Submission
No 17

INQUIRY INTO FUNERAL INDUSTRY

Organisation:

Name: Ms Therese Mallik

Telephone:

Date Received: 25/05/2005

Theme:

Summary

The Director
Standing Committee on Social Issues
Legislative Council
Parliament House
Macquarie Street
Sydney NSW 2000

Therese Mallik

25 MAY 2005

25 2005

Dear Sir/ Madam,

Re : Submission to the Inquiry into the Funeral Industry

I enclose my submission to the inquiry into the funeral industry.

My submission is directed at the operation and regulation of crematorium as I believe the controls currently in place are insufficient and are arbitrarily enforced (if enforced at all).

I have based my submission on a case study of a crematorium in my locality. While this crematorium is a relatively new facility with operations commencing in late 2002, from the first week of commencement of operations this facility has consistently and blatantly breached the conditions of consent put in place by council at the time of granting consent.

It is my hope that as a result of this inquiry, crematorium in New South Wales will be regulated by a central independent body with the knowledge and expertise to put in place and enforce proper control of this industry.

If I can provide any further assistance to this inquiry, I would be only too happy to do so.

Yours Faithfully,

Therese Mallik

Submission
To
The Legislative Council
Standing Committee on Social Issues

Inquiry into the Funeral Industry

Therese Mallik

Introduction

This submission is based on information I have obtained about the operation of one Cremator at Nulkaba.

The material I have obtained (after great difficulty) from the Council, indicates that this relatively new Cremator (commenced operation in 2002) persistently and continuously breach nearly every condition of its Consent and the Health Regulations and despite such breaches nothing was done to prevent its operation or to control it in any way.

My detailed submission demonstrates the cavalier disregard that the operator of the Nulkaba Cremator has towards to the Environmental Planning and Assessment Act and the Health Act and in my view clearly demonstrates an urgent need to regulate the Cremation Industry.

The conduct of the operator includes the following:

1. 139 more bodies were cremated in the first two years of operation than permitted under the Consent.
2. 794 bodies were cremated at primary chamber temperatures below that prescribed by the Council for the complete combustion of the bodies.
3. 36 bodies were cremated at a temperature in the secondary chamber below that prescribed by the Council to control emissions and below that specified by the manufacturer as being a minimum temperature for the cremation of bodies.
4. 278 bodies were cremated outside the hours of operation.
5. The failure of the operator to test for mercury on sufficient bodies, as required by the Council, and to manipulate the sample data so that the mercury testing was done on the youngest body only, which body would presumably have the least amount of fillings (mercury is obtained from the amalgam in teeth).
6. The failure to test for dioxin in accordance with the conditions of Consent and to manipulate the sample by ensuring that the coffins, on which the tests were carried out, had no ornamentations on them (dioxin is usually obtained from the plastic ornamentations on coffins).
7. The failure to test for particulate matter in accordance with the conditions of Consent.
8. The tests were carried out by an unapproved person and in an uncredited laboratory.
9. The Cremator was built with a stack lower than that specified in the conditions of Consent.
10. Commenced operation as a Cremator without obtaining an Occupation Certificate from the Council.

The file also disclosed that on numerous occasions complaints were made to the Council and such complaints were either ignored, not recorded or deemed frivolous by the Council based on false or misleading information given by the operator.

The order issued by the Council requiring the operator to comply with its conditions of consent was ignored by the operator and nothing was done to force the operator to comply.

The above instances simply show that the regulation of crematoria cannot be left to local authorities, as they do not have the expertise, the finance or the experience to properly police crematoria.

An examination of the records kept by the cremator under the Public Health (Disposal of Bodies) Regulations disclose a cavalier disregard to the requirements of the Health Act, in that the document showed on some instances that cremation of bodies took place before the bodies were received (an absurd situation). My complaint to the Department of Health about the failure to keep records fell on deaf ears and nothing was done. This demonstrates the Department of Health appears to be incapable of regulating crematoriums.

I am confident that, after reading my submissions, your Committee will agree that there is urgent need for substantial regulation of crematoriums and the setting up of a separate regulatory body to licence and regulate the activities of crematoriums

Background

Cessnock City Council approved a crematorium at Nulkaba on 21 November, 2001. The owner of the crematorium is St Patrick's of Nulkaba Pty Ltd.
The site on which this facility was approved is an L shaped block on the corner of Wine Country Drive and Kerlew Street Nulkaba. Wine Country Drive is a busy road being the main route to the vineyards and the New England Highway from Cessnock and Sydney. This site contains the former St Patrick's of Nulkaba church. This site is of recognised heritage significance, being the location of the first catholic presence in the Cessnock area from 1872. The sandstone former St Patrick's church opened in 1893. The crematorium is located at the rear of the church, fronting Kerlew Street and is some 40 metres from the main road intersection.

