



## Kā Ture Urupā 2023

### **Cemeteries Bylaw ~~2017~~2023**

Queenstown Lakes District Council

Date of Making:

16 November 2023

Commencement:

1 December 2023

This bylaw is adopted pursuant to the Burial and Cremation Act 1964, ~~and the~~ Local Government Act 2002, and the Bylaws Act 1910, by resolution of the Queenstown Lakes District Council on 16 November 2023.

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## PART 1 – Preliminary

### 1. Title and Commencement

- 1.1 This bylaw shall be the "Queenstown Lakes District Cemeteries Bylaw ~~2017~~2023".
- 1.2 The bylaw shall come into effect on 1 December 2023 by Council resolution.

### 2. Commencement Scope

- 2.1 This bylaw applies to all cemetery reserves of the Queenstown Lakes District and does not apply to any cemetery that is not owned or operated by the Queenstown Lakes District Council.

### 3. Purpose

- 3.1 The purpose of this bylaw is to:
  - (a) set standards to maintain and preserve cemeteries;
  - (b) direct the positions and depths of all graves within a cemetery;
  - ~~(c) protect buildings, monuments, lawns, shrubberies, plantations, and enclosures in a cemetery from destruction or damage;~~
  - ~~(d)~~(c) prescribe conditions subject to which more than one deceased person, including the ashes of more than one deceased person, may be interred in any grave;
  - ~~(e)~~(d) control or restrict the times at which or between which burials-interments may be carried out;
  - ~~(f)~~(e) regulate burial-interment in a cemetery of the ashes of the dead;
  - ~~(g)~~(f) subject to section 51 of the Act, regulate and restrict the disinterment and removal of bodies;
  - ~~(h)~~(g) regulate the use of, and any activities undertaken at cemeteries, in order to protect land, buildings, structures, and infrastructure, monuments, lawns, shrubberies, plantations, and enclosures associated with cemeteries from damage, destruction, misuse, or loss; and
  - ~~(i)~~(h) prescribe fees payable in respect of goods or services provided by Council in relation to cemeteries.

#### 4. ~~Scope~~ **Bylaw to bind the Crown**

- 4.1 ~~This Bylaw does not apply to any cemetery that is not owned or operated by the Queenstown Lakes District Council. Except as provided in section 153 of the Local Government Act 2002, the Crown is bound by the provisions of this bylaw.~~

#### 5. ~~Delegation~~

- 5.1 ~~Any of the powers and functions of the Council as detailed and set out in this bylaw, may be delegated by it, to its Chief Executive Officer and sub-delegated by the Chief Executive Officer to any such other Officer of Council.~~

#### 5.6. ~~Interpretation~~

- ~~5.26.1 For the purposes of this bylaw, the following definitions shall apply: In this bylaw, unless the context otherwise requires,-~~

**Act** means the Burial and Cremation Act 1964 or any superseding legislation.

**Bylaw** means the Queenstown Lakes District Cemeteries Bylaw 2023.

**Cemetery or cemeteries** means any land owned or operated by the Council as a cemetery ~~but excludes any closed cemetery.~~

**Cemeteries Administrator** means the person appointed under clause ~~12~~.

**Cemeteries Handbook** means the document governing the operational standards for cemeteries adopted by the Council under clause ~~8~~.

**Closed cemetery** means a cemetery that has been closed in accordance with the Act.

**Council** means the Queenstown Lakes District Council.

**Disinter or disinterment** means the removal of a human body or ash remains from the earth or any vault.

**Inter or interment** means the placement of a human body or ash remains in a grave or any vault.

**Memorial** ~~means a feature installed in a cemetery for the purpose of memorialisation of a deceased individual or individuals, but~~

where the memorialised persons' remains are not placed or interred within a cemetery reserve.

**Monument** includes a headstone, plaque, panel, or other memorial to inscription for a deceased person interred within a cemetery reserve.

**Monumental masonry work** includes the establishment, repair, or modification of a monument and/or other grave features (e.g., concrete caps, grave fencing, footing and anchoring, etc.).

**Offence** means an offence under section 239 of the Local Government Act 2002 and/or part 8 of the Burial and Cremation Act 1964.

**Permit** means a written approval issued by the Council to do something under this bylaw and includes all conditions to which the permit is subject.

**Sexton** means any person appointed by the Council to manage the day-to-day activities, identified under clause 13, of any cemetery under its jurisdiction~~under clause 10.~~

6.2 Any explanatory notes and attachments are for information purposes, do not form part of this Bylaw, and may be made, amended and revoked without any formality.

