

# Thames-Coromandel District Council

## Cemeteries Bylaw Review 2014

### Determination Report

#### 1. INTRODUCTION AND BACKGROUND

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The purpose of this report is to determine the need to review the Council's Cemeteries Bylaw (Part 18 Cemeteries 2007 of the Thames-Coromandel District Council Bylaw 2004) and outline the proposed process for the review.

##### ***Current bylaw***

The current bylaw was made operative in 2007. The current bylaw proposes a review timeframe of within five years of adoption, which is 2012, so this bylaw review is currently overdue.

##### ***Related bylaws and Council plans***

The Council concurrently is reviewing its cemeteries operational manual which is a non-statutory guide for the Council and industry (such as Funeral Directors) regarding Council's day-to-day management of cemeteries.

The Council also has a Cemeteries activity management plan and asset management plans which deal with the management of the cemeteries assets.

The Council's Public Places Bylaw is relevant to the overall management of cemeteries as it enables the Council to manage the negative effects caused by littering and vandalism and the like.

#### 2. REVIEW PROCESS

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##### ***Outcomes sought***

The Council needs to ensure that the reviewed bylaw is fit for purpose and is the most appropriate mechanism to address cemetery-related issues.

##### ***Reasons for proposal***

In reviewing Part 18 of the bylaw the Council must ensure that:

- Regulation by bylaw is still the most appropriate mechanism to address cemetery issues
- The bylaw relates to an identifiable community outcomes that is reflected in Council strategy and policies, and
- No bylaw is made which is inconsistent with the New Zealand Bill of Rights Act 1990.

The Local Government Act 2002 provides for a Territorial Authority to make bylaws for its district for one or more of the following purposes

- Protecting the public from nuisance
- Protecting, promoting and maintaining public health and safety, and
- Minimising the potential for offensive behaviour in a public place.

The Burial and Cremations Act 1964 (s.16) enables the Council to make bylaws for all or any of the following purposes:

- maintaining, preserving, and embellishing the cemetery or closed cemetery:
- directing the positions of all graves and vaults in the cemetery, the depths of the graves, and the construction of coffins to be admitted into vaults, and the covering of vaults so as to prevent the escape of any noxious exhalation in the cemetery:
- protecting buildings, monuments, lawns, shrubberies, plantations, and enclosures in the cemetery or closed cemetery from destruction or damage:
- prohibiting the burial in any grave of more than 1 body or prescribing conditions subject to which more than 1 body may be buried in any grave:
- controlling or restricting the times at which or between which burials may be carried out:
- regulating the burial in the cemetery of the ashes of the dead:
- regulating and restricting the disinterment and removal of bodies:
- fixing a scale of fees payable in respect of any grave or vault dug or made, and any monument or tablet erected or placed, in the cemetery, and in respect of any agreements to maintain graves:

### ***Proposed bylaw review process***

It is intended that the revised Cemeteries Bylaw be approved for public notification on 9 February 2015 with submissions being received until 9 March 2015. Submissions will be considered and heard by the Council on 15 and 17 April 2015.

The Bylaw is then schedule to be confirmed by Council at a meeting to be held on 13 May 2015.

## **3. THE COUNCIL'S DIRECTION**

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### ***Strategic fit and alignment with community outcomes***

The Council's vision is:

*We will be a leading district council in New Zealand through the provision of quality services and facilities, which are affordable, and delivered with a high standard of customer service.*

*We will earn respect, both as a good community citizen and through our support of community organisations, economic development and the protection of the environment.*

*Through our actions, the Coromandel will be the most desirable area of New Zealand in which to live, work and visit.*

The Council has also articulated a number of values, as follows:

- Displaying empathy and compassion
- Fiscally responsible and prudent with ratepayers money
- Integrity, transparency and accountability in all our actions
- Treating all employees fairly and evenly in accordance with good employer practice
- Being a great place to work where staff are inspired to be the best they can
- Working with and having meaningful and on-going consultation with all of our communities
- Creating strong partnerships with our District's Iwi
- Having pride in what we do

- Being a highly effective and fast moving organisation.

In its 2012-2022 Ten Year Plan the Council articulated three Council outcomes: that the Coromandel will be a prosperous district, a liveable district, and a clean and green District.

Cemeteries provide memorial spaces for those wishing to remember people that have passed on. They are to be places of contemplation, of serenity, of prayer, of respect for our history and stories of our people. The Council has a role in ensuring that there is adequate burial facilities throughout our District and ensuring that all Council cemeteries are well presented as a mark of respect.

The way that this activity is managed must give effect to Council's values of compassion and empathy.

#### **4. ISSUES, OPTIONS AND RATIONALE**

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##### ***Issues associated with Cemeteries***

The Council has not actively sought feedback from the community in preparing for the review of its cemeteries bylaw, however, feedback has been sought from both staff and industry who work in the Council's cemeteries.

Throughout this review a number of issues were identified as follows:

1. The current bylaw does not prescribe depth of graves and there is currently a lack of clarity amongst those working in Council's cemeteries regarding standard depth of graves.
2. Greater clarity is required regarding standard size of caskets and standard ashes caskets. The bylaw is currently silent on ashes caskets.
3. For health and safety reasons, staff would like to see a reduction in burial hours, particularly in winter so that staff are not back-filling graves in low light and/or darkness. The hours for burials in the current bylaw permit burials until 4:00pm.
4. Greater clarity is required regarding out of district fees as the current wording in the bylaw is not clear and too much is being left to discretion of staff.
5. There is currently confusion about what Council provides for 'natural or eco burials'
6. The current bylaw prevents pre-purchase of plots at the Mercury Bay cemetery, however, staff believe that there is adequate room for pre-purchase of ashes plots.
7. The current bylaw does not expressly prevent the pre-purchase of more than one plot at a time and this matter has been subject to interpretation by staff.
8. There is a greater requirement being placed on staff for evidence of perpetuity entitlement for plots.
9. The current prescription around monuments, memorials and types of cemeteries is dated and doesn't reflect current cemetery practice or needs.
10. There is no guidance in the current bylaw as to whether the Council permits the burial of animals in its cemeteries.
11. The current bylaw does not permit any animals in the cemetery unless prior consent has been obtained from Council. This clause is not consistent with the Council's current

approach to disability and needs to be updated to reflect that visibility dogs are permitted.

### ***Options & Rationale***

The Burial and Cremations Act 1964 provides for a bylaw to be created to address all of the above issues.

There are no other mechanisms through which the Council can determine the majority of the above issues, in particular depth of graves, hours of burial and prescription on monument sizes.

Alternative management options and non-regulatory tools are not adequate for setting the rules for burials as this activity needs to be guided by statute.

The bylaw also enables the Council to enforce should it need to take action against inappropriate conduct or activity in a Council cemetery.

### ***Recommendation***

For the reasons outlined above, it is recommended that the Council retain a cemeteries bylaw for the purposes of effectively managing its cemeteries.