COMMERCE ACT 1986: BUSINESSS ACQUISITION
SECTION 66: NOTICE SEEKING CLEARANCE

(PUBLIC VERSION)

Date: 30 April 2014

The Registrar
Mergers and Authorisations
Commerce Commission
PO Box 2351
WELLINGTON

Pursuant to s66(1) of the Commerce Act 1986 notice is hereby given seeking clearance of a proposed business or shares acquisition.

PART 1: TRANSACTION DETAILS

1 **The business or share acquisition for which clearance is sought**

1.1 Clearance is sought for the acquisition by Bledisloe New Zealand Limited ("**BNZL**") of the business and assets of Cremation Society of Canterbury Limited and Harewood Memorial Gardens & Crematorium Limited (jointly "**Vendors**").

1.2 Attached as Appendix A is a copy of the conditional sale and purchase agreement between BNZL, the Vendors and others dated 7 February 2014 ("**Agreement**") relating to the proposed business and asset acquisition.

1.3 For the avoidance of doubt, in this application references to "**memorial**" mean the business of provision of resting places for human ashes (including markers and plaques used (or to be used) to indicate the place in which funeral ashes are located or dispersed) other than monumental headstones and references to "**monumental**" mean headstones and paving used (or to be used) to indicate a place of human burial.

2 **The person giving the notice**

2.1 This notice is given on behalf of BNZL by:

Anthony Harper Lawyers (solicitor for the acquirer)
Level 8
Chorus House
66 Wyndham Street
Auckland

PO Box 2646
Auckland 1140

Attention: Ewe Leong Lim

Telephone: 09 920 6468
Fax: 09 920 9599
Email: eweleong.lim@ah.co.nz

2.2 Details of BNZL, the acquirer, are as follows:

Bledisloe New Zealand Limited

Registered office:	Corner of Wood and Elliott Streets, Papakura, Auckland 2110
Physical office:	19 London Street, Christchurch
Postal Address:	P O Box 72 341, Papakura, Auckland 2244
Telephone:	03 379 9920

Facsimile:	03 379 5775
Website:	www.invocare.com.au

BNZL's contact person:	Graeme Rhind
Position:	Chief Operating Officer, New Zealand
Mobile:	027 435 9685
Email:	grhind@bledisloe.co.nz

3 Details of the Vendors

3.1 Cremation Society of Canterbury Limited ("CSOCL")

Physical address:	455 Linwood Avenue, Christchurch
Registered office:	C/o Duns Limited, Level 1, 100 Moorhouse Avenue, Addington, Christchurch 8011
Postal Address:	c/- Duns Limited, PO Box 2056, Christchurch
Telephone:	03 389 6282
Facsimile:	03 389 4746
Website:	www.cremsoc.co.nz

CSOCL's contact person:	Glen Stapley
Position:	Director
Mobile:	021 347 540
Email:	glens@duns.co.nz

3.2 Harewood Memorial Gardens & Crematorium Limited ("HMGCL")

Physical address:	Corner of Wilkinsons and Johns Roads, Christchurch
Registered office:	C/o Duns Limited, Level 1, 100 Moorhouse Avenue, Addington, Christchurch 8011
Postal Address:	c/- Duns Limited, PO Box 2056, Christchurch
Telephone:	03 359 9039
Facsimile:	03 359 9038
Website:	www.cremsoc.co.nz

HMGCL's contact person:	Glen Stapley
Position:	Director
Mobile:	021 347 540
Email:	glens@duns.co.nz

As the Vendors' Mr Glen Stapley is now resident in Queensland, the Vendors request that any communications to Mr Stapley also be copied to the Vendors' solicitor, namely:

Ian Kearney
Kearney & Co, Lawyers
Regents Court,
11/75 Gloucester Street
Christchurch Central
Tel: 03 377 0658
Fax: 03 374 3351
Email: ian@kearneys.co.nz

4.0 BNZL's Group Structure and business

4.1 BNZL is a wholly owned subsidiary of InvoCare New Zealand Limited, which in turn is owned by InvoCare Limited, a listed ASX company. A copy of BNZL's group structure is attached as Schedule 1.

4.2 BNZL does not have any subsidiaries but owns and operates the following funeral and embalming businesses in New Zealand as business units:

(a) Forrest Funeral Services (Browns Bay, Auckland);

(b) Sibuns (Remuera, Auckland);

(c) W H Tongue (Remuera, Auckland);

(d) Tilton Opie & Pattinson – Simplicity Funerals (Central Auckland and New Lynn, Auckland)

(e) C H Barker – Simplicity Funerals (Royal Oak, Auckland);

(f) Fountains Funeral Services (Manukau and Papakura, Auckland);

(g) Resthaven Funeral Services (South Auckland and Howick);

(h) Pellows Funeral Directors (Hamilton);

(i) James R Hill Funeral Services (Hamilton);

(j) Elliotts Funeral Services (Tauranga, Mt Maunganui and Katikati);

