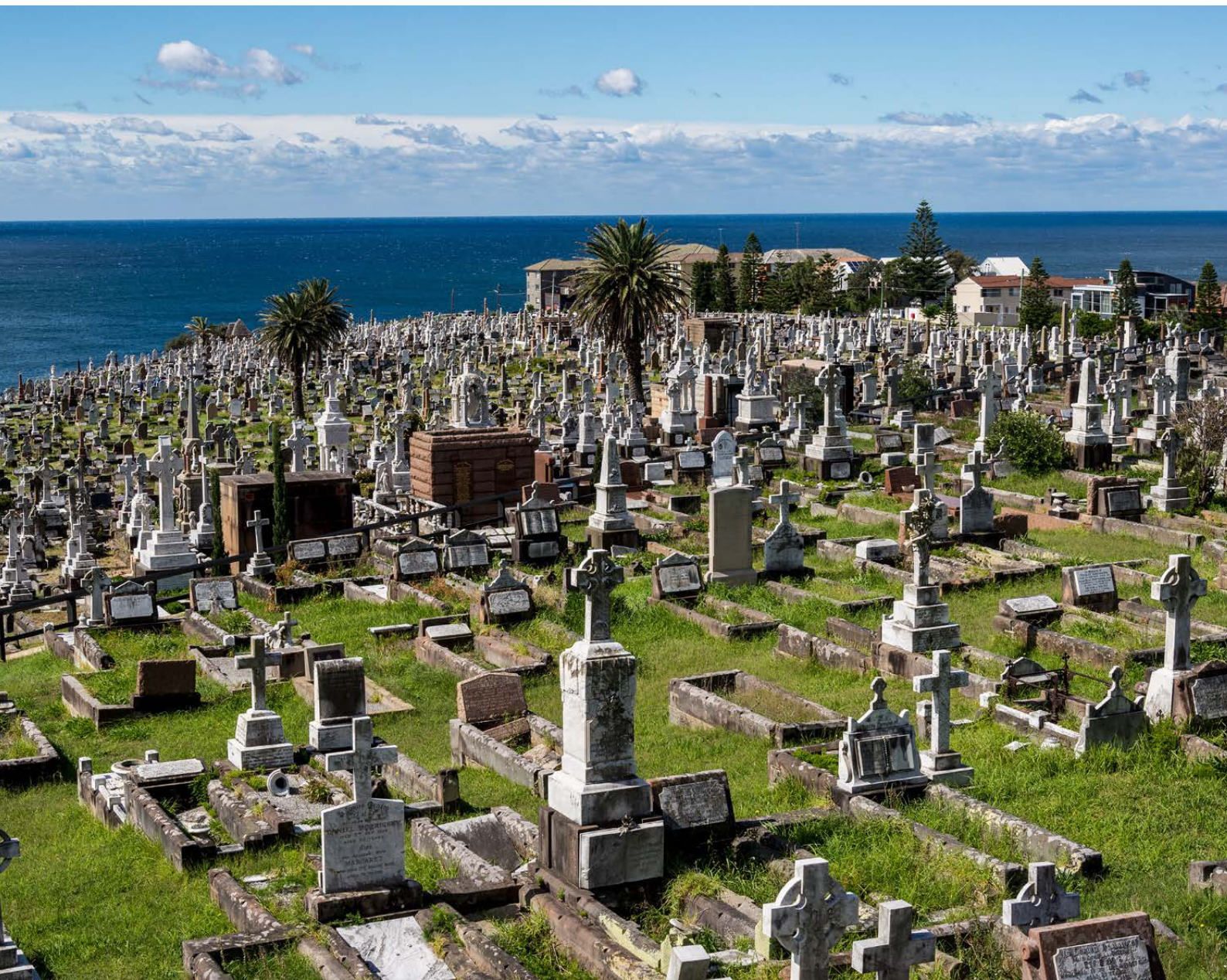


REVIEW OF THE COSTS AND PRICING OF INTERMENT IN NSW



Draft Report

Special Reviews

September 2020

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Invitation for submissions

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

Submissions are due by 2 October 2020

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

You can also send comments by mail to:

Interment Review

Independent Pricing and Regulatory Tribunal

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Haymarket Post Shop, Sydney NSW 1240

Late submissions may not be accepted at the discretion of the Tribunal. Our normal practice is to make submissions publicly available on our website <www.ipart.nsw.gov.au> as soon as possible after the closing date for submissions. If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning one of the staff members listed above.

We may choose not to publish a submission - for example, if it contains confidential or commercially sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please indicate this clearly at the time of making the submission. However, it could be disclosed under the *Government Information (Public Access) Act 2009* (NSW) or the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW), or where otherwise required by law.

If you would like further information on making a submission, IPART's submission policy is available on our website.

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1 Executive summary

The Independent Pricing and Regulatory Tribunal (IPART) is investigating interment costs and the pricing of interment rights in New South Wales (NSW).¹ In particular, we are considering:

- ▼ 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.

Box 1.1 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

¹ As required by s145 of the *Cemeteries and Crematoria Act 2013*. We are also required by s145 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.

Concurrent to IPART's review of interment costs and prices, the NSW Government is reviewing the *Cemeteries and Crematoria Act 2013* (CC Act) to determine whether the policy objectives of the CC Act remain valid and whether the terms of the CC Act remain appropriate to secure those objectives. Its scope is broader than our review but the two reviews are complementary.

Our aim is to recommend changes to the interment industry that deliver:

- ▼ Interment prices that are affordable and equitable for all
- ▼ Interment prices that allow for the financially sustainable operation of cemeteries into the future
- ▼ Interment prices that 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 requires judgement.

Box 1.2 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 undertook to investigate further in three areas before making draft recommendations about the need for price regulation:

- ▼ The efficiency of the Sydney Crown cemetery operators²
- ▼ The extent of unfunded legacy costs for cemetery operators
- ▼ Options for perpetual maintenance funding governance.

We commissioned Deloitte³ to provide advice on all three areas and their findings are discussed throughout this Draft Report.

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,⁴ and local government performs the majority of burials throughout the rest of NSW.⁵

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.

This Draft Report builds on the interim findings and recommendations of our Interim Report. It sets out our draft findings and draft recommendations, discusses the supporting analysis, and seeks comment from all interested stakeholders.

1.1 Overview of draft findings and draft recommendations

Our draft recommendations are focused on achieving the pricing principles of affordability, financial sustainability and transparency for consumers and the interment industry.

Implementation of our draft recommendations would help ensure consumers have access to affordable standard burial plots and that those who want a burial are able to access an affordable burial plot that meets their needs.

Many of our draft 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.

The sections below outline our key draft findings and recommendations.

² These are the Catholic Metropolitan Cemeteries Trust, Northern Metropolitan Cemeteries Land Manager Rookwood General Cemeteries Land Manager and Southern Metropolitan Cemeteries Land Manager.

³ 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.

⁴ 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

⁵ Cemeteries and Crematoria NSW, *Annual Operator Activity Survey, 2018-19*

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 are 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 cost of these burials is higher than the efficient cost of a basic lawn burial, 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.

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 this 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, our draft recommendation is that cemetery operators be required to make adequate financial provision for perpetual maintenance of interment sites and the cemetery. We also

make draft recommendations to assist in establishing an appropriate governance and prudential framework for the operation of perpetual maintenance funds.

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 the conclusion 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.

Our draft recommendation is that Cemeteries and Crematoria NSW (CCNSW) develop an interment industry scheme as provided for under the CC Act, incorporating mandatory Codes of Practice, and an operating licence for some cemetery operators to regulate:

- ▼ Making adequate provision for perpetual maintenance funding
- ▼ Specification of standards of cemetery maintenance
- ▼ Specifications for interment right contracts, including standard terms and conditions
- ▼ Specifications for minimum interment requirements for faiths and community groups
- ▼ A requirement to provide a basic lawn burial interment right at a minimum standard of maintenance.

To recover the efficient costs of regulation, our draft recommendation is that the existing interment service levy (currently only paid by Crown cemetery operators) be extended to all cemetery operators. The levy should be set as a percentage of cemetery revenue.

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, our draft recommendation is that the NSW Government be responsible for identifying, and funding the acquisition of 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. This is a modification of our Interim Recommendation that CCNSW have this responsibility.

A further draft recommendation is 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.

Our draft recommendation is 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.

1.1.6 Pricing regulation is required for basic adult lawn burials at the Crown cemeteries

Given our findings about costs and prices at Crown cemeteries, our draft recommendation is 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.

Currently, consumers have limited access to transparent and consistent information that allows them to scrutinise prices when purchasing interment services. As a consequence, our draft recommendation is that all cemeteries that conduct more than 50 interments per year be required to publish cemetery prices for a subset of standard interment services on a consistent basis. These prices should be submitted to CCNSW and published on a cemeteries pricing comparator website, developed by CCNSW.

1.1.7 The take up 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%).⁶ 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, our draft recommendation is 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 Have your say on our draft recommendations

For this review, we are conducting public consultation as well as detailed analysis. To date, we have:

- ▼ Met with stakeholders including Crown, private and council cemetery operators.
- ▼ 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.

⁶ Cemeteries and Crematoria NSW, *Annual Operator Activity Survey, 2018-19*.

-
- ▼ 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.
 - ▼ Considered all submissions to both our Issues Paper and Interim Report and undertaken analysis to develop our **Draft Report**.

We are now inviting submissions on the recommendations in this Draft Report. Submissions are due by **2 October 2020**. Information on how to make a submission is provided on page iii at the front of this report.

We will hold a free virtual public hearing on **17 September 2020**. This forum will also provide an opportunity to comment on our draft recommendations. We invite any interested person to register to attend these forums on the IPART website: www.ipart.nsw.gov.au.

We will consider submissions to our Draft Report and comments at the public hearing in preparing our Final Report and recommendations for the Minister for Water, Property and Housing by **November 2020**.



