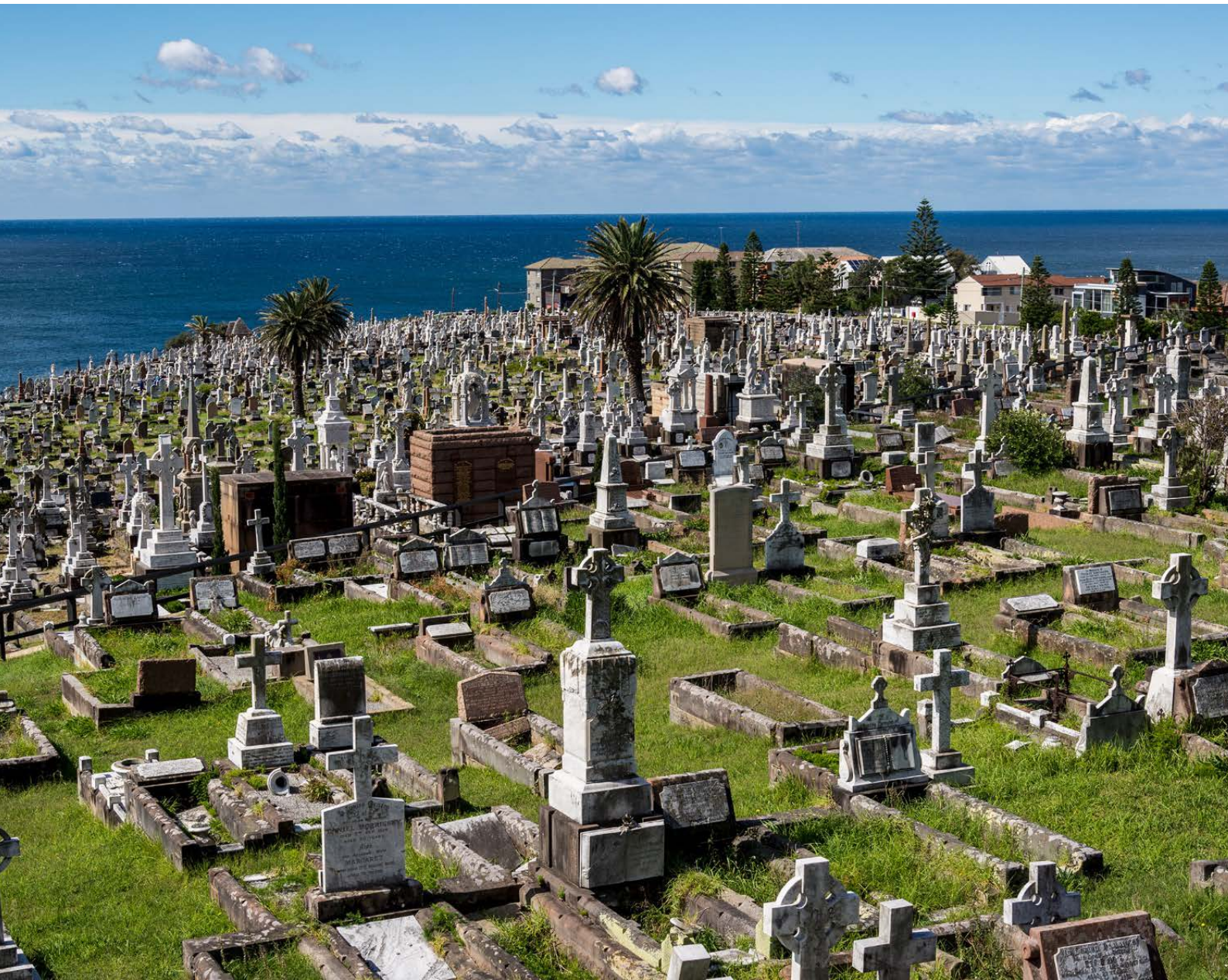




Independent Pricing and Regulatory Tribunal
New South Wales

REVIEW OF THE COSTS AND PRICING OF INTERMENT IN NSW



Final Report

Special Reviews

November 2020

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The Independent Pricing and Regulatory Tribunal (IPART)

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Contents

Tribunal Members	ii
1 Executive summary	1
1.1 Overview of findings and recommendations	1
1.2 How we undertook our review	6
1.3 Structure of this report	8
1.4 List of findings and recommendations	9
2 Costs of interment services	14
2.1 The main cost drivers for burial are labour and machinery	14
2.2 An interment right allows the remains of a person to be interred at a particular site within a cemetery.	15
2.3 The cost of acquiring land for new cemeteries includes more than the purchase price	16
2.4 Steps that must be taken before a grave can be reused	17
3 Efficient costs of the Crown cemeteries	18
3.1 Overview of findings	18
3.2 The Crown cemetery operators are reasonably efficient in delivering the burial component of a basic adult lawn burial	19
3.3 There is scope for increased efficiency in delivering an interment right	22
3.4 Costs of renewable interment rights	30
4 Legacy costs in NSW cemeteries	32
4.1 Overview of findings	32
4.2 The current funding arrangements for perpetual maintenance of cemeteries lack transparency and accountability	32
4.3 Legacy costs in NSW cemeteries are significant	34
5 Prices for interment services	37
5.1 Overview of findings	37
5.2 There is wide variation in prices for interment services across NSW	37
5.3 Prices are displayed inconsistently and are difficult to compare	38
6 Crown cemetery prices	40
6.1 Overview of findings	41
6.2 Our approach to modelling estimated efficient cost-reflective prices	41
6.3 Modelled efficient cost-reflective prices for the Crown cemeteries	45
6.4 We compared our modelled prices to current Crown cemetery prices	45
6.5 Prices for different cultural and faith sections within a cemetery vary considerably	49
6.6 Comparison of Sydney Crown cemetery prices to Melbourne cemetery prices	51
7 Governance framework	54
7.1 Overview of findings	54
7.2 Customer choice in the cemetery sector is different from customer choice in many other markets	54
7.3 The life cycle of a cemetery affects market structure	55

7.4	Regulatory reform is needed to drive efficiency and ensure financial sustainability for cemeteries	56
7.5	Price regulation is needed to ensure access to affordable burial rights	57
8	Governance framework – the way forward	58
8.1	Overview of recommendations	58
8.2	The CC Act already provides a framework for improving governance of the interment industry	59
8.3	An industry scheme to include mandatory codes of practice for all cemetery operators and licensing of some operators	60
8.4	The interment service levy should apply to all cemetery operators	71
8.5	Land supply for new cemeteries	76
9	Costs – the way forward	83
9.1	Overview of recommendations	84
9.2	A standard chart of accounts would increase transparency and efficiency	84
9.3	Increasing the efficient use of cemetery land	86
9.4	The cost of land should be included in the interment right at existing metropolitan Crown cemeteries	88
9.5	Council cemeteries' cost information should be included in the Office of Local Government's performance statistics	90
10	Pricing – the way forward	95
10.1	Overview of recommendations	95
10.2	A price regulation mechanism should be introduced	96
10.3	Some Crown cemetery prices should be regulated	97
10.4	Illustrative modelling of efficient cost-reflective prices for the Crown cemetery operators in a future scenario	98
10.5	Data should be collected to support price regulation	103
10.6	More guidance on pricing matters should be made available to all cemeteries	104
10.7	Cemeteries should display prices consistently	105
11	Perpetual maintenance – the way forward	113
11.1	Overview of recommendations	113
11.2	A legal obligation on cemetery operators is needed to provide for perpetual maintenance of cemeteries	114
11.3	Licensed cemetery operators need a compulsory governance and prudential framework for perpetual maintenance funding	117
11.4	Providing guidance to non-licensed cemetery operators to help them manage perpetual maintenance funding	119
11.5	CCNSW to address any residual legacy cost issues	121
11.6	CCNSW to engage with the Australian Accounting Standards Board	123
12	Renewable tenure – the way forward	124
12.1	Overview of findings and recommendations	124
12.2	Uptake of renewable tenure is likely to be low without changes to the current arrangements	125
12.3	We modelled the benefits of more widespread renewable tenure	125
12.4	Licensed cemetery operators should be required to develop renewable tenure interment products	127

12.5 Cemetery operators would benefit from guidance on pricing renewable tenure products	128
A Context for the review	130
B Discount rates	138
C Guide to publishing transparent prices	142
D Industry scheme recommendations by type of cemetery operator	144
Abbreviations	147
Glossary	148

1 Executive summary

As required by section 145 of the *Cemeteries and Crematoria Act 2013* (CC Act), the Independent Pricing and Regulatory Tribunal (IPART) has investigated interment costs and the pricing of interment rights in New South Wales (NSW).¹ In particular, we considered:

- ▼ 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.

This Final Report builds on the findings and recommendations of both our Interim and Draft Reports. It responds to issues raised by stakeholders, discusses the supporting analysis, and sets out our final findings and recommendations.

1.1 Overview of findings and recommendations

We have recommended changes to the interment industry that aim to deliver interment prices that:

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

These principles may sometimes be in conflict, and balancing them has required judgement.

Implementation of our recommendations would help ensure consumers have access to affordable burial plots that meet their needs.

Many of our recommendations involve an increase in the role of Cemeteries and Crematoria NSW (CCNSW) as the industry regulator. To effectively perform this role would require an increase in its resources and capabilities.

We are proposing a risk-based, rather than a one-size-fits-all, approach to regulating the interment industry. To ensure minimum standards and more consistent practices, we recommend mandatory codes of practice to be applied across the whole industry. We also recommend the development of best practice guidance to assist operators in setting prices and providing for perpetual maintenance. These measures are aimed at building capacity, rather than burdening, the smaller (mostly council) cemetery operators.

¹ We are also required by s 145 to consider competition, costs and pricing factors within the funeral industry. We are conducting the review in two stages, with this first stage focusing on interment services.

For the larger cemetery operators, that represent the greatest financial risk, we recommend a licensing regime that would require, among other things, licensed cemetery operators to meet prudential requirements for reserving funds for the perpetual maintenance of their cemeteries. If perpetual liabilities are not adequately funded, this is not only financially unsustainable for cemeteries, it also represents a risk to the taxpayers of NSW if the Government is expected to step in where a cemetery operator has failed.

The sections below outline our key findings and recommendations. In response to feedback in submissions and at our virtual public hearing, we have modified a number of our draft recommendations. For example, we now recommend the interment service levy be set on a per service, rather than percentage of revenue basis. We have also clarified that it should apply to all operators and activities covered by the industry scheme. We have extended the recommendation that Crown cemetery operators be referred for price regulation of basic adult lawn burials to include price regulation of any other interment right they are required to offer.

Also in response to feedback from stakeholders, we have made a new recommendation about addressing residual legacy cost issues, and removed our draft recommendation for IPART to provide pricing advisory services for a fee. We have changed target dates for some of the first set of recommendations to be implemented from 30 June 2021 to 12 months from release of this Final Report.

1.1.1 The Crown cemetery operators are reasonably efficient in delivering burials but have scope to increase efficiency in delivering interment rights

We found that each of the Crown cemetery operators is reasonably efficient in delivering the burial component of an adult lawn interment. Although there are cost differences between the operators, the differences are primarily driven by the different characteristics and age of each cemetery and differences in the faith and cultural mix of burials at each cemetery.

However, we found there is scope for the Crown cemetery operators to increase their efficiency in delivering an adult lawn interment right. The most effective way this could be realised is by reducing indirect costs associated with an interment right. These include the one-off administration and overheads, sales and marketing costs associated with the sale of an interment right.

Some faith-based and cultural requirements for burial can mean that the efficient cost of these burials is higher than the efficient cost of a burial in a basic lawn grave, but we found that religious and cultural requirements are unlikely to have a material impact on the efficient costs of an interment right.

1.1.2 There is a wide variation in prices for interment services and they are difficult for consumers to compare

We found that there is wide variation in the price of a standard or 'basic' adult lawn burial, and limited information available to consumers to conduct meaningful price comparisons. As such, consumers are less able to make informed decisions about purchasing interment products and competitive pressures on cemetery operators are dampened.

We also found that current prices for the Crown cemetery operators are materially higher than efficient cost-reflective prices. These modelled cost-reflective prices are indicative, and not proposed regulated prices. Further consultation and analysis of cemetery costs would be required in order to determine a regulated price.

1.1.3 A legal obligation on cemetery operators is needed to provide for perpetual maintenance of cemeteries

Once a perpetual interment right is sold, there are ongoing costs of maintaining the site. In addition to the maintenance costs associated with interment sites, there are also the costs of maintaining the common areas of a cemetery in a clean, safe and orderly condition. We have found that most cemetery operators in NSW do not report on the size of their liabilities for the perpetual maintenance of their cemeteries nor do they have transparent arrangements to fund these liabilities.

Deloitte estimated the total legacy costs in NSW cemeteries to be around \$1.7 billion at 30 June 2019. While some of these costs have been funded by cemetery operators (mainly the Crown operators and larger council operators), this is not the case for many cemetery operators. Failing to account for their perpetual liabilities is not only financially unsustainable for cemeteries, it represents a risk to the taxpayers of NSW if the Government is expected to step in where a cemetery operator has failed.

Therefore, we recommend that there be a legal obligation on all cemetery operators to be responsible for perpetual maintenance of interment sites and the cemetery. We also make recommendations to assist in establishing an appropriate governance and prudential framework for the operation of perpetual maintenance funds.

In response to concerns raised in submissions, we have added a new recommendation giving CCNSW responsibility to deal with residual legacy costs in situations where the cemetery operators identify that they cannot transition to a fully funded position.

1.1.4 Regulatory reform is needed to drive efficiency, affordability, transparency, financial sustainability and choice

Our findings on costs, prices, legacy costs and the role of competition in the cemetery sector, have led us to conclude that regulatory reform is needed to drive efficiency, affordability, transparency, financial sustainability and choice. Governance reform is also required to source land for new cemetery development in Sydney.

We recommend that CCNSW develop an interment industry scheme, as provided for under the CC Act, incorporating mandatory Codes of Practice and an operating licence for the larger cemetery operators, to regulate:

- ▼ Perpetual maintenance funding to ensure provisions are adequate
- ▼ Cemetery maintenance, including specification of minimum standards of maintenance
- ▼ Interment right contracts, including standard terms and conditions
- ▼ Minimum interment requirements for particular faith, cultural and indigenous communities

-
- ▼ Provision of a basic lawn burial interment right at a minimum standard of maintenance.

The interment industry scheme framework has the capacity to cover much broader issues than the cost and pricing factors we have considered during our review. The statutory review of the *Cemeteries and Crematoria Act 2013* is likely to make recommendations which will also be implemented via an interment industry scheme, and we make our recommendations on the basis that they will be compatible with, and complementary to, other elements of the interment industry scheme. We do not intend or expect them to be exhaustive.

To recover the efficient costs of regulation, we recommend that the existing interment service levy (currently only paid by Crown cemetery operators) be extended to all cemetery operators. We have modified our draft recommendation and now recommend that the levy be set on a per service basis, rather than as a percentage of operator revenue. We have also recommended that the levy be extended to crematoria operators and any other activities that may be covered by the industry scheme.

1.1.5 Land for new cemeteries should be acquired by the NSW Government, with rent paid by cemetery operators

Given the approaching shortfall in burial space in Sydney, and difficulties acquiring and developing land for new cemeteries, we recommend that the NSW Government be responsible for identifying, and funding acquiring land for new cemeteries in Metropolitan Sydney as part of an integrated and coordinated whole of government land use planning process. This would be likely to involve several units in the Department of Planning Industry and the Environment (DPIE) such as CCNSW, the Office of Strategic Lands, and Planning; as well as the Greater Sydney Planning Commission.

We recommended in our Interim Report that CCNSW have this responsibility; however, we broadened it in our Draft Report to involve other units within DPIE and the Greater Sydney Planning Commission. Whilst maintaining this recommendation, we now also recommend that the Housing and Property Group within DPIE be responsible for leading this important task.

We also recommend that this approach be available for cemeteries outside Sydney on request from the local council or other cemetery operator, or as part of regional planning by the NSW Government.

We recommend that the operation of these new cemeteries be competitively tendered and assessed using competitively neutral criteria, with the successful tenderer required to operate the cemetery subject to an operating licence and pay rent to the NSW Government, to offset the purchase cost.

1.1.6 Providing incentives to increase cost efficiency

While in many areas cemetery operators themselves are best placed to identify how to increase efficiency, we identified a number of areas where incentives could be provided to increase cost efficiency in providing interment services.

We recommend that CCNSW work with the Crown cemetery operators to develop a standard chart of accounts. A consistent accounting approach across the sector would enhance the transparency of costs, in turn assist operators to improve resource allocation and achieve greater cost efficiency.

Acknowledging that many cemetery operators are already investing in opportunities to maximise their use of existing cemetery land, we recommend that cemetery operators' operating licence conditions may require them to increase the density of interments via more land-efficient practices.

We recommend that the Crown cemetery operators pay a rent equivalent to the NSW Government for all new interment rights sold each year in existing cemeteries. This would make prices paid by consumers across different cemeteries more equitable, by ensuring competitive neutrality between newly acquired Crown cemeteries, and private operators and existing Crown cemeteries. We have clarified that this only applies to the existing cemeteries operated by the metropolitan Crown land managers.

We also recommend council cemetery operators be required to provide some straightforward information on their cemeteries to the Office of Local Government for inclusion on the Your Council website. This is intended to assist council cemetery operators to benchmark themselves against similar councils, as well as providing ratepayers and consumers with information about their council's cemetery operations.

1.1.7 Pricing regulation is required for Crown cemeteries

We consider that price regulation is warranted in some circumstances for some cemetery operators, to ensure that people have access to a basic interment service that meets their needs, and is priced at a level that reflects efficient costs and is therefore more likely to be affordable.

Given our findings about costs and prices at the metropolitan Crown cemeteries, we recommend that price regulation apply in the first instance to a basic adult lawn burial at these cemeteries and to any basic services for particular faiths or community groups that the cemetery operator is required to offer by the conditions of their licence under the interment industry scheme we recommend. We have not made findings on the efficiency of council or private operators' costs or prices, due to a lack of data, but we consider that a mechanism should be available to regulate their maximum prices too, if evidence is found that it is required.

1.1.8 Price transparency is required to help consumers make informed choices

To be able to compare prices, consumers need to be able to compare prices on a like for like basis, and to understand the basis for prices when a service has multiple components. We recommend that cemeteries be required to publish cemetery prices for a subset of standard interment services on a consistent basis. We also recommend cemetery operators be required to notify prices to CCNSW so that CCNSW can publish them on a cemeteries pricing comparator website.

1.1.9 The uptake of renewable tenure is unlikely to increase without changes

In 2018-19, there were 72 renewable tenure interments in NSW out of 17,955 total interments (less than 0.4%).² We consider this reflects a low level of community awareness and acceptance of renewable interment rights and the fact that very few cemeteries in NSW are offering renewable tenure interment rights.

Increasing the uptake of renewable tenure will relieve pressure on cemetery land over time. To ensure customers have greater choice and that the pricing of interment options are transparent, we recommend that all licensed cemetery operators be required to develop renewable tenure products and that the Code of Practice on pricing include guidance on relative prices of renewable tenure compared to perpetual tenure.

1.2 How we undertook our review

In undertaking this review, we consulted extensively and undertook detailed analysis. We:

- ▼ Met with stakeholders including Crown, private and council cemetery operators throughout the review.
- ▼ Released an **Issues Paper** in **May 2019** which outlined our proposed approach to the review and invited comment.
- ▼ Issued information requests to cemetery operators and gathered information about operating costs and remaining cemetery capacity.
- ▼ Released an **Interim Report** in **December 2019** that considered matters raised in submissions to our Issues Paper, and sought feedback on our interim findings and recommendations. Box 1.1 gives an overview of these.
- ▼ Commissioned consultancies to examine the efficiency of the Sydney Crown cemetery operators, the extent of legacy costs for cemetery operators across NSW, and options for perpetual maintenance funding governance.
- ▼ Released a **Draft Report** in **September 2020** that considered matters raised in submissions to both our Issues Paper and Interim Report, as well as the work undertaken by our consultants, and sought feedback on our draft findings and recommendations.
- ▼ Held a virtual public hearing on **17 September 2020**, which also provided stakeholders an opportunity to comment on our draft recommendations.

² Cemeteries and Crematoria NSW, [Annual Activity Survey 2018-19](#) accessed 18 November 2020.

In finalising our recommendations, we considered comments at the public hearing and submissions to our Draft Report.

Concurrent to IPART's review of interment costs and prices, the NSW Government reviewed the CC Act to determine whether its policy objectives remain valid and whether the terms of the Act remain appropriate to secure those objectives. The scope of that review was broader than our review but the two reviews are complementary.

Box 1.1 Interim findings and recommendations in our Interim Report

In our Interim Report, released in December 2019, we made interim findings that:

- ▼ There is currently a lack of transparency around prices, making it hard for consumers to make informed choices at an already difficult time in their lives
- ▼ Competition between cemetery operators can lead to more choice and better services for consumers, but has little impact on prices, because price plays a relatively smaller role in consumer decisions about burial or cremation, or about which cemetery to choose
- ▼ It is unclear who has responsibility for sourcing land for new cemeteries
- ▼ The perpetual nature of cemeteries, and the mismatch between revenue and cost streams, creates a risk that cemetery operators will not have enough funds to continue to maintain cemeteries once all interment rights have been sold.

These issues are occurring at the same time Sydney is facing an approaching shortfall of burial space. To address these issues, we made interim recommendations:

- ▼ To increase transparency for consumers about what interment services are being offered, and about what prices are being charged, by requiring cemetery operators to provide plain English statements, to use consistent terms to describe services, and to publish their prices.
- ▼ To improve the process for identifying and developing land for new cemeteries in Sydney by assigning responsibility to the NSW Government rather than individual cemetery operators.
- ▼ To ensure cemeteries and gravesites are maintained forever, strengthening the requirements for cemetery operators to set aside funds to care for them once all interment rights have been sold.

We investigated further in three areas before making recommendations about the need for price regulation:

- ▼ The efficiency of the Sydney Crown cemetery operators³
- ▼ The extent of legacy costs for cemetery operators
- ▼ Options for perpetual maintenance funding governance.

We commissioned Deloitte⁴ to provide advice on all three areas and their findings are discussed throughout our Final Report.

³ These are the Catholic Metropolitan Cemeteries Trust, Northern Metropolitan Cemeteries Land Manager Rookwood General Cemeteries Land Manager and Southern Metropolitan Cemeteries Land Manager.

⁴ Deloitte Touche Tohmatsu Limited, commonly referred to as Deloitte, is a multinational professional services network. Deloitte's economic advisory practice, Deloitte Access Economics undertook the reviews. Their reports are available on our website.

Cemeteries in NSW are owned and operated by local governments, Crown land managers, private operators, churches and community groups. Crown land managers perform over two thirds of burials in Sydney,⁵ and local government performs the majority of burials throughout the rest of NSW.⁶

Much of Deloitte's work focused on the efficiency of the Sydney Crown cemetery operators, and as a result there is an emphasis on these operators in some sections of our report. We have not reviewed the efficiency of council or private cemetery operators.

1.3 Structure of this report

The remainder of this report discusses our analysis, findings and recommendations in detail. It is structured as follows:

- ▼ **Chapter 2** discusses the cost components of interment services
- ▼ **Chapters 3 to 6** set out our findings on:
 - The efficient costs of interment services at the metropolitan Crown cemeteries
 - The legacy costs of cemeteries across NSW
 - Prices for interment services
 - Efficient cost reflective prices for the metropolitan Crown cemeteries
- ▼ **Chapter 7** discusses our analysis and findings on the need for governance reform, including price regulation
- ▼ **Chapter 8** sets out our recommendations for improving governance in the interment industry
- ▼ **Chapters 9 to 12** set out our recommendations for the way forward for:
 - Costs
 - Pricing
 - Perpetual maintenance
 - Renewable tenure
- ▼ **Appendices A-D** set out:
 - Context for the review
 - Weighted average cost of capital
 - Guide to publishing transparent prices
 - Industry scheme recommendations by type of cemetery operator.

⁵ In this report "Sydney" is defined as the Central, South, North, West, West-Central and South-West planning regions as defined by the Greater Sydney Commission in the [Greater Sydney Draft District Plan Map Atlas](#), accessed 18 November 2020.

⁶ Cemeteries and Crematoria NSW, [Annual Activity Survey 2018-19](#) accessed 18 November 2020.

1.4 List of findings and recommendations

IPART findings

- 1 The metropolitan Crown cemetery operators are reasonably efficient in delivering burials, noting that the efficient cost of burial at each cemetery varies due to factors such as the age of the cemetery, location, soil type, and weather conditions. 31
- 2 There is scope for the Crown cemetery operators to increase efficiency in delivering a lawn grave interment right, particularly through reducing indirect costs. 31
- 3 The efficient cost of some faith-based and cultural requirements for burial may be higher than the efficient cost of a basic lawn burial, but these faith-based and cultural requirements are unlikely to have a material impact on the efficient costs of an interment right. 31
- 4 Most cemetery operators in NSW do not report on the size of their liabilities for the perpetual maintenance of their cemeteries nor do they have transparent arrangements to fund these liabilities. 33
- 5 The extent of legacy costs across cemeteries in NSW presents a significant financial risk for the future if cemeteries do not make adequate provision for them now. 36
- 6 There is a wide variation in prices for body interment services, even services which would appear very similar in nature. 38
- 7 Prices for interment services are not displayed consistently and are difficult for consumers to compare. 39
- 8 Evidence suggests that prices for a basic adult lawn burial at the Sydney Metropolitan Crown cemeteries are higher than efficient cost-reflective prices. 48
- 9 While there is some competition between interment service providers, which is strongest in **cremation and ashes interment**, the unique characteristics of the market for **body interments** are such that regulatory reform is needed to drive efficiency, affordability, transparency, financial sustainability and choice via improved governance rather than competition. 56
- 10 Based on our previous findings that the body interment service market is not workably competitive, that the metropolitan Crown operators have inefficient costs, and that the prices being charged by metropolitan Crown operators are higher than modelled efficient prices, we consider that price regulation is required to ensure that people can access an affordable, cost-reflective interment. 57
- 11 Due to low community awareness and acceptance of renewable tenure, and the long lead time before cemetery operators realise land saving benefits, it is unlikely there will be an increase in renewable tenure without changes to the current arrangements. 125

Recommendations

- 1 That CCNSW develop an interment industry scheme under the *Cemeteries and Crematoria Act 2013*. 63
- 2 That the industry scheme introduce an operating licence for cemetery operators which meet an activity level threshold. 65
- 3 That CCNSW modify its Code of Practice for Cemetery Maintenance to include specification of minimum standards of maintenance for cemeteries. This specification should be made mandatory by the Industry Scheme. 68
- 4 That CCNSW develop a code of practice for interment right contracts, including standard terms and conditions, and a requirement for cemetery operators to provide a plain English statement of terms and conditions. Mandatory elements to be enforced by the Industry Scheme. 69
- 5 That CCNSW develop a code of practice, in consultation with faith, cultural and indigenous communities, which specifies minimum interment requirements for particular faiths and community groups. 71
- 6 That all licensed operators be required to provide a basic adult lawn interment right and burial, at a minimum standard of maintenance as specified by the Code of Practice. 71
- 7 That licensed operators' licence conditions may further specify which basic services (for particular faiths or community groups) they must provide by reference to those which are defined in a Code of Practice. 71
- 8 That the interment service levy be extended to all cemetery operators. The levy should be extended to all operators and activities covered by the industry scheme in the future, including crematoria operators. The levy should be set on a per service basis to recover the efficient costs of CCNSW to license and monitor compliance by cemetery operators, and the efficient costs of IPART for the regulation of prices where they have been referred to us. 75
- 9 That the NSW Government be responsible for identifying, funding and acquiring land for new cemeteries in Metropolitan Sydney as part of an integrated and coordinated whole of government land use planning process. This would require a coordinated approach with a mix of skill across several units in DPIE (e.g. CCNSW, Office of Strategic Lands, and Planning) and the Greater Sydney Commission. The Property and Housing Group in DPIE should be appointed to lead the process. Declaring new cemeteries as State Significant Developments would be an important step in facilitating this process. 81
- 10 That the NSW Government be responsible for identifying, funding and acquiring land for new cemeteries outside Sydney, on request from the local council or other cemetery operator, or as part of regional planning by the NSW Government. This should occur as part of an integrated and coordinated whole of government land use planning process as in Recommendation 9. 81

11	That developing and operating new cemeteries on land acquired by the NSW Government be competitively tendered, to a Crown land manager, council or appropriately qualified private cemetery operator. The successful tenderer would be required to operate the cemetery subject to an operating licence and pay rent to the NSW Government.	82
12	That the tenders to operate a new cemetery be assessed using competitively neutral criteria. In metropolitan Sydney, tenderers should demonstrate their ability to:	82
	– Deliver a basic adult lawn interment right and burial, at a minimum standard of maintenance as specified by the Code of Practice, and	82
	– Deliver basic interment services for the relevant faiths, indigenous or community groups in the cemetery's local area, as defined in the Code of Practice specifying minimum interment requirements for particular faiths and community groups.	82
13	That CCNSW work with the Crown cemetery operators to develop a standard chart of accounts within 12 months of release of this Final Report.	85
14	That cemetery operators' operating licence conditions may require a cemetery to increase the density of interments via more land-efficient practices such as cemetery renewal, geotechnical mapping, and low-cost mausolea.	87
15	That the metropolitan Crown cemetery operators should make a rent equivalent payment to the NSW Government for all new interment rights sold annually in existing cemeteries to ensure competitive neutrality with new cemeteries. This rent should be set based on the purchase, approval and development costs of the next increment of cemetery land.	90
16	That council cemetery operators report on the operating performance of their cemeteries in the information included on the Office of Local Government's Your Council website. Such information should include:	94
	– The number of cemeteries operated by the council	94
	– The number of interments per annum	94
	– Remaining capacity of the council's cemeteries	94
	– Total operating costs and revenue for their cemeteries	94
	– Funds set aside for perpetual maintenance of the council's cemeteries	94
	– Any relevant contextual information than impacts the costs of interment services.	94
17	That the NSW Government amend the <i>Cemeteries and Crematoria Act 2013</i> to provide for the Minister to refer a cemetery operator to IPART for a maximum price determination of a specified body interment service.	97
18	That the Minister refer the metropolitan Crown cemetery operators to IPART to determine prices for basic adult lawn burials, and for any basic services for particular faiths or community groups that each operator is required to offer.	98

19	That CCNSW work with IPART and cemetery operators to develop an Annual Information Return to collect data to support price regulation and monitoring.	103
20	That CCNSW develop a code of practice on pricing, to provide guidance to cemeteries on pricing matters. The code of practice to include:	104
	– The principle that prices should be cost-reflective	104
	– Guidance on including land as an input to the price of an interment right	104
	– Simple price modelling tools.	104
21	That the Code of Practice on pricing recommend that cemeteries publish prices for a subset of interment products on a consistent basis. These interment products include:	105
	– Plaque lawn grave	105
	– Headstone lawn grave	105
	– Monumental lawn grave	105
	– Ashes interment.	105
22	For the standard interment services outlined in Recommendation 21, cemetery operators be required to publish the following:	105
	– The total price for the interment service (i.e. the sum of all necessary service components) for both at-need and pre-need purchases	105
	– Itemised prices for each service component of the interment service, using terminology determined by CCNSW, and including any additional costs due to cultural or religious requirements as specified in the code. CCNSW should test and refine the service components and terminology prescribed in Table 10.3	105
	– Product specifications for the interment right, such as number of interments	105
	– Length of tenure (renewable or perpetual) and the future maintenance attributable to that right, for all relevant lengths of tenure.	105
23	That the provisions of the Code of Practice on publishing prices in a consistent way be made mandatory via the industry scheme for cemeteries which conduct more than 50 burials or interment right sales per year.	105
24	That CCNSW use consumer-facing language that is consistent with the terminology used for publishing cemetery prices.	110
25	That CCNSW develop, within 12 months of release of this Final Report, a central website to enable consumers to compare prices for interment services in one place.	112
26	That the NSW Government amend the <i>Cemeteries and Crematoria Act 2013</i> to impose a legal obligation on all cemetery operators to be responsible for perpetual maintenance of perpetual interment sites and the cemetery.	117
27	That the industry scheme require all licensed cemetery operators to:	119

– Prepare an estimate of the perpetual care maintenance liability and establish/maintain a dedicated fund for this purpose.	119
– Obtain external independent advice on their potential perpetual maintenance obligations on a regular basis, including advice on how to manage/contribute to a fund to provide for these future costs, and the trade-off between risk and reward.	119
– “Ring fence” assets set aside for meeting perpetual maintenance costs in future so that they are used solely for that purpose.	119
– Prepare a transition plan (to be approved by CCNSW) to deal with the management of “legacy” perpetual maintenance obligations owed at the time a new governance framework is implemented.	119
28 That CCNSW require cemetery operators which will be licensed in future under Recommendation 2 to report their estimated perpetual maintenance liabilities as at 30 June in the notes to financial accounts in their annual report for the first full financial year following release of this Final Report.	119
29 That CCNSW develop a Code of Practice which sets out best practice financial provision for perpetual maintenance for cemetery operators which do not meet the threshold for inclusion in the mandatory requirements of licensed operators, including:	120
– Estimating perpetual maintenance liabilities	120
– Reporting these liabilities in the notes to financial accounts	120
– Developing a plan to address how perpetual maintenance will be funded, including any liabilities from past sales (legacy costs).	120
30 That, once CCNSW has received legacy cost transition plans from cemetery operators (which is compulsory for licensed operators and optional for other operators), CCNSW is to assess the extent of any residual legacy cost issues that operators cannot manage themselves, and review the options for alternative approaches if there is a demonstrated need.	122
31 That CCNSW engage with the Australian Accounting Standards Board to ascertain the appropriate accounting treatment of perpetual maintenance expenses by cemetery operators given the provisions of AASB Standard 137.	123
32 That all licensed cemetery operators should be required by a condition on their operating licence to develop renewable tenure products.	127
33 That the Code of Practice on Pricing (Recommendation 20) include guidance on relative prices of renewable tenure compared to perpetual tenure.	129

2 Costs of interment services

This chapter discusses the costs associated with providing interment services, with a focus on the components of a basic adult lawn burial.

We have chosen a basic adult lawn burial as a standard interment service in order to assess cost efficiency across a comparable interment product. A **basic adult lawn burial** consists of an **interment right** (the right to bury remains in a particular grave) and one or more **burials** (placement of remains in that grave).

2.1 The main cost drivers for burial are labour and machinery

The activities associated with the burial of human remains in a lawn grave are summarised in Table 2.1.

Table 2.1 Activities associated with the interment of human remains in a lawn grave

Task	Description
Confirm site	Identify site, map route, selection machinery, allocate team, permit or consent if relevant
Dig site	Collect machinery, dig site, install grave cover
Set up	Ceremony set up (boards, carpet, lowering device, chairs)
Concierge	Liaise with funeral director and lead procession
Funeral service	Lower casket, stand-by during service
Back fill	Move set up to side, back fill site, remover excess soil
Remove set up	Collect set up (chairs, etc.) and clean up area
Top and turf	Settle grave, top soil and turf
Maintain site following service	Water site for two weeks following the service
Overheads (corporate costs)	Allocation to interment services (e.g. staff on-costs, long service leave)

As noted in our Interim Report, submissions to our Issues Paper raised a range of factors that can impact the cost of burials, including:

- ▼ The location of the grave in the cemetery - as it can affect the size and type of machinery used.
- ▼ Soil type - while sandy soil will require shoring, a clay soil may not. When backfilled however, sandy soil will require less future top ups than a clay-based soil.
- ▼ Weather conditions - as graves are more susceptible to cave-ins after periods of prolonged rain.

-
- ▼ The age of the cemetery - as remaining land may be lower quality, contain rock or be lower lying ground and prone to water logging or ground water, all of which can add substantially to the excavation and surrounding ground protection costs.
 - ▼ Whether the interment is the first or subsequent interment in a plot, and how well the plot has been prepared previously.⁷

Different cultural and faith-based practices and requirements for interment can also impact on the cost of burial. This is discussed further in Chapter 3.

2.2 An interment right allows the remains of a person to be interred at a particular site within a cemetery.

An **interment right** refers to the right to inter a body or cremated remains in a particular grave or crypt or niche in a cemetery. An interment right in NSW has traditionally been perpetual, although renewable tenure has been permissible in local government and private cemeteries. Renewable tenure has also been permissible in Crown cemeteries since June 2018, with an initial term of 25 years, with further terms able to be purchased to a cumulative total of 99 years.⁸

The interment right consists of costs across the following categories:

- ▼ **Land** which includes, but is not limited to:
 - Purchase price of the land
 - Planning and the approval process to use the land as a cemetery
 - Holding costs before the land is used as a cemetery
 - Land related cost are discussed further at section 2.3.
- ▼ **Site development** which may include:
 - Clearing and surveying the land
 - Installing roads, curb and guttering, and unsealed walkways
 - Installing beams and/or pre-poured monumental foundations and pathways
 - Construction of buildings such as chapels, office and amenities.
- ▼ **Grounds maintenance** which includes, but is not limited to:
 - Mowing, weeding, edging, and irrigation of the grass areas
 - Maintenance and irrigation of plants
 - Maintenance related to gardens
 - Litter control
 - Cleaning and maintenance of roadways, walks and buildings necessitated by natural growth and ordinary wear
 - Repairs
 - Maintenance for visits/events.

⁷ See for example, Southern Metropolitan Cemeteries NSW, Submission to Issues Paper, June 2019, pp 13, 19-20; City of Newcastle, Submission to Issues Paper, June 2019, p 2; Anonymous, Submission to Issues Paper, June 2019, p 2; and Cessnock City Council, Submission to Issues Paper, June 2019, p 1.

⁸ CC Act, Part 4, commenced June 2018; see [A new interment right system in NSW](#) accessed 18 November 2020.

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- ▼ **Sales and marketing** – costs associated with the sale of the interment right.
 - ▼ **Administration and overheads** – costs associated with sales and marketing, regulatory costs such as maintaining registers, as well as grounds maintenance.
 - ▼ **Depreciation** captures the deterioration of infrastructure used to operate a cemetery. It includes common infrastructure such as buildings and roads, as well as motor vehicles, computers, and plant and equipment used for grounds maintenance.

2.3 The cost of acquiring land for new cemeteries includes more than the purchase price

Acquiring land to increase cemetery capacity is a complex undertaking, particularly in Sydney. In addition to the purchase cost of the land there are costs involved in identifying an appropriate parcel of land to be developed as a cemetery, and seeking planning approval for the land to be zoned for burial use. As noted by stakeholders, this is likely to involve Studies of Aboriginal Heritage Impacts and Environmental Impact Statements⁹ and developing Plans of Management such as Conservation Management Plans, Heritage Management Plans and a detailed mapping system.¹⁰

There are also capital costs associated with holding the land before interment rights are sold. It may be possible to offset some of these holding costs with a staged approach to developing the cemetery land, particularly if there are alternative revenue streams for the land (for example, agriculture).

As noted in our Interim Report there are a range of costs involved with developing the land for use as a cemetery such as installation of utilities, rehabilitating the land, demolition costs, drainage and tree removal.¹¹ Some of these may be included in site development cost.

Securing a parcel of land to develop as a cemetery is likely to be preceded by several failures before successfully purchasing a site. CCANSW noted in its submission to our Issues Paper that establishing a new cemetery is often met by community resistance or the inability to have land rezoned for burial use. This can increase the cost significantly and should be included in the total purchase cost of the successful site. The sunk cost of previous failed purchases could include costs associated with professional consulting fees, consulting with the community, developing proposals, concept design plans, soil testing and surveying.¹²

Given this complexity, we recommend that the NSW Government be responsible for identifying and acquiring land for new cemeteries, particularly in metropolitan Sydney. This is discussed further in Chapter 8.

⁹ Wollongong City Council, Submission to Issues Paper, June 2019, p 1.

¹⁰ Southern Metropolitan Cemeteries NSW, Submission to Issues Paper, June 2019, p 17.

¹¹ IPART, *Review of interment costs and prices – Interim report*, December 2019, pp 32-33.

¹² Cemeteries and Crematoria Association of NSW, Submission to Issues Paper, June 2019, p 3.