The Proposed Development Approved on the basis of it's small size

The basis of the application to council for a crematorium at Nulkaba was to provide a service to the local community thereby avoiding travelling times of approximately 30 minutes to the nearest other facilities located at Beresfield and Ryhope.
The Statement of Environmental Effects submitted by the developer was based on cremation rates of 235 to 400 per annum, sufficient, this document stated, to satisfy the cremation needs of the populations of the Local Government areas of Cessnock, Singleton, Muswellbrook and Dungog. As one of the majority shareholders of the cremation facility is Lance L Boots Pty Ltd (funeral directors), a subsidiary company of CR Smyth Pty Ltd (funeral directors), the developer would have been party to accurate information in respect of local cremation needs.
The site on which the cremator is located at Nulkaba is very small being the size of a residential block in the area. It is located close to a pre school, primary school, hospital and within 50 metres of the nearest residence.
The sole basis for granting consent for this facility on this small site was the small size of the operation , that is, a maximum 400 cremations per annum.

Prior to granting consent for this facility, Cessnock council engaged the services of Mr John Court, environmental engineer, to report on the proposal. Mr Court delivered a preliminary report, based on a maximum 400 cremations per annum, in which he stated *'mercury and dioxin emissions were unlikely to consistently comply with the emission limits for scheduled*

activities, which, while not being legal requirements for cremator, were taken as a guide to best available control technology…'.

An health assessment report was then prepared by Holmes Air Services based on a maximum 400 cremations per annum and using wind data from Lochinvar, near Maitland. Local residents could not understand why Nulkaba wind data was not used as the weather forecasting station for Cessnock is located at Nulkaba.

Following receipt of the health assessment, Mr Court then delivered a final report to council which stated *'there will be no significant health risks from either mercury or dioxin emissions from the proposed cremator…* but he further stated in comparing the proposed cremator at Nulkaba likely to process 6 to 8 bodies per week and larger metropolitan facilities which might process 35 to 40 bodies per week *'obviously, there will be a significant difference in the environmental and social impact of facilities of such differing sizes…'*

The small size was the sole justification for supporting this development. All reports and health assessments relating to this cremator to date have all been based on a maximum 400 cremations per annum. Mr Court even now bases his conclusion of no health risk on the basis of 400 cremations per annum, the emission testing which was not carried out correctly (discussed below) and assumptions made prior to the development approval..

Significantly, Mr Court did not address in his final report the issue of his concerns that the proposed cremator would not meet the emission limits for scheduled activities - these , he had previously stated, being indicative of best practice. I believe he remained silent on this issue because he had not changed his original opinion that this facility was unlikely to consistently meet these standards. Mr Court did, however, draft several conditions which were subsequently adopted by council relating to monitoring, emission testing and temperature requirements during operation of the proposed facility.

The Conditions of Consent which were imposed to protect the public and the amenity of the neighbourhood and which were ignored by the operator

Conditions relevant to the operation of the crematorium are as follows:-

No 2. *The proposed cremation facility shall process a maximum four hundred (400) bodies per annum.*

No 3. *The cremation facility is to be operated and maintained in a proper and efficient manner and in accordance with the manufacturer's instructions.*

No 4. *The temperature in the primary combustion chamber shall be maintained above 900 degrees C under oxidising conditions whenever a body is being cremated.*

No 5. *The temperature in the secondary combustion chamber shall be maintained above 850 degrees C under oxidising conditions whenever a body is being cremated.*

No 6. *A continuously recording smoke meter is to be fitted and used to record smoke density in cremator flue gases whenever bodies and coffins are being processed. The alarm level is to be set corresponding to Ringelmann Sade No 1.*

No 7. *Temperatures in the primary combustion chamber, in the secondary combustion chamber and in the stack after admixture with aduction air shall be measured continuously and recorded on charts or electronically in a way which allows graphical display. Records are to be kept for inspection by Council officers on request at any time for a period of up to two(2) years from the date of commissioning.*

No 9. *Soot tests are to be carried out in accordance with EPA Approved Methods for sampling and analysis (2000) on ten (10) cremations within six months after commissioning and the results reported to council.*

No 10. *A record shall be kept of each body cremated including details wherever possible of the following:-*
(a) Age of the deceased
(b) Sex of the deceased
(c) Whether the deceased was edentulous
(d) Details of the casket used for incineration, eg timber, cardboard, lacquered, plastic ornamental fittings etc. (details to be agreed with council officers at time of commissioning)
These records are to be held for at least until two years after commissioning and made available to Council officers on request at any time.