(k) Cleggs Funeral Services (Hawera);

(l) Vospers Funeral Services (New Plymouth);

(m) Beth Shan Funeral Directors (Napier);

(n) Wairarapa Funeral Services (Masterton);

(o) Gee & Hickton (Lower Hutt and Upper Hutt);

(p) Lychgate Funeral Home (Wellington, Johnsonville and Karori);

(q) Wheelers Guardian Funeral Home (Porirua);

(r) Geoffrey T Sowman Funeral Directors (Blenheim);

(s) John Rhind Funeral Directors (Christchurch and Kaiapoi);

(t) Academy Funeral Services (Christchurch);

(u) G Barrell & Sons – Simplicity Funerals (Christchurch); and

(v) H Morris Funeral Services (Northcote, Auckland).

4.3 Other related businesses of BNZL include:

(a) Rayzist Photomask (Blenheim) – a business specialising in the engraving of photographs on headstones;

(b) Fraser Lawrence Memorials (Christchurch) – a business supplying stone and bronze memorials and monumental headstone;

(c) Sowman Memorials (Blenheim) – a business supplying stone and bronze memorials and monumental headstones;

(d) Gee & Hickton (Lower Hutt and Upper Hutt) – cremation services;

(e) Wairarapa Funeral Services (Masterton) – cremation services;

(f) Sowmans Cremations (Blenheim) – cremation services;

(g) Beth Shan Cremations (Napier) – cremation services; and

(h) Lychgate Cremations (Wellington) – cremation services.

5. **The Vendors' Group Structure and business**

5.1 The Vendors' group structure is attached as Schedule 2 to this letter.

The Commission may be familiar with the Vendors and the Vendors' business given that they applied for and were granted clearance pursuant to Decision Numbers 312 and 403 in 1997 and 2000 respectively.

The Vendors are ultimately and for practical purposes owned and controlled by Glen Stapley.

5.2 Briefly, the Vendors own and operate the Harewood Memorial and Crematorium located at the corner of Wilkinson and Johns Roads, Christchurch and Woodlawn Memorial Gardens and Crematorium at 455 Linwood Avenue, Christchurch.

The business and assets relate primarily to the provision of cremation, the interment of ashes and memorial services. A fuller description of the Vendor's business can be found on www.cremsoc.co.nz. The Vendors predominantly sell cremations only direct at wholesale level to other funeral directors and memorials and memorial services directly to the public.

5.3 The proposed acquisition relates to the acquisition of the above business and assets and includes land, buildings, plant and equipment (particularly cremators).

6.0 Inter-connection between BNZL and the Vendors

6.1 Neither BNZL nor any of its interconnected bodies corporate has a beneficial interest, or is beneficially entitled to, any shares or other pecuniary interest in the Vendors.

6.2 Neither BNZL nor any of its interconnected bodies has any links, formal or informal, with the Vendors and its/their existing competitors in the market (identified in Part 2), other than the fact that BNZL's greater Canterbury (defined as north of Ashburton to South of Kaikoura and bordering the Southern Alps) operations, in the course of their funeral businesses, utilise the cremation and memorial services of the Vendors (other funeral directors in Canterbury and Christchurch also do likewise). BNZL's monumental masonry business unit, Fraser Lawrence Memorials, also supplies stone monumental works to the Vendors or their customers (as do other monumental mason businesses in New Zealand). The Vendors' monumental masonry is supplied by DecraArt Limited.

7.0 Details of what is to be acquired

7.1 The assets and businesses to be acquired are more fully set out in the Sale Agreement attached as Appendix A. However, briefly, the assets and businesses comprise:

(a) the cremation businesses of CSOCL and HMGCL operated from their respective principal places of businesses;

(b) the interment of ashes and memorial businesses of CSOCL and HMGCL operated from their respective principal places of businesses;

(c) the lands and buildings located at Corner of Wilkinsons and Johns Roads together with 455 Linwood Avenue, both in Christchurch;

(d) the pre-payments for memorials and cremations of both businesses;

(e) plant and equipment (including cremators); and

(f) inventory and consumables.

It is intended that all of the staff be offered employment with BNZL.

8.0 Commercial rationale

8.1 This proposed acquisition is not part of an international acquisition.

8.2 BNZL views the cremation and memorial businesses as businesses that are complementary to their existing funeral directing business. Indeed, BNZL's parent company InvoCare Limited of Australia has long owned and operated memorial and cremation businesses (see InvoCare Limited's 2013 Annual Report, attached as Schedule 3). BNZL has no significant memorial business in New Zealand, but has operated cremators in Blenheim, Napier, Wellington, Lower Hutt and Masterton beginning from around 18 years ago. BNZL's businesses Fraser Lawrence Memorials and Sowman Memorials are monumental masonry businesses.

8.3 In relation to the greater Canterbury area, BNZL does not operate a cremation or memorial business. Accordingly, the acquisition of the businesses proposed to be sold by the Vendors would allow BNZL to enter both complementary businesses in a single transaction for the greater Canterbury (including the greater Christchurch areas).

