

# COUNCIL POLICY

 <p><b>Adelaide Hills</b> COUNCIL</p>	<h2>CEMETERY OPERATING</h2>
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<b>Policy Number:</b>	<b>COM-06</b>
<b>Responsible Department(s):</b>	<b>Property Services</b>
<b>Other Relevant Policies:</b>	<b>Nil</b>
<b>Relevant Procedure(s):</b>	<b>Nil</b>
<b>Relevant Legislation:</b>	<i>Burial and Cremation Act 2013 &amp; Burial and Cremation Regulations 2014</i> <i>Births Death and Marriages Registration Regulations 2013</i> <i>Work Health and Safety Act 2012 &amp; Work Health and Safety Regulations 2012</i> <i>Local Government Act 1999</i>
<b>Policies and Procedures Superseded by this policy on its Adoption:</b>	<b>Nil</b>
<b>Adoption Authority:</b>	<b>Strategic Planning and Development Policy Committee</b>
<b>Date of Adoption:</b>	<b>9 May 2017</b>
<b>Effective From:</b>	<b>23 May 2017</b>
<b>Minute Reference for Adoption:</b>	<b>Item 12.3, SP14/17</b>
<b>Next Review:</b>	<b>May 2020 or as required by earlier by legislation or changed circumstances</b>

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## CEMETERY OPERATING POLICY

### 1. INTRODUCTION

The Operating Policy is not one single policy but a combination of policies which guide management and staff in the day-to-day operation of the cemeteries under the ownership or care, control and management of the Adelaide Hills Council (the Authority). It is a reference point for members of the public seeking guidance on the decision-making process of the Authority.

### 2. OBJECTIVES

Adelaide Hills Council aims to efficiently and effectively manage and maintain them with dignity and respect to meet the needs of its community.

To ensure that the interment of bodily remains occurs in accordance with *The Burial and Cremation Regulations 2014*, *The Burial and Cremation Act 2013*, *The Births Death and Marriages Registration Regulations 2013*, *Work Health and Safety Act 2012*, *Work Health and Safety Regulations 2012*, and *Local Government Act 1999*.

### 3. DEFINITIONS

**“Act”** means the *Burial and Cremation Act 2013*.

**“Authorised”** means a written authority has been issued by the Council.

**“Authority”** means the Adelaide Hills Council.

**“Cemetery”** means any and all cemeteries under the control of the Authority.

**“Chief Executive Officer”** means the Chief Executive Officer of the Adelaide Hills Council.

**“Extended Term”** means each extended duration of the Initial Term of a Burial Right.

**“Grantee”** means a person who is or persons who are the holder of a Right or any other person entitled to exercise the rights of the Grantee under a Right in accordance with the terms of a Right.

**“Human Remains”** means the body or part of the body of a deceased person and includes cremated remains.

**“Initial Term”** means the initial duration of a Right.

**“Interment”** of Human Remains includes:

- burial in the earth, a vault or mausoleum
- placement of cremated remains in a columbarium or other structure designed as a repository for human remains
- burial in the earth of cremated remains (with or without a container)

but does not include the scattering of cremated remains.

**“Interment Right”** means a Right for the Interment of Human Remains.

**“Legitimate Business”** means attendance in a cemetery to undertake an activity relating to the interment of Human Remains, installation of a memorial or plaque, or visiting the grave or memorial site in order to pay respects to a deceased person.

**“Memorial”** means:

- An approved gravestone or other monument; or
- A plaque; or
- Any other approved structure or physical object used to memorialise a deceased person.

**“Memorial Right”** means a right for the memorialisation without human remains.

**“Monument”** means a monument, tombstone, tablet, gravestone, kerbing, railing or other erection to be constructed in a Cemetery, used for the commemorative purposes for burial sites.

**“Regulations”** means the *Burial and Cremation Regulations 2014*.

**“Right”** means a Burial Right or a Memorial Right.

**“Term”** includes the Initial Term and any Extended Terms.

## **4. GENERAL OPERATING POLICIES**

### **4.1 Compliance with Operating Policies**

4.1.1 A person, including Right holders must comply with the Act, the Regulations and these operating policies where they:

- 4.1.1.1 wish to inter Human Remains in Cemetery
- 4.1.1.2 wish to re-open an interment site containing Human Remains
- 4.1.1.3 wish to remove Human Remains from a Cemetery, or
- 4.1.1.4 wish to install a Memorial at an interment site
- 4.1.1.5 Every interment site within a Cemetery must be excavated:
  - 4.1.1.5.1 by an employee of the Authority, or
  - 4.1.1.5.2 a contractor engaged by the Authority to do so on its behalf, or
  - 4.1.1.5.3 a contractor engaged by a funeral director and approved by the Authority.