1.3 Structure of this report

The remainder of this report discusses our analysis, draft 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 draft findings on the need for governance reform, including price regulation
- ▼ **Chapter 8** sets out our draft recommendations for improving governance in the interment industry
- ▼ **Chapters 9 to 12** set out our draft recommendations for the way forward for:
 - Costs
 - Pricing
 - Perpetual maintenance

- Renewable tenure

▼ **Appendices A-D** set out:

- Context for the review
- WACC
- Guide to publishing transparent prices
- A list of submissions received on our Issues Paper and Interim Report

1.4 List of draft findings and draft recommendations

Draft 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. 29
- 2 There is scope for the Crown cemetery operators to increase efficiency in delivering a lawn grave interment right, particularly through reducing indirect costs. 29
- 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. 30
- 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. 32
- 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. 34
- 6 There is a wide variation in prices for body interment services, even services which would appear very similar in nature. 36
- 7 Prices for interment services are not displayed consistently and are difficult for consumers to compare. 37
- 8 Evidence suggests that prices for a basic adult lawn burial at the Sydney Metropolitan Crown cemeteries are higher than efficient cost-reflective prices. 47
- 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. 53
- 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. 54

- 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. 100

Draft recommendations

- 1 That CCNSW develop an interment industry scheme under the *Cemeteries and Crematoria Act 2013*. 57
- 2 That the industry scheme introduce an operating licence for cemetery operators which meet an activity level threshold. 57
- 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. 59
- 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. 61
- 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. 62
- 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. 62
- 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. 62
- 8 That the interment service levy be extended to all cemetery operators. The levy should be set as a percentage of interment-related cemetery revenue 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. 63
- 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 (eg, CCNSW, Office of Strategic Lands, and Planning) and the Greater Sydney Commission. Classifying cemeteries as State Significant Developments would be an important step in facilitating this. 67

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- 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 Draft Recommendation 9. 67
 - 11 That the development and operation of 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. 67
 - 12 That the tenders to operate a new cemetery be assessed using competitively neutral criteria. In metropolitan Sydney, tenderers should demonstrate their ability to: 67
 - Deliver a basic adult lawn interment right and burial, at a minimum standard of maintenance as specified by the Code of Practice, and 67
 - 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. 67
 - 13 That CCNSW work with the Crown cemetery operators to develop a standard chart of accounts by December 2021. 70
 - 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. 71
 - 15 That 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. 72
 - 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: 76
 - The number of cemeteries operated by the council 76
 - The number of interments per annum 76
 - Remaining capacity of councils' cemeteries 76
 - Total operating costs and revenue for their cemeteries 76
 - Funds set aside for perpetual maintenance of the councils' cemeteries 76
 - Any relevant contextual information than impacts the costs of interment services. 76
 - 17 That the NSW Government amend the *Cemeteries and Crematoria Act 2013* to provide for CCNSW to refer a cemetery operator to IPART for a maximum price determination of a specified body interment service. 78

18	That CCNSW refer the metropolitan Crown cemetery operators to IPART for a price determination in relation to basic adult lawn burials.	79
19	That CCNSW work with IPART and cemetery operators to develop an Annual Information Return to collect data to support price regulation and monitoring.	79
20	That CCNSW develop a code of practice on pricing, to provide guidance to cemeteries on pricing matters. Code of practice to include:	80
	– The principle that prices should be cost-reflective	80
	– Guidance on including land as an input to the price of an interment right	80
	– Simple price modelling tools.	80
21	That IPART provide pricing advisory services to cemetery operators on request, with costs to be recovered by charging for the service.	80
22	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:	81
	– Plaque lawn grave	81
	– Headstone lawn grave	81
	– Monumental lawn grave	81
	– Ashes interment.	81
23	For the standard interment services outlined in Draft Recommendation 22, cemetery operators be required to publish the following:	81
	– The total price for the interment service (ie, the sum of all necessary service components) for both at-need and pre-need purchases	81
	– Itemised prices for each service component of the interment service, using the terminology described in Table 10.1, and including any additional costs due to cultural or religious requirements as specified in the code	81
	– Product specifications for the interment right, such as number of interments	81
	– Length of tenure (renewable or perpetual) and the future maintenance attributable to that right, for all relevant lengths of tenure.	81
24	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.	81
25	That CCNSW use consumer-facing language that reflects the terminology in Table 10.1.	86
26	That CCNSW develop, within 12 months of the release of IPART's report, a central website to enable consumers to compare prices for interment services in one place.	88

27	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.	92
28	That the industry scheme require all licensed cemetery operators to:	93
	– Prepare an estimate of the perpetual care maintenance liability and establish/maintain a dedicated fund for this purpose.	93
	– 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.	94
	– “Ring fence” assets set aside for meeting perpetual maintenance costs in future so that they are used solely for that purpose.	94
	– Prepare a transition plan to deal with the management of “legacy” perpetual maintenance obligations owed at the time a new governance framework is implemented.	94
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:	95
	– Estimating perpetual maintenance liabilities, and	95
	– Reporting these liabilities in the notes to financial account.	95
30	That CCNSW require cemetery operators which will be licensed in future under Draft Recommendation 2 to report their estimated perpetual maintenance liabilities as at 30 June 2021 in the notes to financial accounts in their 2020-2021 annual report.	95
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.	98
32	That all licensed cemetery operators should be required by a condition on their operating licence to develop renewable tenure products.	101
33	That the Code of Practice on Pricing (Draft Recommendation 20) include guidance on relative prices of renewable tenure compared to perpetual tenure.	101

2 Costs of interment services

This chapter discusses the costs associated with the provision of 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 (eg, 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 second interment 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 <https://www.industry.nsw.gov.au/lands/what-we-do/crown-land/cemeteries-crematoria/amendment-regulation-2017>, accessed 18 April 2019.

-
- ▼ **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, rehabilitation of the land, demolition costs, drainage and tree removal.¹¹ Some of these may be included in site development cost.

Securing a parcel of land for development as a cemetery is likely to be preceded by several failures before successfully purchasing a site. CCA NSW noted in their submission to our Issues Paper that the establishment of 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, community engagement and consultation, developing proposals, concept design plans, soil testing and surveying.¹²

Given this complexity, our draft recommendation is that the NSW Government be responsible for identifying and acquiring land for new cemeteries, particularly in metropolitan Sydney. This is discussed further in Chapter 7.

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, initially attempting to contact the rights holder by post and email. If unsuccessful, this is followed with telephone, post and emails repeated at three monthly intervals. Failing all this, notice must be published in a 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, there are several requirements that must be undertaken 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 (eg, 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, reintering 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 draft 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.

Costs associated with land were not included in Deloitte's estimates as they were outside the scope of their review; we subsequently calculated land costs for the Crown operators, and incorporated land costs into our pricing model.

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

3.1 Overview of draft 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 (eg, 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. This does not mean that the additional costs are inefficient.

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:

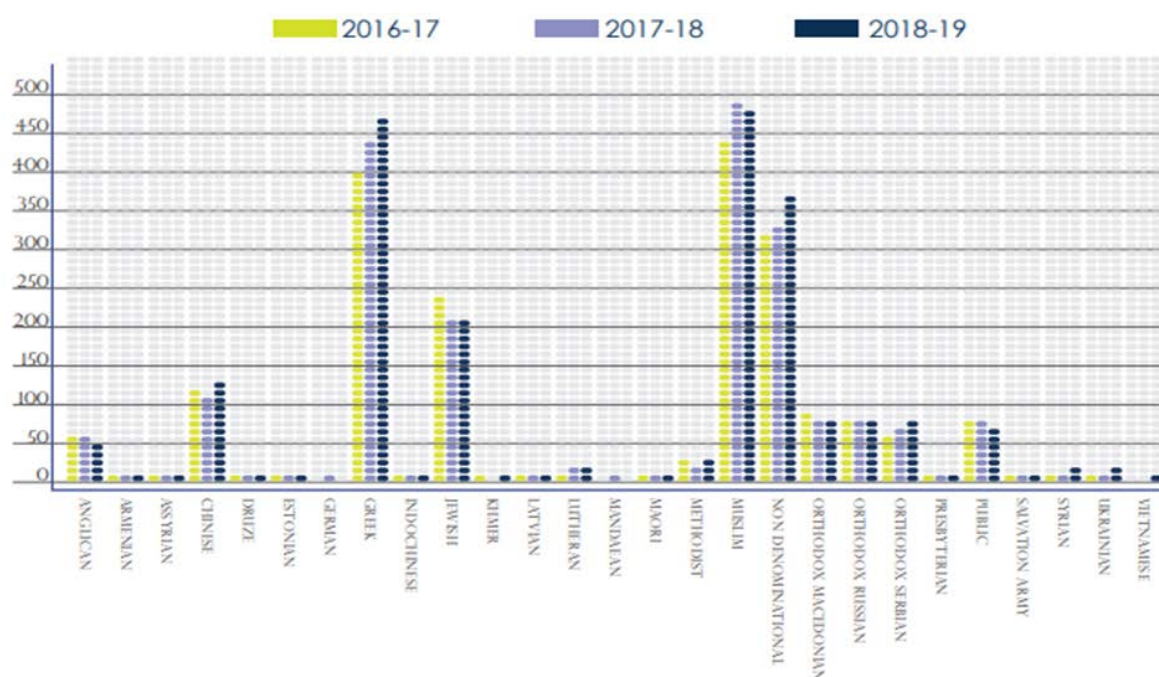
- ▼ **Back filling graves by hand**, and by mourners, as undertaken by many Jewish people. Deloitte estimated this could increase the cost by up to \$206 (an additional 23% based on a \$901 service).
- ▼ **Additional shoring to provide stability and structural integrity of the grave** for Islamic burials 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

Figure 3.1 shows the diversity of community groups interred at Rookwood General Cemeteries Land Manager (RGCLM) over the previous three years. Factoring in the share of these interments at RGCLM, Deloitte estimated an adjusted efficient cost estimate of \$1,399.

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

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, at http://www.rookwoodcemetery.com.au/assets/Annual%20Reports/RGC_AnnualReport_2019.pdf accessed on 17 July 2020.

Other Crown cemetery operators also cater for multiple different faith and community groups 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.²¹

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

Deloitte's estimates of the efficient cost of the components of the interment right component of a basic adult lawn burial are shown in Table 3.2, with the total ranging from \$2,600 to \$3,500.

