Burials on Private Land Policy

Strategic Reference	**Leadership** *Priority Area 1 – Transparency and Accountability* Action 5.1.3 – Support decision making through the use of timely and relevant data-driven evidence and outcomes from community engagement and legislation.
File reference	AR26/9234
Responsibility	Roads & Infrastructure Department
Revision Number	1
Effective date	XXX 2026
Last revised date	--
Minutes reference	xxx/26
Next review date	XXX 2029
Applicable Legislation	Births, Death & Marriages Registration Regulations 2011 Burial & Cremation Act 2013 Burial & Cremation Regulations 2014 Heritage Places Act 1993 Local Government Act 1999 Planning, Development and Infrastructure Act 2016
Related Policies	Cemeteries & Burial Policy
Related Documents	Burial on Private Land – application form

1. Purpose

Council recognises that some families have a desire to bury a deceased relative on a privately owned property that has significance to the deceased person or their family.

Council acknowledges the need for requirements to ensure that a burial on privately owned land is undertaken in an appropriate location and ensures that long-term identification of the burial site to limit the likelihood of those buried remains being distributed in the future.

This policy establishes how applications for burials outside of cemeteries are to be assessed and how authorisation is granted by Council. The approval process is intended to guide how the interests of the deceased person, relatives and friends, landowners and Council are to be considered and protected.

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2. Scope

The scope of this policy applies to:

- All burials of bodily (non-cremated) remains undertaken on privately owned land outside designated cemeteries
- Private landowners wishing to have bodily (non-cremated) remains interred on their property
- Individuals, families and loved ones who wish to have bodily (non-cremated) remains interred on private property
- Funeral directors and funeral celebrants who coordinate services for the interment of bodily (non-cremated) remains interred on private property
- All forms of burials of bodily (non-cremated) remains, including natural burials as defined in the *Burial & Cremation Act 2013*

The interment or scattering of cremated remains (commonly referred to as 'ashes' on private land) does not require Council approval.

3. Definitions

For the purposes of this Policy the following definitions apply:

"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.

"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:

i. the remains of one deceased person; or

ii. the remains of two or more members of the same family, are, or are intended to be, interred

"Cremated remains" means bodily remains that have been reduced by cremation.

"Funeral director" means a person who carries on the business or arranging for the disposal of human remains.

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"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)

"Natural burial of human remains" means burial in the ground:

(a) without preparation of the remains using chemical preservatives; and

(b) by containment of the remains only in a shroud or biodegradable coffin

"Personal representative of a deceased person" means a person aged 18 years or more who is:

(a) the executor of the estate of the decease person, or, if there is more than one executor, one of the executors acting with the permission of all the other executors; or

(b) the administrator of the estate of the deceased person

"Registrar" means:

(a) the Registrar of Births, Deaths and Marriages; or

(b) a Deputy Registrar of Births, Deaths and Marriages, under the *Births, Deaths and Marriages Registration Act 1996.*

4. Policy Statement

4.1 In permitting burials to be undertaken on private land outside designated cemeteries, Council is committed to complying with the:

- Burial and Cremation Act 2013 (SA)
- Burial and Cremation Regulations 2014 (SA)
- Births, Deaths and Marriages Registration Regulations 2011 (SA)
- Planning, Development and Infrastructure Act 2016 (SA); and
- Heritage Places Act 1993 (SA)

4.2 Council is committed to supporting persons who wish to be buried on private land outside a designated cemetery in accordance with the Burial and Cremation Act and Regulations as above, and in accordance with this policy.

4.3 This policy provides a framework for Council to consider those applications to ensure that burials undertaken on private land are:

- Undertaken in accordance with the requirements of the relevant legislation;

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- In locations that limit the likelihood of disturbance of the remains in the future;
- In locations that do not pose a threat to the pollution of waterways; and
- Publicly recorded on the Certificate of Title on the land on which the burial occurs

4.4 Council recommends that applications for permission for burials on private land be lodged well in advance of the interment taking place. Hence, burials on private land are best undertaken as pre-planning for a persons' intended burial at a later date.

4.5 Applicants must be aware that a private burial plot does not have the status of a cemetery and therefore has no preservation rights. Subsequent owners of the land are not obliged to preserve the plot and may choose to build over it or request exhumation as a condition of sale (Attorney-General approval required). The family of the deceased will have no right of visitation unless granted by the new owner(s).

5. Application and Criteria for Assessment

5.1 Applicants must complete the *Application for Burial on Private Land* form (available on Council's website) and submit the application with the application fee as published annually in Council's fees and charges schedule.

5.2 Seeking approval from Council as part of one's pre-planning for end-of-life arrangements ensures smoother processing, therefore applicants are encouraged to submit requests for burial on private land (outside designated cemeteries) well in advance of the interment date.

5.3 An application must be accompanied by the following:

- Evidence that the applicant is the personal representative or 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 (GPS coordinates) of the burial
- 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 (ie. mortgagee or easement holder)

5.4 Approval will not be granted to applications where the burial is to occur:

- Within a township boundary
- In areas where there is a likelihood of contamination of water supplies, being within a 1 in 100 year (or greater) flood area, within 2 metres of groundwater or within 100 metres of surface water
- On land where the landowner or persons with interests in the land have not provided their written consent
- In a location less than 20 metres from any building, structure or water well

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- On land or in a location that Council deems, in its absolute discretion, unsuitable for the burial of bodily remains
- Where the burial would result in more than one burial site on the land

5.5 If Council approves the burial of bodily remains on private land, Council will impose conditions of the approval including, but not limited to, the following:

- The burial must be undertaken by a funeral director
- Written confirmation from the applicant and the funeral director that they understand and will comply with requirements of the *Burial and Cremation Act 2013* and the *Burial and Cremation Regulations 2014*
- Submission of the following to Council and the Registrar of Births, Deaths and Marriages:
    - The address of the property
    - The Certificate of Title reference of the property
    - GPS coordinates of the burial site (exact location of the grave)
- Noted on the Certificate of Title the property detailing the exact location of the burial (as evidenced by map and GPS coordinates) at the cost of the applicant
- Provision of permanent above-ground identification of the burial site, including fencing and a memorial marker, sufficient to ensure the location of the burial remains readily identifiable to current and future landowners, at the cost of the applicant

6. Availability/Accessibility

This Policy is available for inspection at Council's offices during normal business hours and Council's website and will be emailed to interested parties on request (please lodge request in writing via email to council@coorong.sa.gov.au).

7. Document History

This Policy will be reviewed at least every three (3) years or more frequently if legislation or Council requires.

Version	Adopted	Minute No	Description of change(s)
1	XX XXXX 2026	xxx/26	New policy

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