

Cemetery Operator Licence – Categorisation Policy

Policy for determining the category of licence conditions which applies to a Cemetery Operator Licence ('Policy')

Application of this policy

The Cemeteries & Crematoria NSW ('CCNSW') operator licensing scheme is established under the Cemeteries and Crematoria Regulation 2022 (NSW). Section 4H of the Regulation allows CCNSW to impose conditions on a licence either at the time a licence is granted, or at another time by variation of the licence.

Section 4H also allows CCNSW to impose conditions on licences, or a class or category of cemetery (or other thing that CCNSW considers appropriate).

CCNSW has developed the Licence Conditions for Operators of Cemeteries and Crematoria ('General Licence Conditions'). The General Licence Conditions contemplate application of licence conditions based on the category of licence held by a cemetery or crematorium operator ('Operator').

This Policy establishes the four categories of licence which will determine the applicable licence conditions.

This Policy also applies to cremation only operators and those operators who manage inactive cemeteries (with inactive generally meaning they are no longer taking interments, with some exemptions).

This Policy is subject to regular review and may be amended as required.

Operator characteristics

Under section 4I(2), CCNSW is able to consider various factors when determining whether to impose a condition on a licence. CCNSW considers the evidence provided by each Operator in their licence application or at relevant times on a case-by-case basis.

The factors that CCNSW may consider when making the determination are set out below.

a) The volume of interments (bodily and/or ash) likely to be carried out during the term of the licence

For an existing cemetery, the volume of interments likely to be carried out during the term of the licence can be considered based on the average number of interments provided by the Operator over the 3-year period immediately preceding the licence application date or date of licence conditions being reviewed. For a new cemetery,

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projected interment volumes should be provided as part of the licence application for CCNSW to consider.

Generally, consideration of the volume of interments (bodily and/or ash) will determine an allocation to one of the four standard categories as follows:

Category	Interment numbers (average annually over last 3 financial years)
1	100 or more
2	50 to 99 OR Cremation only
3	49 and under
4	Caretaker Licence – operates inactive cemeteries only

b) The total number of existing interments and likely future interments across all the operator's cemeteries

The total number of existing interments may be a factor in considering whether to impose a condition (and therefore the applicable categorisation). For newer cemeteries, this could take into account the total number of expected future interments. For example a cemetery site with development approval for 100,000 interments may merit a Category 1 licence even if interments for the next few years are low in the early stages of its lifecycle as this would ensure the adequate standards are being put in place from the early stages of their operations.

c) The compliance history of the operator

As the licensing scheme progresses over time, CCNSW will be collecting more data and intelligence to inform risk assessments of Operators. For future licence condition decisions, any compliance history of the Operator may be considered by CCNSW and used to inform categorisation decisions and appropriate application of conditions.

d) The heritage value of any of the Operator's site(s), or parts of sites

Heritage value, particularly listing on the State Heritage Register, may merit a specific licence condition relevant to those heritage assets. Heritage considerations are not likely to impact on the overall categorisation and standard licence conditions of a cemetery. Nothing in the Scheme affects any state heritage obligations imposed on the operator by the *Heritage Act 1997* (NSW).

e) Whether the operator intends to operate a cemetery and/or a crematorium

There will be more licence conditions for operating a cemetery than for a crematorium only as operating a cemetery involves broader services and obligations.

f) Any other relevant information.

Categorisation may take into account other information CCNSW considers relevant. For example, if the number of interments have been steadily increasing or decreasing in the previous years, this would be relevant information for CCNSW to consider when assessing an operator that is on the border of a higher or lower category.

Categories of licence

The four licence categories outlined in the General Licence Conditions are:

Category	General Licence Conditions
1	Full compliance with the conditions, with the exception of G.1 (prohibition of interment services)
2	Required to comply with all General Licence Conditions excluding: <ul style="list-style-type: none"> • B.6 (additional site maintenance standards) • D.2 (ensuring staff are trained appropriately) • D.4 (promoting high standards for customer service) • G.1 (prohibition of interment services).
3	Limited General Licence Conditions which are: <ul style="list-style-type: none"> • maintaining cemeteries to minimum standards for public access and safety (condition B.1) • including certain standard terms and conditions in contracts for the sale of interment rights (conditions A.1 and A.2) • abiding by customer service standards outlined in the Scheme, including behaving professionally and ethically and maintaining a register of complaints (conditions D.1, D.3, D.5 and D.6) • complying with the religious and cultural principles, and Aboriginal cultural and spiritual principles (conditions E.1 and E.2).
4	Only required to comply with conditions B.1 (site maintenance and public access) and G.1 (prohibition of interment services).

Caretaker Licence	<i>Exceptions to Condition G.1 permitting future interments may be granted for plots that have been pre-sold, or for cemeteries where a small number of plots remain that will be made available to person(s) from a specified group, for example a member of the church congregation. These exceptions need to be sought by operators as part of their licence application and may be granted on a case-by-case basis at the discretion of CCNSW.</i>
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Category 1 Operators

Generally, the standard criteria for determining a Category 1 operator will be that the Operator conducted 100 or more interments over the past 3 financial years.

Category 2 Operators

Generally, the standard criteria for determining a Category 2 operator will be that the Operator conducted 50 to 99 interments over the past 3 financial years or are cremation only Operators.

Cremation only Operators are those Operators who provide cremations, but not ash interments or burials. All cremation only Operators will be required to be licenced and will be subject to Category 2 licence conditions, with the exception that the maintenance obligations in Condition B which will not apply.

Category 3 Operators

Generally, the standard criteria for determining a Category 3 operator will be that the Operator conducted 49 or less interments over the past 3 financial years.

The additional considerations applied when considering determining a Category 3 operator are:

- that the Operator is operating more than 10 facilities, with each conducting a small number of interments (less than 50), and
- those facilities are operated by a volunteer workforce.

These additional considerations recognise the specific circumstances of some Operators who may have a 3 year average of greater than 49 interments but those interments are spread over a large number of facilities, with very few interments occurring at each facility. These Operators are often largely operated by volunteers performing a community service.

Category 4 - Caretaker Licences

Operators may apply for a Caretaker Licence if:

- a) they will not perform any more interments
- b) the cemetery has only a few pre-sold plots remaining

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- c) the cemetery has only a few plots remaining which are allocated for a particular group, such as members of a church congregation.

In circumstances referred to in (b) and (c), the Operator should specify in the licence application how many plots are available, who holds the interment right for pre-sold plots and/or who other remaining plots are intended for. If these details are not included in an application, an exemption to perform interments may not be granted.

CCNSW will assess applications for Category 4 licences on a case-by-case basis. 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.

If the level of activity indicates the cemetery is in fact an active cemetery, CCNSW will inform the Operator and invite them to apply for a Category 3 licence instead.

Contact information

Further information can be obtained from:

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