2.4 Steps that must be taken before a grave can be reused

There are several costs involved with the end of a renewable tenure right before the interment site can be resold, including contacting rights holders prior to expiry.

The *Cemeteries and Crematoria Regulation 2014* sets out the steps a cemetery operator in NSW must take to give notice to the rights holder.¹³ The process must start at least 12 months before a renewable interment right is due to expire. The cemetery operator must initially attempt to contact the rights holder by post and email. If unsuccessful, this is followed with telephone, post and emails repeated at three-monthly intervals. If there is no response, then the cemetery operator must publish notice in local and Statewide newspapers, and on the cemetery's website or social media account. The rights holder has two years from expiry to apply to renew the interment right.¹⁴

In addition, cemetery operators must meet several steps before a site can be reused including giving notice in the Gazette and seeking advice from the heritage advisory committee. There are also limits on when a site can be reused (e.g. State heritage significant, memorial relating to a grave listed by the Office of Australian War Graves, a memorial in relation to a person who died from a prescribed infectious disease).¹⁵

If the site is not renewed at the end of its tenure, prior to it being reused, a lift and deepen process is undertaken. This involves removing and placing any human remains in an ossuary box, deepening or enlarging the site, reinterring the ossuary box at a greater depth or alternately in an ossuary house, and removing any existing monumentation.

¹³ *Cemeteries and Crematoria Regulation 2014*, s 7.

¹⁴ CC Act, s 54(7).

¹⁵ CC Act, s 55(2) and (3).

3 Efficient costs of the Crown cemeteries

This chapter discusses our findings about the efficient costs of the four metropolitan Crown cemetery operators, namely the Catholic Metropolitan Cemeteries Trust (CMCT), Northern Metropolitan Cemeteries Land Manager (NMCLM), Rookwood General Cemeteries Land Manager (RGCLM), and Southern Metropolitan Cemeteries Land Manager (SMCLM).

As discussed in Chapter 1, the Crown cemetery operators undertake over two thirds of burial services in Sydney. In our Interim Report we said we would undertake an efficiency study of the Sydney Crown cemetery operators before making recommendations about the appropriate form of pricing oversight.¹⁶ Inefficiency in operations is an indication that more prescriptive price regulation might be required.

We engaged Deloitte Access Economics (Deloitte) to undertake this study. They estimated the efficient costs associated with a basic adult lawn burial (incorporating an interment right and one or more burials) with a standard level of maintenance for each of the Crown cemetery operators. Their full report is available on our website.

We did not ask Deloitte to estimate land costs for the Crown operators; as the Crown operators were gifted land many years ago, they do not currently face land costs in practice.

The sections below summarise our findings, and then discuss them in more detail.

3.1 Overview of findings

We found that each of the Crown cemetery operators is reasonably efficient in delivering the **burial** component of a basic adult lawn burial. Although Deloitte found cost differences between the operators, the differences are primarily driven by the different characteristics and age of each cemetery and differences in the faith and cultural mix of burials at each cemetery.

The cost of a burial can vary for reasons outside the control of the cemetery operator, such as the geological profile of the area (e.g. soil type), area within and the age of the cemetery, so the efficient cost for each cemetery operator can be different without implying that those with higher costs are inefficient.

However, we found there is scope for the Crown cemetery operators to increase their efficiency in delivering the **interment right** component of a basic adult lawn burial. The most effective way this could be realised is by reducing indirect costs associated with an interment right. These include the one-off administration and overheads, sales and marketing costs associated with the sale of an interment right.

¹⁶ IPART, *Review of interment costs and prices – Interim report*, December 2019, p 40.

Some faith-based and cultural requirements for burial can mean that the efficient cost of these burials is higher than the efficient cost of a basic burial, but we found that faith-based and cultural requirements are unlikely to have a material impact on the efficient costs of an interment right.

3.2 The Crown cemetery operators are reasonably efficient in delivering the burial component of a basic adult lawn burial

As noted above, we chose a basic adult lawn burial with a standard level of maintenance as a standard interment service in order to assess the efficient cost of a standard offering across the metropolitan Crown cemetery operators. However, as discussed in the sections below, there were difficulties in ‘stripping out’ additional costs, for example, those related to some faith-based and cultural requirements, to compare costs on a like-for-like basis. Therefore, particularly for the burial component of a basic adult lawn burial, the costs for each Crown cemetery operator are not entirely comparable.

Deloitte estimated the minimum efficient cost of a burial (for which they use the terminology ‘interment service’) to be \$972 using a ‘bottom-up’ cost build-up of the hours required for each task in Table 3.1, and an allocation of corporate overheads such as staff on-costs. The typical number of hours, based on the Crown cemetery operators and benchmark cemeteries,¹⁷ was estimated to be 15.8. Based on an average hourly wage of \$36.21, labour costs for an interment service are estimated at \$570, with associated on-costs of \$114 (20% of labour costs).¹⁸

The burial (interment service) also involves costs for materials such as timber boards, matting, turf and soil, and fuel; as well as equipment such as vehicles and lowering devices (which may be captured through depreciation). Across the Crown cemetery operators these costs averaged \$288.¹⁹

Table 3.1 sets out the burial costs for each of the Crown cemetery operators. The burial cost estimated for Catholic Metropolitan Cemeteries Trust (CMCT) is lower than the bottom-up estimate of minimum efficient costs (\$972). However, as discussed further below, some faith-based and cultural practices can add significantly to the cost of burial, and a high proportion of burials performed by the other Crown cemetery operators involve such practices. Broadly we consider these additional costs to be reasonably efficient.

Based on Deloitte’s cost analysis, we find the Crown cemetery operators to be reasonably efficient in performing the burial component for a basic adult lawn burial.

¹⁷ Interstate and local government cemeteries were used as benchmarks.

¹⁸ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 5-6.

¹⁹ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 5-6.

Table 3.1 Bottom-up burial costs by Crown cemetery operator (\$2018-19)

	CMCT	SMCLM	NMCLM	RGCLM
Hours	13.3	16.0	22.2	12-19 ^a
Wages (\$)	477	610	765	1,047
On costs (\$)	95 ^b	122 ^b	153	127 ^b
Equipment, materials, or depreciation (\$)	328	305	218	301 ^c
Total	\$901	\$1,037	\$1,136	\$1,475^d

^a This reflects that hours vary depending on the type of interment based on a previous cost study of Rookwood although that report also included an estimate of 17.2 hours.

^b On costs for CMCT and SMCLM have been estimated using a 20% assumption (to incorporate payroll taxes and superannuation). RGCLM's on costs are based on its reported figures.

^c This includes motor vehicle costs, site costs, repairs and maintenance, and depreciation.

^d These are average costs which reflect that RGCLM perform a large proportion of interments for religious communities for whom interments are more costly. An adjusted efficient cost estimate of \$1,399 should be used for RGCLM.

Source: Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 13.

3.2.1 The costs of a burial can vary based on the age of the cemetery, geological profile and soil type as well as some faith-based and cultural requirements

As mentioned above, the costs of a burial can vary for reasons outside the control of the cemetery operator such as the age of the cemetery, geological profile and soil type. For example, Southern Metropolitan Crown Land Manager (SMCLM) noted that every grave in the Eastern Suburbs Memorial Park site requires shoring because of the soil composition at this site.

The cost impacts of some faith-based and cultural requirements for interment were estimated for three key areas:

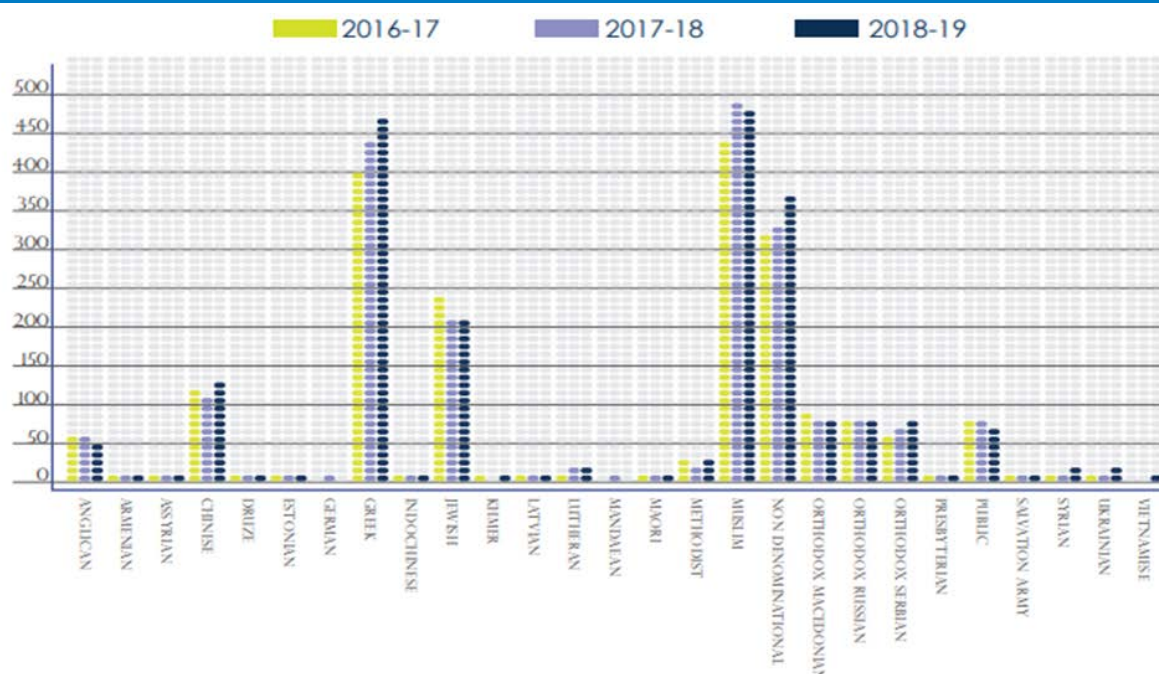
- ▼ **Back filling graves by hand**, and by mourners, as undertaken by many Jewish people. Deloitte estimated this could increase the cost by up to \$206 (an additional 23% based on a \$901 service).
- ▼ **Additional shoring to provide stability and structural integrity of the grave** for Islamic burials which involve family members standing within the grave and placing the body directly onto the earth. Deloitte estimated this could increase the cost by between \$206 and \$271 depending on whether it involved only extra materials or extra labour hours as well (an additional 23% to 30% based on a \$901 service).
- ▼ **Overtime or penalty rates incurred** when interments are undertaken out of hours, in order to meet specific timeframes for interment to take place, for example, within 24 hours of death. Depending on the day and time, Deloitte estimated out-of-hours interments could add \$261 to \$521 to the cost of an interment service (an additional 29% to 58% based on a \$901 service).²⁰

²⁰ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 9-12.

In responding to these estimated cost differences, the NSW Jewish Board of Deputies and the Lebanese Muslim Association noted that shoring is only used at Kemps Creek, and not in any other location for Islamic burials. They also noted that only Rookwood has a price differential for religious burials compared to equivalent burial prices. Macquarie Park is cited as an example where there is no difference. They consider the incremental cost is immaterial.²¹

Figure 3.1 shows the diversity of community groups interred at Rookwood General Cemetery over the previous three years. Factoring in the share of these interments at Rookwood General Cemetery, Deloitte estimated an adjusted efficient cost estimate of \$1,399. Given the uncertainties around costs allocations and benchmarks, Deloitte considered that RGCLM's actual burial costs of \$1,475 were reasonable.

Figure 3.1 Interments conducted at Rookwood General Cemetery by community group (2016-2017 to 2018-19)



Data source: Rookwood General Cemetery, [Annual Report 2019](#), p 33, accessed on 18 November 2020.

Other Crown cemetery operators also cater for multiple different faith and community group interments, which could drive a difference in their efficient costs. For example, SMCLM noted that they work with denominational groups such as the Jewish, Macedonian, Greek, Italian, Catholic and Chinese communities and adjust their service offerings to meet the needs of those communities.²²

²¹ NSW Jewish Board of Deputies and Lebanese Muslim Association submission to IPART Draft Report, October 2020, p 2.

²² Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 14.

3.3 There is scope for increased efficiency in delivering an interment right

Deloitte's estimates of the efficient cost of the various parts of the interment right component of a basic adult lawn burial (other than land) are shown in Table 3.2, with the total ranging from \$2,600 to \$3,500. This range reflects differences in development costs and depreciation costs across the Crown cemeteries.²³

Table 3.2 Efficient costs (other than land) associated with an interment right (\$2018-19)

	Per plot per annum	Per interment right ^a
Site development	NA	Current Crown cemetery costs, ranges on average from \$425 to \$1,000 ^b
Indirect costs associated with the sale of the interment right	NA	\$1,488
Grounds maintenance		
▼ Fully utilised cemetery	\$5	\$255
▼ Additional maintenance levels before a cemetery is fully utilised	\$2	\$77
Administration / overhead costs for maintaining existing plots	\$5	\$255
Depreciation	Current Crown cemetery, ranges from \$3 to \$13	Current Crown cemetery, ranges from \$101 to \$521
Total	NA	\$2,600-\$3,500

a Present value calculation over 75 years for costs including ground maintenance, administration related to maintaining existing plots, and depreciation. Discount rate of 4% pa and inflation rate of 2% pa used. Site development costs and indirect costs associated with the sale of the interment right are treated as one off costs.

b These costs may be higher depending on the geological profile of the cemetery.

Source: Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 17.

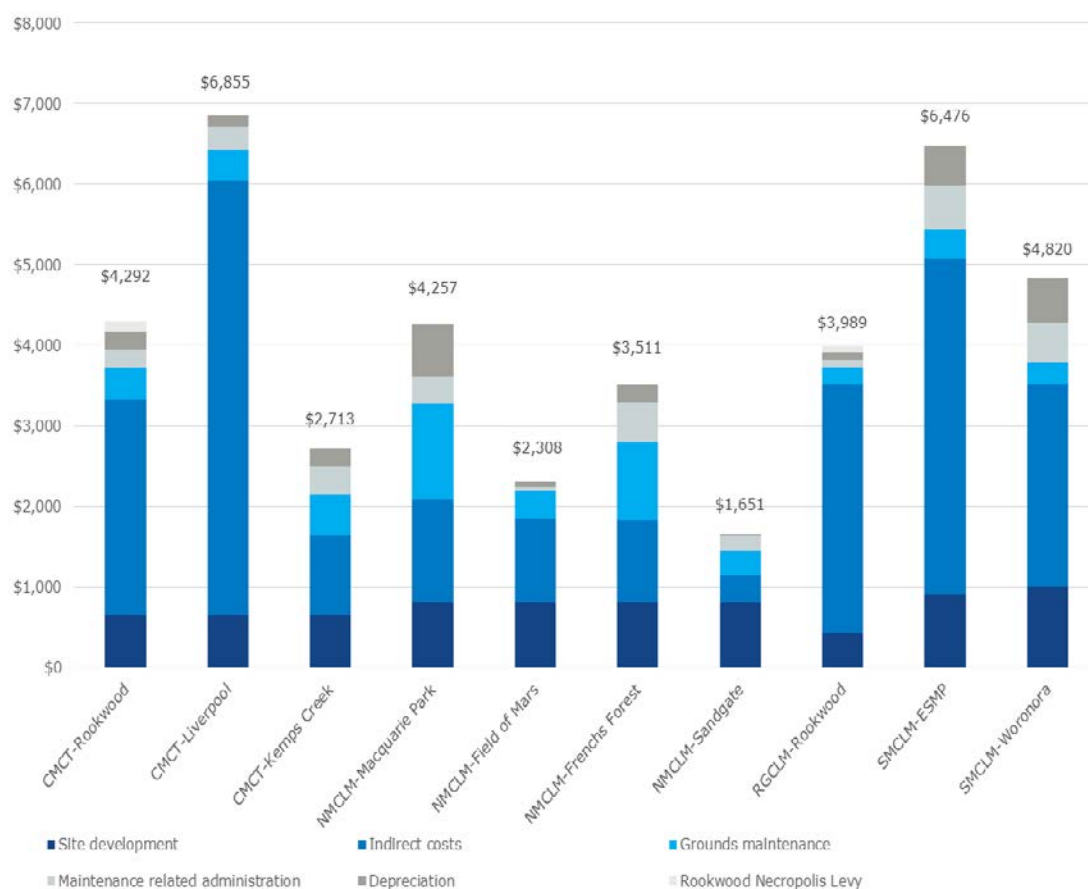
3.3.1 For most Crown cemeteries the cost of delivering the interment right is above the estimated efficient cost

Figure 3.2 shows the estimated costs of the interment right component of a basic adult lawn burial at each of the Crown cemeteries. The highest costs are at CMCT Liverpool, SMCLM's Eastern Suburbs and Woronora cemeteries – largely driven by high indirect costs.

For NMCLM, particularly at Macquarie Park and Frenchs Forest, higher maintenance costs are at least partly the result of extensive gardens. Their costs may be efficient for delivering a higher standard of grounds maintenance. However, it is important that consumers are aware of the standard they are purchasing, and have the choice of a 'basic' standard. Maintenance standards are discussed further below.

²³ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 16.

Figure 3.2 Estimated current cost per interment right by cemetery (\$2018-19)



Data source: Deloitte Access Economics *Efficient costs of interment services*, 2020, p 24.

The components of the interment right, Deloitte's estimate of the efficient costs and the Crown cemeteries' costs are discussed in the following sections.

3.3.2 Site development costs vary by cemetery and no single efficient cost is estimated

Deloitte benchmarked the Crown cemetery operators with council-run cemeteries and interstate cemeteries (see below) and found there was limited data for non-Crown cemetery operators and a wide variation in the site development costs for council cemeteries. For the Crown cemetery operators, cost variations were found to be cemetery specific depending on soil quality and the stage of the cemetery's life, making it difficult to apply a typical efficient cost. Over the life of a cemetery, the easier to develop land is used first, and as the cemetery fills more marginal land (for example, more rocky or difficult to access) is used which is more costly to develop.

Therefore Deloitte considered the current site development costs for the Crown cemetery operators are reasonably efficient. These range from \$425 per site at RGCLM to \$1,000 per site at SMCLM's Woronora Cemetery.²⁴

²⁴ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 17.

3.3.3 On average, the Crown cemetery operators have higher indirect costs associated with the sale of an interment right than the benchmark cemeteries

Indirect costs refer to costs that are incurred in operating a cemetery that are not directly attributable to an individual interment right. These indirect costs include one-off administration and overhead costs, and sales and marketing costs associated with the sale of the interment right.

There are also administration costs that are not included as indirect costs. Such administration costs are involved with the maintaining existing plots, and depreciation, and are discussed in these later sections.

Estimate of efficient indirect cost based on benchmark cemeteries

Deloitte estimated the efficient indirect cost per basic adult lawn interment right to be \$1,488 using the four following cemeteries as a benchmark:

- ▼ Metropolitan Cemeteries Board (WA)
- ▼ Geelong Cemeteries Trust (Vic)
- ▼ Ballarat Cemeteries Trust (Vic)
- ▼ Shoalhaven City Council (NSW).

These cemeteries were chosen as benchmarks as they had the lowest costs per interment of body remains out of nine interstate and council cemetery operators. As the available evidence suggests that direct costs are broadly similar across operators, Deloitte considered that the difference was due to lower indirect costs.²⁵ Consequently, they are likely to provide a reasonable indication of efficient indirect costs. We note there is a lack of cost information available especially among comparable cemeteries to allow benchmarking and consider that the above cemeteries provide a reasonable benchmark.

Indirect costs for Crown cemetery operators

Deloitte estimated the indirect costs such as administration, sales and corporate overheads attributable to a basic adult lawn interment right using a series of assumptions to allocate total indirect costs across the activities of the cemetery operator including: development; cremations; interment of body and cremated remains; and additional services. As such, the estimates of indirect costs are indicative and vary depending how these allocations are made.

Across the Crown cemetery operators the average one-off indirect cost per basic adult lawn interment right sale was estimated at \$2,348, and ranged from \$3,354 at SMCLM to \$1,146 at NMCLM (slightly lower than the efficient cost benchmark). Based on how they allocated indirect costs, Deloitte found wide variations between the cemeteries operated by the same Crown cemetery. For example, for the CMCT, their Rookwood and Kemps Creek cemeteries were estimated to have relatively low indirect costs, their Liverpool cemetery had the highest of the Crown cemeteries.²⁶

²⁵ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 18.

²⁶ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 25-26.

The NSW Jewish Board of Deputies and the Lebanese Muslim Association submitted that there are no sales and marketing costs associated with providing interment for the Jewish and Muslim communities. As captive consumers they consider their communities should not have to bear these costs.²⁷

3.3.4 Standards for grounds maintenance should be defined and transparent

To estimate the efficient cost of ground maintenance attributable to an interment right, Deloitte allocated costs to:

- ▼ Perpetual maintenance after the cemetery is fully utilised
- ▼ “Additional maintenance” before a cemetery is fully utilised reflecting the higher maintenance costs incurred while the cemetery is open for new burials and receiving higher numbers of visitors.

Grounds maintenance costs generally decline when a cemetery is fully utilised due to less visitors requiring less grounds maintenance (e.g. less frequent lawn mowing, replacing labour-intensive feature gardens with lower-maintenance alternatives, less frequent cleaning, less maintenance required on roads, fences and buildings that are used less). Deloitte found that the reduction could be as high as 50-60%.²⁸

Estimated efficient maintenance costs

Based on its analysis of a large sample of local council cemetery operators, Deloitte estimated the typical cost per hectare for an open lawn cemetery to be \$9,000 per hectare per annum. With around 1,300 plots per hectare across the Crown cemeteries, the average cost per plot is \$7 per annum. Deloitte considered this to be a reasonably efficient benchmark. Cemeteries with a higher density of plots may be able to achieve lower maintenance costs per plot.

The costs of maintenance are expected to decline when the cemetery is fully utilised. Information from one of the Crown cemetery operators, which outsources the ground maintenance in older parts of its cemetery that is less frequently visited, indicated that the cost per plot could be around \$4. However, this was for an area with very few visitors and consequently lower levels of maintenance. Deloitte considered that \$5 per plot per annum was an appropriate efficient cost of maintenance for fully utilised cemeteries, noting it is likely such cemeteries would continue to have reasonable levels of visitors, at least for a period.²⁹

²⁷ NSW Jewish Board of Deputies and Lebanese Muslim Association submission to IPART Draft Report, October 2020, p 4.

²⁸ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 19-22.

²⁹ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 19-23.

Estimated current maintenance costs by Crown cemetery

Deloitte estimated the average grounds maintenance cost for the Crown cemetery operators at \$11 per plot per annum, of this \$6 relates to the cemetery's perpetual care obligations.³⁰

Generally, costs were found to be lower in older, larger cemeteries such as Rookwood General and the two SMCLM cemeteries, where total maintenance is only slightly higher than estimated efficient maintenance costs for when those cemeteries are fully utilised. The relatively advanced life stage of some of the larger Crown cemeteries means that they are approaching the perpetual care stage. Maintenance costs are also being spread over a relatively large number of plots.

Macquarie Park and Frenchs Forest have the highest 'additional' ground maintenance cost per plot, and this may be due to the additional features of their gravesites. Macquarie Park in particular has extensive gardens (and NMCLM noted in consultation that they position Macquarie Park as a prestige cemetery).

In their submission to our Draft Report, CMCT and Mills Oakley noted that the number of years a cemetery incurs full maintenance costs may be impacted due to:

- ▼ How long after the interment right is sold that interment actually takes place; with 70% of CMCT's current sales occurring pre-need. Visits would not be expected to increase until an interment takes place.
- ▼ Second and/or third interments in most graves resulting in an increase in visits.

They also noted that in most cemeteries in NSW there are burial areas much older than 25 years which are maintained to the same standard as newer areas.³¹

Defined and transparent standards of maintenance would increase choice and potentially improve affordability

Notwithstanding the variations in current maintenance costs, it is difficult and potentially misleading to gauge relative efficiency by comparing these costs for cemeteries of different sizes, and at different points in their life cycle (or with different community expectations as to the standard of maintenance).

CCNSW issued a voluntary code of practice for cemetery maintenance in February 2020 to help cemetery operators implementing the operator code for cemetery maintenance. It identifies themes for cemetery maintenance and outlines best practice principles to meet these themes.^{32,33} However, it does not define a minimum or basic standard of maintenance. We recommend that CCNSW modify the Code of Practice to include a minimum standard for cemetery maintenance. This is discussed further in Chapter 8.

³⁰ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 26-27.

³¹ CMCT and Mills Oakley supplementary submission to IPART Draft Report, October 2020, p 3.

³² NSW Government, Cemeteries and Crematoria NSW, [Voluntary Code of Practice for Cemetery Maintenance, Cemetery maintenance guide](#), February 2020, accessed 18 November 2020.

³³ NSW Government, Cemeteries and Crematoria NSW, [Cemetery and crematorium operator code of practice 2018](#), Part 8, accessed 18 November 2020.

The standard of maintenance may dictate the performance level and frequency at which the different maintenance activities are undertaken. For example; how often mowing and pruning is undertaken; whether there are flower gardens and if so how extensive; whether cleaning of headstones is undertaken and if so how often; and how often paths are cleaned or repaired.

Deloitte's estimate of efficient maintenance costs are based on 'standard' maintenance costs for a basic adult lawn burial. Some cemeteries have higher maintenance costs, for example, as a result of elaborate gardens. These may be valued by their customers and community. However, in order to have a comparable, basic product we are seeking to establish the efficient cost for a standard or 'basic' adult lawn burial. Further, customers need to be aware they are purchasing a higher standard product and should have the choice of a 'basic' standard product.

Defined and transparent standards of maintenance would increase choice and potentially improve affordability. As discussed in Chapter 8, we recommend that the conditions of a cemetery operator's operating licence should specify requirements to provide a basic adult lawn interment right and burial, at a minimum standard of maintenance as specified by the Code of Practice.

3.3.5 There are ongoing administration and overhead costs to maintain existing plots

While administration associated with sales and current interment activities would drop away once the cemetery is fully utilised, administration to support the maintenance of existing plots will continue. Such administration includes organising maintenance operations, repairs, record keeping and requests from visitors and those seeking information about historical graves and potentially hosting of community events. Deloitte estimated the efficient cost per plot for this ongoing administration to be \$5 per plot per annum, based on a reduction of around 65% in administration costs once the cemetery is fully utilised.³⁴

Across the Crown cemetery operators, the average cost of administration related to perpetual care maintenance is \$7 per plot per annum.³⁵

The NSW Jewish Board of Deputies and the Lebanese Muslim Association sought clarification as to whether the costs of maintaining graves covered by slabs would be captured in the overhead costs for maintaining existing plots.³⁶

³⁴ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 23.

³⁵ Deloitte Access Economics, *Efficient costs of interment services*, pp 27-28.

³⁶ NSW Jewish Board of Deputies and Lebanese Muslim Association submission to IPART Draft Report, October 2020, p 4.

While these costs would be considered part of maintenance rather than overheads, responsibility for grave monuments and slabs is an important issue. The cost of maintaining monuments that have become unsafe or unsightly over time was a common concern raised at our public hearing. Many operators had not included these costs in past prices as it is the responsibility of the family to maintain monumentation – however, over time, the monuments become the de facto responsibility of the cemetery operator when the rights holder cannot be located or held responsible. Responsibility should be clarified in the contracts of sale as well, as in the Code of Practice for maintenance.

3.3.6 Current depreciation costs for the Crown cemeteries are used in the estimate of efficient costs

Depreciation captures infrastructure deteriorating as it is used to operate a cemetery. While some is attributable to a basic adult lawn burial, the majority of capital expenditure relates to development costs, common infrastructure, and plant and equipment used for grounds maintenance.

For the four benchmark cemeteries, depreciation per annum ranges from \$1 to \$14 per plot. Similarly, per annum depreciation per plot ranges from \$3 to \$13 for the CLMs, with an average of \$7.30 per plot per annum.

The large variation is likely to be due to different life stages of the cemeteries, with newer cemeteries investing in more infrastructure and equipment, and hence with higher depreciation. Similarly, the point-in-time cost data is influenced by one-off investments, making it difficult to estimate an ‘efficient’ depreciation cost.

Due to these variations in depreciation, the current depreciation costs for the Crown cemeteries are used in estimating the efficient interment right cost. Deloitte notes that this does not necessarily mean that capital expenditure is efficient at all the Crown cemeteries.³⁷

3.3.7 The Rookwood Necropolis Levy adds to cost of interment rights at Rookwood General and CMCT Rookwood

The Rookwood Necropolis Land Manager is responsible for managing the common property and infrastructure that exists throughout Rookwood Cemetery. This includes, but is not limited to, roadways, entrance gates, and directional signage. CMCT Rookwood and Rookwood General pay levies on interments and cremations to fund these activities. Deloitte did not review the efficiency of the Rookwood Necropolis’ costs.

These levies are estimated to cost \$2 to \$3 per plot per annum, and \$79 (Rookwood General) to \$135 (CMCT Rookwood) per right.³⁸

³⁷ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 23 and p 29.

³⁸ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 29.

3.3.8 Some faith-based and cultural requirements can add to the cost of the interment right, but the additional cost may not be material

As with the burial, the cost of the interment right can vary depending on the requirements of different faiths and cultures. Factors that could impact costs include:

- ▼ Requirements for graves need to be in a particular orientation and in a single sided row can impact on cemetery layout and density
- ▼ Additional facilities for cultural and religious gatherings
- ▼ The number of visitors as higher visitor numbers could lead to higher maintenance costs
- ▼ Historical differences in maintenance standards for certain communities, and/or expectations about maintenance
- ▼ Consulting with faith communities.

The cost of these requirements on the interment right are not clear. The largest cost drivers of an interment right are the maintenance and indirect costs. For both of these cost categories, there may be some cost impact, but it is difficult to quantify the variation in cost that is explained by faith-based or cultural requirements. Deloitte did not estimate the costs of these requirements on the interment right, but expects them to be modest.³⁹

3.3.9 Reducing indirect costs of the interment right would reduce the total costs of delivering a basic adult lawn burial

Deloitte considered the Crown cemetery operators to be reasonably efficient in delivering burials (described as ‘interment services’ in Deloitte’s report), consequently, there is no efficient gain attributed to the burial in Table 3.3. As discussed in section 3.2, the variations in burial costs between the Crown cemetery operators largely reflect differences in the faith and cultural mix of interments.

They did, however, find that the current cost of the interment right was higher than the benchmark efficient cost for all operators. Table 3.3 shows the percentage reduction in current costs required to reach an efficient cost for a basic adult lawn burial, noting this is based on a ‘basic’ standard of grounds maintenance.

³⁹ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 29-32.

Table 3.3 Comparison of actual and efficient total costs for a basic adult lawn burial (\$2018-19) (excluding land costs)

	CMCT	NMCLM	RGCLM	SMCLM
Current costs				
Burial	901	1,136	1,475	1,037
Interment right	4,012	3,794	3,989	5,652
Efficient costs				
Burial	901	1,136	1,475	1,037
Interment right	2,884	3,101	2,561	3,514
Total current costs	4,913	4,930	5,465	6,689
Total efficient costs	3,785	4,237	4,037	4,551
Difference	1,128	693	1,428	2,138
Efficiency gain	-23%	-14%	-26%	-32%

Source: Deloitte Access Economics, *Efficient costs of interment services*, p 49, and IPART calculations.

For RGCLM, CMCT and SMCLM, the decrease could be realised through reducing indirect costs associated with an interment right. For NMCLM, the decrease would be primarily achieved through reducing the level of grounds maintenance and associated administration.

Opportunities to move towards efficient costs are discussed further in Chapter 9.

3.4 Costs of renewable interment rights

The price of renewable tenure needs to recover the costs of the land and maintenance of the site for the period of the renewable tenure (between 25 and 99 years), rather than into perpetuity as for perpetual interment rights.

However, before an interment site can be resold at the end of its term, there are a number of costs associated with contacting rights holders prior to expiry, and if the site is not renewed, a lift and deepen process to be undertaken before the site can be reused.

As renewable tenure is relatively new in NSW, no NSW cemetery has undertaken end of tenure procedures to date. Therefore, to obtain estimates of efficient costs at end of tenure Deloitte consulted with the Adelaide Cemeteries Authority which currently undertakes about 900 renewals a year. Based on data from the Adelaide Cemeteries Authority, Deloitte estimates the administration tasks associated with contacting rights holders to be \$159 per plot (\$97 present value over 25 years). The requirements to contact rights holders in NSW,⁴⁰ as discussed in section 2.3, appear more prescriptive than those in Adelaide. As such, the efficient costs may be higher.

The estimated cost for a renewable interment right (excluding land costs) is shown in Table 3.4, which includes the low and high estimates for an efficient (perpetual) interment right (Table 3.2). The cost of a renewable interment right is estimated at \$364 less than a perpetual interment right (for both the high and low scenarios). The saving reflects reduced maintenance costs, required for 25 years, rather than in perpetuity.

⁴⁰ *Cemeteries and Crematoria Regulation 2014*, s 7.

This may seem to be only a modest cost saving, however the largest saving would be the savings in land costs, which were not included in Deloitte's estimates.

Table 3.4 Renewable interment right cost (excluding land costs) (\$2018-19)

Item	Low range	High range
Perpetual interment right	2,600	3,500
Perpetual care (Present value)	(802)	(802)
25 years maintenance (present value)	342	342
End of tenure (present value)	97	97
Renewable interment right (25 years)	2,236	3,136

Note: Discount rate of 4% pa and inflation rate of 2% pa used to calculate present value over 75 years (perpetual) or 25 years (renewal). Number may not add due to rounding.

Source: Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 33.

If the site is not renewed at the end of its tenure, a lift and deepen process is undertaken. Deloitte estimated the cost of the lift and deepen process, incorporating some additional development costs, to be \$1,000 (\$610 present value over 25 years).⁴¹

Based on the example of the Adelaide Cemeteries Authority, the cost of the lift and deepen is not included in Table 3.4 as it is not incurred unless the site is to be reused. In the case of the Adelaide Cemeteries Authority, this cost is incurred by the family if they are wanting to inter another family member in the same site, or by the cemetery if the plot is being resold (and therefore included in site development costs shared by all rights purchasers, not passed through to the purchaser of that specific site right). This approach could be considered for NSW.

IPART findings

- 1 The metropolitan Crown cemetery operators are reasonably efficient in delivering burials, noting that the efficient cost of burial at each cemetery varies due to factors such as the age of the cemetery, location, soil type, and weather conditions.
- 2 There is scope for the Crown cemetery operators to increase efficiency in delivering a lawn grave interment right, particularly through reducing indirect costs.
- 3 The efficient cost of some faith-based and cultural requirements for burial may be higher than the efficient cost of a basic lawn burial, but these faith-based and cultural requirements are unlikely to have a material impact on the efficient costs of an interment right.

⁴¹ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 34.

4 Legacy costs in NSW cemeteries

Legacy costs are those future costs which are attributable to past sales of interment rights – that is, the costs of maintaining sold gravesites, and a share of the costs of maintaining the cemetery in perpetuity. These costs can also be referred to as the ‘perpetual maintenance liability’ of a cemetery.

This chapter discusses our findings about the extent of those costs, cemetery operators’ understanding of those costs and what arrangements exist for funding them.

4.1 Overview of findings

In our Interim Report we found that for most cemeteries in NSW the extent of legacy costs from past interments is not known. We also found that most cemetery operators do not report or disclose perpetual maintenance liabilities associated with their cemeteries and only a few operators have established perpetual maintenance funds. We undertook to investigate further the extent of these legacy costs and report on them in our Draft Report.

We engaged Deloitte to estimate the legacy costs for past interments for different types of cemetery operators in NSW. Deloitte estimated the total legacy costs in NSW cemeteries to be around \$1.7 billion at 30 June 2019. While some cemetery operators (mainly the Crown operators and larger council operators) maintain financial assets that could be used to meet those costs, there is no requirement for cemeteries to do so, and there is no requirement that those assets only be used for perpetual maintenance.

In our Draft Report we found that the extent of legacy costs across cemeteries in NSW, and the lack of a legal framework for understanding and addressing them, presents a significant financial risk for the future if cemeteries do not make provision for them now.

We maintain our findings on the funding arrangements for perpetual maintenance and legacy costs.

4.2 The current funding arrangements for perpetual maintenance of cemeteries lack transparency and accountability

The financial statements of a cemetery operator are not required to disclose information about the size of the perpetual maintenance liability or how it is funded.

In our Interim Report, we found that some of the large metropolitan Crown operators have engaged an external actuary to assess their pricing of interments and investment funds required for future maintenance obligations. Some council cemetery operators also advised that they had undertaken work to estimate their perpetual care liabilities.

However, we found that for most cemetery operators there is no disclosure or reporting of perpetual maintenance liabilities in their annual financial statements. Further, the arrangements for setting aside funds for the perpetual maintenance of their cemeteries are not transparent and as a result there is limited accountability about the adequacy of these funds.

For those operators that have established perpetual maintenance funds, the governance arrangements for the operation and the use of these funds are not clear. For example, the funds are not required to be ring-fenced for cemetery maintenance, and may be used for other cemetery operations, capital projects, or to purchase future cemetery land.

We received a few comments from stakeholders on our finding on the funding and reporting arrangements for perpetual maintenance. In its submission, TCorp clarified its role in relation to the Crown Land Cemetery Trusts as:

- ▼ The State's preferred investment manager for the Crown Land cemetery trusts noting that TCorp has been providing investment services to a number of Crown Land cemetery trusts for 4 years.
- ▼ Provider of specialist financial and investment services and advice to the NSW Government Sector, with the expertise to help the Crown Land cemetery trusts manage the funds they will be required to set aside to manage the cemeteries in perpetuity.⁴²

The Jewish Board of Deputies submitted that "Jewish graves under the Jewish Cemetery Trust (pre-amalgamation) were sold with perpetual care of the grave as an inclusion. Honouring that obligation has however proved challenging since the amalgamation took place." They also comment about the lack of transparency about whether the charges for perpetual maintenance relate to post 2013 burials or both pre and 2013 burials and consider that it is "inherently unfair to saddle today's consumers with pre-2013 perpetual maintenance charges".⁴³

IPART finding

- 4 Most cemetery operators in NSW do not report on the size of their liabilities for the perpetual maintenance of their cemeteries nor do they have transparent arrangements to fund these liabilities.

⁴² TCorp submission to IPART Draft Report, October 2020, p 1.

⁴³ NSW Jewish Board of Deputies and Lebanese Muslim Association submission to IPART Draft Report, October 2020, pp 4-5.

4.3 Legacy costs in NSW cemeteries are significant

Cemetery operators are expected to provide maintenance to the sold gravesites in perpetuity at a standard that meets customer and community expectations. However, cemetery operators only receive revenue at the time of sale for the perpetual interment right but this revenue must then cover ongoing maintenance costs. These costs include both grounds maintenance (e.g. mowing, rubbish removal, cleaning and maintaining facilities) and administration activities (e.g. genealogy searches, maintenance of IT systems and utility costs).

Eventually the burial land in a cemetery will be exhausted and the revenue from perpetual interment rights will decline to zero over time, while the maintenance costs continue. The long life cycle of cemeteries combined with the mismatch in the timing of revenue and costs means that a cemetery operator should make a financial provision for future costs. We can estimate the legacy costs from past interments at a particular cemetery as the value of future maintenance costs in relation to the sold perpetual interment rights at a particular point in time.

Deloitte estimated the total legacy costs for NSW cemeteries to be around \$1.7 billion as at 30 June 2019 as shown in Table 4.1. The largest share of legacy costs is for council cemetery operators at 46%, followed by Crown cemetery operators at 41%, and private, church and community operators have a combined share of 13%.

Table 4.1 Estimate of legacy costs in NSW by type of cemetery operator as at 30 June 2019

Cemetery Operator type	Geographic region	Estimated Perpetual maintenance cost	Share of total
Council	Sydney	\$48,125,936	3%
Council	Rest of NSW	\$719,578,614	43%
Private, church and community	Sydney	\$105,264,651	6%
Private, church and community	Rest of NSW	\$122,201,651	7%
Crown Cemetery	Sydney/Newcastle	\$684,087,778	41%
Total		\$1,679,258,630	100%

Note: The figure for Crown Cemetery operators' does not include RNLM as there was no actuarial assessment on its perpetual maintenance obligations.

Source: Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 84.

