refuse an application to erect a memorial on Council property, local government land, or a road.
- 2.4. Council has the right to remove any object or structure which creates a risk to the public and has the authority under the Local Government Act (1999) to remove objects from a road or public place.
- 2.5. Council offers no guarantee that a memorial will be preserved or remain at a site.
- 2.6. All memorials in Kangaroo Island prior to the adoption of this policy will be subject to the provisions of this policy.

3. Scope

- 3.1. This policy applies to memorial seats, roadside memorials and temporary roadside memorials on Council property, community land, roads or other land under Council's care, control and management.
- 3.2. All other memorials, including War memorials, are outside the scope of this policy.

4. Definitions

- 4.1. **Applicant** means the person, group or organisation making the application to Council to install a memorial.
- 4.2. **CEO** means the Chief Executive Officer of the Kangaroo Island Council.
- 4.3. **Council** means the Elected Body.
- 4.4. **DIT** means Department for Infrastructure and Transport.
- 4.5. **Kangaroo Island Council (KIC)** means the administration.
- 4.6. **Local Government Land** means land owned by the Council or under Council's care, control and management.
- 4.7. **Memorial Plaque** means a flat table or metal or other durable material which includes text and/or images that commemorates a person to be attached to a Memorial Seat. The size and style is determined by KIC.
- 4.8. **Memorial Seat** means a seat, usually in the form of a park bench in the style and colour as determined by KIC, that bears a Memorial Plaque.
- 4.9. **Road** means a public or private street, road or thoroughfare to which public access is available on a continuous or substantially controlled basis to vehicles or pedestrians or both and includes:
 - (a) a bridge, viaduct or subway, or
 - (b) an alley, laneway or walkway.
- 4.10. **Road reserve** means land invested in the Council that is set aside for the purposes of a public road, irrespective of whether or not it is being used as a public road.
- 4.11. **SAPOL** means South Australian Police.

5. Policy Statement

- 5.1. Under Clause 9.92 of the By-Law 3 Local Government Land, the installation of a memorial on Local Government Land is not permitted without prior approval from Council. Council may grant approval for the installation of a memorial on Local Government Land, in accordance with this policy.
- 5.2. Under section 221 of the Local Government Act 1999, a person must not make an alteration to a public road unless authorised to do so by the council.
- 5.3. To be considered for approval, a memorial should commemorate a resident of, or regular visitor to, Kangaroo Island, who had an affinity with a particular location.
- 5.4. The only memorials allowed are temporary roadside memorials, Memorial Seats or roadside memorials. Memorials outside the scope of this will not be considered.
- 5.5. This policy applies to both existing and proposed memorials.

5.6. Memorial Seats

- 5.6.1. Council places and manages Memorial Seats at various locations throughout Kangaroo Island.
- 5.6.2. Individuals or groups, may enter into an agreement with Council to licence a Memorial Seat and have a Memorial Plaque attached to it in accordance with this policy.
- 5.6.3. Spaces for Memorial Seats are limited and KIC does not maintain a waitlist. Any available Memorial Seats will be on a first come basis.
- 5.6.4. Memorial Seats will generally be located in areas of recreational use including along walking trails, within parks and in streetscapes. Memorial seats are placed at KIC's discretion and the locations of Memorial Seats may be subject to change. In determining the locations, KIC will give consideration to any master plan or strategy relevant to the site, current site use, public and personal safety, aesthetics of the site, long term viability and maintenance.
- 5.6.5. The style and colour of the Memorial Seat is dependent on the location and is decided by Council.
- 5.6.6. Unless this Policy provides otherwise, KIC will at all times own the Memorial Seat and any Memorial Plaque which has been attached to it in accordance with this policy.
- 5.6.7. Only one (1) Memorial Plaque will be permitted per bench or similar, unless the request from an additional plaque is made by the original commissioning family or organisation.
- 5.6.8. Individuals or groups interested in Memorial Seats must:
 - a. Apply for landowner consent to place a Memorial Plaque on a Memorial Seat.
 - b. Meet with a Council Officer to determine location and style of the Memorial Seat and wording of the Memorial Plaque.
 - c. Pay the appropriate fee (Memorial Seat and Memorial Plaque will be at cost, additional cost to cover cement slab if required as well as cost of installation and maintenance).
 - d. Enter into a licence for the Memorial Seat for a period of ten (10) years and pay licence fee for the ten (10) years.
- 5.6.9. Where the location or an application for a Memorial Seat is refused, Council will inform the applicant for the reasons for the location and/or application being denied.
- 5.6.10. Licence holders will have the first option to renew the licence for a further period at the end of the initial ten year licence term. The renewal process must occur within the 12 months prior to the end of the licence term.