²¹ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 14.

This range reflects differences in development costs and depreciation costs across the Crown cemeteries.²² To these costs it is necessary to add land related costs, see section 2.3.

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.

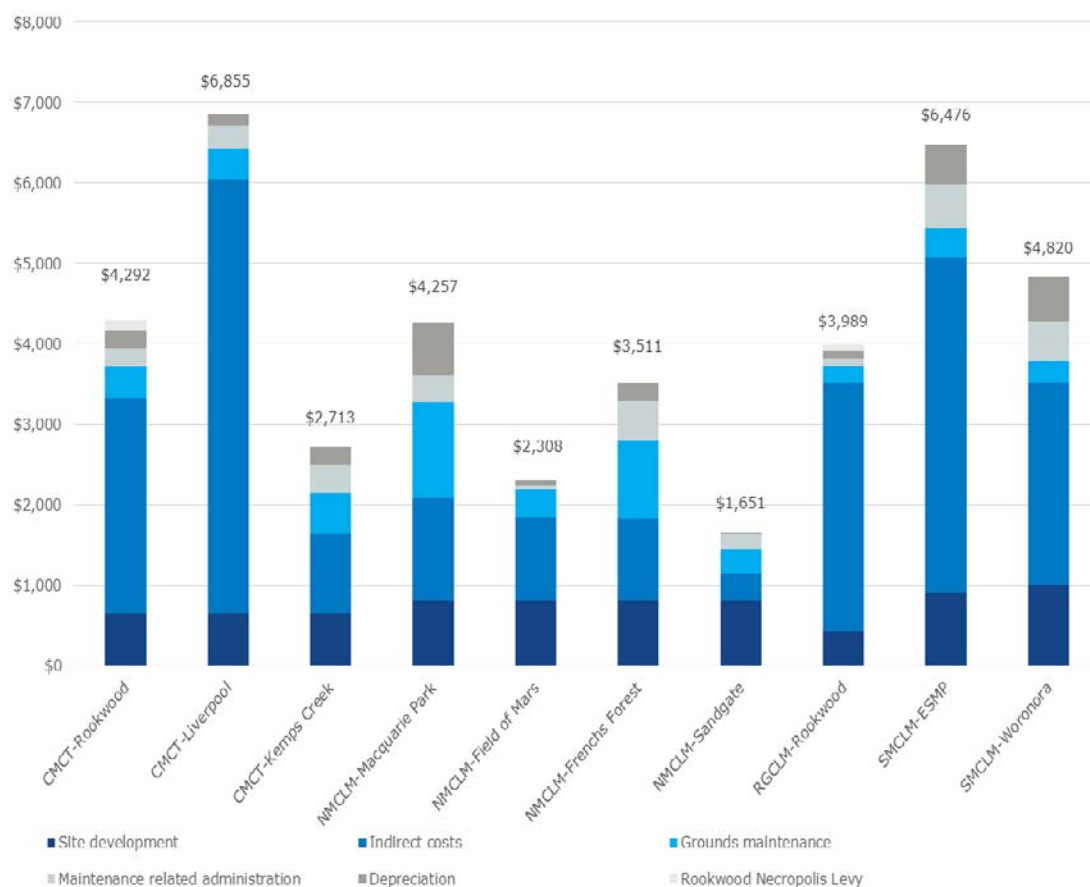
3.3.1 For most Crown cemeteries the cost of delivering the interment right is above the estimated efficient cost

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.

²² 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 land managers 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.²³

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 maintenance of 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.²⁴ 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

²³ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 17.

²⁴ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 18.

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.²⁵

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 (eg, 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%.²⁶

Estimate of 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.²⁷

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

²⁶ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 19-22.

²⁷ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 19-23.

Estimate of current maintenance costs by Crown cemetery

Deloitte's 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.²⁸

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).

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 relating to cemetery maintenance. It identifies themes relevant to cemetery maintenance and outlines best practice principles to meet these themes.^{29,30} However, it does not define a minimum or basic standard of maintenance. We are making a draft recommendation that CCNSW modify the Code of Practice to include a minimum standard for cemetery maintenance. This is discussed further in Chapter 8.

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,

²⁸ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 26-27.

²⁹ NSW Government, Cemeteries and Crematoria NSW, *Voluntary Code of Practice for Cemetery Maintenance, Cemetery maintenance guide*, February 2020, at https://www.industry.nsw.gov.au/__data/assets/pdf_file/0020/311690/Voluntary-Code-of-Practice-for-Cemetery-Maintenance.pdf, accessed on 13 August 2020.

³⁰ NSW Government, Cemeteries and Crematoria NSW, *Cemetery and crematorium operator code of practice 2018*, Part 8, at https://www.industry.nsw.gov.au/__data/assets/pdf_file/0020/204095/CCNSW-Cemetery-and-crematoria-operator-code-of-practice-2018.pdf accessed on 18 July 2020.

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 are making a draft recommendation that the conditions of a cemetery operator's operating licence be able to 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.³¹

Across the Crown cemetery operators, the average cost of administration related to perpetual care maintenance is \$7 per plot per annum.³²

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

Depreciation captures the deterioration of infrastructure 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 discussed above, 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.

³¹ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 23.

³² Deloitte Access Economics, *Efficient costs of interment services*, pp 27-28.

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.³³

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.³⁴

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:

- ▼ The requirements for graves 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
- ▼ Consultation 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.³⁵

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

³³ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 23 and p 29.

³⁴ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 29.

³⁵ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 29-32.

burial costs between the Crown cemetery operators are largely attributable to 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.

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,³⁶ 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 is due to the reduction in maintenance costs, which is required for 25 years, rather than in perpetuity.

This may seem to be only a modest cost saving, however it is expected that 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).³⁷

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.

Draft 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.

³⁶ *Cemeteries and Crematoria Regulation 2014*, s 7.

³⁷ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 34.

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- 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.

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 draft 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.

We are making a new finding 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.

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.

Draft 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.

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 (eg, mowing, rubbish removal, cleaning and maintaining facilities) and administration activities (eg, 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 million³⁸ in assets to fund these costs and some larger Council cemetery operators have also established reserves to fund these costs.

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.³⁹ 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.⁴⁰

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 areas⁴¹
- ▼ The costs include body interments but exclude cremated remains interments⁴²
- ▼ The share of burials by operator will remain constant⁴³
- ▼ Operators have similar costs for equivalent maintenance obligations.⁴⁴ Although Deloitte requested information from private cemetery operators, no cost data was provided.⁴⁵

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.

³⁸ See Table 6.2, Crown cemetery operator perpetual maintenance funds, p. 42

³⁹ 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.

⁴⁰ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p. 83.

⁴¹ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p. 81.

⁴² Deloitte Access Economics, *Efficient costs of interment services*, 2020, p. 84.

⁴³ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p. 84.

⁴⁴ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p. 83.

⁴⁵ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p. 84.

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.⁴⁶

We are making a new finding that 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.

Draft 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.

⁴⁶ CC Act, s3(e).

5 Prices for interment services

In our Interim Report, we 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 (eg, lawn graves, monumental graves, crypts), burial and memorialisation options such as headstones or plaques.

This chapter sets out the feedback we received on those interim findings, and our draft findings.

5.1 Overview of draft 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.⁴⁷ 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,

⁴⁷ Catholic Cemeteries and Crematoria, submission to IPART Issues Paper, June 2019, p 6.

such as the interment (burial) fee, perpetual maintenance and exhumation. We observed substantial variation in these service components.

Draft 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.⁴⁸ 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 (ie, 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 (eg single or double depth) are evident in some pricing schedules, but not in others.⁴⁹ This information is important for price comparison because it determines the number of interments that a right can accommodate.

⁴⁸ 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 2019-2020, <https://www.bmcc.nsw.gov.au/documents/fees-and-charges-2019-2020>, accessed 16 December 2019.

⁴⁹ 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.⁵⁰
- ▼ 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.⁵¹
- ▼ CCANSW proposed that IPART recommendations should relate to transparency in pricing and unbundling of major cost components.⁵²
- ▼ 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.⁵³
- ▼ 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.⁵⁴

Source: Submissions to IPART Issues Paper

Draft finding

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

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

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

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

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

54 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 in providing the interment right and burial components of a basic adult lawn burial. In this chapter, we use those estimated efficient costs and our own estimate of land costs to model efficient cost-reflective prices. We then compare the modelled efficient cost-reflective prices for basic adult lawn burials to current prices for basic adult lawn burials at Crown cemeteries to assess whether the prices that are being charged reflect efficient costs.

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

Thirdly, 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 draft findings on pricing for the Crown cemeteries, and then discusses them in more detail.

6.1 Overview of draft 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.

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.

When the two components are combined, the **total price for a basic adult lawn burial** currently being charged by each Crown operator is materially above 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 found that the basic adult lawn burial prices at 11 of the 15 Melbourne cemeteries, are lower than the average actual price 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.

The model uses the following inputs, 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 (includes all future **efficient** costs of running the cemetery), so it includes “legacy costs” attributable to past sales (see Chapter 4)
- ▼ A land cost (a ‘rent equivalent’, reflecting the costs of occupying land used for a cemetery)
- ▼ 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.⁵⁵

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.

To model an efficient price for burial, we then added a margin of 15% to 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.⁵⁶

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.

⁵⁵ CCNSW annual activity report 2018-19, https://www.industry.nsw.gov.au/__data/assets/pdf_file/0020/309530/CCNSW-Annual-Activity-Report-2018-19.pdf, accessed 27 August 2020.

⁵⁶ 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%.

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.

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 (eg, NMCLM Macquarie Park has higher maintenance costs for a higher standard of grounds maintenance, which Deloitte allowed as efficient).

6.2.3 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).⁵⁷ 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.

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 cemetery.

We have also included some additional initial construction and development costs in our estimate of the cost of land.⁵⁸ Although Deloitte's efficient cost estimates include a 'site

⁵⁷ 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.

⁵⁸ Catholic Metropolitan Cemeteries Trust, *Annual Report 2018-19*, Note 3 p 49 and Note 22 p 65.

development' cost, we consider that cemetery operators may incur additional costs when developing a new (as opposed to existing) cemetery.