### **4.2 Opening Hours**

4.2.1 Cemeteries are open to from 7:00am to sunset, or as the Authority may determine.

4.2.2 No person, except a person authorised by the Authority, may be in a Cemetery at any other time.

### **4.3 Office Hours of Authority**

4.3.1 The office of the Authority is open weekdays except public holidays from 8:30am to 5:00pm.

#### **4.4 Fees**

- 4.4.1 The Authority will publish a scale of fees for granting Rights and all other services and may change the scale of fees as it may determine.
- 4.4.2 The scale of fees will be reviewed, at a minimum, on an annual basis. An up-to-date copy of the scale of fees will be made available to any person on request and be available for download from the Authority website.

#### **4.5 Records of Cemeteries**

- 4.5.1 The Authority will maintain records of each Cemetery in the office of the Authority that shows:
  - 4.5.1.1 each site at which human remains are interred, and
  - 4.5.1.2 each site set aside for the interment of human remains, and
  - 4.5.1.3 the number allocated to, or a description of, each site.

#### **4.6 Landscaping**

- 4.6.1 No person, except a person authorised by the Authority, may landscape or change the landscaping of any portion of a Cemetery.
- 4.6.2 Any unauthorised landscaping may be removed by the Authority without notice.
- 4.6.3 The Authority is not responsible for any damage or loss caused by unauthorised activity in a Cemetery.
- 4.6.4 All plants and trees in a Cemetery remain the property of the Authority.
- 4.6.5 If the surface of any interment site in the cemetery sinks below the level of the natural surface of the ground, the Authority may cause the site to be filled up to the natural surface level.
- 4.6.6 The Authority may plant and maintain lawn on interment sites.
- 4.6.7 The Authority may alter or transfer any landscaping, memorial or memorial garden bed as it may determine in consultation with any affect Right holders.

#### **4.7 Traffic Regulations**

- 4.7.1 A person must, while in charge of a motor vehicle within a Cemetery, comply with any lawful directions of the Authority as to the driving and parking of the vehicle.
- 4.7.2 A speed limit of 5 km per hour applies in all Cemeteries. All other general road rules apply within a Cemetery.
- 4.7.3 A person must not drive a motor vehicle within a Cemetery in a dangerous or careless manner or without reasonable consideration for others.
- 4.7.4 A person may park a motor vehicle within a Cemetery with reasonable consideration for others and in accordance with general road rules unless it is clearly marked to the contrary.

#### **4.8 Public Right of Way**

- 4.8.1 A Cemetery is not a public right of way.
- 4.8.2 Entry to a Cemetery is restricted to employees or agents of the Authority and to people having legitimate business or as the Authority may determine.
- 4.8.3 The Authority will ensure that a Cemetery is securely fenced at all times.

#### **4.9 Control of Animals**

- 4.9.1 A person must not ride, drive or exercise animals in a Cemetery except with the prior approval of the Authority.
- 4.9.2 All dogs in a Cemetery must be kept under control and on a leash. All dog faeces must be removed by the person in control of the dog.

#### **4.10 General Conduct in a Cemetery**

- 4.10.1 A person must not cause any nuisance or breach the peace.
- 4.10.2 A person must at all times conduct themselves in a manner that respects the rights and safety of others.
- 4.10.3 A person must not without the prior written approval of the Authority:
  - 4.10.3.1 sell or buy anything
  - 4.10.3.2 erect a temporary shelter or canopy
  - 4.10.3.3 carry on a business or advertise the same (with the exception of acknowledgement of the Mason on a Memorial)
  - 4.10.3.4 distribute or display any advertisement
  - 4.10.3.5 organise or take part in a meeting
  - 4.10.3.6 disturb a funeral service
  - 4.10.3.7 discharge a firearm (except at a military funeral)
  - 4.10.3.8 cut, break, deface or write or fix a bill on any fixture or landscaping in the cemetery, or
  - 4.10.3.9 take, injure or interfere with trees, shrubs, flowers, vases, labels, fish, birds, animals or other property.

#### **4.11 Tributes**

- 4.11.1 Tributes may be placed only in unbreakable containers or as the Authority may determine. Glass, porcelain, terracotta and ceramic objects which are easily broken are not permitted as they may impact on the safety of visitors and staff.
- 4.11.2 The Authority may remove and dispose of any tribute when it is deemed unsightly, offensive, and breakable or that is a risk to public safety.
- 4.11.3 Unauthorised planting of vegetation on a burial or memorial site is prohibited and will be removed upon detection.
- 4.11.4 All tributes must be kept within the confines of the burial or memorial location on which they are placed and must not be fixed to surrounding trees, plants or shrubs. Any tribute

that is not kept within the confines of the burial or memorial location may be removed at the absolute discretion of the Authority.

- 4.11.5 All naked flames, such as candles and incense, are strictly prohibited in Cemeteries due to the risk of fire.
- 4.11.6 Over time, tributes will wither, weather and deteriorate, affecting their presentation. Families and visitors are encouraged to remove these items before they become unsightly.