No 11. *Summary reports shall be submitted to council within six, twelve and twenty-four months of the conclusion of the commissioning phase of the cremator. These reports hall include the following information:-*
(a) Number of bodies cremated, including information of age, sex, edentulism and casket details
(b) Any divergences from the operating temperature limits imposed by the consent conditions and reasons for the divergence
(c) An estimate of the amount of mercury emitted by monthly periods shall be submitted with each report. The estimated being derived from the edentulous state of corpses, the number of cremations undertaken during the period and current information from Australian dental authorities on the mercury burden carried in teeth by the general population.

No 12. *The operator shall arrange for stack emission tests to be carried out after commissioning the cremator to determine the following emission characteristics:-*
(a) Emission rate of PM10
(b) Emission rate of total particles
(c) Emission rate of mercury
(d) Emission rate of dioxins (TEQ)
(e) Emission rate of hydrogen sulphide
(f) Emission rate of unburned hydrocarbons

The tests shall be carried using EPA approved methods of sampling and analysis (EPA 2000) on the cremation of at least four(4) bodies and caskets. Samples shall only be taken during the period of combustion of the body and casket in the furnace(ie. Not during the furnace warm up period). The conditions of the body and casket are to be recorded in accordance with Condition No 10 above. Not more than one of the bodies so tested is to be edentulous.

No 13. *Compliance with the requirements of the Australasian Cemeteries and Crematoria Association publication, " Environmental Guidelines for Crematoria and Cremators" Reviewed December ,1997.*

No 14. *Compliance with the Public Health Act and Public Health Regulations., 1991.*

No 43. *Occupation or use of premises for the purposes approved by this consent shall not commence until all conditions of this consent have been complied with and the Occupation Certificate has been issued.*

No 44. *Following commencement of occupation, the premises shall operate or trade only between the times stated as follows:-*

Mondays to Fridays 8.30am to 4.00pm

All the above conditions of consent have been breached by the owner. The council file discloses that it was a complaint by a close resident that resulted in the issuing of an Order by council on October 3, 2003 for non compliance with 7 separate conditions of consent. This development commenced operations before council had issued an Occupation Certificate, operated outside the permitted hours for trade and operation during the first week of operations and continues to breach conditions imposed by council even today.

The Operation of the facility demonstrates a contemptuous disregard of the conditions of consent by the operator

The first cremation took place on August 28, 2002. Cessnock City Council did not issue an occupation certificate for this development until September 23, 2002. This blatant disregard by the owner of the prerequisites to commencement of operations placed upon this development by council as a condition of consent signalled the start of the contemptuous disregard of any concern other than profit by the owner that has become the hallmark of this development since it's commencement.

I have recently obtained access to council's files in respect of this development pursuant to s 12 of the Local Government Act. In mid 2004 I obtained documents relating to the emission testing and monitoring report conditions of consent pursuant to the Freedom of Information legislation. These documents were obtained after much difficulty. I outline for you below several issues relating to the operation of this cremator that reinforce my belief that crematorium need to be regulated by an independent regulatory body staffed by qualified persons familiar with the operation of such facilities.

The Emission Testing was not conducted in accordance with the conditions of consent as required by council

The council file indicated that complaints by a close resident brought to the notice of council the non compliance with 7 of the conditions of consent listed above and resulted in Council issuing a Notice of Intention To Serve an Order on September 18, 2003 due to non- compliance with conditions of consent and subsequently an Order being issued to the owner by council on October 3, 2003.

This order included non- compliance with Condition No 9 in respect of soot tests and Condition No 12 in respect of emission tests.

Council was subsequently notified that these tests were conducted on September 26, 2003.

A facsimile forwarded to council by Mr John Court on July 11, 2003 outlined the importance of complying with council's conditions relating to the testing. Mr Court relates in this fax to council conversations between himself and Mr Ferguson of ERM (ERM were commissioned by the owner to carry out the emission testing). In this facsimile Mr Court refers to discussions with Mr Ferguson at which time he stressed-

1. The need for two emission tests for dioxin
2. The need for ERM to check the test method required (NSW EPA Approved methods)
3. The desirability of the other pollutants being tested twice
4. The rationale for the number of cremations which needed to be covered in the test
5. The need for a minimum four cremations due to variability in emissions due to variability in nature of bodies and caskets cremated
6. The likelihood that 5 or 6 cremations will need to be conducted for 1 dioxin test to allow for several discrete samples to be taken over a time period of between 6 to 16 hours (required by NSW EPA Approved methods)
7. The importance of recording as much information about the tests including the operating conditions at the time of testing.

This facsimile plainly stated the importance of complying with the testing conditions of consent. These conditions were drafted at the time of approval by Mr Court himself.