Table 6.3 sets out the cost components of land purchase, approval and initial development.

Table 6.1 Costs associated with purchase, approval and development of a new cemetery

	Macarthur Memorial Park Varroville
Year	2015
Purchaser	CMCT
Land (Ha)	113.37
Intended burial plots (number)	136,000
Plots per hectare (number)	1,200
Purchase price	\$15,118,936
Planning costs	\$3,000,000
Initial construction and development	\$45,000,000
Total land costs per plot	\$464.11

Source: CMCT, *Annual Report 2015-16* and *Annual Report 2018-19*; Information provided by CMCT and IPART calculations.

6.2.4 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.⁵⁹
- ▼ 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. (See Appendix B for more information about our standard WACC methodology). This discount rate is applied to all costs excluding perpetual maintenance, and represents an efficient return on those costs for a cemetery operator.

⁵⁹ Deloitte Access Economics, *Efficient costs of interment services*, pp 79-80.

6.2.5 The current CCNSW levy is an additional cost for a cemetery operator

We have also included in the efficient cost-reflective price the current CCNSW levy, which is \$83 per interment (See Section 8.2.6 for more information). This reflects the costs of regulating the cemeteries industry, which are currently recovered from only the Crown cemeteries. Section 8.2.6 explains that we are making a draft recommendation for a different regulatory fee structure for cemeteries, where all cemetery operators would pay a percentage of revenue to cover the costs of the licence regulator. We consider that in future, this would be treated as an operating cost of the cemetery and not passed through as a per service levy, but have estimated cost-reflective prices using the current regulatory fee structure.

6.2.6 Including legacy costs in prices and accounting 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, and then subtracted these funds from future costs.

This requires us to consider the existing perpetual maintenance funds that the Crown cemetery operators hold, to ensure that we do not 'double count' 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 6.2 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.

Table 6.2 Crown cemetery operator perpetual maintenance funds (\$m)

	Balance of perpetual maintenance fund
CMCT	143
NMCLM	99
RGCLM	152
SMCLM	95

Sources Rookwood General Cemetery, Annual Report 2019, at http://www.rookwoodcemetery.com.au/assets/Annual%20Reports/RGC_AnnualReport_2019.pdf; Northern Metropolitan Cemeteries Land Manager, Financial Statements 2019 at https://acncpubfilesprodstorage.blob.core.windows.net/public/8e18b7df-39af-e811-a963-000d3ad24077-db09cd0c-75e1-4863-b081-36d1927fcabf-Financial%20Report-b7b2c11d-1d38-ea11-a813-000d3ad1cc03-NMCLM_Financials_FY19_Signed.pdf; Catholic Cemeteries Trust, Annual Report 2019 at <https://catholiccemeteries.com.au/wp-content/uploads/2019/11/CCC-Annual-Report-2018-2019-Web.pdf>; Southern Metropolitan Cemeteries, Annual Report 2019 at <https://woronoramemorialpark.worldsecuresystems.com/Default.aspx?PageID=16975283&A=SearchResult&SearchID=5222945&ObjectID=16975283&ObjectType=1>

6.3 Modelled efficient cost-reflective prices for the Crown cemeteries

Table 6.1 outlines the value of the cost components as described above, and Figure 6.3 shows the total estimated price for an efficient cost-reflective basic adult lawn burial at four Crown cemeteries.

Table 6.3 Efficient costs per basic adult lawn burial

Cost component	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 cost of selling the plot in the year it is sold ^b	\$2,134	\$2,094	\$1,913	\$2,488
Interment right: Land (costs of purchase, planning and initial construction and development) per plot	\$464	\$464	\$464	\$464
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

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

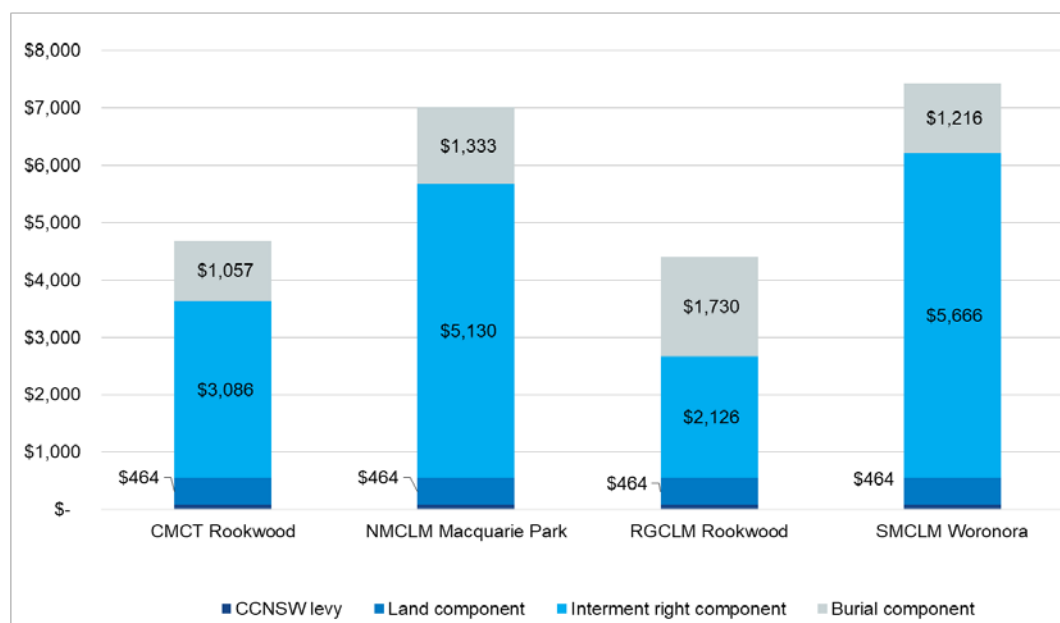
These inputs have been generated by Deloitte to be compatible with our model, and so they do not align directly with numbers reported in Deloitte's efficient cost report.

a These efficient cost estimates vary by cemetery because Deloitte assumed that depreciation reported by each of the Crown operators was efficient, 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.

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

Figure 6.1 Pricing components for an efficient cost-reflective basic adult lawn burial



Note: CCNSW levy is \$83 per interment

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

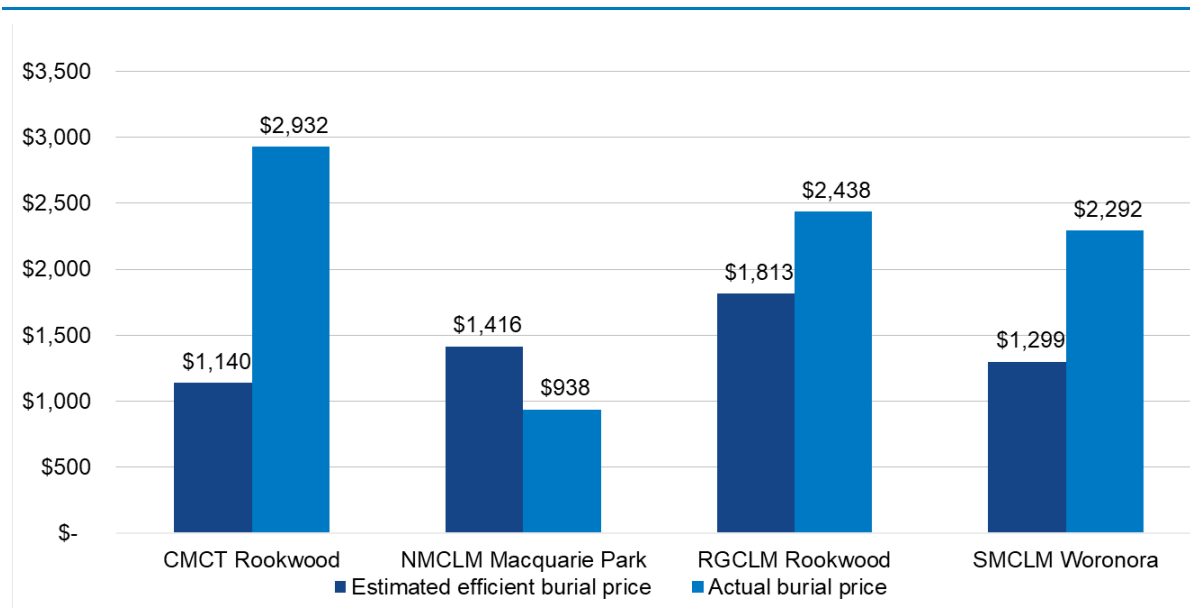
6.4 We compared our modelled prices to current Crown cemetery prices

We compared current prices charged by the Crown cemetery operators for a burial, and a basic adult lawn burial (consisting of interment right plus burial) to our modelled efficient cost-reflective prices.

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

Our modelled prices including a margin on the costs of burial is much lower than the prices currently being charged for burial (see Figure 6.4), 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 6.2 Estimated efficient cost-reflective burial prices (\$2019-20) compared to actual Crown cemetery burial prices (ex GST)



Note: We have applied a CPI adjustment to Deloitte's \$2018-19 efficient cost estimates to inflate these costs to \$2019-20. It is possible that the Crown cemeteries charge higher prices for burial fees in recognition of previously undercharging for interment rights.