- a. If the licence holder wishes to renew, a review of the condition of both the Memorial Seat and the Memorial Plaque will be assessed and a the licence holder will need to enter into a new licence in return for a fee set by Council (will vary dependent on if the Memorial Plaque and/ or Memorial Seat is suitable for reuse).

5.6.11. Where a licence is terminated or not renewed, or else at the end of the renewed licence period, Council will remove the Memorial Plaque from the seat – at which point it will become the property and responsibility of the licence holder – and use reasonable endeavours to arrange for it to be collected by the licence holder. Unclaimed plaques will be held by Council for one (1) year from the time of decommissioning and then destroyed. It is at the discretion of Council if the seat remains in place, is replaced or removed at that time.

5.6.12. Council will maintain the Memorial Seat as part of its routine asset management to ensure safety and serviceability of furniture while having regard for the allocated budget for this purpose. Council is not obliged to replace a Memorial Seat during the term of a licence if it is significantly damaged or destroyed.

5.6.13. Council will maintain the Memorial Plaque for the natural life of the Memorial Plaque or until it becomes the property of the licence holder under clause 5.6.10 above, noting that:

- a. The life of the Memorial Plaque is to be determined by KIC which consideration given to the legibility and general condition of the Memorial Plaque as reviewed/audited by KIC from time to time, and
- b. The intention is that Memorial Plaques should not become an “eyesore” or detract from the environment they are in because of their general condition.
- c. If a Memorial Plaque is stolen, vandalised, or otherwise damaged during the term of the licence, Council will attempt to contact the licence holder to arrange repair or, if necessary, replacement at the cost of the licence holder.

5.6.14. Where maintenance, redesign of the site or poor condition necessitates the removal or relocation of a Memorial Seat, Council will endeavour to contact the Licence Holder.

5.6.15. It is the responsibility of the licence holder to nominate an ongoing contact person for the renewal of the licence and otherwise for the purpose of allowing the Council to administer this Memorials Policy.

5.6.16. After installation, the addition or temporary placement of any other memorabilia, photographs, flowers, tributes or religious symbols or artefacts is prohibited at the site as this may detract from use of the community of this asset. At the end of that period, it is the responsibility of the person, family or group who placed the items to remove them.

5.6.17. Existing Memorial Seats

- a. Memorial seats installed prior to the adoption of this policy will need to comply with this policy.
- b. Where the Memorial Seat was installed more than 9 years prior to the adoption of this policy, persons responsible for the Memorial Seat must enter into a licence with Council by 5.6.8 by 30 June 2023. Council will use reasonable endeavours to contact that person prior to that date.
- c. Where the Memorial Seat was installed less than 9 years prior to the adoption of this policy, persons responsible for the Memorial Seat must enter into a licence with Council by 5.6.8 within ten (10) years of the date of the Memorial Plaque.
- d. If no licence is entered into, Council will deal with the Memorial Seat and Memorial Plaque as per clause 5.6.11.

5.7. Temporary Roadside Memorials

- 5.7.1. A temporary roadside memorial can be described as an object or image constructed, erected, planted, painted or placed temporarily within the road reserve in honour of family or friends whose lives have been lost on the road or road reserve. For example, flowers or small mementos. In this instance, a roadside memorial does not include a roadside crash marker.
- 5.7.2. Council recognises that family and friends may wish to mark the location of an incident with the placement of a temporary memorial or roadside vigil. Council also recognises that the presence of roadside memorials needs to be managed as they can be upsetting or distracting to the community, result in visitors stopping at the memorial potentially creating a traffic hazard and can create a dilemma for ongoing road maintenance activities.
- 5.7.3. Given the spontaneous nature of this type of memorial, Council permission is not required before placement of objects. However a family or group representative should notify Council as soon as possible of the installation of the temporary memorial and provide their name and contact details and contact details should be included on the memorial. This will enable Council to liaise with the family or group representative.
- 5.7.4. Design
 - a. The memorial must be securely fixed in place and must not be made from materials or placed in such a way that would make the memorial dangerous if involved in a crash (i.e. not concreted into the ground).
 - b. Items of a personal nature, such as flowers (fresh only) and mementos, are to be firmly affixed to the memorial so as not to pose a road safety hazard or maintenance issue.
 - c. The memorial must not exceed 750mm high, 500mm wide and 400mm depth below ground level.
 - d. Consistent with the Department for Infrastructure and Transport's Operational Instruction 19.15 Roadside Memorials, the memorial must not:

- i. present a risk to the public;
- ii. be hazardous or impede users of a footpath or road or restrict access for utility and emergency services;
- iii. distract drivers;
- iv. include flashing lights or music; or
- v. alter or prevent maintenance of the road or road related area, or Council property or infrastructure.

