



# Memorial Works for a Non-Interment Right Holder **Factsheet**

This factsheet explains how Maitland City Council handles requests for monument work at interment site(s) when the interment right holder is unknown, can't be found, or no longer exists.

It follows the *Cemeteries and Crematoria Act 2013 (NSW)* and relevant CCNSW Reasonable Notification Guidelines.

## Who's responsible?

- Interment Right Holder(s) are responsible for Interment site(s).
- Holder of a Monumental Works for a Non-Interment Right Holder Permit.
- Maitland City Council the Cemetery Operator is responsible for general site upkeep, such as lawns, but not for memorials, monumental or memento(s).

Please refer to Maitland City Council's [Monument and Memento policy](#).

## How to apply for monumental works for a non-interment right holder permit?

### Council must:

- Receive applications in writing.
- Follow Section 70E of the Act when approving/refusing works.
- Provide reasons if they refuse an application.

### Council may:

- Add conditions.
- Cancel an approval.
- Direct how the works are carried out.

**Note:** Operators are not liable if they act in good faith under the *Cemeteries & Crematoria Act 2013*, using notification guidelines.

## Where to apply?

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

## What are the categories for memorial maintenance and installation of a monument for a Non-interment Right Holder?

### Repair/remediation works

Must match the original memorial as closely as possible.

- Repainting letters.
- Fixing broken tiles or ornaments.
- Removing weeds.
- Reapplying mortar.

**Note:** Cleaning (non-abrasive) does not require approval, but you should still notify the operator first.

### Minor works

Based on instructions from the right holder (if any).

- Adding name or dates to a headstone.
- Adding a ceramic photo.

**Note:** If previously requested or in writing by interment right holder.

### Erecting a memorial, monument on unmarked site

- After five years from last interment if no memorial exists.

**Note:** Conditions apply.

### No works notice

- A right holder can lodge a written direction banning future memorial or monumental work.
- Operators must not approve any work in these cases, except for safety repairs under WHS laws.

**Note:** If these categories do not apply, please see our Transfer of Interment Right factsheet available on our [website](#).

## Reasonable Notification Guidelines

The Reasonable Notification Guidelines outline what constitutes a sufficient effort to locate or notify an interment right holder or other relevant persons. These guidelines are principle-based and flexible, enabling Council to assess applications on a case-by-case basis.

Before any works are approved by someone other than the right holder:

- The applicant must make reasonable efforts to notify the person they believe is the interment right holder.
- At least one attempt by each contact method (e.g. mail, email), giving 28 days to respond.
- No need for newspaper or government notices unless appropriate.

## Understanding Council (Operator) responsibility with the monumental works without interment right.

Council as the operator of the cemeteries is responsible for approving applications for the installation or remediation of monument, with conditions. Council has set the level of evidence they require before approving an installation and to ensure that new or restored monuments meet the relevant Australian standards. The person or people who can authorise installation of a monument will depend on the circumstances of each interment site. Generally, installing a monument requires consent of the interment right holder(s), except as noted in this factsheet.

If the right holder is being interred, then the estate or legal documentation will be required to establish who is able to provide instructions or authorise monumental works on behalf of the deceased.

## Safety and damaged memorials

If a memorial is unsafe, Council, the cemetery operator must act to make it safe under work health and safety laws. Before acting, Council should try to contact the right holder and keep records of attempts.

If the right holder:

- Can't be found, or
- Refuses to act,

Then Council can take necessary safety steps.

**Note:** Operators are not subject to civil liability for a memorial works approval if issued in good faith and in accordance with the CCNSW Act 2013.

## Disclaimer

This factsheet is provided as general information to assist families and representatives with monumental works for non-interment right holder. 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.