These legacy costs represent the future perpetual maintenance costs from past interments and not the unfunded costs. While some cemetery operators currently have assets to fund these future maintenance costs, many do not. For example, the Crown cemetery operators currently have around \$490 million⁴⁴ in assets to funds these costs and some larger council cemetery operators have also established reserves to fund these costs.

⁴⁴ See Table 6.2, Crown cemetery operator perpetual maintenance funds, p 42

The legacy cost estimates include both model estimates and actuarial assessments. The estimate for the Crown cemetery operators (\$684 million) is based on actuarial assessments of perpetual maintenance liabilities.⁴⁵ Whereas the estimate for council cemetery operators (\$768 million) and for private, church and community operators (\$227 million) are based on Deloitte's model estimates.⁴⁶

In estimating the legacy costs for council, private, and community operators, Deloitte used a number of assumptions, including:

- ▼ The perpetual maintenance cost estimates were derived from two samples of council cemetery operators located in either Greater Metropolitan Sydney or the rest of NSW. These estimates were then scaled, based on share of burials, to other types of cemetery operators located in these areas⁴⁷
- ▼ The costs include body interments but exclude cremated remains interments⁴⁸
- ▼ The share of burials by operator will remain constant⁴⁹
- ▼ Operators have similar costs for equivalent maintenance obligations.⁵⁰ Although Deloitte requested information from private cemetery operators, no cost data was provided.⁵¹

In addition, Deloitte note that the sample covered a relatively small share of interments for council operators in the rest of NSW, and so this estimate (i.e. \$720 million in Table 4.1) has a degree of inaccuracy.

While noting all the factors above, and recognising that estimates of legacy costs are indicative, these estimates are nonetheless significant. Currently information is not available to estimate the extent to which cemetery operators are funding these legacy costs. This is because most cemetery operators do not report on perpetual maintenance liabilities, nor do they have transparent arrangements in place to fund those liabilities. We consider that if cemeteries do not make adequate provision for legacy costs, this presents a significant financial risk for the future.

Overall, there is limited accountability and transparency to ensure that cemetery operators are currently making adequate provision to fund the legacy costs at their cemeteries. We note that an object of the CC Act is to ensure that operators demonstrate satisfactory levels of accountability, transparency and integrity.⁵²

We received a few stakeholder comments on our draft finding on the legacy costs of cemeteries. Smithfield Cemetery commented that as a heritage listed cemetery that has been operating for more than 150 years, it has a large amount of legacy costs.⁵³

⁴⁵ These estimates are based on information provided to IPART and to the Statutory Review for NSW DPIE. See Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 83.

⁴⁶ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 83.

⁴⁷ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 81.

⁴⁸ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 84.

⁴⁹ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 84.

⁵⁰ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 83.

⁵¹ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 84.

⁵² CC Act, s 3(e).

⁵³ Smithfield Cemetery submission to IPART Draft Report, October 2020, p 1.

The NSW Jewish Board of Deputies and Lebanese Muslim Association submitted that “until the 2012 reforms, cemeteries assumed that when they closed, maintenance costs would shift back to consolidated revenue.” They consider that requiring cemetery managers to recover these pre-2012 costs from today’s consumers is both unfair and likely to operate harshly on older cemeteries.⁵⁴

We maintain our finding that the legacy costs across cemeteries in NSW present a significant financial risk for the future if cemeteries do not make adequate provision for them now. We consider that improved governance and regulation is essential to ensure that the financial risk associated with legacy costs are appropriately managed by cemetery operators and CCNSW.

IPART finding

- 5 The extent of legacy costs across cemeteries in NSW presents a significant financial risk for the future if cemeteries do not make adequate provision for them now.

⁵⁴ NSW Jewish Board of Deputies and Lebanese Muslim Association submission to IPART Draft Report, October 2020, p 5.

5 Prices for interment services

Throughout this investigation we have found that there is wide variation in prices for interment services, and a lack of transparency in how and whether those prices are displayed. Interment services are those activities associated with interments, such as different types of interment rights (e.g. lawn graves, monumental graves, crypts), burial and memorialisation options such as headstones or plaques.

This chapter sets out our findings along with our responses to the feedback we have received throughout this review.

5.1 Overview of findings

For body interment services offered by a range of council and Crown cemeteries, we found (and many submissions to our Issues Paper and Interim report agreed) that there is wide variation in prices, and that information currently available to consumers to conduct meaningful price comparisons is limited. Because of this, consumers are less able to make informed decisions about purchasing interment services, and so competitive pressures on cemetery operators are dampened.

5.2 There is wide variation in prices for interment services across NSW

To examine the prices that consumers currently pay for body interment products, we analysed prices published on a number of council and Crown cemetery operator websites. Submissions to our Issues Paper such as that from Catholic Cemeteries and Crematoria proposed that price comparisons for body interment services should be based on like-for-like products, and that there are only a few products and services in the cemeteries industry that can be classified as like-for-like, and even these can have small differences.⁵⁵ For this reason, we have focussed our pricing analysis on a basic adult lawn burial. While all the Crown cemeteries and council cemeteries currently display their fees and charges online, private cemetery operators generally do not publish their prices online, and so we have relied on pricing information that is publicly available. We consider that this is reflective of the information that is readily available to consumers and gives us an indication of what their experience in comparing cemetery prices might be.

In our interim report, we examined prices across cemeteries for interment rights (for a basic adult lawn burial) and found that prices vary substantially. In particular, prices for interment rights tend to be higher the closer the cemetery is to the Sydney CBD. We also examined the breakdown of prices for each individual component of the basic adult lawn burial (where this information was available). Some cemetery operators itemise different service components, such as the interment (burial) fee, perpetual maintenance and exhumation. We observed substantial variation in these service components.

⁵⁵ Catholic Cemeteries and Crematoria, submission to IPART Issues Paper, June 2019, p 6.

IPART finding

- 6 There is a wide variation in prices for body interment services, even services which would appear very similar in nature.

5.3 Prices are displayed inconsistently and are difficult to compare

Many submissions to our Issues Paper highlighted that price comparison across cemeteries is difficult because there is a lack of transparency and consistency in the use of terminology, and different bundling of products by cemetery operators.

We agree that prices are difficult to compare for a number of reasons, including:

- ▼ Terminology used by the industry is not accessible to everyone. For example, terms such as ‘interment’ and ‘lift and deepen’ are not frequently used outside of the cemeteries and crematoria industry, and so many of these terms may be unfamiliar to consumers.
- ▼ Advertised prices are often bundled to varying degrees, while only a few cemetery operators itemise each service component for an adult lawn burial.
- ▼ For some cemetery operators that itemise each service component it is difficult to identify all necessary service components for an adult lawn burial.⁵⁶ That is, it is not clear what services a customer is required to purchase and what services are optional, and so it is difficult to determine the total price for a basic service (i.e. adult lawn burial) from published prices.
- ▼ Cemetery operators use inconsistent terminology to describe interment products. For example, some describe the price for an interment right as a ‘right of burial’, while others refer to it as ‘land for each grave’. Some cemeteries do not itemise the interment right and appear to bundle it with the interment fee.
- ▼ Other important information to enable price comparison is not always clearly specified in cemetery pricing schedules. For example, interment right specifications such as grave depth and size (e.g. single or double depth) are evident in some pricing schedules, but not in others.⁵⁷ This information is important for price comparison because it determines the number of interments that a right can accommodate.

⁵⁶ For example, Blue Mountains City Council itemises several service components, but it is not necessarily clear what the total price is for a standard adult lawn body interment service. Blue Mountains City Council, [Fees and Charges 2020-2021](#), accessed 17 November 2020.

⁵⁷ For example, Eastern Suburbs Memorial Park’s pricing schedule specifies that a ‘right of burial’ is for ‘two adult interments’, while for other cemetery operators it is not clear how many interments a right can accommodate.

Box 5.1 Stakeholder views on transparent pricing for cemeteries

- ▼ Blacktown City Council agreed that the current lack of transparency in pricing and lack of common terminology makes it difficult for consumers to compare cemeteries and products.⁵⁸
- ▼ Catholic Cemeteries and Crematoria proposed that the best outcomes from this review will be achieved if the price comparisons across different cemeteries are based on like for like products. There are only a few products and services which can be classified as like for like in the cemetery and crematoria industry.⁵⁹
- ▼ CCANSW proposed that IPART recommendations should relate to transparency in pricing and unbundling of major cost components.⁶⁰
- ▼ Southern Metropolitan Cemeteries Land Manager agreed that pricing of all operators should be easily available and it should be transparent and clear to the members of the community.⁶¹
- ▼ Sydney Diocesan Secretariat submitted that simplicity and transparency is the most important pricing principle for IPART's review. It submitted that purchasers who may be vulnerable and experiencing trauma should be provided with clear information about pricing that allows them to easily compare offerings both across and within cemeteries.⁶²

Source: Submissions to IPART Issues Paper

IPART finding

- 7 Prices for interment services are not displayed consistently and are difficult for consumers to compare.

58 Blacktown City Council, Submission to IPART Issues Paper, June 2019, p 4.

59 Catholic Cemeteries and Crematoria, Submission to IPART Issues Paper, June 2019, p 6.

60 Cemeteries and Crematoria Association of NSW, Submission to Issues Paper, p 15.

61 Southern Metropolitan Cemeteries Land Manager, Submission to IPART Issues Paper, June 2019, p 8.

62 Sydney Diocesan Secretariat, Submission to IPART Issues Paper, June 2019, p 2.

6 Crown cemetery prices

In Chapter 3, we discussed our findings about the efficient costs of the Crown cemetery operators, and noted that inefficiency in operations could be an indication that more prescriptive price regulation is required.

In this chapter, we use those estimated efficient costs to model prices for each of the Crown cemeteries to assess whether the prices that the Crown cemeteries currently charge for a basic adult lawn burial reflect efficient costs that the Crown operators currently face.

The modelling inputs and therefore the resulting estimated prices have changed between our Draft Report and Final Report. Our draft estimated prices included a land cost, however our final estimated prices exclude the land cost. This is because we decided that we should only include cost components that the Crown operators currently face, and not those which would result from the recommendations which we make later in this report.

The modelled efficient cost-reflective prices in this chapter do not represent our view on what regulated prices should be; we are using them as a threshold test for the need for price regulation. In Chapter 10 we model illustrative efficient cost-reflective prices including costs based on our recommendations in this report. The prices we report in Chapter 10 are still for illustrative purposes only, but are closer to what we would expect efficient regulated prices to look like.

We also compared prices being charged for different faith and cultural groups for monumental as well as lawn burials across the Crown cemeteries.

Finally, we compared prices being charged for lawn burials at Melbourne cemeteries to see how they compared with Sydney Crown cemetery prices.

This chapter provides an overview of our findings on pricing for the Crown cemeteries, and then discusses them in more detail.

6.1 Overview of findings

In line with our finding that there is considerable scope for the Crown cemetery operators to be more efficient in their provision of interment rights, we found that Crown cemetery prices for the **interment right** component of a basic adult lawn burial are materially higher than our estimates of efficient cost-reflective prices.

Our modelled efficient cost-reflective prices do not represent our view on what regulated prices should be. While we have taken the same general approach to modelling that we would be likely to take if IPART were to regulate prices, we have only included cost categories that the cemetery operators currently face, so have excluded land costs.⁶³ In this chapter we are using the modelled prices as a threshold test for the need for price regulation only.

We also found that Crown cemetery prices for the **burial** component of a basic adult lawn burial vary widely between cemetery operators, from below our estimated efficient cost-reflective price for that operator to well above it.

When the two components are combined, the **total price for a basic adult lawn burial** currently being charged by each Crown operator is materially higher than our modelled efficient cost-reflective prices.

We compared prices within a cemetery (Rookwood) across two similar styles of graves differentiated by section, based on faith or cultural community, and found that there is significant variation, particularly for monumental graves, that is unlikely to be explained by cost differences.

We examined prices for a basic adult lawn burial at 15 Melbourne cemeteries and compared them to the average actual price for a basic adult lawn burial at the four largest Sydney metropolitan Crown cemeteries. We found that basic adult lawn burial prices at 11 of 15 Melbourne cemeteries were lower than the average actual price for a basic adult lawn burial at the four largest Sydney metropolitan Crown cemeteries. We also found that the burial component price in Melbourne is much closer to our estimated efficient burial price than the Sydney cemetery burial component prices are.

6.2 Our approach to modelling estimated efficient cost-reflective prices

We developed a discounted cash flow pricing model which calculates a price for a basic adult lawn burial (consisting of an interment right and a burial) for each of the cemeteries operated by the Crown operators. These modelled prices only incorporate current cost categories and are illustrative of our recommended approach to price modelling. If we were setting prices, we would undertake more detailed analysis of cemetery costs, including any changes to costs as the result of our recommendations in this review. We would also consult stakeholders on all inputs including how costs should be allocated and appropriate discount rates, and forecast interment profiles (i.e. demand for interment rights), in order to determine a regulated price.

⁶³ In addition, for a price regulation review we would require more detailed data, and would have to make decisions about how to allocate costs and about other assumptions in the model, in consultation with the regulated entities and other stakeholders, in a way that could materially affect the results.

The model uses the following inputs, which are described in more detail in the sections below:

- ▼ The **actual** costs reported for providing a **burial** by each cemetery operator (which we considered to be reasonably efficient)
- ▼ An appropriate percentage margin on the costs of providing a burial
- ▼ The **efficient** costs of providing **interment rights** for each cemetery operator, as calculated by Deloitte (including all future **efficient** costs of running the cemetery), so it includes 'legacy costs' attributable to past sales (see Chapter 4)
- ▼ Two discount rate assumptions to convert future costs to a present value
- ▼ The current CCNSW levy paid by each cemetery operator
- ▼ Any perpetual maintenance funds that the cemetery operator currently holds.

We have not modelled efficient cost-reflective prices for any council cemeteries. We have focused on the Crown cemeteries because they account for around 70% of the burials in Sydney.⁶⁴

6.2.1 Burial costs plus a margin gives the burial price

Burial costs are the costs of labour and materials attributed to the activities associated with burying a body in a cemetery. To estimate an efficient cost-reflective price for burial we used the actual burial costs reported to us by the cemetery operators, as Deloitte found that the Crown cemetery operators were reasonably efficient in providing burials. We then added a margin of 15% to these costs to reflect an efficient return for the cemetery on this service. This assumed margin is consistent with margins for the funeral, crematoria and cemetery sector.⁶⁵ CMCT and Mills Oakley submitted that they are supportive of IPART's approach to modelling an efficient burial price by adding a margin to the burial costs, but that they believe that 15% may be too low.⁶⁶ Currently we do not have information to indicate a more appropriate margin and so we have not changed this assumption. Further work on this would be required if prices are regulated.

6.2.2 The efficient costs of providing interment rights included in the pricing model are lower than the cemeteries' current actual costs

The costs of providing an interment right include site development costs, maintenance costs, and a share of costs of running the cemetery such as administration, utilities, marketing and staffing costs.

As discussed in Chapter 3, Deloitte has identified opportunities for efficiency across the Crown cemetery operators which focus on reducing overheads. We have modelled efficient cost-reflective prices on the basis that these efficiencies are achieved.

⁶⁴ Cemeteries and Crematoria NSW, [Annual Activity Survey 2018-19](#) accessed 18 November 2020.

⁶⁵ For example, IBISWorld Industry report, *Funeral Directors, Crematoria and Cemeteries in Australia*, January 2020, p 13, cites an average industry-wide profit margin of 19.3%.

⁶⁶ CMCT and Mills Oakley supplementary submission to IPART Draft Report, October 2020, p 3.

Efficient costs of providing interment rights differ between the cemetery operators due to factors such as topography and soil type (which can make site development more or less expensive, or determine how many plots per hectare are possible). Deloitte considered that reported site development costs and plot density were efficient for each cemetery. Deloitte also allowed for cemeteries to target different standards of grounds maintenance (e.g. NMCLM Macquarie Park has higher maintenance costs for a higher standard of grounds maintenance, which Deloitte allowed as efficient).

6.2.3 Two discount rate assumptions convert streams of future costs to a present value

In order to estimate current prices which recover future costs, we need to apply an appropriate discount rate to those future costs to calculate their present value. We have used two discount rates:

- ▼ A low risk discount rate of 2.4% (based on the BBB-rated corporate bonds rate) applied to a cemetery's perpetual maintenance costs. This reflects the appropriate risk appetite for a cemetery operator which is reserving some of its current income to pay those future costs.⁶⁷
- ▼ A discount rate of 4.7% (pre-tax real WACC), based on an equity beta of 0.6 and gearing of 40%, reflecting the risk profile and debt to equity ratio, respectively of a firm in the cemeteries and funeral industry. This discount rate is applied to all costs excluding perpetual maintenance, and represents an efficient return on those costs for a cemetery operator.

See Appendix 12.5B for more information about how the two discount rates for this report were calculated.

6.2.4 The current CCNSW levy is a cost for a cemetery operator

We have included in the efficient cost-reflective price the current CCNSW levy, which is \$83 per interment (See Section 8.4 for more information). This reflects the costs of regulating the cemeteries industry, which are currently recovered from only the Crown cemeteries.

⁶⁷ Using a low discount rate for perpetual maintenance costs is consistent with the approach to defined benefit superannuation liability recognition, as described in Deloitte Access Economics, *Governance framework – cemeteries*, July 2020, pp 8-9.

6.2.5 We included legacy costs in prices and accounted for funds held against these legacy costs

We have estimated efficient cost-reflective prices by initially allocating all future costs (of both sold and unsold lots) to be recovered from future sales. That is, future customers would pay both their own costs and legacy costs attributable to past sales. However, we have also considered any existing perpetual maintenance funds that the cemetery holds, and then subtracted these funds from future costs.

This requires us to subtract the amount of any existing perpetual maintenance funds from the total costs, to ensure that prices do not ‘double charge’ for costs that have already been recovered from previous sales. Each of the Crown cemetery operators has money set aside to fulfil its perpetual maintenance obligations. Table 6.1 shows the information we have used to reflect the funds that the Crown cemetery operators have put aside for perpetual maintenance; however, this information is not cemetery-specific. Since most of the Crown cemetery operators have more than one cemetery, it is not clear what portion of the perpetual maintenance fund should be allocated to each cemetery. As a consequence, we have split each of the Crown cemetery operator’s perpetual maintenance funds by the number of sold interments at each cemetery.

In addition, as discussed in Section 4.2 there is currently no legal requirement for a cemetery to only use those funds for that purpose. To this point, CMCT and Mills Oakley submitted that while CMCT’s annual report states that the balance of its perpetual maintenance reserve is \$143 million, it intends to use \$43 million of those funds for the construction of Macarthur Memorial Park at Varroville. CMCT’s decision to do this reflects actuarial advice that it received in 2017, indicating that \$106 million was sufficient to fund its perpetual maintenance obligations.⁶⁸ In response to this, we have modelled a second scenario for CMCT – this second scenario (with \$100 million in perpetual maintenance funds) also shows that CMCT’s current price is higher than our modelled efficient cost-reflective price.

Table 6.1 Crown cemetery operator perpetual maintenance funds as at June 2019 (\$m)

	Balance of perpetual maintenance fund
CMCT	143 (Scenario 1), 100 (Scenario 2)
NMCLM	99
RGCLM	153
SMCLM	95

Sources Rookwood General Cemetery, [Annual Report 2019](#), Northern Metropolitan Cemeteries Land Manager, [Financial Statements 2019](#); Catholic Cemeteries Trust, [Annual Report 2019](#); Southern Metropolitan Cemeteries, [Annual Report 2019](#) all accessed 18 November 2020.

⁶⁸ CMCT and Mills Oakley supplementary submission to IPART Draft Report, October 2020, pp 2-3.

6.3 Modelled efficient cost-reflective prices for the Crown cemeteries

Table 6.2 outlines the inputs we have used to model efficient cost-reflective prices for a basic adult lawn burial, as described above.

Table 6.2 Inputs of an efficient cost-reflective basic adult lawn burial price

Input	CMCT Rookwood	NMCLM Macquarie Park	RGCLM Rookwood	SMCLM Woronora
Interment right: efficient maintenance costs and a share of overheads (per annum) ^a	\$21	\$29	\$12	\$26
Interment right: efficient site development costs and efficient cost of selling the plot in the year it is sold ^b	\$2,134	\$2,094	\$1,913	\$2,488
Interment right: Discount rate	4.7% pre-tax real WACC on all costs except for perpetual maintenance 2.4% real discount rate on perpetual maintenance			
Interment right: Interment profile	Based on Deloitte's five year estimate of the growth rate and extrapolated by IPART			
CCNSW levy per interment	\$83	\$83	\$83	\$83
Burial: Efficient burial costs + 15% margin (ex GST)	\$1,057	\$1,333	\$1,730	\$1,216

a These efficient cost estimates vary by cemetery because Deloitte assumed that depreciation reported by each of the Crown operators was efficient, and Deloitte have allowed for differences in maintenance standards.

b These costs vary by cemetery because Deloitte assumed that the site development costs reported by each of the Crown operators were efficient.

Notes: We have used 2 discount rates - see Appendix B for further details.

These inputs have been generated by Deloitte to be compatible with our model, and so they do not align directly with numbers reported in Deloitte's efficient cost report.

Source: IPART, Deloitte Access Economics, *Efficient costs of interment services*.

6.4 We compared our modelled prices to current Crown cemetery prices

We compared actual prices charged by the Crown cemetery operators for a burial to our modelled efficient cost-reflective burial prices. We then compared actual prices charged by the Crown cemetery operators for a lawn interment right, burial and CCNSW levy to our modelled efficient cost-reflective basic adult lawn burial prices. We then tested the basic adult lawn burial price comparison for sensitivity to our assumption about efficient cost inputs.

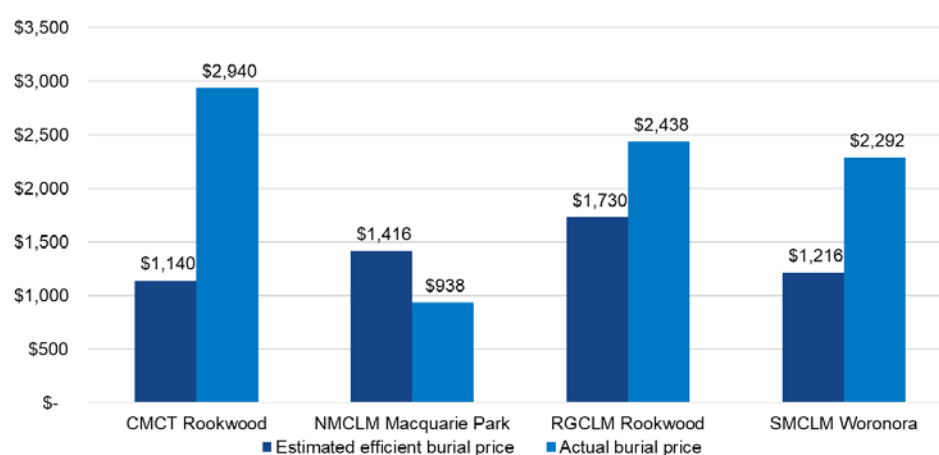
The results indicate that if the Crown operators reduced their costs to efficient levels (and there were no other changes to their operating environment), we would expect to see substantially lower prices for a basic adult lawn burial.

6.4.1 Current burial prices vary widely between cemeteries, and differ from our modelled efficient burial prices

As set out in section 6.2.1, burial costs are the costs of labour and materials attributed to the activities associated with burying a body in a cemetery. To estimate an efficient cost-reflective price for burial we used the actual burial costs reported to us by the cemetery operators, as Deloitte found that the Crown cemetery operators were reasonably efficient in providing burials. We then added a margin of 15% to these costs to reflect an efficient return for the cemetery on this service.

Our modelled efficient burial prices are much lower than the prices currently being charged for burial (see Figure 6.1), with the exception of NMCLM Macquarie Park, where the actual burial fee is substantially lower than our cost-reflective estimate. This indicates that there is insufficient incentive for Crown cemetery operators to set prices that are reflective of underlying costs.

Figure 6.1 Estimated efficient cost-reflective burial prices (\$2019-20) compared to actual Crown cemetery burial prices (ex GST)



Notes: We have applied a CPI adjustment to Deloitte's \$2018-19 efficient cost estimates to inflate these costs to \$2019-20. Actual current Crown cemetery prices are based on prices that are displayed on Crown cemetery websites as at August 2020. The Crown cemetery operators appear to change their prices at different times. As a result, current prices for each of the Crown cemeteries displayed in this chart may not align with the 2019-20 financial year.

Data source: IPART, Deloitte Access Economics, *Efficient costs of interment services*.

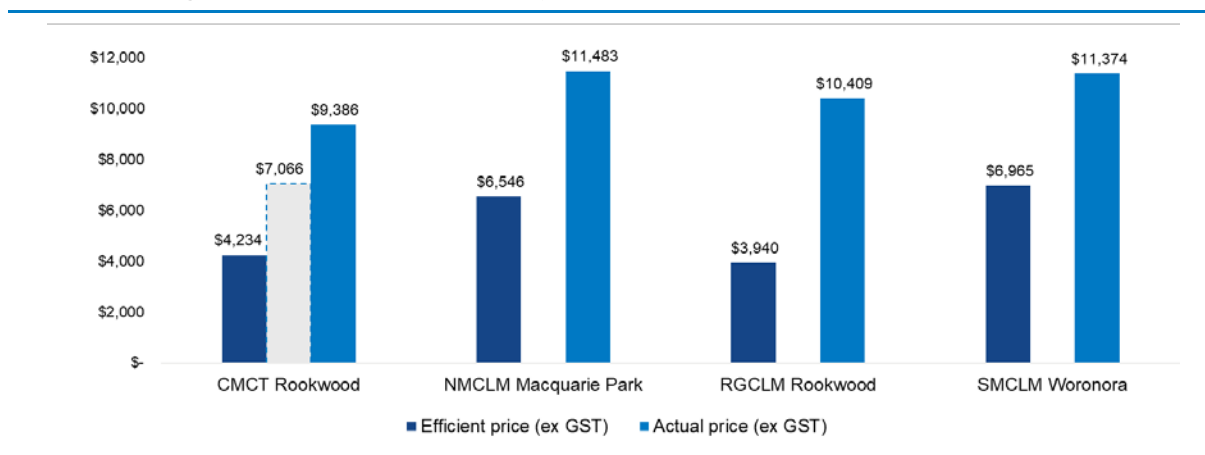
6.4.2 Current lawn interment right + burial prices at the Crown cemeteries are above modelled efficient cost reflective prices for a basic adult lawn burial

A price for a basic adult lawn burial includes a price for a burial (discussed at 6.4.1, as it is often charged separately by cemetery operators), a price for an interment right, and the CCNSW interment service levy. Figure 6.2 shows total estimated efficient cost-reflective prices for a basic adult lawn burial at the largest cemeteries operated by each of the Crown operators, and compares our modelled prices to actual Crown cemetery prices for the sum of the cheapest lawn interment right, burial and CCNSW first interment levy published on their websites.

While there is some uncertainty around the accuracy of cost information provided by the Crown operators, our analysis shows that prices for Crown cemeteries are around 60% to 160% higher than our estimate of an efficient cost-reflective price for a basic adult lawn burial.⁶⁹ This indicates that if the Crown operators reduced their costs to efficient levels (and there were no other changes to their operating environment), we would expect to see substantially lower prices for a basic adult lawn burial.

As discussed in Section 6.2.5, we have modelled two scenarios for CMCT: the first scenario (dark blue bar) shows an efficient cost-reflective price of around \$4,200, based on \$143 million of perpetual maintenance funds stated in CMCT's annual report. The second scenario (light grey bar) shows an efficient cost-reflective price of around \$7,000 based on \$100 million of perpetual maintenance funds, based on CMCT's supplementary submission to our Draft Report. Both scenarios indicate that CMCT's actual price (around \$9,400) for a basic adult lawn burial is higher than our modelled efficient cost-reflective price. The large difference between the two modelled prices highlights that indicative prices are sensitive to the input data used. It also emphasises the importance of cemeteries obtaining up-to-date expert advice on an appropriate level of perpetual maintenance funding, to ensure that cemeteries do not over-recover (or under-recover) perpetual maintenance costs from future prices. If IPART was to regulate prices, we would independently verify the appropriate level of perpetual maintenance funding.

Figure 6.2 Estimated efficient cost-reflective prices (\$2019-20) for a Basic Adult Lawn Burial compared to actual current Crown cemetery prices for a lawn interment right + burial + interment levy (ex GST)



Notes: Section 6.2 explains our approach to modelling efficient cost-reflective prices for a Basic Adult Lawn Burial.

Actual Crown cemetery prices are based on prices that are displayed on Crown cemetery websites as at August 2020. The Crown cemetery operators appear to change their prices at different times. As a result, prices for each of the Crown cemeteries displayed in this chart may not align with the 2019-20 financial year.

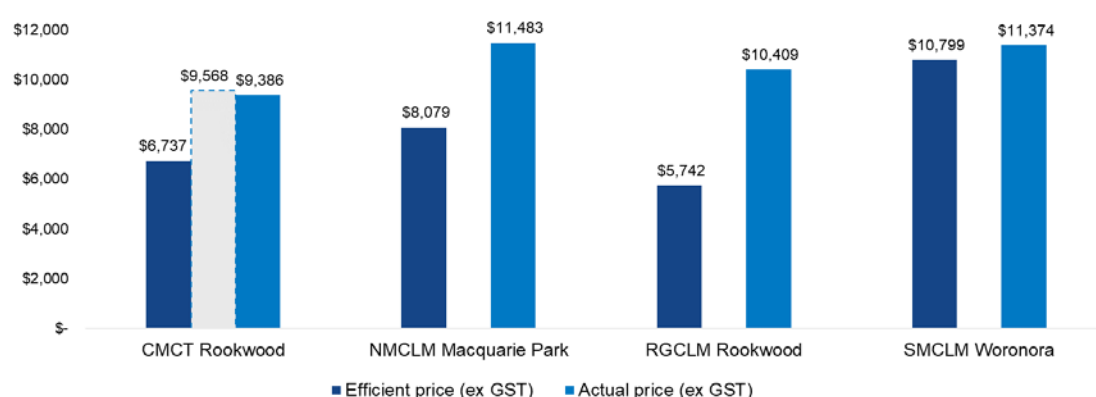
Estimated efficient cost-reflective prices have changed from our Draft Report. This is because we have removed our estimate for land value from this price as we only included cost components that the Crown operators currently face, and not those which would result from our recommendations, and have updated the balance of CMCT's perpetual maintenance funds.

Data source: IPART, Deloitte Access Economics, *Efficient costs of interment services*.

⁶⁹ Modelled efficient cost-reflective prices have changed from our Draft Report. This is because we have removed our estimate for land value from this price as we only included cost components that the Crown operators currently face, and not those which would result from the recommendations in this report.

The large difference between our estimates of efficient cost-reflective prices and actual prices is sufficient evidence to suggest that competition in the market for body interment is not working to constrain prices to a level that reflects efficient costs. We tested this finding by undertaking sensitivity analysis on the level of efficient costs. For example, we increased maintenance, overheads and site development by 20% (shown in Figure 6.3). Under this scenario current prices still substantially exceed these higher costs, with the exception of modelled prices under CMCT's second scenario (which assumes that it has \$100 million in perpetual maintenance funds). For this scenario (light grey bar), the 20% increase in costs shows that CMCT's current price is similar to our modelled efficient cost-reflective price.

Figure 6.3 Estimated cost-reflective prices (\$2019-20) for a Basic Adult Lawn Burial, based on efficient cost + 20%, compared to actual current Crown cemetery prices for a lawn interment right + burial + interment levy (ex GST)



Notes: We increased Deloitte's estimates for maintenance, overheads and site development costs by 20%. We did not adjust the costs of the burial.

Modelled efficient cost-reflective prices have changed from our Draft Report. This is because we have removed our estimate for land value from this price as we only included cost components that the Crown operators currently face, and not those which would result from the recommendations.

Actual Crown cemetery prices are based on prices that are displayed on Crown cemetery websites as at August 2020. The Crown cemetery operators appear to change their prices at different times. As a result, prices for each of the Crown cemeteries displayed in this chart may not align with the 2019-20 financial year.

Data source: IPART, Deloitte Access Economics, *Efficient costs of interment services*.

IPART finding:

- 8 Evidence suggests that prices for a basic adult lawn burial at the Sydney Metropolitan Crown cemeteries are higher than efficient cost-reflective prices.

6.5 Prices for different cultural and faith sections within a cemetery vary considerably

As discussed in Chapter 2, many cemeteries provide cemetery sections for a range of cultural and faith-based groups; we have found that prices for interment services can vary substantially between sections. For example, we examined prices at Rookwood Cemetery and found that prices vary from:

- ▼ Around \$9,000 in the Islamic 7 and 8 section to around \$18,200 in the Macedonian Lawn 1 section (see Figure 6.4)
- ▼ Around \$9,300 in the Catholic monumental section to around \$41,300 in the Chinese 9, 9A and 11, Chinese Garden Estate and Imperial Garden Estate 1 and 2 sections (see Figure 6.5).

As discussed in Chapter 3, Deloitte concluded that the additional costs of cultural and faith-based requirements were likely to be immaterial for the interment right.

However, Deloitte found that the efficient costs of cultural and faith-based requirements could add 30% to 58% to the costs of the burial.⁷⁰

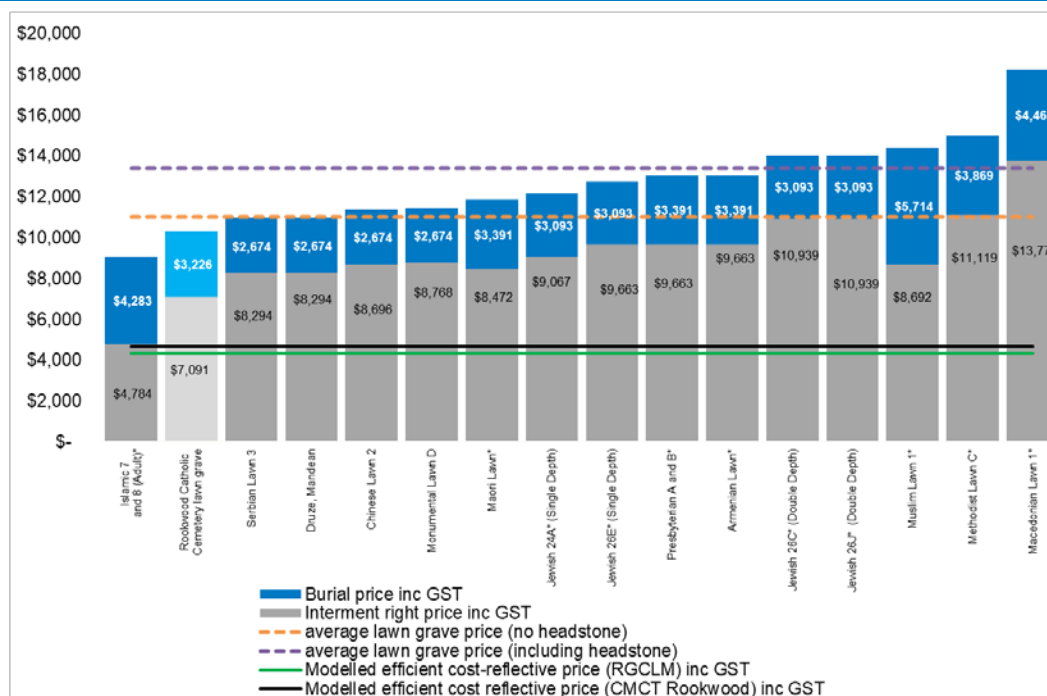
Figure 6.4 compares prices charged at Rookwood Cemetery for basic adult lawn burials (interment right and burial) for different cultural and faith-based sections to our estimate of an efficient cost reflective price. We found that actual prices are substantially higher than our modelled efficient cost-reflective prices. We have estimated an efficient cost-reflective price for a basic adult lawn burial at Rookwood General Cemetery (including the additional costs of any cultural and faith-based requirements for the burial component) to be around \$4,300. The average lawn grave price at Rookwood (excluding a headstone) across each of the different cultural and faith-based sections is currently around \$11,000. As a consequence, in line with finding 8, we consider that there is considerable scope for prices in these sections to be substantially lower, if the cost efficiencies that we have identified are realised.

However, it is important to note that it is not clear if the prices in these sections are reflective of a higher standard of service (for example, a higher standard of grounds maintenance).

Because Deloitte did not estimate the efficient costs of a monumental lawn grave, we have not compared the Rookwood monumental lawn grave prices (shown in Figure 6.5) to Deloitte's efficient cost estimates.

⁷⁰ Deloitte, Efficient costs of Interment services, p v.

Figure 6.4 Rookwood adult lawn grave prices for different cultural and faith-based requirements compared to efficient cost-reflective prices (inc GST)

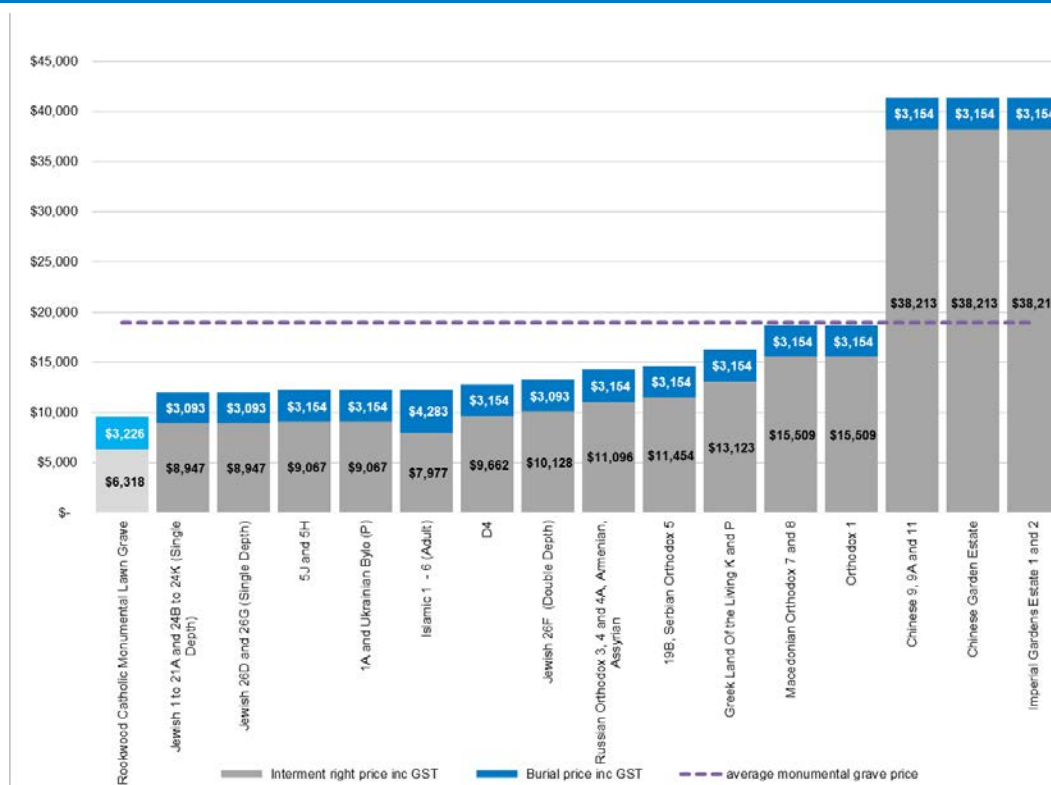


Note: Deloitte's efficient cost estimates do not include the cost of a headstone.

Actual Crown cemetery prices are based on prices that are displayed on Crown cemetery websites as at August 2020. The Crown cemetery operators appear to change their prices at different times. As a result, prices for each of the Crown cemeteries displayed in this chart may not align with the 2019-20 financial year.

Data source: Rookwood General Cemetery, [Fees for in-ground interment](#), and Catholic Cemeteries and Crematoria, [Product and service guide 2020-2021](#), both accessed 18 November 2020. Deloitte Access Economics, *Efficient costs of interment services*.

Figure 6.5 Rookwood monumental lawn grave prices for different cultural and faith-based groups (inc GST)



Notes: Deloitte did not estimate the efficient costs of providing a monumental lawn grave so we have not modelled efficient cost-reflective prices for this product.

