

SELWYN DISTRICT COUNCIL CEMETERY BYLAW 2011

1. TITLE

- 1.1 A Bylaw of the Selwyn District Council pursuant to the powers and authority vested in the Council by the Local Government Act 2002, the Burial and Cremation Act 1964 and all other Acts, powers and authorities enabling it in that behalf to make a Bylaw to be known as the Selwyn District Council Cemetery Bylaw 2011.

2. DATE OF COMMENCEMENT

- 2.1 This Bylaw comes into force on 1 May 2011.

3. APPLICATION OF BYLAW

- 3.1 This Bylaw facilitates the management of public cemeteries under the Selwyn District Council's control.
- 3.2 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 and regulating activities in cemeteries.
- 3.3 The Council also has policies which it uses as part of the management of the cemeteries; they do not form part of this Bylaw but should be consulted by any person interested in the management of the cemeteries.
- 3.4 Compliance with other Acts

The Selwyn District Council Cemetery Bylaw 2011 is subject to Acts and Regulations and nothing in this Bylaw derogates from:

- (1) the Reserves Act 1977;
- (2) the Burial and Cremation Act 1964;
- (3) the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967;
- (4) the Health (Burial) Regulations 1946;
- (5) the Local Government Act 1974;
- (6) the Local Government Act 2002;
- (7) any other relevant Acts or Regulations; and
- (8) any amendment to, or replacement of, the above Acts and Regulations.

- 3.5 In the event of any inconsistency between this Bylaw and any relevant Act or Regulation, the Act or Regulation prevails.

4. DEFINITIONS

For the purpose of this Bylaw, unless the context otherwise requires:

“Activity Management Plan” means a comprehensive plan that is developed for the management of one or more activities. It covers the services comprising the activities and the assets required to deliver services.

“Adornment” means a wreath, floral tribute, other tribute, ornament, vase, receptacle or other like or related thing.

“Ash Plot” means a Council constructed numbered plot measuring 0.6 metres in width for the purpose of burying cremated human remains.

“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 for in this Bylaw.

“Beam” means a concrete strip providing a base on which a monument is placed.

“Body” means a dead human body that has not been cremated and includes the body of a still-born child.

“Burial” means the burial of human remains in a grave/plot and the burial of cremated human remains in a grave/plot or Ash Plot.

“Burial Warrant” means the approval issued by the Council to the Funeral Director or person organising the burial to proceed with the burial.

“Bylaw” means this Bylaw as altered, varied or amended from time to time.

“Cemetery” means any cemetery vested in or under the control of the Council from time to time and dedicated as a cemetery.

“Council” means the Selwyn District Council or any officer authorised to exercise the authority of the Council.

“District” means the Selwyn District.

“Exclusive Right of Burial” is a right to be buried in a particular plot within a specific cemetery.

“Plot” means a uniquely numbered plot in a cemetery in which a burial can take place.

“Funeral Director” means a person whose business is or includes disposing of the bodies of deceased persons and who is authorised by the deceased’s family to conduct the funeral.

“Interment” has the same meaning as burial.

“Monument” includes any tombstone, headstone, memorial, statue, kerbing, plaque, tablet or other like or related object, structure or erection.

“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 plots for burials.

“Vegetation” means living plants including herbs and trees.

5. BURIALS AND SALE OF PLOTS

- 5.1 Burials may be made in any cemetery under the control of the Council subject to the conditions prescribed in this Bylaw.
- 5.2 Burial plots may be sold upon such terms and conditions as determined by the Council.
- 5.3 Up to three plots in any Council cemetery may be pre-sold to any one person, provided that no pre-purchase is confirmed until the purchase price is paid in full and the appropriate title to the plot(s) is issued. If payment is not received within six months from the date of application the application will lapse.

6. APPLICATION FOR EXCLUSIVE RIGHT OF BURIAL

- 6.1 An application for an exclusive right of burial must be made on the prescribed form and be accompanied by the appropriate payment.
- 6.2 Evidence of the purchase of an exclusive right of burial will be recorded on a Certificate of Purchase. A duplicate certificate may be issued on payment of a fee as fixed by the Council.
- 6.3 No burial can take place in any plot in respect of which the exclusive right of burial is owned by any person unless the owner has consented to such burial, or it is the owner being buried.
- 6.4 The price and size of each plot may be fixed by the Council. The size of the plot purchased will be described on the Certificate of Purchase.
- 6.5 Any application for the purchase of the exclusive right of burial in any plot not previously used for interment lapses unless the purchase is completed by payment within six months from the date of the application.
- 6.6 The purchaser of the exclusive right of burial in any plot in which no burial has taken place, may with the written consent of the Council, sell his or her interest in such plot to the Council at the original purchase price.

