

Notice territorial authority's requirement for designation or alteration of designation

[Sections 168A](#), and [181\(4\)](#), Resource Management Act 1991

Selwyn District Council gives notice of a requirement to add a new designation.

1. The site to which the requirement applies is as follows:

Name: South Malvern Cemetery

Address: Coaltrack Road (1km west of Coalgate), Coalgate

Legal Description: L35160 GAZ 71-414 RS 41684 BLK VIII HORORATA SD - CEMETRY - SO 16208

Area: 2.1965 hectares

2. The nature of the proposed public work (*or* project or work) is:

(a) Description of the type of the designation:

Public Cemetery

(b) Description of the Scope of work:

a. *Purpose*

- i. To provide areas to meet the burial and remembrance needs of district residents as required by the Burial and Cremations Act 1964.
- ii. To assist in the preservation of the district's social history.

b. *Scope of Work*

- i. The scope of work is to provide land and supporting infrastructure and facilities to enable the operation of a public cemetery for the interment of human remains and installation of memorials for remembrance purposes. Specifically this includes:
 - Burial plot areas set aside for interment of human remains including ashes
 - Excavation and backfilling of plots for burial purposes
 - Conducting burial/funeral services
 - Visitation of graves
 - Maintenance and installation of headstones and memorials
 - Park furniture including seats, rubbish receptacles and signage
 - An access road and paths
 - Shelter and amenity planting

c. *Scale*

- i. All work will be conducted within the area identified on the attached map.
- ii. The average number of burials occurring at this site per year is very low (based on historical use).
- iii. No increase in the scale or intensity of activity on this site for public cemetery purposes is anticipated.

3. The nature of the proposed conditions that would apply are:

No conditions are required for this activity as the cemetery operation is managed and controlled under the Council's Cemetery Bylaw 2017.

4. The effects that the public work (or project or work) will have on the environment, and the ways in which any adverse effects will be mitigated, are:

- (a) Cemeteries may have a visual impact on the surrounding environment. This cemetery site has been developed with boundary and amenity planting to reduce the visual impact on the surrounding rural and nearby residential environment and to provide screening and seclusion for the activity to occur. Cemeteries provided to service local rural communities are an accepted part of the rural environment.
- (b) There will be a concentration in intensity of vehicle movements at the sites when funerals occur. The intensity of vehicle movements will be for a short duration (normally for one to two hours). Parking for funeral purposes is provided along the road verge. The level of use is very low (generally less than five burials per year) and does not warrant the provision of permanent car parking areas. Effects of vehicle movements are, therefore, less than minor.
- (c) The use of the site requires excavation for graves and on-site stock-piling. This use is for a short duration (normally over a period of one to two days) and the volume of excavated/stock-piled material is low (less than 5 cubic metres).
- (d) The use involves the burial of human remains into the ground. The decomposition of organic matter in the ground and presence of disease or treatment chemicals/compounds (e.g. embalming fluids, Strontium-90) may have the potential to contaminate ground water. This effect is managed under the Land and Water Regional Plan – Rules 5.81, 5.82 and 5.83. The use of land for a cemetery that existed before 5 September 2015 is a permitted activity.
- (e) The use of land for a cemetery in this location has a benefit to the local community in providing a place for burial within the locality to extend connectedness beyond the life of residents. It also provides a convenient location for remembrance by the local community and as a record of the social history of the locality. Cemeteries form part of the fabric and identity for communities particularly in rural localities and are valued by those communities. The Council provides a network of cemeteries that are distributed across the district to deliver a level of convenience and availability for residents and this cemetery forms an integral part of that network. The planting undertaken in the cemetery contributes to the landscape amenity of the locality.
- (f) There is additional undeveloped space available for burials within the existing site and there are no plans to increase the intensity and scale outside of the existing cemetery. Therefore all effects are existing and form part of the existing environment and any future effects will only be incremental changes.
- (g) There are no adjacent or nearby sensitive activities to this site.