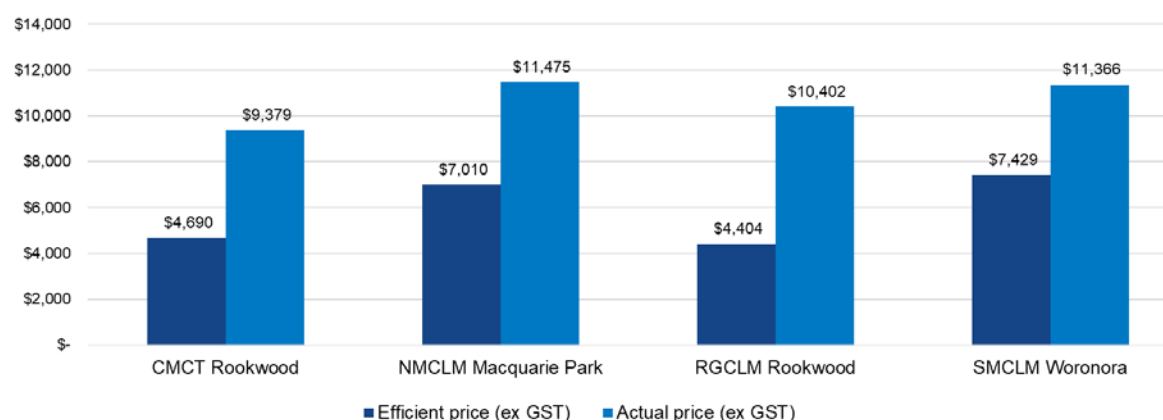
Actual current Crown cemetery prices are based on prices that are displayed on Crown cemetery websites as at August 2020. The Crown cemetery operators appear to change their prices at different times. As a result, current prices for each of the Crown cemeteries displayed in this chart may not align with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

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

6.4.2 Basic adult lawn burial prices at the Crown cemeteries are above modelled efficient cost reflective prices

Figure 6.1 shows prices based on efficient costs for the largest cemeteries operated by each of the Crown operators, and compares this to actual Crown cemetery prices 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 50% to 140% higher than our estimate of an efficient cost-reflective price for a basic adult lawn burial. This indicates that if the Crown operators reduce their costs to efficient levels, we would expect to see substantially lower prices for a basic adult lawn burial.

Figure 6.3 Estimated cost-reflective prices (\$2019-20) compared to actual current Crown cemetery prices (ex GST)

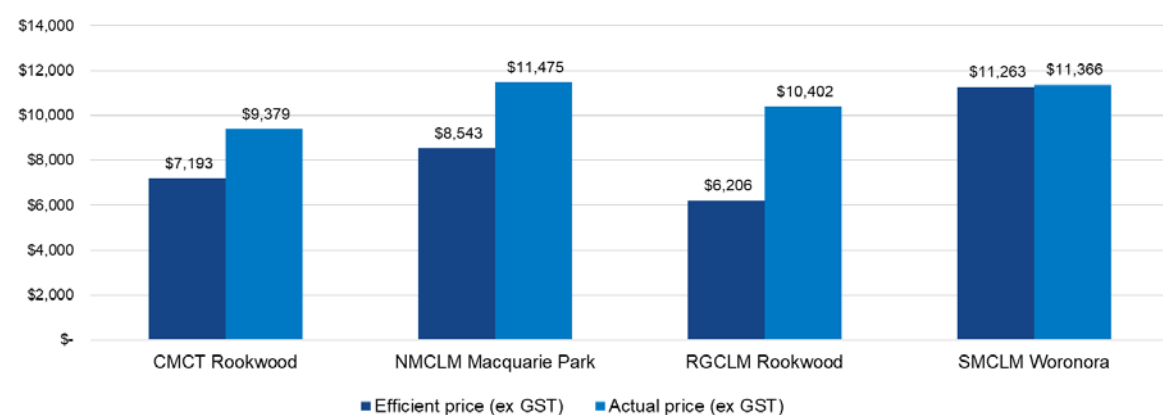


Note: Actual current Crown cemetery prices are based on prices that are displayed on Crown cemetery websites as at August 2020. The Crown cemetery operators appear to change their prices at different times. As a result, current prices for each of the Crown cemeteries displayed in this chart may not align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

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

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 6.2) and under this scenario current prices substantially exceed these higher costs, with the exception of SMCLM Woronora, where modelled cost-reflective prices are similar to actual current prices.

Figure 6.4 Modelled prices based on efficient costs + 20% (\$2019-20) compared to actual current Crown cemetery prices (ex GST)



Note: We increased Deloitte's estimates for maintenance, overheads and site development costs by 20%. We did not adjust land value, or the costs of the burial (interment service).

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*.

Draft 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 6.5)
- ▼ 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 6.6).

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.

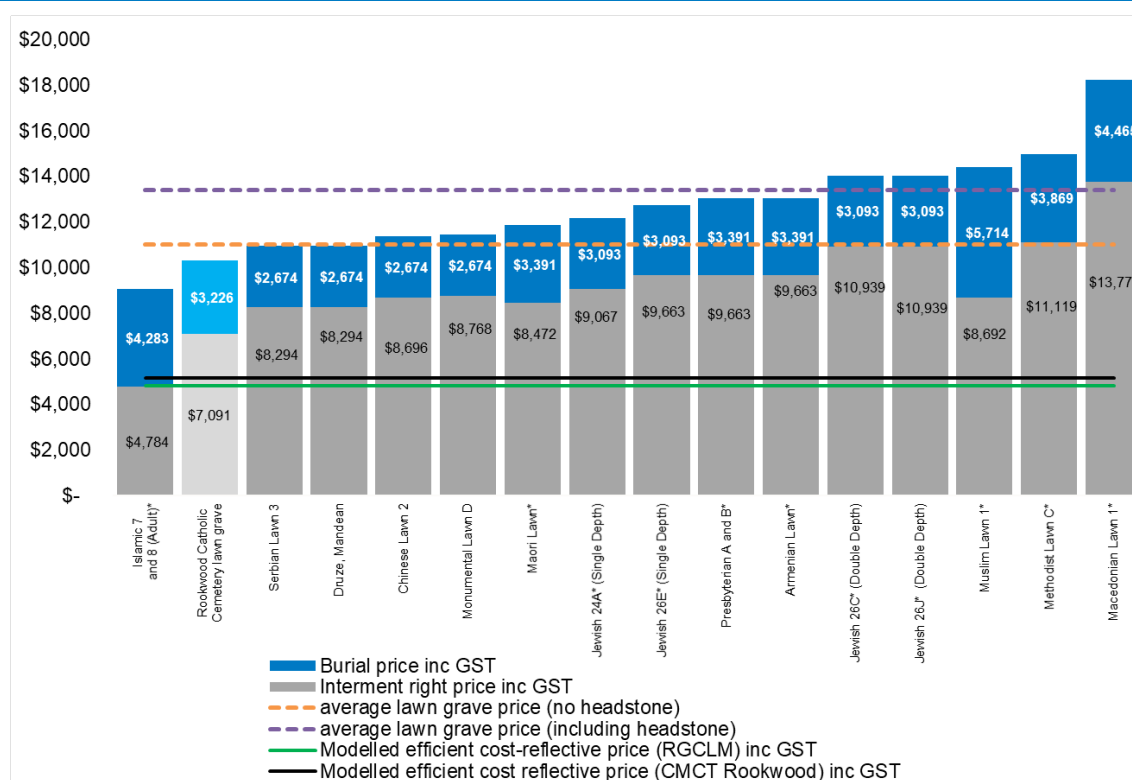
However, Deloitte found that the efficient costs of cultural and faith-based requirements could add 30% to 58% to the costs of the burial.⁶⁰

Figure 6.5 compares prices charged at Rookwood Cemetery for basic adult lawn burials (interment right and burial) for different cultural and faith 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. However, 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 6.6) to Deloitte's efficient cost estimates.

⁶⁰ Deloitte, *Efficient costs of Interment services*, p v.

Figure 6.5 Rookwood adult lawn grave prices for different cultural and faith-based requirements compared to efficient cost-reflective prices (inc GST)

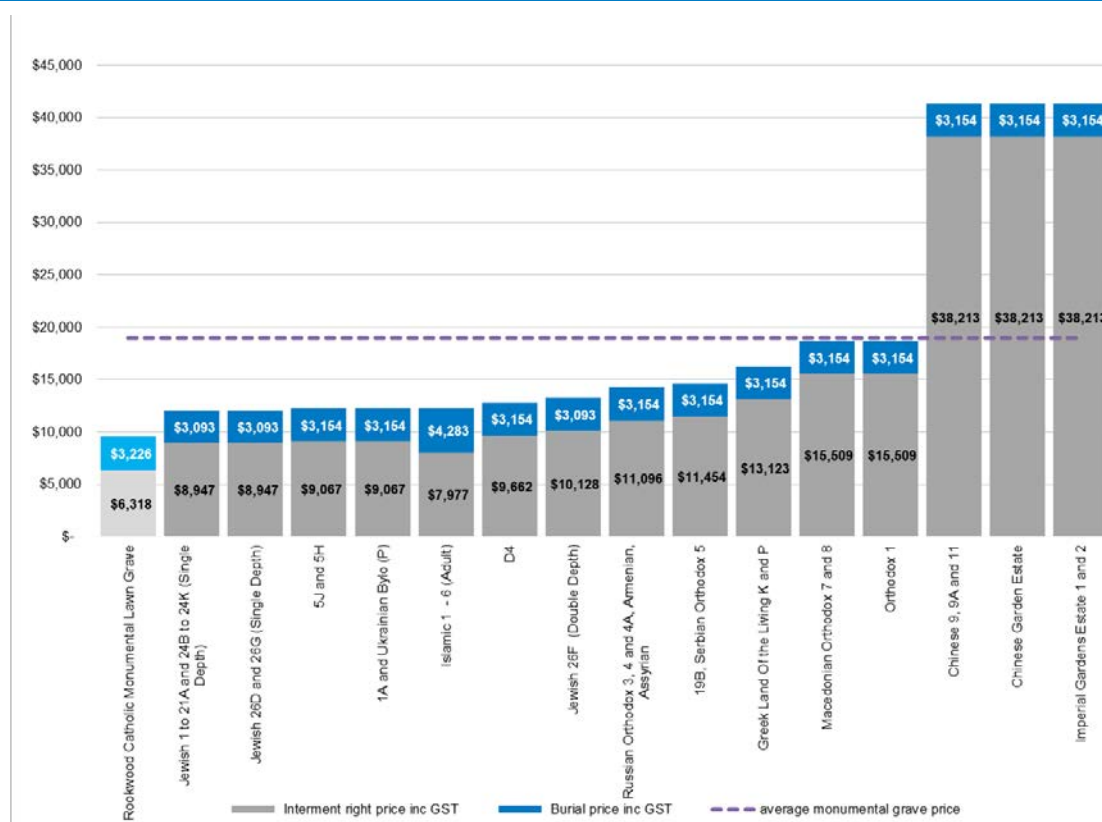


Note: Deloitte's efficient cost estimates do not include the cost of a headstone.

