



**ACT**  
Government

# INFORMATION PAPER

## Review of the Cemeteries and Crematoria Act 2003

Transport Canberra and City Services  
Direcorate

October 2018



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# MESSAGE FROM THE MINISTER

Cemeteries and crematoria, and the services they deliver, have an important role in the lives of people in our community and how we remember our loved ones. It is important that the Government understands the needs and preferences of all members of the community so that a full range of services can be provided in a sustainable way.

In 2017 the Legislative Assembly held an inquiry into the management of cemeteries in the ACT. This important review culminated in a number of recommendations that the Government has agreed to action including continuing to monitor community needs and preferences, undertaking review of the Cemeteries and Crematoria Act 2003 (the Act) and consideration of a renewable tenure scheme for burial sites.

I want to engage with the community to really understand the diverse needs and preferences of Canberrans, and have a conversation with you about renewable tenure.

At this stage, we know that there is increasing preference for cremations over burials and there is increased interest in alternative and more environmentally friendly options, such as natural burials. There are also a number of new and emerging technologies which are likely to become more widely available in the near future.

We also know that different religions and cultures have specific needs, not all of which are currently being met in the ACT. It is the goal of this engagement process to fully understand these needs so they can be provided for in our community.

Currently in the ACT, burial (interment) rights last forever (in perpetuity). The subject of renewable tenure is likely to be uncomfortable for some people, but it is important to have a serious conversation about the ongoing sustainability of our cemeteries and the option of renewable tenure. Renewable tenure is not a new concept and our neighbours over the border in NSW introduced renewable tenure several years ago, as have Western Australia and South Australia.

I want to make it clear that the Government is not proposing that any renewable tenure scheme would apply retrospectively, that is, the tenure of existing burial sites would not change.

Ultimately, I want a contemporary, sustainable and flexible model to ensure a diverse range of burial, cremation and similar services that will meet the needs of all Canberrans now and into the future. To achieve this we need to hear from a diverse range of people in the community about their experiences, needs and preferences.

I understand this is a sensitive topic and there are a variety of ways to engage. I encourage everyone to have their say about their needs, preferences and ideas for the future.

**Chris Steel**

**Minister for City Services**



# INTRODUCTION

In 2017 the Legislative Assembly held an inquiry (the Inquiry) into the management of cemeteries in the ACT. The Inquiry recommended, among other things, that the ACT Government review the Cemeteries and Crematoria Act 2003 (the Act), monitor community preferences and consider renewable tenure for burial sites. An extract of the recommendations, and the Government's response, is available at Annexure A. The full report can be found on the ACT Legislative Assembly website ([www.parliament.gov.au](http://www.parliament.gov.au)).

The Government is commencing its review of the Act with a public engagement process. Through this process we want to understand what the communities' needs and preferences are in relation to burial, cremation and related services in order for us to create a contemporary, sustainable and flexible model that meets the needs of all Canberrans now and into the future.

## THE CURRENT ACT

The Cemeteries and Crematoria Act 2003 sets out the legislative framework for burials and cremations in the ACT. Under the Act once a right of burial is given, the right lasts in perpetuity (forever). The Act also establishes:

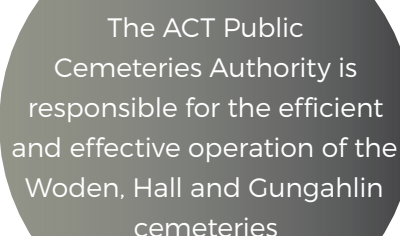
**The Code of Practice.** The Code of practice sets out the minimum operating requirements that apply to all cemeteries and crematoria in the ACT, whether public or private.

**Perpetual Care Trusts.** A perpetual care trust for each cemetery or crematorium is established and is for the short and long-term maintenance of the cemetery or crematorium. This can include the grounds, monuments, memorials, tombstones, gravestones, tablets, mausoleums, vaults, graves, walls, roads, drains, and other works at the cemetery or crematorium. The trust can also be used for other charitable purposes approved by the Minister.

**Perpetual Care Trust Reserves.** The Act establishes a perpetual care trust reserve for each cemetery or crematorium, which forms part of the perpetual care trust. The reserve is established for long-term maintenance of the cemetery or crematorium.

