

Approvals under Section 56(4) of the *Cemeteries and Crematoria Act 2013* – grants of multiple interment rights

Section 56(4) of the *Cemeteries and Crematoria Act 2013 Act* (the Act) prohibits a cemetery operator from granting interment rights in a cemetery if such a grant results in a person holding more than two interment sites in that cemetery. This restriction can be removed on a case-by-case basis if approved by CCNSW.

An application for approval under this section can only be accepted from the cemetery operator which grants and administers the interment rights which are the subject of the application.

The reasonable grounds for approving applications to grant multiple interment rights include but are not limited to:

1. Reason for application

A cemetery operator will need to provide information justifying the need to grant more than two interment rights to a person or organisation. Reasonable grounds for approving grants for multiple interment rights would include for:

- (i) specific religious orders or recognised religious authorities of particular faiths
- (ii) specific community groups which are incorporated, not-for-profit and demonstrate they are an established bona fide organisation,
- (iii) providing interment rights to a community organisation for charitable purposes where there is financial hardship for a community member

Note: under (ii) the proposed requirement for an established community group to be formally incorporated is to ensure the interment rights are being granted to a bona fide organisation and address any potential risks where:

- the exact legal or recognition status of a group within an ethnic community is not clear (it is not uncommon for an ethnic community to have multiple active and competing groups)
- there may be more than one faith practiced in a particular cultural group.

2. Information to be provided by cemetery operator

A cemetery operator will need to:

- (i) identify the person or organisation to whom the interment rights are to be granted
- (ii) specify the number of interment rights proposed to be granted
- (iii) advise of any prior granting of multiple interment rights to the same party and the current number of unexercised interment rights which that party still holds.

3. Consumer protection to be retained by the cemetery operator

A cemetery operator will need to guarantee that where multiple interment rights are granted to a person or organisation, any on-selling must be at the same cost as charged by the cemetery operator. The cemetery operator will ensure that all consumer protections and contractual obligations continue to be held by the cemetery operator rather than the organisation or person to whom multiple interment rights were initially granted. CCNSW may require a copy of a contract of sale to be provided.

In the event of an organisation holding multiple interment rights becomes insolvent and, subject to insolvency laws, unused interment rights may be terminated and under the terms on granting of the interment right, revert to the cemetery operator.

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