## **5. INTERMENT RIGHTS**

### **5.1 Authority to Grant Interment Rights**

- 5.1.1 The Authority may grant an Interment Right in relation to one or more sites in a Cemetery where:
  - 5.1.1.1 A “Plain English Statement” form recording the burial and memorial sites interment rights and responsibilities is signed by the proposed Interment Right holder
  - 5.1.1.2 An application, in the form contained at Annexure A or in a form that the Authority may determine having regard to the Regulations is received and approved, and
  - 5.1.1.3 the applicant pays the appropriate fee.
- 5.1.2 The Authority may at its complete discretion refuse an application for an Interment Right or renewal or limit the number of Interment Rights granted to any one person.
- 5.1.3 An Interment Right Holder has for the term of the Interment Right:
  - 5.1.3.1 an exclusive right to bury or inter human remains in the site allocated to the maximum number permitted by the Authority
  - 5.1.3.2 the sole right to request and advise the Council as to who may be interred at a site and regarding the placement of Memorials
  - 5.1.3.3 an exclusive use of foundations provided by the Authority (if any) to erect an approved monument
  - 5.1.3.4 the obligation to notify the Authority of any change of mailing address, and
  - 5.1.3.5 use of the ground allocated for the purposes set out in this clause and not for any other purpose.
- 5.1.4 The minimum initial term of an Interment Right is determined by the Authority from time to time and is the period specified on the Interment Right as one of the following:
  - 5.1.4.1 in perpetuity (for burial plots and rose gardens only), or
  - 5.1.4.2 100 Years, or
  - 5.1.4.3 50 Years, or
  - 5.1.4.4 in accordance with a resolution of the Authority an individually agreed period for a specific site.

- 5.1.5 The term of an Interment Right commences from the date of issue.
- 5.1.6 Unless otherwise specified on the Interment Right, Interment Rights issued prior to 1 January 2000 are for an Initial Term of 99 years and Interment Rights issued on or after 1 January 2000 are for an Initial Term of 50 years.
- 5.1.7 Any notice sent to an Interment Right holder at the last address recorded on the Authority's register of Interment Rights will be considered sufficient and proper notification in relation to any matter pertaining to an Interment Right.

## **5.2 Interment Rights Issued in Perpetuity**

- 5.2.1 Interment Rights issued for the purpose of the interment of Human Remains (not including created remains) that are issued and extended for a total of 250 years will be deemed to have been issued in perpetuity.
- 5.2.2 Interment Rights issued for the purpose of the interment of cremated remains or for the memorialisation without human remains that are issued and extended for a total of 150 years will be deemed to have been issued in perpetuity.

## **5.3 Authority to renew Interment Rights**

- 5.3.1 It is the responsibility of the Interment Right holder, or in the event of their death or legal incapacity their executor or administrator or successor, to renew or extend an Interment Right.
- 5.3.2 The Authority must renew or extend an Interment Right for an additional period or periods in accordance with the Act and Regulations where:
- 5.3.2.1 an application is received to do so, and
  - 5.3.2.2 the appropriate fee is paid.
- 5.3.3 An extension of the term of an Interment Right shall be for a period no less than 5 years in any one transaction or such time as may be specified in the Regulations.
- 5.3.4 The Authority must, at least 12 months before an Interment Right is due to expire, take reasonable steps to give the Interment Right Holder written notice which informs the Interment Right holder:
- 5.3.4.1 of the Interment Right holder's entitlement to renew or extend the Interment Right and the cost of renewing or extending the Interment Right
  - 5.3.4.2 that if the Interment Right is not renewed or extended and there is a Memorial to the deceased, the Memorial may be reclaimed from the Authority
  - 5.3.4.3 That if the Interment Right is not renewed the Authority is entitled to re-use the Interment Site.
- 5.3.5 However the Authority may renew a lapsed Interment Right from the date of expiry of the relevant term for a further term(s) provided:
- 5.3.5.1 The application is received in writing by the Authority within two (2) years of the Interment Right lapsing, and
  - 5.3.5.2 The appropriate fee is paid by any interested person.

- 5.3.6 If no application is received within the time frame set out in the Act and Regulations to renew or extend the Interment Right, then the Interment Right will expire according to its terms.
- 5.3.7 Where an Interment Right has lapsed but is subsequently renewed in accordance with the Act, Regulations and this policy, the Interment Right will be deemed to have been extended under the same Interment Right with any previous terms of that Interment Right, as if the Interment Right has not lapsed.

