



**WHANGANUI
DISTRICT COUNCIL**
Te Kaunihera a Rohe o Whanganui

Statement of Proposal:

**Cemeteries, Crematoria, Plaques and Memorials Bylaw
2023**

1. SUMMARY OF INFORMATION

Whanganui District Council (“the Council”) is seeking feedback on the review of the existing Cemeteries and Crematoria Bylaw 2016 and associated policies (Natural Burials Policy, Plaques and Memorials Policy, Cemetery Monument Policy and Cultural Management Guidelines for the Burial of Kōiwi).

Council is proposing changes to the ways the cemeteries and crematoria in the district are managed. In developing these recommendations, an Advisory Panel was put together which identified five broad principles to prioritise. These were:

1. Environmental sustainability;
2. Inclusivity and accessibility;
3. Safety;
4. General comfort and usability;
5. Respecting and honouring our past.

Specific measures were identified under these categories, and through a process of discussion these were reduced to actionable issues, and then preferred actions to deal with those issues.

Council considers that these recommendations are the most appropriate and proportionate way of protecting the environment and cemeteries and crematoria for users and visitors.

2. INTRODUCTION

Cemeteries are important spaces for the community. They’re places people go to find peace and quiet, to mourn and remember friends and family members, how we respect and commemorate the past and important events that shape our community.

Currently, cemeteries are managed through the Cemeteries and Crematoria Bylaw 2016, the Cemetery Monument Policy 2016, the Natural Burials and Conditions 2013, and the Cultural Guidelines for the Burial of Kōiwi/Human Remains at Aramoho Cemetery, Whanganui 2016.

The purpose of the Cemeteries and Crematoria Bylaw 2016 and the other regulations are to manage how the community interacts with and makes use of the cemeteries in the district. The Bylaw ensures that human remains are interred in an appropriate manner and that land and physical structures in cemeteries are protected. It is an important tool in protecting the environmental health of the district, as well as making sure the community has a peaceful space they can hold funerals and respectfully mourn. Officers have reviewed the Cemeteries and Crematoria Bylaw 2016 and

consider that a bylaw continues to be the most appropriate way of addressing the issues relating to the management of cemeteries and crematoria within the district.

Under the Burial and Cremation Act 1964, a local authority has the authority to create bylaws in order to:

- maintain, preserve and/or embellish a cemetery,
- direct positions and depths of graves,
- protect buildings, monuments, lawns, shrubberies, plantations and enclosures in a cemetery,
- create rules around burial of more than one body in a grave,
- control burial times,
- regulate burial of ashes,
- regulate disinterment and removal of bodies,
- fix fees payable for burial,
- prescribe fines for breaches,
- protect health and public decency,
- regulate behaviour of those using cemeteries,
- regulate admission of animals, or
- regulate the management of cemeteries.

The Health Act 1956 allows local authorities to make bylaws for the protection of public health.

Under the Local Government Act 2002, a bylaw needs to be reviewed within 5 years of it being enacted or it will lapse. This bylaw will lapse by August 2023 if not reviewed and adopted.

3. REASONS FOR PROPOSAL

The Bylaw and subject matter is of significant community interest to a wide range of groups. As such, an Advisory Panel was set up to support the review. The panel consisted of representatives from key community groups, including Iwi, the Hindu, Christian and Muslim communities, the New Zealand Remembrance Army, natural burial advocates and funeral directors as well as a number of elected members.

The panel played an important role in the review process, raising issues that were important to their respective communities, working together to help create potential solutions to identified issues, and making recommendations to the council on preferred options for public consultation.

An online survey was used to seek feedback from the general public during the review of the bylaw and associated policies. The Ministry of Health is also conducting a review of the Burials and Cremations Act 1964, which the current bylaw was created under, and the ministry expects the general policy approach to be publicly available next year. The review timeframe for the council's bylaw and associated policies will let us take any legislative changes into consideration.

4. ISSUES AND OPTIONS

Council took a ground-up approach for this review, looking not just at what was working and what could be improved from our existing controls, but also at what principles should guide the way we manage our cemeteries and our plaques and memorials in the district.

Council first held a workshop with the members of the Advisory Group to identify priority principles, and then ran a survey to see whether the community supported those principles, or had any others to add. After this there was another workshop, which was used to identify issues underneath the priority principles. The principles that Council eventually settled on are:

1. Environmental sustainability;

Cemeteries are places where people go to have quiet and solitude. They are also areas that steadily expand over time, and where later intervention can be extremely difficult, with headstones and burial sites expected to be left alone in almost all circumstances. Considering the current and future impacts on climate change, it is important that our cemeteries are environmentally friendly by design. In some cases, such as in natural burials, ensuring minimal environmental impact is specifically a part of the burial practice

2. Inclusivity and accessibility;

Cemeteries can be important places for any and all members of the community, whether it's to remember people or stories, or just for quiet and privacy. In order to serve these needs, they have to be open and welcoming to all of Whanganui's citizens. This means both being inclusive to people of all faiths, cultures, and identities, and also being physically accessible and navigable to people of all abilities.

