

Policy for Implementing Exclusive Right of Burial

Purpose

The Marlborough District Council (the Council) Cemeteries Bylaw 2017, which came into effect on 25 May 2017, contains a provision for exclusive rights of burial. This enables the purchase of burial or ashes plot(s) ahead of the time the actual plot is required for interment. To ensure the management and administration of the purchase of an exclusive right of burial is undertaken in a systematic way, guidance is provided as to how aspects of the bylaw are to be implemented.

Scope

The policy covers the pre-purchase of a burial or ashes plot giving a person an exclusive right of burial in one of the Council's cemeteries as provided for in the Cemeteries Bylaw 2017. The policy also applies to those former reservations enabled by the Council prior to the introduction of the Cemeteries Bylaw 2017.

Definitions

Words used in this policy have the same meaning as defined in the Interpretation section of the Council's Cemeteries Bylaw 2017.

Objective

Provide guidance as to how the Council's Cemeteries Bylaw 2017 in relation to an exclusive right of burial is to be implemented.

Policy

1. Cemeteries where a purchase can occur

1.1 The purchase of an exclusive right of burial is available in the following Council administered cemeteries:

- Fairhall
- Havelock
- Omaka
- Picton
- Rai Valley
- Seddon
- Tuamarina
- Ward

2. Application and fees

2.1 In order to purchase an exclusive right of burial, a person must lodge a completed Application for Exclusive Right of Burial form with the Council and pay the prescribed fee as set out in the Council's Schedule of Fees for Cemeteries.

2.2 The application fee only relates to the purchase of the exclusive right of burial and administration associated with processing the application. Other fees will be payable at the time of interment.

2.3 A Certificate of Exclusive Right of Burial for a plot will be issued with the person's name who is to be interred in that plot and that person becomes the Holder of the exclusive right of burial.

2.4 A person cannot be the Holder of more than one exclusive right of burial.

3. Number of plots able to be purchased

3.1 Where a person wishes to purchase more than two plots (as provided for the Cemeteries Bylaw 2017), then application must be made to the Council and the following matters will be considered:

- reasons for wanting more than two plots;
- availability of plots in the cemetery;
- anticipated future demand for plots in the cemetery; and
- impact on efficient use and management of the cemetery.

4. Circumstances where purchase may/will not occur

- 4.1 There is no option for purchasing plots in designated natural burial areas except at the time a plot is required and used. At this time the adjoining plot space can be purchased and a Certificate of Exclusive Right of Burial issued in the name of the person on the Application for Exclusive Right of Burial form.
- 4.2 Where the supply of plots is limited, the Council may suspend purchasing of exclusive rights of burial. This suspension applies if space on a beam is limited and applies until a new beam is available for use. It also applies if a particular cemetery is reaching its capacity for additional plots.
- 4.3 An exclusive right of burial cannot be purchased for a burial plot if that burial plot is to be used only for an ashes interment.

5. General matters

- 5.1 When a person purchases a plot, they gain the exclusive right of burial for that plot. This means the Holder has the right to be buried in that plot; this does not mean they own the piece of land on which the plot sits.
- 5.2 The Holder of an exclusive right of burial must comply with any conditions imposed by the Council before a burial may take place.
- 5.3 Exclusive rights of burial may not be on-sold by the Holder of the right to any other party apart from the Council. Only the Council may sell exclusive rights of burial for Council administered cemeteries.
- 5.4 The Holder of an exclusive right of burial may designate an assignee to administer the right of burial if the Holder is no longer able to. This assignee will be considered the primary person able to make decisions regarding the exclusive right of burial if the Holder is deceased or incapacitated. If no assignee is designated or available, the executor of the estate of the Holder will have responsibility for decisions regarding the exclusive right of burial. (The Council may satisfy itself as far as practicable that a person is eligible to make any such decisions.)
- 5.5 The Council will keep records of all exclusive rights of burial granted. Plans and records will be open for inspection by the public at the office of the Council during normal office hours.

6. Duration of burial rights

- 6.1 If after 60 years no burial has taken place in a purchased plot, the exclusive right of burial will revert back to the Council with no entitlement for refund of the original purchase price. The Council may resell the plot to the original Holder in the first instance if no burial has taken place and if the Holder wishes to retain that plot.
- 6.2 If the Holder of the right is unable to be located, then the exclusive right of burial reverts back to the Council in accordance with section 10 of the Burial and Cremation Act 1964 with no right of refund. Such plots may be resold by Council.

7. Transfer of Exclusive Right of Burial

- 7.1 The Holder of an exclusive right of burial may transfer that right to a close relative subject to the approval of the Council and on payment of any prescribed transfer fee.
- 7.2 An assignee or executor of an estate can transfer ownership of an exclusive right of burial, or change the parties named as holding an exclusive right of burial, by completing an Application to Vary an Existing Exclusive Right of Burial form.

8. Unwanted Exclusive Right of Burial

- 8.1 Where the Holder of the exclusive right of burial (or assignee or executor) no longer wishes to use the exclusive right of burial, the Council may at its discretion purchase the right back. This shall be on such terms and conditions as Council thinks fit, provided that the price refunded shall not be less than

the original purchase price. Exclusive rights of burial that have been bought back may be resold by the Council.

9. Existing reservations

- 9.1 The Council has previously operated a reservation system for plots. Some of these plots have been purchased (a secure reservation) while others have simply been 'reserved' with no purchase having occurred. Both types of reservation are to be transferred to the exclusive right of burial system as follows:

Secured Plot

- 9.1.2 The named person of a secured plot will require proof of full purchase of a relevant plot for a Certificate of Exclusive Right of Burial to be issued.
- 9.1.3 Transfers of secured plots are to be completed within 1 year of the named person being notified of the changed system.
- 9.1.4 No fee will be charged for the transfer of a named person of a secured plot to be the Holder of a Certificate of Exclusive Right of Burial.
- 9.1.5 Where a person with a secured plot does not wish to retain the secured plot, the Council may purchase the plot back at the original purchase price.

Reserved Plot

- 9.1.6 Where a named person for a reserved plot wishes to continue to retain the plot, they will be required to complete an Application for Exclusive Right of Burial form and pay the appropriate fees.
- 9.1.7 A Certificate of Exclusive Right of Burial will only be issued when the relevant application process and purchase is completed in full.
- 9.1.8 Transfers of reserved plots are to be completed within 1 year of the named person being notified of the changed system.
- 9.1.9 At the Council's discretion special payment provision may be arranged to pay off the required plot fee.
- 9.1.10 Where a person with a reserved plot does not wish to retain the reserved plot, it will become available for purchase by someone else.

Incomplete Records

- 9.1.11 Where the Council's records show a plot has been reserved or purchased but there are out-of-date or incomplete contact details, the Council will endeavour to find the owner of the reservation. Where this is not possible, the Council may, after 2 years from adoption of this policy, sell the Exclusive Right of Burial for the plot to another person.