

Submission to the Independent Regulatory and Pricing Tribunal's
***Review of Competition, Costs and Pricing
in the Funeral Industry –
Comments on draft report***

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CPSA is a non-profit, non-party-political membership association founded in 1931 which serves pensioners of all ages, superannuants and low-income retirees. CPSA's aim is to improve the standard of living and well-being of its members and constituents. CPSA receives funding support from the NSW Government Departments of Communities & Justice and the Australian Government Department of Health.

CPSA appreciates the opportunity to make a submission to the Independent Regulatory and Pricing Tribunal's *Review of Competition, Costs and Pricing in the Funeral Industry*.

In our initial submission, we argued that (1) the NSW funeral industry should have a primary regulator with jurisdiction over the providers of funerals, interments and cremations, and (2) that Cemeteries and Crematoria NSW (CCNSW) is the agency best placed to be that primary regulator. In practice, this would mean that the oversight function currently performed by the Better Regulation Division of the Department of Customer Service would move to CCNSW, with the former retaining its complaints handling function in relation to funerals, interments and cremations, while public health regulations would remain with NSW Health.

IPART's draft report rejected this notion on the basis that current regulatory arrangements work well. During the course of the public hearing on 13 April 2021, IPART's Chair, Ms Deborah Cope, made the point that the cost of creating a primary regulator had to be justified.

CPSA, like IPART, believes current regulatory arrangements work well, but only if the providers of funerals on the one hand and providers of interments and cremations on the other are considered separately, which is exactly what IPART has done.

IPART, in being required to carry out twin reviews (*Interment costs and pricing in NSW*, November 2020; *Review of Competition, Costs and Pricing in the Funeral Industry*), found itself in a position where it had to consider funerals and interments separately while these two components are increasingly part of a single industry as funeral providers consolidate and vertically integrate. IPART's conclusion that the two components are working well is fair but disregards that these components need to work together for the industry as a whole to work well.

CPSA would like to persuade IPART that, apart from the argument that an integrated industry is by definition best regulated by a single primary regulator, there is also an argument for the program of reforms identified as part of the statutory review of the *Cemeteries and Crematoria Act 2013* to be implemented and overseen by a single primary regulator.

A consequence of leaving the regulation and compliance monitoring of funeral providers to a section in a division of the Department of Customer Service and leaving, until 2013, the regulation of interment and cremation to NSW Health, has brought NSW to the point where cemeteries are filled with perpetual graves and space is running out along the entire NSW seaboard. This happened while elsewhere in Australia renewable tenure for interment sites was introduced and promoted a long time ago, and where as a consequence cemetery space has not run out.

It is only now, as part of the statutory review of the *Cemeteries and Crematoria Act 2013*, that a recommendation has been made to Government for mandatory cemetery renewal (recommendation 7.9). CCNSW has had a brief since 2013 to promote the use of renewable tenure. Clearly, the recommendation for mandatory renewal signals the failure of the promotional activities of CCNSW. This failure (less than 1 per cent of interments use renewable tenure) is not surprising, because CCNSW's jurisdiction did not extend to funeral directors, who continued to sell perpetual interments, not minded to suggest to consumers

they should use the renewable tenure option, which is a difficult topic too many consumers. It remains to be seen whether the NSW Government will adopt the coercive recommendation 7.9, which would do nothing for the NSW Government's popularity.

Preferable would be for regulator and industry to sit down together and work out a solution. Essential to the promotion of renewable graves would be; (1) differentiated pricing for perpetual and renewable graves; (2) introducing renewable-only cemeteries or sections of cemeteries. To get a solution underway, it is essential that the industry as a whole gets involved, not just the cemeteries.

A developing issue that requires a single active primary funeral and interment industry regulator is the use of non-renewable fuel used in cremations. To promote the use of renewable energy, the industry as a whole needs to agree on a way forward.

These are just two examples of why it would be better to have a single primary regulator. It is highly unlikely that CCNSW and the other primary regulator (a section in a division of the Department of Customer Service) would be able to unite effectively to address these issues. In fact, the failure to promote renewable graves shows this to be so.

The transfer of regulatory functions to CCNSW would be limited and would only involve compliance monitoring in relation to the funeral information standard. Such a transfer would not be financially onerous.