

Cemetery Operator Licences: Caretaker Operators (Category 4)

This fact sheet provides guidance on requirements for operators who wish to apply for a Cemetery Operator (Caretaker) Licence – also known as Category 4.

What is a Cemetery Operator (Caretaker) Licence?

Operators managing a cemetery that is at capacity (cannot accept any more interments) or at which no future interments are intended to be carried out, may apply for a Cemetery Operator (Caretaker) Licence ('Caretaker (Category 4) Licence').

Caretaker (Category 4) Licences are for cemeteries that are no longer intending to perform interments (other than in certain very limited circumstances). These cemeteries may have been closed or inactive for decades and may be former community, church or heritage cemeteries. Such licences are issued with the recognition that the cemetery no longer actively operates.

Caretaker (Category 4) Licence holders are subject only to conditions B.1 (site maintenance and public access) and G.1 (prohibition of interment services).

When should I consider applying for a Caretaker (Category 4) Licence?

Operators should consider their circumstances when applying for such a licence. You may wish to apply for a Caretaker (Category 4) Licence if your cemetery for example:

1. is inactive and is being preserved as a heritage site
1. is owned by a private land holder with a previous inactive cemetery (often former church cemeteries)
2. is inactive and will not perform any more interments
3. has only pre-sold and not fully exercised interment rights remaining, where those rights were sold before the operator applied for a licence. In this case, a Caretaker (Category 4) Licence Licence with exceptions permitting interments for pre-sold interment rights may be appropriate, or,
4. has only a small number of plots remaining and allocated for a particular nominated person or class of persons, such as members of a church congregation. In this case, the operator should specify this in their licence application, including how many plots are available and who they are intended for. Each application will be considered on a case-by-case basis.

However, the number of remaining unused plots that are intended for use would be expected to be small. Applications where the plot numbers are over 10 will be unlikely to support the grant of a Caretaker (Category 4) Licence. This will be assessed on a case-by-case basis.

In cases where an applicant applies for a Caretaker (Category 4) Licence with the intention to perform limited future interments (options 4 and 5 above), CCNSW has absolute discretion to determine that the applicant should be granted an alternative category of licence if the level of activity appears to be more in line with an operating cemetery.

You should apply for a Cemetery Operator Licence to be able to continue to perform interments without any restrictions.

What are my responsibilities as a Caretaker (Category 4) Licence operator?

Caretaker (Category 4) Licence operators have a minimum set of requirements that must be met in order to be compliant with their licence conditions. Caretaker (Category 4) Licence holders are subject only to conditions B.1 (site maintenance and public access) and G.1 (prohibition of interment services), as outlined in the 'Licence Conditions for Operators of Cemeteries and Crematoria'.

1. Cemetery Maintenance – B.1: Operator must ensure Site maintenance is carried out and public access to the cemetery is maintained
1. Prohibition of Interment Services – G.1: The operator cannot perform interments (other than in those limited circumstances described above)

Please note other regulatory requirements may apply to your cemetery even if you are granted a Caretaker (Category 4) Licence (such as heritage requirements, for example State Heritage Listing). CCNSW may refer matters regarding other regulatory requirements to the appropriate regulators.

When can a Caretaker (Category 4) Licence operator offer interment services?

Condition G.1 in general prohibits interments from being offered or performed by an operator with a Caretaker (Category 4) Licence, however the licence conditions can provide for limited exceptions to this prohibition subject to approval by CCNSW. Any proposed interments which fall within these exceptions need to be included in the licence application and cannot be approved once a Caretaker (Category 4) Licence is granted.

Such circumstances would be rare and Caretaker (Category 4) Licence cemeteries are generally regarded as being closed to new interments. There are two specific types of exceptions which can be applied for:

1. Pre-existing interment rights or burial licences granted in previous years

CCNSW is aware that an operator may be in the situation where only pre-sold interment or burial rights exist but no other interment activity occurs.

While the cemetery may not have been considered active for many years, the operator would likely be required to honour these pre-existing interment or burial rights unless revocation has occurred or an alternative arrangement is agreed with the right holder.

If approved as part of the grant of your Caretaker (Category 4) Licence, CCNSW must be notified within 5 business days of any such interment occurring.

2. Limited interment plots remain for purchase or assignment

In circumstances where an operator has reached the last few interment plots in a cemetery which are designated for a nominated person or class of persons (and no interment right has yet been granted), the operator may inform CCNSW of this situation at the time of a licence application for a Category 4 Caretaker Licence. If this application is approved (at the absolute discretion of CCNSW), these interments will be recorded as exceptions on the licence issued.

Each time a caretaker operator performs an interment which is recorded as an exception of the Caretaker (Category 4) Licence, CCNSW is to be notified in writing within 5 business days of the interment occurring. Failure to do so would constitute a breach of the licence condition.

How can I apply for an exception to the restriction on offering and performing interments?

In order to apply for a Caretaker (Category 4) Licence with the ability to conduct limited interments, you will need to specify the exceptions you wish to apply for at the time of application and include details of the proposed interments in the relevant section of the licence application form.

CCNSW will review the request as part of the standard licence application assessment and determination process. If further information or clarification is required, CCNSW may issue a written request for such information.

CCNSW has absolute discretion to approve any exceptions to the prohibition on offering and performing interments for Caretaker (Category 4) Licences. If the proposed exceptions are refused, and the operator wishes to perform the interment, the operator will need to apply for a different licence category.

If CCNSW approves any exceptions, you will be notified of this within your licence certification and associated documentation. Any specific requirements which apply to the exceptions will be detailed in these documents including how and when you should notify CCNSW of any interments undertaken pursuant to the exceptions. Notification in writing to CCNSW must be made in 5 business days.

You may request an internal review of any CCNSW decision to impose a condition on a licence.

Further information on review of decisions can be located on the CCNSW website or on request.

Contact Information

Further information can be obtained from:

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