



Independent Pricing and Regulatory Tribunal
New South Wales

Review of interment costs and pricing

Issues Paper
Special Reviews

May 2019

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Invitation for submissions

IPART invites written comment on this document and encourages all interested parties to provide submissions addressing the matters discussed.

Submissions are due by 7 June 2019

We would prefer to receive them electronically via our online submission form <www.ipart.nsw.gov.au/Home/Consumer_Information/Lodge_a_submission>.

You can also send comments by mail to:

Interment Costs and Pricing Review
Independent Pricing and Regulatory Tribunal
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1 Introduction

The Independent Pricing and Regulatory Tribunal (IPART) is required (by s 145 of the *Cemeteries and Crematoria Act 2013* (CC Act)) to investigate and report on interment costs and the pricing of interment rights in New South Wales (NSW). Interment is “the placement of human remains in the earth or in a mausoleum, crypt, vault, columbarium, niche wall or other structure designed for the placement of such remains. The term 'interment' applies to both cremated and uncremated remains.”¹

Interment services are provided by cemeteries. Cemeteries (and crematoria) in NSW are operated by a combination of Crown land managers, local councils and private operators. The CC Act reformed the governance and strategic management of cemeteries and IPART’s review of costs and pricing is part of that reform.

This Issues Paper explains the context and purpose of the review, outlines how we propose to conduct it, and sets out the issues on which we seek stakeholder comments.

1.1 What is the objective of this review?

The objective of the review is to provide guidance to NSW cemeteries about pricing of interment services in the context of changed legislation (particularly the introduction of renewable interment rights) and the approaching exhaustion of burial space in Sydney.

The two specific matters which we must consider under s 145 of the CC Act are:

- ▼ The relativity of costs and pricing factors for perpetual and renewable interment rights
- ▼ Full-cost pricing of perpetual interment rights, including provision for the perpetual care of interment sites and cemeteries.

The form of recommendations from the review has not been specified. In this Issues Paper, we seek feedback from stakeholders on what this form should be. Examples of the forms of recommendations we could make include:

- ▼ Providing pricing guidelines or a pricing methodology
- ▼ Publishing benchmark prices for specific interment services
- ▼ Recommending maximum prices for specific interment services.

Different forms of recommendations could apply across cemeteries and across services, depending on where any pricing reform is most needed.

¹ Cemeteries and Crematoria NSW, *Strategic Plan 2015-20*, October 2015, p 12.

1.2 What is covered by this review?

This stage of the review focuses on pricing of interment services and associated topics such as:

- ▼ How to set prices so that interment services are affordable and equitable for all, including between perpetual and renewable tenure rights, and do not create inequities for different community groups
- ▼ How to set prices so that cemeteries are financially sustainable now and into the future, generating enough revenue to cover the efficient costs of operating a cemetery, including the cost of acquiring new land when existing cemeteries are filled and the cost of perpetual maintenance
- ▼ Making sure that prices for interment services are easy for people to understand and easy for people to find, so that they can make informed choices about a sensitive matter.

This stage of the review will not investigate the funeral industry more broadly. However, we will investigate competition, cost and pricing factors in the funeral industry, as is also required by s 145 of the CC Act, after we have completed our investigation of the costs and pricing of interment services.

1.3 How will we conduct this review?

The review will involve research, analysis and a public consultation process. This Issues Paper is the first step in the process of public consultation. We will also issue an information request to cemetery operators to provide data for our research and analysis.

We will release a Draft Report in September 2019 and consult stakeholders on our draft recommendations before providing a Final Report to the Minister in December 2019. Table 1.1 sets out an indicative timetable for the review.

Table 1.1 Indicative timetable for review of interment costs and pricing

Milestone	Timing
Release Issues Paper	6 May 2019
Issue information request to cemetery operators	May 2019
Submissions on Issues Paper due	7 June 2019
Information return from cemetery operators due	7 June 2019
Release Draft Report	September 2019
Public hearing(s)	September 2019
Submissions on Draft Report due	October 2019
Final Report to the Minister	December 2019

1.4 How this paper is structured

Chapter 2 provides information about the context for the review.

Chapter 3 sets out the steps we propose to take in conducting the review.

Chapters 4 to 8 describe each of these steps in more detail, including:

- ▼ Setting out our proposed pricing principles
- ▼ Discussing approaches to estimating the various costs of interment services
- ▼ Discussing options for the form of recommendations to come from this review
- ▼ Describing how we will develop our recommendations.

1.5 List of questions in this paper

Throughout this paper, we highlight questions on which we are seeking input from stakeholders. Stakeholders may address some or all of these issues in their submissions and are also free to raise and discuss any other issues they consider relevant to the review. For convenience, a full list of the questions is provided below.

1	Do you agree with our proposed pricing principles? Are there additional principles we should consider?	16
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3	What type of land is the most likely source of increased cemetery capacity in Sydney? The Hunter/Central Coast/Illawarra region? Other regional areas?	19
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6	Who should have responsibility for maintaining closed cemeteries in perpetuity?	23
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17	To which services and product offerings should the recommendations from this review apply?	33
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19	Are there cross-subsidies or inefficiencies in pricing for interment services?	35
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21	To what extent does the range of prices for interment rights within and between cemeteries reflect different efficient costs, product differentiation, or price discrimination?	35
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2 Context for the review

This chapter provides information on cemeteries in NSW that is relevant to considering the costs and pricing of interments. It includes the definitions of interment, burial and cremation, information about ownership and governance of cemeteries, existing pricing arrangements, recent reforms undertaken to address governance of and strategic planning for cemeteries, and the approaching exhaustion of interment sites in Sydney.

2.1 Interment, burial and cremation

Almost all people who die in NSW are either interred in a cemetery or cremated, with a very small number of people choosing other options (such as being buried on a family property or being buried at sea). In 2017-18, around two thirds of individuals were cremated while a third had their bodily remains interred in a cemetery. The rate of cremations is highest in the Central Coast, Hunter and Illawarra regions and lowest in rural and regional NSW (see Table 2.1).

Table 2.1 Burials and Cremations in 2017-18

Region	Burials	Cremation	Cremation rate
Metro Sydney	9,332	18,601	66.6%
Central Coast, Hunter and Illawarra	2,726	10,516	79.4%
Rural and Regional	6,002	9,319	60.8%
Whole of NSW	18,335	38,768	67.9%

Source: Cemeteries and Crematoria NSW, *Annual Operator Activity Survey 2017-18*

Cremation commenced in NSW in 1925 and there has been an increasing trend towards cremation over burial ever since.² However, it is unclear whether this upward trend will continue. The Metropolitan Sydney Cemetery Capacity Report released by Cemeteries and Crematoria NSW identified several potential factors that could increase or decrease the relative share of cremations and interment of bodily remains, but the report states that the best estimate of future trends was for the cremation rate to remain stable.³

Cremated remains (“ashes”) may also be interred in cemeteries, but a family may simply take the cremated remains after cremation and keep or dispose of them as they wish. In 2017-18, around a third of ashes were interred or scattered at a cemetery.⁴

It should also be noted that while individuals have a choice between interment of bodily remains and cremation, this choice is strongly influenced by religion and culture. Jewish and

² Murray, Lisa, *Death and Dying in twentieth century Sydney*, 2013, https://dictionaryofsydney.org/entry/death_and_dying_in_twentieth_century_sydney, accessed 17 April 2019.

³ Cemeteries and Crematoria NSW, *Metropolitan Sydney Cemetery Capacity Report*, 2017, p 9.

⁴ Cemeteries and Crematoria NSW, *Annual Activity Report 2017-18*.

Islamic religious law, for example, require interment of bodily remains rather than cremation, and some cultural communities retain a strong preference for interment of bodily remains.⁵

2.2 Ownership and operation of NSW cemeteries

Cemeteries in NSW are owned and operated by local governments, Crown land managers and private operators, with Crown land managers performing the majority of burials in Sydney, and local government performing the majority of burial services throughout the rest of NSW (Table 2.2).