The Testing Results were based on insufficient samples, not conducted by an approved body and the laboratory was not accredited for mercury testing

The emission testing results were submitted to council in January, 2004.

The results show the testing was conducted on a total of 5 bodies with 3 bodies being edentulous (toothless), 1 body being 50% edentulous and only 1 body having teeth. Council's condition of consent required not more than 1 body to be edentulous. A total of 10 bodies were cremated on testing day, 5 of these being cremated after testing had been completed. The records show council's conditions could have been satisfied on testing day as the required number of bodies with teeth were available but these were cremated once testing had stopped. Mr Court was told there were insufficient bodies available on testing day for testing to be carried out in accordance with council's conditions but this was untrue and the council file indicates Mr Court was never advised of the correct amount of bodies cremated on testing day.

Mercury emissions are dependent on the quantity of teeth with amalgam fillings and there is no evidence as to how many, if any, fillings were contained in the one body with teeth on which testing took place. The records do show however, that the body tested containing teeth was the youngest body containing teeth that was cremated on testing day. The younger age generally indicates that the teeth were in better condition and contained less fillings than those of an older person.

Dioxin emissions result mainly from the plastic ornamentation on coffins. Dioxin testing was undertaken predominately during 4 cremations. Of these 4 coffins, 3 contained no ornamentation. The validity of the results must be questioned when prior to testing Mr

Court stated to council that there would be expected variability in the results based on coffin materials, ornamentation, etc.

Soot tests were required to be carried out during 10 cremations. The records indicate soot tests were conducted on 5 cremations only. The soot tests were conducted 5 months late and the results lodged with council 9 months late.

The Emission sampling was carried out by SEMA, not accredited in accordance with the EPA Approved methods and the laboratory analysis was conducted by SGC, not accredited for mercury testing in accordance with the EPA Approved methods.

The mercury emission concentration measured 0.5mg/Nm3. The maximum level permitted for scheduled activities is 1mg/Nm3. (results were half the maximum permitted level)
The dioxin emission concentration measured 0.10ng/Nm3. The maximum level permitted for scheduled activities is 0.10ng/Nm3. (results were equal to the maximum permitted level) This is the maximum permitted level for municipal incinerators. Cessnock Council's DCP requires a buffer zone of 500 metres for municipal incinerators. This cremator has a buffer zone of less than 50 metres.

Even though the importance of compliance with council's conditions was stressed to Mr Ferguson of ERM by Mr Court some two months prior to testing taking place, they were glossed over by Mr Court once the testing was completed. WHY?

The Monitoring Reports were not submitted on time and disclosed hundreds of breaches of conditions of consent

All monitoring reports were submitted to council outside the permitted time frame. The 6 and 12 monthly reports were submitted together on December 15, 2003.
The 24 monthly report was submitted to council on December 7, 2004.

These reports disclosed the following:-
1. During the first year of operation the maximum permitted annual number of cremations in accordance with council condition No 2 was exceeded by 51.
During the second year of operation the maximum permitted number of cremations in accordance with council condition No 2 was exceeded by 88.

2. The temperature in the primary chamber set by council to ensure complete combustion of bodies (as stated by Mr Court) was breached on 337 occasions in the first year and 457 occasions in the second year. A total of 794 occasions in the two years of operation.

3. The temperature in the secondary chamber set by council in the consent conditions (as required by Mr Court) was breached on 15 occasions in the first year and on 21 occasions in the second year. A total of 36 occasions in the two years of operation.

4. The hours of operation pursuant to consent condition No 2 were breached on 156 occasions in the first year of operation and 122 occasions in the second year of operation. A total of 278 times in the two years of operation. It should be noted that this cremator was operated as late as 8.20pm, 9.05pm and 11.50pm as well as on Saturdays and even a Sunday immediately prior to Christmas.

The Order issued by council on October 3, 2003 were ignored by the operator

As well as ordering compliance with Condition No 4 in respect of temperature in the primary chamber, Condition No 10 in respect of the soot testing, Condition No 11 in respect of submission of summary reports and Condition No 12 in respect of Emission Testing, the order also directed the owner to comply with-
Condition No 6 in respect of the fitting and setting of the alarm level for the smoke meter.
Condition No 27 in respect of landscaping and fencing, and
Condition No 54 in respect of submission of a Survey report that should have been submitted prior to work proceeding above damp proof course height.

Cremator operated by untrained person

Of particular concern was the non compliance with Condition No 6. Black smoke coming from the stack was reported to council on 8th August 2003. The cremator was being operated by an untrained family member at the time of the complaint. The smoke alarm was a critical indicator of problems with the cremator. I could find no evidence in the council file indicating if or when compliance with this condition was effected.

