

Invercargill City Council

Bylaw 2012/1 – Urupa (Maori Burial Site) Te Hau Mutunga

STATEMENT OF PROPOSAL – SUMMARY

The Invercargill City Council is reviewing an existing Bylaw that addresses the issues associated with regulating the operation of an Urupa (Maori Burial Site) at 118 Mason Road. The Burial and Cremation Act 1964 (Section 16) expressly provides for a local authority to make Bylaws to control cemeteries.

Pursuant to the Local Government Act 2002 a full Statement of Proposal has been prepared. It is available for inspection at the Helpdesk of the Invercargill City Council, 101 Esk Street, Invercargill, at the Bluff Service Centre, and at the Invercargill Public Library.

The Statement of Proposal may also be found on the Invercargill City Council website www.icc.govt.nz.

Submissions are invited on this Proposal. Submissions must:

1. Be in letter form, clearly showing the submitter's name, address and contact phone number.
2. Be addressed to the undersigned and clearly labelled SUBMISSION – Bylaw 2012/1 – Urupa (Maori Burial Site) Te Hau Mutunga.
3. Indicate whether the submitter wishes to be heard by the Council in support of his/her submission. (Note – the substance of the submission should be in writing. Verbal presentations should be restricted to around five minutes.)
4. Be received by 5.00 pm on Friday, 27th October 2017.

C A MCINTOSH
DIRECTOR WORKS AND SERVICES
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INVERCARGILL

27 September 2017

Review of Invercargill City Council Bylaw 2012/1 – Urupa (Maori Burial Site) Te Hau Mutunga

STATEMENT OF PROPOSAL

1. Introduction

This is Council's Statement of Proposal as provided for by Section 83 of the Local Government Act 2002.

2. Review of Invercargill City Council Bylaw 2012/1 – Urupa (Maori Burial Site) Te Hau Mutunga

Council proposes minimal changes to the existing bylaw and seeks to continue operating under this to preserve the Urupa Te Hau Mutunga.

What is the Perceived Problem to be Addressed?

The primary purpose of the Bylaw is to enable Council to manage, regulate, protect, maintain and preserve the Urupa Te Hau Mutunga Cemetery at 118 Mason Road, Invercargill. Council needs to be able to regulate the operation of its cemeteries and crematorium. The Burial and Cremation Act 1964 expressly provides for a local authority to make Bylaws to control cemeteries. Section 16 of that Act states that:

A local authority may in respect of any cemetery, or, so far as is applicable, any closed cemetery under its control, make bylaws for all or any of the following purposes:

- (a) Maintaining, preserving, and embellishing the cemetery or closed cemetery:*
- (b) 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:*
- (c) Protecting buildings, monuments, lawns, shrubberies, plantations, and enclosures in the cemetery or closed cemetery from destruction or damage:*
- (d) Prohibiting the burial in any grave of more than one body or prescribing conditions subject to which more than one body may be buried in any grave:*
- (e) Controlling or restricting the times at which or between which burials may be carried out:*
- (f) Regulating the burial in the cemetery of the ashes of the dead:*
- (g) Subject to section [51](#) of this Act, regulating and restricting the disinterment and removal of bodies:*

- (h) *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:*
- (i) *Prescribing fines for the breach of any such bylaw not exceeding [\$100] in any case, and, where the breach is a continuing one, not exceeding [\$10] for every day or part of a day during which the breach has continued:*
- (j) *Any of the matters referred to in section [9](#) or in paragraphs [\(a\)](#), [\(b\)](#), [\(c\)](#), or [\(e\)](#) of section 59 of this Act.*

Is a Bylaw the Most Appropriate Method of Addressing the Perceived Problem?

The Burial and Cremation Act 1964 anticipates Councils adopting Bylaws to control activities within cemeteries. The direction provided in the Act indicates that a Bylaw is the most appropriate form of regulation open to territorial authorities for the control of cemeteries.

A bylaw will promote the social and cultural well being of the community by providing for the operation of the Urupa prior to the land transfer being completed. For many years local Maori deceased have been buried at Eastern Cemetery. Provision of the Urupa will provide certainty to local Maori, enabling cultural practices to be carried out where they have not always been compatible with the conventional management norms applied to municipally managed cemeteries.

What are the Implications under the New Zealand Bill of Rights Act 1990?

Council is satisfied that the proposed Cemeteries and Crematorium Bylaw will not be inconsistent with this Act, that is, it imposes reasonable limits that can be reasonably justified in a free and democratic society. Case law suggests that permanent prohibition of certain activities that the community may wish to undertake may impose unreasonable limits, for example not being able to erect headstones. Being able to regulate allows Council to make provision for whanau to erect headstones and memorials within specified limits. People also have an expectation that local authorities will control cemeteries within the district so that long term maintenance is minimised.

3. Place for Inspection and Obtaining Copies

The Statement of Proposal may be inspected at the Helpdesk of the Invercargill City Council, 101 Esk Street, Invercargill, at the Bluff Service Centre, and at the Invercargill Public Library.

The Statement of Proposal may also be found on the Invercargill City Council website www.icc.govt.nz.

4. Submission Period

Submissions are invited on the Statement of Proposal. Submissions must be received by Council no later than **5.00 pm on Friday, 27 October 2017**.

Submissions should clearly show the submitter's name, address and contact phone number. (Submission forms may be obtained from all Council offices and libraries and on the Council's website www.icc.govt.nz.)

Submissions can be:

Posted to: Invercargill City Council
Submission – Bylaw 2012/1 – Urupa (Maori Burial Site) Te Hau Mutunga
Private Bag 90104
Invercargill 9840

Delivered to: Helpdesk, Invercargill City Council, 101 Esk Street, Invercargill

Online at: www.icc.govt.nz

Faxed to: 03 2111 433

E-mailed to: policy@icc.govt.nz