The Minister determines the percentage for the perpetual care trust and the perpetual care trust reserve for each cemetery and crematorium. In determining this amount, the Minister must be satisfied that the percentage is sufficient so that the cemetery or crematorium will be adequately maintained in both the short and long-term.

The Act also establishes the ACT Public Cemeteries Authority (the Authority). The purpose of the Authority is to effectively and efficiently manage public cemeteries and crematoria for which the Authority has been appointed as the operator by the Minister. The Authority has been appointed the operator of the Gungahlin Cemetery, Hall Cemetery and Woden Cemetery.




The ACT Public  
Cemeteries Authority is  
responsible for the efficient  
and effective operation of the  
Woden, Hall and Gungahlin  
cemeteries

# WHY REVIEW THE ACT?

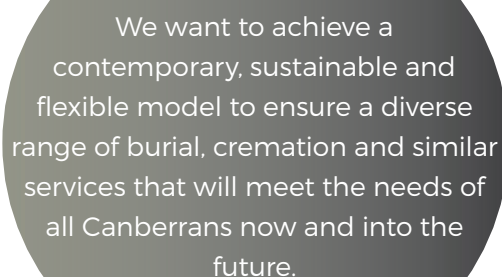
The current Act has been in place for 15 years and while it clearly sets out requirements for burials and cremations, we know that not all services the community want or need are currently being provided for.

Legislation should be regularly reviewed and updated to reflect community needs as well as contemporary best practice from around the world, especially as new technologies emerge.

Additionally the current model for cemeteries is unsustainable in the long term. Specifically, setting aside large amounts of land for cemeteries which can never be reused. This review aims to gather information from the community on needs and preferences so we can design a contemporary, flexible and sustainable model that meets the needs of all Canberrans, now and into the future.



The problem: How do we provide a wide range of burial, cremation and similar services that will meet the current and future needs and preferences of the ACT community in a sustainable way.



We want to achieve a contemporary, sustainable and flexible model to ensure a diverse range of burial, cremation and similar services that will meet the needs of all Canberrans now and into the future.



# WHAT FACILITIES ARE CURRENTLY OFFERED IN THE ACT?

## WODEN CEMETERY

Woden Cemetery was opened in 1936. The cemetery is operated by the Authority and has offered the following services:

- Lawn area where plaques are installed close to the ground
- Headstone area with traditional headstone (not grassed)
- A mausoleum with internal and external burial crypts.

Importantly, Woden Cemetery is very close to reaching capacity and will close to most faiths in late 2018. As part of the Inquiry, the Legislative Assembly recommended that the Government reconsider (i.e. not proceed with) a planned extension to Woden Cemetery. The Government agreed to this recommendation and Woden Cemetery is not proposed to be extended or considered as part of this review.



# GUNGAHLIN CEMETERY

Gungahlin Cemetery was opened in 1979. The cemetery is operated by the Authority and offers the following services:

- Lawn area with an exposed aggregate beam for a plaque
- Monument lawn with an exposed aggregate beam for a small headstone
- Family estates which centre around a small tree. Plaques or headstones may which may be placed on the exposed aggregate beam surrounding the plot / tree
- Headstone area with traditional memorials (not grassed)
- Ex-Service area for individuals (and an immediate family member) who have serviced in Australian or Allied services
- Children's garden with a grassed area and an exposed aggregate beam where a plaque can be placed
- Babies Rose garden where a plaque can be placed on a rock wall which surrounds the garden
- Aboriginal lawn for people of aboriginal decent, a plaque or headstone may be placed on the exposed aggregate beam
- Jewish area which provides both lawn and gravestone graves – approval from the Jewish community is required
- Islamic area for the Muslim community which provides options both traditional or a plaque on a small block
- Natural burial grounds which are set among trees.

Currently Gungahlin Cemetery has around a 40 year lifespan, however if it is the only cemetery in the ACT, this is shortened to around 25 years.





## HALL CEMETERY

Hall Cemetery is operated by the Authority and is a small rural cemetery primarily for the long-time residents of the Hall region. The cemetery is divided into religious denominations and has a rose garden and monument wall for the interment of ashes.

The Hall Cemetery also contains rare and endangered plants which means mowing is not possible in spring and early summer.