The operator now proposes amendments to the Development Consent so as to remove conditions imposed to protect the public and the neighbourhood

The owner of this cremator has lodged with council several applications for amendment to the development consent. These amendment applications were lodged on November 3, 2003, October 20, 2004 and March 8, 2005.

The owner wants to increase the maximum permitted cremations per year to 1600 (a 400% increase). The applications state that if council won't allow 1600 then 1000 is applied for. The application also states that it is the intention of this developer to keep lodging amendments with council in the future for more and more increases if the figure of 1600 is not approved. In support of it's application the owner now makes the preposterous suggestion that the condition limiting the number of cremations is contrary to the Trade Practices Act.

The owner wants a decrease in the minimum temperature in the primary chamber. A temperature of 700 degrees has been suggested which is below the minimum charging temperature of 750 degrees stated in the manufacturer's manual for the primary chamber. I have attempted to obtain information from Major Engineering about this model cremator but they will not speak to me.

The owner wants to extend hours of operation by 17.5 hours per week. Of critical importance to the residents is the request for these 55 hours per week of operation not to include warm up or cool down times. During so called 'cooling down' times, emissions can be clearly seen coming from the stack and machinery can clearly be heard operating from outside the boundaries of the facility. The owner states in it's amendment application to council that warm up can take 1 hour and cool down can take 1 to 2 days. If this amendment is approved, this facility can operate 24 hours a day for 7 days a week.

As council has no conditions of consent requiring further monitoring of this facility, it will be carte blanche for this developer.

The owner wants to increase the maximum number of cremations to 1600 per year. If this figure is not approved by council, the owner has requested an alternate increase to 1000 per year with the understanding that further increases will be applied for in the future. This facility was only approved on this small site because it was to process a maximum 235 to 400 bodies per annum. An increase to 1600 cremations per year will mean a 400% increase in the mercury , dioxin, soot and small particulate matter emitted by this facility each year. No environmental, social or health reports have been undertaken to ascertain the impacts of a 400 % increase (or any increase) in capacity of this facility on the local area. It is the owner's contention that because there is no regulation of crematorium by the EPA or other regulatory body then there should be no regulations placed upon this facility by council.

The applications for amendment of consent conditions have not been dealt with by council as of this date.

One of the major arguments of the operator is that as the State Government has chosen not to regulate cremators there should be no conditions imposed on their operations as this will cause them inconvenience.

Misleading claims made by the owner about the Major Cremator -model HD 90

The owner has made several assertions in respect of this cremator on which it seeks to rely to justify expansion of it's operations.
1. The owner states the cremator is capable of processing 1600 bodies per annum. The Major Engineering manual 'Integrated Crematorium Equipment" states the capacity of this cremator to be 800 to 1000. The facility will either be operating 24 hour a day, 7 days a week without proper maintenance or a second cremator will be installed to operate at the same times as the first.
2. The owner states warm up takes 1 hour. The manual states warm up to take 20 Tuesday to Friday and 40 minutes on Monday.
3. The owner states cool down takes 1 to 2 days. I contacted Major Engineering and spoke to a Mr John Mc Lean and requested information regarding cool down. He refused to give any information regarding the cremator. Why such secrecy? A local cremator operator using a similar cremator stated that average cool down time is 2 hours.
4. The owner seeks a reduction in temperature in the primary chamber. Council in a report in the council agenda recommended a reduction in temperature to 700 degrees. The Major manual states that the minimum temperature in the primary chamber should be 750 degrees. During many cremations, the temperature in the primary chamber did not even reach 700 degrees. The manual also states the secondary chamber temperature should never fall below 850 degrees. On 36 occasions during the two years of operation , the temperature in the secondary chamber has fallen below 850 degrees.
Plans from Major contained within council's file show a proposed second cremator. It is not difficult to comprehend the owner's plans to expand by deception when it is known that no council consent is needed to install a second cremator. The local residents (the closest less than 50 metres away) would be subject to two cremators operating at the same time without the benefit of health, environmental or social assessment of the expected impacts. There is no further requirement for monitoring or emission testing on

this development. If a second cremator is installed, there will be double the concentration of the mercury and dioxin levels indicated by the emission testing of September 26, 2003 (even though not conducted correctly) and future problems are a certainty for residents of this area.

