



STATEMENT OF PROPOSAL FOR THE PROPOSED SELWYN DISTRICT COUNCIL CEMETERY BYLAW 2011

(This statement is made for the purposes of sections 83 and 86 of the Local Government Act 2002)

Nature of the Proposal:

This is a statement of proposal by the Selwyn District Council (The "Council") to review the current "The Selwyn District Council Cemetery Bylaw 2004".

This review will result in the 2011 version becoming the new Bylaw.

Throughout this report, the process will be referred to as the review of the current Bylaw ("the current Bylaw").

Reasons for this Proposal:

To review, and update as necessary the current Bylaw in accordance with the Local Government Act 2002, and the Reserves Act 1977 and appropriate community outcomes.

It is considered that the draft **Selwyn District Council Cemetery Bylaw 2011** ("the proposed new Bylaw") is the most appropriate form of Bylaw, and the Bylaw is consistent with the New Zealand Bill of Rights Act 1990.

The statutory requirements for introducing a Bylaw:

- **Appropriateness:**

A total of 19 cemeteries are managed and owned by Council to service the District's needs and these are distributed to cater for the township, village and rural communities. A proposed new Bylaw has been determined to be the most appropriate mechanism to manage the Cemeteries in the Selwyn District. It is considered that the proposed Cemetery Bylaw 2011 is the most appropriate form of Bylaw, and that the draft Bylaw is consistent with the New Zealand Bill of Rights Act 1990.

The content of the current Bylaw forms the foundation of the proposed new Selwyn District Council Cemetery Bylaw 2011.

The proposed new Bylaw will:

- regulate the use and management of the Council Cemeteries in order to protect these assets,
- set clear guidelines and provide information to the public and
- specify the offences and penalties for breaches of the Bylaw.

- **Options Available to Council:**

1. **Do Nothing** – The Council has responsibilities to protect and manage the Cemeteries as provided in the Burial and Cremation Act 1964, Local Government Act 2002 and the Reserves Act 1977. A bylaw accordingly is the most appropriate mechanism to achieve the requirement and thus do nothing is not supported by staff.
2. **Revoke the Bylaw and rely on other methods (e.g. public education)** – This option is not seen as being practical as it would mean the Council will

have no statutory authority to protect the public asset and would be relying on the co-operation of several different parties. As there are potential environmental problems and because clear rules about what is permitted, with penalties, which can be enforced if those rules are broken are required, the option to rely on other methods is not supported.

3. **Proceed with the review** – The review of the current Bylaw will help to ensure the current cemetery operations are managed in a transparent and consistent fashion, provide a level of protection in the community and to the Council and will establish a clear legal channel to enforce any breaches to the Bylaw.

This Statement of Proposal has been prepared on the basis that Council wishes to proceed with Option 3: **Proceed with the review** to formulate a proposed new Bylaw.

Benefits/Costs:

- That the proposed new Bylaw will operate under current legislation and management practices.
- To protect the infrastructure from damage and misuse.
- Define terms not previously made clear and to bring further clarity to the proposed new Bylaw by means of simplification where possible to make it easier to understand by the general public, and to assist Council staff in achieving compliance in a fair and straight forward manner.
- To bring into line with the new Local Government Act legislation, the new penalties of up to \$20,000.00.
- The cost of non compliance, i.e. a breach of the proposed new Bylaw, will be met by those who damage or vandalise the asset.

Consultation:

The following groups and organisations (both internal and external stakeholders) will also be consulted on the proposed new Bylaw:

Funeral Directors
Returned Services Association
Veterans Affairs New Zealand
Department of Conservation
New Zealand Society of Genealogists
Council Elected Members
Community Boards and Township Advisory Committees
Department of Conservation
Te Taumutu Rununga
Adjoining Local Authorities (Christchurch, Waimakariri, Ashburton)
Environment Canterbury

Council officers have provided feedback on the direction of the Bylaw and the matters considered. The views of the public will be sought through the special consultative procedure.

Section 17 of the Burial and Cremation Act 1964 also imposes a requirement that all proposed Bylaws are sent to the Minister of Health not less than twenty-one days before the Bylaw is adopted.

Provide Maori the opportunity to contribute:

The Council has entered into discussions with the local Runanga in recognition of our special partnership with Maori.

NZ Bill of Rights:

Section 155(2) ((b) of the Local Government Act 2002 requires that any new Bylaw not be inconsistent with the NZ Bill of Rights Act 1990. Council have obtained legal advice to ensure that the proposed new Bylaw is consistent with the NZ Bill of Rights Act 1990.

The proposed Bylaw is being processed in a democratic manner by the Council by publicly notifying its intentions, the taking and hearing of submissions and the final consideration being made by an elected Council.

