

SELWYN DISTRICT COUNCIL CEMETERY BYLAW 2017

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 2017.

2. DATE OF COMMENCEMENT

- 2.1 This Bylaw comes into force on 18th April 2018.

3. REPEALS

- 3.1 The Cemetery Bylaw 2011 is hereby repealed.

4. APPLICATION OF BYLAW

- 4.1 This Bylaw facilitates the management of public cemeteries under the Selwyn District Council's control.
- 4.2 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.
- 4.3 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.
- 4.4 Compliance with other Acts

The Selwyn District Council Cemetery Bylaw 2017 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.
- 4.5 In the event of any inconsistency between this Bylaw and any relevant Act or Regulation, the Act or Regulation prevails.

5. 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.

"Anti-social Behaviour" means acting in a manner that has "caused or was likely to cause harassment, alarm or distress to one or more persons

"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.

"Closed Cemetery" means a cemetery in which a person cannot purchase new plots but existing sold plots can still be used for interments if possible.

"District" means the Selwyn District.

"Disinterment" means to remove body or remains from plot

"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.

"Lawn Cemetery" means a grass lawn cemetery where headstones project above the ground on a concrete beam.

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

"Open Cemetery" means a cemetery in which a person can pre-purchase plots and interments can take place

"Reside" means to dwell continuously for a period of time

"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

6. BURIALS AND SALE OF PLOTS

- 6.1 Burials may be made in any cemetery under the control of the Council subject to the conditions prescribed in this Bylaw.
- 6.2 Burial plots may be sold upon such terms and conditions as determined by the Council.
- 6.3 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.
- 6.4 After 80 years, pre purchased plots that remain unused are returned to Council
- 6.5 The price and size of each plot may be fixed by the Council.

7. APPLICATION FOR EXCLUSIVE RIGHT OF BURIAL

- 7.1 An application for an exclusive right of burial must be made on the prescribed form and be accompanied by the appropriate payment.
- 7.2 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.
- 7.3 No burial can take place in any plot in respect of which the exclusive right of burial unless the owner has consented to such burial, or it is the owner being buried.
- 7.4 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.
- 7.5 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, less an administration fee that has been set by Council resolution.

8. TRANSFER OF EXCLUSIVE RIGHT OF BURIAL

- 8.1 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.
- 8.2 The person applying for a transfer of an exclusive right of burial must pay all fees relating to the transfer.

9. PROVISIONS FOR INTERMENTS

- 9.1 No burial can be made in any cemetery without a Burial Warrant
- 9.2 Out of District fees are payable on the purchase of any plot if the deceased did not reside in the Selwyn District, at any time.
- 9.3 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.
- 9.4 The fee will be charged for a burial warrant.
- 9.5 Notification of exclusive right of burial by means of Council receiving the Application for Burial form must be given to the Council at least two working days prior to the time fixed for the funeral, otherwise an extra charge may be imposed by the Council. Where two working days cannot be given, discretion may be given by Council. When a public holiday occurs a longer period of notice may be required.
- 9.6 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.
- 9.7 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.
- 9.8 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.
- 9.9 No interments can be made in the same cemetery within two hours of a previous interment unless permitted by an Authorised Officer.
- 9.10 An interment booking can start from 10.00am. During daylight saving hours the latest booking is 4.00pm and during non-daylight saving hours the latest booking is 3.30pm. Any other times outside of the described hours may be authorized at Council's discretion.

10. BURIAL WARRANT AUTHORITY TO SEXTON & FUNERAL DIRECTORS

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

- 10.2 Funeral Director(s) will advise the sexton or his/her representative upon arrival at the gravesite. The Funeral Director(s) will then sign the warrant thus taking responsibility for the Health & Safety of the public at the gravesite. On completion of the interment the Funeral Director(s) will ensure the public have been moved clear of the grave site (at a distance of at least 50 metres) enabling the Sexton to carry out his duties. The Sexton will sign the warrant taking responsibility for the Health & Safety of the site.
- 10.3 If there is no Funeral Director controlling a burial then the site safety remains in the care of the Sexton or his/her representative and members of the public must follow the direction of the Sexton or his/her representative.

11. SEXTON OR ASSISTANT ONLY TO DIG GRAVE

- 11.1 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.
- 11.2 Family members are permitted to fill a grave upon request via the Burial Application form but only until the casket is covered. The rest of the filling of the grave is to be carried out by the Sexton or his/her assistants or any other person for the time being duly authorised by the Council.

