



Porirua City Council (Pauatahanui Burial Ground) Act 2007

Local Act 2007 No 1
Date of assent 23 October 2007
Commencement see section 2

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Schedule
Pauatahanui Burial Ground

The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Porirua City Council (Pauatahanui Burial Ground) Act 2007.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Preliminary provisions

3 Purposes of this Act

The purposes of this Act are to—

- (a) confirm the vesting of the Burial Ground in the Council; and
- (b) dissolve certain Trusts relating to the Burial Ground; and
- (c) extinguish certain interests of the Stace family in the Burial Ground; and
- (d) preserve specified entitlements, including the rights of persons who have purchased before the closure of the Burial Ground plots of land—
 - (i) in the Burial Ground; and
 - (ii) in which no burial has yet been made; and
- (e) provide for the maintenance, inspection, and records of the Burial Ground.

4 Interpretation

In this Act, unless the context otherwise requires,—

Act means the Burial and Cremation Act 1964

Burial Ground means the burial ground that is—

- (a) known as, and under section 10 continues to be called, the Pauatahanui Burial Ground; and
- (b) the land described in the Schedule; and
- (c) a closed burial ground

Burial Ground closing order means the notice published—

- (a) in respect of the Burial Ground; and
- (b) under sections 41(1)(a) and 44 of the Act; and
- (c) on page 1534 of the *Gazette* of 3 June 2004

closure, in relation to the Burial Ground, means the time (namely the close of 3 December 2004) at which that ground was closed by the Burial Ground closing order

controller and manager, in relation to the Burial Ground, means—

- (a) the Council, by virtue of the Burial Ground closing order;
- (b) any other individual or body corporate in lieu of or in addition to the Council, or any other individual or body corporate, in which control and management is vested under section 44 of the Act

Council means the Porirua City Council

Deed of Trust means the Deed of Trust dated 6 December 1856 under which Thomas Hollis Stace conveyed the land that is the Burial Ground, on the Trusts set out in that Deed, to William Bromley, Edward Bolton, Thomas Hollis Stace, William Jones, and James Mitchell

general provisions on closed burial grounds means the provisions of the Act, and of any regulations made under the Act, that relate to closed burial grounds

Minister means the Minister of Health

Registrar means the Registrar-General of Land

Stace heirs and assigns means the heirs and assigns of Thomas Hollis Stace

Trusts means the trusts established by, and modified by amendments to, the Deed of Trust.

Part 2

Burial Ground

Subpart 1—Status, control, and management

5 Confirmation of vesting of Burial Ground in Council

- (1) The vesting of the Burial Ground in the Council, effected by section 53(2) of the Act and the Burial Ground closing order, is confirmed.
- (2) If the Minister under section 44 of the Act vests the control and management of the Burial Ground in any individual or body corporate in lieu of the Council,—
 - (a) section 53(2) of the Act does not apply; and
 - (b) the Burial Ground remains vested in the Council.
- (3) Section 99A of the Land Transfer Act 1952 applies to the vesting confirmed by this section of the Burial Ground in the Council and, in complying with that section by making entries in the register (as defined in section 2 of that Act) and otherwise giving effect to section 53(2) of the Act, the Registrar must—
 - (a) remove caveat number 12255 (interests protected by which are extinguished by section 8) from the register (as so defined) relating to the Burial Ground; and
 - (b) issue a computer freehold register for the land that is the Burial Ground.

6 Application to Burial Ground of general provisions on closed burial grounds

- (1) The general provisions on closed burial grounds apply to the Burial Ground subject to—
 - (a) section 5(2)(a) (which in specified circumstances prevents the application to the Burial Ground of section 53(2) of the Act); and
 - (b) any other provision of this Act that limits or affects their application to it.
- (2) Examples of the general provisions on closed burial grounds include the provisions of the following enactments:
 - (a) sections 20, 42, 44, 45 to 45C, and 51 of the Act; and
 - (b) Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967.