6.3 ~~The Interpretation Act 1999 applies to this bylaw.~~

## PART 2 – Standards of Conduct and Maintenance within Cemeteries

### 6.7. Activities and Conduct in Cemeteries

~~6.7.1~~ The following activities may take place in cemeteries provided the activity is carried out in accordance with the Act, this bylaw, and the Cemeteries Handbook:

- (a) interment and disinterment;
- (b) the installation and maintenance of monuments, ~~headstones,~~ plaques, memorials, and other grave features; and
- (c) maintenance and construction of ~~park cemetery reserve~~ features by Council approved contractors.

~~6.7.2~~ Every person present in a cemetery must conduct themselves in accordance with the Act, this bylaw, and any standards for behaviour set out in the Cemeteries Handbook.

### 7.8. Cemeteries Handbook

~~7.8.1~~ Council may from time to time adopt by resolution, and may also amend by resolution, a Cemeteries Handbook that sets out rules and conditions relating to activities and behaviour in cemeteries or otherwise relating to cemeteries, which may include, but is not limited to, the following:

- (a) the location and availability of burial and ashes plots, and the purchase of exclusive rights on ~~burial~~ plots;
- (b) the manner of ~~burial interment~~, including the depth, preparation and testing of graves, size of caskets or urns;
- (c) requirements for notification and application to the Council to carry out interments, disinterments, re-interments, grave maintenance, monumental masonry work, purchase ~~burial-plot~~ rights, and in relation to any other good or service provided in a cemetery;
- (d) hours of access to cemeteries, when ~~funerals interments~~ can be held, and when maintenance and other work is allowed in cemeteries;

- (e) the ~~burial interment~~ of ~~poor people without means persons~~, stillborn children, and operational service personnel and their partners;
- (f) responsibility for the health & safety of persons visiting and working in cemeteries;
- (g) requirements for disinterments;
- (h) requirements concerning monuments, fences, signs, trees and shrubs, and other ~~things features and items~~ that may be installed or kept on graves in cemeteries, including what things are not allowed;
- (i) the type of maintenance, including the installation of required infrastructure, and other work that can be carried out in cemeteries, and who is responsible for carrying out maintenance or other work;
- (j) standards of behaviour for persons in cemeteries, including whether animals or vehicles may be brought into cemeteries and under what conditions;
- (k) special conditions related to particular cemeteries or types of cemeteries;
- (l) prescribing fees associated with interments, disinterment, re-interments, grave maintenance, monumental masonry work, ~~burial rights to inter~~, and in relation to any other goods or services provided in a cemetery; and
- (m) stating the forms that must be used by any person to apply to Council in relation to services provided at cemeteries.

7.28.2 If a person carries out an activity or works in a cemetery that does not comply with any clause in the Cemeteries Handbook, ~~Council or~~ the cemeteries administrator may do any of the following:

- (a) direct the person to comply with the relevant clause in the Cemeteries Handbook;
- (b) direct Council employees, the Sexton, or a contractor to carry out work in the cemetery to achieve compliance with the Cemeteries Handbook; and
- (c) recover from the person who breached the Cemeteries

Handbook the costs of any work undertaken to rectify the breach as a debt due to Council.

## **8.9. Prohibited Activities**

~~8.9.1~~ No person, other than a Sexton or person(s) authorised by a Sexton, shall in or near any part of a cemetery:

- (a) engage in interment or disinterment; and
- (b) operate any ~~burial~~ interment machinery or equipment.

~~8.9.2~~ No person shall in or near any part of a cemetery:

- (a) prevent, interrupt, or delay the decent and solemn burial interment of any deceased person, or human remains;
- (b) cause a nuisance or annoyance to people lawfully within a cemetery, or approaching a cemetery for a lawful purpose; and
- (c) cause any damage to land, buildings or chattels located in a cemetery, including but not limited to lawns, shrubberies, plantations, enclosures, monuments, and graves.

~~8.9.3~~ No person shall engage in installing or tending a monument or memorial in a cemetery while an interment is happening at an adjoining plot. Any person installing or attending a monument or memorial in a cemetery shall withdraw for the duration of an adjoining interment service.

## **10. Promotional Activities**

~~8.10.1~~ No person shall within any cemetery promote, advertise, or tout any goods or services for sale or supply, without obtaining permission in writing from Council under clause ~~9.3~~ 10.5.

10.2 No person shall, in any cemetery, advertise or solicit any order from any other person for any work whatsoever to be done in or in connection with any cemetery, or for the sale, preparation or supply of any article, material or item to be set up, affixed, or used in any cemetery.

10.3 Except at the specific request of the purchaser of a plot or their representatives or assigns, no person shall, in any cemetery, accept or take any such solicited orders as indicated in clause 10.2.



