

SELWYN DISTRICT COUNCIL CEMETERY BYLAW 2004

This bylaw facilitates the management of public cemeteries under the Selwyn District Council's control.

It covers matters such as the sale of burial plots, provisions for interments, fees for services in the cemetery, keeping the graves and monuments in good order, vehicle control, keeping of records and regulating miscellaneous other activities in cemeteries.

The authority to make bylaws is provided by the Burial and Cremation Act 1964 and any amendments. This bylaw was last reviewed in 1990.

DEFINITIONS

For the purposes of this Bylaw the following definitions shall apply:

“Cemetery” means any cemetery vested in or under the control of the Council from time to time but excludes any closed cemetery.

“Council” means the Selwyn District Council.

“Authorised Officer” means any person appointed by the Council to control or manage or to assist in the control and management of any cemetery under the jurisdiction of the Council and to carry out burials as provided in this Part of the Bylaw.

“Lawn (Beam) Cemetery” means any cemetery in which the surface is laid down as a grass lawn with headstones, plaques and tablets erected on the beam provided by Council at the head of the graves.

“Sexton” means any person approved by the Council to manage the day-to-day activities of any cemetery under its jurisdiction, such activities to include arranging for the provision of plots for burials.

“Grave Plot” means any plot which does not have a Council-constructed concrete beam and measures 3.20metres x 1.20metres.

“Ash Plot” means a Council constructed numbered plot measuring 0.61metres x 0.30metres immediately in front of a concrete beam.

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1. *Burials and sale of plots*

- 1.1 Burial means the burial of human remains in a grave/plot and the burial of cremated human remains in a grave/plot.
- 1.2 Burials may be made in any cemetery under the control of the Council subject to the conditions prescribed in this Part of the bylaw.
- 1.3 Burial plots shall be sold upon such terms and conditions as may be decided by the Council.
- 1.4 Application for exclusive rights of burial shall be made on the prescribed form and be accompanied by the appropriate payment.
- 1.5 Evidence of a purchase of exclusive right of burial shall be recorded on a Certificate of Purchase. A duplicate certificate may be issued on payment of a fee as fixed by the Council.
- 1.6 No burial shall take place in any plot in respect of which the exclusive right of burial shall be held by any person unless such person shall have consented to such burial.
- 1.7 The price and size of each plot shall be fixed by the Council. The size of the plot purchased shall be described on the Certificate of Purchase.

2 *Provisions for all interments*

- 2.1 No burial shall be made in any cemetery without a Burial Warrant.
- 2.2 “Out of district fees” may be payable on the purchase of any plot in the case that the purchaser has not resided in the Selwyn District for a period of two consecutive years.
- 2.3 In all cases of intended burials, the funeral director or person having the management or control of the same shall make application to the Council for a warrant for such burial, and shall produce such evidence of death as may be required; the Council is authorised to grant the appropriate warrant.
- 2.4 No such warrant shall be issued until there shall have been paid the fee for interment. Provided, however, that in the case of an interment under the management or control of a funeral director, the Council may render an account.
- 2.5 Notification of an intended burial shall be given to an authorised officer at least 8 working hours prior to the time fixed for the funeral. If this time is not given an extra charge may be imposed by the Council. When a public holiday occurs a lesser term may be agreed.

- 2.6 Interments shall be permitted in all cemeteries on all days other than Sundays and statutory holidays between the hours of ten o'clock in the morning and four o'clock in the afternoon on Monday to Saturday.
- 2.7 No grave may be reopened for a further burial except with the consent of an authorised officer.
- 2.8 Not more than two bodies shall be buried in any one plot. However at the discretion of the Council the body of an infant up to 12 months of age may also be buried in a position parallel to the beam with two bodies in one plot.
- 2.9 The authorised officer may permit 6 interments of cremated remains to be interred in a plot that two adult bodies have already been buried in.
- 2.10 No interments shall be made in the same cemetery within ninety minutes of a previous interment unless determined by an authorised officer.

3 *Warrant authority to Sexton*

The burial warrant, when received by the sexton, shall be sufficient authority to him/her for such burial.