8.4 **[**

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8.5 The acquisition would position BNZL on an even level with its competitors vis-à-vis funeral and cremation services located in-house (for example, Lamb & Hayward and Canterbury Christian). **[**

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9.0 **Documentation**

9.1 The Sale Agreement is attached as Appendix A as aforementioned. **[**

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PART 2: THE INDUSTRY

10. **Goods and services supplied by the parties**

10.1 BNZL's Canterbury businesses supply and provide the following goods and services:

(a) embalming and funeral directing (pursuant to its John Rhind, Academy Funeral Services and G Barrell & Sons – Simplicity Funerals business units); and

(b) memorial headstones (pursuant to its Fraser Lawrence Memorials business unit).

BNZL is not involved in the cremation and memorial businesses in greater Canterbury. BNZL's monumental headstone business is primarily concerned with monumental masonry (although it does sell some wooden crosses as markers and urns), whereas the memorial business of the Vendors is concerned with memorials which are primarily not monumental masonry, but include memorials such as plaques, plants, wooden crosses, boxes and urns.

10.2 The Vendors provide cremation, interment of ashes and memorial businesses servicing the greater Canterbury area. The Vendors are not involved in the funeral directing and monumental headstones businesses.

10.3 While there is no relevant horizontal market aggregation in the businesses being acquired, the aggregation is more of a vertical aggregation.

11. **Industries affected and process**

11.1 Accordingly, technically, the following industries may be affected by the acquisition:

(a) funeral directing (including embalming);

(b) the provision of cremation services;

(c) interment of ashes; and

(d) the provision of memorials.

11.2 The general process is that a person when deceased can either be buried or cremated.

11.3 A funeral director generally assists the bereaved family and relations with the funeral arrangements, such services include:

(a) organising the service;

(b) embalming the deceased;

(c) supplying the casket;

(d) assisting with the legal formalities;

(e) advising and arranging matters for the deceased's family including writing public notices, flowers, donations, service sheets and catering; and

(f) providing counselling and comfort to the deceased's family.

11.4 At the conclusion of the funeral service, the deceased may either be buried or cremated.

11.5 If the choice is burial, the funeral director generally arranges for the acquisition of a plot at generally a local cemetery and the deceased's family arrange with a monumental mason for the provision of a headstone in due course.

11.6 If the choice is cremation, the funeral director arranges for the cremation to be undertaken. Cremation services are generally provided by cremation services providers like the Vendors, Council owned cremators or increasingly, cremators owned by the funeral directors themselves.

11.7 At the conclusion of the cremation, the ashes can be either placed in the ground or upon a niche in an ashes wall, generally with a plaque or memorial of some sort (e.g. a tree, roses etc.) However, there is no requirement for ashes to be so disposed in this fashion. It is not unusual for ashes to be disposed on consecrated grounds (e.g. a church), at sea, cemeteries, at the deceased's favourite location or held by a next of kin. The main areas for the interment of ashes in greater Canterbury are either the cemeteries operated by the relevant local territorial authority or community trusts, cemeteries on church grounds or the Vendors' memorial gardens.

12.0 **Current industry trends and developments**

12.1 In relation to the funeral directing and embalming market, it remains one of the few industries with very low barrier to entry. Accordingly, there are many funeral directors that are sole operators or with few staff. The cost to establish a funeral directing business is low. It is estimated that a funeral directing business can be established with as little as $30,000 with various plant and equipment being leased and embalming and other services subcontracted to third parties.

12.2 In the greater Canterbury area, major funeral directors and embalmers (with their corresponding estimated market shares) are as follows:

(a) Lamb & Hayward (including Christchurch Crematorium) **[ ]**% (estimated);

(b) BNZL (through its John Rhind, Academy Funeral Services and G Barrell Simplicity Funerals business units) **[ ]**% (estimated);

(c) McKinnon Group (including Canterbury Christians, Palmers, Gulliver & Tyler) **[ ]**% (estimated); and

(d) others **[ ]**% (estimated).

12.3 In relation to the cremation market, there is an increasing trend whereby funeral directors own and operate their own cremators. The barrier to entry is also <u>not</u> high. It is not difficult to obtain properly zoned land (being either commercial or industrial lands) or to obtain the appropriate resource consents to locate and operate a cremator on such sites. Generally it is estimated that resource consents may take up to 8 to 12 months to be issued by the relevant local territorial authority (with the caveat that post the February 2011 earthquake, the length of time to obtain consents cannot be estimated accurately due to the unpredictability of local territorial authority workloads). Accordingly, a cremation business could potentially be operational within 12 to 18 months from the time of applying for consents.

12.4 Cremators are not expensive to acquire. A large cremator may cost up to USD200,000 and this cremator can potentially operate 24 hours a day 7 days a week (indeed, it is designed to operate in such fashion to allow maximum energy efficiencies) would be sufficient to service up to the combined number of cremations presently undertaken by the Vendors. However, cremators tend to be operated at normal working hours (or thereabouts) only.