#### **5.4 Expired Interment Rights**

- 5.4.1 Prior to any re-use of an Interment Site the Authority will:
- 5.4.1.1 give notice of its intention to re-use the Interment Site by public advertisement in a newspaper circulating throughout South Australia; and
  - 5.4.1.2 take reasonable steps to give written notice of its intention to re-use the Interment Site to the Interment Right holder or any personal representative of the deceased or one or more relatives of the deceased.
- 5.4.2 If the Interment Right is not renewed or the Interment Right holder, personal representative or a relative of the deceased has informed the Authority that there is no objection on the part of relatives to the re-use of the Interment Site then, in accordance with the Act, Regulations and this policy, the Interment Right is deemed to have expired and the Authority is entitled to re-use the site in accordance with the Act, Regulations and this policy.
- 5.4.3 The Authority will not make a site available for re-use until at least two (2) years have passed since the lapsing of an Interment Right pursuant to the Act, Regulations and this policy.
- 5.4.4 Where an Interment Site is available for re-use the Authority may grant a new Interment Right for the site to any person upon such terms and conditions as the Authority may determine consistent with the Act and the Regulations and this policy and the former Interment Right Holder acknowledges that upon such event the Authority may do whatever is necessary to prepare the site for the new Interment Right Holder.

#### **5.5 Disposition of Cremated Remains**

- 5.5.1 If an Interment Right Holder advises the Authority that an extension or renewal of an Interment Right for a site designated for cremated remains only will not be sought, the Interment Right Holder may instruct the Authority on a preferred method of final disposition of the cremated remains by:
- 5.5.1.1 interment in an unmarked location, or
  - 5.5.1.2 collection for private dispersal.
- 5.5.2 Where no instructions are given by the Interment Right Holder upon termination of an interment right for a site containing cremated remains as to the final disposal of the cremated remains, then such remains will be dealt with in accordance with the Act, Regulations and the Authority's policies and procedures.

## **5.6 Surrender of Interment Right**

- 5.6.1 An Interment Right holder, and only the Interment Right holder, has the right to surrender the Interment Right to the Authority in accordance with the Act and Regulations. On surrender the rights granted under the Interment Right are discharged.
- 5.6.2 Partial refunds are available in accordance with the Act and Regulations for unused sites.
- 5.6.3 Unused sites that are surrendered may be dealt with by the Authority in its absolute discretion.
- 5.6.4 Any Memorial may be reclaimed by the Interment Right holder upon surrender of the Interment Right, or if unclaimed will be disposed of by the Authority in accordance with the Act and the Regulations.

## **5.7 Transfer of Interment Rights**

- 5.7.1 The Authority may permit a transfer of an Interment Right in the form contained in Annexure B or in a form that the Authority may determine having regard to the Act and Regulations.
- 5.7.2 An application to transfer an Interment Right must be executed by or on behalf of the Interment Right holder and the transferee and be accompanied by the relevant fee and evidence to the Authority that it may require to show that the Interment Right holder can effect the transfer.
- 5.7.3 The Authority may decline to register a transfer without giving reasons.
- 5.7.4 Where the Authority approves a transfer, the name of the transferee must be entered into the register of Interment Rights as the owner of the Interment Right.
- 5.7.5 The transfer will not take effect until it is recorded by the Authority in its register of Interment Rights. A transferor remains the holder of the Interment Right until the transfer is registered and the name of the transferee is entered in the Register of Interment Rights.

## **5.8 Register of Interment Rights**

- 5.8.1 The Authority must keep a register of Interment Rights in accordance with the Act and Regulations that contains the following information:
  - 5.8.1.1 the number of the Interment Right
  - 5.8.1.2 the locality and number of the interment site over which the Interment Right is issued
  - 5.8.1.3 whether the Interment Right is for the interment of human remains (bodily or cremated remains) or memorialisation without human remains
  - 5.8.1.4 the full name, address and date of birth of the Interment Right holder
  - 5.8.1.5 the name of any person or persons identified on the Interment Right whose remains may be interred pursuant to the Interment Right
  - 5.8.1.6 the date that the Interment Right was granted or transferred to the Interment Right holder
  - 5.8.1.7 the date of each renewal and the expiry of each renewal term of the Interment Right

- 5.8.1.8 the name of each deceased interred at the site including the date of each interment and the depth at which the interment took place, and
- 5.8.1.9 the date of erection, subsequent inscriptions and description of any Memorial that has been erected at the interment site in accordance with the Act and the Regulations and these operating policies.

## **5.9 Instructions from Interment Right Holders**

- 5.9.1 The Authority may choose not to comply with a request or direction by an Interment Right holder where an Interment Right issued for multiple interments is not presented for a second or subsequent interment.

## **5.10 Interment Rights issued in two (2) or more names**

- 5.10.1 Where an Interment Right is currently registered in the names of two (2) or more persons, it will be delivered to the person first named in the register of Interment Rights.
- 5.10.2 All Interment Right holders have the responsibility to keep the Authority informed of their current contact details. Failure to do so will result in the Authority, after reasonable notice, accepting instructions from the other Interment Right holder (if any) without their input.
- 5.10.3 Notice will be deemed given if the Interment Right holder is sent a letter, facsimile or email to the person's last known contact details. Failure by the Interment Right holder to respond within 90 days will constitute abandonment of his or her right to give instructions and the Authority may act in accordance with the instructions of the other Interment Right Holders (if any) who are contactable.
- 5.10.4 With effective date of the signing of this Operating Policy all new Interment Rights will be issued to one person only.