4 *Sexton or assistant only to dig grave*

- 4.1 No person other than the sexton or his/her assistants or any other person for the time being duly authorised by the Council, shall dig any grave in, or open the ground for burial in, any part of any cemetery. The minimum depth of cover for any casket shall not be less than one metre.

5 *Burial of ashes*

- 5.1 Upon application being made and payment of the prescribed fees, the urn containing the ashes of any deceased person may be buried in a special portion of the cemetery set aside for that purpose or in any plot subject to an exclusive right of burial.
- 5.2 The authorised officer may permit up to 4 interments of cremated remains in a numbered ash plot. The maximum size of an urn used in such interments is deemed to be:

| | |
|--------|-------|
| Length | 400mm |
| Width | 300mm |
| Height | 400mm |
- 5.3 Memorial plaques not exceeding 0.51m x 0.25m may be chiselled on or attached to the concrete desk of the ash plot in such a way that such plaques do not protrude over the top of such desk.

- 5.4 So long as none are placed within 0.15m of the front edge of the plot, insets for vases or flower holders may be provided in a concrete block 0.12m x 0.61m x 0.61m and set into the plot.

6 Fees

- 6.1 All fees shall be as the Council by resolution decides.

7 Purchaser or owner of private ground may transfer

- 7.1 Any owner of the exclusive right of burial in any plot in which no burial shall have taken place may, with the written consent of the Council, transfer his/her interest in such ground to any other person.
- 7.2 A person applying for a transfer shall pay all fees relating to the transfer.

8. Keeping graves in order

- 8.1 The Council will maintain each grave and cemetery to the standard provided under the Asset Management Plan. Upon payment of fees as prescribed by the Council, the Council may agree to maintain a grave above the standard prescribed in the Asset Management Plan.
- 8.2 All kerbs, enclosures, tombstones, headstones and other monuments shall be kept in good order and repair by the purchasers of plots or their representatives or assignees.. All such structures which fall into a state of decay or disrepair may be removed from the cemetery subject to Section 9 of the Burial and Cremation Act 1964. Reasonable attempts will be made to contact the purchasers of plots or their representatives or assignees. In the event of there being no one available to affect repairs or permit removal, a photographic record of the plot shall be taken before removal and filed with cemetery records.

9 Fencing, tombstones etc

- 9.1 An authorised officer may determine what fences, memorials or other structures may be erected in any portion of the Cemetery. All memorials shall be of granite or similar suitable material approved by an authorised officer.
- 9.2 An authorised officer may set aside portions of the cemetery in which no structures shall be erected except by the Council.
- 9.3 An authorised officer may remove unauthorised structures from the cemetery.

10 *Lapsing of applications*

- 10.1 Any application for the purchase of the exclusive right of burial in any plot or ground not previously used for interment shall lapse unless the purchase is completed by payment within six calendar months from the date of the application.

11 *Vegetation*

- 11.1 No vegetation shall be planted in any cemetery by any person without the prior consent of an authorised officer of Council.
- 11.2 Vegetation planted in any portion of the cemetery may at any time be trimmed, removed or cut down at the discretion of an authorised council officer.

12 *Wreaths and Tributes*

- 12.1 During a period of fourteen days or such other period as the Council decides following an interment, any wreath, floral or other tribute may be placed on a plot, but shall be removed at the expiration of such period.

13 *Receptacle for Flowers*

- 13.1 After fourteen days from the date of interment a receptacle shall be used for the placing of flowers and foliage.
- 13.2 The receptacle shall be installed adjoining any table or plaque on the side nearest the head of the plot.
- 13.3 The Sexton is at liberty at any time to remove damaged receptacles or receptacles of a type not approved by the Council and he/she may also remove at any time dead flowers and dead foliage.

14 *Levelling*

- 14.1 Every person who encloses any plot of ground shall do all levelling work to comply with the requirements of the Council.
- 14.2 Every such person shall remove from the cemetery all rubbish and earth not required in the filling in of the grave, or in connection with such levelling to a place approved by the sexton.

