



Draft Cemeteries Bylaw: Statement of Proposal

Introduction

Tararua District Council seeks your views on its draft Cemeteries Bylaw 2024.

The current Cemeteries Bylaw was adopted in 2018 and is now due for review.

This statement of proposal is prepared under sections 83 and 86 of the Local Government Act 2002 (LGA) and contains:

- a copy of the draft Cemeteries Bylaw 2024 (the 'draft bylaw')
- information about the proposed amendments, including Council's determinations under section 155 of the LGA;
- the reasons for the proposed amendments;
- how you can have your say; and
- timetable for consultation.

In summary, Council is proposing to retain the content of the current Cemeteries Bylaw 2018 with changes proposed to the drafting to improve clarity, consistency, structure and readability; and to reflect that Council is likely to revoke its Administration Bylaw in the future. Council is proposing to add additional detail to provide clarity and consistency in the use of its cemeteries; and include the ability for Council to set aside areas of cemeteries for various purposes, allowing its cemeteries to more easily adapt to meet community needs in the future.

Proposal

This statement of proposal relates to the review of the Cemeteries Bylaw and is prepared in line with sections 83, 83AA and 87 of the LGA.

The Council proposes that:

- (a) a new bylaw that regulates the management and maintenance of cemeteries (the Cemeteries Bylaw 2024) should be made;
- (b) the Cemeteries Bylaw 2018 be revoked once the Cemeteries Bylaw 2024 comes into force.

The key changes are summarised in this Statement of Proposal and are set out in the draft bylaw (**Attachment 1**).

Proposed Changes

The main changes are summarised below (only substantive changes are listed):

- Additional terms are added into the interpretation section, noting that these terms currently sit in the Administrative Bylaw, which is likely to be repealed in the future.
- Adding (at clause 5) the ability for Council to set aside specific areas within cemeteries for specific uses (including for example, services sections, lawn cemeteries etc).
- Adding (at clause 14) the ability to set aside areas within cemeteries for specific burial types, such as natural burials (noting that the response from consultation may determine if this provision is desired or warranted).
- Adding the ability for Council to set aside specific areas within cemeteries for Grave Decorations (clause 12), as is becoming more common in other parts of New Zealand.
- Using the terms “inter” or “interment” instead of “burial,” as “inter” is the more commonly used industry practice. For the purpose of the draft bylaw, a “burial” is a type of interment, so interment is a broader, more inclusive term.
- Further detail and explanation around the sale of plots.
- Further detail around the installation and maintenance of monuments and grave structures (including who is responsible for the ongoing maintenance of such structures and the costs of that).
- Further details around burial warrants, including when they must be applied for; that a request to fill in the grave by the family can be made; and that requests for a plot for two body interments can be made.
- Clarifying where (in cemeteries) scattering of ashes is permitted.
- Further detail on disinterment, including the requirement for a disinterment warrant.
- Adding exclusive rights of burial, which mirror the provisions of the Burial and Cremations Act 1964, with the aim being for burial regulations to be more easily accessible and understood.

Reason for Proposal

Background

Council is empowered by section 145 of the LGA and the Burials and Cremations Act 1964 to make bylaws to regulate activities and set standards for Council’s cemeteries.

Legal Framework: s 155 determinations

Council must determine, pursuant to section 155 of the LGA, whether:

- A bylaw is the most appropriate way to of addressing the perceived problem;
- The draft bylaw is the most appropriate form of bylaw; and
- The draft bylaw gives rise to any implications under the New Zealand Bill of Rights Act 1990.

Council must also comply with the general decision-making requirements in sections 76 to 82 of the LGA in that it must identify and consider all reasonably practicable options and the community’s views.

Is a bylaw the appropriate means to deal with a problem?

The purpose of the Cemeteries Bylaw is to provide for the efficient management and maintenance of cemeteries under Council’s control, and meets the requirements set out for local authorities that operate cemeteries under the Burial and Cremation Act 1964.

Council has had a cemeteries bylaw in place since 2008. It is an effective tool used to regulate activities in cemeteries in the district. The draft bylaw is considered to be the most appropriate way to address issues relating to cemeteries in the district.

Is the bylaw in the appropriate form?

The draft bylaw is considered to be the most appropriate form of bylaw. It places clear controls and restrictions on activities within cemeteries and regulation around vehicle use and maintenance of tributes and monuments within cemeteries, to prevent damage or inappropriate activities within cemeteries as or when issues arise. Overall, it ensures, so far as practicable, that cemeteries within the district are kept in a clean, safe and orderly condition.

The draft bylaw provides the ability for Council to set aside areas of cemeteries for different uses and different types of burials, making it easier for cemeteries to adopt to the changing needs/requests of the community. The draft bylaw is consistent with Council document standards and has been written in plain English so far as possible.

The final form of the bylaw will be determined after the Council has heard and considered submissions as part of a consultation process using the special consultative procedure.

Is the bylaw consistent with the New Zealand Bill of Rights Act 1990?

The draft bylaw is designed to regulate, restrict, and enforce activities in cemeteries. As its purpose is to protect and promote public safety in cemeteries, it does not unreasonably interfere with any of the rights in the New Zealand Bill of Rights Act 1990. The provisions of the draft bylaw do not unreasonably interfere with any of the rights granted by the New Zealand Bill of Rights Act 1990.

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

Consultation

In making, amending or revoking a bylaw, Council must use the Special Consultative Procedure set out in section 83 of the LGA. Council has prepared and adopted the draft bylaw for public consultation. Any person can make a submission on the draft bylaw and we invite you to have your say.

The following dates are relevant to the consultation process:

- (a) Council resolved to undertake public consultation regarding the Proposal at the Strategy, Growth and Planning Committee meeting on 13 February 2024
- (b) Submissions open on 1 July 2024
- (c) Submissions close on 31 July 2024

Submissions will be heard before Council or a sub-Committee at a time following the close of submissions, with Council considering the outcome of the consultation process and its decision at a Council meeting some time following the hearing date, and likely to be on 28 August 2024.

The key point to note is that consultation opens on 1 July 2024 and closes on 31 July 2024.

You are encouraged to participate in this important consultation process.

There are several ways you can have your say. A submission form is provided with this document, or you can fill in your submission online.

How to get your submission to us:

Mail to: Draft Cemeteries Bylaw
Taranua District Council
PO Box 115
Dannevirke 4942

Email to: submissions@tararua.govt.nz

Deliver to: Council offices in Eketāhuna, Pahiatua, Woodville or Dannevirke

Online: <https://www.tararua.govt.nz/publications/consultation/current-consultation>

This Statement of Proposal is issued pursuant to section 155 of the LGA and in compliance with sections 76AA, 82, 83 and 148 of the LGA.

Bryan Nicholson
Chief Executive