



Transfer Interment right Factsheet

As required by CCNSW Legislation, Maitland City Council keeps a Cemetery Register which records the license holder(s) for allotments within our cemeteries.

The register can record up to two joint holders per allotment; however, under special circumstances an applicant may request for more than two joint holders to be registered on one allotment. Only a registered and living holder(s) have authority of the allotment. If the registered holder(s) is/ are deceased, all rights of the allotment cease until the allotment is transferred.

Why Transfer?

- To allow an interment into an allotment (e.g. plot or niche)
- Erect or alter a monument
- Transfer their Right of Interment to another person
- Add another person as a joint holder

In compliance with the Cemeteries and Crematoria Act 2013, and Crown Lands Act, a “living” Interment Right Holder can only make necessary changes to the monument, or sign for further interments.

* Apply to undertake minor repairs or updates to a monument if the Right Holder is unavailable, with operator consent.

Who Can Transfer?

- Current License Holder(s): as indicated in our Cemetery Register
- Descendent: as recorded on a Registered Death Certificate issued by the Registry of Births Deaths and Marriages
- Executor(s): as recorded on a Probated Will (with Supreme Court Seal) issued by the Supreme Court
- Administrator: as recorded on a Letter of Administration (with Supreme Court Seal) issued by the Supreme Court

What Documents may be Required to Transfer?

- Registered Death Certificate: to establish who the next of kin is/are
- Probated Will with Supreme Court Seal: to establish who the executor is/are
- Letters of Administration: to establish who the administrator(s) is/are
- 100 Points of ID
- Note: Please be aware that other paperwork may be required from time to time. Our Cemeteries team will provide further detail in these situations.

From September 2025, certificates for Interment Rights must be issued any time the holder of a right changes, even when a right is transferred by Will or intestacy. This helps ensure the register remains accurate and current.



When to Transfer?

- When the original Interment Right Holder (Right of Burial Holder) is no longer living. When a registered holder no longer wishes to be a registered holder and either transfers the allotment to another person, conditions apply and transfer administration fees are applicable.

How to Transfer?

- Complete and sign the application for Transfer a Perpetual Interment Right (if you are the legal Next of Kin, Executor or Administrator and nominate yourself to be a new licence holder)
- Sign the Terms and Conditions of Perpetual Interment right, if you are to become the new licence holder.
- Provide a copy of Probated Will or Letters of Administration, if these documents are unavailable, provide a copy of the Registered Death Certificate.
- Provide a copy of Registered Marriage Certificate or
- Change of Name by Deed Poll (if name has changed)
- Provide proof that **two forms of valid ID for each new holder**, including ID numbers and expiry dates (as per the application form) have been **sighted by a Registered Justice of the Peace (JP)**. Please do not provide copies of ID documentation in accordance with Council's Privacy Policy.
- Make payment of the Transfer Fee (non-refundable and paid at the completion of the transfer application, as per our current price list).

From September 2025, cemetery operators are required to follow a common-sense, risk-based approach to notifying relevant parties when assessing interment right transfers. This replaces the older newspaper and Gazette notification process with Reasonable Notification Guidelines.

Where to Transfer

- **Via email:** cemeteries@maitland.nsw.gov.au, this is our preferred method.
- **Via the Maitland City Council Cemeteries website:** maitland.nsw.gov.au/services/recreation-facilities/cemeteries-and-burials
- **In person:** Maitland Administration Centre, 263 High Street, Maitland NSW 2320 (opposite the Maitland Art Gallery).
- **Via phone:** 02 4934 9700 and ask to speak with one of the cemetery officers.

Understanding Title by Descent on Registered Death Certificate.

Title by descent is the title by which a person, upon the death of another, acquires the assets of the latter as an heir(s) at law when the deceased died without a Will.

If the next of kin is a **spouse**, that is, the deceased was **married or separated (but not divorced), or de-facto** at the time of death, then the spouse is permitted to complete the application to transfer a Perpetual Interment Right.

If the next of kin is an **only child**, because the deceased was **never married, divorced or was a widow/ widower** at the time of death, then the only child is permitted to complete the application to transfer a Perpetual Interment Right.

If the next of kin are **children**, because the deceased was **never married, divorced or was a widow/ widower** at the time of death, then all of these children need to be established and any death certificates provided in order to establish living new holder(s). The children who are established to become the new holder(s) are permitted to complete the application to transfer a Perpetual Interment Right.

If the next of kin is a **parent**, because the deceased **was never married and had no children** at the time of death, then the parent(s) is/are permitted to complete the application to transfer a Perpetual Interment Right.

Rank of Surviving Next of Kin

- | | |
|-----------------------|-------------------------------|
| • 1st Spouses | • 5th Grandparents |
| • 2nd Children | • 6th Aunts and Uncles |
| • 3rd Parents | • 7th Cousins |
| • 4th Siblings | |

In cases where no right holder is available, and a family member or community member wishes to restore or repair a monument, they may apply for approval from the cemetery operator. From 1 September 2025, this may be done without requiring a transfer, if the operator is satisfied that reasonable efforts have been made to contact any existing holders.

