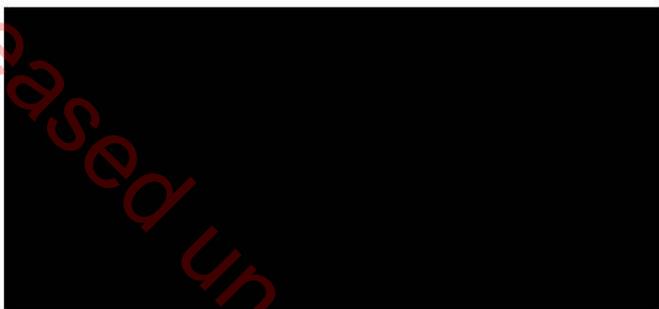


20 February 2019



Response to your request for official information

I refer to your request of 22 January 2019 to the Ministry of Health (the Ministry), under the Official Information Act 1982 (the Act), for:

"How many burials were authorised by the Ministry of Health to be undertaken in a place not historically used for burials over the past ten years? Over the past year? Where were these burials done? Under what circumstances were they approved?"

The Ministry has interpreted your question to mean burials in special places (i.e. burials not in established cemeteries, burial grounds or urupā).

The number of burials in special places approved under delegated authority in the past 10 years (up until January 2019) have been 11, the most recent was in June 2017.

Date application received	Burial place
June 2017	Wellington
October 2016	Auckland
August 2015	Southland
30 July 2015	near Tauranga
December 2014	Southland
October 2014	Central Otago
July 2012	Waikato
November 2010	Marlborough
November 2010	near Rotorua
August 2008	Tairāwhiti
April 2008	Northwest of Napier

Please note information relating to the approval of each burial has been withheld under section 9(2)(a) of the Act, to protect the privacy of natural persons, including that of deceased natural persons.

Attached to this response is the Ministry's guidance for people wishing to be buried in a special place, which may be of relevance to your request.

I trust this information fulfils your request. You have the right, under section 28 of the Act, to ask the Ombudsman to review any decisions made under this request.

Please note this response (with your personal details removed) may be published on the Ministry of Health website.

Yours sincerely



Deborah Woodley
Deputy Director-General
Population Health and Prevention

Released under the Official Information Act 1982

GUIDELINES FOR BURIAL IN A SPECIAL PLACE

Section 48 of the Burial and Cremation Act 1964 (the Act) states that:

Notwithstanding anything in this Act, a body may be buried in any place, even though that place was not used for burials before the date of the commencement of this Act, if the Minister first certifies in writing that he is satisfied that there are exceptional circumstances which make the burial of that body in that place particularly appropriate and if, where the proposed place of burial is within [a borough or part of the district of a district council which was formerly a borough or part of a borough, the sanction of the Mayor or Chairman, as the case may be] or 2 councillors is obtained.

Essentially this section allows a body to be buried in a special place where the Director of Public Health, acting under delegation from the Minister of Health, is first satisfied that *exceptional circumstances* make the burial in *that place particularly* appropriate. The Act gives no direction as to what circumstances may be considered 'exceptional'. To assist with the determination of such applications and to provide transparency and consistency, the Ministry of Health has formulated these guidelines.

The Burial and Cremation Act specifically excludes the establishment of private burial grounds. The reason that private burial grounds are no longer allowed is the difficulty of ongoing access to the site if ownership of the land changes.

Each application is considered on its own merits based on the material supplied in the application and the health protection officer's report. In submitting an application for burial in a special place, the health protection officer should ensure the following information is provided either in the application or in the officer's report. The health protection officer should make a clear recommendation on the application.