## **5.11 Claimants to Interment Rights**

- 5.11.1 As the devolution of Interment Rights is governed by legislation, the Authority will not recognise or register an expressed, implied or constructive notice of authority.
- 5.11.2 Where there is one or more joint Interment Right holders, and one of the Interment Right holders dies, the Authority will recognise the surviving Interment Right holder or holders as the only person or persons having title to an Interment Right.
- 5.11.3 The Authority will recognise the claim of an executor or administrator of a deceased Interment Right holder as having title to an Interment Right registered in the name of a deceased person.
- 5.11.4 Where a sole Interment Right holder remains in respect of an Interment Right, the rights granted to the Interment Right holder may be exercised upon the death or legal incapacity of the Interment Right holder by any one of the following people in descending order of entitlement:
  - 5.11.4.1 in the case of the legal incapacity of the Interment Right holder, by a person acting under the authority of an enduring power of attorney granted by the Interment Right holder or by a duly appointed manager or guardian of the Interment Right holder.

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- 5.11.4.2 in the case of the death of the Interment Right holder by:
- 5.11.4.2.1 the executor of the estate of the deceased person, or
- 5.11.4.2.2 if there is more than one executor, one of the executors acting with the permission of all the other executors, or
- 5.11.4.2.3 the administrator of the estate of the deceased person, or
- 5.11.4.2.4 by the spouse or domestic partner of the Interment Right holder, or
- 5.11.4.2.5 if there is no living spouse or domestic partner — by the eldest living relative of the Interment Right holder in the following descending order of priority:
- a child
  - a grandchild or great-grandchild
  - a brother or sister
  - a parent
  - a grandparent
  - an aunt or uncle
  - a nephew or niece
  - a cousin
  - any other blood relative.
- 5.11.5 For the purposes of this clause "domestic partner" has the same meaning ascribed to it under the Family Relationships Act 1975 (SA).
- 5.11.6 The substituted right envisaged in this clause may be devolved to one person in succession in the event of the subsequent death or legal incapacity of such person.
- 5.11.7 A person claiming ownership of an Interment Right must, if necessary, prove their ownership to the Authority.

## **6. BURIALS**

### **6.1 Burial Hours**

6.1.1 Burial hours are.

6.1.1.1 between 9:00 am and 5:00 pm Monday to Friday

6.1.1.2 by arrangement with the Authority on Saturdays, Sundays and Public Holidays except Good Friday and Christmas Day, or

6.1.1.3 as the Authority may determine.

### **6.2 Authorisation of Burials**

6.2.1 No Burial will take place in a Cemetery unless:

6.2.1.1 a written application for the burial in the form contained at Annexure A, or in a form that the Authority may determine having regard to the Act and Regulations, is lodged at the offices of the Authority, and

6.2.1.2 an Interment Right or duplicate Interment Right is produced to the Authority upon request, and

6.2.1.3 the Authority receives reasonable notice of a request for the burial; and

6.2.1.4 all relevant fees are paid to the Authority, and

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- 6.2.1.5 identifying information on all of the following has been checked and found to correspond:
- the partial certificate of cause of death or disposal authorisation, as the case may be
  - the certificate of identification
  - the name plate affixed to the coffin or placed on top of the bodily remains, as the case may be.
- 6.2.2 No Bodily Remains will be interred in an interment site if the remaining term of an Interment Right is less than ten years.
- 6.2.3 Unless otherwise stipulated on the Interment Right, a maximum of three (3) burials and ten (10) cremated remains may be interred on any burial site.
- 6.3 Depths of Coffins**
- 6.3.1 Coffins must be interred at least:
- 6.3.1.1 at the minimum depth required by the Act and Regulations; or
  - 6.3.1.2 a minimum depth greater than the Act and Regulations as the Authority may determine.
- 6.3.2 The Authority may determine the maximum depth of a grave in which a body may be interred in a Cemetery.
- 6.4 Opening of interment sites, exhumation and re-interment**
- 6.4.1 At all times the Authority will comply with Part 2, Division 3 of the Act and the Regulations when dealing with the opening of interment sites, exhumation, and re-interment of Human Remains.
- 6.4.2 All excavation to re-open, exhume or re-inter must be undertaken by the Authority or by their approved representative.
- 6.4.3 An Interment Right holder can arrange with the Authority for extra space to be made in an interment site through a lift and deepen procedure in accordance with the Act and Regulations where:
- 6.4.3.1 there have been previous interments in a grave, and
  - 6.4.3.2 earlier interments were at an insufficient depth for further burials, and
  - 6.4.3.3 at least six years have elapsed since the most recent burial.
- 6.4.4 The interment site must be covered as soon as practicable on the same day as the interment.
- 6.4.5 No human remains may be removed from a burial or memorial site except in accordance With the Act and Regulations and with the prior approval of the Authority.

