

Holding multiple interment rights in a cemetery

Information on how to apply to transfer or grant multiple interment rights in a cemetery, reflecting the changes commencing 1 September 2025.

Limits apply to holding multiple interment rights

Section 56(4) of the *Cemeteries and Crematoria Act 2013* (the Act) prohibits a cemetery operator from granting or transferring an interment right if the grant or transfer of a right would result in a person (solely or jointly) holding rights over more than:

- 2 interment sites in the cemetery into which no interments have occurred (unused), or
- 10 interment sites in the cemetery in total

Note these updated limits will commence on 1 September 2025.

Cemetery operators can apply to Cemeteries & Crematoria NSW (CCNSW) for approval to grant or transfer rights resulting in an individual exceeding these prescribed limits in that cemetery.

This is to ensure that the grant and transfer of interment rights does not tend to create a monopoly or encourage dealing in interment rights.

CCNSW will assess applications for approval on a case-by-case basis in accordance with this Guide.

An operator must ensure that their cemetery register is amended to accurately record any changes to interment rights as a result of an approved application to grant or transfer multiple interment rights.

Application process

Operators should use the application form available on the CCNSW website to seek approval to make a grant or transfer that will result in an individual holding rights in excess of the prescribed limits above. Use of this form will ensure that all the correct information is provided to facilitate assessment of the application.

What to include in an application

Reason for application

A cemetery operator must provide information justifying the need to make a transfer that will result in an individual holding rights in excess of the prescribed limits above.

For organisations, examples of grounds that CCNSW may consider in deciding whether to approve an application include:

- certain religious organisations may wish to purchase multiple interment rights to ensure members of the religion may be buried together
- certain cultural or community organisations may wish to purchase multiple interment rights to ensure members of their community can be buried together
- a community organisation may wish to have rights available to provide at low or no cost in cases of financial hardship

Note that where the applicant is an organisation, CCNSW requires the organisation to be an incorporated entity.

Note: Where the applicant is an organisation, CCNSW requires this to be formally incorporated.

For individuals, examples of grounds where CCNSW may consider approving an individual to hold rights in excess of the prescribed limits include:

- intergenerational or family transfers as a result of inheritance, which may result in a person holding over 10 rights in total
- a person being unable to hold the right themselves, which may result in another person holding more than 2 unused rights

Information about the proposed transfer

A cemetery operator must:

- a. identify the person or organisation to whom the interment rights are to be granted or transferred
- b. identify the person or organisation from whom the interment rights are to be transferred from (if applicable), and provide documentation to support the transfer
- c. specify the number of interment rights proposed to be granted or transferred; and
- d. advise of any prior granting of interment rights to the same party and the current number of unexercised interment rights that party still holds

A cemetery operator must:

- a. identify the person or organisation to whom the interment rights are to be granted
- b. specify the number of interment rights proposed to be granted or transferred; and
- c. advise of any prior granting of interment rights to the same party and the current number of unexercised interment rights that party still holds.

Assurance that the end consumer is protected

Where multiple interment rights are granted to a person or organisation, CCNSW may require a cemetery operator (as a condition of approval):

- a. to guarantee that any on-selling must be at the same or lower cost as charged by the cemetery operator; and
- b. to obtain a warranty and indemnity from the purchaser that the end consumer will be afforded the same consumer protections as the original purchaser; and
- c. to ensure its contract with the purchaser contains a condition either requiring the purchaser to only on-sell the interment right:
 - on substantially the same terms as the original purchase; or
 - where the new purchaser agrees to enter into a new contract directly with the cemetery operator.

Where CCNSW seeks to impose the above conditions, this will be set out in CCNSW's letter approving the application.

In the event an organisation holding multiple interment rights becomes insolvent, unused interment rights may be terminated and revert to the cemetery operator, subject to any insolvency laws.

Supporting documentation

CCNSW may require documentation in support of an application. This may include:

- a. a copy of ACN, ABN or ACNC registration for organisation applications
- b. a copy of the Will or letters of administration (if applicable) for family personal applications such as grants or transfers for deceased estates OR evidence of consent to a transfer from whom the interment right(s) is/are being transferred
- c. a copy of the contract of sale from the cemetery operator to verify consumer protection provisions

Additional requirements for more than 100 interment rights

This part of the guide applies to any application made by a cemetery operator to CCNSW under section 56(4) of the Act, where the approval sought will result in an organisation holding (including jointly holding) more than 100 interment rights in the cemetery (a Large Application).

In assessing each Large Application, CCNSW will have regard to:

- the below criteria
- the objects of the Act, and
- the principles of administrative law.

Criteria

Before CCNSW will consider an application for more than 100 interment rights, the cemetery operator must provide CCNSW with sufficient information to satisfy CCNSW that the Large Application addresses the following criteria.

Equitable access / public interest

Whether the Large Application is necessary or desirable to ensure equitable access to interment services by one or more religious or cultural groups or the community generally or is otherwise in the public interest.

CCNSW may consider:

- the impact of the Large Application on all stakeholders e.g. impact on communities that interact with the cemetery,
- identification and assessment of eligibility criteria to determine which end users are entitled to receive the relevant interment rights, and
- how end users' consumer rights will be protected e.g. appeal or grievance processes.

Cost transparency and affordability

Whether the Large Application promotes affordable and accessible interment practices in New South Wales.

CCNSW may consider:

- the cost price and structure(s) for burials and cremations, and whether they are disclosed to CCNSW (beyond the Basic packages required to be disclosed in the Licence Conditions), and
- whether the Large Application makes it easier for people to afford interment or for faiths to access interments.

Impact on current and future interment capacity

How the Large Application impacts upon the current and future interment capacity across the relevant cemetery, the region in which the cemetery is located, and the broader sector.

The Large Application must address the following:

- the number of interment rights sought in the Large Application (including whether they are perpetual or renewable)
- the number and timing of release of interment rights to the end users

- the number of persons whose remains may be interred pursuant to the interment right at each site (e.g., single depth or double depth)
- the percentage of the cemetery space that will be affected by the Large Application
- the percentage of the cemetery space that will be available should the Large Application be granted in full
- how many interment sites will remain available for other persons
- the efficiency of land use, and
- the forecast time period between the approval of the Large Application and the exhaustion of all approved interment rights.

In addition to the information to be supplied above, CCNSW may consider other information regarding current and future interment capacity known to it in exercising its functions.

Reputation and standing / due diligence

Satisfactory due diligence on both the cemetery operator and the party seeking to acquire the interment rights as required, including corporate standing, reputation and financial capacity.

CCNSW may consider:

- searches from Australian Securities and Investments Commission, Australian Charities and Not-for-Profits Commission, Personal Property Securities Register and Australian Competition and Consumer Commission
- litigation searches from Australian courts
- searches of undertakings registers
- insolvency and bad debt searches
- constitution, corporate governance and financial statements, and
- environmental or planning issues.

Accountability, transparency and integrity

Whether CCNSW considers that the cemetery operator has demonstrated satisfactory levels of accountability, transparency and integrity in the Large Application.

Outcome

CCNSW will only approve Large Applications in exceptional circumstances.

Should CCNSW approve a Large Application, CCNSW may:

- approve the Large Application subject to specified conditions
- approve a smaller number of interment rights than sought by the cemetery operator in its Large Application; and/or
- require the Applicant to report to CCNSW on an ongoing basis.