Table 2.2 Burials performed in 2017-18, by operator sector

	Number of Operational Cemeteries (NSW)	Number of Burials (Sydney)	Share of Burials (Sydney)	No. of burials (Rest of NSW)	Share of Burials (Rest of NSW)	No. of burials (NSW Total)	Share of burials (NSW Total)
Local Government	701	897	9.6%	7,589	84.3%	8,486	46.3%
Crown Land Managers	13	6,349	68.0%	230	2.6%	6,579	35.9%
Private	32	1,981	21.2%	1,031	11.5%	3,012	16.4%
Community and church	216	105	1.1%	153	1.7%	258	1.4%
Total	962	9,332	100%	9,003	100%	18,335	100%

Source: Cemeteries and Crematoria NSW, *Annual Activity Report 2017-18*

2.3 Interment services

To be interred in a cemetery, a person must purchase an interment right from the cemetery. These may be purchased 'pre-need' or 'at need'. The interment may be in a mausoleum, crypt or grave. The interment right may include a headstone or other monumentation.

Cemeteries are often divided into areas associated with religious or cultural groups. These areas may have been consecrated by a religious official from a specific religion. While access to interment rights for particular cemetery sections is not restricted, many people have a strong preference for interment with people from the same or similar religious or cultural background. Cemeteries may also have 'general' areas that are not associated with a particular religion or culture.

A gravesite may be single, double or triple depth, allowing for multiple burials. Prices for interment rights usually reflect the gravesite capacity.

Cemeteries will usually charge a separate fee for burial, although some may include this in the interment right price.

An interment right has traditionally been perpetual, although renewable tenure has been permissible in local government and private cemeteries. In 2017-18, there were 53 interments

⁵ Murray, Lisa, *Death and Dying in twentieth century Sydney*, 2013, https://dictionaryofsydney.org/entry/death_and_dying_in_twentieth_century_sydney, accessed 17 April 2019.

under renewable rights terms in local government or private cemetery interment sites. There were a total of 18,335 interments in NSW during 2017-18.⁶

Renewable tenure of between 25 and 99 years has been available as an option in Crown cemeteries since June 2018,⁷ as part of the CC Act reforms, although we understand that no Crown cemetery has yet introduced it.

2.4 Current prices for interment services

Prices charged for interment in NSW are not currently regulated. Crown cemetery boards determine prices for Crown cemeteries (although these prices may be disallowed by the cemeteries agency, Cemeteries and Crematoria NSW), local governments set prices for cemeteries within their jurisdiction (and these are not subject to the rate peg) and private cemetery operators set their own prices. This section sets out some information about current prices for interment services in NSW and other jurisdictions and information about financial assistance that may be available towards the cost of interment.

2.4.1 Current prices for interment vary significantly across NSW

The price of interment varies significantly across NSW and depends on factors such as the geographic location and the type of grave. In a local government cemetery in regional NSW, a perpetual interment right could cost as little as \$1,000,⁸ while a perpetual interment right in a lawn cemetery operated by the Rookwood General Cemetery costs around \$8,000, and up to \$38,000 in a section that can accommodate significant monumentation.^{9,10}

A range of \$6,000 to \$20,000 for interment rights is common in Sydney.¹¹ Additional fees of around \$2,000 are charged for burial (ie, excavating the grave and burying a body (or ashes)). Given the significant variation in the price of interment rights, it is difficult to determine what the average price of interment is in NSW.

Ashes interment is usually significantly cheaper than body interment. For example, at Rookwood an ashes interment right (in a niche or garden) costs between \$1,855 and \$5,327. An additional fee of \$731 is charged for interment (ie, placing the ashes in the niche or garden).

⁶ Cemeteries and Crematoria NSW, *Annual Activity Report 2017-18*.

⁷ *Cemeteries and Crematoria Act 2013*, Part 4, commenced June 2018; see <https://www.industry.nsw.gov.au/lands/what-we-do/crown-land/cemeteries-crematoria/amendment-regulation-2017>, accessed 18 April 2019.

⁸ For example, Snowy Monaro Regional Council, *2019 Schedule of Fees and Charges, Village Burial*, p 36 (see <https://www.snowymonaro.nsw.gov.au/DocumentCenter/View/7834>), accessed 15 April 2019.

⁹ Rookwood General Cemetery, *Fees for In-Ground Interment* (see http://www.rookwoodcemetery.com.au/assets/documents/RGC_PriceList_Jan2019.pdf), accessed 15 April 2019.

¹⁰ The price for an interment right in a monumental section does not usually include the cost of monumentation, but these sites are more expensive because they are pre-prepared with foundations and access for installing monumentation.

¹¹ For example, Woronora Memorial Park, *Crematorium Fees* (see <http://www.woronoramemorialpark.com.au/price-guide>), and Northern Cemeteries, *Fees, Burial Sites* (see <https://northerncemeteries.com.au/macquarie-park/about-macquarie-park/fees/>), accessed 15 April 2019.

Waverley Cemetery, one of only two cemeteries in NSW that has been offering renewable interment rights, charges \$24,805 for a 25-year term compared to \$61,516 for a 99-year term.¹²

2.4.2 Current prices for interment vary significantly in other Australian jurisdictions

As in NSW, the geographic location and type of grave are significant factors in the price of interment rights in other Australian states. The website, “gathered here”, compares and publishes information about end-of-life services in Australia, including funerals and interment services. The indicated price range for interment rights in Melbourne cemeteries is between \$2,620 (lawn) and \$9,385 (monumental), while in Brisbane it is between \$3,707 (lawn) and \$6,160 (monumental). In Adelaide, where renewable tenure is the norm, a 25 year right costs between \$2,850 and \$5,875, while a 50 year term costs \$4,950.¹³

2.4.3 Information about interment pricing may not be readily available

All of the Crown cemeteries display their fees and charges online. Local governments also publish their fees and charges, including for interment rights, but this information may be located in a different part of a council’s website from cemetery information. We did not find any private operator with a price schedule published online. In addition, many consumers access interment services via a funeral director, so the prices for interment rights (or the choices available to them) may not be readily apparent. As part of this review, we will gather information from cemetery operators about prices they currently charge for interment services.

2.4.4 Financial assistance towards the costs of interment

Typically, the costs of a funeral, cremation and/or interment are funded from the deceased estate, or by family of the deceased. Cemeteries are not funded by government, and are expected to recover their full costs of operation through charges for their services. There are several options available to individuals to assist with funeral and/or interment costs:

- ▼ The NSW government conducts destitute funerals for those who die with no money, and have no family or friend willing to pay for a funeral
- ▼ Centrelink offers bereavement payments to the spouse or carer of the deceased, which can be put towards funeral costs
- ▼ The Department of Veterans Affairs offers a bereavement payment to the surviving partner of a veteran receiving a service pension
- ▼ The Aboriginal Land Council offers grants to assist Aboriginal and Torres Strait Islander people with paying for a funeral
- ▼ Some charitable organisations provide assistance towards funeral costs in some situations.

¹² Waverley Cemetery Pricing, see <http://waverleycemetery.com/88-faqs/164-pricing>, accessed 5 December 2018.

¹³ Gathered Here, Guide to Burial Plots in Australia, see <https://www.gatheredhere.com.au/guide-to-burial-plots-in-australia/>, accessed 12 April 2019.

2.5 Recent reforms to the cemetery industry in NSW

We are conducting this review within the context of significant reforms that have occurred in the NSW cemetery industry. These reforms included the amalgamation of trusts operating Crown cemeteries, the introduction of the CC Act, and the creation of Cemeteries and Crematoria NSW (CCNSW).

2.5.1 Reforms to the management of Crown cemeteries

In 2012, the NSW Government implemented a significant change to the organisational structures of Trusts that were operating NSW Crown cemeteries. As part of this process:

- ▼ The Rookwood General Cemetery Trust was created by combining the Anglican, General, Independent, Jewish and Muslim trusts that had previously operated independently at Rookwood.
- ▼ The Rookwood Necropolis Trust was created to manage the common property and infrastructure throughout Rookwood Cemetery.
- ▼ Northern Metropolitan Cemeteries Trust was created by combining the Macquarie Park Cemetery and Crematorium Trust, Field of Mars Cemetery Trust, Frenchs Forest Bushland Cemetery Reserve Trust, Gore Hill Memorial Cemetery Trust and Sandgate Cemetery Trust.
- ▼ Southern Metropolitan Cemeteries Trust was created by combining the Woronora General Cemetery and Crematorium Trust and the Trusts associated with the Eastern Suburbs Memorial Park.

The resulting trusts (now known as land managers, following the commencement of the *Crown Land Management Act 2016*), along with the Catholic Metropolitan Cemeteries Trust, are now responsible for operating all of the Crown cemeteries in NSW.

