



## CEMETERIES AND MEMORIALS POLICY

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Related Documents	LGA 'Guide for Councils to the Burial & Cremation Act 2013' <a href="#">Management Plan Guidelines for South Australian Cemeteries (2005)</a> Cemetery and Memorial Information & Guidelines Roadside Memorial – Notice for Removal <i>Alexandrina Council Fees and Charges Schedule</i> Alexandrina Council By-Law No.2 – Local Government Land DPTI Roadside Memorials - Operational Instruction 19.15
Applicable Legislation	<i>Burial and Cremation Act 2013 (the Act)</i> <i>Burial &amp; Cremation Regulations 2014 (the Regulations)</i> <i>Local Government Act 1999</i> <i>Development Act 1993</i> <i>Heritage Places Act 1993</i> <i>Unclaimed Goods Act (SA) 1987</i>

### Definitions

Words and phrases used in this policy have the same meaning as they do in the *Burial and Cremation Act 2013* and the *Burial & Cremation Regulations 2014*.

### Purpose

This policy outlines Alexandrina Council's objectives in respect of Council owned and operated cemeteries and in regard to the *Burial and Cremation Act 2013 (the Act)* and the *Burial & Cremation Regulations 2014*. Council recognises that many of these community cemeteries also have historical significance as the resting place of many of the district's pioneers and respected citizens. Council will efficiently and effectively manage them in a respectful manner to meet the needs of the community.

This policy applies to the following cemetery facilities owned or operated by Council:

- Currency Creek Cemetery, Peel Road, Currency Creek
- Hindmarsh Island Cemetery, Randell Road, Hindmarsh Island
- Langhorne Creek Cemetery, Lee Road, Langhorne Creek
- Milang Cemetery, Landseer Road, Milang
- Mount Compass Cemetery, Arthur Road, Mount Compass
- Port Elliot / Middleton Cemetery, Lines Road, Port Elliot
- Strathalbyn Cemetery, Parker Avenue, Strathalbyn
- Woodchester Cemetery, Dalveen Road, Woodchester.

### Principles

All existing interment reservations issued by Council will be honoured and renewal of interment rights will have regard to the basis on which the original burial sites have been allocated.

All fees and charges will be in accordance with the published *Alexandrina Council Fees and Charges Schedule*.

Cemeteries will not be segregated into areas based on religion or ethnicity in accordance with s.22 of the Act, but Council will have regard to the customs and specific needs of all those who apply for an

interment permit. In considering applications and/or renewal of interment rights, Council will have regard to:

- the Cemetery's local historical significance as a burial place for many of the pioneers of the area
- the need for each cemetery site to be managed and maintained at a standard consistent with its significance and as an important family memorial place
- remaining interment sites available, recognising relatives of people already interred in the cemetery, people with a long association to the area, and those who have made contributions to the well-being and social fabric of the community.

### **Issue of Interment Rights**

Interment rights may be granted by Council for one or more sites within a cemetery on completion of an application and payment of the fee. The interment right gives the holder the exclusive right to bury or inter human remains in the allotted site. The holder of the interment right may use the site only for interment of human remains consistent with this Policy and the *Burial and Cremation Act 2013*. Council will not grant interment rights in perpetuity.

Interment rights may be issued for the following:

- *Grave sites (for new interments) for a dual depth system of burial.*  
The site can be used to accommodate family members and the term of the interment right is 50 years with renewal rights for a second period on the application of an interment right holder or authorised person. (See s.30 of the Act.)
- *Natural Burials*  
While no dedicated natural burial site is available in the Alexandrina area, natural burials can be undertaken in all Alexandrina Cemeteries. The use of a headstone is at the discretion of the individual.
- *Mausoleum*  
Council may approve an application for construction of an above ground structure subject to Council specifications.
- *Memorial or niche walls*  
The term of an interment right for ashes, in a memorial or niche wall is 50 years, with a second period available upon application of an interment right holder or authorised person. (See s.30 of the Act.)
- *Vaults*  
Council may, on application, approve the construction of a water tight vault (distinct from a mausoleum) of either single or dual capacity depth. Approval will be subject to soil and ground water conditions, design and specifications. Construction will be in accordance with the specifications provided and subject to supervision of Council's building supervisor or a contractor approved by Council. (See s.30 of the Act).
- *Scattering of ashes*  
Council approval is not required for scattering of cremated remains on private or public land however, Council requests that sensitivity and consideration be shown to the community, residents and visitors in the immediate area when undertaking this process.