Actual Crown cemetery prices are based on prices that are displayed on Crown cemetery websites as at August 2020. The Crown cemetery operators appear to change their prices at different times. As a result, prices for each of the Crown cemeteries displayed in this chart may not align with the 2019-20 financial year.

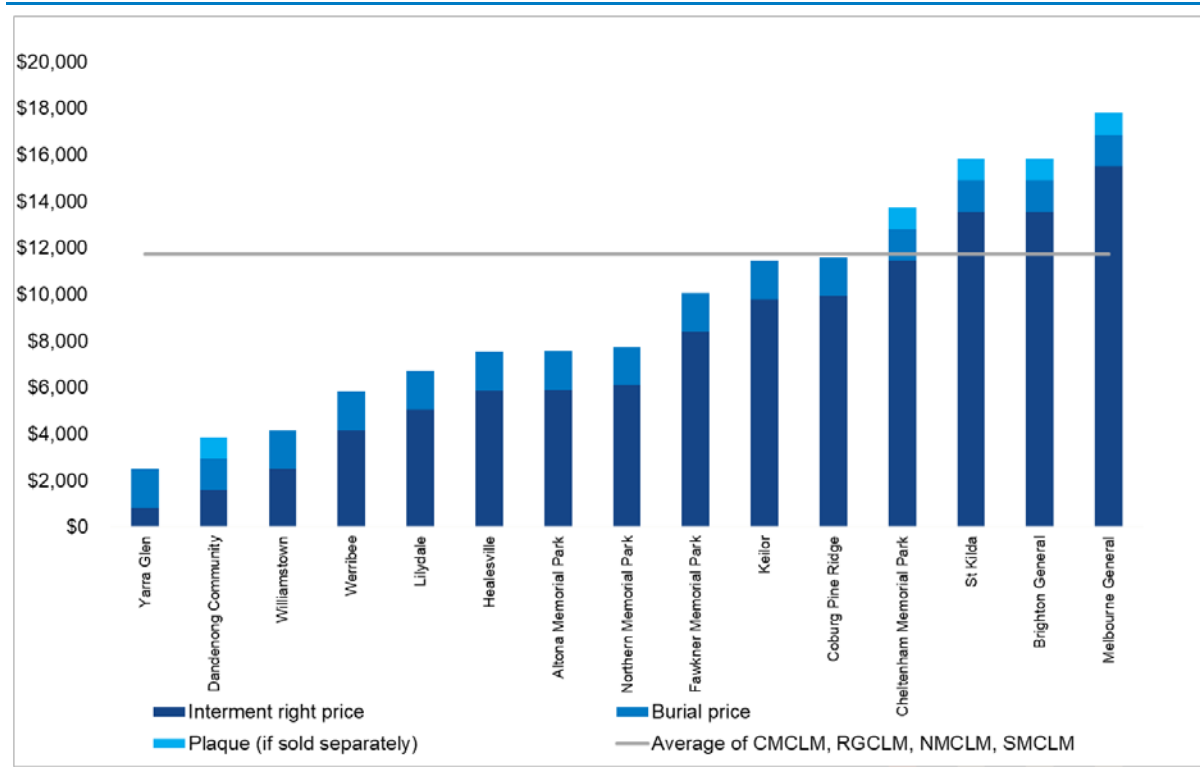
Data source: Rookwood General Cemetery, [Fees for in-ground interment](#), and Catholic Cemeteries and Crematoria, [Product and service guide 2020-2021](#), both accessed 18 November 2020.

6.6 Comparison of Sydney Crown cemetery prices to Melbourne cemetery prices

To understand how the Sydney Crown cemetery prices compare to prices in other jurisdictions, we examined prices for a basic adult lawn burial at a range of Melbourne cemeteries (see Figure 6.6). We found that Melbourne cemetery prices vary considerably, but that it is cheaper to buy a basic adult lawn burial at 11 of 15 Melbourne cemeteries, when compared to the average actual price of the four Sydney metropolitan Crown cemeteries (Rookwood General, Rookwood Catholic Cemetery, Northern Macquarie Park and Southern Woronora).

We also found that interment service (burial) fees across the Melbourne cemeteries ranged from \$1,350 to \$1,660, which are much more closely aligned to our estimated efficient cost-reflective price for a burial. While we would expect some difference in underlying costs for Melbourne cemeteries (in particular land value), we consider that benchmarking provides insights into relative efficiencies between the Sydney Crown cemeteries and Melbourne cemeteries.

Figure 6.6 Basic adult lawn burial - average Sydney Crown cemetery operator price compared to Melbourne cemetery prices (inc GST)



Note: Some cemeteries sell the plaque separately while some include the plaque with the interment right.

Data source: Melbourne cemetery operator websites, accessed 23 August 2020. Deloitte Access Economics, *Efficient costs of interment services*, IPART analysis.

The Jewish Board of Deputies and Lebanese Muslim Association submitted to our Draft Report that:

We observe that the draft report does not include comparable prices for Jewish burial in Melbourne... In Sydney metropolitan cemeteries, the range of prices (not including government levies) for a single Jewish grave is from \$11,180 to \$19,160 per person and for a double its \$7,669 to \$8,717 per person. In Melbourne for a single grave the equivalent is range of \$3,465 to \$4,050. This falls below the lower end of that which the draft report describes as the efficient cost. That may be because costs are less in Melbourne. However, the gap between the highest price there of \$4,050 and the lowest equivalent price here of \$11,180, cannot be justified.

Jewish Board of Deputies and Lebanese Muslim Association also submitted that Muslim interment charges in Melbourne on average are \$5,100 to \$7,800 (depending on proximity to the CBD), and that the burial cost per Muslim person in Melbourne is much less than in Sydney.⁷¹

As shown in Figure 6.4, Rookwood General Cemetery offers tailored products for at least 10 different cultural and faith-based groups. While we have compared actual prices at four of the Crown cemeteries for a basic adult lawn burial with prices in Melbourne for a basic adult burial; we have not undertaken a similar comparison exercise for prices paid by each of the different cultural and faith-based groups.

⁷¹ NSW Jewish Board of Deputies and Lebanese Muslim Association submission to IPART Draft Report, October 2020, pp 3-4.

In Section 6.5 we concluded that after taking into account the efficient costs of meeting any cultural and faith-based requirements, current Crown cemetery prices are considerably higher than modelled efficient cost-reflective prices (shown in Figure 6.4). We consider that this is sufficient evidence to suggest that efficient cost-reflective prices for these cultural and faith-based products are lower than current prices, and that comparing prices between Melbourne and Sydney cemeteries also supports that Sydney prices are high. The Jewish Board of Deputies and the Lebanese Muslim Association have provided additional points of comparison that demonstrate the same relationship between Sydney and Melbourne prices.

7 Governance framework

Our findings on costs, prices, legacy costs, and the role of competition in the cemetery sector, as set out in the previous chapters of this report, have led us to the conclusion that governance reform is required to achieve the outcomes of more efficient costs, more affordable prices and long-term financial sustainability for cemeteries.

This chapter sets out our analysis and findings on the need for governance reform, including price regulation.

The following chapters set out our recommendations on the form of the governance framework, as well as other recommendations to improve the efficiency of costs, transparency and affordability of prices, and the long-term financial sustainability of cemeteries.

7.1 Overview of findings

Considering our previous findings about the muted role for competition in driving cost and pricing improvements in the cemeteries sector, we now find that governance reform via an interment industry scheme⁷² ('industry scheme') and mandatory Codes of Practice is required to drive efficiency, affordability, transparency, financial sustainability and choice in interments. Governance reform is also required to source land for new cemetery development in Sydney.

We also find that some price regulation is required to ensure that people can access an affordable, cost-reflective interment.

7.2 Customer choice in the cemetery sector is different from customer choice in many other markets

In many markets, competition between service providers combined with customer choice is a key mechanism that works to keep costs and prices low. For instance, if one operator can provide a higher-quality service at a lower cost (and therefore price) than another operator, they will attract more customers. Competition and customer choice can also drive innovation and variety in service offering. Many cemeteries provide a range of cremation, interment and memorialisation options at different price points. It is possible to choose not to use a cemetery's services at all, by choosing cremation without interment of ashes.

However, there are several reasons why customer choice operates differently in the cemetery industry from many other industries.

⁷² An interment industry scheme is defined under s 31 of the CC Act.

The first reason is that people often strongly prefer to be interred in a particular cemetery, either because it is close to their family and community, or because of a religious affiliation. Price usually plays a less important role in this choice.

Secondly, the choice of cremation or interment is strongly influenced by religion and culture.

Thirdly, 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. And interment rights are often purchased through an intermediary, the funeral director, so the relationship between the cemetery providing the services and the customer purchasing is somewhat indirect.

On the other hand, interment rights can also be purchased ‘pre-need’, when customers may have a greater capacity to shop around.

7.3 The life cycle of a cemetery affects market structure

Cemeteries are extremely long-lived assets. In fact, they must be maintained in perpetuity when they contain perpetual interments. Furthermore, the approach to developing new cemeteries is to develop large parcels of land infrequently, so the period of time between opening a cemetery and it reaching capacity generally lasts decades if not centuries.

The stream of costs and revenues for cemeteries also changes over the cemetery’s life cycle:

- ▼ There is generally only one revenue point for an interment, or sometimes two, if an interment right is purchased pre-need.
- ▼ Costs are incurred from the point that land is purchased for a cemetery and then costs are ongoing into perpetuity. Many of those costs are indirect costs that need to be shared by all interments, and not directly incurred by a specific interment.
- ▼ Once a cemetery is fully utilised, there are no opportunities for interment revenue, only interment costs.

Cemetery governance can also lead to inappropriate price outcomes that cannot be addressed through competition between cemeteries. Cemetery operators are not currently required to make financial provision for perpetual maintenance after a cemetery is closed. Some may be able to subsidise cemetery operations from other sources, such as rate income for local government operators. Others may find themselves financially unable to maintain a cemetery to standards expected by the community once it is closed to new burials.

Some existing cemeteries, particularly those which are close to capacity, may have significant unfunded liabilities for future maintenance.⁷³ The perpetual nature of cemeteries and the mismatch of revenues and costs means that the failure of a particular operator and its departure from the market is problematic unless it has been required to make provision for future costs.

⁷³ For example, PWC, *Rookwood Cemetery: future governance arrangements*, February 2018, pp7-10; Catholic Metropolitan Cemeteries Trust, Submission to Issues Paper, July 2019, p 2.

7.4 Regulatory reform is needed to drive efficiency and ensure financial sustainability for cemeteries

We made the findings on customer choice and market structure in our Interim Report, and subsequently found, as set out in Chapter 4, that the extent of legacy costs across cemeteries in NSW presents a significant financial risk for the future if cemeteries do not make adequate provision for them now.

As a result, we made a draft finding that regulatory reform is required to drive efficiency, affordability, transparency, financial sustainability and choice in interments.

We did not receive any public submissions that commented directly on this draft finding, although LGNSW submitted that “additional requirements proposed for council cemeteries, particularly for a licensing scheme and financial management for perpetual maintenance ... are not justified. Certain draft recommendations do not align with the Better Regulation Principles, and create additional regulation in the absence of evidence or demonstrated need.”⁷⁴

Our findings about the muted role of competition and the evidence of the extent of financial risk do, on balance, provide sufficient support for regulatory reform. In addition, the regulatory reform we recommend is within an existing framework for an industry scheme with mandatory codes of practice. The framework was established in the CC Act and intended to have been developed within five years of assent to the Act.⁷⁵ However, to date, no industry scheme has been established and only two voluntary codes of practice published.

IPART finding

- 9 While there is some competition between interment service providers, which is strongest in **cremation and ashes interment**, the unique characteristics of the market for **body interments** are such that regulatory reform is needed to drive efficiency, affordability, transparency, financial sustainability and choice via improved governance rather than competition.

Improved governance could be achieved through developing an industry scheme with mandatory codes of practice, and Chapter 8 sets out our recommendations for the elements of this industry scheme. Chapter 8 also sets out our recommendations for improving the arrangements for planning, sourcing and acquiring land for new cemeteries.

⁷⁴ LGNSW submission to IPART Draft Report, October 2020, p 5.

⁷⁵ CC Act, s 29(2).

7.5 Price regulation is needed to ensure access to affordable burial rights

The need for price regulation, and the form that it should take, depends on the market structure of an industry. Market structure helps us to understand what factors influence participants to:

- ▼ Seek the most efficient costs
- ▼ Take account of all the costs they should be recovering
- ▼ Set efficient and affordable prices.

As discussed above, we found that competition does not operate to provide sufficient pressure on prices for body interment rights, or on cemetery operators to be more efficient in providing those rights.

While we initially concluded in our Interim Report that, on the whole, prescriptive price regulation is not warranted, we subsequently found that:

- ▼ Crown cemetery operators have considerable scope to be more efficient in delivering interment rights
- ▼ Crown cemetery prices are higher than modelled efficient prices.

We therefore found in our Draft Report that there is a need for maximum price regulation for Crown cemetery operators. We did not make findings on the efficiency of council or private operators' costs, due to a lack of data, but we recommended in our Draft Report that a mechanism should be available to regulate their maximum prices too, if evidence is found to support this.

We did not receive any submissions that commented on this finding in our Draft Report, but several made comments on the related recommendations. We discuss these comments and our responses in Chapter 10.

IPART finding

- 10 Based on our previous findings that the body interment service market is not workably competitive, that the metropolitan Crown operators have inefficient costs, and that the prices being charged by metropolitan Crown operators are higher than modelled efficient prices, we consider that price regulation is required to ensure that people can access an affordable, cost-reflective interment.

Chapter 10 sets out our recommendations for price regulation, as well as other recommendations regarding price transparency. Price transparency is a form of 'competition by comparison' that can help put downward pressure on prices, as well as drive innovation in service offerings (e.g. natural burials, renewable tenure rights) and help consumers understand the choices available to them.

8 Governance framework – the way forward

The governance framework for cemeteries is largely provided by the *Cemeteries and Crematoria Act 2013* (CC Act). Its provisions include mechanisms for improved governance of and guidance for the cemetery industry, through codes of practice and an interment industry scheme (“industry scheme”) that would be monitored and enforced by CCNSW, the industry regulator.

As set out in Chapter 7, we have found that governance reform via an industry scheme is necessary to drive efficiency, affordability, transparency, financial sustainability and choice in interment services.

This chapter sets out our final recommendations for the framework of an industry scheme, and some of the elements that should be included in it. It also sets out our final recommendations for improved governance of planning, selection and purchase of land for new cemeteries.

8.1 Overview of recommendations

The CC Act already provides for improved governance of and guidance for the cemetery industry, through mandatory codes of practice and an industry scheme. However, to date, no industry scheme has been established and only two (voluntary) codes of practice have been published.

Stakeholders had mixed views about the need to improve the governance framework for the cemetery industry by establishing an industry scheme. After considering these views, our position is that the existing regulation of the cemetery industry is not adequate and increased regulatory controls are needed for:

- ▼ Perpetual maintenance funding to ensure provisions are adequate
- ▼ Cemetery maintenance, including specification of minimum standards of maintenance
- ▼ Interment right contracts, including standard terms and conditions
- ▼ Minimum interment requirements for particular faith, cultural and indigenous communities
- ▼ Provision of a basic lawn burial interment right at a minimum standard of maintenance.

Therefore, we maintain our recommendation that CCNSW develop an industry scheme under the CC Act, incorporating mandatory codes of practice, and an operating licence for those cemetery operators that meet an activity level threshold. A summary of our recommendations by type of cemetery operator is in Appendix D.

While maintaining that the industry scheme should be funded through extending the interment service levy to all cemetery operators, we now recommend it be set on a per service basis, rather than as a percentage of operator revenue.

An industry scheme is not the appropriate mechanism to drive land acquisition reforms; we recommend that the NSW Government be responsible for identifying, and funding acquiring land for new cemeteries in Metropolitan Sydney as part of an integrated and coordinated whole of government land use planning process. We recommend the Property and Housing Group within DPIE be responsible for acquiring land for new cemeteries.

We recommend that the Property and Housing Group within DPIE also assist with purchasing land for cemeteries outside Sydney on request from the local council or other cemetery operator, or as part of regional planning by the NSW Government.

We also recommend that the operation of these new cemeteries be tendered and assessed using competitively neutral criteria, with the successful tenderer required to operate the cemetery subject to an operating licence and pay rent to the NSW Government, to offset the purchase cost. These recommendations are unchanged from our Draft Report.

8.2 The CC Act already provides a framework for improving governance of the interment industry

The CC Act already makes provision for improved governance of and guidance for the interment industry, through mandatory codes of practice and an industry scheme. This framework gives considerable flexibility as to the design and content of an industry scheme. Box 8.1 sets out a summary of the provisions in the Act for establishing industry schemes.

Box 8.1 Provisions for establishing interment industry schemes

The CC Act provides that the regulations may establish schemes with respect to the interment industry (interment industry schemes). The regulations may make provision for, among other things:

- ▼ Requiring compliance with any or all the provisions of a code of practice (a mandatory code of practice)
- ▼ Requiring an operator of a cemetery to ensure adequate provision is made for perpetual care of interment sites and the cemetery
- ▼ Requiring the licensing of any activity, person, business, premises, vehicles or equipment in relation to the provision of interment services
- ▼ The imposition of conditions of licences
- ▼ The suspension or cancellation of licences
- ▼ Appeals or reviews, by courts, tribunals and other bodies or persons of decisions made in relation to licences or applications for the granting of licences.
- ▼ Setting fees and charges that are necessary for the funding of the scheme.

Source: *Cemeteries and Crematoria Act 2013*, Part 3.

Independently of an industry scheme, CCNSW may develop **voluntary** codes of practice that provide guidance on any interment matters.⁷⁶ To date, CCNSW has developed voluntary codes of practice on interment rights and general services (2018) and on cemetery maintenance (2020). An industry scheme can make some or all of the provisions of a code of practice mandatory. The CC Act envisaged CCNSW developing codes of practice during its first five years of operation that would then serve as a basis for an enforceable industry scheme, to be established by regulation.⁷⁷

An interment industry scheme can (but does not have to) include the licensing of any activity, business or premises in relation to the provision of interment services. Interment service activities are not currently subject to any form of licensing.

An industry scheme must be established by regulation and the Minister must consult with the interment industry and other relevant stakeholders. A Regulatory Impact Statement must also be prepared.⁷⁸ Once an industry scheme is established, the CC Act provides for CCNSW to monitor and enforce compliance with any requirements of the scheme.

The interment industry scheme framework has the capacity to cover much broader issues than the cost and pricing factors we have considered during our review. The statutory review of the *Cemeteries and Crematoria Act 2013* is likely to make recommendations which will also be implemented via an interment industry scheme, and we make our recommendations on the basis that they will be compatible with and complementary to other elements of the interment industry scheme, and we do not intend or expect them to be exhaustive.

8.3 An industry scheme to include mandatory codes of practice for all cemetery operators and licensing of some operators

In our Draft Report we recommended that CCNSW develop an interment industry scheme under the *Cemeteries and Crematoria Act 2013*. This industry scheme includes mandatory codes of practice that would apply to all cemetery operators and licensing of some larger cemetery operators that meet an activity level threshold.

Mandatory codes of practice are to ensure that minimum standards and consistent practices are applied across the interment industry. The areas to be included:

- ▼ Cemetery maintenance, including specification of minimum standards of maintenance
- ▼ Interment right contracts, including standard terms and conditions
- ▼ Minimum interment requirements for particular faith, cultural and indigenous communities

⁷⁶ CC Act, s 28, s 29.

⁷⁷ CC Act, s 29(2).

⁷⁸ CC Act, s 32.

The **licensing** of some cemetery operators would capture those operators that represent the greatest financial risk and customer detriment. Licensed operators would be required to:

- ▼ Manage their perpetual maintenance of interment sites and cemeteries to ensure adequate provision is made.
- ▼ Provide a basic adult lawn interment right, at a minimum standard of maintenance
- ▼ Develop renewable tenure products.

In addition, licence conditions *may*:

- ▼ Specify which basic services (for particular faiths, community and indigenous groups) an operator must provide by reference to those defined in a Code of Practice
- ▼ Require a cemetery to increase the density of interments via more land-efficient practices such as cemetery renewal, geotechnical mapping, and low-cost mausolea.

We are proposing different levels of regulation, consisting of mandatory codes of practice to be applied across the whole industry to ensure minimum standards and more consistent practices, and the licensing of some operators that represent the greatest financial risk or customer detriment. We consider that licensing provides a degree of flexibility as it allows for conditions to be tailored for individual cemetery operators, where increased regulatory controls are needed.

Stakeholders had mixed views on establishing an industry scheme

Stakeholder submissions ranged from support for an industry scheme to opposing it as a heavy-handed and inflexible approach to regulation.

Local Government NSW considers that the proposed regulatory framework seeks to impose a one size fits all approach which will be heavy handed and costly to administer, particularly when applied to council-operated cemeteries.⁷⁹ In the absence of demonstrated need, LGNSW does not support an industry scheme composed of mandatory codes of practice and licences, as it argues that such a scheme is likely to increase costs of interment for no clear benefit.⁸⁰

Some council cemetery operators support an industry scheme in principle or provided qualified support for one. Waverley Council provides in principle support for standards and industry advisory codes, but notes that the proposed regulatory framework adds a further layer of complexity that could be costly to administer, particularly when applied to small crown Land Cemeteries managed by Local Councils in Regional and Rural NSW. Further, Council-run cemeteries are already covered by the existing regulatory and financial oversight of local government in NSW.⁸¹

⁷⁹ LGNSW submission to IPART Draft Report, October 2020, p 4.

⁸⁰ LGNSW submission to IPART Draft Report, October 2020, pp 3-4.

⁸¹ Waverley Council submission to IPART Draft Report, October 2020, pp 1, 3.

Shoalhaven City Council considers that flexibility in applying a scheme is essential to acknowledge existing regulatory controls under which Local Governments operate.⁸² Northern Beaches Council argues that an interment industry scheme composed of codes of practice and a sensible licencing model, (such as one that would only apply to private operators) would ensure consumer protection and would raise the general standard of operation of the interment industry.⁸³

The interment industry in NSW is diverse in terms of the types and size of operators and we have considered how to regulate it in a way that is consistent and equitable. Cemetery operators are subject to different regulatory environments depending on the type of operator. For example, councils are subject to the *Local Government Act 1993* and private cemetery operators are subject to Corporations Law. However, we consider that the current regulation of cemeteries is not sufficient to address the key areas identified in this report including managing and funding perpetual maintenance of cemeteries, setting maintenance standards for cemeteries, and measures to protect consumers.

As discussed above, we recommend an industry scheme consisting of mandatory codes of practice for all operators and licensing of select operators that represent the greatest risks of failure. While we are proposing the mechanisms by which the elements are included in an industry scheme, i.e. codes of practice, or licence conditions, we note that there are numerous ways in which an industry scheme could be constructed to achieve the same outcomes, and would expect those details to be finalised during consultation on the scheme.

We have considered the costs and benefits associated with our proposed industry scheme. In our view there are significant benefits from managing the financial risk associated with the perpetual maintenance of cemeteries. We estimate that there is around \$1.7 billion in legacy costs across cemeteries in NSW and the extent of these costs present a significant financial risk if cemeteries do not make adequate provision for them now (see Chapter 4). There are also community benefits of an industry scheme in ensuring basic interment services can be provided at an affordable price and that information about interments can be easily accessed. We consider there will be other benefits (such as standardising and improving business practices) from the provision of guidance materials such as codes of practice on maintenance, contracts and pricing.

However, there will be costs to cemetery operators in complying with the requirements of an industry scheme as well as costs to Government in developing the scheme and funding the regulator CCNSW. We have suggested ways of minimising the costs to cemetery operators by using a risk based approach where requirements will only apply to operators via a licence where they meet an activity level threshold. Ultimately, the design of an industry scheme is a matter for the government and the further analysis of costs and benefits would be undertaken as part of a Regulatory Impact Statement, which is required in developing a regulation for an industry scheme.⁸⁴

⁸² Shoalhaven City Council submission to IPART Draft Report, October 2020, p 2.

⁸³ Northern Beaches Council submission to IPART Draft Report, October 2020, p 1.

⁸⁴ CC Act, s 32.

Submissions have requested that there be close consultation with stakeholders during the development of an industry scheme.⁸⁵ We agree that consultation with the interment industry is important and we note that the CC Act requires stakeholder consultation on a regulation to establish an industry scheme.⁸⁶

Recommendation

- 1 That CCNSW develop an interment industry scheme under the *Cemeteries and Crematoria Act 2013*.

In our Interim Report, we recommended a threshold for cemetery operators to contribute to an independently managed perpetual maintenance reserve fund to provide for long-term cemetery maintenance. This threshold was defined as those cemetery operators that conduct more than 50 body interments in new perpetual interment sites per year at a cemetery.⁸⁷ This threshold was set to capture the large cemetery operators where the risks of failure to provide for perpetual maintenance are the greatest.

In our Draft Report we decided not to recommend a specific licensing threshold for cemetery operators. This was because the activity levels of cemetery operators (and cemeteries) vary over time and those operators that are close to the threshold for licensing could go under or over it in a given year. This could potentially result in a situation where licensed operators are then not required to be licensed (or vice versa). Another factor to consider when setting a licensing threshold is a measure of the number of interment sites that have already been sold at a cemetery. This is because cemetery operators (and cemeteries) may have had significant activity levels in the past but current activity levels may be low and therefore they do not meet an activity threshold for licensing.

In our Draft Report we suggested that an industry scheme could include a mechanism for CCNSW (or the Minister) to declare which cemetery operators should be licensed having regard to criteria, for example:

- ▼ The objects of the CC Act
- ▼ The size or scale of the operations of the cemetery operator
- ▼ The services provided, or to be provided, by the cemetery operator
- ▼ The communities served, or to be served, by the cemetery operator.

We note that this type of mechanism is used in Victoria in the *Cemeteries and Crematoria Act 2003* (Vic) to allow the Minister to declare cemetery trusts as either the large cemetery operators (Class A) or the smaller operators (Class B).⁸⁸

⁸⁵ For example, Rookwood General Cemetery submission to IPART Draft Report, p 2.

⁸⁶ CC Act, s 32.

⁸⁷ IPART, Review of interment costs and pricing, Interim Report, December 2019, p 52.

⁸⁸ *Cemeteries and Crematoria Act 2003* (Vic), s 9A.

Stakeholders had a mixed of views about licensing cemetery operators

In their submission to the Draft Report, the NSW Jewish Board of Deputies and Lebanese Muslim Association suggest that all cemetery operators should be licensed, but smaller operators would have fewer conditions to comply with.⁸⁹ We don't agree that all cemetery operators should be licensed as this would result in administrative costs on a number of small and medium sized cemetery operators including many council, church and community operators. We consider that a better approach is for licensing to target those cemetery operators which represent the greatest risk, such as the risk of failure to provide for perpetual maintenance.

LGNSW's position is that the additional requirements proposed for council cemeteries, particularly for a licensing scheme and financial management for perpetual maintenance, are not justified (such as no demonstrated examples of closed cemeteries being abandoned due to costs).⁹⁰ Further, by recommending that the more onerous interment industry scheme and operating licence be imposed on all operators (rather than just Crown-operated cemeteries), LGNSW consider that it would disadvantage council-operated cemeteries, which would find themselves subject to duplicative and burdensome regulation, reporting and oversight, breaching the principle of competitive neutrality.⁹¹

In our view, the *Local Government Act 1993* does not expressly impose a financial obligation on councils regarding the perpetual maintenance of their cemeteries. We are also aware that most council cemetery operators do not report on the size of their liabilities for the perpetual maintenance of their cemeteries nor do they have transparent arrangements to fund these liabilities (see Finding 4 in Section 4.2).

In this context, we consider that additional requirements for the perpetual maintenance of council cemeteries that meet an activity level threshold can be justified based on the risk that the provisions will be inadequate to maintain the cemetery once it is closed to burials. These requirements would also apply to other types of cemetery operators (ie. Crown and Private operators that meet the activity level threshold) so all operators would be treated in the same way. Therefore, council operators would not be disadvantaged nor would the principle of competitive neutrality be breached.

Cessnock City Council sought clarification on the threshold for requiring cemetery operators to have a licence as it operates 10 cemeteries with varying interment rates.⁹² We consider that the detail of a licensing threshold would be a matter for the government to consult on as part of developing an industry scheme via a regulation.

⁸⁹ NSW Jewish Board of Deputies and Lebanese Muslim Association submission to IPART Draft Report, October 2020, p 5.

⁹⁰ LGNSW submission to IPART Draft Report, October 2020, p 5.

⁹¹ LGNSW submission to IPART Draft Report, October 2020, p 3-4.

⁹² Cessnock City Council submission to IPART Draft Report, October 2020, p 1.

Cemeteries and Crematoria Association of NSW (CCANSW) recommend that crematorium operators and their facilities be defined as included within IPART's definition of 'cemetery operators'. This is to ensure transparency with the Act and consistency in the application and the interpretation of IPART's recommendations.⁹³ CCANSW also recommends that alkaline hydrolysis providers be required to obtain an operating licence and be subject to the same regulation as other interment and cremation service providers.⁹⁴

Our proposed licensing framework focuses on those cemetery operators that conduct body interments. This reflects the scope of our review to investigate the interment costs and the pricing of interment rights within the interment industry. However, we note that the interment industry is broadly defined under the CC Act and that cemetery operators can include a crematorium operator.⁹⁵

Given the scope of our review and investigations, we are not proposing to include crematorium operators or alkaline hydrolysis providers in our recommended licensing scheme. However, we consider that the Government could include these types of operators when developing an industry scheme under the CC Act.

Recommendation

- 2 That the industry scheme introduce an operating licence for cemetery operators which meet an activity level threshold.

8.3.2 The industry scheme should include licence requirements to ensure adequate provision for the perpetual maintenance of cemeteries

As discussed in Chapter 11, we consider there is significant financial risk if cemetery operators do not adequately fund the perpetual maintenance of their cemeteries. Currently there is no legal requirement for a cemetery operator to set up a perpetual maintenance fund, or requirements or guidelines on how such a fund should be invested or what it can be used for. Nor are cemetery operators required to assess or report on their perpetual maintenance liabilities.

We are concerned that unless the regulatory and prudential framework is strengthened, there is a risk that the cemetery operator's provisions will be inadequate to maintain the cemetery once it is closed to burials or the cemetery operator decides not to maintain a cemetery when current costs exceed revenues.

In Chapter 11 we recommend that large cemetery operators should be required to maintain a perpetual maintenance fund, obtain independent advice on perpetual maintenance liabilities and prepare a transition plan to deal with legacy perpetual maintenance costs. We consider that these perpetual maintenance requirements should be included in a licence for those cemetery operators that meet an activity level threshold.

⁹³ Cemeteries and Crematoria Association of NSW submission to IPART Draft Report, October 2020, p 3.

⁹⁴ Cemeteries and Crematoria Association of NSW submission to IPART Draft Report, October 2020, p 3.

⁹⁵ CC Act, s 26 and s 4.

8.3.3 The industry scheme should include a mandatory code of practice on maintenance standards

The cost of perpetual maintenance for a cemetery operator will depend on the standard of maintenance being applied to the cemetery. Standards, whether minimum or otherwise, have never been prescribed for cemetery operators. Some, but not all, operators include a description of the maintenance standards in the terms and conditions of interment rights.

CCNSW has developed a voluntary Code of Practice for cemetery maintenance.⁹⁶ The code sets out best practice principles and provides guidance but it does not specify standards of maintenance.

While the voluntary Code of Practice is a helpful support document for cemetery operators, we consider that there is a need for minimum standards of maintenance to be specified and mandatory, so that cemetery operators can gain a better understanding of the minimum cost of their perpetual obligations, and to ensure that cemetery operators do not reduce the quality of their service below an acceptable minimum in an effort to lower costs.

In our Draft Report we recommended that CCNSW modify its Code of Practice for Cemetery Maintenance to include specification of minimum standards of maintenance for cemeteries. This specification should be made mandatory by the Industry Scheme.

Stakeholders generally support minimum standards for cemetery maintenance

In its submission LGNSW supports codified minimum standards of maintenance for cemeteries provided that:

- ▼ the standards are differentiated according to cemetery types, and
- ▼ Substantial consultation with cemetery operators, including local government is undertaken in developing the code.⁹⁷

We agree that minimum standards of maintenance are likely to differ between types of cemetery (e.g. rural/regional, metropolitan) and for levels of visitation (e.g. an active cemetery with daily burials or a heritage cemetery that is closed to burials). We consider that specification of minimum standards of maintenance reflecting the type of cemetery will assist cemeteries in understanding what is required to fund their perpetual maintenance obligations, as well as ensure that minimum standards are met.

Cessnock City Council is interested in understanding how maintenance standards would be calculated. They comment that levels of service for cemeteries across the state and even within some Local Government Areas vary significantly therefore setting a benchmark will require some analysis and engagement with operators and the community with regards to expectations.⁹⁸ We agree that these differences will need to be analysed by CCNSW in developing mandatory standards and they will need to consult on them.

⁹⁶ CCNSW, *Voluntary code of practice for cemetery maintenance*, February 2020, accessed 19 November 2020.

⁹⁷ LGNSW submission to IPART Draft Report, October 2020, p 5.

⁹⁸ Cessnock City Council submission to IPART Draft Report, October 2020, p 1.

At our public hearing stakeholders raised concerns about setting maintenance standards and the perpetual care of cemeteries. A common concern was the need to consider the cost of maintaining monuments that have become unsafe or unsightly over time. It was suggested that many operators have not factored these costs into past prices because it is the responsibility of the family to maintain monuments – however, over time, the monuments become the de facto responsibility of the cemetery operator when the rights holder cannot be located. Searching for the rights holders of historic monuments adds costs.⁹⁹

In their submissions to the Draft Report, Bega Valley Council and Smithfield Cemetery expressed similar concerns about how the responsibility for maintaining monuments shifts over time from the family to the cemetery operator.¹⁰⁰ Based on their experience, Smithfield Cemetery considers that it is not likely that families will be responsible for monument maintenance more than 50 years down the track, when the monuments have aged and families are hard to track down and also may be unwilling to contribute to maintenance.¹⁰¹ Bega Valley Council notes that many council operated cemeteries are full of conventional monuments and maintenance requirements are more intensive than lawn cemeteries.¹⁰²

We acknowledge that the maintenance of monuments in cemeteries is an issue that operators need to manage, particularly where they have a large proportion of monuments in their cemeteries. We agree that the mandatory code of practice for maintenance standards should include monuments as this will assist cemetery operators in understanding the maintenance costs of monuments and the funding of perpetual maintenance requirements.

Rookwood General Cemetery recommend that an actuarial report be produced on all perpetual funds, to ensure sufficient funds are available to sustain the mandatory levels of maintenance.¹⁰³ They note that as the maintenance levels affect the perpetual reserves, if mandatory standards of maintenance are implemented this could increase the level of perpetual reserves required. In terms of licensed cemetery operators, we consider that our recommendations in Chapter 11 on managing and funding perpetual maintenance would largely address this issue.

The NSW Jewish Board of Deputies and Lebanese Muslim Association comment that cemetery managers already comply with their respective religious requirements which do not contain multiple standards.¹⁰⁴ Further, they recommend more specific and immediate action such as a price fall should be mandated for standard products such as Jewish and Muslim burial products.¹⁰⁵ We maintain that minimum standards for cemetery maintenance are needed and in developing these standards stakeholders be consulted.

⁹⁹ Summary of [Interment Review public hearing](#).

¹⁰⁰ Bega Valley Council submission to IPART Draft Report, September 2020, p 2 and Smithfield Cemetery submission to IPART Draft Report, October 2020, p 1.

¹⁰¹ Smithfield Cemetery submission to IPART Draft Report, October 2020, p 1.

¹⁰² Bega Valley Council submission to IPART Draft Report, September 2020, p 2.

¹⁰³ Rookwood General Cemetery submission to IPART Draft Report, October 2020, p 2.

¹⁰⁴ NSW Jewish Board of Deputies and Lebanese Muslim Association submission to IPART Draft Report, October 2020, p 2.

¹⁰⁵ NSW Jewish Board of Deputies and Lebanese Muslim Association submission to IPART Draft Report, October 2020, p 3.

LGNSW supports principles of and guidance for sustainability being included within codes of practice.¹⁰⁶ We agree that it would be useful for sustainability to be included within codes of practice for the interment industry.

Recommendation

- 3 That CCNSW modify its Code of Practice for Cemetery Maintenance to include specification of minimum standards of maintenance for cemeteries. This specification should be made mandatory by the Industry Scheme.

8.3.4 The industry scheme should include a mandatory code of practice on standard terms and conditions for interment right contracts

In our Draft Report we recommended that CCNSW develop a code of practice for interment right contracts, including standard terms and conditions, and requiring cemetery operators to provide a plain English statement of terms and conditions. The mandatory elements of the code would be enforced by the Industry Scheme.

CCNSW has developed a voluntary code of practice for cemetery and crematoria operators which contains some specifications for contents of an interment right contract, including:

Operators will clearly explain, in any agreement providing an interment right, any maintenance obligations that exist in relation to a grave, monument or memorial, and which party is responsible for maintenance. Any ambiguity in the agreement in relation to who is responsible, or to the nature or extent of any such obligation, will be construed in favour of the holder of the interment right.¹⁰⁷

However, this code is currently voluntary and most cemetery operators do not provide a clear statement on the roles and responsibilities for maintenance that customers can easily access when considering different types of interment options.

An object of the CC Act is to ensure that operators of the cemeteries and crematoria demonstrate satisfactory levels of accountability, transparency and integrity.¹⁰⁸ We consider that cemetery operators should be required to provide a plain English statement of terms and conditions for interment right contracts at a cemetery.

Stakeholders support a mandatory code of practice for interment right contracts

Shoalhaven City Council and the consumer advocacy organisation, Choice, support this recommendation.¹⁰⁹

LGNSW recommends in its submission that CCNSW could develop model agreements and forms as this would assist cemetery operators. We agree that it would be useful for CCNSW to develop model contracts to make it easy for cemetery operators to implement.

¹⁰⁶ LGNSW submission to IPART Draft Report, October 2020, p 5.

¹⁰⁷ CCNSW, *Cemeteries and crematorium operator code of practice 2018 – Interment rights and general services*, November 2018, clause 8.4, accessed 19 November 2020.

¹⁰⁸ CC Act, s 3(e).

¹⁰⁹ Shoalhaven City Council submission to IPART Draft Report, October 2020, p 2 and Choice submission to IPART Draft Report, October 2020, p 1.

The NSW Jewish Board of Deputies and Lebanese Muslim Association considers it important that conditions cover perpetual care of graves and monuments, even if perpetual care is an option with an incremental cost that is fully disclosed to give consumers choice.¹¹⁰ We agree that the standard terms and conditions for interment right contracts should cover the perpetual care of graves and monuments.

Recommendation

- 4 That CCNSW develop a code of practice for interment right contracts, including standard terms and conditions, and a requirement for cemetery operators to provide a plain English statement of terms and conditions. Mandatory elements to be enforced by the Industry Scheme.

8.3.5 The industry scheme should include a mandatory code of practice on minimum requirements for particular services

In our Draft Report we recommended that a code of practice be developed by CCNSW, in consultation with relevant community groups, to ensure that such requirements are specified. We also recommended that licensed operators should be required via a licence condition to provide a basic adult lawn interment right and burial, at a minimum standard of maintenance as specified by the Code of Practice. The licence condition may further specify which basic services (for particular faiths or cultural groups) they must provide by reference to those which are defined in a Code of Practice. CCNSW will then be able to monitor compliance with licence conditions to ensure that the cemetery operators are providing basic interment services to their community.

Most cemeteries offer a range of interment services, often differentiated by faith (e.g. Presbyterian, Jewish and Muslim sections with differently designed or laid out gravesites), culture (e.g. indigenous requirements) or type of grave (e.g. lawn, monumental, or natural). Without a workably competitive market, the needs of these different groups are not necessarily being met, or there may be incentives for either under-service (a product for a particular group is simply not provided by a cemetery operator) or over-pricing (because no accessible alternatives acceptable to a community group exist).