12.5 In its earlier decisions, the Commission correctly identified that the barrier to entry into the cremation market is low hence it was open to funeral directors entering into the market. This has come to fruition and the current competitors in the greater Canterbury cremation market (and the corresponding estimated market shares) are as follows:

(a) CSOCL and HMGCL **[ ]**%;

(b) Mainland Cremations (Hawdon Street, Christchurch) **[ ]**%;

(c) Lamb & Hayward (Sockburn and Ashburton) **[ ]**%;

(d) McKinnon Group (including Gulliver & Tyler (Rangiora)) **[ ]**%.

12.6 In relation to the interment of ashes and provision of memorials industry, it is not a difficult business to establish. Subject to the acquisition of suitable land and the obtaining of resource consents, an interment and memorial business similar to the Vendors can be easily established. In New Zealand, interment and memorial services are provided by churches, cemeteries (both local authority and community trusts owned and operated) and private operators like the Vendors and Auckland Memorial Park. Monumental masons also provide memorials as they will complete memorials for client families that can be placed in memorial gardens and cemeteries.

12.7 In the greater Canterbury area, the memorial market is serviced by the Vendors and churches and cemeteries (both local authorities and community trusts owned). The participants in this market and their estimated market shares based on estimated revenue are as follows:

(a) CSOCL and HMGCL **[ ]**; and

(b) churches and cemeteries **[ ]**.

12.8 Given the lack of legal requirement in relation to the disposal of ashes, the use of facilities such as those offered by the Vendors is very much a matter of choice for the deceased's family.

13.0 **Mergers over the last 3 years**

13.1 BNZL has undertaken and completed the following acquisitions over the last 3 years:

(a) Fraser Lawrence Memorials (Christchurch) – 2013 – monumental masonry business;

(b) Tilton Opie Pattinson Funeral Services (Auckland Central and West Auckland) – 2013 - funeral directing and embalming business;

(c) Resthaven Funeral Services (South Auckland) – 2013 – funeral directing and embalming business;

(d) H Morris Funeral Services (Northcote, Auckland) – 2013 – funeral directory and embalming business; and

(e) Simplicity Funerals – brand only – 2013 – branding for funeral directing business.

13.2 BNZL understands that the Vendors have not undertaken any acquisitions in the last 3 years.

PART 3: MARKET DEFINITION

14.0 **Horizontal aggregation**

14.1 As stated earlier, given that BNZL is presently not in the cremation, interment or memorial business in the greater Canterbury area, we do not believe that there is any appreciable horizontal aggregation. However, for the purposes of the following discussions in relation to the vertical integration, it may be useful to set out our views in relation to the market definitions for products/services and geographical market.

While it is possible, we do not agree that burial is substitutable for cremation. Notwithstanding that there is a price differential between burials and cremations (burials being more expensive), the choice as between them is generally driven by the deceased's or his/her family's choice based on religious beliefs, family history, cultural and religious expectations.

We do not believe that the customer dimension and timeframe market analysis is particularly relevant to the transaction at hand. If you disagree, please let us know.

14.2 **The Vendors' products or services market** – Consistent with the Commission's determinations in Decision Numbers 312 and 403, we believe the Vendors operate in the following markets:

(a) the provision of cremation services; and

(b) the interment of ashes and the provision of memorials.

14.3 **The Vendors' geographical market** – We believe that as a result of funeral directors from outside the greater Christchurch area using the Vendors' facilities, the geographical markets for both the cremation services and the interment of ashes & provision of memorials, is the greater Canterbury area. This is due to the size of Christchurch relative to the greater Canterbury area, that most families living outside of Christchurch have relatives residing in Christchurch and have the choice of the Vendors for the cremation, interment and memorial services. It is acknowledged that while the bulk of the Vendors' business originates from the greater Christchurch area, a portion of its business comes from the greater Canterbury area. Hence, this geographic market is adopted. This is supported by the fact that the only cremation services operated in the greater Canterbury area are those of Lamb & Hayward, McKinnon Group, Mainland Cremations and the Vendors.

14.4 **BNZL's products or services market** – We are of the view that for the purposes of this transaction, BNZL's products and services are in the following markets:

(a) funeral directing and embalming; and

(b) monumental masonry.

14.5 **BNZL's geographic market** – We are of the view that BNZL's geographic market is the greater Canterbury area for the purposes of this transaction. The aforementioned limitation as to geographic area for the cremation market applies equally to the funeral directing market.

The geographic market for monumental masonry is quite different from funeral directing in that it is not unusual for monumental masons to receive orders from elsewhere around the country (indeed, even from the Pacific Islands). However, BNZL's Fraser Lawrence Memorial's market share is small and predominantly derived from the greater Canterbury area. Accordingly, it may be appropriate for the purposes of this application to use the greater Canterbury area as the geographic market for monumental masonry.