Ashes contained within an urn may be positioned as per the *Memorial or niche walls* section above, and upon application of interment right (See s.36 of the Act). The scattering of ashes within Alexandrina Council cemetery grounds is not permitted.

### **Renewal or Transfer of Interment Rights**

- *Renewal*

At the end of the interment right period Council may, upon application of the interment right holder or an authorised person, renew or extend an interment right upon payment of the fee. (See s.32 of the Act).

- *Transfer or surrender of interment rights*

A person/family holding an interment right for an unused burial site or memorial wall, may seek approval of Council to surrender (s.34 of the Act) or transfer (s.33 of the Act) the right to another person/family. Council will not unreasonably withhold its approval, however, fees for the surrender, formal transfer and recording in Council's register will be at the cost of the holder of the interment right in accordance with *Schedule 1 of the Regulations*.

- *Lost documentation*

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

### **Reuse of Interment Sites**

In the event of a right of interment not being renewed, Council will take reasonable steps in writing to advise a holder of the right of the impending expiration of the right at least twelve months prior to its expiration. If the holder of the right does not renew the interment right by the expiration date:

- for a burial site: the interment site is deemed to have expired and Council has the right to reuse the site in accordance with the legislation
- for an ashes interment site: the holder of the interment right may:
  - instruct the Council to move the interment remains to an unmarked location in the cemetery
  - collect the remains for private disposal.

### **Disposal of Human Remains**

#### *On rural land*

Alexandrina Council does not allow or permit any burial of human remains on private land. All burials within the Alexandrina Council district must be undertaken within a cemetery.

#### *Documentation*

Applications for a right to inter human remains in a Council cemetery must be accompanied by appropriate documentation in accordance with s.12 of the Act and *Regulation 9* of the Regulations. Council cannot allow disposal of human remains without sighting and recording the details of:

- a certificate of identification for the body, and
- a partial certificate of cause of death, or
- a disposal authorisation, or

- an authorisation to dispose of human remains granted by the Minister or the Registrar under s.12 of the Act.

All interments in Council owned/operated cemeteries are to be approved by Council using the appropriate application form. Interments are to be undertaken by the funeral company specified on the Burial Authority. Preparation of the interment site is to be undertaken by Council or a contractor authorised by the Council.

#### *Register/Records & Plans*

Under s.53 of the Act, the Council, as the relevant authority, must maintain and make available to the public, documentation for each cemetery.

Copies of the registers and plans of the cemetery are available for inspection by members of the public during normal Council office hours.

#### *Access to an interment site*

A holder of an interment right (including those who have existing Interment Rights) is required to comply with the Act and the approval given by Council, prior to:

- interment of human remains in a cemetery
- reopening an interment site containing bodily remains
- 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 the Council. Confirmation of a burial site must be verified by Council's Administration prior to any excavation or other work on the site.

### **Memorials within Cemeteries**

#### *Headstones or Plaques*

All headstones, monuments, structures and plaques, require Council approval prior to erection within a cemetery. The maximum headstone height permitted will be no greater than 1m high. Applications for headstones exceeding this height will be assessed on a case by case basis and the decision will be at the discretion of the Cemetery Curator. Only Council approved contractors may manufacture headstones within the cemeteries. Unapproved headstones, monuments, structures and plaques may be removed by the Council.

Memorials erected on lawn cemetery allotments shall consist of a headstone only, and not exceed a height of 0.84 metres and a depth of 0.3 metres. Headstones may have a maximum width of 1.2 metres.

#### *Installation of headstones or plaques*

Only Council staff or a contractor approved by Council shall install a headstone or plaque.