These amalgamations have generated some issues relating to pricing, where merged cemeteries often followed very different pricing strategies and had differing levels of financial sustainability.¹⁴

2.5.2 The Cemeteries and Crematoria Act 2013

The CC Act provides a set of minimum governance requirements for Crown trusts, including the requirement for:

- ▼ A strategic plan (section 90)
- ▼ A draft plan of management (section 93)
- ▼ Financial management, audits and reports (section 99-102)
- ▼ A finance committee, an audit and risk committee and a community advisory committee to liaise with communities (section 103)

¹⁴ See, for example, PricewaterhouseCoopers, *Rookwood Cemetery: future governance arrangements*, February 2018.

-
- ▼ Planning conduct and maintenance (section 106)
 - ▼ A system for setting fees and charges (section 107).

The CC Act also allows Crown cemeteries to offer either renewable or perpetual interment rights. However, this part of the CC Act only came into force in 2018.

2.5.3 Cemeteries and Crematoria NSW (CCNSW)

The 2013 Act also created CCNSW, which is a NSW Government authority within the NSW Department of Industry. CCNSW was created to develop a “coordinated, strategic approach to providing interment services across NSW”. CCNSW also plays a role in developing industry policy including:

- ▼ Safeguarding the interment practices and dignity and beliefs of all community groups
- ▼ Allocating enough land for cemeteries
- ▼ Ensuring cemeteries are well maintained now and into the future
- ▼ Promoting affordable and accessible interment options for everyone
- ▼ Maintaining good governance of cemeteries and crematoria.

2.6 Projections of shortages of cemetery capacity in Sydney

A recent report by CCNSW found that:

...if there is no change to existing cremation and grave occupancy rates (scenario 4 in the analysis), cemetery capacity in metropolitan Sydney would be exhausted by 2051, with negative effects to availability of at-need grave plots expected well in advance of that period.¹⁵

Importantly, the report found that while the exact year that Sydney runs out of cemetery capacity depends on several assumptions, such as trends in cremation rates and the occupancy rates of graves, the need for more capacity is an inevitability. Even under a set of assumptions with increases in the cremation rate to 86% and significant increases in the grave occupancy rate, Sydney will completely deplete existing cemetery capacity by 2084. These capacity concerns appear to be concentrated within the Sydney metropolitan region.

¹⁵ Cemeteries and Crematoria NSW, *Metropolitan Sydney Cemetery Capacity Report*, November 2017, p 9.

3 Our approach to the review

This chapter sets out the steps we intend to take in conducting the review of interment costs and pricing. Chapters 4 to 7 discuss each step in more detail and highlight the issues on which we are seeking stakeholder input.

There are four main steps in the review:

- ▼ Establish pricing principles
- ▼ Estimate the efficient costs of interment
- ▼ Decide on the form of recommendations from this review
- ▼ Develop recommendations for pricing based on performance against pricing principles.

3.1 Establish pricing principles

The first step in our proposed approach is to establish pricing principles. These principles will underpin our evaluation of alternative pricing arrangements and the recommendations we make for pricing. Chapter 4 sets out a preliminary set of principles and seeks feedback from stakeholders on what the principles should be.

3.2 Estimate the efficient costs of interment

The second step in our proposed approach is to estimate the efficient costs of interment. The pricing principles we develop in the first step are likely to address the importance of the financial sustainability of cemeteries. Prices that reflect the full efficient costs of interment services would help deliver financial sustainability. Understanding the nature of and estimating these costs will therefore be a crucial step in developing our recommendations. We intend to issue an information request to cemetery operators to provide the data we will need to complete this step.

The costs of providing interment services include the costs of:

- ▼ Obtaining land
- ▼ Developing land, including landscaping and infrastructure, such as roads
- ▼ Buildings, such as reflection centres and chapels
- ▼ Plant and equipment
- ▼ Motor vehicles
- ▼ Labour to conduct grounds maintenance, excavation for burials and exhumations
- ▼ Labour to conduct administration, including sales, mapping and records management.

An important aspect of interment services is that until recently all interment rights were perpetual. After a cemetery reaches capacity, it will no longer generate revenue from

interments, but will continue to incur grounds maintenance costs indefinitely. This means that costs as they relate to pricing need to be considered over the long term. This is one of the matters specified for this review in s 145 of the CC Act. Other significant challenges in conducting this step relate to estimating the cost of land and the efficiency of historical costs.

Chapter 5 looks at the issues relating to estimation of each cost component. It also considers the relative cost of providing perpetual and renewable interment rights, which is one of the matters specified for this review in s 145 of the CC Act.

3.3 Decide on the form of recommendations from the review

The third step in our review process will involve deciding on the form of recommendations from this review. The appropriate form will depend on how well the existing system of cemetery pricing aligns with the pricing principles. If existing costs are relatively efficient and prices align closely with the pricing principles, then light-handed or no regulation may be needed. In other cases, more prescriptive regulation may be warranted.

We will decide on:

- ▼ The form of recommendations, including any pricing approach
- ▼ Which specific interment services to apply our recommendations to.

Options for the form of recommendations include providing pricing guidelines or a pricing methodology, publishing benchmark prices or recommending maximum prices for specific interment services.

The form of recommendations from the review could differ across cemeteries, so that, for example, a pricing methodology is provided for Crown cemeteries and pricing guidelines are provided for local councils. The form could also vary across services, so that, for example, benchmark prices are set for a lawn burial but not for interment in a mausoleum.

Chapter 6 describes each of these options and discusses their advantages and disadvantages.

3.4 Develop recommendations for pricing

The fourth step in our review process will be to develop recommendations for pricing in the form decided in Step 3. These recommendations will be based on our evaluation of the performance of alternative pricing arrangements against the principles established in Step 1.

These principles are likely to include considerations of affordability and equity (including community impacts), financial sustainability, and transparency and simplicity. The evaluation process is therefore likely to include consideration of prices against the efficient long-term cost of service provision estimated in Step 2 (to ensure financial sustainability) and an assessment of the community impacts that could result from the pricing reform (to ensure affordability and equity).

The recommendations would be developed to mitigate adverse community impacts. This could involve a period of gradual transition to a new pricing structure. It could also involve



departing from cost-reflective pricing to some extent if the case to do so is sufficiently compelling.

Chapter 7 describes this step in more detail.

4 Pricing principles for this review

As outlined in Chapter 3, the first step in our proposed approach to the review of interment costs and pricing in NSW is to establish pricing principles. These principles, drawn from the objects of the CC Act, will form the basis of our evaluation of existing pricing arrangements and any guidance or regulation provided in our recommendations. This chapter sets out a proposed set of principles and seeks feedback from stakeholders.

4.1 Overview of proposed pricing principles for the review

Section 145 of the CC Act directs IPART to consider:

- ▼ The relativity of costs and pricing factors for perpetual and renewable interment rights
- ▼ Full-cost pricing of perpetual interment rights, including provision for the perpetual care of interment sites and cemeteries.

The CC Act does not provide specific guidance on matters we should take into account when investigating interment costs and pricing. We recognise that the reasons that people choose interment or cremation, or one gravesite over another, are influenced by factors other than price, including geographical location, religious or cultural beliefs or preferences. Many people also find themselves making these choices for a loved one while under emotional stress and within a constrained timeframe.

We consider that the pricing principles for the review can be guided by the objects of the CC Act more generally. They are set out in Box 4.1.

Box 4.1 The objects of the *Cemeteries and Crematoria Act 2013*

- ▼ To recognise the right of all individuals to a dignified interment and treatment of their remains with dignity and respect
- ▼ To ensure that the interment practices and beliefs of all religious and cultural groups are respected so that none is disadvantaged and adequate and proper provision is made for all
- ▼ To ensure that sufficient land is acquired and allocated so that current and future generations have equitable access to interment services
- ▼ To provide for the operation of a consistent and coherent regime for the governance and regulation of cemeteries and crematoria
- ▼ To ensure that the operators of cemeteries and crematoria demonstrate satisfactory levels of accountability, transparency and integrity
- ▼ To ensure that cemeteries and crematoria on Crown land are managed in accordance with the principles of Crown land management specified in section 1.4 of the *Crown Land Management Act 2016*
- ▼ To promote environmental sustainability of the interment industry, including provision for natural and private burials
- ▼ To promote that cost structures for burials and cremations are transparent across all sectors of the interment industry
- ▼ To promote affordable and accessible interment practices, particularly for those of limited means.

Source: Cemeteries and Crematoria Act 2013, Section 3 Objects of Act

In order for this review to best deliver on the objects of the CC Act, we propose the following pricing principles:

- ▼ Interment prices should be affordable and equitable for all
- ▼ Interment prices should allow for the financially sustainable operation of cemeteries into the future
- ▼ Interment prices should be simple and transparent so that people can make informed decisions about interment choices at a difficult time.