14.6 To conclude, we are of the view that for the purposes of this transaction:

- the market for the provision of cremation services is in the greater Canterbury area;
- the market for the interment of ashes and provision of memorials is in the greater Canterbury area; and
- the market for the provision of funeral directing, embalming and monumental masonry is in the greater Canterbury area.

15.0 **Vertical integration**

15.1 The transaction would result in the vertical integration of the cremation services together with the interment of ashes and provision of memorials with the funeral directing, embalming and monumental masonry businesses of BNZL.

15.2 BNZL is **[**

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15.3 From a vertical integration perspective, BNZL (a customer) is acquiring a supplier (the Vendors) of services to itself.

15.4 We have not included a structural diagram given that the above is relatively straightforward and uncomplicated.

PART 4: COUNTERFACTUAL

16.0 Counterfactual – BNZL

In the event that the proposed acquisition does not take place, in the short term, **[** **]**.

In the medium to long term, **[** **]**.

17.0 Counterfactual – The Vendors

In the event that the proposed acquisition does not take place, the Vendors will **[** **]**.

PART 5: COMPETITION ANALYSIS

18.0 Cremation services market in Christchurch

18.1 **Existing competitors** – We believe that the competitors, market shares, estimated revenues and volumes in the Christchurch cremation market are as follows:

Rank	Competitors (including merger partners)	Estimated Revenue	Estimated % of Market Share by Revenue	Estimated Volume	Estimated % of Market Share by Volume
1.	The Vendors	[ ]	[ ]	[ ]	[ ]
2.	Lamb & Hayward	[ ]	[ ]	[ ]	[ ]
3.	McKinnon Group	[ ]	[ ]	[ ]	[ ]
4.	Mainland Crematorium	[ ]	[ ]	[ ]	[ ]
5.	No others as far as BNZL and the vendors are aware	[ ]	[ ]	[ ]	[ ]

*Note: **[** **]**.

18.2 **Constraints** – The vertically integrated entity would be constrained from behaving in a manner which may substantially lessen competition (either by preventing or hindering competition pursuant to a full or partial foreclosure) for the following reasons:

(a) BNZL does not have the capacity to fully utilise the cremators. Accordingly, it would be counter-productive for BNZL to prevent its other competitor funeral directors from using the cremators. BNZL would be better served by making its cremation services available to its rivals.

Indeed, BNZL intends that the cremators be used by other funeral directors at commercial rates;

(b) some of the existing competitors are believed to have surplus capacity in respect of their cremators. Mainland Crematorium is believed to be operating at 50% capacity presently;

(c) it would also be counter-productive for BNZL to raise prices for cremation services to an unacceptable level for funeral directors as it would encourage funeral directors to switch to other competitors with spare capacity. There is no difficulty for funeral directors to switch to another supplier of cremation services as there are no tying or contractual arrangements which may prevent any switching. The switching would occur almost immediately if BNZL raises its prices to an un-commercial level. Market power in this regard rests with funeral directors who are the customers of the cremation business and those funeral directors by and large dictate where the cremation is carried out (it is acknowledged that in certain circumstances the deceased's family may specify particular cremation businesses where they may wish to have the cremation carried out); and

(d) assuming that the spare capacity is completely utilised, due to the ease of entry into this market (see below), any increase in prices to an unacceptable level will encourage the entry of further competitors (which is likely to be existing or new funeral directors acquiring their own cremators).

18.3 **Potential competition** – As the Commerce Commission has identified in Decisions 312 and 403, the barrier to entry in this market is low. To establish a cremation business in the greater Canterbury area, a new entrant will require:

(a) a suitably zoned industrial or commercial land and premises;

(b) resource consents for the establishment of a cremation business including an air discharge licence; and

(c) the acquisition and installation of a cremator.

18.4 Notwithstanding the 2011 earthquake, industrial and commercial land and premises continue to be available in Christchurch. Appropriate resource consents can be applied for from the local territorial authority and it is estimated that the consents may take between 6–12 months to obtain. A cremator can be easily purchased for as little as USD110,000 or up to USD200,000 (depending on size, type or capacity). There are quite a number of cremator distributors in New Zealand and they tend to be known to the funeral industry. The costs could be lower if the cremator could be leased or acquired on a lease to buy basis.

It is conceivable that a new entrant into this market could start and complete entry within 12–18 months.

18.5 The Commission indicated in 2000, that funeral directors who have established their own cremation business have indicated that there are no significant barriers to address.

We believe that this continues to be true today and indeed, may be even easier (given the numbers that have been established by funeral directors recently).

While we accept that if a specialist stand-alone cremation business is established, such business may take a while to establish the referrals needed for its business. Those referrals may come from funeral directors or increasingly online sales through websites like "Souly Cremations" or "Simply Cremations".

Funeral directors continue to establish cremators as an add-on to their funeral business as they can divert the cremation work to themselves.