5.7.5. Location

- a. Roadside memorials must not be placed at the following locations:
 - i. on traffic islands, medians or roundabouts;
 - ii. attached to roadside infrastructure or traffic control devices;
 - iii. within 30m of intersections or curves;
 - iv. within 3m of the edge of road seals;
 - v. in a way that obscures road signs; and
 - vi. within 2m of a shared path.
- b. Roadside memorials should be located such that visitors are able to safely access the memorial, and be safe during their time there.

5.7.6. Maintenance and Removal

- a. Temporary roadside memorials may only be placed for a period of three (3) months. It is the responsibility of the family or group who placed the constructed the temporary roadside memorial to remove it at the end of this period.
- b. Council reserves the right to remove any approval memorial if it is considered no longer relevant or appropriate or is beyond repair.
- c. Council will remove memorials:
 - i. that interfere with maintenance, road management activities and the management of non-road related infrastructure
 - ii. if construction or road works are required to be undertaken in the area;
 - iii. if directed to by SAPOL or DIT.
- d. Memorials that remain in place for more than three (3) months may be removed by Council.

5.8. Roadside Memorials

5.8.1. The installation of a Memorial Plaque on a rock or structure as a long term roadside memorial is not encouraged. Where this is proposed, road safety is paramount and the application needs to consider the level of risk associated with the rock.

5.8.2. An application under section 221 of the Local Government Act 1999 is required.

5.8.3. Design, location and installation

- a. Refer to design requirements under section 5.7.4.
- b. In addition, the design of the memorial must keep with the current aesthetic appeal, use and cultural integrity, must be culturally sensitive and not likely to cause offense.
- c. Refer to location requirements under section 5.7.5.
- d. The cost of the plaque, rock or structure and installation will be borne by the Applicant.
- e. KI Council will manage the design, manufacture and installation of the plaque and will work with the applicant in relation to the location

5.8.4. Maintenance and Removal

- a. The obligations for maintenance and removal will be listed in the s221 approval.
- b. Council reserves the right to remove any approval memorial if it is considered no longer relevant or appropriate or is beyond repair.
- c. Council will remove memorials:
 - i. that interfere with maintenance, road management activities and the management of non-road related infrastructure
 - ii. if construction or road works are required to be undertaken in the area;
 - iii. if directed to by SAPOL or DIT.
- d. At the end of the s221 approval, if not renewed, it is the responsibility of the licence holder to contact Council to arrange for the removal of the roadside memorial. Where this does not occur, at the end of the licence, Council will remove the memorial.

5.8.5. After installation, the addition or temporary placement of any other memorabilia, photographs, or religious symbols or artefacts is prohibited at the site, except for during the three (3) months following the anniversary of the event being commemorated. At the end of that period, it is the responsibility of the person, family or group who placed the items to remove them

6. Availability & Grievances

- 6.1. This Policy will be available for inspection at the Council offices at 43 Dauncey Street, Kingscote during ordinary business hours and available to be downloaded, free of charge, from Council's internet site: www.kangarooisland.sa.gov.au
- 6.2. Copies will be provided to interested parties upon request. Email kicouncil@kicouncil.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: 6 December 2022

HISTORY

Date Reviewed:	Version:	Reason for Amendment:
	Draft	Initial draft, agreed to be released for consultation by Council on 9 August 2022 Minute: C357:2022
	Version 1	Adopted by Council 6 December 2022 Minute: C546:2022