Sometimes these principles may be in conflict – for example, pricing interments at a level that ensures financial sustainability of cemeteries into the future may conflict with the objective of affordability – and balancing the conflicting principles will require judgment.

Each of the three principles is discussed in further detail below.

IPART seeks comment on the following

- 1 Do you agree with our proposed pricing principles? Are there additional principles we should consider?
- 2 Are any principles more important than others? How can we manage trade-offs between conflicting principles?

4.2 Interment prices should be affordable and equitable for all

Our first principle is that prices should be affordable and equitable for all. This principle helps to ensure access to a dignified interment in accordance with a person’s religious or cultural beliefs, as well as access for those of limited means.

There is a range of different ways to deliver affordability. For example, one way is to offer targeted assistance to those of limited means. Some of the existing sources of assistance for funeral and interment costs were discussed in Chapter 2.

Another way is to require cemeteries to offer a basic interment right (that meets religious and cultural requirements) at an affordable price as one of a range of products. Cemeteries can still offer other services at different quality levels for a range of prices, but a suitable and dignified interment at an affordable cost must be one of them. This then raises the issue of the nature of the basic right – for example, some stakeholders have expressed concern that the introduction of renewable tenure would push lower income people into a renewable tenure purchase even if they would prefer perpetual tenure. We will consider the definition of a basic interment right as well as its price if that is one of our recommendations.

Cemeteries are able to offer services differentiated on the basis of their underlying cost (for example, gravesites with more ornate monumentation will cost more and can reasonably be priced higher than a lawn grave). Cemeteries may also differentiate products and prices based on characteristics that do not reflect a different cost base, but which people value more highly (for example, a gravesite with a pleasant aspect). However, this pricing principle means that service quality and price differentiation should not be applied in a way that creates inequity between community groups.

We will also consider how to transition to new prices in a way that minimises impacts on affordability if the review finds that some prices need to be higher to ensure financial sustainability.

4.3 Interment prices should allow for the financially sustainable operation of cemeteries into the future

Our second principle is that prices should allow for the financially sustainable operation of cemeteries into the future. In order to do this, cemeteries need to earn enough revenue to cover the costs of current operation and the costs of acquiring land for new cemeteries when required, as well as generating adequate reserves to fund perpetual maintenance.

Until recently all interment rights were perpetual. This means that the revenue and cost streams that cemetery operators are seeking to equate need to be viewed over a long period of time. After a cemetery reaches capacity, it will no longer generate revenue from interments, but will continue to incur grounds maintenance costs indefinitely so the cost of perpetual maintenance needs to be built into the prices charged today.

To assess whether interment prices deliver on this principle, we need to understand the nature and the level of the costs of providing interment services. Chapter 5 provides more detail on the costs of providing interment services.

4.4 Interment prices should be simple and transparent

Our third proposed principle is that prices should be easy for people to understand and easy for people to find.

Decisions about purchasing interment rights are often made at a time of emotional stress and within a short timeframe, so it is important that people can make an informed choice without adding to their distress or taking unnecessary time.

On the other hand, interment rights can also be purchased 'pre-need', when consumers may have a greater capacity to shop around, and simplicity and transparency of pricing can allow some competitive pressure to be brought to bear on prices being offered by different cemeteries.

5 The efficient costs of providing interment services

As outlined in Chapter 3, the second step in our proposed approach to the review of interment costs and pricing in NSW is to estimate the efficient costs of providing interment services. The proposed pricing principles set out in Chapter 4 suggest that prices need to be affordable and equitable for all, be simple and ensure the financial sustainability of cemeteries into the future. This would require prices to reflect the efficient cost of providing interment services. The sections below discuss the different costs that are incurred by cemetery operators, and areas where government policy may influence the cost of providing interment services. Such costs include:

- ▼ Land
- ▼ Perpetual maintenance
- ▼ Operating costs
- ▼ Overhead costs.

5.1 Calculating the cost of land used by cemeteries

In line with the proposed pricing principles outlined in chapter 4, to estimate costs we would need to value the land required to expand cemetery capacity. This can be quite different from the value of land that already contains graves, which is usually valued at a significant discount as it has little potential resale value.¹⁶ It is also likely that the value of land for expanding cemetery capacity would vary significantly between rural and metropolitan areas.

The cost of acquiring land for cemeteries can be further broken down into three categories:

- ▼ The cost of purchasing land
- ▼ The cost of developing that land for use as a cemetery (such as roads and landscaping)
- ▼ The capital cost of holding land before it is used.

5.1.1 The cost of purchasing land for new or expanded cemeteries

The cost of land varies significantly based on its location and the land uses permitted by the zoning and planning system. As a result, the cost of acquiring new land for cemeteries depends on the type of land that is purchased by cemetery operators. Table 5.1 shows how the value of land varies based on:

- ▼ Zoning type - residentially zoned land is usually more expensive than land zoned for other purposes
- ▼ Geographic region - land in Sydney is more expensive than land in regional areas.

¹⁶ For instance, the Catholic Cemeteries and Crematoria 2018 annual report notes that a discount rate of around 90% is applied to land that has been buried out given its utility is limited.

The land values in Table 5.1 are based on the unimproved value of land used for council rates and land tax and assumes that a cemetery can accommodate 2,800 graves per hectare.¹⁷ The table includes the specific examples of land purchased at Varroville and Wallacia with the intention of expanding cemetery capacity.^{18,19}

Table 5.1 Indicative price of land for new sites

Region	Price per square metre	Implied price per site
Residential land		
Near Rookwood Cemetery	\$1,821	\$6,500
In Newcastle/Wollongong	\$350	\$1,250
In Ballina/Bega/Taree	\$195	\$700
Industrial land		
Near Rookwood Cemetery	\$710	\$2,550
In Newcastle/Wollongong	\$160	\$550
In Ballina/Bega/Taree	\$192	\$700
Examples of land purchased in Sydney for cemeteries:		
▼ Varroville	\$13	\$110
▼ Wallacia	\$33	\$159

Source: Land values are based on the unimproved value of land used for council rates and land tax, and are taken from the Corelogic database

Note: Rookwood land is any land with postcode 2128, 2136, 2141, 2143, 2144, or 2190. Newcastle and Wollongong includes postcodes 2322 (Beresfield Cemetery) and 2526 (Wollongong Lawn Cemetery) while Ballina, Bega and Taree includes postcodes 2430, 2478 and 2550. Implied price per site are based on a benchmark of 2,800 graves per hectare (taken from the Sydney capacity forecast) with the exception of the two proposed cemeteries which included an estimate of the number of graves at each site.

These figures provide some guidance on the potential cost of land for new cemeteries. However, they need to be interpreted carefully. For instance, availability of a sufficiently large parcel of land for a cemetery is limited within metropolitan Sydney. Also, while the Catholic Metropolitan Cemeteries Trust has purchased land at Varroville and Wallacia for cemetery development, these locations have not yet been approved for that development.²⁰

IPART seeks comment on the following

- 3 What type of land is the most likely source of increased cemetery capacity in Sydney? The Hunter/Central Coast/Illawarra region? Other regional areas?

¹⁷ This assumption was used in the Cemeteries and Crematoria NSW, *Metropolitan Sydney Cemetery Capacity Report*, November 2017.

¹⁸ Power, J., 'Catholics offer burial spaces to Muslims as Sydney Cemeteries fill up', *Sydney Morning Herald*, 1 June 2018. See <https://www.smh.com.au/national/nsw/catholics-offer-burial-spaces-to-muslims-as-sydney-cemeteries-fill-up-20180531-p4zil3.html>, accessed 5 April 2019.

¹⁹ Tabakoff, N, 'Bargain Penrith Panthers asset deal nets \$10m', *The Australian*, 1 September 2017. See <https://www.theaustralian.com.au/sport/nrl/bargain-penrith-panthers-asset-deal-nets-10m/news-story/3728b5cce9d3f3b330fec983530d7f3b>, accessed 8 April 2019.

²⁰ The Catholic Cemeteries Trust's development applications for cemeteries at Wallacia and Varroville were referred to the Independent Planning Commission in June 2018 by the NSW planning minister following delays in determining these applications. See <https://www.ipcn.nsw.gov.au/projects/2018/06/crown-cemetery-and-crematoria-development--wallacia-and-varroville>, accessed 11 April 2019.