Deloitte estimated the cost impacts of some faith and cultural requirements for interments (see section 3.2.1). Deloitte found that the efficient costs of cultural and faith-based requirements could add 30%-50% to the costs of the burial.¹¹¹ We consider that where the costs of interment are higher due to cultural and religious requirements, these costs should be separately and transparently identified and included in the price for these services. However, if the specific requirements are not defined, the transparency of these costs and therefore pricing is lacking.

¹¹⁰ NSW Jewish Board of Deputies and Lebanese Muslim Association submission to IPART Draft Report, October 2020, p 4-5.

¹¹¹ Deloitte, Efficient costs of interment services, p v.

The objects of the CC Act recognise the right of all individuals to a dignified interment and that interment practices and beliefs of all religious and cultural groups are to be respected and provided for.¹¹² Therefore, at a minimum, cemetery operators need to provide a basic lawn interment right and burial and also ensure that they can provide basic interment services for particular faith, cultural and indigenous communities in the areas they serve.

Stakeholders mostly support mandatory minimum requirements for particular services

LGNSW notes that councils provide locally relevant interment services to those in their communities, including particular faith, cultural and Indigenous communities they serve and are democratically accountable to these communities.¹¹³ In this context, LGNSW supports reasonable minimum standards and mandatory basic services, provided that these are only applicable above a reasonable activity level threshold and are developed in consultation with councils.¹¹⁴

Shoalhaven City Council and the consumer advocacy organisation, Choice, both support the recommendations in the Draft Report on mandatory minimum requirements for particular services.¹¹⁵

NSW Jewish Board of Deputies and Lebanese Muslim Association comment that for their communities, there is no such thing as “basic” interment; nor is there some minimum lawn burial product.¹¹⁶ Lawn burial products may not meet particular requirements for faith groups and so we have recommended that minimum requirements for faith groups should be documented in a code of practice. These requirements can then be referenced in a licence condition for a licensed cemetery operator to ensure that services are provided.

Further, in their submission the NSW Jewish Board of Deputies and Lebanese Muslim Association ask for the recommendation to be expanded to cover monumental burials, and if possible child and foetus burials.¹¹⁷ The specific requirements for faith or community groups (which could include minimum requirements for monumental burials, child and foetus burials) are best captured in licence conditions via a code of practice.

A submission from Mr Neustein disagrees that every cemetery provide a standard lawn burial as this mode of interment contributes significant maintenance costs over time when compared to landscape burial approaches that minimise ongoing maintenance. Requiring cemeteries to provide a standard lawn burial offering will intensify the maintenance problem.¹¹⁸ We recommend that only licensed cemetery operators (and not all cemeteries) be required to provide a standard lawn burial which represents a basic and affordable product.

¹¹² CC Act, s 3(a), 3(b).

¹¹³ LGNSW submission to IPART Draft Report, October 2020, p 6.

¹¹⁴ LGNSW submission to IPART Draft Report, October 2020, p 6.

¹¹⁵ Shoalhaven City Council submission to IPART Draft Report, October 2020, p 2 and Choice submission to IPART Draft Report, October 2020, p 1.

¹¹⁶ NSW Jewish Board of Deputies and Lebanese Muslim Association submission to IPART Draft Report, October 2020, p 2.

¹¹⁷ NSW Jewish Board of Deputies and Lebanese Muslim Association submission to IPART Draft Report, October 2020, p 4.

¹¹⁸ D. Neustein submission to IPART Draft Report, September 2020, p 1.

Recommendations

- 5 That CCNSW develop a code of practice, in consultation with faith, cultural and indigenous communities, which specifies minimum interment requirements for particular faiths and community groups.
- 6 That all licensed operators be required to provide a basic adult lawn interment right and burial, at a minimum standard of maintenance as specified by the Code of Practice.
- 7 That licensed operators' licence conditions may further specify which basic services (for particular faiths or community groups) they must provide by reference to those which are defined in a Code of Practice.

8.4 The interment service levy should apply to all cemetery operators

Currently CCNSW is partially funded through an interment service levy, which applies to the four major metropolitan Crown cemetery operators.¹¹⁹ In 2018-19, operating expenses for CCNSW were \$1.62 million, and levy revenue was \$0.64 million. Almost all of the difference was met through an in-kind contribution from DPIE (previously the Department of Industry) under an agreement to reimburse CCNSW a portion of personnel services.¹²⁰

The levy is charged on the basis of interment services carried out, namely burials, cremations and ash interments. The initial levy amounts were established in the *Cemeteries and Crematoria Regulation 2014*, which allows for annual adjustments in line with CPI. It is currently:

- ▼ \$83 for the first coffin interment in a gravesite
- ▼ \$60.20 for the second and subsequent interment in a gravesite
- ▼ \$25 for cremation
- ▼ \$25 for ash interment.¹²¹

In submissions to our Issues Paper and Interim Report, the Crown cemetery operators considered all parties should pay a levy, noting that 77% of crematoria are privately owned and make no contribution to industry regulation, which covers all operators.¹²² However, private and council cemetery operators considered they should not pay the levy as they receive no evident assistance or benefit from CCNSW.

¹¹⁹ *Cemeteries and Crematoria Act 2013* s 24 and *Cemeteries and Crematoria Regulation 2014*, cl 4(2).

¹²⁰ *Cemeteries & Crematoria NSW Annual Report 2018-2019*, October 2019 accessed 18 November 2020.

¹²¹ *Cemeteries and Crematoria Regulation 2014*, cl 4(4)-(6); see, for example, *Woronora Memorial Park Price Guide* accessed 18 November 2020.

¹²² For example, Catholic Metropolitan Cemeteries Trust, Submission to Issues Paper, July 2019, p 5.

8.4.1 The interment service levy should be extended to all cemetery operators

In our Draft Report we recommended that the levy apply to all cemetery operators to increase competitive neutrality amongst operators and ensure the industry regulator is adequately resourced to effectively undertake its functions.

The current application of the levy is inconsistent with the principle of competitive neutrality and can distort the market by making the cost of interment services provided by Crown operators more expensive. We note that differences in tax status between public and private operators have a similar impact.

In line with the principles of cost recovery set out by the Productivity Commission in its *Inquiry into Cost Recovery by Government Agencies*, it is appropriate for cemetery operators covered by an interment industry scheme to contribute to the cost of the regulator.

Regulatory activities for which cost recovery is appropriate are generally those that have a direct link to a particular group of identifiable users or beneficiaries (industry, consumers or others), such as product assessments, licensing and monitoring. Often it is appropriate for the agency to recover the cost of these services directly from consumers or regulated firms.¹²³

However, cost recovery is not appropriate for all the activities undertaken by the regulator. For example, government policy and advice is more appropriately funded by general taxation revenue.¹²⁴ To this end, it is appropriate for some functions of CCNSW to continue to be funded by the government. This currently occurs as in-kind support from DPIE.

Stakeholders had mixed views about who should pay the levy

The Catholic Metropolitan Cemeteries Trust and Mills Oakley agree that the interment service levy should be extended to all cemetery operators. They also consider that the levy should be transparent and capped at cost recovery of CCNSW to regulate the industry only. They further suggest that the levy extend to funeral directors and crematoria operators who are not located within cemetery and crematoria grounds (although this would involve changes to the CC Act).¹²⁵

Bega Valley Shire Council does not support extending the levy to council cemetery operators, recognising councils' existing obligations under the *Local Government Act 1993* (LG Act).¹²⁶ Hay Shire Council does not support extending the interment service levy to include rural councils.¹²⁷

Waverley Council considers a further review of the responsibilities and related resourcing requirements of the regulator would be appropriate prior to implementing the levy.¹²⁸ Councils were consistent in stating that if they are required to pay the levy, then this cost would be passed onto customers.¹²⁹

¹²³ Productivity Commission, *Cost Recovery by Government Agencies*, Inquiry Report No. 15, 2001, p 157.

¹²⁴ Productivity Commission, *Cost Recovery by Government Agencies*, Inquiry Report No. 15, 2001, p 158.

¹²⁵ CMCT and Mills Oakley submission to IPART Draft Report, October 2020, pp 2-3.

¹²⁶ Bega Valley Shire Council submission to IPART Draft Report, September 2020, pp 1-2.

¹²⁷ Hay Shire Council submission to IPART Draft Report, September 2020, p 1.

¹²⁸ Waverley Council submission to IPART Draft Report, October 2020, p 2.

¹²⁹ For example, Bega Valley Shire Council submission to IPART Draft Report, September 2020, pp 1-2; Waverley Council submission to IPART Draft Report, October 2020, p 2.

Northern Beaches Council notes that the management of cemeteries and crematoria requires specialist skills and knowledge and acknowledges the support and assistance that CCNSW has provided to local government operators to date. The council also considers that to be a truly independent and effective regulator of the industry, CCNSW should be fully funded by the NSW Government. Otherwise, the industry will fund the regulator and consumers will ultimately bear the cost.¹³⁰

We consider that the cost of regulation should be met by the regulated industry. This is more appropriate than passing the cost onto general taxpayers, even though it means that consumers of the regulated industry are ultimately paying. However, as noted above, there are some functions, such as policy development, that it is appropriate to fund with general taxation revenue.

The Cemeteries and Crematoria Association of NSW (CCANSW) agrees that imposing a levy upon only the Crown cemeteries in Sydney can distort the market by making the cost of interment services provided by Crown operators more expensive, and that this is not consistent with the principle of competitive neutrality. However, they consider that the levy should not just be based upon the revenue from interment of bodily and cremated remains. Instead, they argue it should also cover cremation activity, noting that the functions of CCNSW relate to crematoria as well as cemeteries. CCANSW considers that a levy that excludes crematoria could discriminate against families whose religious beliefs require body interment and those living in remote areas, without reasonable access to cremation facilities.¹³¹

LGNSW considers that we have not made the case that the Office of Local Government (OLG) is failing in its role as regulator of council operations to the extent that a second regulator is required, funded through a levy on interment in council cemeteries.¹³²

OLG and the LG Act regulate some aspects of council's cemetery operations. For example, the LG Act requires councils to take certain prescribed factors into account when determining fees, including fees for interment services.¹³³ Similarly, OLG has published a Guide to Competitive Neutrality that covers councils' business activities, including some cemetery operations.¹³⁴ However, CCNSW is responsible for the whole interment industry, of which councils make up a significant proportion. Council cemeteries are not unique among council operations in being subject to regulation beyond OLG or the LG Act. There are many other council functions that are subject to regulation by other areas of government, for example planning, health, environment protection, crown lands, and water and sewerage.

¹³⁰ Northern Beaches Council submission to IPART Draft Report, October 2020, p 1.

¹³¹ Cemeteries and Crematoria Association of NSW submission to IPART Draft Report, October 2020, pp 3- 5.

¹³² LGNSW submission to IPART Draft Report, October 2020, pp 7-8.

¹³³ LG Act, section 610D.

¹³⁴ Department of Local Government, [Pricing & Costing for Council Businesses – A guide to Competitive Neutrality](#) (July 1997) accessed 18 November 2020

8.4.2 The levy should continue to apply on a per service basis

Our Draft Report also recommended that the levy be set as a percentage of each cemetery operator's interment-related revenue. This was to ensure the levy was proportional to each operator's level of activity with the percentage being set to recover the efficient costs of the regulator. However, in response to feedback from stakeholders, we now recommend that the levy be set on a fee for service basis, similar to current practice. Below we discuss some of the feedback on our draft recommendation.

CCANSW recommends that:

- ▼ There should be one levy for body interment – whether it be an initial or subsequent interment.
- ▼ The fee for cremation should remain less than body interment, consistent with cost-reflective pricing. The fee for interment of ashes should be no more than for cremation (provided that these combined fees are less than body interment fees).
- ▼ Fees should be stated as a dollar amount, rather than a percentage of revenue. This would simplify administration of a levy (eg delays for financial reports), price lists and explanations to client families.¹³⁵

Similarly, Northern Beaches Council proposes “if the levy is unavoidable... that it will apply to both cemetery and crematoria operators, at a differentiated ‘per burial’ or ‘per cremation’ rate - rather than as a percentage of turnover”.¹³⁶ Shoalhaven City Council also argued that the levy should be applied to all cemetery and crematoria operators as a dollar amount per bodily interment, per cremation and per interment of cremated remains.¹³⁷

We agree that setting the levy as a percentage of interment related revenue would be complicated to administer, and difficult to include in prices for customers. Therefore, we recommend that it continue to be set on a per service basis. We also agree with CCANSW that the same rate should apply to both first and subsequent body interments, reflecting there is likely no material difference in the cost of regulation for a first or subsequent interment. The levy for the interment of ashes should continue to be set at a lower rate.

While cremations accounted for 68.7% of bodily dispositions in NSW in 2018-19,¹³⁸ many functions of CCNSW are focussed on cemeteries, including ensuring adequate cemetery space to meet current and future interment needs.¹³⁹ Similarly, many of the issues we have identified throughout our review and make recommendations to address, pertain to cemeteries, including maintenance standards, perpetual maintenance liabilities, pricing for basic interments, and the acquisition of land. As discussed in section 8.2, we recommend an industry scheme apply to cemetery operators.

¹³⁵ Cemeteries and Crematoria Association of NSW submission to IPART Draft Report, October 2020, p 4.

¹³⁶ Northern Beaches Council submission to IPART Draft Report, October 2020, p 1.

¹³⁷ Shoalhaven City Council submission to IPART Draft Report, October 2020, p 2.

¹³⁸ Cemeteries and Crematoria NSW, [Annual Activity Survey 2018-19](#) accessed 18 November 2020.

¹³⁹ CC Act, s 12(1).

Nevertheless, CCNSW also has a role in regulating crematoria, and as discussed in section 8.3, it is likely that the industry scheme would cover a broader range of areas than we have identified in our review of interment costs and prices. If the industry scheme includes crematoria and providers of alkaline hydrolysis, it would be appropriate that these operators also contribute to cost of regulation. We recommend that the levy be extended to all operators and activities covered by the industry scheme.

The per service rate at which different operators contribute to the costs of regulation could also vary, to reflect, for example, the higher cost of regulating licensed operators compared to non-licensed operators. Similarly, operators not subject to price regulation should pay a lower rate. This involves a trade-off between administrative simplicity and ensuring competitive neutrality between operators on the one hand, and setting the levy in a way that it is cost reflective on the other.

As discussed in Chapter 10, we recommend that IPART regulate prices for specified interment services (such as a basic adult lawn burial, or a basic burial for a particular faith or cultural group) at the metropolitan Crown cemeteries and other cemetery operators referred to us. As with the levy to fund the efficient costs of the regulator, we recommend that the efficient cost to undertake this price regulation be funded by cemetery operators subject to price regulation.

As a broad estimate, the cost of the additional regulatory roles to be undertaken by CCNSW and price regulation by IPART could be in the order of \$5 million per annum. The number of cemetery and crematoria operators contributing to this would impact both the cost of regulation, as well as the amount per service that would be required to recover this cost. Using the most recent numbers of interments and cremations, and the current relativities in the levy between services, the levy would need to almost double to recover \$5 million.

We also note that fees and charges could be set to fund the interment industry scheme instead of using the levy to do so.¹⁴⁰

Recommendation

- 8 That the interment service levy be extended to all cemetery operators. The levy should be extended to all operators and activities covered by the industry scheme in the future, including crematoria operators. The levy should be set on a per service basis to recover the efficient costs of CCNSW to license and monitor compliance by cemetery operators, and the efficient costs of IPART for the regulation of prices where they have been referred to us.

¹⁴⁰ CC Act, s 31(2)(g).

8.5 Land supply for new cemeteries

Most of the Crown cemeteries in Sydney were established over 100 years ago, and are approaching capacity. This was confirmed by the Metropolitan Sydney Cemetery Capacity Report, which identified the probable exhaustion of burial land in Sydney by 2051, if not before.¹⁴¹ Even with the approval of Macarthur Memorial Park at Varroville, Metropolitan Sydney is still expected to be facing a large shortage of burial plots.

The sections below discuss our recommendations for a coordinated whole-of-government approach to the identification and acquisition of land for new cemeteries.

8.5.1 The NSW Government should be responsible for ensuring burial space is available in Metropolitan Sydney

Given the approaching shortfall in burial space in Sydney, and difficulties acquiring and developing land for new cemeteries, we recommend that the NSW Government be responsible for identifying, and funding the acquisition of land for new cemeteries in Metropolitan Sydney as part of a coordinated approach across Government. The Housing and Property division in DPIE should be appointed to drive this process.

A coordinated approach is required to efficiently identify and acquire land for new cemeteries in Sydney

Our Interim Report recommended that CCNSW be responsible for acquiring land for new cemeteries in Sydney as part of the statutory review of the CC Act. We noted that the absence of a coordinated approach for the development of new cemeteries in Sydney had resulted in different Crown cemetery land managers developing plans for new cemeteries independently of one another and competing for the same parcel of land, driving land prices up.

Although there was some support in submissions to our Interim Report for a more centralised and/or coordinated approach to acquiring cemetery land, there was little support for CCNSW having this role. Some of the Crown cemetery land managers considered they were best placed to identify suitable land, while others considered that planning (and acquisition) should sit in the Planning, Industry and Environment Cluster.

Submitters to our Interim Report also considered that centralised land acquisition for cemeteries should apply for public cemeteries (Crown or council) across NSW on the basis of defined cemetery catchments, and not just apply to Sydney. As discussed below in section 8.5.3, we recommend that centralised acquisition of new cemeteries also be available for regional areas.

In response to submissions to our Interim Report, we modified our recommendation, to recognise that land acquisition for cemeteries needs to be considered as part of an integrated and coordinated whole of government land use planning process. Rather than CCNSW having sole responsibility, a coordinated approach to land identification and acquisition for cemeteries is required, and would likely involve several units in DPIE (e.g. CCNSW, Office of Strategic Lands, and Planning) and the Greater Sydney Planning Commission.

¹⁴¹ Cemeteries and Crematoria NSW, *Metropolitan Sydney Cemetery Capacity Report*, November 2017, p 6.

Stakeholders generally supported a coordinated approach to land acquisitions for new cemeteries

The majority of submitters commenting on this recommendation in our Draft Report supported the centralised acquisition of land for new cemeteries.¹⁴²

While the Catholic Metropolitan Cemeteries Trust and Mills Oakley agreed with the principle to centralise the process for identifying new cemetery land, they raised concerns that the proposed agencies do not have the expertise, nimbleness and flexibility demanded by the land acquisition process. They noted that the purchase of land often has to occur in a short period of time and it may be difficult to achieve with too many government agencies involved in the process. They also commented that there was no evidence that such a co-ordinated approach to land acquisition would be achieved at a lower cost than currently incurred by cemetery operators.¹⁴³

Smithfield Cemetery also argued that church and community owned cemeteries that wish to acquire more land should also be included in the creation of new cemeteries.¹⁴⁴

Our recommended approach would not preclude operators from acquiring land themselves to develop and operate as cemeteries. Nor would it preclude them identifying and submitting proposals for potential land acquisitions to the centralised body. However, if the land was purchased by the NSW Government, developing and operating the cemetery should be subject to a competitive tender. It would not be appropriate from a competitive neutrality perspective for the NSW Government to purchase land on behalf of particular operators.

LGNSW was disappointed that local government was not mentioned as part of the coordinated approach to acquiring land. In particular, LGNSW does not support any process for identifying and acquiring land for new cemeteries that overrides local government consultation and consent powers.

LGNSW's Policy Platform is clear that local government must retain control over the determination of locally appropriate development and that local planning powers must not be overridden by State plans and policies or misuse of State Significant Development provisions.¹⁴⁵

However, recent experience in Sydney has highlighted the difficulties in gaining planning approval for new cemeteries, with such proposals being met with strong opposition from the local community. For example, Northern Beaches Council noted that

Political pressure at a local level has made it very difficult to develop new cemetery sites in the Sydney metropolitan area in the recent past and it is difficult to see how this will change given competing community demand for diminishing open space in the future. An alternative mechanism, based on a set of triggers prioritising the allocation of land for cemetery and related services at State Government level may be necessary to achieve meaningful improvement in this area.¹⁴⁶

¹⁴² For example, Cemeteries and Crematoria Association of NSW submission to IPART Draft Report, October 2020, p 7; Waverley Council submission to IPART Draft Report, October 2020, p 3; Shoalhaven City Council submission to IPART Draft Report, October 2020, p 3; and Northern Beaches Council submission to IPART Draft Report, October 2020, p 2.

¹⁴³ CMCT and Mills Oakley submission to IPART Draft Report, October 2020, pp 1-2.

¹⁴⁴ Smithfield Cemetery submission to IPART Draft Report, October 2020, p 1.

¹⁴⁵ LGNSW submission to IPART Draft Report, October 2020, p 8.

¹⁴⁶ Northern Beaches Council submission to IPART Draft Report, October 2020, p 2.

Recognising cemeteries as State significant developments (SSD) would potentially simplify the approvals process for new cemeteries. The Minister for Planning is the consent authority for SSD applications, except whether there is significant opposition from the community, in which case the Independent Planning Commission (IPC) is responsible.¹⁴⁷ Operating independently of government departments, the IPC aims to build public confidence in decision making for major development and land-use planning through a transparent and consultative process.¹⁴⁸

Cemeteries are critical social infrastructure. A strategic and whole of government approach is necessary to ensure the objective of the CC Act “that sufficient land is acquired and allocated so that current and future generations have equitable access to interment services.”¹⁴⁹

As such, while we have maintained our recommendation that there be a coordinated approach to identify land and acquire it for cemeteries, we also recommend that the Property and Housing Group within DPIE be nominated to lead this activity.

8.5.2 New cemeteries to be funded through the payment of rent by the operator

We consider that, as well as identifying and acquiring land for new cemeteries, the NSW Government should be responsible for funding cemetery land acquisition. The cemetery operator would then pay rent to the NSW Government, as discussed in section 8.5.4, to offset this cost to the NSW Government. The ‘rent’ would be calculated based on the purchase price of the land as well as costs associated with the acquisition (planning and approval costs).

Some stakeholders consider that funds put aside for maintaining the cemetery into perpetuity can be used to acquire new cemetery land; in turn maintaining the old cemetery with sales revenue from the new cemetery and/or from cremations. However, this is not sustainable, and results in these future sales subsidising previous interments and potentially creating future maintenance liabilities; and/or cremations subsidising interments. As discussed in Chapter 11, we are making a number of recommendations regarding the prudential management of perpetual maintenance funds. These recommendations would prevent perpetual maintenance funds being used to purchase land or for any purpose other than maintaining the cemetery into the future.

This recommendation would only apply to land acquired by the NSW Government for *new* cemeteries. It is distinct from recommendation 15, discussed in Chapter 9, for a ‘rent equivalent’ to be paid for new interments in *existing* metropolitan Crown cemeteries.

¹⁴⁷ Examples of SSD include: new educational establishments, hospitals and correctional centres, chemical and other manufacturing, mining and extraction operations, tourist and recreation facilities, some port facilities, waste management facilities, energy generating facilities. NSW Department of Planning, Industry and Environment, [State Significant Development](#), accessed 18 November 2020. Under the *Environmental Planning & Assessment Act 1979*, development can become SSD through declaration in the *State & Regional Development SEPP 2011* or by the Minister for Planning, [SSD Projects](#), accessed 18 November 2020.

¹⁴⁸ NSW Independent Planning Commission, [About us](#), accessed 18 November 2020.

¹⁴⁹ *Cemeteries and Crematoria Act 2013*, section 3(c).

8.5.3 Land acquisition for regional cemeteries should be centralised as required

In many regional areas, cemeteries do not face capacity issues, and when required, land is more readily available. For this reason our Interim Report stopped short of recommending that the NSW Government be responsible for sourcing and acquiring cemetery land outside Sydney. We did however recommend the NSW Government should work in partnership with councils in identifying land for interment. Several councils supported this interim recommendation.¹⁵⁰

However, several stakeholders argued that land acquisition for cemeteries should be centralised across NSW, not just for Sydney. For example, Kempsey Shire Council recommended the NSW Government be consistent across regional and Sydney areas and uniformly fund land acquisition.¹⁵¹

In our Draft Report we recommended that the agency responsible for acquiring land for new cemeteries in metropolitan Sydney could also source and acquire land for a new cemetery in areas outside Sydney. We recommended this could be on request from the local council or other cemetery operator, or as part of regional planning by the NSW Government.

A number of stakeholders supported our draft recommendation.¹⁵² However, while LGNSW supports councils being able to request NSW Government involvement, it opposes private operators being able to request the State to acquire land for new cemeteries.

LGNSW does not support moves to override local planning powers of democratically elected councils. The ability to request NSW Government involvement outside of Sydney should sit solely with the democratically elected local government.¹⁵³

Most cemeteries in regional areas are managed by the local council. There are however some private cemetery operators¹⁵⁴ (as well as community and church operated cemeteries). The ability to request state government involvement should be available to other operators, not just councils. It could also occur as part of regional planning by the NSW Government.

As for our recommendation for Sydney, if the land was acquired centrally, non-local government operators should not be precluded from opportunities to develop and operate the new cemetery. Developing and operating the cemetery should be competitively tendered, with rent paid to the NSW Government by the successful operator.

This model of centralised land acquisition should only occur in regional areas if the existing cemetery or cemeteries in the area were reaching capacity and alternative sites were not readily available, as is the case in Sydney. Difficulties with sourcing new sites could arise for example, if a private operator was unable to get planning approval from the local council, or the council cemetery operator was not able to fund the acquisition of a new site.

¹⁵⁰ For example, Wollongong City Council, Submission to Interim Report, February 2020, p 1.

¹⁵¹ Kempsey Shire Council, Submission to Interim Report, February 2020, p 1.

¹⁵² For example, Cemeteries and Crematoria Association of NSW submission to IPART Draft Report, October 2020, p 7; and Shoalhaven City Council submission to IPART Draft Report, October 2020, p 3.

¹⁵³ LGNSW submission to IPART Draft Report, October 2020, p 9.

¹⁵⁴ Examples include, Bathurst Cemetery & Crematorium operated by Norwood Park Pty, two on the Central Coast and one in Dubbo operated by the Palmdale Group, and four operated by InvoCare at Lake Macquarie. Newcastle, Tweed and Wollongong.

In reality, such an arrangement might only be required in larger regional centres such as Newcastle and Wollongong, and high growth coastal areas where there may be increased demand for cemetery space and less land available.

8.5.4 The development and operation new cemeteries to be competitively tendered

In our Interim Report we recommended that the operation of new cemeteries be competitively tendered to existing Crown land managers, local councils or appropriately qualified private cemetery operators. A competitive tender would help drive efficiencies in the operation of a new cemetery and ensure competitive neutrality among operators. If land for new cemeteries were acquired by the NSW Government for operation solely by Crown cemetery land managers, this would potentially disadvantage councils and private operators that operate in the same geographic market.

In response to our Interim Report, a number of stakeholders, including private operators, agreed that if cemetery land were to be centrally acquired, then operating the new cemeteries should be competitively tendered. Councils were also open to being considered in the tender for new cemeteries, as long as they did not become the operator of ‘last resort’ if the tender was not successful.¹⁵⁵

However, several of the Crown cemetery land managers did not support the operations of new cemeteries being tendered, as they considered it would be biased towards private operators. They argued that the private operators are able to bundle services with funeral directors, do not pay the CCNSW levy, or have perpetual liabilities, and are not constrained by governance restrictions faced by the Crown cemeteries land managers.¹⁵⁶ Equally however, private operators could argue that they face tax liabilities that Crown operators and councils do not.

In our Draft Report we provided further guidance about how a competitive tender could be assessed and the operational requirements for the successful tenderer. We recommended that all suitably qualified cemetery operators, public and private, should be eligible to tender and be assessed on a competitively neutral basis. Our recommendations for an operating licence with conditions for the prudential management of perpetual maintenance liabilities, and extension of the interment service levy to all operators, would help level the playing field. In addition, operators should be assessed on a tax equivalent basis recognising that Crown and council cemetery operators are exempt from a number of taxes that private operators are not.

The successful tenderer would be required to operate the cemetery subject to the requirements of an operating licence as discussed in section 8.3. This would include requiring a basic adult lawn interment right and burial, at a minimum standard of maintenance as specified by the Code of Practice. It could also require the operator to provide basic interment services for the faiths, indigenous and community groups represented in the cemetery’s local area.

¹⁵⁵ The Hills Shire Council, Submission to Interim Report, February 2020, p 2; Local Government NSW, Submission to Interim Report, February 2020, p 4.

¹⁵⁶ For example, Northern Metropolitan Cemeteries Land Manager, Submission to Interim Report, February 2020, p 3.

As part of the cemetery's operating licence, the operator would be required to pay rent to the NSW Government. This would help offset the purchase costs to the Government, as well as ensuring that interment services were cost reflective and competitively neutral.

In their submission to our Draft Report, LGNSW reiterated earlier concerns that in circumstances where there are no suitable tenderers, local governments are not mandated as operators of last resort.¹⁵⁷ We consider that this would be an unlikely scenario. The centralised land acquisition process would not occur unless there was a shortage for burial space, and a lack of potential new sites. Given this local demand, it is likely there would also be suitable tenderers to develop and operate a new cemetery. Furthermore, for areas outside Sydney, we recommend that the acquisition of land for new cemeteries be on request of the local council or other cemetery operator, reinforcing that it would only occur in response to local demand.

Waverley Council supported the operation of new cemeteries being tendered and assessed using competitively neutral criteria, with the successful tenderer required to operate the cemetery subject to an operating licence and pay rent to the NSW Government, to offset the purchase cost.¹⁵⁸ While supporting the recommendation in principle, Shoalhaven City Council raised concerns about further monopolisation of the funeral industry.¹⁵⁹ We note there have been recent instances in NSW where a local funeral director has acquired the local cemetery, raising concerns that competition for funeral and interment services in that area may be restricted. We consider this could be addressed in the licence conditions for a successful tenderer.

In their joint submission, the Catholic Metropolitan Cemeteries Trust and Mills Oakley raise concerns about how cemetery operators would be able to be assessed on a tax equivalent basis.¹⁶⁰ This could be achieved by considering tenderers' costs for delivering a standard interment service compared on a like-for-like basis. It would not mean that they would all pay the same tax – just that they would be assessed on a comparable basis.

Recommendations

- 9 That the NSW Government be responsible for identifying, funding and acquiring land for new cemeteries in Metropolitan Sydney as part of an integrated and coordinated whole of government land use planning process. This would require a coordinated approach with a mix of skill across several units in DPIE (e.g. CCNSW, Office of Strategic Lands, and Planning) and the Greater Sydney Commission. The Property and Housing Group in DPIE should be appointed to lead the process. Declaring new cemeteries as State Significant Developments would be an important step in facilitating this process.
- 10 That the NSW Government be responsible for identifying, funding and acquiring land for new cemeteries outside Sydney, on request from the local council or other cemetery operator, or as part of regional planning by the NSW Government. This should occur as part of an integrated and coordinated whole of government land use planning process as in Recommendation 9.

¹⁵⁷ LGNSW submission to IPART Draft Report, October 2020, p 9.

¹⁵⁸ Waverley Council submission to IPART Draft Report, October 2020, p 3.

¹⁵⁹ Shoalhaven City Council submission to IPART Draft Report, October 2020, p 3.

¹⁶⁰ CMCT and Mills Oakley submission to IPART Draft Report, October 2020, pp 3-4.

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- 11 That developing and operating new cemeteries on land acquired by the NSW Government be competitively tendered, to a Crown land manager, council or appropriately qualified private cemetery operator. The successful tenderer would be required to operate the cemetery subject to an operating licence and pay rent to the NSW Government.
 - 12 That the tenders to operate a new cemetery be assessed using competitively neutral criteria. In metropolitan Sydney, tenderers should demonstrate their ability to:
 - Deliver a basic adult lawn interment right and burial, at a minimum standard of maintenance as specified by the Code of Practice, and
 - Deliver basic interment services for the relevant faiths, indigenous or community groups in the cemetery's local area, as defined in the Code of Practice specifying minimum interment requirements for particular faiths and community groups.

9 Costs – the way forward

Chapter 3 examined the costs of the Crown cemetery operators, and noted the areas where there are opportunities for greater efficiency. This chapter discusses our recommendations aimed at increasing cost efficiency across cemetery operators. Some of our recommendations are applicable across different types of cemetery operator, while others are specific to Crown cemetery operators.

Based on their analysis of efficient costs, Deloitte identified efficiency opportunities for Crown cemetery operators across three themes: adopting a shared services model, improving the efficiency of land use and maintenance costs, and reducing indirect costs.¹⁶¹ To achieve some of these identified efficiencies would require policy and structural changes by the NSW Government rather than the individual Crown cemetery operators. It is likely they will involve a transition with different measures being undertaken over the short, medium, and long term. It will also depend on the NSW Government's response to the recommendations of the Statutory Review of the *Cemeteries and Crematoria Act 2013*.

We have not recommended moving to a shared services model or amalgamation of the operators. Although we found that reducing overheads would increase efficiency, we have not investigated the costs and benefits of different models. Such structural issues are more appropriately considered as part of the Statutory Review, which has a broader scope than IPART's review.

In many areas the Crown cemetery operators themselves are best placed to identify how increased efficiency may be achieved. There are also a number of areas across which we are making recommendations aimed at providing incentives for cemetery operators to increase their cost efficiency in providing interment services.

The sections below summarise our recommendations aimed at increasing cost efficiency, and then discuss them in more detail.

¹⁶¹ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 54.

9.1 Overview of recommendations

Difficulties in comparing costs across the Crown cemetery operators has suggested that a consistent accounting approach across the sector would enhance the transparency of costs, including increasing transparency around the impact of different cultural and religious interment requirements on fees. Greater detail and understanding of costs could also assist operators to improve resource allocation and achieve greater cost efficiency. We recommend that CCNSW work with the Crown cemetery operators to develop a standard chart of accounts.

The Crown cemetery operators are already investigating opportunities to maximise the use of existing cemetery land. We recommend that cemetery operators' operating licence conditions may require a cemetery to increase the density of interments via more land-efficient practices.

We also recommend that the Crown cemetery operators to pay a rent equivalent to the NSW Government for all new interment rights sold each year in existing cemeteries. This would make prices paid by consumers across different cemeteries more equitable, by ensuring competitive neutrality between newly acquired Crown cemeteries and private operators on one hand, and existing Crown cemeteries on the other hand. We have clarified that this only applies to the existing cemeteries operated by the metropolitan Crown land managers.

In our Interim Report we recommended that the Office of Local Government's (OLG) performance statistics be required to include transparent and comparable cost information about councils' cemetery operations. In response to stakeholder feedback, and the challenges this may involve, we modified this recommendation in our Draft Report to simplify the type of information that council cemetery operators should be required to provide. While some councils and LGNSW supported this, other councils and the OLG did not. We have maintained our recommendation as it will assist council cemetery operators to benchmark themselves against similar councils. It is also important that ratepayers have access to information about their council's cemetery operations.

9.2 A standard chart of accounts would increase transparency and efficiency

We recommend that CCNSW work with the Crown cemetery operators to develop a standard chart of accounts. There is inconsistency in how the Crown cemetery operators estimate and allocate costs associated with interment services. For example, some operators allocate indirect costs while others do not, and labour on-costs were not always estimated. Some reported equipment costs, while others allocated site costs, repairs and maintenance, and depreciation. Across the course of our consultations and modelling, it became clear that Crown cemetery operators do not use consistent approaches to record keeping and reporting.¹⁶²

¹⁶² Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 63.

Deloitte suggested that there are opportunities to realise efficiencies by increasing the amount and detail of data collected by each Crown cemetery operator. In some cases, Crown cemetery operators do not record sufficiently detailed information about their operations to assess efficiency at a granular level. For example, the sector, including some Crown cemetery operators, do not tend to collect worker timesheets by task, while other Crown cemetery operators who outsource tasks may not have access to granular activity-based data about these services.¹⁶³

Detailed records of worker activities would provide operators with a more accurate understanding of the way labour time is split across different products (e.g. interments of cremated remains and body remains) and services. Deloitte recommended that Crown cemetery operators should be required to adopt detailed timesheet records for their systems.¹⁶⁴ This would assist Crown cemetery operators to assess the efficiency of their operations, and to allocate resources.

Deloitte also noted that efficiencies can be gained by increasing the consistency of reporting across the Crown operators. For example, they found that the development costs associated with interment services are defined differently across Crown operators. Some Crown cemetery operators capture development costs as part of direct costs, while others classify them as part of capital expenditure or as a separate cost item entirely. In particular, there is a clear variation in the definition of Cost of Goods Sold across the sector. A consistent accounting approach across Crown cemetery operators would enhance the transparency of costs across the sector, including increasing transparency around the impact of different cultural and religious interment requirements on fees.¹⁶⁵

The only submissions commenting on our draft recommendation were from councils.¹⁶⁶ At this stage our recommendation would only apply to the metropolitan Crown cemetery operators. However, as the industry scheme is developed, and operating licences are introduced, it may be appropriate that all licensed operators be required to have a standard chart of accounts. This would support the sector to deliver cost efficiencies and the transition to regulation.

Recommendation

- 13 That CCNSW work with the Crown cemetery operators to develop a standard chart of accounts within 12 months of release of this Final Report.

¹⁶³ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 63-64.

¹⁶⁴ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 63-64.

¹⁶⁵ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 64.

¹⁶⁶ For example, Shoalhaven City Council submission to IPART Draft Report, October 2020, p 3.

9.3 Increasing the efficient use of cemetery land

As noted in Chapter 2, the cost of interments can vary significantly with the soil type and topography of the cemetery. This is a challenge for older cemeteries, including the Crown cemetery operators, as the remaining land available for interments in their existing cemeteries tends to be the more marginal and costly to use. The sections below discuss some options to increase the efficient use of cemetery land. We note that the Crown cemetery operators (and some council operators) are already pursuing some of these options.

9.3.1 Cemetery renewal could allow for more interments at existing cemeteries

Cemetery renewal is the practice of redeveloping existing sections of a cemetery to provide for new interments. It involves redesigning and landscaping the cemetery for new interments, memorial gardens and preserving memorials and headstones. New interments are positioned alongside and between existing plots, and in areas previously allocated as paths, walkways and roads.

Cemetery renewal is different to renewable tenure as it does not involve the disinterment of remains, although it may involve removing monuments.

In Australia, Karrakatta cemetery located in central Perth adopted the practice of cemetery renewal in the 1970s, as it was facing a lack of burial space and closure. It is estimated that 50% of the cemetery area will be able to be renewed. It required legislative change to retrospectively implement renewable tenure terms of 50 years so that monuments could be removed and new gravesites encroach on boundaries of existing ones (although no remains were disturbed).

The practice of cemetery renewal allows existing cemetery land to be more efficiently used as it increases the density of interment plots per hectare. However, not all cemeteries or all sections of cemeteries will be suitable for renewal, due to the manner in which they have been designed and the spacing available between plots.

9.3.2 Geotechnical mapping could allow for greater land use at cemeteries

The challenges associated with using some land types for burials suggests that efficiency opportunities can be realised from geological profiling of cemeteries. This is already occurring on an ad hoc basis at some Crown cemeteries.

A more consistent and large scale geological mapping exercise would support Crown cemetery operators to better identify the future capacity and costs of using certain areas for interments. NMCLM explained that geotechnical and soil studies can support the effective mapping of burial sites. This would allow them to estimate costs more precisely and support their planning process. RGCLM also noted that technology investment would help to make better use of available land, but that automation may not be possible around some of the old monument sites and may not be in line with the needs of certain faith groups. CMCT noted that a merger to bring Rookwood Cemetery under the management of a single operator would increase the effective utilisation of burial space across the entire necropolis.¹⁶⁷

¹⁶⁷ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 59-60.

9.3.3 Vertical cemeteries could increase the density of interments

“Vertical cemeteries”, where bodies are interred in vaults in built structures that may be many storeys high, have been successfully adopted in Taiwan, India, Israel and Brazil. The Sydney Crown cemetery operators have also developed crypts in above-ground structures, but these tend to be premium offerings in single-storey buildings which are not necessarily more land-efficient than a lawn cemetery.

Further use of above-ground structures that allow greater density of interments could be another option to ensure that remaining cemetery land can be used as efficiently as possible.