15 *Deposit of materials*

- 15.1 No monumental mason or other person erecting or repairing any headstone, monument, fence, or other work, in any cemetery shall make use of any footpath or other part of such cemetery for a longer time than is reasonably necessary for the purpose of completing such work.
- 15.2 No person shall make use of any footpath or roadway in the cemetery for the purpose of mixing cement or mortar otherwise than upon a proper mixing board or in some other approved manner.

16 *Vaults and bricks or walled-in graves*

- 16.1 No vaults or brick or walled-in graves above ground shall be constructed in a cemetery, except in such portion as may be set-aside for the purpose by the Council.

17 *Interment of a Poor Person*

- 17.1 Where burial of a deceased poor person is being applied for, an appropriate certificate shall be completed by a relative or friend of the deceased.
- 17.2 The burial of a poor person shall take place in a plot chosen by an authorised officer.
- 17.3 No headstone or fence shall be erected on the grave of a poor person unless the exclusive right of burial has been purchased as provided in Clause 17.4
- 17.4 Any relative or friend of a person buried as a poor person may at any time apply to purchase the exclusive right of burial therein.

18 *Deceased Service Personnel*

- 18.1 The Council will not sell the exclusive right of burial in respect of any plot in those portions of a cemetery reserved exclusively for the burial of the bodies of persons who have served in Her Majesty's Forces or the spouses of those persons.

19 *Disinterment*

- 19.1 Where an application for a disinterment of any deceased is received by Council, the disinterment shall be conducted pursuant to Sections 51 and 55 of the Burial and Cremation Act 1964 and subject to the payment of all costs involved in the disinterment by the applicant.

LAWN (BEAM) CEMETERIES

20 *Vehicles*

- 20.1 No person shall take any vehicle of any kind into any cemetery except between the hours of sunrise and sunset, or at such time as the Council in any particular case by resolution decided.
- 20.2 No person shall permit any vehicle of any kind under his/her control to remain in any cemetery after sunset on any day without the permission of Council.
- 20.3 No person in control of any vehicle unless authorised by the Council, shall drive, conduct, or permit the vehicle to be on any part of any cemetery except the roads open for vehicular traffic.
- 20.4 No person shall drive any vehicle in any cemetery at a greater speed than 20km/h, or than a speed indicated on any road within any cemetery.
- 20.5 All vehicles (other than hearses) shall yield unconditional right of way to any funeral procession.
- 20.6 Every person driving or conducting any vehicle in any cemetery shall stop or move such vehicle as directed by the sexton.
- 20.7 No person shall drive or conduct any vehicle in any cemetery except in the direction indicated by traffic notices.

21 *Misconduct*

- 21.1 No person shall by any behaviour, prevent, disrupt or delay a funeral service.

22 *Removal of fences, headstones, plants, etc*

- 22.1 No monumental mason or other person shall, without authority, remove from any cemetery or from any grave any kerb, headstone, monument or tablet.
- 22.2 No person shall, without authority, remove or take from any cemetery, or from any grave in any cemetery, any vase, wreath, plant or any other thing, except that the Council may cause to be removed any neglected or broken material of this nature.

23 *Stock in cemetery*

- 23.1 Other than with the permission of the Council no person shall be permitted to bring any stock into any cemetery for any purpose.

- 23.2 No person shall bring any dog into any cemetery that is not kept continually on a leash or under proper control while in that cemetery.
- 23.3 Any dog found in a cemetery that is not kept on a leash or under proper control shall be impounded and disposed of as defined in the Dog Control Act 1996 and any subsequent amendments or revisions.

24 *Firearms in Cemetery*

- 24.1 No person shall discharge any firearm in any cemetery, whether for a military funeral or otherwise, without the approval of the Council.

25 *Removal of Coffin Fittings*

- 25.1 No fixed fittings shall be removed from a coffin after it has been received at a cemetery.