~~8.2~~10.4 No person, including a person affiliated or contracted with a media organisation, shall attend any ~~funeral~~interment held in a cemetery for the purpose of filming, taking photographs, or recording unless either:

- (a) it is solely for a private purpose; or
- (b) permission in writing for the occasion is obtained from the Council under clause ~~9.3~~10.5.

~~8.3~~10.5 ~~The~~Council may grant permission to conduct the activities prohibited in clauses ~~9.1~~10.1 and ~~9.2~~10.4, after consulting with the family requesting, and/or the Funeral Director managing the interment in question.

## ~~10.11.~~ **Vehicles**

~~11.1~~ Every person driving or in charge of any vehicle in any cemetery shall stop or move such vehicle as directed by Council or Council-appointed representatives (e.g., cemeteries administrator, sextons, enforcement officer, maintenance contractors, etc.).

~~11.2~~ No vehicle shall be driven at a greater speed than indicated on any road within the cemetery, and in any other direction other than indicated by traffic notices, where present.

~~11.3~~ All vehicles (other than hearses) shall yield unconditional right of way to any vehicle procession entering and exiting the cemetery for the purposes of an interment or memorial service.

~~10.11.4~~ All persons operating any class of vehicle within a cemetery must conduct themselves in accordance with the Queenstown Lakes District Council Traffic and Parking Bylaw 2018 or any successor bylaw, inclusive of the specifications in clause 21 – Parking off a roadway, and subject to clause 24 – Offences and penalties as indicated under aforementioned bylaw.

## PART 3 - Cemetery Administration and Maintenance

### 11.12. Appointment of Cemeteries Administrator

~~11.12.1~~ Council may appoint any person to be a ~~cemeteries-Cemeteries administrator-Administrator~~ to control or manage or to assist in the control and management of any cemetery under the jurisdiction of the Council, and may revoke that appointment at any time.

~~11.212.2~~ The functions of a ~~cemeteries-Cemeteries administrator-Administrator~~ shall include but are not limited to the following:

- (a) maintaining cemetery records;
- (b) making requests to the Sexton regarding a new ~~burial-interment~~ of a deceased person or preparation for a new ~~burial-interment~~;
- (c) issuing monument permits; and
- ~~(a)~~(d) ensuring compliance with all relevant legislation.

### 12.13. Appointment of Sextons

~~12.13.1~~ Council may appoint a person or persons in the role of Sexton for any cemetery or cemeteries within the District.

~~12.213.2~~ Any person appointed by Council as a Sexton prior to the commencement of this bylaw through an agreement between the Sexton and Council, shall be deemed to be validly appointed in accordance with clause ~~1013.1~~ of this bylaw.

~~12.313.3~~ The appointment of a Sexton shall continue until the expiry of the agreement between the Sexton and the Council, unless revoked at the discretion of Council.

13.4 The functions of a Sexton shall include but are not limited to the following:

- (a) the ~~burial-interment~~ of human remains (~~easkets~~ burial and ashes) ~~and interment~~;
- (b) disinterment ~~and exhumation~~ of human remains in accordance with section 51 of the Act;
- (c) preparing, excavating, and filling in graves; and
- (d) supplying and safely operating burial-interment

equipment and machinery.

~~12.4~~13.5 The Sexton must not undertake an interment at a cemetery unless requested by Council ~~or a cemeteries administrator.~~

~~12.5~~13.6 The Sexton must act in accordance with all relevant New Zealand standards, the Cemeteries Handbook, Council policies and bylaws, and any other professional and legal requirements applicable to their role.

#### ~~13.~~14. **Sale of Plots Exclusive Right to Inter**

~~14.1~~ All plots sold by Council shall be sold upon the terms and conditions as decided by Council **as amended from time to time** and the exclusive right to inter may be granted for such limited period as Council decides.

~~14.2~~ Interments shall take place in such plots as Council shall determine.

~~14.3~~ “Out of District” fees may be payable in the case of an interment of a deceased person not residing in or not a ratepayer of the district for a predetermined time. The time frame for such a requirement shall be determined by Council. For the purposes of this bylaw, a person in a hospital or institution in the district shall be deemed as resident in the district if they have been a resident of the hospital or institution longer than 3 months. The Cemeteries Administrator appointed by the Council shall determine in each case whether an “out of district” fee is applicable.

#### ~~15.~~ **Interment of Indigent Ppersons without means**

~~15.1~~ Where application is made to the Council for the interment of any deceased **indigent** person **without means**, the applicant shall, on making such application, provide to the Council a duly signed certificate verifying that such deceased person has not left sufficient means to pay the ordinary charge of interment fixed by this Part of the bylaw, that the cost of interment is not covered by any Accident Compensation entitlement, and that **his/her/their** relatives and friends are unable to pay the same.