7. Memorial Seat Location Guide 2022



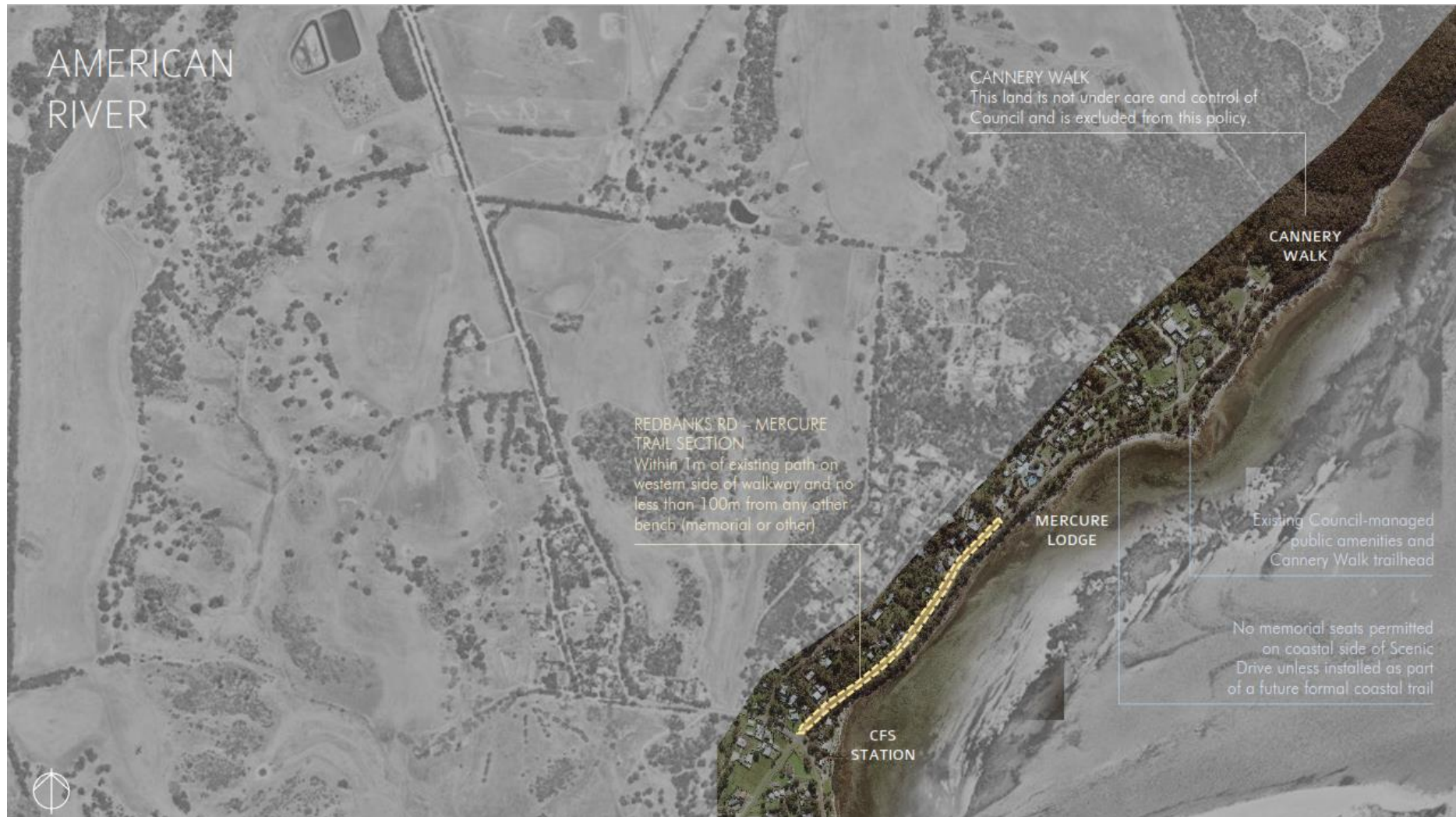




KINGSCOTE CEMETERY



CEMETERY ZONE
No restrictions are placed on locations of memorial seats with approval within the boundaries of Council land providing access to interment sites is not restricted and vehicle or pedestrian movement is not obstructed.



AMERICAN RIVER



AMERICAN RIVER CEMETERY



CEMETERY ZONE

No restrictions are placed on locations of memorial seats with approval within the boundaries of Council land providing access to interment sites is not restricted and vehicle or pedestrian movement is not obstructed.



PENNESHAW CEMETERY



CEMETERY ZONE

No restrictions are placed on locations of memorial seats with approval within the boundaries of Council land providing access to interment sites is not restricted and vehicle or pedestrian movement is not obstructed and all state heritage approvals are obtained.