26 *Soliciting of orders*

- 26.1 No person shall, in any cemetery, advertise or solicit any order or custom from any other person for any work whatsoever to be done in or in connection with any cemetery.
- 26.2 Except at the specific request of a purchaser of plots or their representatives, no person shall, in any cemetery, accept or take any such order or custom as aforesaid.
- 26.3 No commercial photographer shall, without the consent of the funeral director, or special permit in writing for the occasion from the Council, attend any funeral for the purpose of taking photographs.

27 *Records*

- 27.1 The Council shall keep up-to-date plans of the cemeteries showing areas available for burials and burial plots available for purchase.
- 27.2 The Council shall maintain records showing:
- (a) The name, age, occupation and last place of residence;
 - (b) The date of burial or interment;
 - (c) Date of death;
 - (d) Date of birth;
 - (e) Location of grave

of each person or the ashes of each person buried or interred or disposed of in the cemetery.

28 *Interment of items with the deceased*

- 28.1 The Council periodically receives requests from family members with regard to interring items with the deceased.
- 28.2 These items are generally of a sentimental nature.
- 28.3 The Council has to be mindful that any interment of such item is:
- i) not detrimental to the environment e.g. could cause water quality or land quality issues in the future;
 - ii) the interment of the item will not be offensive to surrounding plot holders.
- 28.4 Accordingly all situations where an item is to be included within a casket are to be approved by a Council authorised officer.
- 28.5 This authority will not be unreasonably withheld but it may be that if the authorised officer finds the interment of an item to be potentially offensive to a surrounding plot holder, then the decision as to where the deceased can be interred within the cemetery will be that of the authorised officer only.

29 *Interments*

- 29.1 Interments may be made from time to time in ground in the cemetery set apart by the Council for the purpose of a Lawn (beam) cemetery and shown on a plan prepared by the Council, but no fences or monuments other than headstones shall be erected, or trees, shrubs or flowers planted except as approved by the Council, and no kerbings shall be erected anywhere within the precincts of such Lawn cemetery.

30 *Purchase of plots*

- 30.1 Up to three plots in any Council cemetery may be pre-sold to any one person, provided that no pre-purchase is confirmed until:
- i. the purchase price is paid in full; and
 - ii the appropriate title to the plot is issued.

31 *Erection of memorials*

- 31.1 The Council shall construct a continuous concrete platform or beam at ground level or below as required, of a width suitable to maintain stability. The cost of the platform shall be included in the purchase price of the plot.

- 31.2 Concrete based work for all memorials shall not stand higher than 500mm above the highest point of the concrete beam or ground level, whichever is the higher, and shall, where required, allow insets for flower containers.
- 31.3 On surface beams a space of 50mm clear of such memorial foundation base shall be maintained, both front and back.
- 31.4 No erected memorial shall, at the head of any plot, be higher than 1.50m from the centre point of the beam. Such memorial shall be acceptable to the Council and will comply with the appropriate New Zealand Standard.
- 31.5 No memorial shall be wider than 1 metre of a single plot or 2 metres on a double plot.
- 31.6 No erected memorial shall be of any other material than granite, or suitable material approved by the Council. Concrete shall be finished in grey or white cement only.
- 31.7 In constructing bases and erecting memorials, the adjoining roads, paths, or plots shall not be injured.
- 31.8 All memorials shall be kept in good repair by the purchaser of the plot or their assignee. Subject to the provisions of the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967, all memorials of any kind which shall fall into a state of decay or disrepair, may at any time be removed from the cemetery by order of the Council, and in the event of there being no-one available to effect repairs or permit removal, a photographic record of the plot shall be taken before removal and filed with cemetery records.
- 31.9 No person shall place any headstone, monument or structure in a cemetery without prior permission of an authorised officer. The headstone, monument or structure shall be subject to compliance with conditions set by the Council.

32 *Shrubs, trees and flowers*

- 32.1 No shrubs, trees or flowers shall be planted and maintained in the cemetery, except such as shall be planted as and where directed by the Council.

33 *Vases or containers*

- 33.1 All vases or containers for flowers shall be housed in insets set into the base or kerb on which the memorial is placed.
- 33.2 This shall not apply in the RSA section of any cemetery.