5. Statutory Assessment

The following is relevant to this activity:

Burial and Cremations Act 1964 and specifically **s.4 - Local authorities to provide cemeteries**

- i. It shall be the duty of every local authority, where sufficient provision is not otherwise made for the burial of the bodies of persons dying within its district, to establish and maintain a suitable cemetery.
- ii. Every local authority is hereby authorised to undertake any work for the purpose of carrying out the duty imposed on it by subsection (1) and to expend such money as it thinks fit on the acquisition of land for cemeteries and on the establishment, maintenance, and improvement of cemeteries.
- iii. A cemetery is a public work within the meaning of the Public Works Act 1981 and land may be acquired or taken for cemeteries under the provisions of that Act.

And, **s.8 Management of cemetery**

A local authority may from time to time—

- a. enclose the land comprised in a cemetery, or any portion thereof, with proper and sufficient walls, rails, or fences, and erect suitable gates and entrances:
- b. lay out and ornament a cemetery in such manner as is most convenient and suitable for the burial of the dead, and provide it with such walks, avenues, roads, lawns, and shrubberies as it thinks proper:
- c. preserve, maintain, and keep a cemetery and its walls, rails, fences, gates, and entrances and all monuments, enclosures, buildings, erections, walks, avenues, roads, lawns, and shrubberies therein in a safe, clean, and orderly condition:
- d. make all necessary and proper drains in and about a cemetery for draining and keeping it dry; and may from time to time, as occasion requires, cause any such drain to connect with any existing drain with the consent in writing of any other persons having the management of any such existing drain, and with the consent in writing of any other persons having the management of any street or road and of the owners and occupiers of any land through which such drain is made, doing as little damage as possible to the road or such land, and restoring it to the same or as good condition as it was in before being disturbed.

Operative Selwyn District Plan

The following extracts from the Selwyn District Plan are relevant to cemeteries located in the rural zone.

Cemeteries are listed as 'Community Facilities' in the Rural Volume of the District Plan refer section ***B2.3 - Community Facilities and Recreational Areas - Issues***

Community facilities include land, buildings, equipment and services available to local communities for a range of activities, with or without a charge. They include: meeting halls, places of worship, schools, recreation areas and reserves, emergency services, and ***cemeteries***.

The District Plan notes that many community facilities in the rural area are under-utilised and that the District Plan provisions can help to foster, or at least not hinder, the efficient use of community facilities by:

- Recognising and providing for community facilities as part of the rural area, which reduces compliance costs to change the use these facilities.
- Managing effects of activities, not type of activities or who is undertaking them, which also reduces compliance costs to let community facilities to private organisations.
- Exempting community facilities from rules for site coverage, so they have less land to maintain (see Policy B3.4.5).

Community facilities are not anticipated to cause nuisance effects to surrounding residents in the rural area, because of the lower levels of residential density and distance between neighbours. The Rural zone rules for noise, night lighting, carparking, recession planes et cetera apply to community facilities.

Community Facilities and Recreational Areas - Strategy, Objectives, Policy and Methods

The Rural Volume of the District Plan uses the following basic strategy to address issues with community facilities and recreational areas:

- The District Plan provisions recognise community facilities as part of the rural area and do not restrict the multiple use of community facilities.

Objective B2.3.1

Efficient use and maintenance of community facilities is encouraged.

Objective B2.3.1 is to encourage the use of existing community facilities in the rural area. The District Plan does this by recognising community facilities as part of the rural area; and ensuring policies and rules do not unnecessarily hamper the multiple use of community facilities.

Policy B2.3.1

Recognise community facilities as part of the rural environment and encourage new uses for existing community facilities.

Explanation and Reasons

Community and recreational facilities are part of the rural area. Their ongoing use is important to foster the identity of local communities and to ensure the efficient use of the community's assets. Policy B2.3.1 recognises community facilities in the rural area and encourages their on-going use. The role of the District Plan is limited, in this regard, to ensuring there are no unnecessary restrictions in the rules, to changing the use(s) of community facilities. This is achieved by avoiding 'catch all' rules that make any community facility require a resource consent.