Actual 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: Rookwood General Cemetery, Fees for in-ground interment, <http://www.rookwoodcemetery.com.au/assets/documents/general-price-list-jan2020-V1.pdf>, accessed 23 August 2020. Catholic Cemeteries and Crematoria, Product and service geode 2020-2021, <https://catholiccemeteries.com.au/wp-content/uploads/2020/07/CCC-Product-and-Services-Pricelist-2020-21.pdf>, accessed 23 August 2020. Deloitte Access Economics, Efficient costs of interment services.

Figure 6.6 Rookwood monumental lawn grave prices for different cultural and faith-based groups (inc GST)



Note: 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 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.

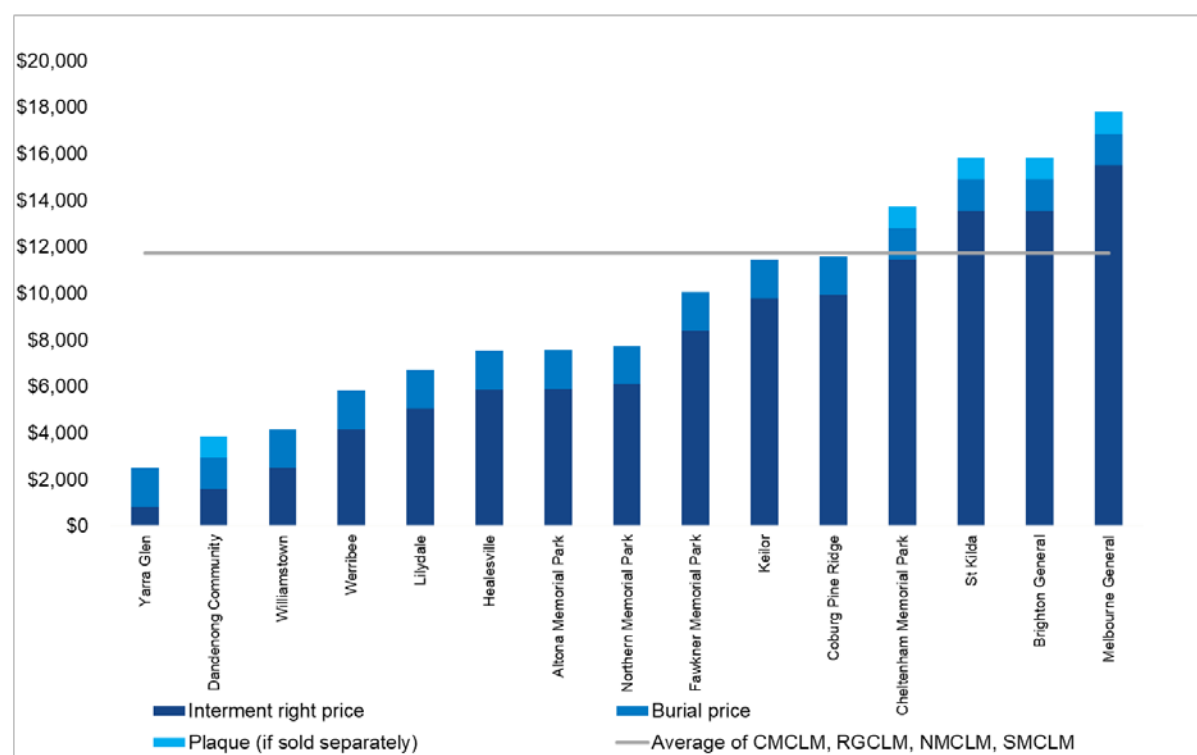
Data source: Rookwood General Cemetery, Fees for in-ground interment, <http://www.rookwoodcemetery.com.au/assets/documents/general-price-list-jan2020-V1.pdf>, accessed 23 August 2020. Catholic Cemeteries and Crematoria, Product and service geode 2020-2021, <https://catholiccemeteries.com.au/wp-content/uploads/2020/07/CCC-Product-and-Services-Pricelist-2020-21.pdf>, accessed 23 August 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 6.7). We found that Melbourne cemetery prices vary considerably, but that it is cheaper to buy a basic adult lawn burial at 11 of the 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 6.7 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.

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 draft findings on the need for governance reform, including price regulation.

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

7.1 Overview of draft 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 scheme⁶¹ ('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.

⁶¹ An interment industry scheme is defined under s 31 of the CC Act.

The first reason is that people often have a strong preference to be interred in a particular cemetery, either because it is close to their family and community, or because of a religious affiliation. 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.⁶² 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.

⁶² 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

Since making the interim findings on customer choice and market structure set out in the sections above, we have 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, our draft finding is that regulatory reform is required to drive efficiency, affordability, transparency, financial sustainability and choice in interments.

Draft 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.

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

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

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 in our Interim Report 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. However, we concluded in the Interim Report that on the whole, prescriptive price regulation is not warranted, and that instead we would recommend a suite of measures that in some cases is different for different types of cemeteries.

As set out in Chapters 3 and 6, we have 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 consider that there is a need for maximum price regulation for Crown cemetery operators. 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 to support this.

Draft 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 draft recommendations for price regulation, as well as other draft 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 (eg, 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 draft recommendations for the framework of an industry scheme, and some of the elements that should be included in it. It also sets out our draft recommendations for improved governance of planning, selection and purchase of land for new cemeteries.

8.1 Overview of draft recommendations

The CC Act already makes provision 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.

Therefore we are making a draft recommendation that CCNSW develop an industry scheme, incorporating mandatory codes of practice, and an operating licence for some participants, to regulate:

- ▼ Making adequate provision for perpetual maintenance funding
- ▼ Specification of standards of cemetery maintenance
- ▼ Specifications for interment right contracts, including standard terms and conditions
- ▼ Specifications for minimum interment requirement for faiths and community groups
- ▼ A requirement to provide a basic lawn burial interment right at a minimum standard of maintenance.

Our draft recommendation is that the industry scheme be funded by the licensed cemetery operators.

An industry scheme is not the appropriate mechanism to drive land acquisition reforms; we have modified our interim recommendations on land acquisition slightly to make a draft recommendation of a coordinated approach by NSW Government agencies, rather than tasking CCNSW directly with this responsibility.

8.2 An industry scheme including mandatory codes of practice and licensing to improve cemetery governance

The existing framework in the CC Act 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.

In making a regulation to establish an interment industry scheme, the Minister must consult with the interment industry and other relevant stakeholders, and also prepare a Regulatory Impact Statement.

Once an interment industry scheme is established, a cemetery operator must comply with any requirements of the scheme that applies to it. CCNSW can enforce compliance with any requirements through, among other things, improvement notices and enforceable undertakings. In addition, CCNSW may seek civil penalties (up to \$27,500) in the Local Court or issue infringement notices (up to \$5,500) where a cemetery operator has not complied with, among other things, an interment industry scheme, a mandatory code of practice or an improvement notice.

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

The main elements of our recommended industry scheme are **mandatory** codes of practice and licences, with compliance monitoring and enforcement by CCNSW. An industry scheme must be established by regulation.⁶³

Independently of a scheme, CCNSW may develop **voluntary** codes of practice that provide guidance on any interment matters.⁶⁴ 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.

⁶³ CC Act, s 31.

⁶⁴ CC Act, s 28, s 29.

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.⁶⁵

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.

The Act provides for CCNSW to monitor compliance, and issue improvement notices, or accept enforceable undertakings. These powers apply to the provisions of an industry scheme.

We consider that an industry scheme consisting of mandatory codes of practice that apply to the whole industry and an operating licence for the largest cemetery operators is the best way to implement some of our draft recommendations that will drive cost efficiencies and sustainable financial management.

Draft recommendation

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

The following sections set out the elements we recommend be included in the industry scheme. While we are proposing the mechanisms by which the elements are included, ie, 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.

8.2.1 Some cemetery operators should be licensed under the industry scheme

All cemetery operators would be subject to the mandatory codes of practice in the industry scheme. However, our draft recommendation is that an industry scheme include the licensing of the largest cemetery operators which represent the greatest financial risk and customer detriment if they do not comply with their responsibilities under an industry scheme.

A licence is a flexible instrument which allows for conditions to be tailored for individual cemetery operators. Licensing some but not all cemetery operators allows for the provisions of the industry scheme to be proportionately applied to different sizes and types of operators.

Draft recommendation

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

An important requirement to be attached to a licence condition is the requirement to comply with prudential requirements for funding perpetual maintenance. We explain the proposed prudential requirements in more detail in Chapter 11.

⁶⁵ CC Act, s 29(2).

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.⁶⁶ This threshold was set to capture the large cemetery operators where the risks of failure to provide for perpetual maintenance are the greatest.

However, 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.

To address these issues, the 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).⁶⁷

As discussed above, a licensing scheme can be designed so that licence conditions can be tailored to a particular cemetery operator. We consider that licence conditions could address other areas, identified in our Draft Report, where increased regulatory controls are needed. For example, licence conditions for a cemetery operator could include requirements to increase the density of interments via more land efficient practices or requirements to develop renewable tenure products.

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

As noted above, 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.

⁶⁶ IPART, Review of interment costs and pricing, Interim Report, December 2019, p. 52.

⁶⁷ *Cemeteries and Crematoria Act 2003* (Vic), s 9A.

Some operators are making provisions for future costs, but 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 our draft recommendation is 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 larger cemetery operators that meet an activity level threshold.

8.2.3 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 recently (February 2020) developed a voluntary Code of Practice for cemetery maintenance.⁶⁸ 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. The minimum standards may differ between types of cemetery (eg, rural/regional, metropolitan) and for levels of visitation (eg, an active cemetery with daily burials or a heritage cemetery that is closed to burials).

Draft 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.

⁶⁸ CCNSW, *Voluntary code of practice for cemetery maintenance*, February 2020.

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

CCNSW has developed a (currently 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.⁶⁹

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.⁷⁰ 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.

