

Supplementary Guidelines for approvals for Large Applications under section 56(4) of the *Cemeteries and Crematoria Act 2013* (NSW)

These guidelines apply to any application made by a cemetery operator (**Applicant**) to CCNSW under section 56(4) of the *Cemeteries and Crematoria Act 2013* (NSW) (**Act**) for approval to the grant or transfer of interment rights to a person that will result in the person holding (including jointly holding) interment rights in respect of more than 100 interment sites in the cemetery for which the interment right is sought or sought to be transferred (referred to as a Large Application).

These guidelines are to be read in conjunction with CCNSW's guideline: 'Approvals under Section 56(4) of the *Cemeteries and Crematoria Act 2013* – grants of multiple interment rights' (March 2019).

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

- (a) the below criteria;
- (b) the objects of the Act; and
- (c) the principles of administrative law.

Criteria

Before CCNSW will consider a Large Application, the Applicant will need to supply CCNSW with sufficient information to satisfy CCNSW that its Large Application addresses the following criteria:

1. 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

[The purpose of this criterion is to determine the overall effect a Large Application will have on other groups that also use the cemetery and to assess whether access to interment rights is equitable or otherwise in the public interest.]

CCNSW may consider:

- (a) the impact of the Large Application on all stakeholders (positively or negatively) eg impact on communities that interact with the cemetery;
- (b) identification and assessment of eligibility criteria to determine which end users are entitled to receive the relevant interment rights; and
- (c) how end users' consumer rights will be protected eg appeal or grievance processes.

2. Cost transparency and affordability: Whether the Large Application promotes affordable and accessible interment practices in New South Wales.

[The purpose of this criterion is to ensure prices are properly disclosed to consumers and are in accordance with the Act.]

CCNSW may consider:

- (a) the cost price and structure(s) for burials and cremations, and whether they are disclosed to CCNSW; and
- (b) whether the Large Application makes it easier for people to afford interment or for faiths to access interments.

3. 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 purpose of this criterion is to address capacity issues for cemeteries particularly in the Sydney Metropolitan Region where space for burials is limited.]

The Large Application must address the following:

- (a) the number of interment rights sought in the Large Application;
- (b) the number and timing of release of interment rights to the end users;
- (c) the number of persons whose remains may be interred pursuant to the interment right at each site (eg single depth or double depth);
- (d) the percentage of the cemetery space that will be affected by the Large Application;
- (e) the percentage of the cemetery space that will be available should the Large Application be granted in full;
- (f) how many interment sites will remain available for other persons;
- (g) the efficiency of land use; and
- (h) 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.

4. Reputation and standing / due diligence: Satisfactory due diligence on both the Applicant and the party seeking to acquire the interment rights as required, including corporate standing, reputation and financial capacity.

[The purpose of this criterion is to determine, in CCNSW's opinion, whether the Applicant and the party seeking to acquire the interment rights are competent to deal with a large volume of interment rights.]

CCNSW may consider:

- (a) searches from Australian Securities and Investments Commission, Australian Charities and Not-for-Profits Commission, Personal Property Securities Register and Australian Competition and Consumer Commission;
- (b) litigation searches from Australian courts;
- (c) searches of undertakings registers;
- (d) insolvency and bad debt searches;
- (e) constitution, corporate governance and financial statements; and

- (f) environmental or planning issues.

5. Accountability, transparency and integrity: Whether CCNSW considers that the Applicant (the cemetery operator) has demonstrated satisfactory levels of accountability, transparency and integrity in the Large Application.

[The purpose of this criterion is to ensure CCNSW is satisfied that the Applicant has provided sufficient information to enable CCNSW to consider the Large Application.]

Outcome

CCNSW will only approve Large Applications in exceptional circumstances.

Should CCNSW approve a Large Application, CCNSW may, for example:

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

March 2022