Complaints about this facility ignore or not adequately dealt with

Numerous complaints have been made to council about the operation of this facility including complaints relating to breaches of council's conditions of consent, odour from the cremator, black smoke from the cremator and noise from the facility.
My examination of council's file shows that many complaints are not recorded.(many complaints of mine are not noted) Of the complaints that are recorded by council, most are discounted on the say so of the owner without any independent investigation taking place . Examples are as follows

1. I made a complaint to council about operations on September 14, 2004 at 5.50 pm when I observed smoke coming from the stack and heard loud vibrating noises coming from the facility.
My complaint was passed on to the owner for comment. The owner claimed my complaint to be 'fallacious' on the basis of their computer data which showed no cremation being carried out at the time. This computer data was forwarded to council by the owner and owners comment and data was passed on to the Cessnock Councillors to discount my complaint. The data given to council was for the previous year (14/9/2003 instead of 14/9/2004 being the date my complaint related to). In fact councils file disclosed that a cremation had taken place at the time of my complaint but this was never advised to the councillors.

2. A recent complaint (recorded in council's file) was made by a resident who observed brown smoke coming from the stack and blowing toward her house accompanied by an extremely bad odour. A complaint was made to council which resulted in the officer contacting the cremator operator for comment. The operator confirmed an odour was present but blamed pigs in the area. The council officer accepted this information and passed it on to the complainant. No pigs have been kept on the property blamed for the odour since 1980.

3. A complaint of black smoke coming from the stack on 8th August 2003 . On this date the cremator operator was sick so an untrained relation of the owner conducted a cremation. There were problems with this cremation and these were evidenced by the black smoke. Council should have been aware that the facility had not complied with the fitting and setting of the smoke alarm. No action was taken by council.

The Register of the Nulkaba Crematorium did not comply with the Public Health (disposal of bodies) Regulations and showed bodies being cremated before they were recieved

I obtained a copy of the register of the St Patrick's of Nulkaba Pty Ltd cremator and this document has raised even more concerns about the operation of this facility. I

understand that it is a requirement of the *Public Health (Disposal of Bodies) Regulations NSW* that a register must be kept by a crematorium indicating date of cremation, name of deceased, folio number etc.

The manager of this facility, Mr K Bower, told me that the date of cremation shown on the register is in fact the date the body was received at the facility and may not be the same date the body was actually cremated. The monitoring reports submitted to council pursuant to condition of consent No 11 do indicate both the date and time of cremation and identify bodies with the same folio numbers used in the register. A comparison of the two documents shows bodies being received (in the register) after they were cremated (in council reports)

Folio	date received (in register)	date cremated(in council report)
808	8/7/04	7/7/04
811	9/7/04	8/7/04
942	29/9/04	28/9/04

How can bodies be cremated before they are received at this facility?

I was also concerned after sighting the register about the length of time a body can be held before it is cremated. If a body is held by a funeral director for 7 days in a mortuary can it then be held for a further 2 days in the holding room of a crematorium?
It appears from the register that this is occurring at this facility.

A comparison of the register and council's records also shows that the following bodies were held in excess of the permitted 48 hours at the crematorium.

Folio 116 7 days
Folio 117 5 days
Folio 118 8 days

I am also concerned about ashes being scattered at this facility. The site is very small with no facilities for disposal of ashes. The consent of council excludes any retention of ashes at this site. However, the register shows ashes are frequently scattered. Where?

I rang Hunter Health as I was concerned about the above matters. I spoke to Mr Chris Williams who told me he would investigate the matters I raised with him and then contact me with the results the following week. As I had heard nothing further from him and wanted to include his findings in this submission I rang him again on 29/4/05. I left a message on his message bank explaining that I intended to make a submission to this inquiry but have again received no reply.

The register is also indicating that only 1/3rd of cremations are from the Cessnock Local Government area and surrounding areas with the remaining bodies being transported by road from as far as Tea Gardens and Scone.

Adverse Effects on the Community not adequately considered by Council in approving this development

Traffic

No traffic study has been undertaken by council to determine the cumulative effect of the intense development on this intersection of Kerlew Street and Wine Country Drive. Wine Country Drive is the main route from Sydney to the vineyard area and north to the New England Highway. The former church (on the same site) is used for weddings and funerals and council records confirm that upwards of 110 cars have parked on the street in the vicinity of this development on occasion.
While the operator maintains the crematorium does not generate traffic, council's file contains a newspaper article in which the cremator manager states that 60% of cremations are unaccompanied. (so therefore 40% must be accompanied). Also on council's file are letters from 2 Upper Hunter funeral directors stating their cremations at Nulkaba are accompanied.
This intersection is the route used by many Nulkaba residents to access Cessnock city centre as well as being used by school buses. The intersection is an accident waiting to happen.