One of the larger funeral director businesses in Christchurch, Lamb & Hayward, has done just that. We see the threat of potential competition in this market to be very real and will act as a constraint against the vertically integrated entity's market behaviour.

18.6 **Efficiencies** – Post-completion of the transaction, **[** **]**.

18.7 In addition, BNZL's strength is **[** **]**. Given that the customers are at a difficult moment in their lives, the seamless service may help to make a difficult time slightly easier.

18.8 The acquisition by BNZL will also **[** **]**.

19.0 **The interment of ashes and memorial services market in Christchurch**

19.1 **Existing competitors** - We believe that the competitors, market shares, estimated revenues and volumes in the greater Canterbury interment and memorial market for ashes only are as follows:

Rank	Competitors (including merger partners)	Estimated Revenue	Estimated % of Market Share by Revenue	Estimated Volume	Estimated % of Market Share by Volume
1.	The Vendors	**[ ]**	**[ ]**	**[ ]**	**[ ]**
2.	Cemeteries (local territorial authority owned), Cemeteries (community trusts owned) and Churches and others	**[ ]**	**[ ]**	**[ ]**	**[ ]**
3.	Not memorialised (i.e. ashes taken by family for scattering/ holding) (could fall into Cemeteries (community trusts owned) and Churches and others category above)	**[ ]**	**[ ]**	**[ ]**	**[ ]**

19.2 **Constraints** – The vertically integrated entity will be constrained from any behaviour in relation to total or partial foreclosure in this market for the following reasons:

(a) **[**

];

(b) the non-BNZL funeral directors and the Christchurch public are not required to use interment BNZL's facilities. Indeed, interment alternatives include:

(i) scattering of the ashes in any consecrated ground (eg a church), at sea or the deceased's favourite location;

(ii) scattering of the ashes in a home garden;

(iii) held by the next of kin; and

(iv) interment of the ashes at any one of the many local territorial authority owned cemeteries in greater Canterbury.

(c) similarly, memorials can be carried out by monumental masons (of which there are quite a few in the Christchurch area). The monumental masons will create and complete memorials for their customers so that they can be placed within memorial gardens or the aforesaid cemeteries.

19.3 **Potential competition** – The vertically integrated entity is further constrained by potential competition from competitors (likely to be other funeral directors) who may establish their own interment and memorial business.

We would suggest that barrier to entry is relatively low. Any potential new entrant into this market would need to acquire a suitable piece of land, the size of which is dependent on the size of business that the new entrant wishes to undertake. There are potentially available properties located in greater Canterbury.

The new entrant will need to obtain appropriate resource consents for the establishment and operation of the interment and memorial business. It is likely that any such consent may include adequate car parking facilities but should not be difficult to obtain. It is estimated that such consents may take up to 12-18 months to obtain.

The property will then need to be landscaped to create a suitable ambiance for remembrance and tranquillity.

Assuming a suitable piece of land can be acquired, a new entrant may be operational within 12-24 months from start to finish.

While the above may act as a constraint on uncompetitive behaviour, in our view it is the substitutability of other alternatives (as aforesaid) which will be the biggest constraint on such behaviour.

It is also suggested that the interment and memorial business has low profit margins due to the low cost of the upfront payment and the length of time (perpetuity) which obligations (e.g. maintenance and upkeep of plots) continue. Council owned cemeteries which provide competing interment services at reasonable rates may have an element of ratepayer subsidisation in relation to the interment fees. Provided local territorial authorities remain in this market, any anti-competition behaviour from BNZL is unlikely.

19.4 **Efficiencies** – The efficiencies that will be derived from the vertically integrated entity would be:

(a) **[**

]; and

(b) **[**

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20.0 Funeral directing and embalming services market in Christchurch

20.1 **Existing competitors** - We believe that the competitors, market shares, estimated revenues and volumes in the greater Canterbury funeral directing and embalming market are as follows:

Rank	**Competitors (including merger partners)**	**Estimated Revenue**	**Estimated % of Market Share by Revenue**	**Estimated Volume**	**Estimated % of Market Share by Volume**
1.	BNZL	**[ ]**	**[ ]**	**[ ]**	**[ ]**
2.	Lamb & Hayward	**[ ]**	**[ ]**	**[ ]**	**[ ]**
3.	McKinnon Group	**[ ]**	**[ ]**	**[ ]**	**[ ]**
4.	Others	**[ ]**	**[ ]**	**[ ]**	**[ ]**

20.2 **Constraints** – The vertically integrated entity will be constrained from any behaviour in relation to total or partial foreclosure in this market for the following reasons:

(a) the vertically integrated entity is unable to deny any funeral director in the greater Canterbury area access to the cremation services and/or the interment and memorial services due to the fact that such businesses will continue to require other funeral directors to continue to make the acquired businesses viable due to **[ ]**;

(b) accordingly, the vertically integrated entity is unable to use its vertical integration to totally or partially foreclose on any funeral director in Christchurch requiring the cremation, interment or memorial services;

(c) in addition, with the low barrier to entry, a new entrant in the cremation, interment and memorial market who also conducts funerals, cannot be discounted. Such potential competition together with the above would act as constraints on BNZL's behaviour or in raising prices; and

(d) it is submitted that the proposed acquisition will not change the funeral directing market in Christchurch as BNZL has no incentive to fully or partially foreclose on funeral directors.