7. TRANSFER OF EXCLUSIVE RIGHT OF BURIAL

- 7.1 The owner (or the next of kin if the owner is deceased) of the exclusive right of burial in any plot in which no burial has taken place, may with the written consent of the Council, transfer his or her interest in such plot to any other person.
- 7.2 The person applying for a transfer of an exclusive right of burial must pay all fees relating to the transfer.

8. PROVISIONS FOR INTERMENTS

- 8.1 No burial can be made in any cemetery without a Burial Warrant.

- 8.2 Out of District fees are payable on the purchase of any plot if the deceased did not reside in the Selwyn District for a period of two consecutive years immediately prior to their death.
- 8.3 In all cases of intended burials, the Funeral Director or other person authorised by the deceased's family to conduct the funeral must apply to the Council for a Burial Warrant and must produce evidence of death if required.
- 8.4 No Burial Warrant will be issued by the Council until the fee for the interment has been paid. In the case of an interment under the management or control of a Funeral Director, the Council may render an account.
- 8.5 Notification of an intended burial must be given to the Council at least 24 hours prior to the time fixed for the funeral, otherwise an extra charge may be imposed by the Council. When a public holiday occurs a longer period of notice may be required.
- 8.6 Interments will be permitted in all cemeteries on all days except Sundays and statutory holidays and only during such hours as the Council determines by resolution. Upon written application to the Council exemptions may be permitted and additional costs may apply.
- 8.7 No more than two bodies can 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 be buried in a position parallel to the beam with two other bodies in one plot.
- 8.8 An Authorised Officer may permit the cremated remains of up to six deceased persons to be interred in a plot that two bodies have already been buried in.
- 8.9 No interments can be made in the same cemetery within ninety minutes of a previous interment unless permitted by an Authorised Officer.

9. BURIAL WARRANT AUTHORITY TO SEXTON

- 9.1 The Council will inform the Sexton when a Burial Warrant has been received and this will be sufficient authority for him/her to undertake the burial.

10. SEXTON OR ASSISTANT ONLY TO DIG GRAVE

- 10.1 No person other than the Sexton or his/her assistants or any other person for the time being duly authorised by the Council, can dig any grave in, or open the ground for burial in, any part of a cemetery.

11. BURIAL OF ASHES

- 11.1 Upon application and payment of the prescribed fees to the Council, the urn containing the ashes of any deceased person may be buried in a plot or Ash Plot.

- 11.2 An Authorised Officer may permit up to 4 interments of cremated remains in a numbered Ash Plot. The maximum permitted size of an urn used for such interments is:
- | | |
|--------|-------|
| Length | 400mm |
| Width | 300mm |
| Height | 400mm |
- 11.3 Monument plaques must be attached to the concrete desk of the Ash Plot in such a way that the plaques do not protrude over the top of the desk. Memorial plaques may incorporate an insert for flower receptacles.
- 11.4 Ash - Garden style and Ash - Table style monument plaques must be in accordance with Schedule One of this bylaw. The base on which they sit must not protrude beyond the plot edge.

12. PLACEMENT OF MONUMENTS

- 12.1 A permit must be obtained for the placement of a monument by application and payment of the prescribed fees to the Council. The monument must comply with Schedule One of this Bylaw and the New Zealand Standards.
- 12.2 A member of the New Zealand Master Monumental Masons' Association Inc. or other person approved by an Authorised Officer may undertake the construction of monuments.
- 12.3 Installation of monuments must only be carried out by a member of the New Zealand Master Monumental Masons' Association Inc.
- 12.4 No person placing or repairing any monument or fence or doing any other work in any cemetery may make use of any footpath or other part of the cemetery for a longer period than is reasonably necessary for the purpose of completing their work.
- 12.5 In the course of constructing bases and placing monuments the roads, paths, or plots in the cemetery must not be damaged nor any rubbish, hard fill or surplus materials be left on site. If any damage occurs, or any rubbish, hard fill or surplus materials are left on site, the Council will repair the damage or remove the rubbish, hard fill or surplus materials at the cost of the person constructing the base or placing the monument.