Other options

1. Section 46 of the Burial and Cremation Act allows for the burial of any person more than 32 kilometres (in a direct line of sight) away from the nearest cemetery. The person burying the body must give the nearest District Court Judge notice of the burial, specifying the name of the deceased, the supposed cause of death, and the place of burial.
2. A denominational burial ground can be set up under section 31 of the Act. This requires 25 adult members (aged 20 years or over) of the same religious faith to desire land to be set-aside for this purpose.
3. There is provision under the Te Ture Whenua Māori Act 1993 for the establishment of an urupā. Te Puni Kōkiri, the Ministry of Māori Development, is the agency to contact for such an application.
4. Cremation, there are no legislation requirements administered by the Ministry of Health relating to the disposal of cremated human ashes so these may be interred or scattered at the site. Consultation with appropriate local iwi and/or hāpu representatives, and territorial authority bylaws may be appropriate.

REQUIREMENTS FOR AN APPLICATION

Evidence of exceptional circumstances

The application must clearly state the applicant's association with the land, and demonstrate the exceptional circumstances which make the burial particularly appropriate at that site.

'Exceptional' is defined as unusual, not typical, unusually good, outstanding (*Concise Oxford Dictionary 1990*).

The Ministry of Health believes that section 48 of the Act was intended to provide for the burial of public notables whose deeds were of national significance. Therefore, an association with the land and/or activities which are of national significance will demonstrate exceptional circumstances.

Where applications relate to an association with the land the deceased should have had a lengthy, specific and personal association with the proposed burial site. The association and related matters must be so special that they equate to exceptional circumstances.

Precedents have included persons that have lived and worked virtually their entire life on the land. However, a long association with the land by itself is not enough, and must be accompanied by other circumstances that make the association with the land being exceptional.

Resource Management Act

The applicant must show that there has been consultation with the territorial authority as to whether a resource consent is required for the burial in terms of the district plan, and assurance that any bylaws and Council policies have been complied with. If a resource consent is required the Ministry will not consider the application until it has evidence that a resource consent has been issued.

Certificate of Title and the Land Information Memorandum

The applicant must show evidence that the proposed burial site will be included in the Certificate of Title by of caveat as well as the territorial authority's Land Information Memorandum.

Ownership

A history of ownership and written assurances that the family will retain the property is required. If there is no family, other arrangements would be considered, e.g., gifting the land to a trust.

Council approvals

If the proposed place of burial is within a city or part of the district of a territorial authority which was formerly a city or borough or part of a city or borough, the sanction of the Mayor or two members of the governing body of the territorial authority (i.e. the Council) must be obtained.

Referees

An explanation of the deceased's or applicant's exceptional circumstances and special association with the proposed burial site, should be verified by written submissions from family, friends and persons of standing in the community who knew the applicant well.

Neighbours

The applicant should demonstrate that there has been consultation with the neighbours whose outlook might be affected by the proposed burial place.

Māori consultation

Evidence of consultation with the appropriate local iwi and/or hāpu should be provided to confirm there are no unresolved issues for Māori with the proposed burial site.

If the proposed burial site is on Māori land then the views, in writing, must be obtained of any occupier, such as a lessee, and the person or group responsible for administering the Māori land who may be:

- trustee/s appointed by the Māori Land Court – most likely ahu whenua trustee
- agent appointed by the Māori Land Court
- a Māori Land Incorporation.

If there is no person appointed to administer the Māori land then written views must be obtained from owners of the land who can be traced.

Site assessment

1. There must be a description of the proposed burial site as well as accurate plans showing the location of the property and the proposed location of the grave site. Aerial photographs with relevant features marked in permanent ink are very useful.
2. The site should be non-urban.
3. The site should ideally be in a relatively secluded part of a sizeable property.
4. Information on how the grave will be marked and secured should also be given.
5. Access routes for visitors to the site should be indicated.
6. There should be no risk to underground water, no likelihood of inundation, erosion, ground instability or other events that may compromise the integrity of the grave.

7. The assessment should advise whether the proposed burial could cause adverse effect to the health of persons in the vicinity of the proposed burial site.
8. Arrangements for the maintenance of the site should be detailed.
9. A site assessment report from a health protection officer, employed by the local public health unit must confirm the suitability of the proposed site for burial.

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