5.1.2 The cost of developing land for use as a cemetery

Once land is purchased for use as a new cemetery, it is necessary to develop the land for this use. Depending on the previous use of the land, this may include:

- ▼ Development approval for use as a cemetery
- ▼ The construction of buildings, such as chapels and reflection centres
- ▼ The construction of roads and paths
- ▼ Landscaping
- ▼ Rehabilitation of the land if it had previously been used for an industrial purpose
- ▼ Installing utilities such as water and electricity.

As part of our information request to cemetery operators, we are seeking information about the costs associated with developing new cemetery space.

[IPART seeks comments on the following](#)

- 4 Are there other costs involved in developing land for use as a cemetery?

5.1.3 The capital cost of holding land before it is used

An additional element of the cost of land is that it often needs to be purchased and developed well in advance of the sale of interment rights. That is, the cost of the land is incurred immediately while the revenue from selling burial plots is received over the life of the cemetery. Therefore, the opportunity cost of the upfront capital cost is a significant component of the cost of acquiring land.

The size of the capital cost depends primarily on two factors. The first is the average amount of time that a cemetery plot is developed for before it is used. For instance, if a cemetery has a 100-year expected life, and plots are sold at a uniform rate, then on average, it takes 50 years for a plot to be sold.

The second factor is the return on capital used to finance the expense. This can be either the borrowing costs if the cemetery has to borrow the money to purchase and develop the land or the investment income that is forgone if the cemetery uses its own capital reserve to purchase and develop the land.

When estimating the cost of capital in other industries, we use a measure called the Weighted Average Cost of Capital (WACC). This is an average of the cost of debt (interest payments) and the cost of equity (return to shareholders). The WACC will vary depending on the industry being examined and the risks and returns observed in investment markets.

Table 5.2 provides an example of financing costs associated with holding land. The figures in Table 5.2 are multiplicative factors, meaning that a value of 100% would mean that the financing costs are equal in size to the upfront costs.

Table 5.2 Illustrating impact of capital costs and holding period on the price of land

Average period before a site is sold	Examples of different WACC values		
	3.7%	4.3%	4.9%
10 years	43.8%	52.4%	61.4%
20 years	106.8%	132.1%	160.3%
30 years	197.4%	253.6%	320.0%

Source: IPART, Spreadsheet - WACC Model, 2018.

Note: WACC values are 'post-tax real'. The WACC values are illustrative only and do not represent the WACC for this review.

These figures show that the financing costs of holding land are likely to be significant and that the cost of financing is sensitive to both the WACC and the expected holding period of land.

5.1.4 A clear responsibility for developing new cemeteries

As part of assessing the costs of acquiring, developing and holding new land for cemeteries, we will also consider how existing regulatory arrangements may impact these costs.

One potential issue in the process of acquiring land for new cemeteries is that there is currently a lack of clear responsibility for developing new cemeteries. The CC Act gives CCNSW responsibility for assessing interment needs and developing planning strategies for cemetery space, and reserve powers to acquire land (by agreement, not by a compulsory process) in the public interest for cemeteries. On the other hand, the CC Act does not specify any responsibility for Crown cemetery operators to acquire land, although they have been the most active in attempts to develop new cemeteries.

A related issue is whether the existing model of Crown land managers operating in Sydney results in co-ordination problems where different Crown cemetery operators develop plans for new cemeteries independently of one another, which could result in a sub-optimal geographic spread of new cemeteries.

IPART seeks comment on the following

- 5 Who should be responsible for developing new cemeteries?

5.2 Calculating the efficient cost of maintaining cemeteries in perpetuity

Cemetery operators must leave interred remains and any memorial undisturbed in perpetuity (or for the term of a renewable interment right).²¹ They must also have regard to future maintenance when setting fees and charges.²² Therefore the price of a burial site should include a component to fund maintenance of the site forever. That is, the price of a burial site should include an amount that could be invested to enable the perpetual maintenance of the site to be fully funded from the 'returns' to that investment while not drawing on the principal.

²¹ *Cemeteries and Crematoria Act 2013* ss 46(d) and (e).

²² *Cemeteries and Crematoria Act 2013* s 107(3)(d).

The efficient cost of providing maintenance in any given year will vary based on:

- ▼ The level of maintenance provided
- ▼ The density of sites within the cemetery (cemeteries with more sites in a given area are likely to have a lower cost per site)
- ▼ Religious requirements that specify how a site is maintained
- ▼ The size of the cemetery (cemeteries with more burial sites are likely to have lower costs per site).

Converting the annual cost of maintenance to the cost of managing a site in perpetuity requires two more assumptions. The first is the long-run average rate of return for money invested by cemetery reserves. The second is the trend in the annual cost of maintenance services. This may reduce over time if technology reduces the cost of maintenance. However, it may also increase over time if, for instance, wages increase at a faster rate than inflation.

These values can be used to calculate the long-term cost of perpetual liability for a given site as:

$$\text{Cost of perpetual maintenance} = \frac{\text{Annual cost}}{r - g}$$

Where r is the average return on funds invested, and g is the annual growth rate in maintenance costs.

As part of our information request to cemetery operators, we are seeking information about annual maintenance costs, whether these are expected to increase or decrease over time, and how perpetual maintenance costs are incorporated into the price of interment. Of particular interest is whether current pricing practices will provide sufficient funding for the maintenance of the cemetery in perpetuity.

5.3 Other issues that impact the efficient cost of perpetual maintenance

In addition to the costs of perpetual maintenance discussed above, other factors that can impact on these costs include how closed cemeteries are managed, and the return on funds invested for perpetual maintenance.

The following sections discuss these factors.

5.3.1 How should closed cemeteries be managed?

An issue that directly influences the efficient cost of providing perpetual maintenance is the role that the cemetery operator plays in providing perpetual maintenance once a cemetery is closed. For instance, a recent report on the future governance arrangements at Rookwood Cemetery found that “there is an expectation that the NSW Government should take responsibility for perpetual maintenance costs.”²³

²³ PricewaterhouseCoopers, *Rookwood Cemetery: Future governance arrangements*, February 2018, p 17.

Crown cemetery operators are required to consider future maintenance when setting fees and charges, and most of them have perpetual maintenance reserves set aside to fund future maintenance. Cemetery operators are also required to leave remains undisturbed in perpetuity (or for the term of a renewable interment). The most efficient approach to managing a cemetery that has reached capacity and no longer has income (except investment returns) may be different from the most efficient approach to managing it while it is open.

Over the long term, it may be more efficient to transfer a closed cemetery to a council or Crown cemetery operator to combine maintaining a closed cemetery with maintaining other public spaces, as opposed to having a closed cemetery retain a small standalone staff for this purpose.

If closed cemeteries were to be transferred to another operator on closure, funds would still be required to pay for the costs of perpetual maintenance, whether through cemetery-specific perpetual reserve funds as at present, or through a central closed cemetery perpetual reserve or other means.

Another potential issue regarding the cost of perpetual maintenance is that it is currently unclear what would happen if the owner of a closed cemetery simply chose to abandon that responsibility. This may occur under the current system as cemeteries receive money upfront for providing interments, but once they have reached capacity the cemetery receives no new revenue while still being required to provide maintenance services. If the cemetery operator has not planned appropriately for these costs (or simply wanted to pass them off to another party), they may try to abandon these responsibilities.

This outcome has occurred overseas;²⁴ however, it has not yet occurred in any NSW cemeteries. Moreover, given the high level of government management (through Crown land managers and local councils) it is unclear whether it is likely to occur in NSW.

IPART seeks comment on the following

- 6 Who should have responsibility for maintaining closed cemeteries in perpetuity?
- 7 Should there be a legal obligation on all cemetery operators to make financial provision for the perpetual maintenance of their cemeteries? What form should this financial provision take?

²⁴ For instance, in 2001 Loewen, a group which owned over 400 cemeteries in the USA, Canada and United Kingdom, filed for bankruptcy under chapter 11 of the US bankruptcy code. In this case, funds for ongoing maintenance were required to be held aside in a perpetual care trust fund. However, no such requirement is made of cemetery operators in NSW.

5.3.2 The return on funds reserved for perpetual maintenance

When cemeteries charge a price that includes the cost of future maintenance, some funds are held and invested by the cemetery in perpetual maintenance reserves. As shown in Table 5.3, some trusts currently hold a substantial level of funds.

