

Statement of Proposal Cemeteries Bylaw 2022

Introduction and background

The Local Government Act 2002 (LGA) enables a bylaw to be made and introduced by the Gore District Council.

The Gore District Council had a Cemeteries Bylaw which was due for review in 2013. Due to the review not being carried out, the 2008 Bylaw expired on 1 July 2015 in accordance with section 160 of the Local Government Act 2002.

Process as outlined in the Local Government Act 2002

Section 155 of the LGA sets out the procedure for the making of a bylaw which includes making determinations under that section. Sections 83 and 156 outlines the special consultative procedure to be followed.

Intention of the bylaw

The intention of the Cemeteries Bylaw is to:

- (a) Set standards to maintain and preserve cemeteries.
- (b) Direct the positions and depths of all graves within a cemetery.
- (c) Protect buildings, monuments, lawns, shrubs, plantations, and enclosures in a cemetery from destruction or damage.
- (d) Prescribe conditions subject to which more than one deceased person, including the ashes of more than one deceased person, may be interred in any grave.
- (e) Control or restrict the times at which or between which burials may be carried out.
- (f) Regulate burial in a cemetery of the ashes of the dead.
- (g) Subject to section 51 of the Burial and Cremation Act 1964, regulate and restrict the disinterment and removal of bodies.
- (h) Regulate the use of, and any activities undertaken at cemeteries, in order to protect land, structures and infrastructure associated with cemeteries from damage, misuse, or loss.
- (i) Prescribe fees payable in respect of goods or services provided by Council in relation to cemeteries.

The Council considers through the development of a Cemeteries Bylaw, that it will meet the requirements of the Burial and Cremation Act 1964 and the Health Act 1956 and ensure appropriate rules and conditions relating to sensitive activities and behaviour in cemeteries are imposed.

Is a bylaw the most appropriate way of managing the problem?

Under section 155 of the Local Government Act 2022, before commencing the process of making a bylaw, the Council must determine that a bylaw is the most appropriate way of addressing the perceived problem. The bylaw outlines the standards of conduct and maintenance required within cemeteries along with prohibited activities.

It is therefore contended that a bylaw is the most appropriate means by which to address the requirements of the Burial and Cremation Act 1964.

Does the proposed bylaw affect the New Zealand Bill of Rights Act 1990?

Section 155(2)(b) of the Local Government Act 2002 (LGA) requires the Council to determine whether the proposed bylaw is inconsistent with the New Zealand Bill of Rights Act 1990. Section 147(3)(a) of the LGA also requires the Council to be satisfied that the bylaw is a reasonable limitation on people's rights and freedoms.

The Bill of Rights Act, inter alia affirms democratic and civil rights in the areas of freedom of peaceful assembly, association and movement, which can potentially be impacted on by a bylaw. It is considered that there are no obvious infringements or implications with the New Zealand Bill of Rights Act 1990 in regard to the proposed bylaw. No impacts on freedom of assembly, association and movement are foreseen.

Does the Council need to consult on the proposed bylaw?

The special consultative procedure contained within section Sections 83 and 156 of the LGA outlines the procedure to be followed for making a new bylaw.

Public notification and submissions

The Council is seeking submissions on the making of the Gore District Council Cemeteries Bylaw 2022 commencing from Monday 28 February 2022. The consultation period will run for no less than 30 days and will close at 5.00 pm on Monday 11 April 2022.

Information about the bylaw is available on the Council's engagement portal Let's Talk www.lets.talk.goredc.govt.nz.

Submissions can be made online via this website, delivered to the Council's office at 29 Bowler Avenue, Gore, mailed to PO Box 8, Gore 9740 or emailed to info@goredc.govt.nz.

The Council will acknowledge in writing each submission received. Submitters who wish to speak regarding their submission will be contacted by the Council with the date and time of the hearing.

A copy of the statement of proposal, along with the proposed bylaw, cemeteries operational handbook and a submission form will be available at the Gore and Mataura offices of the Gore District Council, and the Gore Library.