## **7. MEMORIALS**

### **7.1 Application for a Memorial Right or Memorial**

- 7.1.1 The Interment Right holder, or any person duly authorised in writing by the Interment Right holder, may request a Memorial Right or Memorial approval by submitting an application to the Authority.
- 7.1.2 A Memorial shall not be installed on any site unless the relevant Interment Right for the site has been paid in full.

### **7.2 Design of Memorial Requires Authority approval**

- 7.2.1 The Authority must approve the design, workmanship and proposed inscription of all Memorials before any work is carried out.
- 7.2.2 All bronze plaques for interment sites for cremated remains shall be supplied by and installed by the Authority at the Interment Right holder's cost.
- 7.2.3 The plans and specifications for a Memorial for a burial interment site must be submitted to the Authority and comply with the specifications that the Authority may specify (if any).
- 7.2.4 The Authority may refuse any design for a Memorial as it may determine.
- 7.2.5 A permit must be obtained from the Authority for all Memorials for a burial interment site and inscriptions on a Memorial before any work is carried out by submitting an application to the Authority in the form and manner required by the Authority, and payment of a permit fee paid in the amount set by the Authority from time to time.
- 7.2.6 The Authority may permit ornamental fixtures and fittings provided they are of non-ferrous durable material. The Authority accepts no responsibility for any ornamental fixtures or fittings.
- 7.2.7 Unless otherwise approved by the Authority, the name affixed on the Memorial must accord with the name shown on valid proof of the deceased's identity produced to the satisfaction of the Authority.

### **7.3 Monumental Masons, Stonemason or Approved Person**

- 7.3.1 All Memorials for a burial interment site must be constructed, altered and installed by a Monumental Mason, Stonemason or other person who is authorised by the Authority to undertake such work ("Mason").
- 7.3.2 All Memorials for a burial position must be constructed and installed by a Mason in accordance with applicable Australian Standards.
- 7.3.3 A Mason must provide proof annually that they have current public liability insurance.
- 7.3.4 Masons must repair all damage done within a Cemetery to the satisfaction of the Authority.
- 7.3.5 Masons working within a Cemetery must comply with all Workplace Health and Safety Requirements.

## **7.4 Duty to Maintain Memorials**

- 7.4.1 In accordance with Part 3, Division 4 of the Act a Memorial is the personal property of the person who holds the Interment Right in respect to the interment site where the memorial is situated and that person is responsible for the maintenance of the memorial at the site.
- 7.4.2 No monument, plaque or memorial shall be removed by any person without the consent in writing of the Authority.
- 7.4.3 Any restoration work on a memorial must be done by a Mason to the relevant Australian Standards.
- 7.4.4 Any Memorial deemed unsightly or unsafe, must be repaired or replaced by the Interment Right holder within 8 weeks of notification by the Authority.
- 7.4.4.1 All notified Memorials not claimed for repair or replacement by the Interment Right holder within 3 months of notification may be removed by the Authority.
- 7.4.4.2 A removed Memorial will be held for a period of six (6) months after notification prior to disposal.
- 7.4.5 The Authority does not accept any responsibility for damage to Memorials through acts of vandalism, ageing or deterioration. Repair of damaged Memorials is the responsibility of the Interment Right holder.

## **7.5 Temporary Burial Interment Site Markers**

- 7.5.1 Temporary burial interment site markers, including wooden crosses, may only be used for a maximum period of six (6) months following which they must be removed and replaced with a Memorial in terms of these policies or the burial site left unmarked.
- 7.5.2 Temporary burial interment site markers, including wooden crosses, removed by the Authority after twelve months have elapsed will be destroyed.

## **7.6 Removal of Memorials**

- 7.6.1 Subject to the Act and Regulations, if an Interment Right expires, the Authority may remove any Memorial to a deceased person erected on or at the site under which the interment right was issued and dispose of it as it sees fit.
- 7.6.2 In accordance with the Act, Regulations and this policy an Interment Right holder may reclaim a Memorial at any time before disposal. The removal of a Memorial installed by a Mason must be undertaken by a Mason with the relevant approval and at the expense of the Interment Right Holder.
- 7.6.3 The Authority must consent in writing to the removal of a Memorial before any work is done.
- 7.6.4 The Authority may remove or alter any Memorial or erase any inscription that breaches these operating policies and recover, as a debt, the expense of removal or alterations of a Memorial from the Interment Right holder.

7.6.5 Where an Interment Right holder fails to remove a Memorial within two years of an Interment Right lapsing and the procedure outlined in the Act and Regulations has been followed, the Memorial becomes the property of the Authority and may be removed and disposed of in accordance with the Act and Regulations.

7.6.6 An Interment Right holder may reclaim a Memorial at any time before disposal.

## **7.7 Memorial Register**

7.7.1 The Authority will keep a register of each Memorial erected in a Cemetery that contains the following information:

7.7.1.1 the size of the Memorial.

