



PRIVATE LAND BURIALS

EHO's role in the RIP process

David Cowell
Adelaide Plains Council

Celebrate



EHO

- Is it Legal ?
- Local Government Act 1934
- Burial and Cremation Act 2013
- Public Health Act 2011
- **Not** - Within a Municipal Council or Township
- **Yes** - Outside Township
- Determine Conditions and Risk Concerns
- Obtain appropriate advice from other agencies
- Issue Approval



Choices



CRITERIA

- Internal – Cemetery management
- External - ??????????????????????????????
- Liaison with a Grieving Family

DHS Fact Sheet

Fact sheet

Burial of human remains on private property

The burial of human remains on private property is only allowed in certain circumstances. This fact sheet has been developed to assist the public with the safe and legal burial of human remains on private property.

Can you arrange for a burial on private property?

Under the *Local Government Act 1934*, it is illegal to bury human remains in any place other than in the cemetery of a municipal council or a township in any district council.

The burial of human remains on private property outside of a municipal council or a township may be carried out at the discretion of the property owner and the local public health authority.



What requirements need to be met?

When burying on private property:

- the approval of the property owner where the remains are to be buried must be obtained
- all required documents must be submitted to the Registrar of Births, Deaths and Marriages, as specified by the *Births, Deaths and Marriages Registration Regulations 1996*.

How do I manage and document the burial process?

It is recommended that the burial take place in accordance with the provisions of the *Local Government (Cemetery) Regulations 1995*, including that:

- the remains are buried at a depth of at least one metre from the surface of the ground
- a name plate bearing the name and date of death of the deceased be buried with the remains
- human remains must not be transported unless they are contained within a coffin or other rigid container, or on a rigid base and contained within a shroud or other impervious wrapping.

What is the first step?

Before a burial takes place, an environmental health officer at the local council should be consulted and advised of the intention to bury.

Notifying the local council in advance gives it the opportunity to:

- determine whether the proposed burial site is within a municipal council or township
- advise of any conditions or concerns it may have regarding the proposed burial
- ensure appropriate advice is obtained from other agencies if necessary.

Selecting a suitable burial site

To prevent contamination of water sources, human remains should not be buried in areas where flooding occurs more than once every one hundred years on average.

Remains should not be buried within two metres of groundwater or within 100 metres of surface water, whether permanent or intermittent.

The Environmental Protection Authority and/or the Department of Environment, Water and Natural Resources may also need to be consulted.

The burial site should be adequately fenced.

- a record of the exact location of the grave must be provided to the Registrar of Births, Deaths and Marriages. The location should be provided using GPS coordinates or measuring and mapping the distance from property boundaries. The local council may also have requirements about how the location of the grave is to be recorded.

What if the property is subsequently sold?

If the property where the human remains are buried is sold, the new owners of the land will also own the burial plot.

This means that unless permission is given by the new owners, the family of the deceased will not have visitation rights.

Burial sites are not classed as cemeteries and therefore have no preservation rights. Subsequent owners of the land are not required to preserve a plot and may choose to build over it or make any other alterations to the land.

If approval is granted by the Attorney-General, subsequent owners of the land may exhume the human remains or request exhumation as a condition of sale.

Does this advice also apply to the scattering of cremated remains?

Cremated remains intended for scattering do not have the same legal status as remains intended for burial. Families that wish to scatter cremated remains are permitted to do so in any council area, providing that approval is sought from the relevant authority, for example the local council or property owner.

Is there anything else to consider?

Those intending to bury human remains on private property may wish to have the burial process and submission of associated documentation overseen by a funeral director to ensure the burial is carried out legally and that all required documentation is provided to the Registrar of Births, Deaths and Marriages.

For further information

- Local Council Environmental Health Officer
- Health Protection Operations, SA Health on telephone (08) 8226 7100 for unincorporated areas
- Births, Deaths and Marriages Registration Office on telephone 131 882
- The Attorney-General's Department on (08) 8207 1555 for the exhumation of human remains
- The Environmental Protection Authority on telephone (08) 8204 2004 for water enquiries
- The Department of Environment, Water and Natural Resources on telephone (08) 8204 1910 for surface and groundwater enquiries.

For more information

Health Protection Programs
SA Health
Telephone: (08) 8226 7100
Email: HealthProtectionPrograms@health.sa.gov.au
www.sahealth.sa.gov.au

© Department of Health, Government of South Australia. All rights reserved.

Letter with conditions to Family/Land Owner

- Legal
- SA Health & EPA consultation
- Soil capabilities – Risk to ground & surface water
- 1 metre of soil cover
- Land Owners consent/Title copy
- Rights to the Burial plot
- Subsequent Owners
- Site Plan Location Map, Distances, GPS coordinates
- Other Legal requirements – legislative depth measurements.

Request to Bury from Family/Homeowner

- Respond to Conditions
- Supporting evidence :-
- Title details
- Owners permission
- Site Plans distances
- Soil Capabiliites
- GPS Location
- Groundwater data search



EHO

- Secures EPA & DHS requirements
- Site visit – Greif
- Involve family – Reassurance & Clarity
- Google inspections
- Assess compliance with Legal Issues
- Bring it all together and provide leadership

Letter of Approval

- Authorisation -Burial & Cremations Act 2013
- Cross check all requirements add to letter
- No Objections to the request for a private burial
- Liaison with Funeral facilitator for approvals



Burial



Post Burial Matters

- Burial & Cremation Act
- Form 5 - Cause of Death – Identity ,Date & Doctor
- Form 7 - Identification of the Deceased
- Confirmation of depth of Grave, Burial date and Backfill
- Containment & Engraved Name Plate
- Registration of the Death Registration Certificate



Barossa Funerals

Funeral Home
1 Petras Street, Tanunda

Chapel
51 Basedow Road Tanunda
Postal
PO Box 576, Tanunda SA 5352

Telephone 08 8563 0900
Facsimile 08 8563 3745

Email
admin@barossafunerals.com.au

Burial of Mr *Name / Address*

South Australia

- Depth of grave from natural ground level to the floor of the grave 2060mm
- Date of burial and backfill Sunday November 27, 2016
- Internment in a standard size MDF coffin with engraved name plate



Dennis C. Noack
FUNERAL DIRECTOR

EHO

- Final Inspection – Adequately Fenced
- Link to Property – Section 7 Search





Flow Chart & Attachments

- DHS Fact Sheet Healthprotectionprograms@health.sa.gov.au
-
- Letter to Owner – Conditioned
-
- Site Visits
-
- Letter from Owner
-
- Letter from Council with No Objections
-
- EPA Advice – Greg.Marr@sa.gov.au
-
- Post Burial Information:-
-
- Form 5, Form 7 & confirmation of grave depth, backfill date, containment & engraved name plate
-
- Section 7 Search attachment.