20.3 **Efficiencies** – BNZL believes the efficiencies identified for the cremation together with interment and memorial markets would flow into BNZL's funeral directing, embalming and monumental masonry business. The acquisition would allow **[**

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It also eliminates double marginalisation in relation to BNZL's cremation, interment and memorial offering to its own customers.

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21.0 Other Factors

21.1 To conclude, we believe that:

(a) the potential competition arising from the low barrier to entry in the cremation and interment and memorial markets;

(b) the fact that BNZL's funeral director competitors such as Lamb & Hayward have very easily entered the cremation market in Christchurch;

(c) those competitors have the financial resources to enter the interment and memorial market; and

(d) the fact that the cremation, interment and memorial businesses sold by the Vendors have **[**

],

act as sufficient constraint on the vertically integrated business from being able to fully or partially foreclose on BNZL's funeral directors, either by:

(e) refusing to deal with competitors; and

(f) raising prices unfairly.

21.2 BNZL also believes that efficiencies gained from the vertically integrated entity would allow those efficiencies and cost savings to be passed on to BNZL's customers.

21.3 For the above reasons, BNZL believes the acquisition of the business and assets from the Vendors does not substantially lessen competition in the:

(a) cremation market;

(b) interment and memorial market; and

(c) funeral directory, embalming and monumental masonry market, in the greater Canterbury area.

PART 6: FURTHER IN FORMATION

22.0 **Contact Details**

	Name of Company (legal & trading names)	**Contact Details (address, phone, fax & website)**	**Contact Person (name and contact details)**
Competitors	Attached as Schedule 7	Refer Schedule 7	Refer Schedule 7
Suppliers	Attached as Schedule 8	Refer Schedule 8	Refer Schedule 8
Trade Association			
Any other relevant market participant/ interested parties			

23.0 **Supporting Documents**

23.1 The latest annual report of InvoCare Limited is attached as Schedule 3.

23.2 The latest audited financial statements of InvoCare New Zealand Limited, BNZL's New Zealand parent company, are attached as Schedule 4.

23.3 The latest financial statements of the Vendors are attached as Schedule 5.

PART 7: CONFIDENTIALITY

24.0 BNZL seeks that the Commission treats the Agreement (and any subsidiary document thereto) provided under it as confidential on a permanent basis given the commercial nature of the contents of the Agreement, and the likelihood that the disclosure of the contents of the Agreement would unreasonably prejudice the commercial position of the parties involved.

We would also request that the Commission considers that it maintains confidentiality in respect of the following information on a permanent basis:

(a) the purchase price of the business and assets;

(b) the trading, market share and revenue/turnover information contained in this application.

Due to the commercial sensitivity of the information, if this information was not withheld, it would unreasonably prejudice the commercial positions of both BNZL and the Vendors. In addition, BNZL's ultimate shareholder is InvoCare Limited, a company listed on the Australian Stock Exchange and disclosure of the above information by the Commission may be information of a price sensitive nature and create a false market for the purposes of the Australian Stock Exchange listing rules.

If further information is required by the Commission from BNZL, then BNZL will advise the Commission if it wishes such information to be treated as confidential.

Schedule 6 sets out a list of all confidential information sought by BNZL.

A public version of this letter is attached to this clearance application as Appendix B. Please revert to us if you disagree with our confidentiality requirements.

25.0 Conclusion

We **enclose** our cheque for $2,300 (inclusive of GST) being the fee payable for this application.

THIS NOTICE is given by Bledisloe New Zealand Limited.

Bledisloe New Zealand Limited hereby confirms that insofar as it is aware:

- all information specified by the Commission has been supplied;
- if information has not been supplied, reasons have been included as to why the information has not been supplied;
- all information known to the applicants which is relevant to the consideration of this application has been supplied; and
- all information supplied is correct as at the date of this notice.

BNZL New Zealand Limited undertakes to advise the Commission immediately of any material change in circumstances relating to the application/notice.

Dated the day of 2014

Signed by
BLEDISLOE NEW ZEALAND LIMITED

____
Director/Authorised Solicitor

Name:

I am a director/the authorised solicitor of Bledisloe New Zealand Limited and am duly authorised to make this application.