Social impact of this facility
Many residents surrounding this facility now regularly check the funeral notices in the newspaper so that times of funerals likely to have cremations at Nulkaba can be ascertained so that recreational activities at homes can be planned when cremations are not taking place.
A local mother will not allow her children or their friends to play outside when the facility is operating. While council did place conditions on this facility regulating the hours of operation so that the amenity of the area will not be adversely affected outside of business hours, these hours were never complied with and the local residents are now faced with the likelihood of this facility operating at any time of the day or night, 7 days a week.
It is not possible to enjoy the amenity of your home and backyard when you see the emissions from the stack and you know what is in the air - mercury, dioxin and particulate matter so small it cannot be seen.

Inadequate Buffer Zone
The closest residence to the stack of this facility is less than 50 metres away. The stack of this facility is less than 3 metres above the peak of the roof. The dispersion of emissions onto the surrounding land is dependant on the height of the stack. A proposed 4 fold increase in the amount of cremations each year will result in a 4 fold increase in the mass emission rates from this facility. This from a facility with a stack height below the minimum required by the Crematorium Guidelines and with a buffer zone less than half the minimum required by the Crematorium Guidelines.

The Nulkaba facility v The proposed Waverley Cemetery facility

Mr Court, the environmental engineer briefed by Cessnock City Council , also sat on the Waverley Cemetery Stakeholders Reference Panel, exploring a proposal to install a cremator at Waverley Cemetery.
The Minutes of the Reference Panel Meeting held on 27/9/2004 raises some disturbing issues for the residents of Nulkaba.
Mr Court stated the following:-
1. The temperature in the primary chamber is between 700 degrees and 950 degrees in the primary chamber.

(Temperatures in the primary chamber at Nulkaba have on occasion not reached 700 degrees)
2. The temperature in the secondary chamber is maintained at 900 degrees.
(The temperature required at Nulkaba pursuant to the condition drafted by Mr Court is 850 degrees but this has been breached at least 36 times in the first two years of operation)
3. Advanced gas cleaning equipment can be inserted to remove 80- 90 % of mercury and dioxins.
(Why was this not recommended for Nulkaba where the cremator has such a small buffer zone?)
4. The height of the stack affects the concentration you get on the ground.
(Why does Nulkaba have a stack below the minimum height required by the crematorium guidelines?)
5. Cessnock has run for two years and have only registered three complaints.
(The council file contains numerous written complaints but does not contain the many complaints made by telephone- including many made by myself. At the time of this meeting at Waverley, Cessnock City Council was considering a council report about the serious breaches of council's conditions of consent, brought to council's notice following my receipt of documents from council pursuant to the Freedom of Information legislation.
6. In response to a comment from Margaret Woodsmith (Randwick Council) that micro particles are the most dangerous because they are the ones that are breathed in, Mr Court replied that the scrubber removed a lot of these.
(Why wasn't a scrubber recommended for Nulkaba when the cremator was proposed on a small site with a small buffer zone?)
7. A stack of 20 metres above the ground was proposed for Waverley.
(Why was a stack of less than 3 metres accepted at Nulkaba?)

It is apparent that country people are being subjected to lesser standards than city people when these minutes are read. This industry should be regulated so that the same standards apply no matter where the cremation facility is located. A Nulkaba resident is deserving of the same protection as a Waverley resident!

The operator ignores The Australasian Cemeteries and Crematoria Association Guidelines

Condition of Consent No 13 requires compliance with the crematoria Guidelines.
These guidelines state the following:-
1. Clearly audible noise should not be detectable beyond crematoria site boundaries.
(Noise can be heard from machinery operating outside site boundaries)
2. Careful site selection can lead to substantial reduction in environmental nuisance. Relevant site information should include- proximity to housing developments and to land zoned to permit housing or other land uses not compatible with the proposed development.
(This crematorium is less than 50 metres from the nearest residence. The site adjoins three other zones, all of which prohibit a crematorium. This facility is obviously not compatible with the adjoining land uses. It is scandalous that a facility on such a small site will expand to the size of a large metropolitan facility if the operator gets it's way.)
3. In line with other state environmental protection authority guidelines, a buffer zone in the order of **200 metres**.... is desirable. In any case a buffer zone of not less than 100 metres is recommended.

