

Submission

Death, Funerals, Burial and Cremation: a Review of the Burial and Cremation Act 1964 and Related Legislation

PREPARED BY: Ashburton District Council SUBMITTED TO: Environment Committee
PO Box 94 Parliament Buildings
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Introduction

1. Ashburton District Council ('Council') welcomes the opportunity to submit on the proposed review of the Death, Funerals, Burial and Cremation: a Review of the Burial and Cremation Act 1964 and Related Legislation ('the Discussion Document')
2. Located between the Rakaia and Rangitata Rivers respectively, and an hour's drive south of Christchurch, more than 33,400¹ residents live in the district, with the main town of Ashburton accounting for over 55% of residents. The rest of our residents live rurally or in smaller towns or villages.
3. Ashburton district has experienced a moderate and sustained population increase since 1996, with a population growth of over 33%². The expansion of irrigation and agricultural diversification on the Canterbury Plains have been major factors in this growth.
4. Ashburton District Council is a territorial authority under the Resource Management Act 1991 (the RMA) and its area of responsibility covers greater than 6000 square kilometre from the sea in the east to the Southern Alps in the West.

Cemetery and Burial in Ashburton District

5. The District Council administers a number of cemeteries within its area of control. These are managed by the Council Open Spaces Team. Similar regulatory responsibilities including the Fencing of Swimming Pools, Hairdressers Camping Grounds and Health Licencing are administered through the Councils Regulatory Team.
6. Ashburton District Council has provisions in its District Plan which control activities on land, although not specifically relating to cemeteries.

General Comments

7. Council generally supports the review of the Burial and Cremation Act 1964 and related legislation (the Act) and notes that of the five sections in the Discussion Document, three are outside the remit of the Council. This

¹ Source: Statistics New Zealand Census 2018

² Source: Statistics New Zealand Census 2018

submission is related to Section B: Regulation of the Funeral Services Sector, and Section C: Burial and Cemetery Management.

Comments on the Discussion Document

8. Council agrees with the reasoning contained in the discussion document regarding the outdated nature of some of the provisions within the Act and its general lack of recognition of particular burial practices, which have become more common in modern New Zealand.

Section B: Regulation of the Funeral Service Sector

9. Council does not support Option 1 in Section B (the status quo). The current requirement for funeral directors to be registered with the relevant territorial authority erroneously implies that Council has oversight and responsibility over funeral directors practices. The purpose of the current requirement is unclear and if introduced as new legislation would fail the test set out in Criterion 2 of the Consultation Document (Introduction, Section 4).
10. Option 4 is supported as it provides a centralised inventory of all registered funeral directors in New Zealand. It also eliminates the current requirement for funeral directors to lodge duplicate registrations where they operate in more than one territorial authority.
11. While not affecting TAs directly, the additional recommendations set out in Option 4 are also supported. Council does not have any evidence of malpractice amongst funeral directors. However, deaths are a sensitive, pressured, and often painful time for families and it is therefore likely that issues with funeral directors are underreported. Because of the seriousness of the event, the repercussions of any malpractice could be very significant and therefore a precautionary approach should be applied to minimise the risk of mishandled funerals. As a minimum, funeral directors should be subject to similar standards as marriage celebrants.

Section C: A New Burial and Cemetery Management Framework

12. Council acknowledges that it is the logical repository of information related to the location of burial sites and for authorising new sites, this would allow information to be placed on property files and made available through LIM applications.
13. Council does not support Option 1 in section C3 (the status quo).
14. Council agrees with the proposals in section C3.1.2.2 that clarify the power of cemetery managers to maintain graves while making it clear that the duty of maintenance falls on other people, including the relatives of the buried or deceased person. Council also supports the proposed exception to the Heritage New Zealand Pouhere Taonga Act 2014 giving cemetery managers the power to undertake safety work on heritage grave sites.
15. Council recognises that Local Authorities are the logical administrator of a revised Act and the monitoring of performance of private cemeteries. Council acknowledges that this is already the case for a number of regulatory functions as referred to in para. 5 of this submission.
16. Council agrees with the concern expressed within section C3.2.2 of the Discussion Document regarding the risk surrounding Councils assuming control of non-local authority cemeteries. As this in turn would logically result in increased costs to ratepayers, Council would ask that consideration be given to providing controls and assessment tools for Councils, potentially including the ability to reject applications for cemeteries if there was a foreseeable risk of Council needing to take control of the proposed site. We do however note that the Resource Management Act, given its environmental effects focus would not be an efficient tool to make this assessment or judgement.

17. Council does not support the escalation requiring management to use the Environment Court for Local Authority cemeteries. Many regulatory processes require Council as landowner or administrator to pursue consenting applications to itself as regulator. Escalation would appear to put additional load on the Court system and would likely cause delays in dealing with requests.
18. Council considers that all burial on private land or in previously unapproved places (even those for under five persons) should require resource consent. This would ensure that any potential effects were evaluated and that a record would be available to purchasers of sites and neighbouring sites where cemeteries had been approved.

Council thanks the Ministry of Health for the opportunity to submit on Review of the Death, Funerals, Burial and Cremation: a Review of the Burial and Cremation Act 1964 and Related Legislation.

A handwritten signature in blue ink that reads "J. Donaldson".

JANE DONALDSON
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