9.3.4 Stakeholders had mixed views on increasing density at cemeteries

While some cemetery operators are already implementing some of these strategies, some submissions expressed concern that an increased density requirement might be imposed on cemetery operators. LGNSW submitted that “Councils are democratically elected by and are accountable to their community and it is inappropriate for cemetery renewal to take place in the absence of a cemetery’s consultation with the families of the interred.”¹⁶⁸ Shoalhaven Council supported increased density as a potential licence condition, “but only where limited land resources for interment are an issue.”¹⁶⁹

Consulting with the community is a key part of the process of developing an interment industry scheme (as required by the Act) and of an operating licence. We consider that councils’ and LGNSW’s concerns would be addressed by the consultation process. Local communities would have a say, and issues, such as the evidence for the need for higher density burials, would be considered.

CMCT supported the recommendation, but suggested it did not go far enough, and that older cemeteries should be allowed to resell interment rights to existing plots.¹⁷⁰ CMCT notes that this would require amending the Act, but it is not current Government policy to allow retrospective renewable tenure. We discuss the issue of costs and prices of renewable tenure in more detail in Chapter 12.

Recommendation

- 14 That cemetery operators’ operating licence conditions may require a cemetery to increase the density of interments via more land-efficient practices such as cemetery renewal, geotechnical mapping, and low-cost mausolea.

¹⁶⁸ LGNSW submission to IPART Draft Report, October 2020, p 10.

¹⁶⁹ Shoalhaven City Council submission to IPART Draft Report, October 2020, p 3.

¹⁷⁰ CMCT and Mills Oakley submission to IPART Draft Report, October 2020, p 6.

9.4 The cost of land should be included in the interment right at existing metropolitan Crown cemeteries

We recommend that the Crown cemetery operators make a rent equivalent payment to the NSW Government for all new interment rights sold each year in existing cemeteries. To clarify, we only intend for this recommendation to apply to the metropolitan Crown cemetery operators and not existing cemeteries managed by councils on Crown land.¹⁷¹ The cost of land is not currently included in the price of interment rights sold by the Crown cemetery operators. This may be because the land was originally gifted from the State to establish the cemetery, and is not a cost borne by the cemetery operator. However, the cost of land should be included in the price of the interment right, to ensure competitive neutrality with other operators, and ensure fair outcomes for people purchasing plots in new and existing cemeteries.

9.4.1 The cost of the next increment of cemetery land could be used as a rent equivalent

Setting a price for the land in the existing Crown cemeteries is complicated. Once land is developed and used as a cemetery its value declines, particularly the sections used for grave sites that must remain undisturbed into perpetuity. We considered using the Valuer General's estimated land values for the Sydney Crown cemeteries, however found that these values are very low compared to the surrounding land, reflecting the constrained nature of cemetery land.¹⁷² Similarly, private valuations undertaken for the metropolitan Sydney Crown cemeteries applied discounts of 90% to the "fair market value" for buried out land.¹⁷³

A large difference in land values between new and existing cemeteries could result in large price variations between cemeteries, and potentially market distortions whereby people rush to pre-purchase interment rights at existing cemeteries. To avoid such distortions, we consider a more appropriate basis would be a land value that reflects the long run marginal cost of cemetery land. That is, the cost of purchasing the next increment of cemetery land. As discussed in Chapter 6, we have based this estimate on the costs associated with the proposed Macarthur Memorial Park cemetery at Varroville.

¹⁷¹ This is separate to recommendation 11 that requires cemetery operators, appointed through competitive tender, to pay rent to the NSW Government on land to be developed and operated as a new cemetery.

¹⁷² IPART calculations using Valuer General, [Bulk land value information](#) for April 2019.

¹⁷³ See for example, Southern Metropolitan Land Manager, [Annual Report 2019](#), p 51; and Rookwood General Cemetery, [Annual Report 2019](#), p 83; both accessed 18 November 2020.

9.4.2 The rent equivalent would only be payable for new interments at existing metropolitan Crown cemeteries

Again, the only submissions commenting on this recommendation in our Draft Report were from local government. Councils were opposed to paying this rent equivalent for cemeteries they manage on Crown land.¹⁷⁴ Although LGNSW recognised that the recommendation only applied to Crown cemetery operators, it considered that such a rent equivalent payment would artificially inflate costs in existing cemeteries and act as a disincentive for new cemeteries to contain costs.¹⁷⁵

We had not intended that councils managing cemeteries on Crown land would pay a rent equivalent for this land. Under the *Crown Land Management Act 2016* (CLM Act), council Crown land managers manage land as if it were public land under the *Local Government Act 1993* (LG Act).¹⁷⁶ As such, there is a distinction between council and non-council Crown land managers, and our recommendation only applies to the existing Crown cemeteries operated by the metropolitan Crown land managers.

However, we have identified in other reviews that the different uses of Crown land often reflect historical arrangements, and there is an absence of market-based, commercial returns for the use of this land. We have previously recommended that the NSW Government undertake an independent review of all commercial tenures on Crown land. Cemeteries operating on Crown land could form part of this review.

We recommend that existing Crown cemeteries make a rent equivalent payment to increase the competitive neutrality between these existing Crown cemeteries which have been gifted land, and newly acquired Crown cemeteries and other cemetery operators which have incurred land costs. Rather than acting as a disincentive for new cemeteries to contain costs, paying a rent equivalent would act as an incentive for existing cemetery operators to increase their efficiency.

As discussed in Chapter 6, even with the inclusion of a land cost component, the modelled efficient price of a basic adult lawn burial is lower than the price currently being charged by each of the Crown cemetery operators at each of their largest cemeteries. Therefore, provided the Crown cemetery operators realise efficiencies, requiring them to make a rent equivalent payment should not lead to higher prices.

We have maintained our recommendation for the metropolitan Crown cemetery operators to make a rent equivalent payment to the NSW Government for all new interment rights sold each year in existing cemeteries. We are not recommending that rent be payable across the whole cemetery given the vast majority of interment rights have already been sold in existing cemeteries. Charging rent for the whole cemetery would place a large burden on the remaining unsold interment rights. This recommendation only applies to *existing* metropolitan Crown cemeteries, as distinct from our recommendation that rent be payable on land acquired by the NSW Government for *new* cemeteries (Recommendation 11).

¹⁷⁴ For example, Shoalhaven City Council submission to IPART Draft Report, October 2020, p 3.

¹⁷⁵ LGNSW submission to IPART Draft Report, October 2020, p 10.

¹⁷⁶ NSW Government, Cemeteries and Crematoria NSW, *Fact Sheet – Impacts of the Crown Land Management Act 2016 on Crown cemetery operators*, July 2018, accessed 18 November 2020.

Recommendation

- 15 That the metropolitan Crown cemetery operators should make a rent equivalent payment to the NSW Government for all new interment rights sold annually in existing cemeteries to ensure competitive neutrality with new cemeteries. This rent should be set based on the purchase, approval and development costs of the next increment of cemetery land.

9.5 Council cemeteries' cost information should be included in the Office of Local Government's performance statistics

In regional areas there may not be an alternative cemetery within a reasonable distance, limiting choice and competition. However, councils are answerable to their communities and ratepayers, and a lack of competition has not generally led to higher prices. We have however found that comparing interment prices at council cemeteries is difficult due to bundling and inconsistent terminology. We are making recommendations regarding pricing transparency in Chapter 10.

Throughout this review, we have also found it is difficult to assess the efficiency of council cemeteries. Greater transparency for cemetery operations would encourage efficiency and provide a useful benchmark for council cemetery operators.

9.5.1 Current reporting by council cemetery operators is varied

In our Interim Report we recommended that the costs involved in interment and operating council cemeteries be included in each council's integrated planning and reporting documents as well as performance statistics on the Office of Local Government's (OLG) [Your Council](#) website, to increase transparency and allow comparison with similar councils. We considered that this was an appropriate alternative to undertaking a cost efficiency study of all council operated cemeteries (as we have for the Sydney Metropolitan Crown cemeteries).

While some Crown cemetery land managers supported greater transparency of council cost information, Local Government NSW (LGNSW) did not support our interim recommendation, and considered that the current publication of annual fees and charges by councils is sufficiently transparent; and that contextual information would be required to explain differences in costs if the recommendation was implemented.¹⁷⁷ Similarly, Wollongong City Council questioned whether additional reporting requirements would increase transparency, noting that the council currently report the cemeteries as a category 1 business activity in their annual report's Special Purpose Financial Statements.¹⁷⁸

Box 9.1 sets out the reporting requirements for council business activities.

¹⁷⁷ Local Government NSW, Submission to Interim Report, February 2020, p 5.

¹⁷⁸ Wollongong City Council, Submission to Interim Report, February 2020, p 1.

Box 9.1 Special purpose financial statements – requirements

Councils must complete special purpose financial statements for all declared business activities. Councils' declared business activities must be nominated as either Category 1 (gross operating turnover over \$2 million) or Category 2 (gross operating turnover less than \$2 million).

Category 1 – annual sales turnover of \$2 million and above

- ▼ Separate internal reporting for business activity
- ▼ Apply full cost attribution including:
 - Tax equivalent payment
 - Debt guarantee fees
 - Return on capital
- ▼ Make subsidies to business activities an explicit transaction.

Category 2 – annual sales turnover of less than \$2 million

- ▼ Council may determine the extent of separation of the activity
- ▼ Adopt full cost attribution where practicable. Can use % rule of thumb margin
- ▼ Make subsidies to business activities an explicit transaction.

Source: Local Government Code of Accounting Practice and Financial Reporting, *Special purpose financial statements* and Department of Local Government, *Pricing and costing for council businesses – a guide to competitive neutrality*, 1997, both accessed on 18 November 2020.

In practice, some councils treat their cemetery operations as category 1 or 2 business activities, while others do not treat them as business activities at all. For example:

- ▼ Wollongong City Council and Shoalhaven City Council treat their cemeteries as category 1 business activities¹⁷⁹
- ▼ Penrith City Council and Lismore City Council treat their cemeteries as category 2 business activities¹⁸⁰
- ▼ Bega Valley Shire Council, Northern Beaches Council, Blacktown City Council, and Tamworth Regional Council do not treat their cemeteries as separate business activities.¹⁸¹

¹⁷⁹ Wollongong City Council, *Annual Financial Statements 2020, Special Purpose Financial Statements 2020*, p 7; Shoalhaven City Council, *Annual Financial Statements 2018-19, Special Purpose Financial Statements 2019*, p 7, both accessed 19 November 2020.

¹⁸⁰ Penrith City Council, *Annual Financial Statements 2018-19, Special Purpose Financial Statements 2019*, p 112; Lismore City Council, *Financial Reports 2019, Special Purpose Financial Statements 2019*, p 8, both accessed 19 November 2020.

¹⁸¹ Bega Valley Shire Council, *Annual Financial Statements 2019*, p 17; Northern Beaches Council, *Financial Reports 2018-19*, p 30; Blacktown City Council, *Financial Statements 2018-19*, p 21; Tamworth Regional Council, *Annual Financial Statements 2019*, p 18, all accessed 19 November 2020.

9.5.2 Consistent, transparent information would assist councils and consumers to assess their council's performance and costs against similar councils

As indicated in Box 9.1, only councils with category 1 cemeteries are required to report their financials transparently. However even this financial information is probably of limited use to consumers or other councils wanting to compare their efficiency with similar councils. In our Interim Report we suggested that councils should report on:

- ▼ The costs of interment (i.e. burial) such as confirming, digging and backfilling the grave.
- ▼ The cost of the interment right which includes
 - Cost of developing the site for first interment (one-off cost)
 - Maintenance costs associated with the site for the term of the interment right (per annum)
 - An allocation of the overheads incurred in operating the cemetery (per annum).

While these costs would be useful for benchmarking, is likely to be quite difficult for councils to estimate, and we are mindful not to increase the reporting burden on councils. Therefore, in our Draft Report we modified the type of information to be included on the OLG's Your Council website, to:

- ▼ The number of cemeteries operated by the council, and the number of interments per annum
- ▼ Remaining capacity of the council's cemeteries, for example when the cemetery is likely to reach capacity
- ▼ Total operating costs and revenue for each council's cemeteries
- ▼ Funds set aside for perpetual maintenance of the council's cemeteries
- ▼ Any relevant contextual information, for example: council has responsibility for many small cemeteries over a large area; land is very rocky increasing the cost of burials.

The Your Council website allows comparison of councils on a range of financial and demographic indicators using an interactive map and time series data. The information could be collected as part of councils' annual reporting cycle.

Responses to our draft recommendation were mixed.

LGNSW welcomed the modification of the interim recommendation simplifying the type of information that council cemetery operators should be required to provide in order not to unduly increase the reporting burden on councils. In principle, LGNSW supports what it considers "otherwise reasonable reporting on cemetery operations and costs as it will in many cases be readily obtainable from existing reporting by councils".¹⁸² Dubbo Regional Council also supported our draft recommendation.¹⁸³

¹⁸² LGNSW submission to IPART Draft Report, October 2020, pp 10-11.

¹⁸³ Dubbo Regional Council submission to IPART Draft Report, October 2020, p 1.

Shoalhaven City Council expressed conditional support for the draft recommendation, noting that most of the proposed data is already collected by CCNSW or reported under requirements of the LG Act. It raised concerns that duplication in reporting would create additional costs which will not be absorbed but passed on to the consumer.¹⁸⁴ A number of councils were also concerned about what they considered an increase in reporting without a clear value for customers or the council cemetery operations.¹⁸⁵

The OLG acknowledged “that there is a need for greater consistency and transparency in the manner in which councils report their cemetery related business activities”. However they consider that the information on the Your Council website is at a higher level, and less detailed than we had recommended to be included on councils’ cemetery operations, the inclusion of which would result in the website becoming unwieldy and less user friendly. They also note that section 41 of the CC Act provides a mechanism for CCNSW to require operators to report on cemetery operations.¹⁸⁶

The information that we recommend be included on the OLG’s Your Council website is reasonably high level and should be readily available to council cemetery operators. As such, it should not be onerous to provide to OLG. While some of this information may be currently collected by CCNSW or reported under the LG Act, it is not available to be used for benchmarking by other councils or readily available to ratepayers. For example, the annual operator activity survey compiled by CCNSW presents information on the number of interments and cremations undertaken by region, rather than per council.¹⁸⁷ It also does not provide information on remaining cemetery capacity, operating costs, and funds for perpetual maintenance.

In contrast, the information currently on the Your Council website presents council ‘at a glance’ data as well as for finances, community leadership, assets and services. This information is presented in a user-friendly, clear format, and each metric is presented against the average for the council group, allowing easy comparison against similar councils. It is important that ratepayers have access to information about their council’s cemetery operations, particularly in cases where general revenue is being used to subsidise the council’s cemeteries, or there is likely to be a shortfall in funds required to maintain these cemeteries in perpetuity. As such, we have maintained our recommendation.

To avoid duplicative reporting, if an interment industry scheme or operating licence were introduced, councils should only be required to report under the scheme or licence if applicable.

¹⁸⁴ Shoalhaven City Council submission to IPART Draft Report, October 2020, p 4.

¹⁸⁵ For example, Hay Shire Council submission to IPART Draft Report, September 2020, p 1.

¹⁸⁶ Office of Local Government submission to IPART Draft Report, October 2020, p 1.

¹⁸⁷ Cemeteries and Crematoria NSW, [Annual Activity Survey 2018-19](#) accessed 18 November 2020.

Recommendation

- 16 That council cemetery operators report on the operating performance of their cemeteries in the information included on the Office of Local Government's Your Council website. Such information should include:
- The number of cemeteries operated by the council
 - The number of interments per annum
 - Remaining capacity of the council's cemeteries
 - Total operating costs and revenue for their cemeteries
 - Funds set aside for perpetual maintenance of the council's cemeteries
 - Any relevant contextual information than impacts the costs of interment services.

10 Pricing – the way forward

We consider that price regulation is warranted in some circumstances for some cemetery operators, to ensure that people have access to a basic interment service that meets their needs, priced at a level that reflects efficient costs and is therefore more likely to be affordable. We recommend that price regulation should apply in the first instance to a basic adult lawn burial at the Crown cemeteries, and to any basic services for particular faiths or community groups that the cemetery operator is required to offer by the conditions of their licence (as recommended in Chapter 8).

Setting prices for cemeteries is complex, and so we also make recommendations to support cemetery operators in undertaking this task.

Finally, we recommend a suite of measures designed to make prices more transparent and cost-reflective without direct price regulation.

The sections below summarise our recommendations, and then discuss them in more detail.

10.1 Overview of recommendations

Given our findings about costs and prices at Crown cemeteries, we recommend that price regulation apply in the first instance to a basic adult lawn burial at the Crown cemeteries. We have not made findings on the efficiency of council or private operators' costs or prices, due to a lack of data, but we consider that a mechanism should be available to regulate their maximum prices too, if evidence is found that it is required. We recommend that IPART, as a specialist price regulator, should undertake this task.

The pricing process for interment prices is complex, and so we recommend that CCNSW develop a code of practice that provides support for cemetery operators to develop cost-reflective prices.

As discussed in Chapter 5, to be able to compare prices, consumers need to be able to compare prices on a like for like basis, and to understand the basis for prices when a service has multiple components. We recommend that cemeteries be required to publish cemetery prices for a subset of standard interment services on a consistent basis. We also recommend cemetery operators be required to notify prices to CCNSW so that CCNSW can publish them on a cemeteries pricing comparator website.

10.2 A price regulation mechanism should be introduced

The CC Act currently enables CCNSW to disallow a price set by a Crown cemetery operator, but only after it has been set.¹⁸⁸ The Act does not allow for proactive price regulation of Crown operators, or for any price regulation of council or private operators.

As set out in Chapter 7, given our previous findings about the nature of the market for body interment services, and our subsequent findings about Crown cemetery operators' costs and prices, we consider that there is a need for maximum price regulation for Crown cemetery operators.

One option is for the proposed interment industry scheme to implement a price regulation role for CCNSW via a mandatory code of practice. However, given the complexity of setting interment prices, we consider that, where price regulation is required, it should be referred to IPART as a specialist price regulator. This would require an amendment to the Act.

We have not made findings on the efficiency of council or private operators' costs, due to a lack of data, but we consider that a mechanism should be available to regulate their maximum prices too, if evidence is found that it is required.

IPART's price regulation function would be funded by the interment service levy (Recommendation 8). We have included the additional costs of this regulatory function in our indicative modelled cost-reflective prices, reflected in a higher CCNSW levy.

Only Choice and Shoalhaven Council's submissions supported a price regulation mechanism.¹⁸⁹ LGNSW submitted that "councils already operate their cemeteries on a cost-recovery basis in order to offer a reasonably priced service to the community".¹⁹⁰

Rookwood General recommended that CCNSW would need to have specific triggers to refer a cemetery operator to IPART, and commented that this recommendation "would ultimately result in all pricing within the cemetery industry being regulated".¹⁹¹ We agree that the legislative amendment should include triggers for referral, but disagree that such a mechanism would result in all prices being regulated. The mechanism allows for a specified body interment service (or services) to be referred, and our review and report have focused on this being a basic adult lawn burial, with the option of including specified basic services for particular faiths, to ensure that people have access to a dignified burial in accordance with their beliefs, at an affordable price. Cemetery operators would still be able to offer a range of products and services that meet consumer choices and are priced by the cemetery operator as they see fit.

We have also reconsidered who should be responsible for referring a cemetery operator to IPART for price regulation and have amended the recommendation to require the Minister administering the CC Act, rather than CCNSW, to make the referral. This is consistent with the approach taken in other legislation (e.g. *Passenger Transport Act 2014*, *Water Industry Competition Act 2006*) with price referral mechanisms.

¹⁸⁸ CC Act, s 107(8).

¹⁸⁹ Choice submission to IPART Draft Report, October 2020, p 1; Shoalhaven City Council submission to IPART Draft Report, October 2020, p 4.

¹⁹⁰ LGNSW submission to IPART Draft Report, October 2020, pp 11-12.

¹⁹¹ Rookwood General Cemetery submission to IPART Draft Report, October 2020, p 2.

Recommendation

- 17 That the NSW Government amend the *Cemeteries and Crematoria Act 2013* to provide for the Minister to refer a cemetery operator to IPART for a maximum price determination of a specified body interment service.

10.3 Some Crown cemetery prices should be regulated

The findings that led us to recommend that maximum price regulation is required were:

- ▼ Crown cemetery operators have considerable scope to be more efficient in delivering interment rights
- ▼ Crown cemetery adult lawn burial prices are higher than modelled efficient prices.

As a result, we recommend that, in the first instance, the Minister refer existing Crown operators to IPART for a price determination in relation to basic adult lawn burials, and in relation to any basic services for particular faiths or community groups that the cemetery operator is required to offer by the conditions of their licence (per Recommendation 7).

This will ensure a standard product is available across all Crown cemeteries, and that products that meet the requirements of faith and community groups are also available where they are needed, at a fair price. This will help protect those who are concerned about affordability of interment.

We made this recommendation in respect of basic adult lawn burials only in our Draft Report. Choice and Shoalhaven Council supported it.

Waverley Council opposed it on the basis that “the definition of a ‘basic adult lawn burial’... is unclear in the Draft Report. The service component for interment products... does not take into consideration market demand components of pricing, e.g. location, historic significance, reputation.”¹⁹² As set out above, the purpose of price regulation for basic services is to deliver a cost-reflective price for the most basic product or products, while allowing cemetery operators to offer a range of different prices with self-determined pricing strategies.

CMCT and Mills Oakley submitted that if operational management of the Crown cemeteries is centralised, it is not clear whether IPART expects all Crown cemetery sites to adopt efficient cost-reflective prices.¹⁹³ While we are not making any recommendations to centralise operational management of the Crown cemeteries, we consider that if this occurred, every Crown cemetery site should be required to offer a basic adult lawn burial at an efficient cost-reflective price.

NSW Jewish Board of Deputies and the Lebanese Muslim Association supported the recommendation but were concerned that it only specified a basic adult lawn burial, and “is crafted too narrowly to benefit our communities”. In response, we have modified Recommendation 18 to include basic services for particular faiths or community groups.

¹⁹² Waverley Council submission to IPART Draft Report, October 2020, p 4.

¹⁹³ CMCT and Mills Oakley supplementary submission to IPART Draft Report, October 2020, p 4.

For new Crown cemeteries (where we have proposed that the NSW Government purchase the land and tender out development and operations), the tender process could include specifications of which faith or cultural groups must be served at a regulated price. This will ensure that a product that suits the needs of these faith groups is available at a fair price where it is needed.

Recommendation

- 18 That the Minister refer the metropolitan Crown cemetery operators to IPART to determine prices for basic adult lawn burials, and for any basic services for particular faiths or community groups that each operator is required to offer.

10.4 Illustrative modelling of efficient cost-reflective prices for the Crown cemetery operators in a future scenario

In Chapter 6, we used the estimated efficient costs developed by Deloitte to model efficient cost-reflective prices for the Crown cemetery operators, as a threshold test of whether more prescriptive regulation is required. CMCT and Mills Oakley submitted (based on what we set out in our Draft Report) that:

it is still our opinion that the cumulative effect of a cemetery operator having to:

- pay the interment service levy as a percentage of interment-related cemetery revenue;
- pay rent;
- offer a basic adult lawn interment right at a minimum price;
- offer a basic interment service for particular faith, cultural and indigenous communities at a minimum price;
- comply with a new legal obligation to contribute regularly at a pre-determined amount to the perpetual care funds;
- possibly fund any "legacy" perpetual maintenance obligations; and
- fund the cost of infrastructure for new cemeteries out of its own funds (rather than being able to access its perpetual care funds);

will be a significant financial impost on cemetery operators, meaning that it will be increasingly difficult for cemetery operators to operate at any surplus.

In this section, we model efficient cost-reflective prices for the Crown cemetery operators using the same method we applied in Chapter 6.¹⁹⁴ However, in this Chapter we include some of the additional costs that may result from the recommendations in this report. All inputs to the model are the same as set out in Chapter 6, except two, the land cost (which is new) and the interment service levy (which is higher than the current levy). Even after including these costs (which are not currently incurred by the Crown operators) we found that current prices being charged by each Crown operator are materially higher than our modelled efficient cost-reflective prices. We also use the same two discount rates outlined in Chapter 6 to convert a cemetery's future costs to a present value.

¹⁹⁴ Section 6.2 explains our method for calculating efficient cost reflective prices.

As in Chapter 6, these modelled prices are illustrative of our approach to price modelling, and do not represent our views on an appropriate regulated price for the Crown cemetery operators. If we were setting prices, we would undertake more detailed analysis of cemetery costs, including any changes to costs as the result of our recommendations in this review, and we would consult stakeholders on all inputs including how costs should be allocated and appropriate discount rates, and forecast interment profiles (i.e. demand for interment rights), in order to determine a regulated price.

10.4.1 Most inputs to the model are the same as those we used previously

Table 10.1 sets out the inputs to the price model that are the same as the inputs we used in Chapter 6.

Table 10.1 Inputs of an efficient cost-reflective Basic Adult Lawn Burial price

Input	CMCT Rookwood	NMCLM Macquarie Park	RGCLM Rookwood	SMCLM Woronora
Interment right: efficient maintenance costs and a share of overheads (per annum) ^a	\$21	\$29	\$12	\$26
Interment right: efficient site development costs and efficient cost of selling the plot in the year it is sold ^b	\$2,134	\$2,094	\$1,913	\$2,488
Interment right: Discount rate	4.7% pre-tax real WACC on all costs except for perpetual maintenance 2.4% real discount rate on perpetual maintenance			
Interment right: Interment profile	Based on Deloitte's five year estimate of the growth rate and extrapolated by IPART			
Perpetual maint. fund	\$143m	\$99m	\$153m	\$95m
Burial: Efficient burial costs + 15% margin (ex GST)	\$1,057	\$1,333	\$1,730	\$1,216

Notes: We have used 2 discount rates - see Appendix B for further details.

a These efficient cost estimates vary by cemetery because Deloitte assumed that depreciation reported by each of the Crown operators was efficient, and Deloitte has allowed for differences in maintenance standards.

b These costs vary by cemetery because Deloitte assumed that the site development costs reported by each of the Crown operators were efficient.

a, b These inputs have been generated by Deloitte to be compatible with our model, and so they do not align directly with numbers reported in Deloitte's efficient cost report.

Source: IPART, Deloitte Access Economics, *Efficient costs of interment services*.

10.4.2 The land cost component of the price is the same for each Crown cemetery operator

While the Crown cemetery operators may be operating on gifted cemetery land (so their actual current land costs are zero), we consider that the cost of land should be included in the interment right price going forward. This will ensure competitive neutrality with other operators, and a fair price for consumers whether they are purchasing an interment right in a new cemetery (where the land was purchased) or an existing Crown cemetery (where the land was gifted).

As discussed in Chapter 2, we considered a range of options for valuing cemetery land (for example, using the Valuer General's land valuation for each existing Crown cemetery on a per square metre basis).¹⁹⁵ However, we have decided to use a land value that reflects the long run marginal cost of cemetery land. That is, the cost of purchasing the next increment of cemetery land.

While in recent years the Crown cemetery operators have purchased three parcels of land in metropolitan Sydney, to date only the Varroville land has been approved for development as a cemetery. The proposal for a cemetery at Wallacia has been revised and resubmitted for approval. The Fernhill proposal is not proceeding. Therefore, we have used the costs associated with the proposed Macarthur Memorial Park cemetery at Varroville to estimate the per plot cost of the next increment of cemetery land.

CMCT in its joint supplementary submission with Mills Oakley submitted that this land was acquired 8 years ago and that its value would be substantially higher today.¹⁹⁶ However, public sources indicate that the land was purchased in 2015 so we have assumed that 2015 was the acquisition date.¹⁹⁷ We have decided to adjust the purchase price by CPI to capture general price changes during that time period.

In addition to the cost of purchasing land, there are considerable planning and approval costs associated with a new cemetery. We have also used the costs associated with the proposed Macarthur Memorial Park cemetery at Varroville to estimate the per plot planning and approval costs for any new cemetery.

¹⁹⁵ The Valuer General's land value reflects the constrained nature of cemetery land. Once land is developed and used as a cemetery its value declines, particularly the sections used for grave sites that must remain undisturbed into perpetuity. For example, private valuations undertaken for the metropolitan Sydney Crown cemeteries applied discount of 90% to the "fair market value" for buried out land.

¹⁹⁶ CMCT and Mills Oakley supplementary submission to IPART Draft Report, October 2020, p 2.

¹⁹⁷ CMCT, *Annual Report 2015-16*, p 42.

Although Deloitte's efficient cost estimates include a 'site development' cost, we consider that cemetery operators may incur additional costs when developing a new (as opposed to existing) cemetery. As a result, we have also included some additional initial construction and development costs in our estimate of the cost of land based on actual costs incurred for Macarthur Memorial Park cemetery at Varroville.¹⁹⁸ CMCT and Mills Oakley submitted that they have revised their estimates of initial construction for Macarthur Memorial Park at Varroville up from around \$45 million to around \$65 million, and so we have incorporated this information into our modelling. As a result, our estimate of land costs has increased from \$464 per plot in our Draft Report to \$621 in our Final Report.¹⁹⁹

Table 10.2 sets out the cost components of land purchase, approval and initial development.

Table 10.2 Costs associated with purchase, approval and development of a new cemetery

	Macarthur Memorial Park Varroville
Year purchased	2015
Purchaser	CMCT
Land (Ha)	113.37
Intended burial plots (number)	136,000
Plots per hectare (number)	1,200
Purchase price (inflated to \$2019-20)	\$16,506,254
Planning costs	\$3,000,000
Initial construction and development	\$65,000,000
Total land costs per plot	\$621

Source: CMCT, *Annual Report 2015-16* and *Annual Report 2018-19*; Information provided by CMCT and IPART calculations.

10.4.3 The interment service levy is likely to be higher under our recommendations

Section 8.4 explains our recommendations for the interment service levy, where all cemetery operators would pay a fee to cover the costs of the regulator. The level of the fee will depend on the costs of regulation, and whether the fee is levied on all services (body interment, ash interment and cremation, as at present, or only on interment services, as we have recommended).

CMCT and Mills Oakley submitted to our Draft Report that "in our view, if IPART's draft recommendations on governance reform are adopted, the costs of regulation in the cemeteries sector is expected to increase, at least in the short term. Given the forward-looking nature of the efficient costs for a basic adult lawn burial interment right, CMCT recommends adopting a higher levy rate assumption in the model."²⁰⁰

¹⁹⁸ For our Draft Report we based our estimate of initial construction costs on information obtained from CMCT's annual report, see CMCT, *Annual Report 2018-19*, Note 3 p 49 and Note 22 p 65.

¹⁹⁹ CMCT and Mills Oakley supplementary submission to IPART Draft Report, October 2020, p 2.

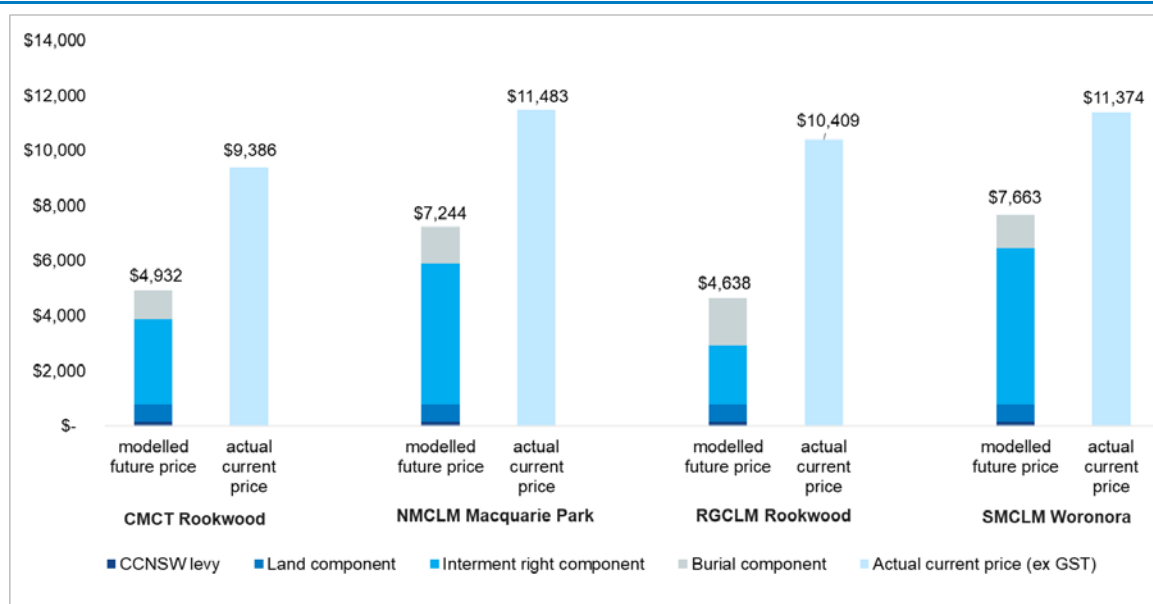
²⁰⁰ CMCT and Mills Oakley supplementary submission to IPART Draft Report, October 2020, p 3.

As discussed in Section 8.4, our broad estimate of the cost of the additional regulatory roles to be undertaken by CCNSW and price regulation by IPART could be in the order of \$5 million per annum. Using the most recent numbers of interments and cremations, and the current relativities in the levy between services, we estimate that the levy would need to almost double to recover \$5 million. Given the levy is currently \$83 per body interment, we have used an estimate of \$160 per body interment to model indicative cost-reflective prices in a future scenario where our recommendations about a rent-equivalent payment and the interment service levy are implemented.

10.4.4 Estimated efficient cost-reflective prices for the Crown cemetery operators in a future scenario

Figure 10.1 shows the pricing components for each of the Crown cemetery operators for a basic adult lawn burial under a future scenario with land costs and a higher interment service levy. Figure 10.1 also compares the future estimated efficient cost-reflective price for each of the Crown cemetery operators with the actual price each Crown operator is currently charging. This indicates that, even with changes to the cemetery operating environment, we would expect to see substantially lower prices for a basic adult lawn burial.

Figure 10.1 Pricing components for an efficient cost-reflective basic adult lawn burial under a future scenario with land costs and a higher service levy (ex GST)



Note: The assumed CCNSW levy is \$160 per body interment. The land component per plot is \$621.

Data source: IPART, Deloitte Access Economics, *Efficient costs of interment services*

10.5 Data should be collected to support price regulation

A key component of effective price regulation is access to accurate information about costs. During this review, we have observed very different standards of record-keeping and cost information. For the water businesses whose prices IPART regulates, we have developed Annual Information Returns to assist regulated businesses to record and submit accurate, standardised information which can then be used to set appropriate prices. During the period leading up to the commencement of price regulation of interment prices, it would be beneficial for the cemetery operators, IPART and CCNSW to work together to develop an Annual Information Return for each operator which will be price-regulated so that high quality information is available for the first price determination.

Choice supported this recommendation. LGNSW and Shoalhaven Council noted that councils already report cemetery-related information, either publicly in their Operations Plan or to CCNSW, and caution against duplication of these requirements, or adding to the reporting burden of the existing requirements.²⁰¹

CMCT and Mills Oakley submitted that Deloitte's cost analysis has been undertaken by drawing on cost information provided by the Crown cemetery operators. To support a comparison between operators, Deloitte reallocated cost categories which CMCT does not agree with.²⁰² While we have not made any changes to the approach that Deloitte took to cost allocation between our Draft and Final Reports, we note that decisions around cost allocation would be made as part of a price determination, in consultation with the regulated parties and with public consultation. Deloitte's efficient cost modelling was an illustrative estimate, and not undertaken for the purposes of price regulation.

Recommendation

- 19 That CCNSW work with IPART and cemetery operators to develop an Annual Information Return to collect data to support price regulation and monitoring.

²⁰¹ LGNSW submission to IPART Draft Report, October 2020, p 12; Shoalhaven City Council submission to IPART Draft Report, October 2020, p 4.

²⁰² CMCT and Mills Oakley supplementary submission to IPART Draft Report, October 2020, pp 4-5.

10.6 More guidance on pricing matters should be made available to all cemeteries

This review of costs and prices for interment services has revealed how complex a task it is to get interment prices right, so that they accurately reflect the costs involved in providing a perpetual interment right over the life of a cemetery.

For our Interim Report we released a pricing tool to help cemetery operators set cost-reflective prices for new cemeteries (i.e. prior to the first burial). We noted in the Interim Report that we would develop a pricing tool for existing cemeteries. We have developed a model which we have used to model efficient cost-reflective prices for basic adult lawn burials for the Crown operators, as set out in Chapter 6 of this report. However, due to the degree of tailoring and guidance required, as well as accurate input data, to model cemetery prices on a cemetery-by-cemetery basis, we have decided not to release the model as a generic pricing tool with the Final Report.²⁰³ We consider that there is a substantial risk that using the model without training, guidance and high-quality information could lead to poor outcomes for cemeteries and customers.

However, we consider that additional guidance on pricing matters could be provided to cemetery operators via a code of practice on pricing. Guidance on pricing inputs such as an appropriate land value and discount rate, as well as recording and allocating cost data, could facilitate the release of simple price modelling tools for cemeteries.

Submissions supported this recommendation.

Recommendation

- 20 That CCNSW develop a code of practice on pricing, to provide guidance to cemeteries on pricing matters. The code of practice to include:
- The principle that prices should be cost-reflective
 - Guidance on including land as an input to the price of an interment right
 - Simple price modelling tools.

In our Draft Report, we also recommended that IPART provide price-setting assistance to cemetery operators on request, and that IPART recover the costs of this service from the cemetery operators who access it. Submissions were mixed on this recommendation, with two commenting on the conflict between IPART's role as a price regulator (which would be paid for via the industry levy) and as a price adviser – which non-regulated operators would pay for separately.²⁰⁴ After further consideration we have concluded that the guidance via the code of practice is sufficient to provide a basic level of assistance to cemeteries on pricing matters. Cemetery operators can also choose to engage a private firm to obtain more in-depth pricing advice. There are a number of firms who offer these services, and so we no longer recommend that IPART provide price-setting assistance on request.

²⁰³ This is consistent with our decision for the Draft Report.

²⁰⁴ Shoalhaven City Council submission to IPART Draft Report, October 2020, p 4; a confidential submission also made this point.

10.7 Cemeteries should display prices consistently

As discussed in Chapter 4, we observed a number of inconsistencies in the way that cemetery operators currently display their prices. To facilitate greater transparency over pricing, we recommend that cemetery operators be required to publish prices in a consistent format, using prescribed consumer-friendly terminology. We have prescribed a possible approach to publishing those prices in this report. Stakeholders have generally supported this recommendation; however, some have raised concerns about determining:

- ▼ Which cemeteries this requirement should apply to
- ▼ Which cemetery products should be included
- ▼ Which components should be published
- ▼ What language would best assist consumers.

Through this review we have consulted on our proposed approach to publishing prices, and have modified these recommendations in response to concerns raised by stakeholders. However, we consider that CCNSW should consult further with the industry on the appropriate components for publishing prices while developing the interment industry scheme. CCNSW could also test the language that we have proposed in this report with consumers, and refine it if necessary.

Recommendations

- 21 That the Code of Practice on pricing recommend that cemeteries publish prices for a subset of interment products on a consistent basis. These interment products include:
 - Plaque lawn grave
 - Headstone lawn grave
 - Monumental lawn grave
 - Ashes interment.
- 22 For the standard interment services outlined in Recommendation 21, cemetery operators be required to publish the following:
 - The total price for the interment service (i.e. the sum of all necessary service components) for both at-need and pre-need purchases
 - Itemised prices for each service component of the interment service, using terminology determined by CCNSW, and including any additional costs due to cultural or religious requirements as specified in the code. CCNSW should test and refine the service components and terminology prescribed in Table 10.3
 - Product specifications for the interment right, such as number of interments
 - Length of tenure (renewable or perpetual) and the future maintenance attributable to that right, for all relevant lengths of tenure.
- 23 That the provisions of the Code of Practice on publishing prices in a consistent way be made mandatory via the industry scheme for cemeteries which conduct more than 50 burials or interment right sales per year.