Table 5.3 Perpetual maintenance reserve funds held by metropolitan cemetery trusts

Crown land manager	Perpetual maintenance reserve
Catholic Metropolitan (as at 30 June 2018)	\$137,600,000
Southern Metropolitan (as at 30 June 2017)	\$79,995,000
Rookwood General (as at 30 June 2018)	\$153,778,000

Source: Annual reports

Cemeteries in NSW currently have a significant level of discretion about how this money is invested and spent. How these funds are managed will impact the delivery of interment services. If the funds are invested in high risk assets, there is a chance they will not perform, resulting in insufficient returns for the cemeteries to be able to fund their maintenance obligations. On the other hand, if the funds are invested in low risk assets (such as government bonds) then they may receive lower returns, and would require a larger upfront charge for each burial site to fund ongoing maintenance.

In addition, there is a risk that, given the size of these funds, they represent a target for financial crime, and probity and security become significant requirements.

IPART seeks comments on the following

- 8 Should more guidance or oversight be given to cemetery operators regarding investing and managing funds for perpetual maintenance? If so, by whom?

5.4 Calculating the efficient other operating costs of providing interment services

In addition to the costs of acquiring and developing land for cemeteries, and providing for their perpetual maintenance, operating a cemetery also includes interment and overhead costs as discussed below.

5.4.1 Interment costs

Typically cemeteries charge a separate interment fee (as well as additional fees for additional interments at the same site). Interment fees vary significantly between cemeteries, and also between interments in the same cemetery. Costs may differ across types of interment if, for instance:

- ▼ The labour cost may be higher on the weekend if workers operate under penalty rates
- ▼ The costs may vary based on the type of soil on which the cemetery is situated

- ▼ The cost of each interment may be larger for cemeteries with relatively few interments if the capital costs associated with this service (such as machinery) cannot be spread across more interments.

The extent to which the variation in interment prices is related to cost differences is currently unclear. We will be requesting information from cemetery operators to help us understand these costs in more detail.

IPART seeks comment on the following

- 9 What are the costs of interment, and what factors cause these costs to vary?
- 10 Can the variation in interment prices be explained by cost differences (such as higher labour costs for weekend interments)?

5.4.2 Overhead costs

Like any operating organisation, cemeteries have a range of overhead costs that are essential to their ongoing operation. These costs include:

- ▼ Corporate labour costs
- ▼ Office building costs
- ▼ Professional services, such as legal or accounting services.

It is expected that the efficient costs of providing these services will vary significantly based on the characteristics of each cemetery. For instance, larger cemeteries are able to distribute overheads over a larger number of sales and therefore have a lower cost per interment. As part of our information request to cemetery operators, we are seeking information about the overhead costs involved in operating a cemetery.

However, it is also possible there are differences in the operating efficiency of each cemetery as a result of different management practices, different levels of salary and remuneration of staff or different outsourcing procurement practices.

IPART seeks comment on the following

- 11 After considering factors outside of the control of a cemetery, are some cemetery operators more efficient than others? If so, what are the main factors behind these greater efficiencies?

5.5 Other issues that may impact the efficient operating costs of providing interment services

In addition to the costs within the control of a cemetery, other factors that may impact the efficiency of operating costs include the level of competition between cemetery operators, differences in level of tax payable, and the Crown Cemeteries Levy, as discussed below.

5.5.1 Potential for competition between cemetery providers

In many markets, competition between service providers is a key mechanism that works to keep costs low. For instance, if one operator can provide a higher-quality service at a lower cost than another operator, they will attract more customers. However, there are several underlying reasons why competition may be muted amongst cemetery operators.

The first reason is that people often have a strong preference to be interred in a particular cemetery, either because it is close to their family and community, or because of a religious affiliation. They may be unlikely to choose to be interred in another cemetery unless the difference in price was large.

Another reason that competition is not strong in the cemetery industry is that there are significant barriers to entry in opening a cemetery. In particular, the process of purchasing land and having this zoned for use as a cemetery has proved difficult,²⁵ and the risks associated with this process inflate the expected cost faced by a potential new entrant to the market.

IPART seeks comment on the following

- 12 Is competition between cemeteries likely to lower costs? If so, are there ways to address barriers to the ability of cemetery operators to compete with one another?

5.5.2 Does the tax treatment of public operators make cemetery operation less expensive than for private operators?

Another potential cause of an uneven playing field between public operators and private operators is that the profits of private companies are subject to income tax, while Crown cemetery operators are exempt from income tax.²⁶

IPART seeks comment on the following

- 13 Does the tax treatment of private operators increase their operational costs relative to crown trusts and not-for-profit operators?

5.5.3 Crown Cemetery Levy

CCNSW is funded through the Crown Cemetery Levy, a fee on burials and cremations conducted in NSW. This levy collected \$672,780 in 2017-18²⁷ and is currently charged as:

- ▼ \$82 for the first coffin interment in a gravesite
- ▼ \$59.40 for the second and subsequent interment in a gravesite
- ▼ \$24.70 for each cremation interment.

²⁵ As discussed in section 5.1.1, the Catholic Cemeteries Trust's development applications for cemeteries at Wallacia and Varroville were referred to the Independent Planning Commission in June 2018 by the NSW planning minister following delays in determining these applications. See <https://www.ipcn.nsw.gov.au/projects/2018/06/crown-cemetery-and-crematoria-development--wallacia-and-varroville>, accessed 11 April 2019.

²⁶ Rookwood General Cemeteries Reserve Trust, *Annual Report 2018*, p 72.

²⁷ Cemeteries and Crematoria NSW, *Annual Report 2017-18*.

The Crown Cemetery Levy only applies to 13 cemeteries and crematoria, all of which are operated by Crown cemetery operators.²⁸ As such, the levy increases their costs relative to other providers. This would be an appropriate funding model if the work of CCNSW was primarily for the benefit of Crown cemeteries. However, if CCNSW's responsibilities extend to all NSW cemeteries then the funding base should reflect this.

IPART seeks comment on the following

- 14 Should private and local government cemetery operators also pay the Crown Cemetery Levy to fund the operations of CCNSW?

5.6 Comparing the efficient costs of renewable and perpetual interment

Since June 2018, all cemeteries have been able to offer renewable tenure, with a minimum term of 25 years.²⁹ However, to date only two NSW cemeteries (Waverley Cemetery and Kemp Creek Natural Burial Site) offer renewable tenure and the total number of renewable interments remains relatively low.

Under renewable tenure, a burial site is only used for a certain period, after which time the descendants of the deceased have the option to renew the tenure or for the grave to be re-used by the cemetery. Determining the efficient price of renewable tenure requires an understanding of the different costs it involves relative to perpetual tenure.

The main difference with renewable tenure is that the land, and the cost of maintaining the land, are required only for the term of the renewable tenure. This is in contrast to perpetual interment rights where both land and maintenance costs must be funded in perpetuity. On the other hand, renewable tenure requires an additional expense at the end of the tenure to prepare the site for re-use (known as 'lift and deepen'). A comparison of the costs involved with the two tenure types is presented in Table 5.4.

Table 5.4 Comparing the costs of renewable and perpetual interment

	Perpetual right	Renewable right
Costs of burial	The same for both interment rights	The same for both interment rights
Land cost	Cost of holding land forever	Cost of holding land for 25 years
Maintenance	Maintenance requirement exists in perpetuity	Maintenance requirement exists for 25 years
Contacting rights holders after 25 years	No cost	Cost to contact relatives before confirming site can be re-used
Lift and Deepen	No cost	Cost to prepare site for re-use

As discussed in Section 5.2, the cost of funding perpetual maintenance can be calculated using the formula to value a perpetuity. For instance, if (hypothetically) perpetual maintenance cost \$20 per grave per year, maintenance costs were expected to increase in line with inflation and the weighted average cost of capital was 5%, the cost of funding maintenance in perpetuity

²⁸ *Cemeteries and Crematoria Regulation 2014*, s 4.

²⁹ *Cemeteries and Crematoria Act 2013*, s 54.

would be \$400.³⁰ In contrast, if maintenance only has to be funded for 25 years, then the cost reduces to around \$300.³¹ In other words, assuming a real interest rate of 5%, renewable tenure will only reduce perpetual maintenance costs by around 25% in present value terms.

The cost of using land for a renewable tenure grave can be calculated in a similar way. However, this calculation also needs to consider that land can be expected to increase in value over this period, and therefore the interest rate used in the calculation should be the net 'cost of carry' or the difference between the cost of funds for cemeteries and the increase in the value of land. For example, if the WACC was 5%, but land values were increasing at 3%, then the cost of carry would be 2% per year. In this case, a renewable tenure site would reduce the cost of land by around 60% relative to perpetual tenure rights.³²

Renewable tenure also has several costs that are not required of perpetual burial sites. These include the cost of contacting the holder or holders of the renewable interment right to offer them the option to renew the right, and the cost of removing the remains to prepare the grave for re-use.