Method

District Plan Rule Structure

Permitted activities

Policy B2.3.2

Exempt community facilities from site coverage requirements in the rural area.

Explanation and Reasons

The District Plan provisions impose a maximum site coverage for buildings on sites in the Rural zone. The purpose is to maintain rural character – the dominance of open space and vegetation cover over buildings (see Policy B3.4.5). Policy B2.3.2 exempts community

facilities from site coverage provisions. The reason is to reduce the cost of buying and maintaining sites for community facilities.

There are a limited number of community facilities in the rural area, so the exemption is unlikely to cause a cumulative adverse effect on rural character.

Method

District Plan Rules

Community Facilities and Recreational Areas – Anticipated Environmental Results

The following environmental results are expected to occur from implementing Section B2.3:

Community facilities are more utilised in the rural area.

The Operative District Plan Strategy, Objectives, Policy and Methods support the provision of community facilities such as cemeteries in the rural zones and seek to encourage use and recognise that they are part of the rural environment.

Operative District Plan Rules

The following District Plan Rules may apply to South Malvern Cemetery:

1.7 Earthworks and Setbacks, Volume and Site Rehabilitation

4.5 Vehicle Accessways and Vehicle Crossings

4.6 Vehicle Parking and Cycle Parking

9.13 Activities and Vehicle Movements

9.19 Activities and Dust

Draft Proposed Selwyn District Plan

The draft Proposed District Plan currently provides for cemeteries under the definition of 'community facility', which means *"land and buildings used by members of the community for recreational, sporting, cultural, safety, health, welfare or worship purposes. It includes provision for any ancillary activity that assists with the operation of the community facility"*.

Council has a statutory responsibility to provide for the current and future burial needs of the district's residents as prescribed in Section 4 of the Burial and Cremation Act 1964. Therefore, it is considered that the provision of cemeteries appropriately fits within the definition of "community facility".

The draft plan also provides for cemeteries as a permitted activity. The provision of cemeteries as a permitted activity recognises that they are an essential service to the community and provide a number of functions that contribute to the social, cultural and environmental wellbeing of the community.

The War Memorial Gates at South Malvern Cemetery are identified as a heritage item in the draft district plan. The proposed provisions provides for operations, maintenance, repairs in the settings of heritage items. These rules are sufficient to allow for appropriate cemetery activities to take place without requiring a resource consent.

Canterbury Regional Policy Statement

There is no reference to cemeteries in the Regional Policy Statement

Land and Water Regional Plan

The following policies and rules are applicable to cemeteries:

S.4.30 – Policies - Hazardous Substances & hazardous activities

New cemeteries are located away from areas where they may be subject to inundation from surface water bodies or in areas with groundwater less than 3 m below the ground surface.

S.5 – Region-wide Rules - Cemeteries

5.81 The use of land for a cemetery that existed as at 5 September 2015, and any ancillary discharge of contaminants into or onto land in circumstances where a contaminant may enter water is a permitted activity.

5.82 The use of land for a new cemetery or an extension to an existing cemetery after 5 September 2015, and any ancillary discharge of contaminants into or onto land in circumstances where a contaminant or water may enter water, is a permitted activity, provided the following condition is met:

1. Any new cemetery or an extension to an existing cemetery after 5 September 2015 is not located:
 - a. within 20 m of a surface waterbody or the Coastal Marine Area; and
 - b. within 50 m of a bore used for water abstraction; and
 - c. within a Community Drinking-water Protection Zone as set out in Schedule 1; and
 - d. where groundwater is less than 3 m below the ground surface; and
 - e. within the Christchurch Groundwater Protection Zone as shown on the Planning Maps; and
 - f. on a contaminated or potentially contaminated land.

5.83 The use of land for a new cemetery, or any extension to an existing cemetery after 5 September 2015, and any ancillary discharge of contaminants into or onto land in circumstances where a contaminant or water may enter water, that does not meet condition in Rule 5.82 is a discretionary activity.