In submissions received on our Interim Report there was strong support for cemetery operators to provide a plain English Statement of terms and conditions for interment rights contracts. For instance, the Hills Shire Council considers that it is important for anyone purchasing a plot to understand what they have purchased and what they are responsible for and this needs to be communicated to all parties prior to any interment. All cemeteries must provide a clear statement of service levels, and this must be part of the purchase certificate.⁷¹

LGNSW recommends in its submission that CCNSW could develop model agreements and forms as this would assist cemetery operators.⁷² We agree that it would be useful for CCNSW to develop model contracts to make it easy for cemetery operators to implement.

The NSW Jewish Board of Deputies and Lebanese Muslim Association is concerned that the development of terms and conditions for interment right contracts may result in common areas being maintained but not graves and headstones. They consider that once families cannot bear or are unavailable to bear the cost of maintaining a grave the perpetual care obligation should then commence. Graves including headstones are as much a part of a cemetery warranting perpetual care as are the common areas.⁷³ We note that roles and responsibilities for maintenance will affect perpetual maintenance costs and ultimately the price of an interment right. We also note that the CC Act requires stakeholder consultation on a regulation to establish any mandatory code of practice requirements so stakeholders will

⁶⁹ CCNSW, *Cemeteries and crematorium operator code of practice 2018 – Interment rights and general services*, November 2018, clause 8.4.

⁷⁰ CC Act, s3(e).

⁷¹ The Hills Shire Council submission to the Interim Report, February 2020, p. 3.

⁷² Local Government NSW submission to the Interim Report, February 2020, p. 7.

⁷³ NSW Jewish Board of Deputies and Lebanese Muslim Association submission to the Interim Report, February 2020, p 4.

have an opportunity to provide feedback on the proposed terms and conditions for interment rights contracts.⁷⁴

We have modified our interim recommendation to ensure that cemetery operators use a consistent approach. We consider that CCNSW should develop a plain English statement of terms and conditions for interment rights as a Code of Practice which can then be enforced via an industry scheme.

Draft 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.

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

Most cemeteries offer a range of interment services, often differentiated by faith (eg, Presbyterian, Jewish and Muslim sections with differently designed or laid out gravesites), culture (eg, indigenous requirements) or type of grave (eg, 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).

In our Interim Report, we found 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 requirements of the community group are not defined, the transparency of these costs and therefore pricing is lacking.

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.⁷⁵ 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.

Our draft recommendation is that a code of practice be developed by CCNSW, in consultation with relevant community groups, to ensure that such requirements are specified.

In addition, we propose 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

⁷⁴ CC Act, s32

⁷⁵ CC Act, s 3(a), 3(b).

with licence conditions to ensure that the cemetery operators are providing basic interment services to their community.

Draft 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.

8.2.6 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.⁷⁶ 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.⁷⁷

The levy is charged on basis of interment services carried out, namely burials, cremations and ash interments. 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.⁷⁸

In submissions to our Issues Paper and Interim Report, the Crown Cemetery Land Managers consider 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.⁷⁹ However, private and council cemetery operators considered they should not pay the levy as they receive no evident assistance or benefit from CCNSW.

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 also note that differences in tax status between public and

⁷⁶ *Cemeteries and Crematoria Regulation 2014*, cl 4(2).

⁷⁷ Cemeteries & Crematoria NSW Annual Report 2018-2019, October 2019 at [https://www.parliament.nsw.gov.au/tp/files/76863/Cemeteries%20and%20Crematoria%20NSW%20-%20Annual%20Report%202019%20\(incl%20appendices\).pdf](https://www.parliament.nsw.gov.au/tp/files/76863/Cemeteries%20and%20Crematoria%20NSW%20-%20Annual%20Report%202019%20(incl%20appendices).pdf) accessed on 17 June 2020.

⁷⁸ Woronora Memorial Park, *Cemetery Fees effective 1 July 2019*; and Woronora Memorial Park, *Crematorium Fees effective 1 July 2019*, accessed at <http://www.woronoramemorialpark.com.au/price-guide> on 17 June 2020.

⁷⁹ For example, Catholic Metropolitan Cemeteries Trust, Submission to Issues Paper, July 2019, p 5.

private operators has a similar impact. Nevertheless, in our Interim Report we recommended that the levy not be applied to additional cemetery operators until the statutory review of the *Cemeteries and Crematoria Act 2013* is completed and it can be demonstrated that the functions of CCNSW are of benefit to the wider cemetery and crematoria industry in NSW.

In line with the principles of cost recovery set out by the Productivity Commission in its *Inquiry into Cost Recovery by Government Agencies*, it would be 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.⁸⁰

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.⁸¹ 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.

Currently the levy is a set amount per interment service, and does not reflect the cost of regulating or providing that service. We are making a draft recommendation that the levy be set as a percentage of each cemetery operator's interment-related revenue. This would ensure the levy is proportional and the percentage could be set to recover the efficient costs of the regulator. We also note that fees and charges could be set to fund the interment industry scheme instead of using the levy to do so.⁸²

As discussed in Chapter 10, our draft recommendation is that IPART regulate the 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, our draft recommendation is that the efficient cost to undertake this price regulation be funded by cemetery operators subject to price regulation.

We estimate the cost of the additional regulatory roles to be undertaken by CCNSW and price regulation by IPART would be in the order of \$5 million per annum. The number of cemetery operators contributing to this would impact both the cost of regulation, as well as the percentage of revenue that would be required to recover this cost. Our draft recommendation is that all cemetery operators pay the levy based on a percentage of their interment-related cemetery operating revenue.

Draft recommendation

- 8 That the interment service levy be extended to all cemetery operators. The levy should be set as a percentage of interment-related cemetery revenue 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.

⁸⁰ Productivity Commission, *Cost Recovery by Government Agencies*, Inquiry Report No. 15, 2001, p. 157.

⁸¹ Productivity Commission, *Cost Recovery by Government Agencies*, Inquiry Report No. 15, 2001, p. 158.

⁸² CC Act, s 31(2)(g).

8.3 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.⁸³ 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 draft recommendations for a coordinated whole-of-government approach to the identification and acquisition of land for new cemeteries.

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

Given the approaching shortfall in burial space in Sydney, and difficulties acquiring and developing land for new cemeteries, 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 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 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 8.3.3, our draft recommendation is that centralised acquisition of new cemeteries also be available for regional areas.

We consider 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 (eg, CCNSW, Office of Strategic Lands, and Planning) and the Greater Sydney Planning Commission. Classifying cemeteries as State Significant Developments would be a step in this direction.⁸⁴

⁸³ Cemeteries and Crematoria NSW, *Metropolitan Sydney Cemetery Capacity Report*, November 2017, p 6.

⁸⁴ 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 at <https://www.planning.nsw.gov.au/Assess-and-Regulate/Development-Assessment/Planning-Approval-Pathways/State-Significant-Development> accessed on 5 June 2020.

Our draft recommendation is that the NSW Government be responsible for identifying, and funding the acquisition of land for new cemeteries in Metropolitan Sydney, and that this would involve a coordinated approach across Government.

8.3.2 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 8.3.4, to offset this cost to the NSW Government.

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 draft recommendations regarding the prudential management of perpetual maintenance funds. These draft recommendations would prevent perpetual maintenance funds being used to purchase land or for any purpose other than maintaining the cemetery into the future.

8.3.3 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.⁸⁵

However, several stakeholders argued that land acquisition for cemeteries should be centralised across NSW, not just for Sydney. For example, Kempsey Shire Council recommends the NSW Government be consistent across regional and Sydney areas and uniformly fund land acquisition.⁸⁶

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. This could be on request from the local council or other cemetery operator, or as part of regional planning by the NSW Government.

We consider that 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

⁸⁵ For example, Wollongong City Council, Submission to Interim Report, February 2020, p 1.

⁸⁶ Kempsey Shire Council, Submission to Interim Report, February 2020, p 1.

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.

Most cemeteries in regional areas are managed by the local council. There are however some private cemetery operators⁸⁷ (as well as community and church operated cemeteries). If the land was acquired centrally, non-local government operators should not be precluded from opportunities to develop and operate the new cemetery. As for our draft recommendation for Sydney, the development and operation of the cemetery should be competitively tendered, and rent paid by the successful operator.

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.

8.3.4 The development and operation of new cemeteries should 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.

A number of stakeholders, including private operators, agreed that if centralised acquisition of cemetery land were to occur, then the operation of 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.⁸⁸

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.⁸⁹ Equally however, private operators could argue that they face tax liabilities that Crown operators and councils do not.

⁸⁷ 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.

⁸⁸ The Hills Shire Council, Submission to Interim Report, February 2020, p 2; Local Government NSW, Submission to Interim Report, February 2020, p 4.

⁸⁹ For example, Northern Metropolitan Cemeteries Land Manager, Submission to Interim Report, February 2020, p 3.

To ensure a competitive tender all suitably qualified cemetery operators, public and private, should be eligible to tender and be assessed on a competitively neutral basis. Our draft 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 8.2. 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.

As part of the operating licence to operate the cemetery, 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.

Draft 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 (eg, CCNSW, Office of Strategic Lands, and Planning) and the Greater Sydney Commission. Classifying cemeteries as State Significant Developments would be an important step in facilitating this.
- 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 Draft Recommendation 9.
- 11 That the development and operation of 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 draft recommendations aimed at increasing cost efficiency across cemetery operators. Some of our draft 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.⁹⁰ 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 draft recommendations aimed at providing incentives for cemetery operators to increase their cost efficiency in providing interment services.

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

9.1 Overview of draft 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 are making

⁹⁰ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 54.

a draft recommendation 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 are making a draft recommendation that cemetery operators' operating licence conditions may require a cemetery to increase the density of interments via more land-efficient practices.

We are also making a draft recommendation for 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.

In our Interim Report we made a recommendation that the Office of Local Government's 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 have modified our interim recommendation and simplified the type of information that council cemetery operators should be required to provide.

9.2 A standard chart of accounts would increase transparency and efficiency

In collecting information from the cemetery operators for this review, both IPART and Deloitte observed a lack of consistency in how the Crown cemetery operators estimate and allocate the 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 consultations and modelling, it became clear that Crown cemetery operators do not use consistent approaches to record keeping and reporting.⁹¹

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.⁹²

Detailed records of worker activities would provide operators with a more accurate understanding of the way labour time is split across different products (eg, 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.⁹³

⁹¹ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 63.