³⁰ Value of a perpetuity = A / r , where A is the annual payment and r is the average cost of capital (WACC). Therefore Value = $\$20 / 0.05 = \400 .

³¹ Value of an annuity = $A * [1 - (1+r)^{-n}] / r$, where n is the number of years, A is the annual payment and r is the average cost of capital (WACC). Therefore value = $\$20 * [1 - (1+0.05)^{-25}] / 0.05 = \296 .

³² The same as the calculation above, but using $r = 0.02$.

6 Form of recommendations from this review

As noted in chapter 3, the third step in our review process will involve deciding on the form of recommendations from this review. The appropriate form will depend on how well the existing system of cemetery pricing aligns with the pricing principles established in this review. If existing costs are relatively efficient and prices align closely with the pricing principles, then light-handed or no regulation may be needed. In other cases, more prescriptive regulation may be warranted.

We will need to decide on:

- ▼ The form of recommendations, including any pricing approach
- ▼ Which specific interment services require pricing recommendations.

6.1 Form of recommendations

The three main options for the form of recommendations from this review are:

- ▼ Guidelines or a benchmark methodology for setting prices
- ▼ Benchmark prices
- ▼ Maximum prices.

6.1.1 Pricing guidelines

The publication of pricing guidelines for cemetery operators would be one of the lightest-touch forms of recommendation from the review. This approach would not be binding on cemetery operators, but would help cemeteries set appropriate prices and justify any price reforms to stakeholders. This approach could consist of pricing principles to follow, or methodology guidelines that details the calculation of prices. A methodology would include instructions on how to update prices as conditions change over time and would specify the contribution of prices to perpetual maintenance reserves.

Examples of similar approaches applied by IPART include:

- ▼ Local infrastructure benchmark costs³³
- ▼ Landholder compensation for gas exploration and production ³⁴

This option could be accompanied by a more formal price monitoring process, including a requirement for cemeteries to lodge a full list of prices with CCNSW annually, advising of

³³ IPART, *Local Infrastructure Benchmark Costs – Costing infrastructure in Local Infrastructure Plans, Final Report*, April 2014.

³⁴ IPART, *Landholder benchmark compensation rates – Gas exploration and production in NSW, Energy – Final Report*, November 2015.

any new fees or increases in excess of CPI. CCNSW could consider publishing the prices to improve transparency and empower consumers.

This would be a relatively low-cost approach, apart from occasional reviews of the guidelines to account for any major changes in the industry over time. The benefits of the approach would depend on the extent to which existing prices already conform with the guidelines, and the extent to which the guidelines are adopted by cemeteries and accepted by stakeholders. This approach is unlikely to result in additional improvements in cost efficiency, since it would not involve an assessment of efficient cost forecasts or prices.

6.1.2 Benchmark prices

Rather than publishing only pricing principles or a methodology, IPART could periodically apply the methodology and publish benchmark prices. This would be a light-handed approach, since it would not place any formal constraints on the prices that cemeteries charge. Rather, it would help consumers decide whether a price being charged by a cemetery is reasonable. A challenge in implementing this approach would be accounting for product quality differences and operating environment factors that result in cost differences across cemeteries (such as excavation costs differing with soil types, and differences in cemetery land acquisition costs).

An example of this approach is IPART's publication of an annual benchmark range for the 'solar feed-in tariff' paid by electricity retailers to customers who export electricity generated by their solar panels.³⁵

As with the guidelines options in section 6.1.1, this option could be accompanied by a requirement for cemeteries to lodge their prices with CCNSW annually for publication.

This approach would involve some additional costs, since we would need to conduct medium-term reviews to adjust benchmark prices for changes in costs over time. This approach has the potential to yield more benefits if existing prices are found to be further from efficient benchmarks, and has the advantage of making benchmark prices available to and understandable by consumers.

6.1.3 Maximum prices

The most prescriptive form of recommendation from the review would see IPART recommending that maximum prices be set for specified services. This form of recommendation would also involve recommendations for legislative change as maximum prices for cemeteries are not currently regulated.

To recommend maximum prices, IPART would typically conduct a periodic assessment of efficient costs and determines a revenue requirement for each cemetery by adding up forecasts of efficient operating costs, the depreciation of past capital expenditure and a return on past capital expenditure that has yet to be recovered. Maximum prices would then be determined from the revenue requirement, taking account of forecast demand for each service. An

³⁵ IPART, Solar feed-in tariffs – *The value of electricity from small-scale solar panels in 2018-19*, Final report June 2018.

important part of this exercise would be the allocation of cemetery overheads and other shared costs between regulated and unregulated services. The period between these reviews would typically be between one and five years. Over the intervening period, cemeteries would need to demonstrate compliance with the determined price path as part of an annual approval process. The price path could specify maximum prices for each individual service or it could take the form of a weighted average price cap (WAPC) that would allow cemeteries to rebalance prices across services.

IPART sets maximum prices for major water utilities, including Sydney Water and Hunter Water, in this way, as well as for private ferry operators.

This approach would be relatively costly in terms of administrative costs. IPART would need to undertake periodic major reviews as well as reviewing compliance annually. Cemeteries would also incur costs participating in these processes. The approach would achieve full cost recovery objectives and could be used to encourage cost efficiency improvement over time. Setting maximum prices would allow IPART to unwind inefficiencies and any cross-subsidies across services. Under a WAPC, cemeteries would have more flexibility to adapt prices over time.

[IPART seeks comment on the following](#)

- 15 What form should the recommendations from this review take? How prescriptive should they be?

6.2 Which services and products should our recommendations apply to?

In addition to the decisions about the form of recommendations from this review discussed above, decisions will need to be made about which elements of cemetery prices should be subject to the recommendations from this review. There are a range of considerations, including:

- ▼ The cemeteries to which the recommendations apply
- ▼ The services to which the recommendations apply
- ▼ Whether the recommendations should directly address perpetual maintenance reserves.

6.2.1 Which cemeteries?

Crown cemeteries conduct around 70% of the interments in Sydney, where many of the challenges arising from land scarcity and legacy pricing discrepancies exist. As a result, there is potential for the benefits of regulation to be higher for these cemeteries. The costs of regulation would tend to be lower for Crown cemeteries relative to other types of cemeteries, since they are controlled centrally by five trusts whose primary focus is the provision of interment and cremation services.

Where the primary issues identified by the review are specific to a cemetery (for example, the legacy discrepancy between prices in different sections of Rookwood General Cemetery Trust), it may be appropriate to provide recommendations from this review that are specific to a single cemetery.

Local councils provide most of the interments in regional areas, but only 10% of burials in Sydney. They manage around 1,000 cemeteries in NSW, more than 80% of which are closed or conduct fewer than 10 burials per year.³⁶ Applying the more prescriptive forms of regulation to local councils may be relatively high-cost. The management of these cemeteries is decentralised and would require a regulatory process with a majority of the 128 councils in NSW.

Private operators are a relatively minor provider of burials. They manage only 2% of cemeteries in NSW and provide approximately 15% of burials.³⁷ However, they make up a significant part of the market for cremation services, conducting three in every four cremations in NSW. The extent of benefits from regulating private operators would depend on:

- ▼ Whether there is a need to safeguard perpetual maintenance of private cemeteries once they reach capacity
- ▼ Whether there is any evidence of abuse of local market power arising from consumers' strong preference for proximity to cemeteries and barriers to entry resulting from land zoning regulation.

It may be appropriate to apply different forms of recommendation to different types of cemeteries; for example, setting benchmark prices for Crown cemeteries and providing pricing guidelines for local government cemeteries.

IPART seeks comment on the following

- 16 Should the forms of recommendation from this review vary depending on the ownership/management of the cemetery to which they apply? If so, how?

6.2.2 Which services?

There is a large range of services provided by cemeteries, with corresponding fees. These services include:

- ▼ Perpetual and renewable rights to interment in:
 - Lawn graves
 - Monumental graves
 - Mausolea
- ▼ Burials and other interments
- ▼ Cremations
- ▼ Memorialisation (including headstones, monuments, plaques and niche walls, containers for ashes and other ashes memorialisation products)
- ▼ Chapel services
- ▼ Cafes, function spaces and catering
- ▼ Florist services.

