# Guidelines for establishing a denominational burial ground

**Introduction**

These guidelines are to assist people who are considering establishing a denominational burial ground. They set out background material as well as the information required before a decision can be made on an application.

The Burial and Cremation Act 1964 (the Act) applies to cemeteries and burial grounds but not to Māori burial grounds (urupā). The essential distinction between a cemetery and a denominational burial ground is that cemeteries are places set apart for the burial of the dead generally, whereas denominational burial grounds are set aside for the burial of the dead belonging to one or more religious denominations

Section 31(1) of the Act states that:

 *“If not less than 25 of the adult members of a religious denomination desire that any land, which is held in fee simple by any 1 or more of them or by a corporate body under the control of any 1 or more of them, should be set apart as a burial ground, to be used only for the burial of the members of that denomination, they may, with the prior written approval of the Minister, by public notice published at least once in the Gazette and at least once in each of 3 consecutive weeks in a newspaper circulating in the district in which the land is situated, declare the land to be dedicated and open as a denominational burial ground to be used as aforesaid, and thereafter, subject to subsection (3), the said land shall be used for such purpose only:*

*provided that nothing in this subsection shall prevent the managers of any such burial ground from permitting the burial of any other person therein if they think fit.”*

The Minister’s powers under section 31(1) have been delegated to the Director of Public Health at Manatū Hauora.

**Making an application**

Any application should be in writing and submitted through the local office of Te Whatu Ora – Health New Zealand’s National Public Health Service. Applications should include the following:

1. The proposed name of the denominational burial ground and the territorial authority district in which the ground is situated.
2. Confirmation that the proposed burial ground is outside the boundaries of a cemetery.
3. A report from the territorial authority on compliance with the District Plan, a copy of the resource consent, and any conditions attached to the resource consent.
4. A search copy of the relevant title from the computer register showing the land is held in fee simple by a member(s) of the denomination or a body corporate under the control of a member(s) of the denomination.
5. Identification of the religious denomination involved and written evidence from at least 25 adults that they are practising members of the same denomination, are 20 years or over, and wish the land to be so dedicated.
6. Evidence of the group being a religious denomination, and an organised group, by including an outline of the basis of the group’s spiritual beliefs, for example with a creedal statement set out in a Trust Deed or Charter. This should show the group is manifestly concerned with spiritual matters, for example through using religious language such as “faith”, “spiritual awareness”, and “spiritual communion”.
7. Written evidence to support that there is a need or demand for such a denominational burial ground.
8. Written evidence that the individuals expect to be buried in the denominational burial ground.
9. Written evidence of the landowner(s) relationship with the denomination, their consent to the proposal and that the land identified in the application will be specifically dedicated for the purposes of a denominational burial ground through the public notice provisions (paragraph 13 below).
10. The names of person(s) or corporate body to be appointed as managers of the denominational burial ground.
11. If the proposed burial ground does not cover the entire land in the title and forms only part of the land (e.g., on a farm), evidence of how the land is to be set apart as a denominational burial ground and how people with a legitimate interest in the burial ground will have reasonable public access.
12. Confirmation of the applicant, and proposed manager’s, knowledge of the applicable provisions of the Burial and Cremation Act 1964; in particular, section 36(1) and Part 1 of Schedule 1 to the Act, and an understanding that any member of the denomination may be buried in the burial ground.

An undertaking to meet the public notice requirements for denominational burial grounds of section 31 of the Act. A draft notice should be provided with the application. Notification is required at least once in the *Gazette,* and at least once in each of three consecutive weeks in a newspaper circulating in the district in which the land is situated. The notice must declare the land to be dedicated and open as a denominational burial ground.

**Health protection officer’s report**

On receipt of the application, a health protection officer from Te Whatu Ora – Health New Zealand’s National Public Health Service will review the documentation and clarify with the applicant anything that has been omitted or is incomplete. The health protection officer will carry out a site visit and assess the suitability of the land for the burial of the dead. Factors for consideration will include neighbouring land uses, proximity to water sources, surface drainage and groundwater. The health protection officer will also comment on roading, fencing (to prevent stock access), and any other facilities to be established as part of the proposal. The health protection officer’s report will also discuss any likely alternative uses for the land.

# Questions and answers

**1. What is a religious denomination?**

The Act defines a “religious denomination” to mean the adherents of any religion and includes any church, sect, or other subdivision of such adherents. This includes adherents of religions such as Buddhism (which do not worship a deity) and Christians (or subsets of Christians such as Catholics, Anglicans and Presbyterians).

The expression “not less than 25 of the adult members of a religious denomination” may include 25 members or more over 20 years of age who are part of an organised group, which has a creedal statement showing that the group is manifestly concerned with spiritual matters, for example through using religious language such as “faith”, “spiritual awareness”, and “spiritual communion”.

**2. How is the proposed denominational burial ground clearly defined?**

The Act says that any land “set apart” as a denominational burial ground “shall be used for such purpose only”. Accordingly, if the proposed denominational burial ground does not cover the entire land described in the title and forms only part of that land (eg a small part of a farm), the applicant needs to show how the land is to be set apart as a denominational burial ground. If the burial ground is not already defined by survey, a plan defining that burial ground will need to be prepared and deposited with Land Information New Zealand (LINZ). Depending on the situation, the survey plan may also need to define public access to the burial ground. As well, the balance of the land will require the issue of a new title. There are costs associated with the survey and issue of new titles, so please contact LINZ for information regarding that process and related costs.

**3. What does the Act say about operating denominational burial grounds?**

The provisions of Part 1 of Schedule 1 to the Act apply to denominational burial grounds, in addition to the sections of the Act that specifically refer to denomination burial grounds. These cover:

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| * management (s8)
 | * powers as to vaults, monuments, etc (s9)
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| * the exclusive right of burial (s10)
 | * bylaws by local authority (s16)
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| * restrictions on alienation of land (s21)
 | * powers and functions of trustees (s25)
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| * internal management (s26)
 | * bylaws by trustees (s30)
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| * burials to be registered (s50)
 | * inspection (s52).
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**4. Who can manage the denominational burial ground?**

The people who hold the land in “fee simple” (i.e., the owners who have the right to control, use, and transfer the property at will) are the managers of that burial ground. However, they may appoint as well as, or instead of, themselves, another person(s) to be manager(s) or they may request that the Minister appoint a manager(s).

**5. Who may be buried there?**

Any member of the denomination may be buried in the burial ground. The manager of a denominational burial ground may also permit the burial of any other person in the burial ground.

**6. What things are considered about the site?**

Matters that are taken into consideration are whether the land is in an urban or rural location, its location in relation to neighbours, suitability as a burial ground on public health grounds (proximity to water sources, surface drainage and groundwater etc.), whether the burial ground is clearly defined, and whether there is any alternative use for the land.