SCHEDULE 1

BLEDISLOE NEW ZEALAND LIMITED

GROUP STRUCTURE

INVOCARE LIMITED (Australia)

Directors: A R Smith, C Clifton, R Penman, R Fisher, A Knox and R Davis

Australia

New Zealand

100%

INVOCARE NEW ZEALAND LIMITED (New Zealand)

Directors: R J Chapman, P J Friery, G J Rhind and A R Smith

100%

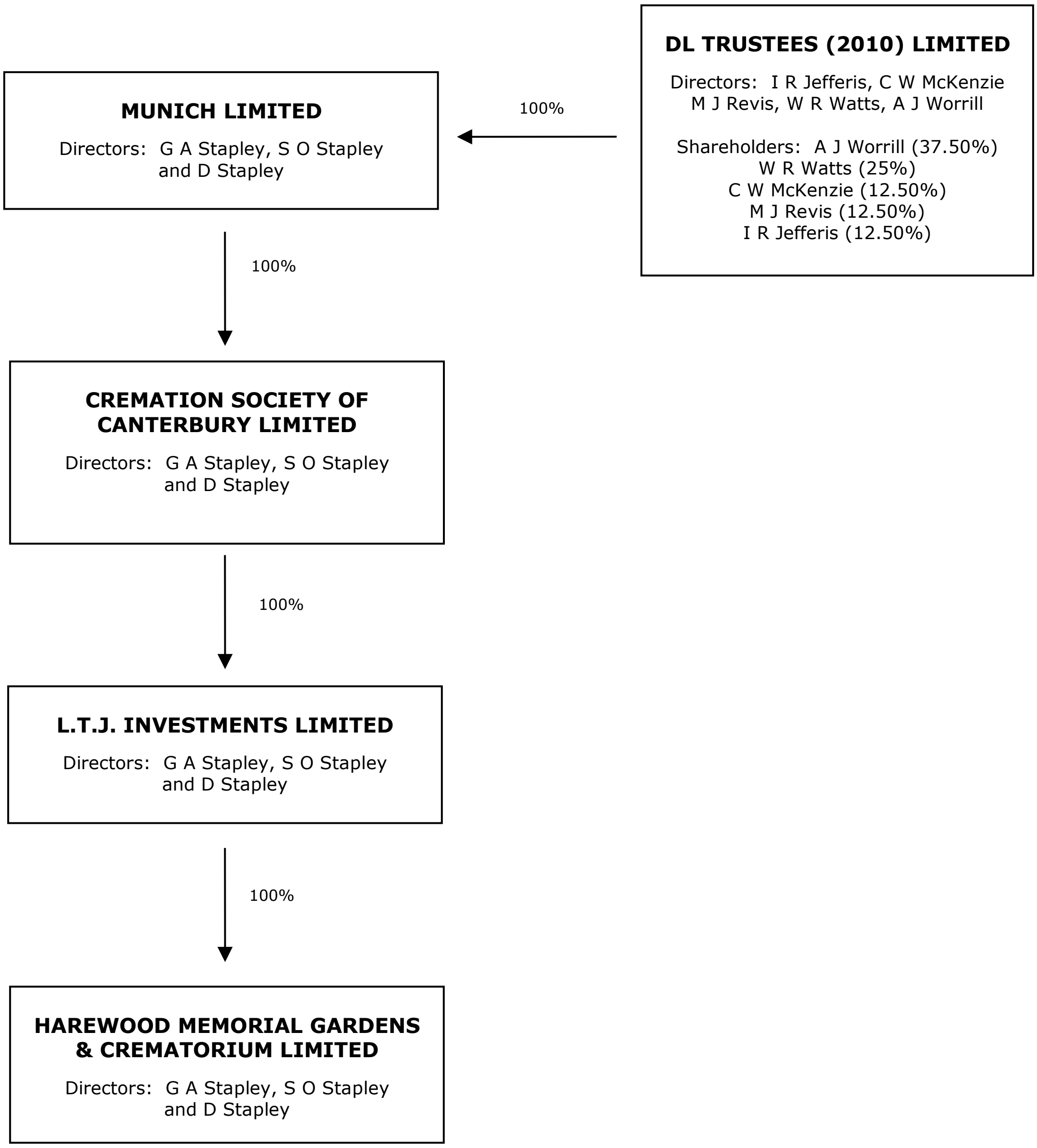
BLEDISLOE NEW ZEALAND LIMITED (New Zealand)

Directors: R J Chapman, P J Friery, G J Rhind and A R Smith

VMB-121780-108-17-V3

SCHEDULE 2

THE VENDORS' GROUP STRUCTURE



SCHEDULE 3

INVOCARE LIMITED

2013 ANNUAL REPORT

(Attached)

SCHEDULE 4

INVOCARE NEW ZEALAND LIMITED

2012 AUDITED FINANCIAL STATEMENTS

[ ]

(Attached)

SCHEDULE 5

[

]

(Attached)

SCHEDULE 6

[ ]

SCHEDULE 7

[ ]

(Attached)

VMB-121780-108-17-V3

SCHEDULE 8

[ ]

(Attached)

VMB-121780-108-17-V3

APPENDIX A

[ ]

(Attached)

VMB-121780-108-17-V3

APPENDIX B

PUBLIC VERSION OF THIS LETTER

(Attached)

VMB-121780-108-17-V3