³⁶ Cemeteries and Crematoria NSW, *Annual Activity Report 2017-18*.

³⁷ Cemeteries and Crematoria NSW, *Annual Activity Report 2017-18*.

Our view is that cremations, memorialisation, chapel services and hospitality services are provided by reasonably competitive markets and are outside the scope of this review, which focuses on the costs and pricing of interment.

Within the range of interment services, we could make recommendations for a 'basic' service only, consisting of a perpetual or renewable interment right in a lawn gravesite, or we could make recommendations for a full schedule of interment prices charged by cemeteries, including for more costly interments in monumental graves³⁸ and mausolea.

If the review identifies only a small number of cross-subsidies or pricing inefficiencies, then the recommendations could target those issues. For example, we could develop a benchmark comparison of renewable and perpetual tenure pricing, where renewable rights for a particular type of grave should be a set percentage of the price for perpetual rights.

[IPART seeks comment on the following](#)

- 17 To which services and product offerings should the recommendations from this review apply?

6.2.3 Perpetual maintenance reserves

Cemetery operators must have regard to future maintenance when setting fees and charges,³⁹ but beyond this there is no statutory requirement or guidance as to how to fund perpetual maintenance obligations. The recommendations from this review could provide this guidance or recommend statutory requirements.

IPART could publish a best-practice methodology or benchmark, which would likely involve each cemetery operator developing a reserve funding policy supported by a periodic actuarial assessment. A more prescriptive approach could see IPART (or other regulator) set the contribution rate for each cemetery's perpetual reserve periodically, as the regulator does in the Australian Capital Territory.⁴⁰

[IPART seeks comment on the following](#)

- 18 What should the form of recommendations of this review be with respect to perpetual maintenance reserves?

³⁸ Cemeteries do not normally provide the monument itself, but monumental areas require additional foundations to support monuments and wider paths for machinery access.

³⁹ *Cemeteries and Crematoria Act 2013* s 107(3)(d).

⁴⁰ *Cemeteries and Crematoria Act 2003 (ACT)* s 11.

7 Developing our recommendations

The final step in our proposed approach to the review is to develop recommendations in the form decided in Step 3 (see Chapter 6) using the data obtained in Step 2 (see Chapter 5), and evaluating them against the pricing principles established in Step 1 (see Chapter 4). This chapter briefly describes how we will go about this task.

In forming our recommendations, we will:

- ▼ Evaluate existing prices against the pricing principles, using the data obtained in Step 2
- ▼ Consider alternative pricing options
- ▼ Evaluate the performance of alternative pricing options against the principles.

This chapter sets out how we propose to undertake these tasks.

7.1 We will evaluate existing prices against our pricing principles

Using the data obtained from cemetery operators and feedback from submissions, we will evaluate existing prices against our pricing principles. Based on the proposed pricing principles from Chapter 4, we propose to further investigate as part of this review:

- ▼ Possible inefficiencies and cross-subsidies as the result of legacy pricing for interments and cremations that could lead to inequitable pricing
- ▼ The financial sustainability of cemetery operations, due to prices that may not adequately cover perpetual maintenance and/or the cost of purchasing and developing new cemeteries
- ▼ Lack of transparency and accessibility of prices that limit informed choices of consumers, particularly for privately operated cemeteries.

The large Crown cemeteries typically charge a range of prices for different types or locations of gravesites. This could be due to different cost structures, to product differentiation and/or to price discrimination, none of which are necessarily economically inefficient or inequitable. However, it could also reflect legacy pricing arrangements prior to the amalgamation of trusts and may include some inefficient prices that could affect affordability and equity.

Product differentiation involves distinguishing a product or service using a characteristic for which consumers are prepared to pay more, even if the avoidable costs are no different. For example, consumers may be willing to pay more for a gravesite in a part of a cemetery with a particular aspect. Cemetery operators may also choose to recover shared costs differently from different products. For example, a cemetery may choose to recover more shared costs from cremation interments than from burials, in order to keep prices of burial accessible.

Price discrimination is where consumers are charged different prices for the same service (because some types of consumer value that service more and are willing to pay more). Price

discrimination is a feature of many workably competitive markets. These prices may be economically efficient, but they may not be equitable.

IPART seeks comments on the following

- 19 Are there cross-subsidies or inefficiencies in pricing for interment services?
- 20 If there are cross-subsidies, are there compelling reasons why they should continue?
- 21 To what extent does the range of prices for interment rights within and between cemeteries reflect different efficient costs, product differentiation, or price discrimination?
- 22 Are there other areas of concern in current cemetery interment pricing approaches?

7.2 We will consider alternative pricing options

Depending on how well current prices meet our pricing principles, and our consideration of the form of recommendations, we may develop recommendations for a full set of alternative prices, or recommendations about some elements of pricing.

For example, as noted above, one key cost of operating a cemetery is the purchase and development of new cemetery land. If the efficient approach to developing new cemeteries is to develop large parcels of land infrequently, then this cost element may vary significantly over time. When there is plenty of capacity and the next new cemetery development is many years in the future, the present value of bringing forward the development will be very small. If there is very little capacity and a new development is in the near future, the present value of bringing the development forward will be greater. To address this by varying prices as cemetery capacity diminishes may conflict with other principles regarding simplicity and community impacts.

IPART seeks comments on the following

- 23 Should fees for interment rights vary with available cemetery capacity?

7.3 We will assess alternative pricing options against the pricing principles

We will assess pricing options against the principles. Where possible, we will quantify their performance: for example, the difference between the pricing option and economically efficient prices, and the financial impact on different types of consumer, including low-income consumers.

As discussed in Chapter 4, this is likely to involve balancing conflicting principles and making a judgment about the most suitable option.

7.3.1 Assessing community impacts

In order to balance community impacts against the other principles, we will need to develop an understanding of the impacts that could arise, particularly from significant changes in interment pricing. In assessing community impacts we propose to consider:

- ▼ The impacts on specific community groups

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- There are significant differences in existing prices across community sections at Rookwood General Cemetery. Although this may not be economically inefficient, it could be disproportionately impacting some community groups.
 - If the price of burial increases, some people will choose cremation instead and will be relatively unaffected by the price increase. However, there are some people whose religious beliefs or cultural practices rule out cremation as an option.
- ▼ The affordability of interment fees
- Typically the costs of interment are funded from the deceased estate or by family of the deceased. The NSW Government provided targeted financial assistance to those eligible towards the costs of interment (see section 2.4.5 for more details).

IPART seeks comments on the following

24 Which community impacts should we consider as part of this review?

Glossary

Ashes	Cremated human remains.
Bodily remains	The whole or part of the body of a person who has died, but does not include the whole or part of any body that has been cremated.
Burial	In this paper, we use 'burial' to mean the placement of human remains (whether bodily remains or ashes) in the earth, unless quoting the CCNSW Annual Activity Survey which uses 'burial' to mean any type of interment of bodily remains only.
CC Act	<i>Cemeteries and Crematoria Act 2013</i>
CCNSW	Cemeteries and Crematoria NSW
<i>Cemeteries and Crematoria Act 2013</i>	The NSW Act that regulates administration and planning for the interment industry.
Cemeteries and Crematoria NSW	The NSW government agency which supports and regulates the interment industry through strategic planning, advice and oversight of Crown land managers.
Columbarium	A room or building with niches where ashes can be interred.
Crown cemetery	Crown land dedicated, reserved or used for the purposes of a public cemetery.
Crown cemetery operator	The Crown land manager that operates a Crown cemetery.
Crown land manager	The organisation responsible for managing Crown land under the <i>Crown Land Management Act 2016</i> . Under the previous <i>Crown Lands Act 1989</i> , these organisations were known as reserve trusts.
Crypt	Traditionally, a below-ground room housing interment spaces; in current usage, usually an interment space within a mausoleum.

Interment	The placement of human remains (whether bodily remains or ashes) in the earth or in a mausoleum, crypt, vault, columbarium, niche wall or other structure designed for the placement of such remains.
Interment right	The right for the remains of a person to be interred at a particular site within a cemetery.
Lawn grave	A type of grave that is usually level with the ground with standard low headstone or plaque set into a concrete beam level with the ground.
Mausoleum	A free-standing building enclosing interment space or spaces
Monumentation	Headstones, statuary and other built objects that are placed on a grave.
Vault	Traditionally, a below-ground room with a vaulted ceiling housing interment spaces; in current usage, can be synonymous with a mausoleum – a stand-alone building housing interment spaces, or used to refer to an interment space within a mausoleum.