#### ~~14.~~16. **Permission to carry out monumental masonry work Installation and Maintenance of Monuments, Grave Structures, Tributary Items, Plantings, etc.**

~~16.1~~ No monument, full grave cover, or surround shall be erected on a plot unless the exclusive rights to the plot have been purchased.

~~16.2~~ All above ground grave structures, enclosures, monuments, and other grave features shall be installed to NZS 4242, unless otherwise decided upon by

Council, and kept in good order or repair by the purchaser of the plots or their representatives.

16.3 All vases, containers for flowers, and other non-permanent commemorative or tributary items in cemeteries shall be placed in such a manner as approved by the Council.

16.4 No person shall, without the authority of the Council, remove or take from any grave in any cemetery, any vase, wreath, plant, flower or other object, except that the Council may cause to be removed any neglected or broken material of this nature

16.5 The Council may carry out regular audits of monuments, grave structures and other temporarily placed items to ensure their safety to cemetery visitors, sextons, and cemetery maintenance contractors.

~~14.2~~16.6 No person may carry out any monumental masonry work at a cemetery unless in accordance with permission issued by the Council under clause ~~12.2~~16.8.

16.7 No person shall, without written permission of the Council, remove from any cemetery or grave any monument or plaque.

~~14.4~~16.8 The Council may grant permission to allow a person to carry out monumental masonry work at a cemetery, including removal, subject to the following conditions:

- (a) the monumental masonry work is authorised by the owner of the plot or next of kin; and
- (b) the monumental masonry work satisfies all applicable requirements in the Cemeteries Handbook.

~~14.5~~16.9 The Council may require any person who has undertaken monumental masonry work other than in accordance with clause ~~12.2~~16.8 to remove or carry out repairs on the monumental masonry work to meet requirements of the Cemeteries Handbook.

~~14.6~~16.10 If a person fails without reasonable excuse to comply with a direction from the Council under clause ~~12.3~~16.9 within 30 days, the Council may remove the monumental masonry work or carry out the repairs, and any costs incurred by the Council shall be a debt payable by that person to the Council.

~~14.7~~16.11 Subject to the provisions of the Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967 or successor regulations, the Council may remove any installations of any kind that shall fall into a state of

decay or disrepair. A photographic record of the memorial shall be taken prior to removal and retained in cemetery records.

## **15. Delegations**

~~15.1 Any of the powers and functions of the Council as detailed and set out in this bylaw, may be delegated by it, to its Chief Executive Officer and sub-delegated by the Chief Executive Officer to any such other Officer of Council.~~

## **PART 4 -- Enforcement General Provisions**

### **17. Enforcement**

~~17.1~~ The Council may use its powers under the Local Government Act 2002 and Burial and Cremation Act 1964 to enforce this bylaw.

~~17.2~~ Nothing in this bylaw shall derogate from any provision of, or the necessity for, compliance with the:

(a) Burial and Cremation Act 1964;

(b) Burial and Cremation (Removal of Monuments and Tablets) Regulations 1967;

(c) Health (Burial) Regulations 1946; and

(d) Health Act 1956.

### **16.18. Offences and Penalties**

~~18.1~~ A person who contravenes clause ~~6.2, 8.1, 8.2, 8.3, 9.1, 9.2, 10.5, 10.6, 12.1, or 12.3~~ of this bylaw commits a breach of this bylaw and is liable to the penalty under the Local Government Act 2002 and/or the Burial and Cremation Act 1964. Every person who contravenes this bylaw commits an offence.

~~16.18.2~~ Every person who commits an offence against this bylaw is liable to the penalty imposed under the Local Government Act 2002 and/or Burial and Cremation Act 1964.

### **17.19. Revocations**

~~17.19.1~~ The Queenstown Lakes District ~~Council~~ Cemeteries Bylaw ~~2010~~2017 is revoked.

### **18.20. Savings**

~~18.20.1~~ Any exclusive ~~plot rights of burial~~, permit, certificate, licence, warrant, or other form of approval made under the Queenstown Lakes District ~~Council~~ Cemeteries Bylaw ~~2010~~2017 continues in force as if the former bylaw had not been revoked and expires on the date specified (if any).

~~18.20.2~~ Any application for an ~~interment~~, permit, certificate, licence, warrant, or other form of approval made under the Queenstown Lakes District ~~Council~~ Cemeteries Bylaw ~~2010~~2017 that was filed before the day on which this bylaw commences must be dealt with by the Council as if it had been made under this bylaw.