(This facility has a buffer zone of less than 50 metres)

4. The occupier should develop management strategies to…..
   - Minimise emissions of pollutants to the atmosphere
   - Prevent odour and smoke emissions
   - Minimise environmental health risks
   - Minimise discomfort to neighbours adjacent to crematoria

(The Nulkaba facility does not have scrubbers or gas cleaning equipment installed as was discussed for the proposed facility at Waverley. The operate cremates bodies at times to suit the operator with no regard for the well being or amenity of the residents. The owner has stated to council that there should be no controls placed on this facility)

5. The stack must be no less than **3 metres above the peak of the roof.**

(The stack at Nulkaba is less than 3 metres)

6. Vehicle movement, especially trucks, limited to normal working hours.

(Delivery of bodies has occurred on weekends from the first weeks of operation)

7. Training employees is a vital part of any environmental management practice.

(Untrained family members have conducted at least one cremation where problems occurred as a direct result of the operator)

8. Stack emissions should be monitored for compliance annually.

(Stack emission testing was undertaken once and did not comply with council's consent conditions. There is no further requirement for this facility to undertake stack emission testing)

9. Continuous monitoring should occur.

(This facility was required to monitor it's operation for two years. This period has now expired and no further monitoring is required)

<u>The operator claims the guidelines are only guidelines and are not binding on it.</u>

The Penalty Infringement Notices issued are a drop in the bucket compared to the profits made by the operator in breaching the conditions of consent

On 16 March , 2005 Cessnock City Council resolved to issue penalty infringement notices against St Patrick's Of Nulkaba Pty Ltd. These notices were issued for:-

1. Breaching the maximum allowable number of cremations per annum. $600.00
2. Late submission of reports $600.00
3. 13 breaches of operating out of permitted hours $ 7800.00

Total $9000.00

I estimate the operate earned approximately $83000.00 in the first two years of operation by breaching the maximum allowable number of cremations. To fine this corporation $9000.00 for constant and totally contemptuous disregard of council's consent conditions is appalling.

What the rest of the world is doing

The following European Countries require installation of gas cleaning equipment and filtering equipment to be installed:

- Austria
- Italy
- Sweden .

- Belgium
- Germany
- Norway
- Switzerland
- Netherlands
- Finland

(*Source: European Federation of Funeral Services*)

It is universally recognised that modern cremators should operate at between 850 degrees Celsius to 1,200 degrees Celsius – *Source: The Cremation Society of Great Britain, document entitled "What You Should Know About Cremation".*

As early 1995 the Secretary of the State of the UK published substantial guidelines setting out the protocol for control of air pollutants from crematoriums. No such guidelines exist in New South Wales. The Guidelines, among other things, require a regular testing regime, a minimum temperature in the secondary chamber of 850 degrees Celsius and numerous other conditions to protect the amenity of the neighbourhood and the health and welfare of the public. These Guidelines should be used as a framework for New South Wales and should be expanded upon to ensure that the guidelines are up-to-date.

Conclusion

It is my submission that this case study clearly shows that left to their own devices crematoriums will simply ignore the public interest in preference to their commercial interests.

It is my submission that regulations should be promulgated as a matter of urgency, covering at least the following matters:

1 Setting limits to the amount of mercury, dioxin and other emissions that can be emitted from crematoria;
2 Setting minimum temperatures in the primary chamber (suggest 900 degrees Celsius) and secondary chamber (suggest 850 degrees Celsius) to ensure proper combustion of bodies and toxic substances.
3 Setting minimum buffer zones between any new crematorium or any crematorium seeking to expand its operation to a minimum of 500 metres from the nearest resident, school or child care centre.
4 Requiring the monitoring of soot and particulate matter and requiring the installation of appropriate alarm systems.
5 Prohibiting the operation of crematorium on weekends or after 5.00pm on weekdays.
6 Requiring all new crematoria or crematoria seeking to expand their operation to install air filtering equipment and gas scrubbing equipment to minimise emissions on a world best practise basis.
7 Prohibiting odours or noise being emitted from a crematoria outside the boundaries of the site.
8 Prescribing regulations for the monitoring, sampling and measurement of emissions on a regular basis.

9 Prescribing regulations for the safe handling and storage of bodies and other material in a crematoria.

10 Prescribing combustion conditions of the primary and secondary chambers and requiring the installation of audible alarms to indicate when the temperature falls below the minimum set by the regulations.

11 Prescribing requirements for the disposal of residues and ashes.

12 Prescribing standards for chimneys, vents and process exhausts, with chimneys being required to be at least 20 metres in height.

13 Requiring the training of operators and prohibiting anyone other than a trained operator from operating the cremating equipment.

14 Requiring the accreditation and licensing of cremators on a licensing basis (the fee can be used to fund the regulatory authority).

15 Requiring any breaches of the regulations to be reported to the regulatory authority within 48 hours.

16 Requiring the person in charge of the cremator to be nominated in writing to the regulatory authority.

I am sure that the experts in the Department of Health and Department of Infrastructure and Planning should have no difficulty expanding on these regulations.

Any regulations made should have significant penalties attached to them, as the profits that can be made from breaching the regulations could otherwise well exceed any penalty unless the penalty was significant.

I am willing to attend before the Committee and give verbal evidence if necessary or expand on any of my submissions.

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Therese Mallik