## NORWOOD PARK CREMATORIUM

Norwood Park, located in Gungahlin close to the Gungahlin Cemetery, is the ACT's only crematorium and is privately operated. Norwood Park currently offers Christian and non-denominational services and has a range of memorial gardens.



## WHAT WE KNOW SO FAR

The subject of burial and cremations is a sensitive topic and there are a broad range of community needs, including specific religious and cultural needs, all of which are not currently being met in the ACT. A key driver of this engagement process is to gain a deep understanding of these needs and community preferences.

We know that:

- There is a nationwide preference towards cremations over burials
- In the ACT about 75 per cent of people are choosing cremations
- There is growing community interest in alternatives to traditional burials, such as natural burials
- There are a significant number of new and emerging technologies which are likely to become more widely available in the near future. It is important to create a model that is flexible around emerging technologies, but also creates minimum standards to ensure that practices are both safe and the deceased are handled with dignity and care.

## WHAT IS HAPPENING ELSEWHERE?

The subject of cemeteries and crematoria has been a common topic for cities in the last decade as populations grow and age and densification increases. Across Australia many jurisdictions have introduced models that allow for renewable tenure of burial sites, including:



It appears that there has not been a large scale review of cemeteries and crematoria frameworks or legislation in Australia in the last five years.

# NEW AND EMERGING TECHNOLOGIES

There are many new and emerging technologies offering alternatives to traditional burial and cremation methods. A commonly adopted alternative is a natural burial, where the body is returned to the earth as simply as possible, in a shroud or casket, and buried to a maximum 1200mm in a protected green space. The grave is not physically marked by a plaque or tombstone, but a radio transmitter is buried next to the body and the GPS coordinates are recorded, so the exact location of the burial site can be found. Natural burials are currently available at the Gungahlin Cemetery.

There are other methods and technologies which have not yet made their way to Australia, but are increasing in popularity and may become the preferred method for some people, examples include:

**Alkaline Hydrolysis**, also known as water cremation or resomation, is a process which involves use of a biodegradable coffin which is placed in a water and alkali solution. The solution speeds up the natural process the body goes through at the end of life to 3-4 hours and results in a bone ash which can be returned to the deceased's family in an urn. Resomation is available in parts of the US and Canada.

**Capsula Mundi** are pods which enclose the body and are then buried. The pods are biodegradable and contain a seed for a tree which will grow, fertilised from the nutrients from the body as it decomposes. These are available to purchase internationally and have not yet been regulated, including in Australia.

These and other emerging technologies would need to be tested and pass relevant regulations before use in Australia. If in the future a new technology or method was found to be suitable for Australian communities it could be possible, if a flexible model is developed now, to manage its implementation via regulation, for example by creating a Code of Practice.





# THE REVIEW

At this stage of the review it is not proposed to allow for or regulate any specific new technologies related to burials, cremations or alternatives to these traditional methods. We want to find out what the community's needs and preferences are and design a model to meet these needs, now and into the future. We also want to be flexible around new technologies as they become available.

We want to hear from the community about needs and preferences for burial, cremation and related services, the ancillary facilities that are needed, such as places for ceremonies, gatherings or wakes and the ancillary services that are needed, such as florists and catering.

## RENEWABLE TENURE

A key element of this review is to understand what the community think about renewable tenure of burial sites. It is important to note that this review is not proposing to reuse existing burial sites or to remove in perpetuity options. We do however need to have a serious conversation about the sustainability of our current practices and offering limited tenure burial sites in the ACT.

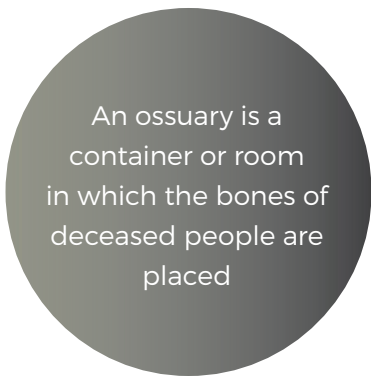
In Australia the tenure periods for burial sites typically start at 25 years and range up to 99 years. If renewable tenure were to be allowed in the ACT strict regulations could be put on the cemetery operator for example:

- A requirement to extend the tenure period (up to a set period or in perpetuity) on application of the descendants or family of the deceased
- A requirement to contact the descendants or family of the deceased at the end of the tenure period, including a requirement to provide information about options to extend the tenure period
- A requirement to make a significant effort to contact the descendants or family of the deceased when the tenure period has lapsed and the site is intended to be reused
- A wait period between the end of a tenure period and the start of the process to reuse a site (that is, before beginning the process of attempting to contact the descendants or family)
- A requirement to store the remains of the deceased in an ossuary or similar if the grave is reused.