Understanding Probate

A grant of probate is a legal document that authorises an executor(s) to manage the estate of a deceased person in accordance with the provisions of the deceased's will. The executor can transfer the assets to the executor (or to such other persons as the executor may nominate in accordance with the will). If a Probated Will with Supreme Court Seal has been granted, then the executor(s) are permitted to complete the application to transfer a Perpetual Interment Right.

Understanding Letters of Administration

A grant of Letters of Administration is a legal document issued by the Supreme Court, which allows the administrator(s) to manage and distribute the deceased's assets. There are two distinct types of applications for Letters of Administration:

Letters of Administration – the deceased passed away without leaving a will (for example, intestate)

Letters of Administration with the Will annexed – the deceased left a Will, but there is no executor available to apply for a grant of probate. For example, if the Will did not name an executor or the sole executor has passed away or is otherwise unwilling or unable to act.

If a Letter(s) of Administration with Supreme Court Seal has been granted, then the administrators(s) are permitted to complete the application to transfer a Perpetual Interment Right.

Why is it important to keep the Grantee's details for an Interment Right current?

It is important to keep the Interment Right Holder/s details current as that person's written permission is needed to make any changes necessary to the monument or to request approval for interments.

Operators are also now required to update the cemetery register as soon as they become aware of new information about Interment Rights. This ensures all interments and approvals are made on the basis of accurate records.

What happens if it is not transferred?

Without an up-to-date Interment Right Holder no interment or monument work can be completed, and the cemetery will not be able to keep interested members of a family up to date with the most current requirements for interments, monumental works, maintenance, etc.

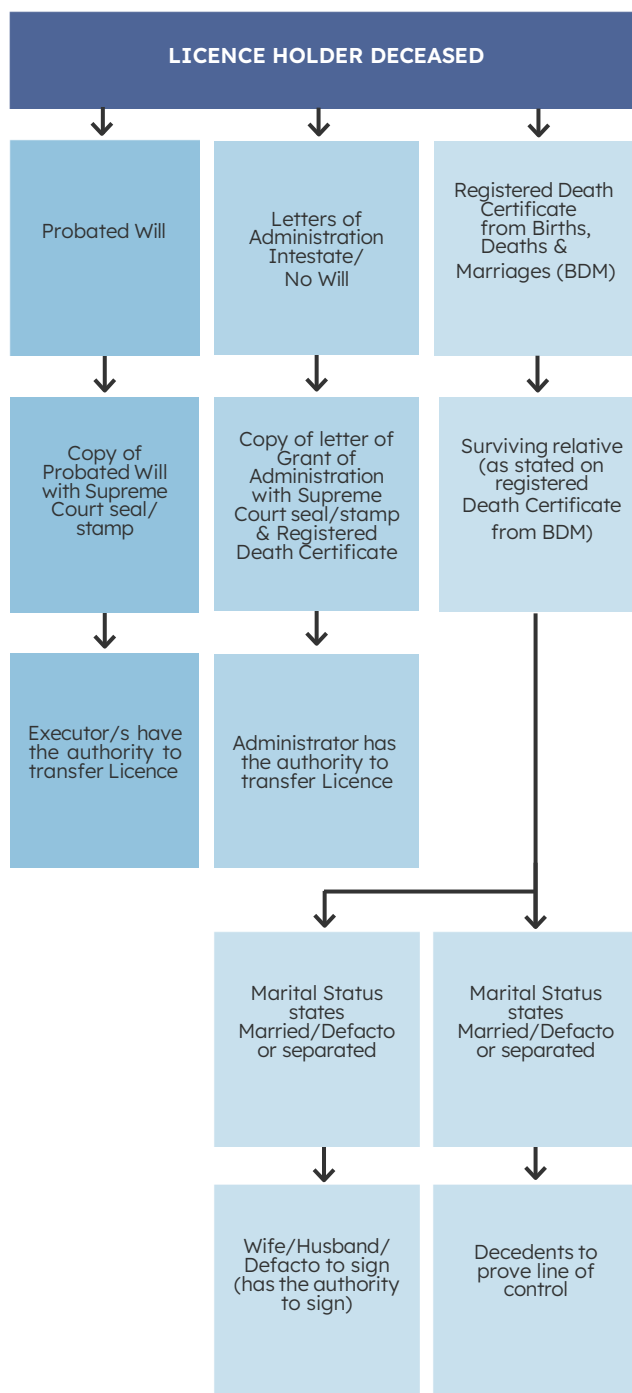
Can an interment right to an allotment be sold?

Maitland City Council does not purchase Interment Rights back once sold.

Disclaimer

This factsheet is provided as general information to assist families and representatives with interment right transfers. While Maitland City Council has made every effort to ensure the accuracy of the information contained herein, this document does not constitute legal advice and is subject to change with updates to relevant legislation or regulatory guidance.

For formal legal interpretation or advice, or to ensure the most current requirements are met, individuals are encouraged to consult Cemeteries & Crematoria NSW (CCNSW), legal professionals, or relevant government authorities. Maitland City Council accepts no liability for any loss or misunderstanding arising from reliance on this factsheet.



How to transfer an interment right

If the Perpetual Interment Right Holder is Deceased, Maitland City Council Cemeteries team will need to establish a living holder.

A living holder is required to apply for any interment/s or any monumental applications.