

12. Burial and Cremation Act Review - WDC Submission

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Vision, mission and values

This item is in accord with Council's vision, mission and values statement as it relates to working for Council's communities with innovation and excellence.

Background

The Law Commission is undertaking a first principles review of the Burial and Cremation Act 1964. The Act's primary purpose is to ensure provision is made for the burial of the dead in a controlled and respectful manner which meets public expectations. The Act also contains the legal provisions governing death certification. Apart from a number of small amendments, the Act is substantially unchanged since its enactment nearly half a century ago. Submissions close on 20 December 2013.

The issues raised by the current stage of the review include the following possibilities;

- Opening up of cemeteries to independent providers including registered charities and profit-making businesses
- Making it easier for people to be buried on private land
- Provision by local authorities of separate burial areas within Public cemeteries for groups with religious or cultural burial requirements
- Minimum standards of maintenance for cemeteries
- Stronger legal provisions for the protection of historic cemeteries and gravesites
- Licensing and regulation of crematoria operators
- Requiring funeral service providers to comply with minimum disclosure rules
- Scattering and burying of human ashes in public places
- Provision of basic funeral services by Local authorities.

The proposed submission has been largely drafted by Council's Cemetery and Conservancy Manager, with comment from other Council Departments.

Proposed Submission to the review of the Burial and Cremation Act 1964

Thank you for the opportunity to comment on this review.

Whangarei District Council owns and manages 3 operational cemeteries within the Whangarei District at Maunu, Onerahi and Kamo, although only one cemetery at Maunu has available plots. There is a crematorium at the Maunu Cemetery that is owned by Whangarei District Council and run as a joint venture with Maunu Crematorium Limited. Whangarei District Council also manages 5 historic cemeteries.

The legislation review considers burial on private land. It is our experience that the burial of individuals on private land is problematic in the longer term. In the Whangarei District, as in most areas of New Zealand, there are a number of rural or local cemeteries. These were often started by isolated communities for the purposes of local burial, or by prominent local families for the burial of family members and extended to other members of the local community. There are 12 operational rural cemeteries in the Whangarei District that are managed by local Cemetery Boards, and which operate with differing degrees of success and autonomy. With a trend away from permanent residence in the place of ones birth, the population of small settlements has become less permanent and Cemetery Boards often do not have comprehensive succession plans that take this into account. A number of rural cemeteries are now vested in the Whangarei District Council, and it is expected that ultimately this process will be followed by all rural cemeteries. Once vested in the Whangarei District Council, management needs to be funded by ratepayers, and these sites can be a challenge to administer with regard to consultation and perceived rights of burial.

Cemetery operation is a long-term activity, and there is a risk that if independent providers are enabled to run cemeteries that the cemetery ownership structures do not last sufficiently long. We would have considerable reservations in regard to the legacy of cemetery sites run by independent providers in regard to future administration, long-term maintenance and disclosure of maintenance levels of service, and resolution in the event of a familial dispute.

The Whangarei District Council is committed to extending available cemetery services to include family burial areas, eco burial sites and alternative interments such as the construction of mausolea, and some of these options are included in current development plans. The Whangarei District Council would have no objections to any requirements for local authorities to consult more closely with the community and to provide additional burial options where there is a demand for them and viable costings. Local Authorities are best positioned to provide cemetery services required in a consistent and affordable way, and to maintain their commitment to cemetery services in the future.

As owners of a district crematorium we consider it our obligation to ensure our service is comprehensive, ethical and conducted with integrity. We would support the licensing of crematoria as a way of ensuring standards and protocols, potentially by the Ministry of Health.

People are able to deal directly with Maunu Cemetery for the provision of a basic funeral service, although this service does not extend to providing a casket or documentation required for cremation and does not duplicate the services of a Funeral Director.

We consider the process required to assess the effects of burial on the local environment and additional side effects to be too lengthy in order to facilitate the expedient disposal of the deceased, in cases where a family burial site is not already established. Costs to effectively manage burials on private land such as monitoring to ensure that burial regulations are complied with and environmental standards maintained would need to be covered by approval fees. Burial areas would need to be registered on Certificates of Title to ensure future land purchasers were aware of burial areas.

Recommendation

1. That a submission is made by Whangarei District Council to the Law Commission on the Burial and Cremation Act Review
2. That the content of the agenda report be used as the basis for the submission.