

DDM submission to public consultation for review of the *Cemeteries Act 1986* and *Cremation Act 1929*

Topic 1: Legislation

Issue 1, there are currently two separate Acts.

We favour option 2, combining the Acts, as the subject matter is common and becomes even more overlapping when other forms of disposal of human remains come into play, such as aquamation and natural burials.

We feel this combined portfolio should fall under the remit of Local Government, extending the current management of cemeteries with responsibility for (all) methods of disposal of human remains.

Topic 2: Alternative methods for the disposal of human remains

Issue 2A, burials.

For 2A.1 we favour option 2, that legislation at the State level should provide for alternative forms of burial. The list of five alternative burial methods in the Discussion Paper seems comprehensive.

By explicitly stating the methods available, the legislation would provide uniformity across the State, and clarity. We understand some cemetery boards and localities will not or cannot offer all of these methods, and that should be explicit and clear, not implied and seemingly hidden, as is the current state.

The legislation should provide high level guidelines for how burials should be undertaken. The focus should be requirements for safe and respectful handling of human remains. To allow for options such as shroud-only burials, it might be useful to specify requirements for transporting bodies to the burial site separately from requirements for interment itself.

The proposed definition of burial seems adequate and general enough to allow for alternative methods.

For 2A.2 we favour option 1, that detailed requirements for coffins, shrouds, natural burials, etc., should remain the purview of local cemetery authorities. We believe this allows for the flexibility of localities to specify details that meet the needs of local stakeholders in an area that is evolving somewhat rapidly. Also it allows cemeteries more autonomy in determining their operations.

Issue 2B, cremations.

For 2B.1 we favour option 2, a more explicit definition in the Act for cremation. It seems to be just common sense that the legislation should define its subject matter clearly.

As there are emerging alternative methods of the reduction of human remains such as aquamation and human composting, the Act should provide for this. At the same time, it shouldn't be so specific as to rule out other emerging methods.

The proposed definition of cremation seems to provide a good balance between allowing new alternatives and not being overly proscriptive.

For 2B.2, we are dismayed that there is the issue of dealing with unclaimed ashes from a cremation. However as it is the case, we would favour option 2, explicitly providing guidance on how to deal with unclaimed ashes. Uniformity across the State as to how this is handled would be a good thing, and the proposed notice requirements do not seem onerous.

A period of six months is adequate for retaining unclaimed ashes after notification of the cremation permit holder. It might be prudent for the cremation permit to require two separate contactees for this eventuality, in the event a single contact is unavailable.

We would offer that interested community groups (such as ours) and/or friends of cemetery groups could be enlisted to assist in the respectful disposal of unclaimed ashes.

For 2B.3, we favour option 2, explicitly allowing for dual or multiple cremations. There can be certain circumstances where this would make sense, and it should not be implicitly disallowed for not being addressed in the legislation. We note that this does raise the issue of individual identity of the cremation remains; the presumption would be that the parties involved, if they can be contacted, would have agreed to this loss of identity before the cremation.

The proposed definition of multiple cremation seems fine.

Topic 3: Cemetery redevelopment

We do not have a strong opinion with respect to this topic, other than to say that effective community consultation is needed for any redevelopment scheme.

Topic 4: Burials outside of proclaimed cemeteries

We do not have a strong opinion on this topic. Our group does not have significant Aboriginal representation, which would seem vital to fully address this topic.

Topic 5: Licensing of funeral directors and monumental masons

Issue 5A, licensing of funeral directors.

For 5A.1, we favour option 2, or some version of it. The differences between conducting a funeral in any of the cemeteries across the State should not be so great as to require separate licensure for each. A single licensing authority that applies statewide makes sense.

Q1: The current licensing regime should give way to a single license that applies statewide.

Q2: Funeral directors should be able to apply for a single license that applies statewide.

Q3: (We are assuming that the word 'that' in the question was meant to be the word 'with,' otherwise the question does not make sense.) The proposal in Option 2 is the best of the three options proposed. The status quo is too restrictive and option 3 seems too unregulated.

Q4: We feel it should be possible for someone to acquire a single funeral permit without being a funeral director. The requirements of the activities in this role should be clearly laid out so that the applicant understands their responsibilities.

Q5: Some level of continuing professional development should be required for funeral directors. An exemption could be made for those who maintain their accreditation with the AFDA.

Q6: The criteria established by the MCB for issuing a funeral directors licence are reasonable and should be used as a model.

Q7: A three year validity period for a funeral directors licence is reasonable.

Q8: We favour funeral director licences that are individual, rather than applying to any funeral directors employed by a company. It should be a point of pride for an individual to have completed the work and study required. An individual should attest, as an individual, to complying with a code of ethics and conduct.

Q9: We are not aware of other licensing approaches that could be adopted for WA funeral directors.

Issue 5B, licensing of monumental masons.

We do not have a strong opinion on this topic, other than to say that, as with funeral directors in 5A, a state-wide uniform licence valid for all cemeteries in the state is preferred. (5B.1 Option 2)

Topic 6: Cremation Services in WA

We support continuing to operate crematoria as publicly owned entities administered by cemetery boards. It is a bit dismaying to learn that crematoria in WA do not operate under an established code of conduct and it would seem useful if such a code were put in place.

Topic 7: Consistency of forms and fees

It would be prudent to establish some consistency in forms and fees, at least up to establishing a minimum requirement for information collected in various forms.

Issue 7A.1, Cemeteries forms

We would favour Option 2, some establishment of prescribed forms in legislation. This would support a single licence for funeral directors in Issue 5. It might be useful to follow the ‘template’ concept as used in NSW, to set minimum standards for what is required in a given form. It is desirable for example to standardise requirements for insurance, police clearances and declaration of past bankruptcies/receiverships for funeral director licences. Some allowance for cemetery boards to add to what is required by the template to meet their specific local needs could be granted.

Issue 7B.1, Cremation forms

Continuing to have forms set out in the Cremation Regulations seems reasonable. It does seem that there might be opportunity to amend and/or combine some of them based on what is set out in the Discussion Paper. For example, the three forms dealing with medical practitioners and coroners look to be likely candidates to combine into one form.

Issue 7C.1, Cemetery and cremation fees

It would seem difficult to specify exact fees in the legislation as this could vary over time. One would need to account for both inflation, and variances in many things, such as the price of contractors, and input materials. For example of the latter, the price of natural gas used for crematoria could be subject to much fluctuation.

The idea of having a more uniform fee structure across the state however has merit. The legislation could provide for cemetery authorities meeting on an annual or biannual basis to establish a baseline fee structure for the basic services provided by cemeteries and crematoria statewide. If local variations are required, these can be documented and communicated to the consumers of these services.