Regardless of the regulations imposed, if reusing a site, Cemetery operators would be required to handle the remains of the deceased with respect and dignity and make information about the remains available to the family and the public for genealogical purposes.

It is not proposed to remove 'in perpetuity' as a tenure option.

As the community has an increasing preference for cremations over burials, it may also be necessary to consider renewable tenure for interment of cremated ashes. In other jurisdictions the tenure period for interment of ashes is typically 99 years.



An ossuary is a container or room in which the bones of deceased people are placed



## WHAT ABOUT THE EXTENSION OF WODEN CEMETERY?

As discussed above, Woden Cemetery is close to capacity and will close in late 2018. The ACT Government has previously considered expansion of this cemetery but has since agreed not to proceed. This was a recommendation in the Inquiry and follows extensive feedback from the Woden community.



## WHAT ABOUT SOUTHERN MEMORIAL PARK?

There is an existing proposal for a new cemetery and crematorium in Canberra's south on Mugga Lane, known as Southern Memorial Park (SMP). The Authority has undertaken a body of work to investigate SMP and consulted with the community in 2009-10. The ACT Government has committed to exploring options for the development of SMP, which is being undertaken alongside the review, however does not specifically form part of this engagement process. This review seeks to understand community needs and preferences for burial, cremation and other related services more broadly, which may be considered as part of the exploration process for SMP.

If the Government decides to proceed with SMP, the proposal will go through a public consultation process as part of the statutory planning process required to gain approval.

# HOW TO HAVE A SAY

We want to hear from the community, religious and cultural groups and industry stakeholders on:

- Your needs and preferences for burial, cremation and related services
- What ancillary facilities, such as places for ceremonies, gatherings or wakes are needed
- What ancillary services are needed in a cemetery or crematorium, such as florists and catering services
- What you think about renewable tenure for burial sites and how you think a renewable tenure regime should be structured.

You can participate in the review by:

- Completing the survey on the yoursay website
- Registering to participate in a focus group (contact the Project team via the YourSay website)
- Booking a time to talk to the Project Team one-on-one (contact the Project team via the YourSay website)
- Writing to us at [TCCS.BDU@act.gov.au](mailto:TCCS.BDU@act.gov.au) or Attention: BDU, TCCS, GPO Box 158 Canberra ACT 2601.

After the engagement process we will consider all feedback we receive and will report back you. Depending on the feedback we receive, we may need to talk to you about this again.

You can stay informed and updated on the yoursay website. We will provide updates on progress including with a summary of this consultation process.





# ANNEXURE A

This is an extract of the recommendations from the Assembly Inquiry and the Government's response. Both the full Inquiry report and the Government response can be found on the Legislative Assembly website ([www.parliament.gov.au](http://www.parliament.gov.au)).

Inquiry recommendation	Government response
1. The Committee recommends the Government, in view of the diversification in burial and interment preferences in the ACT, ensure that the development and construction of a second crematorium in Canberra be considered a high priority.	<p>Agreed</p> <p>The ACT Government is considering options for a second crematorium in Canberra.</p>
2. The Committee recommends the Government continue to monitor community preferences across a range of burial, cremation and interment practices and where possible make provision for emerging or alternative practices.	<p>Agreed</p> <p>The ACT Government will continue to monitor community preferences across a range of burial, cremation and interment practices and consider how to appropriately act on changing trends.</p>
3. The Committee recommends the management and operation of ACT cemeteries continue to be performed by the ACT Cemeteries Authority.	<p>Noted</p> <p>Options are currently being considered by the ACT Government for the future management and operation of ACT cemeteries, in conjunction with the ACT Cemeteries Authority.</p> <p>The ACT Government will undertake a review of the Cemeteries and Crematoria ACT 2003, which will include a public consultation process.</p>
4. The Committee recommends the management and operation of any future cemeteries or crematorium or any other interment facility be performed by the ACT Cemeteries Authority.	<p>Noted</p> <p>Options are currently being considered by the ACT Government for the future management and operation of ACT cemeteries and crematoria, in conjunction with the ACT Cemeteries Authority.</p> <p>The ACT Government will undertake a review of the Cemeteries and Crematoria ACT 2003, which will include a public consultation process.</p>