12. BURIAL OF ASHES

- 12.1 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.
- 12.2 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 |
- 12.3 Monument plaques must be attached to the concrete plinth of the Ash Plot in such a way that the plaques do not protrude over the top of the plinth. Memorial plaques may incorporate an insert for flower receptacles.
- 12.4 Ash - Garden style and Ash – Beam 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.
- 12.5 Springston Ash-Garden and Lincoln Ash-Garden have specific headstone requirements which must be in accordance with Schedule One

13. PLACEMENT OF MONUMENTS

- 13.1 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.
- 13.2 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.
- 13.3 Installation of monuments must only be carried out by a member of the New Zealand Master Monumental Masons' Association Inc.
- 13.4 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.
- 13.5 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.

14. AUTHORISATION OF FENCING, MONUMENTS, ADORNMENTS OR OTHER ITEMS

- 14.1 The Council may determine what fences; monuments, adornments or other items may be placed or erected in any portion of the Cemetery.
- 14.2 An Authorised Officer may remove unauthorized fences, monuments, adornments or other items 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.
- 14.3 Where a concrete beam is provided for in the placement of a monument, no adornments, vegetation or other items can be placed beyond the beam provided.
- 14.4 Any wreath, floral tribute or other tribute may be placed on a grave after an interment; however, the Council can remove any items at the expiration of 14 days after the interment, or any other period determined by the Council. After 14 days reinstatement of items on a lawn area is not permitted
- 14.5 After fourteen days from the date of interment a receptacle must be used for the placing of flowers and foliage
- 14.6 Items can be placed on the concrete beam of the plot, however they cannot encroach onto the neighbouring plots.
- 14.7 The receptacle must be installed at the base of the headstone.

- 14.8 Clause 14.7 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.
- 14.9 An Authorised Officer will 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.
- 14.10 An Authorised Officer will remove dead flowers and dead foliage at any time
- 14.11 Council will not be responsible for any items damaged during the execution of this bylaw.

15. KEEPING GRAVES IN ORDER

- 15.1 The Council will maintain each cemetery to the standard provided under the relevant Council Activity Management Plan.
- 15.2 All monuments must be kept in good order and repair by the purchasers of plots or their representatives or assignees.
- 15.3 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.
- 15.4 After an interment newly filled graves will be kept in a weed free condition and reform the mound as required at 4, 8 and 16 weeks following the burial. At 24 weeks following the burial the plot shall be levelled with topsoil and reseeded.
- 15.5 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.
- 15.6 All rubbish and earth not required in conjunction with maintenance must be removed to a site approved by the Sexton.

16. VEGETATION

- 16.1 No vegetation can be planted in any cemetery by any person without the prior consent of an Authorised Officer of the Council.
- 16.2 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.

17. INTERMENT OF A DECEASED POOR PERSON

- 17.1 The interment of a deceased poor person will be carried out in accordance with Section 49(1) of the Burial and Cremation Act 1964.
- 17.2 If an exclusive right of burial is subsequently purchased, a memorial will be permitted.

18. DECEASED SERVICE PERSONNEL

- 18.1 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.

19. DISINTERMENT

- 19.1 Where an application for the disinterment of any deceased person is received by Council along with authorization from the Department of Health, the disinterment will be conducted pursuant to Section 51 of the Burial and Cremation Act 1964, its amendments or re-enactments.
- 19.2 The applicant must pay all costs involved in the disinterment.

20. VEHICLES

- 20.1 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.
- 20.2 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.
- 20.3 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.
- 20.4 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.
- 20.5 All vehicles (other than hearses) must yield unconditional right of way to any funeral procession.
- 20.6 Every person driving or conducting any vehicle in any cemetery must stop or move such vehicle as directed by the Sexton.
- 20.7 No person may drive or conduct any vehicle in any cemetery except in the direction indicated by traffic notices.
- 20.8 Camping is prohibited in all Council cemeteries. This includes campervans and any vehicle associated with camping.

21. MISCONDUCT

- 21.1 No person may prevent, disrupt or delay a funeral service, by any behaviour whatsoever.
- 21.2 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.
- 21.3 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.
- 21.4 People visiting the cemeteries need to be respectful and mindful of other visitors and neighbouring properties. Any antisocial behaviour observed within any cemetery will not be tolerated and Council may seek to invoke clause 28.

