

## **INQUIRY INTO CEMETERIES AND CREMATORIA AMENDMENT REGULATION 2018**

**Organisation:** NSW Aboriginal Land Council

**Date Received:** 6 September 2018

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New South Wales  
Aboriginal Land Council

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Legislative Council Regulation Committee  
NSW Parliament House  
Macquarie St  
Sydney NSW 2000

Via email [Regulation.Committee@parliament.nsw.gov.au](mailto:Regulation.Committee@parliament.nsw.gov.au)

Dear Committee Members,

### **Inquiry into *Cemeteries and Crematoria Amendment Regulation 2018***

Thank you for the opportunity to make a submission to this Inquiry. The New South Wales Aboriginal Land Council (**NSWALC**) is the peak body representing Aboriginal peoples NSW and is the largest Aboriginal member based organisation in Australia. Established under the *Aboriginal Land Rights Act 1983* (NSW) (**ALRA**), NSWALC is an independent, self-funded non-government organisation that has an elected governing Council and the objective to “*improve, protect and foster the best interests of all Aboriginal persons within New South Wales*”.<sup>i</sup>

NSWALC provides support to the network of 120 elected and autonomous Local Aboriginal Land Councils (**LALCs**) across NSW, who have functions in respect to the management and development of lands, to support their local communities, as well as the protection and promotion of Aboriginal culture and heritage<sup>ii</sup>. The preamble of the ALRA recognises that ‘*Land is of spiritual, social, cultural, and economic importance to Aboriginal peoples.*’

NSWALC has concerns regarding elements of the funeral industry, cemetery operators and the new renewable interment rights regime.

NSWALC is of the view that the renewable interment rights regime does not include adequate provisions that ensure the interment practices and beliefs of Aboriginal peoples are respected and accommodated. NSWALC calls for reforms to the legislative and policy regime relating to interment rights:

- To allow for all Aboriginal peoples to be buried in line with cultural practices and beliefs including for burials in perpetuity, and
- For Aboriginal peoples to be exempt from any provisions allowing for reburials after 25 years.

While we note that there has been some improvements to the *Cemeteries and Crematoria Amendment Regulation 2018*, we continue to have concerns that the reforms do not adequately accommodate Aboriginal peoples rights and needs. Furthermore, there is a lack of clarity around the compliance arrangements applying to cemetery operators, particularly with regard to how operators are fulfilling their obligations with respect to cultural and religious practices. We are concerned that the cooling off period has been reduced from 30 days to 10 days and that the renewable interment system requires many Aboriginal peoples to meet higher and higher cemetery costs.

**OUR LAND COUNCIL OUR MOB OUR FUTURE**

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NSWALC seeks to ensure that the legislative and policy regime relating to interment rights includes the following:

1. That Aboriginal people's cultural practices and beliefs are respected and provided for in accordance with Articles 11 and 12 of the United Nations *Declaration on the Rights of Indigenous Peoples*.
2. That Aboriginal peoples are made aware of their rights in relation to cemetery operators and the funeral industry, through the development of awareness campaigns.
3. That, in consultation with peak Aboriginal organisations, guidance and advice for cemetery operators is developed to promote best practice in relation to Aboriginal peoples.
4. That proper monitoring and evaluation is undertaken to ensure that cemetery operators fulfil their obligations, and in particular that cemetery operators offer:
  - a. Upfront, genuine and meaningful information regarding costs, services and options;
  - b. Information on the variety of interment options available.
5. That cemetery operators undertake all necessary steps to ascertain whether any relevant cultural or religious practices apply, ensure that these are carried out faithfully, and that Cemetery operators undertake required notifications and record keeping.

Additionally, a number of Aboriginal Land Councils look after cemeteries on behalf of their communities. The laws must provide for the specific circumstances of Aboriginal Land Councils and Aboriginal communities. Cemeteries are of high significance to Aboriginal people, as they can enable cultural and religious practices that are central to Aboriginal belief systems. We recommend the Committee consult with relevant Aboriginal Land Councils regarding these reforms.

If you would like further information regarding this letter, please contact Stephen Hynd, Executive Director Business Improvement on \_\_\_\_\_ or \_\_\_\_\_.

Yours sincerely

Roy Ah-See  
Chairman  
NSW Aboriginal Land Council

Date: 6 September, 2018

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<sup>i</sup> *Aboriginal Land Rights Act 1983* (ALRA), Section 105(a), available at:  
<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+42+1983+cd+0+N>

<sup>ii</sup> ALRA, Section 52(4) and 106(7)