10.7.1 Many stakeholders support the publication of prices

Submissions to our Issues Paper argued that all cemetery operators should be obliged to publish a pricing schedule,²⁰⁵ and that purchasers should be provided with clear information about pricing that allows them to easily compare offerings both across and within cemeteries.²⁰⁶ In our Interim Report we recommended that **all** cemetery operators be required to publish prices using terminology and a structure prescribed in our report. Submitters broadly agreed with our interim recommendation, but there were some qualifications to our recommendations, for example submitters noted that:

- ▼ Publishing prices for the full range of memorial options available may not be helpful for consumers, and so this recommendation should be limited to a subset of services that are offered in most cemeteries, such as:
 - Plaque lawn grave.
 - Headstone lawn grave.
 - Monumental lawn grave.²⁰⁷
- ▼ Further consultation may be required to determine the terminology for price lists, and the appropriate service components.²⁰⁸
- ▼ Cemeteries that infrequently sell interment rights should not be required to publish prices, rather our recommendation should only apply to ‘active’ cemeteries. This would ensure that the administrative costs of publishing prices do not outweigh the benefits to consumers.²⁰⁹

Based on this feedback we modified our recommendation by limiting it to a subset of commonly offered cemetery products and revising the prescribed terminology for publishing prices - shown in Table 10.3 below. We also applied a threshold to this recommendation, so that it applies only to cemeteries that conduct more than 50 interments per year.

Our reasons for modifying this recommendation are discussed in the sections below.

²⁰⁵ For example see Catholic Metropolitan Cemeteries Trust, Submission to IPART Issues Paper, June 2019, p 6.

²⁰⁶ Sydney Diocesan Secretariat, Submission to Issues Paper, June 2019, p 2.

²⁰⁷ Catholic Metropolitan Cemeteries Trust, Submission to Interim Report, February 2020, p 3 -5.

²⁰⁸ For example see Mills Oakley who argued that CCNSW should consult on the appropriate terminology, Mills Oakley, Submission to Interim Report, February 2020, p 1.

²⁰⁹ See Anglican Church Property Trust, Submission to Interim Report, February 2020, p 1.

Table 10.3 Service components for interment products

Components	Explanation
Burial Right: Right to inter (bury or place) body or ashes in a particular location in a cemetery	
Site	Share of cost of purchasing and developing land for a cemetery attributable to that location. For renewable tenure this would include the costs of removing remains to prepare grave for resale.
Maintenance	Share of cost of activities required to maintain the site and the cemetery into perpetuity (or the term of renewable tenure)
End of tenure costs (renewable tenure only)	Administration costs of contacting right holder to see if they want to renew
Burial or placement of body or ashes in a grave or built structure	
Excavation	Digging a grave to the appropriate size and depth.
Order for interment	Cemetery operators must issue an order for interment before burying remains in a cemetery
Burial, or	Burial of human remains in the ground, including landscaping after burial.
Placement	Placement of ashes or placement of human remains elsewhere than in the ground (e.g. crypt, mausoleum).
Memorial	
Plaque, monument, headstone, garden or other item to be installed on a site to commemorate or identify	Engraving and/or placement of a memorial.

Source: IPART, CCNSW general consumer guide to interment rights.

10.7.2 We have identified a group of common services offered in most cemeteries

While many stakeholders supported measures to increase transparency,²¹⁰ some argued that publishing prices for the full range of interment options available may have the opposite effect to that intended, and hinder rather than assist consumers.²¹¹ In addition, while our costs and pricing analysis has largely focused on body interment services, stakeholder consultation highlighted that consumers want more transparency over ashes interment prices as well (see Box 10.1).

We agree that a requirement to publish all services offered by a cemetery may be excessive and therefore not helpful for consumers. So we have defined a subset of standard services for which prices should be published (that is, plaque lawn grave, headstone lawn grave, monumental lawn grave and ashes interment). We consider that this will allow consumers to compare ‘like-for-like’ products, facilitating our objective of promoting competition by comparison. We agree that ashes interment should be included in our recommendation so that consumers are better able to access information on cemetery pricing for both ashes and body interment.

²¹⁰ See Northern Metropolitan Cemeteries Land Manager and Anglican Church Property Trust submissions to IPART Interim report.

²¹¹ For example, the Catholic Metropolitan Cemeteries Trust submitted that although each cemetery can publish prices of other services, the consumers can only benefit if they can compare prices of like-for-like products. Catholic Metropolitan Cemeteries Trust, submission to IPART Interim report, February 2020, p 4.

CCANSW submitted that this recommendation should apply to a limited range of comparable goods or services. However it argued that the recommendation should also include the publishing of prices for cremation and alkaline hydrolysis.²¹² While we agree that it may be beneficial to include a wider range of products in the future, we consider that in the first instance, it should remain limited to the subset of standard interment products outlined above. CCNSW could determine in the future if this requirement should be broadened to include additional products.

10.7.3 How should cemeteries be required to structure their prices?

We consider that requiring prices to be published using a consistent structure and terminology should serve two purposes:

- ▼ It should help consumers who are comparing prices across different cemeteries, to understand the factors that impact the overall price, and help them to make more informed choices
- ▼ It should result in greater transparency, placing more competitive pressure on cemetery operators to make their prices reflective of efficient costs.

In order to achieve these objectives, we recommend that cemetery operators be required to:

- ▼ Publish the **total price for a body interment service** on cemetery operator websites.
- ▼ Itemise each service component using prescribed terminology, with an accompanying explanation describing each service component (shown in Table 10.3).

Our approach to publishing prices aligns well with information standards for the funeral industry which were introduced as part of the Fair Trading Regulation NSW in 2019.²¹³

To demonstrate how cemetery operators should publish prices for interment services consistent with our recommendations, we have provided illustrative examples, for both perpetual and renewable interment rights (see Appendix C). These examples show how cemetery operators should be required to display prices for specific circumstances, including:

- ▼ **At-need and pre-need purchases** - Because interment services can be purchased either pre-need or at-need, the price that a consumer pays upfront may vary. This is because a consumer purchasing a pre-need service will pay for the interment right (but not the burial), while a consumer purchasing an at-need service will purchase all service components (i.e. the interment right and the burial). As a consequence, we recommend that cemetery operators publish **both** at-need prices and pre-need prices if they choose to offer both (shown in Table C.1 and Table C.2).
- ▼ **Renewable and perpetual tenure** - While very few cemeteries currently advertise prices for renewable tenure in NSW (because most are not yet offering it), we recommend that cemetery operators be required to publish information on type of right (i.e. perpetual or renewable). In addition, operators should be required to publish the future maintenance component of the price for an interment right, so that consumers can be made aware of the costs of maintenance and its contribution to the overall price for an interment right.

²¹² CCANSW submission to IPART Draft report, p 2.

²¹³ See Fair Trading Regulation 2019 [NSW] under the Fair Trading Act 1987.

10.7.4 Stakeholders have mixed views on appropriate service components and terminology

As discussed above, we have recommended that cemeteries be required to publish a breakdown of their prices using the service components in Table 10.3 and consistent consumer-friendly terminology (also shown in Table 10.3). Stakeholders broadly agreed with our approach to pricing transparency. However, to ensure that the most informative breakdown is achieved (while avoiding confusion for consumers) we propose that CCNSW consult further with the industry on the appropriate standard service components and terminology while it develops the industry scheme. Stakeholders have highlighted that it is important to balance the need for transparency with the need for simplicity. For example, Rookwood General Cemetery submitted that pricing breakdowns would need to be kept simple, as breaking down prices into too many sub-elements would possibly give rise to inconsistent terminology and therefore confusion for families.²¹⁴

Catholic Metropolitan Cemeteries Trust and Mills Oakley submitted that they agree with our recommendation to publish the total price for an adult lawn burial, but that publishing itemised service components may create confusion for consumers.²¹⁵ For example, Mills Oakley and the Catholic Metropolitan Cemeteries Trust submitted that publishing service components relating to interment (such as excavation and order for interment) may be of little benefit to consumers because these costs are not optional. Mills Oakley argued that if these service components must be published, then they should be identified as compulsory in the pricing table (so that consumers are not misled to believe they are optional). While we understand that many of the components we have identified in Table 10.3 are not optional for consumers, we have found that these cost components drive variation in prices for interment services. For example, the costs of excavation may vary by cemetery because of differences in soil types. We also observed wide variation in prices for components such as the order for interment and consider that greater transparency over these pricing components is warranted.

Mills Oakley also suggested that CCNSW should conduct a separate consultation process to ensure that the terminology recommended by IPART will achieve its intended outcomes. Rookwood General Cemetery also argued that standard industry definitions and terminology would need to be developed to ensure consistency between all cemetery operators.²¹⁶ As a result, we recommend that CCNSW consult with the industry to finalise the appropriate service components and terminology. We also recommend that CCNSW test this with consumers. Box 10.1 outlines our findings on the consultation we have undertaken. CCNSW could build on the work that we have done so far.

²¹⁴ Rookwood General Cemetery submission to IPART Draft Report, October 2020, p 2.

²¹⁵ Catholic Metropolitan Cemeteries Trust, Submission to Interim Report, February 2020, pp 3-5; Mills Oakley, Submission to Interim Report, February 2020, p 1.

²¹⁶ Rookwood General Cemetery submission to IPART Draft Report, October 2020, p 2.

Box 10.1 IPART consultation on pricing terminology

We presented our pricing recommendations to the Community and Consumer Consultative Group (CCCG), and invited further feedback on the pricing terminology and service components in Table 10.1 (above). The CCCG is a 17-member group appointed by CCNSW to capture the diversity of views on end-of-life services and provide advice on the future of NSW burial and cremation services.^a Feedback from the CCCG on IPART's proposed pricing terminology included that:

1. 'Interment' is not a consumer-friendly term and should be replaced with burial
2. 'Bodily' should be replaced with body
3. Grave specifications such as size and depth could be simplified to number of burials
4. 'Body disposal' may not be appropriate language for all consumers and should be avoided
5. Consumers want more transparency over ashes interment.

^a NSW Department of Planning, Industry and Environment, Media Release 6 November 2019, [Diverse community group to help steer NSW burial and cremation policy](#), accessed 19 November 2020.

Source: IPART

Once CCNSW has finalised the appropriate service components and terminology for displaying cemetery prices, we recommend that CCNSW changes its consumer-facing terminology to reflect this. For example, CCNSW has recently released a suite of consumer-facing information to encourage more people in NSW to plan for burial, cremation and funeral arrangements.²¹⁷ We consider that these consumer-facing communications should reflect the language that this used for publishing cemetery prices.

Submissions to our Draft Report supported this recommendation, such as Choice and Shoalhaven City Council.²¹⁸ However, Rookwood General Cemetery submitted that it is crucial that industry definitions/terminology is established to describe the wide range of products and services offered by different cemetery.²¹⁹

Recommendation

- 24 That CCNSW use consumer-facing language that is consistent with the terminology used for publishing cemetery prices.

²¹⁷ Cemeteries & Crematoria NSW, [Planning for burial, cremation and ways to remember life](#), accessed 19 November 2020.

²¹⁸ Choice submission to IPART Draft Report, October 2020, p 2; Shoalhaven City Council submission to IPART Draft Report, October 2020, p 5.

²¹⁹ Rookwood General Cemetery submission to IPART Draft Report, October 2020, p 2.

10.7.5 Cemeteries that have limited operations should not be required to publish prices

We had initially envisaged that all cemeteries be required to publish prices on a consistent basis, and stakeholders such as Shoalhaven City Council agreed that this recommendation should apply to all cemetery operators.²²⁰ However, other stakeholders have informed us that there are some small (usually church-run) cemeteries in NSW that may still be operational, but rarely sell interment rights to the wider community. For example, Anglican Church Property Trust submitted that while it may be active according to CCNSW criteria, it has a limited number of plots that are reserved for church members and that it does not operate on a commercial basis. It expressed concern that the requirement to publish prices may place an excessive administrative burden on staff (who are typically part-time employees and volunteers).²²¹ We agree that our recommendation should only apply to 'active' cemeteries (those that perform more than 50 interments per year). This will avoid imposing unnecessary costs on small cemeteries that have limited operations.

Local Government NSW (LGNSW) submitted that council-operated cemeteries already publish their annual cemetery fees and charges in their Operations Plan and that this legislated practice is sufficiently transparent.²²² We understand that councils are required to publish prices for all cemetery services no matter how active they are, so the 50 interments per year threshold would not apply to councils. We have also observed that councils publish their prices using inconsistent terminology and that prices across council cemeteries are difficult to compare, and so we consider that all councils (regardless of the number of interments per year) should be required to publish their prices in a consistent way, using the format prescribed in Recommendation 22.

10.7.6 CCNSW should develop a cemeteries price comparator website within 12 months of release of this Final Report

We consider that in addition to cemetery operators publishing their prices on their own websites, a central website should be developed that allows consumers to compare prices from all cemeteries in one place. This website could adopt some of the features of the Victorian cemeteries regulator's website's "cemetery search" function.²²³ CCNSW submitted that the requirement to publish prices should do more than just create access to extensive lists of prices. It should utilise technology to create on-line access to comparative pricing for similar items for a variety of providers, nominated by the family.²²⁴ We consider that the development of a cemeteries pricing comparator website will facilitate this comparison.

²²⁰ Shoalhaven City Council submission to IPART Draft Report, October 2020, p 5.

²²¹ Anglican Church Property Trust, Submission to IPART Interim report, February 2020, p 1.

²²² LGNSW, submission to IPART Interim report, February 2020, p 7.

²²³ Victoria State Government, Department of Health and Human Services, [Cemetery Search](#), accessed 19 November 2020.

²²⁴ CCNSW submission to IPART Draft report, p 7.

Our recommendation was generally supported by stakeholders such as Northern Metropolitan Cemeteries Land Manager, Wollongong City Council and Cessnock City Council.²²⁵ Recent research conducted by CCNSW also found that consumers would like an independent source to compare information about burial and cremation options.²²⁶

LGNSW submitted to our interim report that it supported the recommendation in principle but argued that the website should not unreasonably increase reporting and compliance burdens on council.²²⁷ LGNSW submitted that publishing transparent prices should demonstrate the unique circumstances of the cemetery to the consumer, such as:

- ▼ Compliance and reporting obligations to Government
- ▼ Servicing their community and community consultation
- ▼ Care of inoperative or semi-closed sites with inadequate funding.²²⁸

While we have not explicitly identified these factors as service components in Table 10.3, we consider that they would be captured in the ‘maintenance’ component of the interment right, which accounts for a share of all the costs of maintaining and operating a cemetery.

In considering who should develop the cemeteries pricing comparator website, we have investigated whether it could be included in the Digital.NSW ‘Navigating end of life journeys’ project, which aims to collaborate and design seamless, holistic services for citizens during major life events.²²⁹ However, the website should be developed by an agency with specialised knowledge of the cemeteries sector, and so CCNSW is the preferred agency for developing and hosting the tool. The site should also be linked to the NSW Government ‘Life events’ page to increase its accessibility.²³⁰ Shoalhaven City Council submitted that “given the complexity of this matter, the timeline is unrealistic to attain a real alignment of products and services that is not just window dressing.”²³¹ We have amended this recommendation to require the website to be developed within 12 months of release of this Final Report.

Cessnock City Council submitted that in the future, the website should also include funeral home/director costs.²³² As discussed above, we will be investigating the funeral industry in the second stage of this review, and will consider whether any such measures are warranted when we undertake this investigation.

Recommendation

- 25 That CCNSW develop, within 12 months of release of this Final Report, a central website to enable consumers to compare prices for interment services in one place.

²²⁵ Northern Metropolitan Cemeteries Land Manager. Submission to IPART Interim Report, February 2020, p 5; Wollongong City Council, submission to IPART Interim Report, February 2020, p 2; Cessnock City Council submission to IPART Draft Report, October 2020, p 1.

²²⁶ Cemeteries & Crematoria NSW, *Way to go – People’s views on burials, cremation, funerals and ways to commemorate life*, August 2020, accessed 19 November 2020.

²²⁷ LGNSW, submission to IPART Interim report, February 2020, p 8.

²²⁸ LGNSW, submission to IPART Interim report, February 2020, p 8.

²²⁹ NSW Government, *Navigating end of life journeys*, accessed 19 November 2020.

²³⁰ NSW Government, *After a death*, accessed 19 November 2020.

²³¹ Shoalhaven City Council submission to IPART Draft Report, October 2020, p 5.

²³² Cessnock City Council submission to IPART Draft Report, October 2020, p 1.

11 Perpetual maintenance – the way forward

This chapter considers how to ensure that cemetery operators make adequate provision to fund cemetery costs into perpetuity.

We found that the financial risk of a cemetery operator failing to maintain funds for perpetual maintenance justifies introducing legal requirements to manage that risk. We have developed a recommended prudential framework for reserving funds for perpetual maintenance.

Our package of recommendations for perpetual maintenance was developed between our Interim and Draft Reports and we have maintained them in this Final Report.

We have also responded to concerns raised in submissions about dealing with legacy costs.

The sections below provide an overview of our recommendations regarding perpetual maintenance of cemeteries, and then discuss them in more detail.

11.1 Overview of recommendations

In Chapter 4 we found that for most cemetery operators there is no disclosure or reporting of perpetual maintenance liabilities in their annual financial statements. Further, the arrangements for setting aside funds for the perpetual maintenance of their cemeteries are not transparent and as a result there is limited accountability about the adequacy of these funds. We consider that there should be a consistent approach for cemetery operators in providing adequate funds for cemetery maintenance into perpetuity.²³³

Our recommendations are that:

- ▼ All cemetery operators be legally required to make adequate financial provision for perpetual maintenance of interment sites and the cemetery.
- ▼ Licensed cemetery operators²³⁴ be required to:
 - Prepare an estimate of the perpetual care maintenance liability and establish/maintain a dedicated fund for this purpose.
 - Obtain external independent advice on their potential perpetual maintenance obligations on a regular basis, including advice on how to manage/contribute to a fund to provide for these future costs, and the trade-off between risk and reward.
 - “Ring fence” assets set aside for meeting perpetual maintenance costs in future so that they are used solely for that purpose.
 - Prepare a transition plan to deal with the management of “legacy” perpetual maintenance obligations owed at the time a new governance framework is implemented.

²³³ IPART, *Review of interment costs and pricing - Interim Report*, December 2019, p 48.

²³⁴ Licensed under the recommended interment industry scheme set out in Chapter 8.

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- ▼ As part of the transition to the new licensing arrangements, cemetery operators who will be licensed must estimate and report on their perpetual maintenance assets and liabilities as at the end of the next financial year following the release of this Final Report.
 - ▼ For cemeteries that will not be licensed, CCNSW should develop a voluntary Code of Practice to set out best practice financial management for perpetual maintenance, including developing a plan to manage funding of perpetual maintenance responsibilities.
 - ▼ We have released an Estimated Perpetual Care Liability Model for cemetery operators to use to assist them in estimating their perpetual maintenance liability from past interments and also to calculate any funding shortfall.
 - ▼ Once cemetery operators have a clearer idea of the extent of their legacy costs and their ability to manage them in future, CCNSW should consider any residual legacy cost issues in particular situations, e.g. historic cemeteries in regional areas where there is reduced scope to recover costs from future sales of interment rights.
 - ▼ CCNSW engage with the Australian Accounting Standards Board to ascertain the appropriate accounting treatment of perpetual maintenance expenses by cemetery operators.

11.2 A legal obligation on cemetery operators is needed to provide for perpetual maintenance of cemeteries

In Chapter 4 we assessed the legacy costs of maintaining cemeteries into perpetuity and the extent to which cemetery operators are currently funding these costs. Deloitte estimated the legacy costs from past interments in NSW to be around \$1.7 billion at 30 June 2019.²³⁵

While funds have been set aside by some cemeteries against legacy costs, we found that the extent of existing legacy costs across cemeteries in NSW, and the fact that there is no legal requirement to reserve assets to fund them, presents a significant financial risk for the future. We consider that improved governance and regulation is essential to ensure that the financial risks associated with perpetual maintenance are appropriately managed by cemetery operators.

²³⁵ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 84.

Our finding that most cemetery operators do not disclose perpetual maintenance liabilities may be explained (at least in part) by the absence of a legal obligation on cemetery operators to make financial provision for perpetual maintenance of their cemeteries. The regulator, CCNSW, has developed a voluntary cemetery and crematorium operator code of practice on interment rights and general services²³⁶, which includes the following high-level guidance for perpetual maintenance and its funding:

Operators will acknowledge that that maintenance responsibilities for cemeteries (and any contractual obligations in respect of any grave, monument or memorial) extends beyond the closure of a cemetery and into perpetuity. To meet these obligations, operators are to set aside sufficient funds as part of their financial planning and operations.²³⁷

In our Interim and Draft Reports, we noted that the current arrangements (i.e. a voluntary code of practice) are not adequate and cemetery operators have a weak incentive to provide ongoing maintenance when a cemetery closes. There is a risk that if cemetery operators do not set aside funds for perpetual maintenance then the government may need to fund these obligations in the future. In the case of private cemetery operators, they could elect to leave the sector.

A legal obligation makes it transparent that cemetery operators are responsible for making financial provisions for future maintenance of the cemetery. This could be implemented via the interment industry scheme we are recommending, as set out in Chapter 8.

There was a diversity of views among submissions to our Issues Paper, Interim and Draft Reports about the imposition of a legal obligation on cemeteries for perpetual maintenance. These reflect the different financial capability, scale of operations, and regulatory framework that cemeteries currently operate in.

Metropolitan Crown cemetery operators generally support a legal obligation on all operators to make a financial provision for perpetual maintenance.²³⁸ Rookwood General comments that the role of families in maintaining interment sites has changed over time. In the past families would regularly visit and maintain the site to a high standard. However, this family subsidised maintenance has declined and cemetery operators are now providing this maintenance.²³⁹ Some individual councils also support a legal obligation in principle.²⁴⁰

²³⁶ Cemeteries and Crematoria NSW, *Cemeteries and crematorium operator code of practice 2018*, November 2018, accessed 17 November 2020.

²³⁷ Cemeteries and Crematoria NSW, *Cemetery and crematorium operator code of practice 2018 – Interment rights and general services*, November 2018, see section 8.5.

²³⁸ See, for example, Northern Metropolitan Cemeteries Land Manager, submission to Interim Report, February 2020, p 4; Southern Metropolitan Cemeteries NSW, submission to Issues Paper, June 2019, p 1; and Catholic Metropolitan Cemeteries Trust, submission to Issues Paper, July 2019, p 3 and p 7.

²³⁹ Rookwood General Cemetery, submission to Interim Report, February 2020, p 4.

²⁴⁰ Waverley Council, submission to IPART Draft Report, October 2020, p 2; Shoalhaven City Council submission to IPART Draft Report, October 2020, pp 5-6; Dubbo Regional Council submission to IPART Draft Report, October 2020, p 1.

Local Government NSW maintains its position that there should be no new legal obligation for financial provision for perpetual maintenance for council operated cemeteries, in recognition of existing regulatory and financial oversight under the *Local Government Act 1993*.²⁴¹ This position is supported in submissions from Bega Valley Council,²⁴² Wollongong City Council²⁴³ and Brewarrina Shire Council.²⁴⁴ Kempsey Shire Council recommends that a minimum performance-based standard of maintenance should be applied incorporating standards for safety and amenity.²⁴⁵

Concerns from submitters mainly focus on the position of cemetery operators with liabilities from past burials and no or insufficient assets currently reserved for those liabilities:

- ▼ The Anglican Church Property Trust strongly recommends that any legislation regarding a requirement for perpetual funds exclude cemeteries operated by faith-based groups unless state funding is made available for the establishment of these trusts. The Trust is also concerned about the costs of maintaining church cemeteries where the majority of burials are of historical interest.²⁴⁶
- ▼ NSW Jewish Board of Deputies and Lebanese Muslim Association in their submission on our Interim Report proposed that government needs to contribute to and manage the perpetual care funding gap so that consumers are not burdened by it.²⁴⁷ In their submission on our Draft Report, they submitted that, prior to cemetery reforms in 2012, “cemeteries assumed that, when they closed, maintenance costs would shift back to consolidated revenue”, and that it would be unfair to require cemetery managers to recover those pre-2012 costs.
- ▼ Shoalhaven Council notes that “a majority of Local Government cemetery operators have unfunded, historic cemeteries that have been passed into their care or have been attributed to them under amalgamations. Council believes that most of these Local Governments would have no Perpetual Maintenance Funds. The imposition of a legal obligation in these instances would be inequitable.”²⁴⁸

We maintain our view that a legal obligation is needed to provide for the perpetual maintenance of cemeteries. This is because the current arrangements for reserving funds for perpetual maintenance lack accountability and transparency. We acknowledge the objections of Local Government NSW and some councils to this approach. However, in our view the *Local Government Act 1993* does not expressly impose a financial obligation on councils regarding the perpetual maintenance of cemeteries. Rather, providing an express obligation upon all cemetery operators to provide for the perpetual maintenance of cemeteries would be consistent with the principles in *Local Government Act 1993*.

²⁴¹ Local Government NSW, submission to Interim Report, February 2020, p 6; and submission to Draft Report, pp 14-15.

²⁴² Bega Valley Shire Council, submission to Draft Report, September 2020, p 2.

²⁴³ Wollongong City Council, submission to Interim Report, February 2020, p 1.

²⁴⁴ Brewarrina Shire Council, submission to Interim Report, February 2020, p 1.

²⁴⁵ Kempsey Shire Council, submission to Interim Report, February 2020, p 1.

²⁴⁶ Anglican Church Property Trust, submission to Interim Report, February 2020, p 2.

²⁴⁷ NSW Jewish Board of Deputies and Lebanese Muslim Association, submission to Interim Report, February 2020, p 5.

²⁴⁸ Shoalhaven City Council submission to IPART Draft Report, October 2020, pp 5-6.

We acknowledge that this obligation will crystallise future financial obligations for cemetery operators, and for some those financial obligations exceed any assets that they have set aside. This is particularly problematic for older cemeteries that may be closer to exhaustion of burial spaces, and where past pricing and reserving practices did not address future requirements. However, it is all the more important for these assessments to be made now and for cemetery operators to develop plans to address any shortfall before the situation deteriorates further.

Recommendation

- 26 That the NSW Government amend the *Cemeteries and Crematoria Act 2013* to impose a legal obligation on all cemetery operators to be responsible for perpetual maintenance of perpetual interment sites and the cemetery.

11.3 Licensed cemetery operators need a compulsory governance and prudential framework for perpetual maintenance funding

We sought advice from Deloitte on an appropriate governance and prudential framework for perpetual maintenance funding, drawing on an assessment of comparable frameworks. Deloitte examined other jurisdictions where cemeteries had either had a review into governance practices or had in place specific governance requirements. For example, Deloitte found that the *Cemeteries and Crematoria Act 2003* in Victoria places specific responsibility on cemetery management to maintain their cemeteries in perpetuity. Similarly, both Ontario and Illinois cemeteries have existing legislated requirements to set aside a percentage of sales revenue into a fund for the costs of perpetual maintenance.²⁴⁹

Based on Deloitte's report, we consider that establishing a legal obligation for perpetual maintenance funding reflects best practice governance arrangements for cemeteries.

We made some recommendations in our Interim Report regarding a framework for reserving funds for perpetual maintenance including establishing a perpetual maintenance reserve fund to be managed independently, which we developed further in our Draft Report, based on the following recommendations from Deloitte:

- ▼ All cemetery operators over a certain size must prepare an estimate of the perpetual care maintenance liability and establish a dedicated fund for this purpose. Smaller operators to be encouraged to opt in as good practice.
- ▼ All cemetery Boards (or equivalent) must obtain external independent advice on their potential perpetual maintenance obligations on a regular basis, including advice on how to manage/contribute to a fund to provide for these future costs.
- ▼ The Board (or equivalent) articulate a risk appetite statement in regard to the perpetual maintenance fund.
- ▼ 'Ring fencing' assets set aside for meeting perpetual maintenance costs in the future so that they are used solely for that purpose.

²⁴⁹ Deloitte Access Economics, *Governance framework – cemeteries*, July 2020, p 17.

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- ▼ The Board (or equivalent) prepare a transition plan to deal with the management of ‘legacy’ perpetual maintenance obligations owed at the time a new governance framework is implemented.
 - ▼ The regulator of the above may be CCNSW or a regulator set up specifically for this purpose.²⁵⁰

There was some qualified support for this recommendation in submissions.²⁵¹

LGNSW opposed the recommendation on the basis that “local government must have control of its revenue raising and investment decisions”.²⁵² However, we consider that the objective of this recommendation is analogous to the regulatory requirements for superannuation or insurance, which local government is required to observe in the same way as other businesses.

As set out in Section 11.2, some submissions raised concerns about the burden of legacy costs on existing cemeteries if licensed operators are required to make financial provision for them now where they have not in the past.²⁵³ This issue was also raised at the public hearing.²⁵⁴

Our recommendation puts the onus on cemetery boards or equivalent to manage legacy costs via a transition plan. A transition plan should consider the current available assets based on historical retained surpluses and the potential future perpetual maintenance costs from past sales. In the case of a funding shortfall, the plan should identify options to improve this situation over a period of time. Options include increasing future prices, capital injections from owners, and reviewing what level of maintenance could be supported. The cemetery operator will also need to consider the impact of these options on the prices of interment services for customers.

In response to concerns raised in submissions, we have added a new recommendation giving CCNSW responsibility to deal with residual legacy costs in situations where the cemetery operators identify that they cannot transition to a fully funded position. See section 11.5 for further details.

²⁵⁰ Deloitte Access Economics, *Governance framework – cemeteries*, July 2020, p vi.

²⁵¹ Shoalhaven City Council submission to IPART Draft Report, October 2020, p 6; Rookwood General Cemetery submission to IPART Draft Report, October 2020, p 2.

²⁵² LGNSW submission to IPART Draft Report, October 2020, p 14.

²⁵³ CMCT and Mills Oakley submission to IPART Draft Report, October 2020, p 7.

²⁵⁴ Summary of [Interment Review public hearing](#).

Recommendation

- 27 That the industry scheme require all licensed cemetery operators to:
- Prepare an estimate of the perpetual care maintenance liability and establish/maintain a dedicated fund for this purpose.
 - Obtain external independent advice on their potential perpetual maintenance obligations on a regular basis, including advice on how to manage/contribute to a fund to provide for these future costs, and the trade-off between risk and reward.
 - “Ring fence” assets set aside for meeting perpetual maintenance costs in future so that they are used solely for that purpose.
 - Prepare a transition plan (to be approved by CCNSW) to deal with the management of “legacy” perpetual maintenance obligations owed at the time a new governance framework is implemented.

It will take time to develop an industry scheme, as it involves drafting a regulation and undertaking consultation on the regulation as required by the CC Act.²⁵⁵ In the interim, those large cemetery operators that will be licensed as part of the industry scheme should begin the transition to the new framework by assessing and reporting on their perpetual maintenance liabilities. Under Division 7 of the CC Act, CCNSW can require cemetery operators to report on the operators’ performance in managing the cemeteries and on other matters as CCNSW considers appropriate.²⁵⁶

Recommendation

- 28 That CCNSW require cemetery operators which will be licensed in future under Recommendation 2 to report their estimated perpetual maintenance liabilities as at 30 June in the notes to financial accounts in their annual report for the first full financial year following release of this Final Report.

11.4 Providing guidance to non-licensed cemetery operators to help them manage perpetual maintenance funding

Submissions on our Interim and Draft Reports supported a best practice/guideline approach to managing perpetual maintenance funding. LGNSW submitted:

LGNSW does support the development of guidelines for the use of perpetual maintenance funds, so long as these guidelines are nonbinding and do not impinge on council control of investment and expenditure decisions that are in the interests of the community. Councils have noted that it would be beneficial for the guidelines to provide advice on monumental care in cemeteries in the context of perpetual maintenance.²⁵⁷

Shoalhaven City Council and Hay Shire Council also supported this recommendation.²⁵⁸

²⁵⁵ CC Act, s 31 and s 32.

²⁵⁶ CC Act, s 41(1).

²⁵⁷ LGNSW submission to IPART Draft Report, October 2020, pp 15-16.

²⁵⁸ Shoalhaven City Council submission to IPART Draft Report, October 2020, p 6; Hay Shire Council submission to IPART Draft Report, September 2020, p 1.

We consider that compulsory prudential requirements are the best approach to perpetual maintenance funding for the cemetery operators which carry the largest financial risk – the licensed operators. However, for cemetery operators that are not licensed, we recommend that CCNSW develop a code of practice to provide guidance to cemetery operators on best practice financial provision for perpetual maintenance.

Recommendation

- 29 That CCNSW develop a Code of Practice which sets out best practice financial provision for perpetual maintenance for cemetery operators which do not meet the threshold for inclusion in the mandatory requirements of licensed operators, including:
- Estimating perpetual maintenance liabilities
 - Reporting these liabilities in the notes to financial accounts
 - Developing a plan to address how perpetual maintenance will be funded, including any liabilities from past sales (legacy costs).

We have recommended that licensed operators be required to estimate their perpetual maintenance liabilities, and that other operators make this estimate as a matter of best practice. We have released an Estimated Perpetual Care Liability Model, a practical tool to assist cemetery operators to estimate their perpetual maintenance liability from past interments (legacy costs). An overview of the model is provided in Box 11.1 below. It was developed for our review by Deloitte.

The model allows an operator to input their own cemetery data (such as gravesite density, grounds maintenance costs and administration costs) to estimate a perpetual maintenance liability. Alternatively, if the operator does not have this cemetery data then assumptions developed by Deloitte can be used to generate a ‘model’ estimate which represents an indicative estimate of the perpetual maintenance costs.²⁵⁹ We would expect that, over time, cemetery operators would be able to refine the model estimate of perpetual maintenance costs using their own cost data to generate a more accurate estimate of costs.

Further, Deloitte considers that the model could also be used by cemetery operators as a way to estimate the proportional amount which needs to be set aside to cover perpetual maintenance costs in relation to any future expansions of land developed for gravesites and future sales of new interment rights.²⁶⁰

Cemetery operators should also develop a plan to address how those liabilities will be funded. While licensed operators will be required to keep a ring-fenced fund for the purpose, other operators will not be required to, and they may take other approaches to funding perpetual maintenance of cemeteries. For example, council operators may choose to fund or subsidise cemetery maintenance from a parks budget.

In response to concerns raised in submissions, we have added a new recommendation giving CCNSW responsibility to deal with residual legacy costs in situations where the cemetery operators identify that they cannot transition to a fully funded position. See section 11.5 for further details.

²⁵⁹ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 72-78.

²⁶⁰ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 81.

Box 11.1 Estimated Perpetual Care Liability Model

The Estimated Perpetual Care Liability Model is an Excel spreadsheet model that cemetery operators can use to estimate the level of perpetual maintenance costs for past interments based on a cemetery's characteristics (such as gravesite mix, location, number of sold gravesites).

The perpetual maintenance costs at a cemetery were categorised as either grounds maintenance costs or administration costs:

- ▼ Grounds maintenance costs could include a range of activities depending on the cemetery's characteristics including size, activity levels, and mix of gravesites. Some examples of activities include mowing grass areas, litter control, pest control, security, cleaning and maintaining roads, fences, walkways and buildings.
- ▼ Administration costs could include genealogy searches, maintenance of systems and databases such as IT, finance, premises and utility costs.

The model includes perpetual maintenance costs of body interments but does not include the perpetual maintenance costs associated with interments of cremated remains.

The model allows cemetery operators to calculate two different values of the perpetual maintenance costs:

- ▼ An operator estimate – which uses annual ground maintenance and administration costs data specifically for that operator/cemetery.
- ▼ A model estimate – which uses model assumptions developed by Deloitte to estimate annual ground maintenance and administration costs based on a cemetery's statistics (such as size and interment type). The model assumptions include gravesite density, costs assumptions for grounds maintenance and administration, and economic assumptions (eg. discount and inflation rate).

The model also allows operators to calculate any funding shortfall for perpetual maintenance at a point in time i.e. the difference between the perpetual maintenance fund assets (where it exists) and the estimate of the value of the perpetual maintenance costs from past interments.

Source: Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 71-80.

11.5 CCNSW to address any residual legacy cost issues

In the past, cemetery operators may not have fully included future maintenance costs when pricing their perpetual interment rights. Reasons include expecting families would be responsible for some of those maintenance costs into perpetuity, or that cemetery operators were not fully aware of the extent of future costs (which may also change over time and with community expectations). For affordability reasons, a council or church operator may have decided not to include the cost of the future maintenance in the price of the interment right but to meet these costs from a general council or church fund. We also received submissions from councils about the transfer of historic cemeteries with maintenance liabilities but no assets or revenue possibilities.

Clarifying that cemetery operators will be responsible for maintenance of their cemeteries into perpetuity (Recommendation 26) will crystallise some of these legacy liabilities for the first time. In our Interim Report, we said we would investigate the extent of these legacy costs before we made recommendations about how to deal with them. Deloitte's findings about the extent of the legacy costs demonstrated the level of financial risk associated with cemetery perpetual maintenance, and the importance of operators assessing the legacy liability they have. We also found that some cemetery operators are well advanced in holding funds for funding perpetual maintenance, or working towards having sufficient funds. Thus we recommended that cemetery operators should develop their own plans for meeting legacy costs, which could include pricing legacy costs into future sales.

However, numerous submissions and participants at our public hearing submitted that there are particular situations where legacy costs are extensive and opportunities for funding them limited: in particular, smaller operators (mostly in regional areas) with historic cemeteries that are close to exhaustion of available burial sites.

We consider that CCNSW should assess the extent of any residual legacy cost issues that operators cannot manage themselves, and review the options for alternative approaches where required.

One example of alternative funding for legacy costs is in Victoria, where a State Government cemetery grants program was established to provide funding as a contribution to the cost of cemetery infrastructure, amenities, maintenance, equipment and training. While grants are available to both Class A (equivalent to our recommended licensed operators) and Class B (equivalent to our recommended unlicensed operators) cemetery trusts, the grant program guidelines "acknowledge that Class B cemetery trusts, which are operated by more than 3,000 appointed volunteer members, are often unable to generate sufficient funds to maintain or improve their facilities". The grants are funded by a levy on Class A cemetery trusts.

Recommendation

- 30 That, once CCNSW has received legacy cost transition plans from cemetery operators (which is compulsory for licensed operators and optional for other operators), CCNSW is to assess the extent of any residual legacy cost issues that operators cannot manage themselves, and review the options for alternative approaches if there is a demonstrated need.

11.6 CCNSW to engage with the Australian Accounting Standards Board

In its review of prudential arrangements for perpetual maintenance funding, Deloitte commented that cemetery operators in NSW do not appear to report any liability in relation to perpetual maintenance obligations on their balance sheets. This is for one or both of the following reasons:

- ▼ They consider that no liability has crystallised for future maintenance at the reporting date, as such obligation is considered by them as a future event; and/or
- ▼ They consider there to be considerable uncertainty as to the reliability of any estimation of costs given the time frame involved.²⁶¹

A requirement to quantify and report on the perpetual maintenance liability (and any assets held against that liability) would assist cemetery operators to understand the extent of such liability and the steps that need to be taken to rectify any shortfall in funds. In particular, existing cemeteries will need to develop a transition plan as part of the industry scheme to recover any shortfall that has developed.

Deloitte recommended that the regulator engage with the accounting body (AASB) to seek guidance on whether or when such perpetual maintenance obligations would be triggered as a quantifiable liability on the balance sheet of operators.

In the meantime, Deloitte recommended that operators disclose in their notes to the accounts, or by separate split of the retained earnings, what component of the net assets relates to the perpetual maintenance fund.²⁶² We have incorporated this recommendation into our Recommendations 27-29.

Shoalhaven City Council supports this recommendation.²⁶³ Hay Shire Council also supports it, provided that appropriate guidelines are provided to councils and auditors.²⁶⁴

Rookwood General notes that a cemetery operating as a Controlled Entity, such as Rookwood General, needs to consider the accounting standards defined by NSW Treasury.²⁶⁵

Recommendation

- 31 That CCNSW engage with the Australian Accounting Standards Board to ascertain the appropriate accounting treatment of perpetual maintenance expenses by cemetery operators given the provisions of AASB Standard 137.

²⁶¹ Deloitte Access Economics, *Governance framework – cemeteries*, July 2020, p 6.

²⁶² Deloitte Access Economics, *Governance framework – cemeteries*, July 2020, p iv.

²⁶³ Shoalhaven City Council submission to IPART Draft Report, October 2020, p 6.

²⁶⁴ Hay Shire Council submission to IPART Draft Report, September 2020, p 1.

²⁶⁵ RGC submission to IPART Draft Report, October 2020, p 2.