22. REMOVAL OF MONUMENT, ADORNMENT OR VEGETATION

- 22.1 Other than with the permission of the Council, no person may remove any monument from any cemetery.
- 22.2 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.

23. ANIMALS IN CEMETERY

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

24. FIREARMS IN CEMETERY

- 24.1 No person may carry or discharge any firearm in any cemetery, except during a military funeral with the prior approval of the Council.
- 24.2 Authorised Officers or Council approved contractors have permission to carry out pest control in all Council cemeteries which may include the use of firearms.

25. ADVERTISING AND SOLICITING

- 25.1 No person may, in any cemetery, advertise any product or service or solicit any business whatsoever.
- 25.2 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.
- 25.3 No commercial photographer or videographer may, without the consent of the funeral director, Council 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.

- 25.4 No commercial photographer or videographer may, without Council written consent, photograph or film in any Council Cemetery

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

- 26.1 The Council may set aside designated portions of a cemetery for any particular purposes as provided for in the relevant Activity Management Plan
- 26.2 All new beams provided in our cemeteries will be non-denominational

27. FEES

- 27.1 The Council may by resolution set fees for all matters relating to the operation and maintenance of the cemeteries.
- 27.2 The Council may from time to time, and in accordance with the Local Government Act 2002, prescribe the fees and charges payable in relation to cemeteries.


28. OFFENCES AND PENALTIES

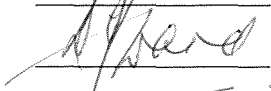
- 28.1 Every person who breaches this Bylaw commits an offence and is liable on summary conviction to a fine not exceeding \$20,000.00; and
- 28.2 Every person who is convicted of an offence against this Bylaw is liable to pay the Council the costs of remedying any damage caused in the course of committing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


29. SELWYN DISTRICT COUNCIL GENERAL BYLAW 2009

- 29.1 The provisions of the Selwyn District Council General Bylaw 2009 and any bylaw passed in amendment or substitution are implied into and form part of this Bylaw.
- 29.2 In the event of inconsistency or conflict between the provisions of this Bylaw and any other bylaw of Selwyn District Council, the provisions of this Bylaw shall prevail.

The COMMON SEAL of the
SELWYN DISTRICT COUNCIL
Was hereunto affixed, in accordance
With the RESOLUTION made by the
Council on the 18th April 2018
In the presence of:



Mayor


Chief Executive




SCHEDULE ONE

PLACEMENT OF MONUMENTS

Ash-Garden style	Plaque=510mm wide x 290mm high Front edge clearance = 120mm min Flower holders = two maximum No protrusion over top Base 600mm width max. Base 150mm height max.
Ash-Beamstyle	Small Upright 500 x 400 Reclining Desk/Plaque 450mm x 265mm Front edge clearance = 120mm min Base 600mm width max. Base 150mm height max.
Ash-Garden - Lincoln (Ash Beam 6)	Baby Waimari Panels 450 x 265 x 25
Ash-Garden - Springston (Ash Beam 4)	Base 480 x 260 x 100 Headstone 300 x 250 x 100/15 Wanganui Rose
Recumbent Plaques (Lower Bookcase)	610mm wide 510mm deep
Recumbent Plaques (Lower Bookcase) - base	1200mm wide 100mm high 500mm deep (max) No protrusion over top
Standard Beam - Single	Upright Headstone = 1065mm wide x 1065mm high (measured from beam) x 250mm wide.
Standard Beam Single - Base	Base = 1500mm wide x 500mm deep x 150mm high Max two inserts for floral containers Front edge clearance = 120mm min
Standard Beam - Double	Upright Headstone = 1980mm wide x 1065mm high (measured from beam). Symbol attached at top to total height of 1370mm
Standard Beam Double - Base	Base = 3000mm wide x 500mm deep x 150mm high Front edge clearance = 120mm min
Old Grave surrounds	1200mm wide x 3200mm long

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.

All monuments are to contain a minimum of two dowels to secure the monument to the concrete base, which sits on the Council's concrete beam. Dowels shall be threaded stainless steel rods or approved deformed fibre-reinforced polymer (FRP) composite rods.

If you wish to use material for a headstone which is not on the list of approved materials, please contact the Council to determine whether your chosen material is permitted.