7.7.1.2 the type of Memorial

7.7.1.3 the name or names inscribed on the Memorial

7.7.1.4 any epitaphs and other inscriptions on the Memorial, and

7.7.1.5 the location of the Memorial in a Cemetery.

## **8. Privacy**

The Authority will abide by the freedom of information legislation and the spirit of privacy legislation in addition to the requirements of the Burial and Cremation Act and Regulations to protect the details of all living persons.

### **8.1 Registers**

8.1.1 The registers kept by the Authority under the Act must be made available for inspection by members of the public during ordinary office hours and on payment of any fee fixed by the Authority, however the following information is specifically excluded by the Regulations from being made available in the registers:

7.7.1.6 the full name and address of the holder of an Interment Right; and

7.7.1.7 the address of the last place of residence of the deceased person before his or her death.

## **9. DELEGATION**

The Chief Executive Officer has the delegation to approve, amend and review any procedures that shall be consistent with this Policy.

## **10. AVAILABILITY OF THE POLICY**

This Policy will be available for inspection at the Council's Offices during ordinary business hours and via the Council's website [www.ahc.sa.gov.au](http://www.ahc.sa.gov.au). Copies will also be provided to the public upon request, and upon payment of a fee in accordance with the Council's Schedule of Fees and Charges.

## **11. APPENDICES**

Appendix 1: Interment Application and Authority

Appendix 2: Application for Transfer of Interment Right

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# **Appendix 1**

*Interment Application and Authority*

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# Interment Application and Authority



This form must be completed by the interment right holder *or* a person authorised to exercise the interment right in accordance with Section 35 of the Burial and Cremation Act 2013 (see overleaf). No preparatory activities will occur until all details required on this form have been received.

## DECEASED DETAILS - please enter all details and indicate as applicable (tick)

Title:  Dr  Mr  Ms  Mrs  Miss Gender:  M  F  
First Name/s: \_\_\_\_\_ Last Name: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ Date of Death: \_\_\_\_\_ Age: \_\_\_\_\_  
Last Known Address: \_\_\_\_\_  
Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_

## INTERMENT LOCATION - please select ONE ONLY

- A Adelaide Hills Council to allocate new location (new interment right required) in Cemetery:**  
(Plain English Statement completed and provided by Funeral Director)
- B Family to select new location (new interment right required)**  
Family to contact Adelaide Hills Council to arrange
- C Existing location at \_\_\_\_\_ Cemetery**  
(existing interment right – minimum 10 years required)
- Name of right holder/s: \_\_\_\_\_ Right Number: \_\_\_\_\_  
Location Details: \_\_\_\_\_ Expiry Date: \_\_\_\_\_  
Current address: \_\_\_\_\_  
Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Existing interments at Site  Yes  No Transfer of right required  Yes  No  
Extension of right required  Yes  No Number of years right to be extended \_\_\_\_\_

## INSTRUCTION FOR INTERMENT - please enter ALL details and indicate as applicable (tick)

Interment Depth  1  2  3 Lift and Deepen Required  Yes  No  
Coffin Size (in millimetres) Length \_\_\_\_\_ Width \_\_\_\_\_ Coffin Type  Coffin  Casket  
Number of Previous Interments and Depths \_\_\_\_\_

Name of Funeral Company: \_\_\_\_\_  
Arranger Name (please print) \_\_\_\_\_ Arranger Signature: \_\_\_\_\_

## AUTHORISED PERSON DETAILS - please enter ALL details and indicate as applicable (tick)

Title:  Dr  Mr  Ms  Mrs  Miss Gender:  M  F Date of Birth: \_\_\_\_\_  
First Name/s: \_\_\_\_\_ Last Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Suburb: \_\_\_\_\_ State: \_\_\_\_\_ Postcode: \_\_\_\_\_  
Tel (W): ( ) \_\_\_\_\_ Tel (H): ( ) \_\_\_\_\_ Mobile: \_\_\_\_\_  
Relationship to Deceased: \_\_\_\_\_ Email: \_\_\_\_\_

I acknowledge that I have read and understand my rights and responsibilities and declare that I am the interment right holder or a person authorised to exercise the interment right in accordance with the conditions listed overleaf.

Authorised Person's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# Your rights and responsibilities:

## **New interment right**

- If a new interment right is being requested in order to facilitate this burial, the Authorised Person will become the interment right holder and must be supplied with a Plain English Statement by the Funeral Director.
- In signing this Burial Authority, the Authorised Person acknowledges receipt of a Plain English Statement by the Funeral Director if a new interment right is required.
- An interment rights will only be granted to one interment right holder (ie, no interment right will be issued to more than one person)

## **Authority to exercise the interment right**

- Only the interment right holder may exercise an interment right, provided that if the interment right holder is deceased the interment right may be exercised by the personal representative of the deceased interment right holder (by definition the Executor or Administrator of the Deceased Estate) in accordance with section 35 of the Burial and Cremation Act 2013.
- If there is no personal representative the interment right may be exercised in accordance with regulation 32 of the Burial and Cremation Regulations 2014 as follows:
  - by the spouse of domestic partner of the deceased interment right holder; or
  - if there is no surviving spouse or domestic partner – by the eldest living relative of the deceased interment right holder in the following descending order of priority:
    - a child;
    - a grandchild or great-grandchild;
    - a brother or sister;
    - a parent;
    - a grandparent;
    - an aunt or uncle;
    - a nephew or niece;
    - a cousin;
    - any other blood relative.