3. Safety;

Cemeteries and crematoria in the district need to be safe for visitors. People are not 'on guard' when visiting or attending an event in a cemetery, which means safety incidents can have more of an impact on victims. Safety incidents can occur in many

ways, such as broken glass or pottery lying in the grass, or when people act in disruptive or aggressive ways, or drive unsafely.

4. General comfort and usability;

As well as inclusivity and accessibility, comfort and general usability are important to make sure that the largest section of the community can get use out of our spaces. A lack of benches, rough and irregular paving, and poor signage and direction can all impact how comfortable of an experience using our cemeteries is.

5. Respecting and honouring our past.

Cemeteries are one of the primary ways our community remembers our past, both the people and the events that significantly impact us. Cemeteries need to be designed, built, maintained, and managed in a way that makes this possible, both for visitors and for people organising funerals or other events.

The five principles were then divided into subcategories with specific issues for action underneath those. Some issues appear under multiple headings, because there are several ways in which they contribute to the atmosphere of our cemeteries. The table below outlines the specific issues that we identified, which principle or principles they fit under, and whether our proposed action on those issues constitutes a significant change under the Significance and Engagement Policy.

There were 16 subheadings in total:

- Amenities
- Chapel
- Cremation
- Cultural/religious sensitivity
- Dangerous driving
- Disruptive behaviour
- Drinking alcohol
- Maintenance
- Materials
- Memorabilia
- Monuments
- Natural burials
- Physical accessibility
- Scattering ashes
- Theft
- Walking/driving over graves

Issue	Principle				
	Environmental sustainability	Inclusivity & accessibility	Safety	Comfort and usability	Respecting and honouring our past
Amenities				Y	
Chapel				Y	
Cremation			Y		
Cultural/religious sensitivity		Y			
Dangerous driving			Y		Y
Disruptive behaviour			Y		Y
Drinking alcohol					Y
Maintenance				Y	Y
Materials	Y				Y
Memorabilia			Y		Y
Memorials		Y			Y
Monuments		Y	Y		Y
Natural burials	Y	Y			

Physical accessibility		Y		Y	
Scattering ashes		Y			
Theft			Y		Y
Walking/driving over graves					Y
Totals:	2	6	6	4	10

In addition to the 5 principles, several other priority issues were raised through this process as areas that required action.

1. A place to scatter ashes

Many community members have made us aware of the fact that there is no dedicated space in our district for scattering ashes into water after somebody has been cremated. The only current option – using natural water sources like the Awa – have significant cultural barriers against introducing any part of a dead body. Our proposed solution to this is to implement a water feature specifically for this purpose, which would serve the needs of our community as well as adding to the atmosphere of the cemetery.

2. Bylaw

Currently, the use of cemeteries within the district, both for burial proceedings and as public spaces, is done through a number of documents.

These documents have been developed on an as-needed basis without a coherent strategy guiding them, and as a result they often overlap, or don't include areas that they should, and it can be difficult to find specific regulations. We are now proposing to restructure the documents.

This would involve:

- a policy which creates the overall framework for our regulations,
- a bylaw which prescribes enforcement provisions,
- and guidelines for each specific area.

The relevant documents would include:

- Cemeteries, Crematoria, Plaques and Memorials Bylaw – creates penalties and enforcement powers
- Cemeteries, Crematoria, Plaques and Memorials Policy – provides the general framework
- Guideline – Cultural Management Guidelines for the Burial of Koiwi – provides rules and guidelines for the burial of koiwi
- Guideline – Natural Burials – provides rules and guidelines for natural burials
- Guideline – Plaques and Memorials – provides rules and guidelines for plaques and memorials around the district
- Guideline – Cemetery Monuments and Memorabilia provides rules and guidelines for monuments and memorabilia in our cemeteries

3. Cleaning of graves

Maintenance of graves can be complicated because it can only take place with the consent of the owner of the plot and it is often unclear who the owner is or how to get in contact with them, particularly with older graves. While there are volunteer groups who clean and maintain graves, the question of ownership can prevent them from doing so. We are recommending that this rule be modified to allow Council to authorise maintenance of a grave once reasonable attempts have been made to contact the owner.

4. Alcohol

Council does not intend to manage how people grieve or memorialise, however consumption of alcohol can lead to disruptive behaviour, litter, and safety issues if glass bottles are left behind. In some cases, restricting consumption of alcohol is a reliable way of minimising the secondary issues that follow on from it. In this case, our recommendation is that we only regulate the secondary issues – the disruptive behaviour and waste – rather than consumption of alcohol itself.