#### *Removal of Top Stones*

Council will not remove top stones erected as part of a memorial for the interment of additional bodies or cremated remains. Removal arrangements must be made through a nominated stone mason, as approved by the Funeral Director carrying out the burial. Removal costs of top stones will be the responsibility of the Funeral Director.

### *Ornaments*

Flowers and wreaths may be placed on sites, but the placement of ornaments, trinkets or tributes on or adjacent to a site is not permitted. The Council has the right to remove any unattached ornament, trinket or tribute, broken masonry, decayed or broken wreath or dead flowers, cut down or remove any plant on any site within the cemetery grounds that is, in the opinion of Council's Cemetery Curator or authorised Council employee, unsightly, offensive or overgrown.

Where a removed item may, in the opinion of the Council, be of some value to the Interment Right Holder, it will be recorded within the cemetery register and placed in storage for a period of three (3) months from the date of removal. Council will (so far as the Interment Right Holder can be located by reasonable endeavours) notify the Interment Right Holder of the items removed from the cemetery. If contact is unable to be made between Council and the Interment Right Holder, after the period of three (3) months from the date of removal, items will be disposed of at Council's discretion.

### *Alcohol Containers*

Alcohol beverages and/or containers (full or empty) are not permitted to be placed on sites within the cemetery grounds.

### *Plantings*

No plantings on memorials or within the cemetery shall take place, without the prior consent of Council.

### *Lighting*

Solar powered lights or spikes on individual sites are prohibited.

### *Ownership and maintenance of memorials*

The ownership of plaques, monuments and other approved structures remains with the interment right holder. In accordance with s.41 of the Act, the Council may issue a notice on the owner of a memorial requiring repairs, removal or reinstatement of the memorial. While Council is not responsible for the upkeep, repair or maintenance of memorials, Council may upgrade, renew or maintain historical or locally significant memorials under advice from either the Cemetery Advisory Committee or the Heritage Advisory Committee. Council may remove any structure deemed to be unsightly and in poor condition, consistent with s.41 of the Act, at the owner's cost.

### *Power to dispose of unclaimed memorials*

Council may, after giving notice in accordance with s.42 of the Act, remove and dispose of unclaimed memorials.

## **Community Memorial Sites**

The Alexandrina Council manages over 250 parks, reserves and other areas of public open space. These areas often hold a special significance for those that live near them, use or have involvement in their management or maintenance.

This results in Council receiving many requests for the placement of commemorative plaques, seats and memorials in public open space. Council will consider the balance between the desire to commemorate events or individuals and the ongoing enjoyment of natural, uncluttered open areas before any decision is made. Any existing plaque, seat or memorial cannot be taken as a precedent for future approvals.

Alexandrina Council provides the following memorial options:

- *Community Memorial Bricks*

These are engraved with a message in memory of a loved one, and are available to all members of the public at the following designated scenic locations:

- Goolwa – Richard Ballard Reserve, Liverpool Road
- Middleton – The Esplanade, Corner Padman Crescent & The Esplanade
- Port Elliot – Green Bay, access via The Esplanade or the pathway over Green Bay
- Strathalbyn – Soldiers Memorial Gardens, Corner Albyn Terrace & Sunter Street

Council will not be held responsible for:

- damaged or vandalism that occurs to memorial bricks
- maintenance of the bricks
- replacement of worn or ageing bricks

Replacement of memorial bricks may be made upon application to the Council.

As each Memorial Brick site reaches full occupancy, the site will remain in place for a period of 10 years from the date the last brick was laid. After this time, Council retains the right to remove the site in full to utilise the area for other purposes.

No new sites will be established once these Memorial Brick sites are full. Community memorial options will then only be available within Council's Cemeteries.

#### *Memorial Seats*

Alexandrina Council does not generally support memorial seats within the district, unless the individual has made a significant contribution to the local area. Applications for the installation of a memorial seat may be submitted to the Council in writing, detailing:

- the name of the person(s) to be commemorated
- the proposed inscription / text to be used on the plaque
- the preferred location of the seat
- a summary of the reasons for commemorating the individual (eg outlining their service to the community, achievements) and the contribution they have made to the Alexandrina Council district.

