



**National Council of
Women of New Zealand**

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**Submission to the Law Commission on NZLC IP34 The Legal Framework for Burial
and Cremation in New Zealand: A First Principles Review**

The National Council of Women of New Zealand (NCWNZ) is an umbrella organisation representing 30 organisations affiliated at national level and a further 40 organisations affiliated at branch level. It has 22 branches throughout the country attended by representatives of these organisations, as well as individual members. NCWNZ's function is to represent and promote the interests of New Zealand women through research, discussion and action.

This submission has been prepared by the NCWNZ Consumer Affairs Standing Committee after consultation with the membership of NCWNZ.

Executive Summary

NCWNZ welcomes the opportunity to comment on this discussion document as the review offers options that would allow more choices in funeral, cremation and burial services. The proposed reforms have the potential to ease the financial burden on families, recognise the changes in New Zealanders' beliefs and customs and improve consumer protection in the transactions involved after the death of a family member. We endorse the updating of regulations to provide minimum standards for funeral directors and license the operators of crematoria.

Our Submission:

We canvassed our members' opinions on four of the key reform options. There are complex cultural, religious and humanitarian beliefs involved in this discussion and the responses below are a reflection of the wide opinions held.

1. Discussion Document Part 2: Key reform option 16:

That cemetery land management comes under the Resource Management frame so that, in addition to cemeteries under local authority control, New Zealanders could be buried on private land and independent providers could establish burial grounds.

This provision was generally seen as a beneficial reform. There were some strongly noted objections to burial on urban private land, mostly based on health concerns.

With regard to burial grounds it was generally felt that regulations must remain stringent. Provision of cemeteries was seen as a public service which should be the responsibility of the local authority. Some concern was expressed that some older cemeteries are poorly maintained.

It was felt that Local authorities should still retain both knowledge of, and some responsibility for, burials on private land and those carried out by independent providers. Burial sites should be clearly designated and registered in council plans for the land or on land held in trust as in enduring ownership. The same provisions should apply to independent providers such as religious or cultural groups.

Concerns were raised about the burials on private land which could be subsequently sold, and about the maintenance of independent burial grounds. The retention of, and access to, records of burials could be issues in the event that independent providers might sell the property.

Where there are family burial grounds on private land and urupa, the owners should have the right to determine who can be buried there and there should be documented records of this.

2. Discussion Document Part 3: Key reform option 17:

To require professional funeral service providers to comply with minimum disclosure rules around their qualifications and the pricing of the separate components of their services.

This met with general agreement although a concern was raised that a requirement to belong to a professional body could increase prices for the consumer.

Pricing of components of funeral services, including any options available for reducing costs, was supported as it would allow for decisions to be made that are appropriate to the financial circumstances of those paying the bill. It was acknowledged that this is an emotional time for families and details of the cost of funeral and cremation services should be transparent. After the event, billing for services should be clear and itemised accounts provided.

One respondent stressed the need for funeral and burial processes to be demystified. She remembered attending open days held by local funeral providers and found these insightful. There should be greater availability of information on options and processes

with the information freely accessible in places like hospital, rest homes, hospices, medical centres and WINZ. This could perhaps include information about such things as care of the body at home, and length of time before disposal was required. The ready availability of this information would increase understanding of the processes and costs and also reassure people that it is a topic that can be, and should be, openly discussed.

It was noted that people with a low income often cannot afford professional funeral services and find it easier and less costly to hold services or tangi on family property in both urban and rural areas, attended by a local celebrant or person of high esteem within family.

Respondents felt that disclosure of the qualifications of funeral and cremation services providers would enable people to make careful choices during their preparations. One group emphasised the importance of professional guidelines about privacy for funeral directors as they sometimes have knowledge about complicated relationships or legal issues which the deceased or family may not want to have disclosed.

3. Discussion Document Part 2: Key reform option 17:

To expand regulations for the operation of crematoria including having a licensed operator or supervisor.

Most respondents agreed they should be licensed and were in fact surprised to learn that this was not already the case. It was felt there was a need for accountability for the practices and responsibilities for cremation and that registration would help.

Comments from respondents covered issues such as the need for staff at crematoria to follow rules to ensure the health and safety of themselves and the community; the expectation that compliance would avoid irregularities and ensure dignity and respect for the deceased; the importance of understanding and observing the rituals of different cultural groups; the need for families' intentions as to what is to happen to the ashes to be made clear prior to the cremation.

4. Discussion Document Part 4: Key reform option 18:

To establish a new statutory regime to clarify who has the authority to make decision when a serious burial dispute has arisen within a family, and the factors which that person/persons must take into account when making a decision; and to give the Family Court jurisdiction to make burial orders, require mediation, and refer cases involving tikanga to the Māori Land Court for resolution (if appropriate and agreed by all parties)

There were several differing opinions here and it was felt that considerable thought needs to be put into having adequate consultation before this becomes law.

Some members preferred the status quo. Other members believed that the near family (i.e those with greatest and closest connection) has to decide overall.

It was widely agreed that everyone has a responsibility to their families to make their wishes known. This is especially important where there is a likelihood of a burial dispute. Some suggested that people should nominate an Executor to carry out their wishes. This could be written, spoken, recorded on disc or by other means. This would avoid distressing situations such as the closest bereaved family members having to fight in public for the location of a loved person's burial site as well as having the additional expense of having to apply to the Family Court or Maori Land Court for the resolution of disputes.

Most respondents wished for the deceased's wishes, as expressed in the will, to be adhered to even if this should override a family's cultural or religious values. One example given was the expressed desire of the deceased to donate organs. Nevertheless it was noted that the remaining family are the ones who have to live with the choices made, including where they have a financial impact.

Some members did not consider a new statutory regime is required and others felt that where mediation was necessary to decide where a body will be buried, this should be carried out in the Family Court so that privacy is observed rather than creating a media circus in public.

Thank-you for the opportunity to have an input on these matters.

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National President

Wendy Pearce
Convenor, Consumer Affairs Standing Committee