- (3) This section does not limit or affect the application to the Burial Ground, in accordance with sections 12(1), 13, and 14(2), of sections 8, 9, 50, and 52 of the Act (which relate to cemeteries).

7 Dissolution of Trusts

The Trusts are dissolved.

8 Interests of Stace heirs and assigns under caveat extinguished

- (1) The interests of the Stace heirs and assigns protected by caveat number 12255 are extinguished.
- (2) Nothing in this Act affects existing burials in the Burial Ground in relation to the Stace heirs and assigns.
- (3) The Stace heirs and assigns may, after obtaining the controller and manager's consent for them to do so, inter ashes of the Stace heirs and assigns in that part of the Burial Ground where existing burials of those heirs and assigns have already been made.
- (4) The controller and manager must not unreasonably withhold consent of that kind.
- (5) Subsection (3) overrides subsection (1).

9 Entitlements of purchasers, survivors, etc, saved

- (1) Nothing in this Act affects any entitlement, interest, right, or title—
- (a) of a person of a kind specified in subsection (2); and
 - (b) recognised or protected by the Act, the Burial Ground closing order, or both.
- (2) The kinds of persons referred to in subsection (1)(a) are—
- (a) any person who purchased before the closure a burial plot—
 - (i) in the Burial Ground; and
 - (ii) in which no burial has yet been made; and
 - (b) any person referred to in section 42(1) of the Act; and
 - (c) survivors referred to in section 42(2) of the Act.

10 Burial Ground continues to be called Pauatahanui Burial Ground

The Burial Ground continues to be called the Pauatahanui Burial Ground.

Subpart 2—Maintenance, inspection, and records**11 Sections 12 and 13 apply only while Council is controller and manager**

Sections 12 and 13 apply only while the control and management of the Burial Ground is vested in the Council (either alone, or with any other individual or body corporate).

12 Maintenance of Burial Ground

- (1) Sections 8 and 9 of the Act (which relate to a local authority managing, and digging, making, erecting, placing, and maintaining graves, vaults, monuments, and tablets in, a cemetery) apply in respect of the Burial Ground as if it were a cemetery.
- (2) The Council must meet any maintenance costs associated with the Burial Ground.
- (3) The Council must take all reasonably practicable steps to foster community involvement in the upkeep and beautification of the Burial Ground.
- (4) The Council must consult with the New Zealand Historic Places Trust before the Council undertakes any major repairs or major earthworks at the Burial Ground.

13 Inspection of Burial Ground

Section 52 of the Act (which relates to the inspection of cemeteries) applies to the Council in respect of the Burial Ground as if it were a cemetery.

14 Records relating to Burial Ground

- (1) The Council is responsible for the safe custody of all records relating to the history and management of the Burial Ground.
- (2) Section 50 of the Act (which relates to the registration of burials within a cemetery) applies to the Council in respect of the Burial Ground as if it were a cemetery.

- (3) As soon as practicable after this Act comes into force, the Council must cause to be compiled and maintained as complete a record as practicable of the names and other identifying details of all persons known to be persons who have purchased, before the closure, burial plots in the Burial Ground in which no burials have been made.
 - (4) As soon as reasonably practicable after the commencement of this Act, all records relating to the Burial Ground (including the Deed of Trust, amendments to the Deed of Trust, financial records, and burial records) must be transferred to the Council.
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Schedule

Pauatahanui Burial Ground

All that piece of land containing 3179 square metres more or less being section 1 on SO Plan 336355 Wellington Registry.

Legislative history

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|-------------------|--|
| 20 June 2007 | Introduction (Bill 125–1) |
| 27 June 2007 | First reading and referral to Local Government and Environment Committee |
| 21 September 2007 | Reported from Local Government and Environment Committee |
| 17 October 2007 | Second reading, committee of the whole House, third reading |
| 23 October 2007 | Royal assent |