OPTIONS

Keep our current structure and management practices (**status quo**)

The Bylaw will automatically be revoked if it is not reviewed by the end of August, so the status quo option would require re-implementing a bylaw that copies the current version. Otherwise this would involve leaving our other management practices the same as they currently are.

Pros:

- The bylaw in its current form already provides some regulation for cemeteries and crematoria.

Cons:

- The gaps that have been identified by the process so far would remain open.
- The set of regulations currently in place could be better structured.

Update our practices and regulatory documents based on the principles above (**recommended**)

This would involve adopting all the recommended changes both to the bylaw, policy and guidelines, and to the management of our cemeteries.

Pros:

- A first-principles review of our cemeteries and crematoria management will ensure that it remains current with our community's needs and values.

Cons:

- None.

Remove regulations around cemeteries

The Cemeteries and Crematoria Bylaw will automatically lapse at the end of August. If Whanganui is no longer getting any value from having cemetery management practices and regulations, Council can revoke the remaining policies and management practices.

Pros:

- None.

Cons:

- The lack of management policies and documents would make use of cemeteries much more complicated and difficult for members of the community to learn about how to conduct funerals.

5. DETERMINATION OF APPROPRIATENESS

The proposed structure of regulation for cemeteries, crematoria, plaques and memorials within the district includes a bylaw, as allowed by the Burial and Cremation Act 1964, and the Health Act 1956.

Under section 155 of the Local Government Act 2002, Council has to determine that a bylaw is the most appropriate way of addressing potential issues within the district. The proposal for cemeteries, crematoria, plaques and memorials within the district includes the review and update of the Cemeteries and Crematoria Bylaw 2016 to the Cemeteries, Crematoria, Plaques and Memorials Bylaw 2022.

In assessing the appropriateness of the Bylaw and everything else created underneath it, Council has had 5 guiding principles in mind. These are:

1. Environmental sustainability of cemeteries, burials, and other activities;
2. Inclusivity and accessibility of cemetery grounds and the memorials within them;
3. Safety of the grounds;
4. General comfort and usability; and
5. Respecting and honouring the past of Whanganui and the people who live here.

Providing a space that is sustainable, inclusive and accessible, safe, comfortable, and respectful of our past is a key part of operating a cemetery and in line both with what our community expects from this space and what is provided under both the Burial and Cremation Act 1964, the Local Government Act 2002, and the Health Act 1956.

A bylaw enforcing the Cemeteries, Crematoria, Plaques and Memorials Policy is considered appropriate to ensure the above principles are supported and enforced. Where measures are not considered appropriate for a bylaw, they have instead been moved to either the Cemeteries, Crematoria, Plaques and Memorials Policy to provide the outline of our approach, or into the guidelines to provide advice in how we expect cemeteries to be used.

6. FORM OF BYLAW

The proposed Cemeteries, Crematoria, Plaques and Memorials Bylaw 2023 is considered the most appropriate form of bylaw to address the issues and for the purpose of public consultation.

7. NEW ZEALAND BILL OF RIGHTS ACT 1990

The Local Government Act requires the Council to determine whether there are any implications for the proposed bylaw under the New Zealand Bill of Rights Act 1990 i.e. no bylaw may be made that is inconsistent with that Act. In Council's opinion the proposed bylaw does not contain any provision that is in conflict with the New Zealand Bill of Rights Act 1990.

Following the prescribed special consultative procedure set out in section 83 of the Act the Council will consider the final draft of the proposed bylaw and its New Zealand Bill of Rights Act 1990 implications, if any.

8. CONSULTATION AND SUBMISSION

In making, amending, or revoking the policy and bylaw, Council must use the Special Consultative Procedure set out in section 83 of the LGA 2002. Council has prepared and adopted the proposed policy and bylaw for public consultation. Any person can make a submission on the proposed bylaw.

A copy of the Statement of Proposal, including the proposed bylaw and information about making a submission can be obtained from the Council website

www.whanganui.govt.nz

You can make a submission online at www.whanganui.govt.nz/have-your-say or alternatively submission forms are available from the Whanganui District Council Customer Service counter at the main municipal building located at 101 Guyton Street, the Davis Central City Library and Gonville Library. Please indicate whether you would like to speak to your submission and include contact details. People who wish to be heard by Council will be given the opportunity to do so. The hearing of submissions is scheduled for May 2023 at the main municipal building located at 101 Guyton Street.

For any queries please contact Hannah Rodgers, Policy Adviser on (06) 349 0001.

The period for making submissions is from 27 February to 16 April 2023.