13. AUTHORISATION OF FENCING, MONUMENTS, ADORNMENTS OR OTHER THINGS

- 13.1 The Council may determine what fences; monuments, adornments or other things may be placed or erected in any portion of the Cemetery.
- 13.2 An Authorised Officer may remove unauthorized fences, monuments, adornments or other things from the cemetery. Reasonable attempts will be made to inform the purchasers of plots or their representatives or assignees before removal, however, if no one can be contacted a photographic record of the plot may be taken before removal and filed with cemetery records.

- 13.3 Where a concrete beam is provided for in the placement of a monument, no adornments, vegetation or other things can be placed beyond the beam provided.

14. KEEPING GRAVES IN ORDER

- 14.1 The Council will maintain each cemetery to the standard provided under the relevant Council Activity Management Plan.
- 14.2 All monuments must be kept in good order and repair by the purchasers of plots or their representatives or assignees.
- 14.3 Subject to the provisions of the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967, if monuments fall into a state of decay or disrepair they may be removed by the Council. A photographic record of the plot may be taken before removal and filed with cemetery records. The Council may place a suitable plaque to identify the site.

15. VEGETATION

- 15.1 No vegetation can be planted in any cemetery by any person without the prior consent of an Authorised Officer of the Council.
- 15.2 Vegetation planted in any portion of the cemetery may at any time be trimmed, removed or cut down at the discretion of an Authorised Officer. If authorised vegetation is to be removed or cut down, reasonable attempts will be made to inform the purchasers of plots or their representatives or assignees beforehand, however, if no one can be contacted, a photographic record of the plot may be taken before removal and filed with cemetery records.

16. WREATHS AND FLOWER TRIBUTES

- 16.1 Any wreath, floral tribute or other tribute may be placed on a plot after an interment; however, the Council may remove any perishable items at the expiration of 14 days after the interment, or any other period determined by the Council.

17. RECEPTACLE FOR FLOWERS

- 17.1 After fourteen days from the date of interment a receptacle must be used for the placing of flowers and foliage.
- 17.2 The receptacle must be installed at the base of the headstone.
- 17.3 Clause 17.2 will not apply to the part of any cemetery set aside under section 15 of the Burial and Cremation Act 1964 for the burial of the bodies of persons who served in Her Majesty's Forces and the spouses, civil union partners or de facto partners of those persons.

17.4 An Authorised Officer may remove damaged receptacles. Reasonable attempts will be made to inform the purchasers of plots or their representatives or assignees before removal, however, if no one can be contacted, a photographic record of the plot may be taken before removal and filed with cemetery records.

17.5 An Authorised Officer may remove dead flowers and dead foliage at any time.

18. LEVELLING OF ENCLOSED PLOTS

18.1 Where a plot is fully enclosed by a concrete surround the maintenance is the responsibility of the plot owner, their representatives or assignees and any levelling or other work must comply with the requirements of the Council.

18.2 All rubbish and earth not required in conjunction with maintenance must be removed to a site approved by the Sexton.

19. INTERMENT OF A DECEASED POOR PERSON

19.1 The interment of a deceased poor person will be carried out in accordance with Section 49(1) of the Burial and Cremation Act 1964.

20. DECEASED SERVICE PERSONNEL

20.1 The Council will not sell the exclusive right of burial in respect of any plot in the part of a cemetery set aside under Section 15 of the Burial and Cremation Act 1964 for the burial of the bodies of persons who served in Her Majesty's Forces and the spouses, civil union partners or de facto partners of those persons.

21. DISINTERMENT

21.1 Where an application for the disinterment of any deceased person is received by Council, the disinterment will be conducted pursuant to Section 51 of the Burial and Cremation Act 1964, its amendments or re-enactments.

21.2 The applicant must pay all costs involved in the disinterment.

23. VEHICLES

23.1 No person can take any vehicle of any kind into any cemetery except between the hours of sunrise and sunset, or at such times as the Council has determined by resolution.

23.2 No person may 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.

23.3 No person in control of any vehicle, unless authorised by the Council, may drive, conduct, or permit the vehicle to be on any part of any cemetery except on the roads open for vehicular traffic.

- 23.4 No person may drive any vehicle in any cemetery at a speed greater than 20km/h, or a speed indicated on any road or sign within any cemetery.
- 23.5 All vehicles (other than hearses) must yield unconditional right of way to any funeral procession.
- 23.6 Every person driving or conducting any vehicle in any cemetery must stop or move such vehicle as directed by the Sexton.
- 23.7 No person may drive or conduct any vehicle in any cemetery except in the direction indicated by traffic notices.