Schedule 3 Hazardous Industries and Activities

G. Cemeteries and waste recycling, treatment and disposal

1. Cemeteries

5. Alternative sites, routes and methods that have been considered to the following extent:

The requiring authority has an existing interest in the land required for the designation. The works being designated are existing and have been operating for some time. The works provided for by the designation will not result in any significant adverse effects on the environment. It is therefore not necessary to consider alternatives.

6. The public work (or project or work) and designation (or alteration) are reasonably necessary for achieving the objectives of the requiring authority because:

The purpose of the designation is to be able to provide a cemetery and undertake burial and funeral activities to meet the needs of residents in the Coalgate locality. This work is necessary to be able to provide for the burial and remembrance needs of the Coalgate community. The Council is duty bound under the Burial and Cremations Act 1964 to provide a

cemetery for the burial of the bodies of persons dying within its district. Given the geographical extent of the district, the Council has chosen to provide a network of cemeteries to service the dispersed communities.

The Council's *Long Term Plan* notes the following in relation to cemetery provision:

"Cemeteries are important for their memorial and cultural links to the past as well as their present day interment function."

"Provision of cemeteries is necessary to meet the burial and remembrance needs of resident and has an important role in preserving the district's social history."

The Council's *Community Facilities Activity Management Plan* includes the following in regard to cemeteries:

"The Council considers the provision of cemeteries to be a core service required to satisfy the burial and remembrance needs of the District's population. Delivery of this service contributes to achievement of community outcomes related to the promotion of a healthy community. The Council has adopted the role of primary service provider as, although there are some private cemeteries managed through churches, these do not make a significant contribution. Council has a statutory responsibility to provide for the current and future burial needs of the district's residents as prescribed in Section 4 of the Burial and Cremation Act 1964.

Planning for cemeteries is required to meet both short term and long term requirements and to realise Council's strategic direction. As the District's population grows and changes the Council will need to plan and provide for future cemetery requirements.

Cemeteries serve a number of functions that contribute to the social, cultural and environmental wellbeing of the community. These include the following:

- Provide for the burial needs of the District including both full burial and ashes interments
- Provide places for celebrating and remembering the lives of friends and family
- Cater for a diversity of cultural and ethnic requirements
- Create visual amenity (such as gardens, tree plantings, and green open space)
- Provide passive areas of open space for quiet contemplation, walking and sitting
- Contribute to the rural landscape character of the district
- Provide opportunities to explore and research social and genealogical history
- Provide physical records of the district's social history
- Enable preservation of historic sites and features.

Council's strategic direction in relation to the activity is to ensure there is sufficient provision of cemeteries to meet community requirements. This is in terms of:

- Capacity for future burial requirements;
- Distribution to ensure communities have access to a cemetery;
- A range of burial options are provided for;
- Cemeteries are maintained and developed to the standard expected by the community

It was determined that it was more appropriate to pursue a designation as:

- designations allow more flexibility for local authorities to develop long term projects (consistent with the long term plan) with the capability of modifying the activities and facilities to suit changing community needs.
- a designation allows the land needed for the works to be identified in the District Plan, clearly indicating the intended use of the land.
- The Selwyn District Council already retains the necessary interests in this land to undertake the activity relevant to the propose of the designation
- The designation will provide ongoing protection for the designated purpose and restrain other land uses or developments that could hinder the works.

7. The following resource consents are needed for the proposed activity and have (or have not) been applied for

None are required.

8. The following consultation (or No consultation) has been undertaken with parties that are likely to be affected:

No consultation has been undertaken as no parties are considered to be affected.

9. The Selwyn District Council attaches the following information required to be included in this notice by the district plan, regional plan, or any regulations made under the Resource Management Act 1991.

1. Aerial Photograph indicating the site boundaries

Signature of person giving notice

(or person authorised to sign on behalf of person giving notice)



Mark Rykers

Date: 4 June 2020

ATTACHMENT 1

South Malvern Cemetery

