

Policy X.XX Burials on Private Land

Directorate	Community, Environment and Planning
Responsible Officer	Manager, Planning and Sustainability

Record of Administrative Amendments

Amendment Version No.:	Description of Administrative Amendment	Date Reviewed
0.00	Adopted by Council	Insert date

1 Introduction

While Council provides a number of cemeteries across the Bega Valley Shire, some members of the community prefer burial on private land for various reasons.

The *NSW Public Health Regulation 2022* states that Council must approve the location of any burial on private land and lists specific requirements for these locations. NSW Health guidelines state that this approval must take place consistent with the provisions of the *Environmental Planning and Assessment Act 1979*.

Council does not consider Development Consent to be the most appropriate approval pathway for burial of up to four persons on certain private land.

This policy provides the framework for how and when burial on private land can take place as exempt development.

1.1 Scope

This policy applies to the burial of people on land in the Bega Valley Shire zoned RU1 Primary production, RU2 Rural Landscape and C3 Environmental Management.

Burial or placement of ashes on private land does not require Council approval.

The policy demonstrates direct commitment to the following strategic guiding principles:

- Accountable | Commitment to risk management and compliance, and proactive consultation and engagement organisation wide
- Transparent | Decision making processes are clearly outlined, including how a decision is made and who is involved
- Effective and Efficient | Clear connection between policy and implementation

1.2 Purpose

The purpose of this policy is to clearly define:

- Circumstances in which burial on private land is considered exempt development and can be carried out without development consent
- By exclusion, circumstances in which development consent for burial on private land will be required
- Roles and responsibilities of community members, landowners, and Council in burial on private land.

1.3 Objectives

The objectives of this policy are to ensure:

- a clear pathway for community members to be buried on private land in a timely manner
- consistency and compliance with existing legislation
- protection of:
 - public health
 - drinking water supplies, domestic water supplies and the environment
 - the burial site into the future
 - the ability of the family to access the burial site into the future.

1.4 Definitions

Word or Terminology	Description
Cemetery	A building or place used primarily for the interment of deceased persons or their ashes, whether or not it contains an associated building for conducting memorial services.
Exempt Development	Development that does not require a Development Application and Development Consent when undertaken in accordance with set standards.
Drinking water supply	<i>A drinking water supply means a water supply which is, or could be, used for internal ingestion or consumption, food preparation or ablutions.</i>
Domestic water supply	<i>A domestic water supply means a water supply used for domestic purposes such as clothes washing and toilet flushing, or for garden irrigation.</i>
The Procedure	<i>Burials on Private Land Procedure</i>

2 Legislation and guidelines

NSW Cemeteries and Crematoria Act 2013

NSW Environmental Planning and Assessment Act 1979

NSW Public Health Regulation 2022

Bega Valley Shire Local Environment Plan 2013

Easements and restrictions for burial grounds - Registrar General's Guidelines

3 Implementation

3.1 Policy statements

Policy statement 1

Burial of bodies on private land constitutes development for the purpose of the *Environmental Planning and Assessment Act 1979*. Exemption from this requirement for development consent is given through the Bega Valley Local Environment Plan 2013 provided that all standards in this policy are met.

Policy statement 2

The standards specified for burial on private land are:

1. Land is equal to or over 5 hectares in size.
2. No more than four bodies are buried on the property.
3. Consent of all property owners for each instance of burial is obtained in writing.
4. The burial location complies with the drinking water, domestic water and environmental protection standards specified in the Burials on Private Land Procedure XX.
5. The burial location complies with access standards specified in the Burials on Private Land Procedure XX.
6. The gravesite is prepared, and burial takes place in accordance with grave and burial standards specified in the Burials on Private Land Procedure XX.
7. Notification to Council, including supporting information and declarations, is provided to Council in the manner and timeframes specified in the Burials on Private Land Procedure XX.

Policy statement 3

Council will not support burial structures such as burial chambers or vaults as exempt development.

3.2 Responsibilities

3.2.1 Elected Council

The elected Council will review the Policy to ensure it is in the public interest and can be reasonably administered by Council.

3.2.2 Chief Executive Officer (CEO), Leadership Executive Group (LEG)

The CEO and LEG will review the Policy to ensure it is in the public interest, is consistent with other legislation and Council policies, and that the CEP Directorate is resourced to be able to administer it.

3.2.3 Planning and Sustainability Section

Review policy, Local Environment Plan and strategies to ensure currency.

3.2.4 Environmental Health Section

Receive notifications of burial on private land taking place under this policy. Maintain a register of private burial locations.

3.2.5 Compliance Staff

Undertake compliance action in accordance with *Policy 4.07 Enforcement and Compliance* in event that instances of private burial have been carried out in contravention of exempt standards, or not in accordance with Development Consent.

3.2.6 Community Members

Undertake burials on private land in accordance with this policy and associated procedure.

4 Supporting documents

BVSC Procedures that relate to this Policy

Procedure No.:	Procedure Name	External or Internal Procedure
TBA	Burials on private land	External

BVSC Policies that relate to this Policy

Policy No.:	Policy Name
4.05	Enforcement and Compliance
4.12	Environmental and Public Health
3.01	Development administration
6.03	Risk Management and Insurance

Note: Policy details may change from time to time. To ensure you are viewing the most recent version please view Council's adopted Policies and Procedures on the Council website.