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## **Appendix 2**

*Application for Transfer of Interment Right*

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# Transfer of Interment Right Declaration



Cemetery / Site Location \_\_\_\_\_

Type of Interment Site & No: \_\_\_\_\_

Current Interment Right Holder Name: \_\_\_\_\_

Please select and complete all details for either A (current interment right holder/s) or B (authorised Person) below and sign in front of a JP on page 2.

**A. I, the current registered interment right holder, do solemnly and sincerely declare that:**

I, (full name) \_\_\_\_\_ (date of birth) \_\_\_\_\_  
of (address) \_\_\_\_\_  
(telephone) \_\_\_\_\_ (mobile) \_\_\_\_\_ (email) \_\_\_\_\_

(And) I, (full name) \_\_\_\_\_ (date of birth) \_\_\_\_\_  
of (address) \_\_\_\_\_  
(telephone) \_\_\_\_\_ (mobile) \_\_\_\_\_ (email) \_\_\_\_\_

**do hereby authorise the transfer of my rights, title and interest in this interment right.**

OR

**B. I, the authorised person, do solemnly and sincerely declare that:**

I, (full name) \_\_\_\_\_ (date of birth) \_\_\_\_\_  
of (address) \_\_\_\_\_  
(telephone) \_\_\_\_\_ (mobile) \_\_\_\_\_ (email) \_\_\_\_\_

Being a person having the right to exercise a Power of Attorney for the interment right holder.  
(Please attach a copy of the Power of Attorney)

Being a person entitled to exercise the rights granted to the interment right holder upon the interment right holder's death, and being the **highest ranking person** in the following **descending order** of entitlement (**select one only**) in relation to the deceased interment right holder:

<input type="checkbox"/> 1. <i>Executor/s or Administrator of estate</i>	<input type="checkbox"/> 7. <i>The eldest living grandparent</i>
<input type="checkbox"/> 2. <i>The spouse or domestic partner</i>	<input type="checkbox"/> 8. <i>The eldest living aunt or uncle</i>
<input type="checkbox"/> 3. <i>The eldest living child</i>	<input type="checkbox"/> 9. <i>The eldest living nephew or niece</i>
<input type="checkbox"/> 4. <i>The eldest living grandchild or great-grandchild</i>	<input type="checkbox"/> 10. <i>The eldest living cousin</i>
<input type="checkbox"/> 5. <i>The eldest living brother or sister</i>	<input type="checkbox"/> 11. <i>The eldest living blood relative</i>
<input type="checkbox"/> 6. <i>The eldest living parent</i>	

and having providing proof of my identity (The Authority has the right to determine the criteria to determine the relationship and entitlement of any person claiming a substituted right as above)

**do hereby request the interment right be transferred to the new interment right holder as detailed on Page 2.**

I, the **CURRENT INTERMENT RIGHT HOLDER/S** or **AUTHORISED PERSON**, understand that the said interment right (*Interment Right Number:* ) is unencumbered and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act, 1936.

Signed: \_\_\_\_\_ (interment right holder or authorised person)

Signed: \_\_\_\_\_ (interment right holder 2)

**This section must be signed in front of a Justice of the Peace or Commissioner of Affidavits.**

Declared and subscribed at

this \_\_\_\_\_ day of \_\_\_\_\_ year \_\_\_\_\_

Before me \_\_\_\_\_ (Full Name)

A Justice of the Peace or Commissioner for Affidavits \_\_\_\_\_ (Signed JP/Commissioner)

**NEW INTERMENT RIGHT HOLDER (1 ONLY – PLEASE INSERT FULL DETAILS)**



Title \_\_\_\_\_ Full Name \_\_\_\_\_

of \_\_\_\_\_

Postcode \_\_\_\_\_ Date of Birth \_\_\_\_\_

Phone \_\_\_\_\_ Mobile \_\_\_\_\_ Email \_\_\_\_\_

hereby accept the transfer of the above interment right to my name.

**NEW INTERMENT RIGHT HOLDER to sign – not in front of JP**

 I \_\_\_\_\_ (Full Name of new interment right holder)

Signed \_\_\_\_\_ Date \_\_\_\_\_

**Please return the fully completed Original form (no copies) to:  
Adelaide Hills Council, PO Box 44, Woodside SA 5244 Ph 8408 0400.  
Plus copies of Birth Certificates showing relative relationships.**