24. MISCONDUCT

- 24.1 No person may prevent, disrupt or delay a funeral service, by any behaviour whatsoever.
- 24.2 No person may destroy or damage in any way whatsoever any adornment, monument, vegetation or any other thing in a cemetery, except with the permission of an Authorised Officer.
- 24.3 No person may deface any adornment, monument, vegetation or any other thing in a cemetery by writing, drawing, painting, spraying, etching or otherwise marking it, except with the permission of an Authorised Officer.

25. REMOVAL OF MONUMENT, ADORNMENT OR VEGETATION

- 25.1 Other than with the permission of the Council, no person may remove any monument from any cemetery.
- 25.2 No person may remove from any cemetery any adornment or vegetation, or cut down or trim any vegetation in a cemetery, except with the permission of the Council, or if carrying out reasonable maintenance of the grave of a deceased relative or friend.

26. ANIMALS IN CEMETERY

- 26.1 No person may cause or allow any animal, except for a dog, to enter any cemetery without the permission of the Council.
- 26.2 No person may cause or allow any dog to enter any cemetery unless it is kept continually on a leash while in the cemetery.

27. FIREARMS IN CEMETERY

- 27.1 No person may discharge any firearm in any cemetery, except during a military funeral with the prior approval of the Council.

28 ADVERTISING AND SOLICITING

- 28.1 No person may, in any cemetery, advertise any product or service or solicit any business whatsoever.
- 28.2 Except at the specific request of a purchaser, or potential purchaser, of a plot, or their representatives or assignees, no person may accept any business in a cemetery.
- 28.3 No commercial photographer or videographer may, without the consent of the funeral director or other person authorised by the deceased's family to conduct the funeral, attend any funeral for the purpose of taking photographs of, or recording, the funeral.

29. DESIGNATED PORTIONS OF A CEMETERY (MEMORIAL GARDENS, NATURAL BURIALS, CULTURAL AREAS ETC)

- 29.1 The Council may set aside designated portions of a cemetery for any particular purposes as provided for in the relevant Activity Management Plan.

30. FEES

- 30.1 The Council may by resolution set fees for all matters relating to the operation and maintenance of the cemeteries.

31. OFFENCES AND PENALTIES

- 31.1 Every person who breaches this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.00; and
- 31.2 Every person who is convicted of an offence against this Bylaw is liable to pay the Council the costs of remedying any damage caused in the course of committing the offence.

32. REPEALS

- 32.1 The Cemetery Bylaw 2004 is hereby repealed.

The **COMMON SEAL** of the
SELWYN DISTRICT COUNCIL
was hereunto affixed, in accordance
with the Resolution made by the
Council on _____
in the presence of:)
)
)
)
)
)

Mayor

Chief Executive

SCHEDULE ONE

PLACEMENT OF MONUMENTS

Ash – Garden style	<p>Plaque = 500mm wide x 250mm high Front edge clearance = 120mm min Flower holders = two maximum No protrusion over top Base 600mm width max. Base 150mm height max.</p>
Ash – Table style	<p>Plaque = 510mm wide x 250mm high Front edge clearance = 120mm min Base 600mm width max. Base 150mm height max.</p>
Recumbent Plaques (Lower Bookcase)	<p>610mm wide 510mm deep</p>
Recumbent Plaques (Lower Bookcase) - base	<p>1200mm wide 100mm high 480mm deep (max) No protrusion over top</p>
Standard Beam - Single	<p>Upright Headstone = 1065mm wide x 1065mm high (measured from beam) x 250mm wide.</p>
Standard Beam Single - Base	<p>Base = 1200mm wide x 480mm deep x 150mm high Max two inserts for floral containers Front edge clearance = 120mm min</p>
Standard Beam - Double	<p>Upright Headstone = 1980mm wide x 1065mm high (measured from beam). Symbol attached at top to total height of 1370mm</p>
Standard Beam Double - Base	<p>Base = 2400mm wide x 480mm deep x 150mm high Front edge clearance = 120mm min</p>
Old Grave surrounds	<p>1200mm wide x 3200mm long</p>

Headstone materials

A monument must be made of granite, bronze or other non-ferrous metal, or similar suitable material approved by an Authorised Officer prior to the installation of the monument. No schist, sandstone, limestone, marble, wood, fibreglass, ceramic, plastic, glass or other unsuitable material as determined by an Authorised Officer will be allowed.

Draft for Consultation