The proposed timeline for the introduction of the proposed new Bylaw is:

Timeline	Selwyn District Council Cemetery Bylaw 2011
7 December 2010 (Council meeting)	<ul style="list-style-type: none"> Adoption of the draft Selwyn District Council Cemetery Bylaw 2011
18 December 2010 Bylaw advertised	<ul style="list-style-type: none"> Advertise for public submissions to the draft Selwyn District Council Cemetery Bylaw 2011
28 February 2011 Submissions close	<ul style="list-style-type: none"> Written submissions close at 5:00pm at SDC service centres
14/15 March 2011 Submissions hearing (to be confirmed)	<ul style="list-style-type: none"> Hearings of submissions on the draft Selwyn District Council Cemetery Bylaw 2011 by a subcommittee at the Selwyn District Council Headquarters, Norman Kirk Drive, Rolleston
12 April 2011* (Council Meeting)	<ul style="list-style-type: none"> Adoption of the Selwyn District Council Cemetery Bylaw 2011 at its ordinary Council Meeting
26 April 2011	<ul style="list-style-type: none"> Public notification on the adoption of the Selwyn District Council Cemetery Bylaw 2011 by the Council and its commencement date
1 May 2011	<ul style="list-style-type: none"> Commencement date of new Selwyn District Council Cemetery Bylaw 2011
26 April 2011* (Council Meeting)	<ul style="list-style-type: none"> Adoption of the Selwyn District Council Cemetery Bylaw 2011 by Council at its ordinary Council Meeting

* It is expected that written submissions will be reviewed and heard if requested by an appointed subcommittee of Councillors. From this process, amendments or changes to the draft Cemetery Bylaw 2011 can be incorporated for the consideration of Council to adopt the Bylaw at its meeting of 12 April 2011. If it is the view of the subcommittee that the draft Cemetery Bylaw 2011 cannot be presented at that time for adoption or if there are further considerations identified by the Council at the meeting of 12 April 2011, this shall be reported back to Council including recommendations on how to proceed, or the final Bylaw will be sent for adoption at the Council meeting of 26 April 2011.

Submissions:

Submissions are invited on the proposal to implement a new Bylaw to be called the "Selwyn District Council Cemetery Bylaw 2011".

The proposed new Bylaw is to be known as the **Selwyn District Council Cemetery Bylaw 2011** ("the proposed new Bylaw").

At its meeting on 7 December 2010 the Council passed a resolution approving the draft Selwyn District Council Cemetery Bylaw 2011 for the purposes of public consultation through the special consultative procedure prescribed in the Local Government Act 2002.

The proposed new Bylaw can be viewed (and is downloadable in PDF format) on our website www.selwyn.govt.nz. Hard copies are also available during ordinary office hours at the Selwyn District Council Service Centres in Darfield (Darfield Library, McMillan Street), Leeston (Leeston Library, High Street), Lincoln (Lincoln Service Centre, Gerald Street) and Rolleston (Norman Kirk Drive, Rolleston).

Copies can also be requested by phoning 347 2800 or 318 8338.

Submissions on this proposal may be made until **5:00pm, Monday 28 February 2011**.

Submissions on this proposal can be made either via the online submission form on the Council website www.selwyn.govt.nz, or in writing. In order for a submission to be accepted it must state:

- your name, postal address, phone or fax and e-mail address;
- whether you support or oppose the proposal or particular aspects of it;
- your reasons;
- any changes that you wish us to make;
- whether you wish to speak at a hearing; and
- signed (if posted or faxed) and dated.

No anonymous submissions will be accepted. Whether you use this form or not, you must provide your full name, address and telephone number. If you are submitting on behalf of an organisation, please state this and your role within that organisation.

Please note that submissions are public information and may be presented in Council reports, made available on Council's website, tabled at Council meetings or released to members of the public or interested parties upon request.

Submissions in writing shall be addressed to:

**Asset Manager Projects
Proposed Cemetery Bylaw 2011
Selwyn District Council
P O Box 90
ROLLESTON 7643**

Or similarly faxed to (03) 347 2799.

On receipt of your submission, Council will send an acknowledgement that your submission has been received.

Any person making a submission may request to be heard in person in support of their submission. If required, the **hearing will be held on 14/15 March 2011 starting at 9:00am** in the Rolleston Service Centre, Norman Kirk Drive, Rolleston. Five to ten minutes

will be allocated for speaking to your submission, including time for questions from the Hearing Panel. These details will be further confirmed in advance of any hearing as required.

For more information please contact Keri Harrison, Asset Manager Projects 03 347 2800.

Related documents:

Proposed Selwyn District Council Cemetery Bylaw 2011

Report to Council

Summary of Information