Inquiry recommendation	Government response
<p>5. The Committee recommends the Government reconsiders the planned extension of the Woden Cemetery in light of changes in planning for the Woden Town Centre and the views held by the local community.</p>	<p>Agreed</p> <p>As noted in the Report, it is acknowledged and accepted there are strong community views and planning obstacles which have resulted in the planned extension of the Woden Cemetery being reconsidered.</p> <p>The Government has agreed not to proceed with the expansion of the Woden Cemetery.</p>
<p>6. The Committee recommends that the Government agree to proceed with the current plans for the Southern Memorial Park and work with the ACT Cemeteries Authority to establish the facility as a matter of urgent priority.</p>	<p>Noted</p> <p>The Government has agreed to continue to explore the Southern Memorial Park proposal.</p>
<p>7. The Committee recommends that a review of the Cemeteries and Crematoria Act 2003 be undertaken to ascertain the feasibility and financial basis for adopting a renewable tenure scheme to replace the prevailing tenure provisions applying to ACT cemeteries.</p>	<p>Agreed</p> <p>The ACT Government will undertake a review of the Cemeteries and Crematoria Act 2003 and a public engagement and consultation process to ensure the continued maintenance and sustainability of Canberra's cemeteries in to the future.</p> <p>This will include an assessment of the feasibility and financial basis for adopting a renewable tenure scheme to replace the prevailing tenure provisions applying to ACT cemeteries.</p>
<p>8. The Committee recommends that any review conducted in accordance with Recommendation 7 should seek to clarify the current definition of perpetuity, and examine the introduction of a renewable tenure regime with some form of increments and renewals allowed.</p>	<p>Agreed</p> <p>Under the Cemeteries and Crematoria Act 2003 perpetuity is defined as 'forever', subject to a reserved allotment being used within 60 years of the date of purchase.</p> <p>Across Australia there has been a move to renewable tenure regimes for cemeteries.</p> <p>The ACT Government will undertake a review of the Cemeteries and Crematoria Act 2003 and a public engagement and consultation process to ensure the continued maintenance and sustainability of Canberra's cemeteries into the future. This will include consideration of a renewable tenure regime.</p>



Inquiry recommendation	Government response
9. The Committee recommends that any review conducted in accordance with Recommendation 7 should also include “for perpetuity” as a tenure option.	<p>Agreed</p> <p>The ACT Government will undertake a review of the Cemeteries and Crematoria Act 2003 and a public engagement and consultation process. This will include ‘for perpetuity’ as a tenure option.</p>
10. The Committee recommends that any changes to tenure practices arising from the review conducted in accordance with Recommendation 7 are applied only to future burial sales and are not applied retrospectively to existing plot sites.	<p>Noted</p> <p>The ACT Government will undertake a review of the Cemeteries and Crematoria Act 2003 and a public engagement and consultation process. Subject to the outcomes of consultation, it is proposed that any new tenure practices will only apply to future burial sales and are not applied retrospectively.</p>
11. The Committee recommends that an actuarial analysis of tenure options be undertaken as part of the review recommended in recommendation 7 to assess how best a renewable tenure scheme regime be structured to enable the ACT Cemeteries Authority to meet its financial liabilities over the long-term.	<p>Agreed</p> <p>The ACT Government will undertake a review of the Cemeteries and Crematoria Act 2003 and a public engagement and consultation process. It is proposed that an actuarial analysis of tenure options will be undertaken as part of the review.</p>
12. The Committee recommends that where a recommendation made in this Report is adopted, that all aspects of the Cemeteries and Crematoria Act 2003 relating to that matter be given specific review in light of the Cemeteries and Crematoria Act 2003 enabling the Authority to implement the relevant reform	<p>Noted</p> <p>The ACT Government will undertake a full review of the Cemeteries and Crematoria Act 2003 and a public engagement and consultation process.</p>



Transport Canberra and City  
Services Directorate

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