The request will be subject to approval by Council at the next available Council meeting. Successful applicants will be responsible for all costs incurred, including the purchase of the seat, plaque and all ongoing maintenance.

The plaque will be sourced through Council's plaque supplier and be made of bronze. Council reserves the right to approve or amend the proposed inscription to be used and the location of the plaque, in consultation with the applicant.

Personal items are not to be placed at or fixed to the memorial seat.

All care will be taken to maintain and care for the seats, however if the seats or plaques are vandalised or damaged, Council will not take responsibility for the damage. Council may repair or remove the seat if deemed unsafe or irreparable, but any cost associated in the repair or replacement will be the responsibility of the Applicant.

Any memorial plaque and/or memorial seat deemed by the Council to be at the end of its useful life will be removed.

Any new memorial plaque placed on a memorial seat after 1 May 2016, will only be permitted for a period of 10 years. After this time Council has the right to remove the plaque and/or seat and use the seat for other purposes. Council will notify the Applicant (so far as they can be located by reasonable endeavours) of the plaque to be removed from the memorial seat and stored by the Council. If contact is unable to be made, after the period of three (3) months from the date of removal, the items will be disposed of at Council's discretion.

Council reserves the right to remove the seat and/or plaque, if the seating is situated in an area to be redeveloped or the site changes significantly in character and the item is not deemed suitable for the site.

No new memorial or plaque will be considered which commemorates a person, event or occasion that is already memorialised within the district, unless there are exceptional circumstances.

#### *Temporary Roadside Memorials*

Studies have found that roadside memorials can:

- cause distractions to road users
- cause distress to members of the public
- result in visitors stopping at memorials and potentially creating a traffic hazard, especially on points of the road network which have subsequently been identified as an area of increased risk.
- affect the quality of life of nearby residents and adjoining property owners.

While the Alexandrina Council does not endorse the installation of roadside memorials, it understands that these types of memorials are often erected on impulse. It is Council's responsibility to provide a safe and efficient road network for all road users, therefore, any temporary roadside memorial found will have a "notice for removal" placed at the site to inform the responsible person that it will be removed within 60 days from the date of the notice. If it has not been removed within the allocated 60 days, Council will remove the memorial and store for a further period of 30 days. If unclaimed, the items will be disposed of in accordance with the *Unclaimed Goods Act (SA) 1987*.

Roadside memorials placed in a location where there is risk to road safety will be immediately removed by Council. These may be located on, near, attached to, interfere with or obscure:

- traffic islands, medians or roundabouts
- roadside infrastructure or traffic control devices
- design deflection zone of barrier
- traffic signals
- intersections (including T intersections)
- curves
- urban or rural freeways (including freeway ramps)
- edge of road seals
- road signs
- the edge of shared paths.

Council offers a range of alternative memorial options within Council's cemeteries and other locations, with or without the need to inter human remains.

### **Service Fees and Charges**

Each financial year Council will review costs for services provided at cemeteries as part of the budget process. These costs are documented in the *Alexandrina Council Fees and Charges Schedule*, available on the Council's website [www.alexandrina.sa.gov.au](http://www.alexandrina.sa.gov.au).

### **Neglected Cemeteries**

If Council is of the opinion that any non-Council (eg church or private) cemetery within the Council area is in a neglected condition or fails to comply with the requirements of the Act, the Council may, by notice in writing, require the cemetery governing body to remedy the conditions of neglect or non-compliance (see s.46 of the Act).

The Authority on which the notice is issued may apply to the District Court for a review of the decision.

### **Authorised Officers**

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

### **Documentation**

To assist in demonstrating that above processes are fair, transparent, accountable, cost effective and meet community needs, all decisions made, procurement undertaken and other related correspondence in relation to the management of Council cemeteries and memorials will be documented and recorded into Council's Information Management System.

### **Availability of Policy**

This Policy and the Register of Cemeteries will be available for inspection at the Council's offices during normal business hours and on Council's website [www.alexandrina.sa.gov.au](http://www.alexandrina.sa.gov.au). Copies can also be provided to interested members of the community upon payment of a fee in accordance with *Alexandrina Council's Fees and Charges Schedule*.