

POLICY	ESTABLISHMENT OF A PRIVATE PROPERTY BURIAL SITE POLICY
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1.0 INTRODUCTION

1.1 Council recognises that there are circumstances where a person wishes to be buried on private property. A person who has an extensive affiliation with a property may request to have their remains buried on the land.

2.0 PURPOSE

2.1 To provide consistent guidelines and equality for all community members wishing to have their remains buried on private property.

3.0 SCOPE

3.1 This policy applies to any person wishing to apply for their remains to be buried on private property.

4.0 POLICY STATEMENT

4.1 Council Responsibilities

4.1.1 The Engineering Services Department is responsible for the successful implementation of this Policy.

4.1.2 The Engineering Support Manager and the Cemetery Support Officer are responsible for making this policy readily available to community members on request and for ensuring that this policy is adhered to in a consistent manner.

4.2 Conditions of Consent

Council will consider issuing a permit for the burial of a person on private property when the following items have been met:

4.2.1 An inspection of the proposed burial site is to be carried out by relevant Council Staff prior to the burial taking place.

4.2.2 The person being buried on the property must have a linear connection with the land where the remains are being buried and the linear connection would need to be continuous.

4.2.3 The approval is consistent with the provisions of Section 149 of the Environmental Planning and Assessment Act 1979 as listed in the Establishment of a Private Property Burial Site Procedures.

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4.2.4 The burial and handling of bodies is to be undertaken in line with the Public Health (Disposal of Bodies) Regulations 2002.

4.3 Ownership

4.3.1 The ownership of a private property cemetery is deemed to be the owner of the property on which the cemetery is located.

4.3.2 The owner is responsible for the upkeep, maintenance and repair of the private cemetery and any plaque and/or ornament placed in the said cemetery.

4.4 Access Rights

4.4.1 The owner shall be required to arrange for a Plan of Easement for the Burial Site including Restrictions on the Use of the Land to be registered with the New South Wales Land and Property Information Office. The terms of Easement and Restrictions on the Use of Land must include the following:-

1. Terms of Easement

Full and free right in perpetuity for the:-

- (a) immediate relatives of any person or persons interred in the land ("site") (all of which persons are hereinafter referred to as "the permitted persons") to access the site;
- (b) remains of any person buried within the site and such person or Persons as may be interred therein by the permitted persons to remain interred in the site;
- (c) permitted persons and every person authorised by any one or more of them to have ingress, egress and regress over the site with or without vehicles or machinery to dig up and refill the site and to carry out any work of maintenance, repair or restoration thereon and on any structure which may be erected thereon from time to time making good any collateral damage that may be caused.

2. Terms of Restrictions

- (a) The registered proprietor for the time being of the land here in indicated as the burdened lot and their heirs, executors and assigns shall not:-
 - (i) erect or permit to be erected any structure (other than headstones, slabs or monumental works) within the private burial site;

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- (ii) utilise the private burial site for any grazing or agricultural purposes;
 - (iii) permit the private burial site to be established unless a fence at least 900mm in height has been erected on the external boundaries;
 - (iv) permit the interment of a deceased person unless each and every grave is marked with a permanent headstone, slab or monumental work. Upon the monumental work shall be marked the name of the person interned and their date of birth and date of death;
 - (v) permit interment unless appropriate application has been made to the Moree Plains Shire Council and permission given by the Council's Officer that controls cemeteries;
 - (vi) permit the excavation of a grave unless the grave preparations are being supervised by an experienced Funeral Director or Sexton;
 - (vii) permit interment unless the requirements of the Public Health (Disposal of Bodies) regulations, 2002 have been fully complied with;
 - (viii) Permit the continuance of the private burial site unless the lawns, gardens and fencing are properly maintained.
- (b) The registered proprietor for the time being of the land herein indicated as the burdened lot and their heirs, executors and assigns shall at all times in respect of the:-
- (i) land the subject of the sire of the right of carriageway keep the same opened, gravelled and in good trafficable condition for the use by the permitted persons from time to time;
 - (ii) site keep the same opened and accessible to the permitted persons who shall be responsible for the maintenance and upkeep of the site.

5.0 Delegation

5.1 The General Manager is authorised, pursuant to Section 377 of the Local Government Act 1993, to allow a matter that does not conform with a policy to proceed if the General Manager is of the opinion that the variation from the Policy is of a minor nature.

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6.0 References

- 6.1 Internal reports and recommendations from Council meetings.
- 6.2 Public Health Act 1991
- 6.3 Public Health (Disposal of Bodies) Regulation 2002.
- 6.4 Environmental Planning and Assessment Act 1979

7.0 Dispute Procedure

- 7.1 Should any dispute or difference (“dispute”) arise between the Council and an owner of a private property cemetery (“Owner”) in respect of any aspect of this policy, the following procedure shall be followed by the parties to resolve the dispute:-
 - 7.1.1 The Council’s Director of Engineering (“the Director”) and the Owner shall meet at the Council office within five (5) business days of the dispute arising with a view to resolving the dispute by negotiation.
 - 7.1.2 Should the Director and Owner not resolve the dispute within the abovementioned five (5) business day period, the General Manager of the Council and the Owner shall meet at the Council office within a period of five (5) business days of the expiry of the five (5) business day period referred to in subclause 7.1.1 above.
 - 7.1.3 Should the persons referred to in subclause 7.1.2 above not be able to resolve the dispute within the period of five (5) business days referred to in subclause 7.1.2 above, then either party shall be at liberty to refer the dispute to a qualified mediator at the expense of the referring party.

8.0 Attachments

- 8.1 Moree Plains Shire Council Checklist – Private Property Burial Site
- 8.2 Moree Plains Shire Council letter of approval to establish a private property burial site.
- 8.3 Establishment of a Private Property Burial Site Procedures.
- 8.4 Preparation of Graves in Moree Plains Shire Cemeteries Procedures.

9.0 Review

- 9.1 This policy is to be reviewed on an annual basis from the date of its original adoption by Council and in accordance with Section 4.4 of the Policy on Policy Making.

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