12 Renewable tenure – the way forward

This chapter discusses renewable tenure.

The widespread acceptance and uptake of renewable tenure interment rights could help to address the issue of space shortages currently affecting urban cemeteries. Fully renewable interment cemeteries require less land than perpetual interment cemeteries, and the costs are shared between more customers, allowing for more affordable interment prices. Renewable interments also assist cemetery operators to manage the costs of maintenance over the long term as the renewal and reuse of the plot generates a more consistent income stream to cover maintenance for the term of each tenure.

Renewable tenure interment rights allow some of the costs of acquiring additional land for cemeteries to be saved in the long term, but also involve additional costs at the end of the tenure period.

NSW introduced renewable tenure as part of the *Cemeteries and Crematoria Act 2013* (CC Act) reforms.²⁶⁶ It has been available as an option in Crown cemeteries since June 2018.²⁶⁷ However, we understand that no Crown cemetery has yet introduced it. Introducing renewable tenure options by more cemetery operators would serve to provide additional choice of interment options to consumers in NSW. Guidance material on pricing renewable tenure relative to perpetual tenure would help cemetery operators develop renewable tenure products.

This chapter provides an overview of our findings and recommendations regarding renewable tenure, and then discusses these in more detail.

12.1 Overview of findings and recommendations

In Chapter 3 we discussed our research on the costs and practices of cemetery operators in South Australia and Western Australia where renewable tenure has been in operation for many years.²⁶⁸

In this chapter, we discuss our finding that it is unlikely there will be an increase in renewable tenure without changes to the current arrangements. This is because of low community awareness and acceptance of renewable tenure, and the reluctance of cemetery operators to offer it. We also discuss our recommendations that:

- ▼ All licensed cemetery operators be required by a condition on their operating licence to develop renewable tenure products
- ▼ The Code of Practice on Pricing (Recommendation 20) include guidance on relative prices of renewable tenure compared to perpetual tenure.

²⁶⁶ IPART, *Review of interment costs and pricing - Interim Report*, December 2019, p 10.

²⁶⁷ CC Act, Part 4, commenced June 2018.

²⁶⁸ IPART, *Review of interment costs and pricing - Interim Report*, December 2019, pp 41-42.

12.2 Uptake of renewable tenure is likely to be low without changes to the current arrangements

As discussed in Chapter 2, in NSW a renewable interment right allows the right holder to bury human remains and for those remains to be left undisturbed for a minimum period of 25 years from the date of interment. If a renewable interment right is not renewed at the end of its tenure period, the grave may be re-used by the cemetery. Prior to it being reused, a lift and deepen process is undertaken. This involves removing and placing any human remains in an ossuary box, deepening or enlarging the site, reinterring the ossuary box at a greater depth or alternately in an ossuary house, and removing any existing monuments.

Renewable tenure is available in other jurisdictions, including in South Australia and Western Australia, and in European countries including Denmark, France, Germany, Greece, Italy and Sweden.²⁶⁹

In NSW, almost all interments are perpetual. In 2018-19, there were 72 renewable tenure interments in NSW out of 17,955 total interments (0.4%).²⁷⁰ In our view, this reflects a low level of community awareness and acceptance of renewable interment rights. It is also because Crown and private cemetery operators don't offer, or intend to offer, a renewable interment product.²⁷¹ Deloitte made a similar finding in their review of the efficient costs of the Crown cemetery operators.²⁷²

IPART finding

- 11 Due to low community awareness and acceptance of renewable tenure, and the long lead time before cemetery operators realise land saving benefits, it is unlikely there will be an increase in renewable tenure without changes to the current arrangements.

12.3 We modelled the benefits of more widespread renewable tenure

There are three key factors which differentiate renewable interment rights from perpetual interment rights. The three factors are:

- ▼ Land saving benefit (LSB) - Renewable tenure requires less land than an equivalent number of perpetual interments
- ▼ Perpetual income effect (PIE) - Renewable tenure allows a cemetery to continue earning new income after all the plots have been sold for the first time
- ▼ End of tenure costs (EOT) - Renewable tenure leads to end-of-tenure costs, which do not exist for perpetual rights.

²⁶⁹ Parliament of NSW Legislative Council Regulation Committee, *Report 2: Cemeteries and Crematoria Amendment Regulation 2018*, November 2018, p 5.

²⁷⁰ Cemeteries and Crematoria NSW, *Annual Activity Survey 2018-19* accessed 18 November 2020.

²⁷¹ 69 of the 72 renewable tenure burials were at Waverley Cemetery, a local government cemetery.

²⁷² Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 34.

Considering a notional new cemetery where perpetual interment rights are priced at \$10,000, we modelled a 25-year tenure interment right price, using a mathematical formula²⁷³ we have derived relating the three factors (see Figure 12.1).

Figure 12.1 Relative price for a 25 year interment right at a new cemetery where perpetual interment rights cost \$10,000 (\$2019-20, ex GST)



Note: End of tenure costs are assumed to be \$1159, and the discount rate 4.7%.

Data source: IPART, Deloitte Access Economics, *Efficient costs of interment services*.

A new cemetery choosing to offer renewable interments requires less land for the same number of burials as a perpetual tenure cemetery, minimising the price of a renewable interment right. In Figure 12.1, the relative price for 25-year tenure is 58% lower than the perpetual price.

The centralised land identification and purchasing strategy we recommend at Recommendation 9 would allow for optimisation of land across multiple cemeteries, with lower prices possible.

²⁷³ The formula for calculation of the renewable price may be expressed as:

$$\text{Renewable price } (L, T) = \text{Perpetual price } (L) \frac{LSB}{PIE} + EOT$$

Detailed information about its derivation is available on our [website](#).

12.4 Licensed cemetery operators should be required to develop renewable tenure interment products

In two other States in Australia renewable tenure is effectively the only option. South Australia offers limited tenure for graves and memorial sites. The term is set by the cemetery operator and can be renewed for a period of not less than five years. In 2013, South Australia introduced perpetual tenure as an option, but it is only offered by one cemetery in Adelaide (which undertakes Jewish burials).²⁷⁴ Since 1986, Western Australia has had mandatory renewable tenure with interment rights of 25 years.

A number of Asian and European countries have mandatory renewable tenure, with varying tenure periods. We are not aware of any other jurisdiction except for NSW where renewable tenure is an optional alternative to perpetual tenure.

The management of cemeteries is a long-term commitment for the benefit of both current and future generations. While some cemeteries are currently experiencing land scarcity issues which deem renewable options more urgent, others may have sufficient capacity to provide the needs of its communities for the foreseeable future. In any case, the long-term nature of cemetery management requires an approach that considers the needs of future communities.

We are not recommending that renewable tenure be mandatory in NSW, particularly as certain faith groups require perpetual interment. However, we consider that it is beneficial for all customers to have more choice for interment options and that the pricing for this should be transparent. We recommend that licensed cemeteries should develop renewable tenure products. We consider that cemetery operators should have some flexibility to determine locations and layouts that are best for the local conditions and cater to the needs and preferences of the communities they serve, but that an operating licence condition could be tailored to take into account local requirements. Licence conditions could also provide land-scarcity exemptions or triggers, which would allow cemeteries with access to alternative land, for example in remote areas, to defer the development of renewable products until local circumstances deem it necessary.

We consulted on this recommendation in our draft report. We received 11 submissions relating to our draft recommendations on renewable tenure products and pricing guidance. Support for the recommendations was mixed.

Some cemetery operators supported the recommendation for licensed operators to be required to offer renewable tenure products. Key concerns of other cemetery operators were requiring a product to be offered if there was no demand demonstrated. Practicality concerns relating to older cemeteries and additional costs were also raised in submissions. One stakeholder supported developing renewable tenure options suggesting that it be required for any cemetery operators with less than 50 years of capacity within their regions.

Recommendation

- 32 That all licensed cemetery operators should be required by a condition on their operating licence to develop renewable tenure products.

²⁷⁴ Deloitte Access Economics, *Efficient costs of interment services*, 2020, sections 3.4 and 5.1.

12.5 Cemetery operators would benefit from guidance on pricing renewable tenure products

In our Draft Report we recommended that the Code of Practice on Pricing (Recommendation 20) include guidance on the relative prices of renewable tenure compared to perpetual tenure. All stakeholders who commented on this recommendation supported guidance on renewable tenure being provided in the Code of Practice on Pricing.

Our modelling of renewable tenure prices in the Draft Report focused on modelling for 100% renewable tenure in new cemeteries. However, an existing cemetery which already occupies a given area of land and chooses to introduce renewable tenure interments part way through its operations has a shorter remaining life and less opportunity to optimise its land savings benefit and perpetual income effect.

For our Final Report, we have developed a simplified calculator²⁷⁵ as a guide for existing cemetery operators considering introducing renewable tenure interments to estimate the price of a renewable tenure interment right, with reference to an existing perpetual interment right price. The calculator does not require operators to determine land savings benefit or the perpetual income effect. It calculates the renewable price, based on four user defined inputs:

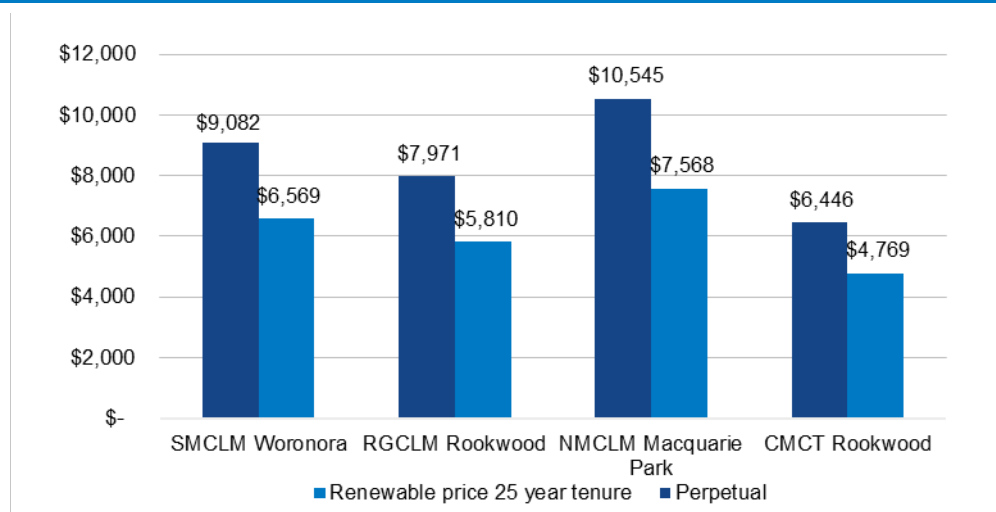
- ▼ The perpetual interment right price
- ▼ The length of the renewable tenure in years
- ▼ The discount rate
- ▼ The end of tenure costs (current year \$).

Using this calculator we have modelled prices for a 25-year interment right relative to current prices for perpetual tenure lawn interment rights at the Crown cemeteries (see Figure 12.2). For each of the cemeteries we have assumed end of tenure costs of \$1159 per plot, based on Deloitte's analysis of costs in Adelaide (\$159 administration costs and \$1000 lift and deepen)²⁷⁶.

²⁷⁵ The calculator is available on our [website](#).

²⁷⁶ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 33-34.

Figure 12.2 Modelled Crown cemetery prices for 25-year tenure interment rights (ex GST) \$2019-20 compared to current perpetual tenure interment rights (ex GST)



Data source: IPART, Deloitte Access Economics, *Efficient costs of interment services*.

These prices differ from the modelled renewable tenure prices we showed in our Draft Report, because we have used the simplified calculator we have developed since the Draft Report, which calculates a price relative to an existing perpetual tenure price. Therefore no cost efficiencies are assumed – if the perpetual tenure price is based on inefficient costs, the renewable tenure one will be too.

Recommendation

- 33 That the Code of Practice on Pricing (Recommendation 20) include guidance on relative prices of renewable tenure compared to perpetual tenure.

A Context for the review

This appendix discusses the context for our review. It provides information on:

- ▼ What interment is
- ▼ What is covered by our review and what is not
- ▼ Information about interment, burial and cremation choices in NSW
- ▼ What interment services are
- ▼ Current approaches to pricing interment services in NSW and elsewhere in Australia
- ▼ Cemetery governance and legislation
- ▼ The approaching exhaustion of burial space in Sydney
- ▼ Other relevant reviews.

Box A.1 What is interment?

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.”

That is, interment encompasses both burial of body remains or ashes in a grave, and placement of body remains or ashes in a built structure.

What are 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 that is already in place, or may include the right to place such monumentation at the time of interment.

An interment right may be perpetual (that is, it lasts forever), or renewable. Most interment rights sold in NSW are perpetual, but all cemeteries may offer the option of a renewable right of at least 25 years initial term, which can then be renewed for up to 99 years in total.

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

Ashes may be interred in a cemetery, but they can also be kept by a family or buried or scattered outside a cemetery.

What is the current approach to pricing 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 they operate. Private cemetery operators set their own prices, as do church and community operators.

Source: Cemeteries and Crematoria NSW, *Strategic Plan 2015-20*, October 2015, p 12

A.1 What is covered by this review?

Section 145 of the *Cemeteries and Crematoria Act 2013* (CC Act) directs IPART to investigate interment costs and the pricing of interment rights with regard to:

- ▼ The relativity of costs and pricing factors for perpetual and renewable interment rights
- ▼ Full-cost pricing of perpetual interment rights.

We are also required to review competition, cost and pricing factors within the funeral industry. We have decided to conduct the review in two stages. This stage of the review focuses on the costs of and pricing for 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 land 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 released an Issues Paper on competition, cost and pricing factors in the funeral industry on 23 October 2020.²⁷⁷

A.2 What choices do NSW residents make about 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 2018-19, around two thirds of individuals were cremated while a third had their body 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 (Table A.1).

Table A.1 Burials and Cremations in NSW in 2018-19

	No. of Burials	No. of Cremations	Cremation rate
Metro Sydney	9,151	18,141	66.5%
Central Coast, Hunter and Illawarra	2,663	10,126	79.2%
Rural and Regional ^a	6,141	11,124	64.4%
Whole of NSW	17,955	39,391	68.7%

^a All planning regions other than Metropolitan Sydney, including Central Coast, Hunter and Illawarra-Shoalhaven

Source: Cemeteries and Crematoria NSW, [Annual Activity Survey 2018-19](#) accessed 18 November 2020.

²⁷⁷ IPART, [Review of competition, costs and pricing in the NSW funeral industry](#), 23 October 2020.

Commercial cremation commenced in NSW in 1925 and there has been an increasing trend towards cremation over burial ever since.²⁷⁸ 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 body remains, but the report states that the best estimate of future trends was for the cremation rate to remain stable.²⁷⁹

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 2018-19 less than a third of ashes were interred or scattered at a cemetery.²⁸⁰

It should also be noted that while individuals have a choice between interment of body remains and cremation, this choice is strongly influenced by faith and culture. Jewish and Islamic religious law, for example, generally require interment of body remains rather than cremation, and some cultural communities retain a strong preference for interment of body remains.²⁸¹

A.3 What are 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'.²⁸² The interment may be in a grave, mausoleum, crypt, columbarium, niche wall or other structure designed for the placement of such remains. The interment right may include a headstone or other monumentation that is already in place, or may include the right to place such monumentation at the time of interment.

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, or simply designated as an area for interments for 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.

278 Murray, [Death and Dying in twentieth century Sydney](#), 2013, accessed 17 November 2020.

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

280 Cemeteries and Crematoria NSW, Annual Activity Survey 2018-19, accessed 17 November 2020.

281 Murray, Lisa, [Death and Dying in twentieth century Sydney](#), 2013, accessed 17 November 2020.

282 'Pre-need' purchase is the purchase of a right before the person whose remains are to be buried has died; 'at-need' is purchase when an interment is to take place very soon after purchase of the right.

A.4 How long does an interment right last?

In NSW, an interment right has traditionally been perpetual, although renewable tenure has been permissible in local government and private cemeteries. In 2018-19, there were 72 interments under renewable rights terms in local government or private cemetery interment sites. There were a total of 17,955 burials in NSW during 2018-19.²⁸³

Renewable tenure of between 25 and 99 years has been available as an option in Crown cemeteries since June 2018,²⁸⁴ although we understand that no Crown cemetery has yet introduced it.

A.5 What is the current approach to pricing 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.²⁸⁵ Local governments set prices for cemeteries they operate. Private cemetery operators set their own prices as do church and community operators.

Typically, the costs of a funeral, cremation and/or interment are paid from the deceased estate, or by family of the deceased. Cemeteries in NSW are not funded by government, and are expected to recover their full costs of operation through charges for their services.

A.6 What legislation and governance arrangements affect cemeteries in NSW?

We are conducting this review within the context of significant reforms that have occurred in the NSW cemetery industry since 2012. These reforms included the amalgamation of trusts operating Crown cemeteries, the introduction of the CC Act, and the creation of CCNSW.

²⁸³ Cemeteries and Crematoria NSW, [Annual Activity Survey 2018-19](#) accessed 18 November 2020.

²⁸⁴ CC Act, Part 4, commenced June 2018; see [A new interment right system in NSW](#) accessed 18 November 2020.

²⁸⁵ CC Act, s 107.

A.6.1 Reforms to the management of Crown cemeteries amalgamated trusts

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 Cemeteries Reserve 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 metropolitan Crown cemeteries in NSW. A dozen small, mostly closed cemeteries in regional NSW are also operated by individual Crown land managers.²⁸⁶

These amalgamations have generated some issues relating to pricing, where merged trusts often followed very different pricing strategies and had differing levels of financial sustainability.²⁸⁷

A.6.2 The Cemeteries and Crematoria Act 2013 reformed cemetery operations

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

- ▼ A strategic plan (section 90)
- ▼ A draft plan of management (section 93)
- ▼ Financial management, audits and reports (sections 99-102)
- ▼ A finance committee, an audit and risk committee and a community advisory committee to liaise with communities (section 103)
- ▼ Planning conduct and maintenance (section 106)
- ▼ A system for setting fees and charges (section 107).

²⁸⁶ See [Find a cemetery in NSW](#) for a register of NSW cemeteries by operator.

²⁸⁷ See, for example, PWC, Rookwood Cemetery: future governance arrangements, February 2018.

The CC Act also allows cemeteries to offer renewable and perpetual interment rights (Part 4). This Part of the CC Act only came into force in 2018. Prior to this, all interments in Crown cemeteries were in perpetuity. Now Crown cemeteries may (but are not required to) offer renewable tenure of an initial term of at least 25 years, renewable in increments of at least five years at a time for a maximum of 99 years (section 54).

Renewable tenure is not retrospective, so if an interment was or is made under a perpetual right, it remains perpetual. Unexercised perpetual interment rights (that is, where a right was purchased pre-need but no remains have been interred) may be revoked after 50 years, following notice requirements being met (section 52).

A.6.3 Cemeteries and Crematoria NSW (CCNSW) was established to support and regulate the interment industry

CCNSW was created in 2014 by the CC Act. It is a NSW Government statutory agency within the NSW Department of Planning, Industry and Environment. CCNSW supports and regulates the interment industry. 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.²⁸⁸

A.7 What is the market structure for cemeteries in Sydney and NSW?

Cemeteries in NSW are owned and operated by local governments, Crown land managers, private operators, churches and community groups. Crown land managers perform the majority of burial services in Sydney,²⁸⁹ and local government performs the majority of burial services throughout the rest of NSW (Table A.2).

²⁸⁸ CCNSW, *Strategic Plan 2015-20*, October 2015, p 12.

²⁸⁹ In this report “Sydney” is defined as the Central, South, North, West, West-Central and South-West planning regions as defined by the Greater Sydney Commission in the *Greater Sydney Draft District Plan Map Atlas*, November 2016, accessible at www.greater.sydney/maps

Table A.2 Burials performed in 2018-19, 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)
Local government	692	833	9.1%	7,448	84.6%	8,281
Crown land managers	13	6,228	68.0%	190	2.2%	6,418
Private	30	1,982	21.7%	966	11.0%	2,948
Community and church	260	108	1.2%	200	2.3%	308
Total	955	9,151	100%	8,804	100%	17,955

Note: Sum of columns may not equal total due to rounding

Source: Cemeteries and Crematoria NSW, [Annual Activity Survey 2018-19](#) accessed 18 November 2020.

In Sydney, cemeteries and crematoria are operated by Crown land managers, local government, private operators, and churches. Churches are responsible for over 50% of operational cemeteries in Sydney; however, these accounted for only 1% of burials in 2018-19, as shown in Table A.2. Cemeteries operated by the four Crown land managers accounted for 68.1% of burials; private and local government cemeteries accounted for 21.7% and 9.1% respectively.²⁹⁰ One submission on our Issues Paper noted that “the Sydney market ...is likely to be considered the most competitive of the markets in Australia”.²⁹¹

A.8 When will cemetery capacity in Sydney be exhausted?

A 2017 report by CCNSW found that:

...if there is no change to existing cremation and grave occupancy rates ... 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.²⁹²

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.

²⁹⁰ Cemeteries and Crematoria NSW, [Annual Activity Survey 2018-19](#) accessed 18 November 2020.

²⁹¹ Southern Metropolitan Cemeteries NSW, Submission to Issues Paper, June 2019, p 22.

²⁹² Cemeteries and Crematoria NSW, *Metropolitan Sydney Cemetery Capacity Report*, November 2017, p 9.

A.9 What other reviews of the cemetery sector are relevant to this one?

A statutory review of the CC Act is currently under way, overseen by an inter-agency steering committee.²⁹³ The review is to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate to secure those objectives. Its terms of reference address the Crown cemetery sector in Sydney in particular, including its operational efficiency, governance and accountability, as well as consideration of provision for perpetual care by cemetery operators more generally and land use issues facing cemeteries and crematoria.²⁹⁴

²⁹³ [Review of NSW Cemeteries and Crematoria Act](#), accessed 17 November 2020.

²⁹⁴ [Terms of reference for the Statutory Review](#), accessed 17 November 2020.

B Discount rates

As discussed in Chapter 6, estimating prices for cemetery operators requires an estimate of the discount rate. For an efficient cemetery operator we have used two discount rates, one which applies to its perpetual maintenance costs and one which applies to all other costs.

B.1 Calculating the discount rate to apply to perpetual maintenance costs

Cemetery operators have an obligation to provide maintenance to sold plots in perpetuity. A discount rate is required to calculate the perpetual liabilities that accounts for the expected investment earnings on the assets funding the liabilities.

Deloitte recommended in their perpetual governance report that defined benefit superannuation provide a relevant comparison of how a funding approach may be taken to meeting “long tail” obligations, similar to the perpetual maintenance requirements of cemeteries. They further advised that AASB 119 (Employee Benefits issued by the AASB, and in accordance with PG 3 issued by the Actuaries Institute) requires that employers recognise the net defined benefit asset/liability on their balance sheet, using a discount rate based on high-quality corporate bond yields (or government bond yields for public-sector entities).

They noted that this tends to result in a more conservative liability being recognised. In practice, it means that investment risk premia gains flow through retained earnings of the employer as they are released each year if actual experience (including investment returns earned on assets) is in line with best estimate expectations.²⁹⁵

For a cemetery operator’s perpetual maintenance costs, we have therefore used a low risk discount rate of 2.4% (based on the BBB-rated corporate bonds rate).

B.2 Calculating the discount rate to apply to other costs

For all costs excluding perpetual maintenance, we have based the discount rate on the pre-tax real WACC for an efficient cemetery operator. The sections below discuss the calculation of the WACC.

We have used our standard approach for calculating the WACC, which we undertook extensive public consultation on and reviewed in 2018. In keeping with our standard WACC method, we adopted current market observations for the cost of debt, inflation and the market risk premium.²⁹⁶ We adopted the following firm-specific parameters:

- ▼ Gearing ratio of 40%
- ▼ Equity beta of 0.6

²⁹⁵ Deloitte Access Economics, *Governance framework – cemeteries*, July 2020, pp 8-9.

²⁹⁶ This result uses IPART’s August 2020 bi-annual update market observations, using a three year timeframe.

The parameters underlying the WACC calculation can be grouped into two categories:

- ▼ **Market-based parameters**, which include risk-free rate, debt margin, inflation rate and MRP. These parameters are common to businesses in all industries.
- ▼ **Industry-specific parameters**, which include equity beta and gearing ratio. These parameters are specific to the business' particular industry.

B.2.1 Estimating the market-based parameters

Risk free rate

The risk-free rate is used as a point of reference in determining both the cost of equity and the cost of debt within the WACC. It is used as a base rate to which an equity or debt risk premium is added to reflect the riskiness of the specific business for which the rate of return is being derived.

In line with our updated WACC methodology, we used the 10-year Commonwealth Government Security yields published by the RBA and estimate the historic risk-free rate as a 10-year trailing average and the current risk free-rate as a short-term trailing average with a three year timeframe.

Debt margin

The debt margin represents the cost of debt a company has to pay above the nominal risk-free rate.

In line with our WACC methodology, we will use the 10-year corporate bonds rated as BBB, and estimate the historic debt margin as a 10-year trailing average and the current debt margin as a short-term trailing average with a three year timeframe.

Inflation rate

Our standard approach to the inflation rate is to take the geometric average of the 12-month ahead RBA forecast of inflation for year 1 and then the mid-point of its target inflation range (2.5%) for the remaining years (Table B.1). In the RBA's May 2020 Statement on Monetary Policy (SMP) it forecast CPI inflation of 2.75% for the year ended June 2021.

Table B.1 Components of our inflation forecast under our standard approach

Inflation forecast				
Forecast	2.75%	2.5%	2.5%	2.6%
Source	RBA 1-year ahead forecast	Mid-point of RBA target band	Mid-point of RBA target band	

Source: RBA, *Statement on Monetary Policy*, May 2020, Table 6.1, p 89.

However, in our recent determinations for Public Water Utilities (PWUs) we considered other options to estimate forecast inflation. We considered estimating inflation by taking the geometric mean of the 1 -year ahead RBA inflation forecast for year 1, the 2-year ahead RBA inflation forecast for year 2 and then the mid-point of the RBA target range for the remaining years. Although we ultimately applied the standard approach for our PWU determinations, for the interment review we have used the modified approach we developed then. Table B.2 shows the inflation forecasts we used to make our geometric average forecast under this approach.

Table B.2 Components of our inflation forecast under our modified approach

				Inflation forecast
Forecast	2.75%	1.5%	2.5%	2.2%
Source	RBA 1-year ahead forecast	RBA 2-year ahead forecast	Mid-point of RBA target band	

Source: RBA, *Statement on Monetary Policy*, May 2020, Table 6.1, p 89.

Market risk premium

The market risk premium (MRP) is the expected rate of return over the risk-free rate that investors would require for investing in a market portfolio. The MRP is an expected return and is not directly observable. Therefore, it needs to be estimated through proxies. In line with our WACC methodology, we used both current market data and long-term averages. For the:

- ▼ Current market data we will establish an MRP range using our six MRP methodologies to estimate the cost of equity
- ▼ Long-term averages we will use an MRP range of 5.5% to 6.5% with a midpoint of 6.0%, based on the historical arithmetic average of the excess market return over the risk-free rate, to estimate the cost of equity.

B.2.2 Estimating industry- specific parameters

Equity beta

The equity beta measures the extent to which the return of a particular security varies in line with the overall return of the market. It represents the systematic risk of a security that cannot be avoided by holding it as part of a diversified portfolio. The equity beta does not take into account business-specific or diversifiable risks.

In each price review we conduct, we determine the value of the equity beta for the relevant business. We do this by estimating the equity betas of (listed) comparable firms, and considering the equity betas that other regulators have applied to comparable businesses.

For this review, we have estimated an equity beta for an efficient cemetery operator. However, because it is very difficult to observe the cost of equity for pure-play cemetery operators in the market, we have estimated the equity betas of listed firms in the funerals and cemeteries industry. In selecting proxy industries, we consider the type of business the firm is in. If we can't directly identify proxy firms that are in the same business, then we would consider which other industries exhibit returns that are comparably sensitive to market returns.

Gearing ratio

The gearing ratio is the proportion of debt to total assets in the business' capital structure. Regulators commonly adopt a benchmark capital structure rather than the actual capital structure of the regulated entity, to ensure that customers not bear the costs associated with an inefficient capital structure.

For an efficient cemetery operator, we have adopted a gearing ratio of 40%. This is consistent with the gearing ratio of comparable firms in the cemeteries and funerals industry.

Table B.3 summarises the WACC calculation for an efficient cemetery operator.

Table B.3 Cost of Capital for Interment Firms

	Step 1		Step 2 – Final WACC range		
	Current data	Long term averages	Lower	Midpoint	Upper
Nominal risk free rate	1.60%	2.80%			
Inflation	2.20%	2.20%			
Implied Debt Margin	2.40%	2.60%			
Market Risk premium	8.7%	6.0%			
Debt funding	40%	40%			
Equity funding	60%	60%			
Total funding (debt + equity)	100%	100%			
Gamma	0.25	0.25			
Corporate tax rate	30%	30%			
Effective tax rate for equity	30%	30%			
Effective tax rate for debt	30%	30%			
Equity beta	0.60	0.60			
Cost of equity (nominal post-tax)	6.8%	6.4%			
Cost of equity (real-post tax)	4.5%	4.1%			
Cost of debt (nominal pre-tax)	4.0%	5.4%			
Cost of debt (real pre-tax)	1.8%	3.1%			
Nominal Vanilla (post-tax nominal) WACC	5.7%	6.0%	5.7%	5.9%	6.0%
Post-tax real WACC	3.4%	3.7%	3.4%	3.6%	3.7%
Pre-tax nominal WACC	6.9%	7.1%	6.9%	7.0%	7.1%
Pre-tax real WACC point estimate	4.6%	4.8%	4.6%	4.7%	4.8%

Source: Bloomberg, Refinitiv (formerly Thompson Reuters), RBA and IPART calculations.

C Guide to publishing transparent prices

Table C.1 ABC Cemetery pricing schedule for an adult lawn burial – at-need

Service component	Explanation	Price (inc GST) renewable tenure	Price (inc GST) perpetual tenure
Burial right:	Right to inter (bury or place) body or ashes in a particular location in a cemetery		
Site	Share of cost of purchasing and developing land for a cemetery attributable to that location ^a	\$1,150	\$1,300
Maintenance	Activities required to maintain the burial site and the cemetery into perpetuity (or the term of renewable tenure)	Maintenance: \$15 <i>per year</i> for renewable tenure	\$2,250 for perpetual tenure
End of tenure costs ^b	Administration costs of contacting rights holder to see if they want to renew	End of tenure costs: \$100	
Burial or placement of body or ashes in a grave or built structure			
Excavation	Digging the grave to the appropriate size and depth	\$300	\$300
Order for interment	Cemetery operators must issue an order for interment before interring remains at a burial site	\$200	\$200
Burial or placement	Burial of human remains in the ground and landscaping after burial, or placement of human remains elsewhere than in the ground (e.g. crypt)	\$1,000	\$1,000
Memorial			
Plaque, monument, headstone, garden or other item to be installed on a site to commemorate or identify	Engraving and/or placement of a memorial	\$200	\$200
Total price for an adult lawn burial - At-need price (inc GST)			
25 year tenure		\$3,345	
50 year tenure		\$3,750	
99 year tenure		\$4,535	
Perpetual tenure			\$5,250

a For renewable tenure rights this includes the cost of preparing the plot for re-sale.

b End of tenure activities are required when a renewable interment right reaches the end of its term. For perpetual rights these costs are not applicable.

Note: Prices are illustrative.

Source: IPART

Table C.2 ABC Cemetery pricing schedule for an adult lawn interment right – pre-need

Service component	Explanation	Price (inc GST) renewable tenure	Price (inc GST) perpetual tenure
Burial right: Right to inter (bury or place) body or ashes in a particular location in a cemetery			
Site	Share of cost of purchasing and developing land for a cemetery attributable to that location ^a	\$1,150	\$1,300
Maintenance	Activities required to maintain the burial site and the cemetery into perpetuity (or the term of renewable tenure)	Maintenance: \$15 <i>per year</i>	\$2,250
End of tenure costs ^b	Administration costs of contacting rights holder to see if they want to renew	End of tenure costs: \$100	
Total price for an adult lawn burial right - Pre-need price (inc GST)			
25 year tenure		\$1,545	
50 year tenure		\$1,950	
99 year tenure		\$2,735	
Perpetual tenure			\$3,550

a For renewable tenure sites this includes the cost of preparing the plot for re-sale.

b End of tenure activities are required when a renewable interment right reaches the end of its term. For perpetual rights these costs are not applicable.

Note: Pre-need purchases exclude the costs of interment- these costs are incurred at the time of **burial**. Prices are illustrative.

Source: IPART

D Industry scheme recommendations by type of cemetery operator

This Appendix provides a summary of our recommended requirements for an industry scheme by type of cemetery operator.

Box D.1 Recommendations that apply to all cemetery operators

- ▼ The interment industry scheme under the CC Act would apply to the whole industry (Rec1).
- ▼ Under the industry scheme, the following codes of practice would be *mandatory*:
 - Cemetery Maintenance, including specification of minimum maintenance standards (Rec3)
 - Interment right contracts, including standard terms and conditions (Rec4)
 - Minimum interment requirements for particular faith, cultural and indigenous communities in the areas they serve (Rec5).
- ▼ The interment service levy should be set on a per service basis to cover the efficient costs of regulation by CCNSW and IPART for price regulation (Rec8).
- ▼ All cemetery operators would be responsible for perpetual maintenance of perpetual interment sites and the cemetery (Rec 27).
- ▼ Code of practice providing guidance to cemeteries on pricing matters, including
 - The principle that prices should be cost-reflective
 - Guidance on including land as an input to the price of an interment right
 - Simple price modelling tools (Rec 19).
- ▼ Code of practice providing guidance to cemeteries on publishing prices on a consistent basis for a subset of products
 - Plaque lawn grave
 - Headstone lawn grave
 - Monumental lawn grave
 - Ashes interment. (Rec 21 and Rec 22)

In addition, there are a few recommendations that *could* apply to any cemetery operator. Potentially any cemetery operator could:

- ▼ Be referred to IPART for a maximum price determination of a specified body interment service (Rec 17).
- ▼ Work with CCNSW and IPART to develop an Annual Information Return to collect data to support price regulation and monitoring (Rec 19).

Box D.2 Recommendations that only apply to licensed cemetery operators

- ▼ The interment industry scheme would introduce an operating licence for cemetery operators which meet an activity level threshold (Rec 2).
- ▼ Provide a basic adult lawn interment right and burial, at a minimum standard of maintenance as specified by the Code of Practice (Rec 6).
- ▼ Licensed operators would be required to manage their perpetual maintenance, by:
 - Preparing an estimate of the perpetual care maintenance liability and establish/maintain a dedicated fund for this purpose.
 - Obtaining external independent advice on their potential perpetual maintenance obligations on a regular basis, including advice on how to manage/contribute to a fund to provide for these future costs, and the trade-off between risk and reward.
 - "Ring fencing" assets set aside for meeting perpetual maintenance costs in future so that they are used solely for that purpose.
 - Preparing a transition plan to deal with the management of "legacy" perpetual maintenance obligations owed at the time a new governance framework is implemented. (Rec 27)
- ▼ Report their estimated perpetual maintenance liabilities as at 30 June in the notes to financial accounts in their annual report for the financial year following release of this Final Report (Rec 30).
- ▼ Develop renewable tenure products (Rec 32).

In addition, licence conditions *may*:

- ▼ Specify which basic services (for particular faiths or community groups) they must provide by reference to those which are defined in a Code of Practice (Rec 7)
- ▼ Require a cemetery to increase the density of interments via more land-efficient practices such as cemetery renewal, geotechnical mapping, and low-cost mausolea (Rec 14).

There are some recommendations that would apply to different types of cemetery operators.

Crown cemetery operators would be required to:

- ▼ Work with CCNSW to develop a standard chart of accounts within 12 months of release of this Final Report (Rec 13).
- ▼ Make a rent equivalent payment to the NSW Government for all new interment rights sold annually in existing cemeteries (Rec 15).
- ▼ Be referred to IPART for price regulation of basic adult lawn burials and any basic services for particular faiths or community groups (Rec 18).

Council cemetery operators would be required to report on the operating performance of their cemeteries on the Office of Local Government's Your Council website. Such information should include:

- ▼ The number of cemeteries operated by the council
- ▼ The number of interments per annum
- ▼ Remaining capacity of councils' cemeteries
- ▼ Total operating costs and revenue for their cemeteries
- ▼ Funds set aside for perpetual maintenance of the council's cemeteries
- ▼ Any relevant contextual information than impacts the costs of interment services (Rec 16).

A code of practice for best practice financial provision for perpetual maintenance would apply to **non-licensed cemetery operators**. This would involve:

- ▼ Estimating perpetual maintenance liabilities, and
- ▼ Reporting these liabilities in the notes to financial account (Rec 28).

For cemeteries with over 50 burials or interments sales a year, the requirements of the Code of Practice on publishing prices are mandatory (Rec 23). These requirements are to:

- ▼ Publish prices for a subset of interment products on a consistent basis. These products include
 - Plaque lawn grave
 - Headstone lawn grave
 - Monumental lawn grave
 - Ashes interment. (Rec 21)
- ▼ For each of the these products, cemetery operators would be required to publish:
 - The total price for the interment service for both at-need and pre-need purchases
 - Itemised prices for each service component of the interment service, and including any additional costs due to cultural or religious requirements as specified in the code
 - Product specifications for the interment right, such as number of interments
 - Length of tenure (renewable or perpetual) and the future maintenance attributable to that right, for all relevant lengths of tenure. (Rec 22)

Abbreviations

AASB	Australian Accounting Standards Board
CC Act	<i>Cemeteries and Crematoria Act 2013</i>
CCCG	Community and Consumer Consultative Group
CCNSW	Cemeteries and Crematoria NSW
CMCT	Catholic Metropolitan Cemeteries Trust
CLM	Crown Land Manager
DPIE	Department of Planning, Industry and Environment
IPC	Independent Planning Commission
LGNSW	Local Government NSW
NMCLM	Northern Metropolitan Cemeteries Land Manager
OLG	Office of Local Government
RGCLM	Rookwood General Cemeteries Land Manager
SMCLM	Southern Metropolitan Cemeteries Land Manager

Glossary

Ashes	Cremated human remains.
At need interment right	When an interment right is bought by a customer at the time it is required to be used for interment of a deceased person or their ashes.
Body 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 Report, we use 'burial' to mean the placement of human remains (whether body remains or ashes) in the earth, unless quoting the CCNSW Annual Activity Survey which uses 'burial' to mean any type of interment of body remains only.
<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.
Code of practice	A document that provides detailed practical guidance on how to comply with legal obligations.
Columbarium	A room or building with niches where ashes can be interred.
Competitive neutrality	The principle that government should compete with private business on an equal footing.
Cremation	A process for the reduction of body remains by fire or heat and alkaline hydrolysis.
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.
Exhumation	The removal of remains from a grave or vault.
Interment	The placement of human remains (whether body 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 fee	A term often used to describe the price of burying a body in a cemetery.
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.
Lift and deepen	A process undertaken to enable a grave to be reused. It involves removing and placing any human remains of the original burial in an ossuary box, deepening or enlarging the site, reinterring the ossuary box at a greater depth or alternately in an ossuary house, and removing any existing monumentation.
Mausoleum	A free-standing building enclosing interment space or spaces
Metropolitan Crown cemeteries	These are the Catholic Metropolitan Cemeteries Trust, Northern Metropolitan Cemeteries Land Manager Rookwood General Cemeteries Land Manager and Southern Metropolitan Cemeteries Land Manager.
Monumentation	Headstones, statuary and other built objects that are placed on a grave.
Perpetual interment right	An interment right granted in perpetuity (i.e. forever)
Perpetual maintenance	Ongoing maintenance of the cemetery into perpetuity.

Pre-need purchase	When an interment right is bought by a customer before the death of the person whose remains will be buried there.
Renewable interment right	In NSW, an interment right with an initial term of at least 25 years, renewable in increments of at least five years at a time for a maximum of 99 years.
Sydney	The Central, South, North, West, West-Central and South-West planning regions as defined by the Greater Sydney Commission in the <i>Greater Sydney Draft District Plan Map Atlas</i> , November 2016, accessible at www.greater.sydney/maps .
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.