⁹² Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 63-64.

⁹³ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp. 63-64.

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.⁹⁴

More robust, accurate and consistent information than was available to our current review would improve the robustness of price regulation. Therefore, to both support the sector deliver cost efficiencies and the transition to regulation, our draft recommendation is that CCNSW consult with the Crown cemetery operators to develop a standard chart of accounts.

Draft recommendation

- 13 That CCNSW work with the Crown cemetery operators to develop a standard chart of accounts by December 2021.

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 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 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 removal of monumentation.

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

⁹⁴ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 64.

retrospectively implement renewable tenure terms of 50 years so that monumentation 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.⁹⁵

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.

Draft 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.

⁹⁵ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 59-60.

9.4 The cost of land should be included in the interment right

It is not clear that the cost of land is 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 price of the interment right should include the cost of land, to ensure competitive neutrality with other operators, and ensure fair outcomes for people purchasing plots in new and existing cemeteries.

The Valuer General's estimated land values for the Sydney Crown cemeteries are very low compared to the surrounding land, reflecting the constrained nature of cemetery land.⁹⁶ 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. Similarly, private valuations undertaken for the metropolitan Sydney Crown cemeteries applied discounts of 90% to the "fair market value" for buried out land.⁹⁷

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.

Our draft recommendation is 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. 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.

Draft recommendation

- 15 That 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.

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

We made an interim recommendation 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 [Your Council](#) website, to increase transparency and allow comparison with similar councils. We considered that this was an appropriate

⁹⁶ IPART calculations using Valuer General, Bulk land value information for April 2019 at https://www.valuergeneral.nsw.gov.au/land_value_summaries/lv.php

⁹⁷ See for example, Southern Metropolitan Land Manager, *Annual Report 2018-19*, p 51; and Rookwood General Cemetery Land Manager, *Annual Report 2018-19*, p 83.

alternative to undertaking a cost efficiency study of all council operated cemeteries (as we did for the Sydney Metropolitan Crown cemeteries).

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 draft recommendations regarding pricing transparency in Chapter 10. It is also difficult to assess the efficiency of council cemeteries. Requiring councils to report transparency on their cemetery operations would encourage efficiency and provide a useful benchmark for council cemetery operators.

While some Crown cemetery land managers supported greater transparency of council cost information, Local Government NSW 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.⁹⁸ 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.⁹⁹

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

⁹⁸ Local Government NSW, Submission to Interim Report, February 2020, p 5.

⁹⁹ 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* at <https://www.olg.nsw.gov.au/councils/council-finances/financial-reporting/local-government-code-of-accounting-practice-and-financial-reporting/> and Department of Local Government, *Pricing and costing for council businesses – a guide to competitive neutrality*, 1997 at <https://www.olg.nsw.gov.au/wp-content/uploads/Pricing-and-Costing-for-Council-Businesses-A-Guide-to-Competitive-Neutrality.pdf>

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 activities¹⁰⁰
- ▼ Penrith City Council and Lismore City Council treat their cemeteries as category 2 business activities¹⁰¹

¹⁰⁰ Wollongong City Council, *Annual Financial Statements 2019, Special Purpose Financial Statements 2019*, p 7 at https://www.wollongong.nsw.gov.au/_data/assets/pdf_file/0023/48740/Annual-Financial-Statements-2019.pdf accessed on 21 August 2020; Shoalhaven City Council, *Annual Financial Statements 2018-19, Special Purpose Financial Statements 2019*, p 7, at <https://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=D19/388054> accessed on 21 August 2020.

¹⁰¹ Penrith City Council, *Annual Financial Statements 2018-19, Special Purpose Financial Statements 2019*, p 112, at https://www.penrithcity.nsw.gov.au/images/documents/resources-documents/documents/Financial_Statements_2019.pdf accessed on 21 August 2020; Lismore City Council, *Financial Reports 2019, Special Purpose Financial Statements 2019*, p 8 at https://www.lismore.nsw.gov.au/cp_themes/default/page.asp?p=DOC-PYZ-34-28-00 accessed on 21 August 2020.

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- ▼ Bega Valley Shire Council, Northern Beaches Council, Blacktown City Council, and Tamworth Regional Council do not treat their cemeteries as separate business activities.¹⁰²

As indicated in Box 9.1, only 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 (ie, 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. As a first step towards increased transparency our draft recommendation is that the following information be collected and included on the Your Council website:

- ▼ The number of cemeteries operated by the council, and the number of interments per annum
- ▼ Remaining capacity of councils' 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 councils' 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.

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.

¹⁰² Bega Valley Shire Council, *Annual Financial Statements 2019*, p 17 at https://begavalley.nsw.gov.au/cp_themes/default/page.asp?p=DOC-UMJ-26-01-72 accessed on 21 August 2020; Northern Beaches Council, *Financial Reports 2018-19*, p 30 at <https://files.northernbeaches.nsw.gov.au/sites/default/files/documents/annual-reports/2018-2019/financials/annual-report-201819-financial-reports.pdf> accessed on 21 August 2020; Blacktown City Council, *Financial Statements 2018-19*, p 21 at <https://www.blacktown.nsw.gov.au/About-Council/Plans-policies-and-reports/Annual-audit-and-financial-reports> accessed on 21 August 2020; Tamworth Regional Council, *Annual Financial Statements 2019*, p 18, at <https://www.tamworth.nsw.gov.au/about/reports-and-registers/financial-reporting> accessed on 21 August 2020.

Draft 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 councils' cemeteries
 - Total operating costs and revenue for their cemeteries
 - Funds set aside for perpetual maintenance of the councils' cemeteries
 - Any relevant contextual information than impacts the costs of interment services.

10 Pricing - the way forward

In our Interim Report we concluded that, on the whole, prescriptive price regulation is not warranted for interment prices, and instead we made interim recommendations about a suite of measures designed to make prices more transparent and cost-reflective without direct price regulation.

Subsequently, as set out in Chapter 7 of this report, our investigations of costs and prices at Crown cemeteries have led us to find that some maximum price regulation is required. This chapter sets out our draft recommendations for how maximum price regulation should be implemented.

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

Finally, we have done further work on the interim suite of pricing measures we recommended in our Interim Report and present updated draft recommendations in this chapter.

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

10.1 Overview of draft recommendations

Given our findings about costs and prices at Crown cemeteries, our draft recommendation is 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. Our draft recommendation is that IPART, as a specialist price regulator, should undertake this task.

The pricing process for interment prices is complex, and so our draft recommendation is that CCNSW develop a code of practice that provides support for cemetery operators to develop appropriate prices. We also propose that IPART provide pricing assistance on application to cemetery operators.

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. Our draft recommendation is that cemeteries be required to publish cemetery prices for a subset of standard interment services on a consistent basis. We are also making a draft recommendation that these prices be notified to CCNSW and published on a cemeteries pricing comparator website, to be developed by CCNSW.

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.¹⁰³ 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 (Draft Recommendation 8).

Draft Recommendation

- 17 That the NSW Government amend the *Cemeteries and Crematoria Act 2013* to provide for CCNSW to refer a cemetery operator to IPART for a maximum price determination of a specified body interment service.

10.3 Crown cemetery basic adult lawn burial price should be regulated

The findings that led us to the draft recommendation 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 are making a draft recommendation that, in the first instance, that the Minister refer existing Crown operators to IPART for a price determination in relation to basic adult lawn burials. This will ensure a standard product is available across all Crown cemeteries at a fair price, helping to protect those who are concerned about affordability of interment.

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

¹⁰³ CC Act, s 107(8).

ensure that a product that suits the needs of these faith groups is available at a fair price where it is needed.

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 so that high quality information is available for the first price determination.

Draft Recommendations

- 18 That CCNSW refer the metropolitan Crown cemetery operators to IPART for a price determination in relation to basic adult lawn burials.
- 19 That CCNSW work with IPART and cemetery operators to develop an Annual Information Return to collect data to support price regulation and monitoring.

10.4 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 (ie, 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 Draft Report. 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.

Additionally, IPART could provide assistance with price-setting to cemetery operators on request. IPART would recover the costs of this service from the cemetery operators who access it.

Draft recommendations

- 20 That CCNSW develop a code of practice on pricing, to provide guidance to cemeteries on pricing matters. 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.
- 21 That IPART provide pricing advisory services to cemetery operators on request, with costs to be recovered by charging for the service.

10.5 Displaying prices using consistent terminology would make price comparison easier for consumers

We consider that consumers would benefit from greater transparency over cemetery pricing, which could be achieved by requiring active cemetery operators to publish prices consistently. Submissions to our Issues Paper argued that all cemetery operators should be obliged to publish a pricing schedule,¹⁰⁴ and that purchasers should be provided with clear information about pricing that allows them to easily compare offerings both across and within cemeteries.¹⁰⁵

As discussed in Chapter 4, we observed a number of inconsistencies in the way that cemetery operators currently display their prices. 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.¹⁰⁶
- ▼ Further consultation may be required to determine the terminology for price lists, and the appropriate service components.¹⁰⁷
- ▼ 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.¹⁰⁸

¹⁰⁴ For example see Catholic Metropolitan Cemeteries Trust, Submission to IPART Issues Paper, June 2019, p 6.

¹⁰⁵ Sydney Diocesan Secretariat, Submission to Issues Paper, June 2019, p 2.

¹⁰⁶ Catholic Metropolitan Cemeteries Trust, Submission to Interim Report, February 2020, p 3 -5.

¹⁰⁷ 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.

¹⁰⁸ See Anglican Church Property Trust, Submission to Interim Report, February 2020, p 1.

Based on this feedback we have maintained our interim recommendation but have limited it to a subset of commonly offered cemetery products and have revised the prescribed terminology for publishing prices - shown in Table 10.1 below. We have 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.

Draft recommendations

- 22 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.
- 23 For the standard interment services outlined in Draft Recommendation 22, cemetery operators be required to publish the following:
 - The total price for the interment service (ie, 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 the terminology described in Table 10.1, 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.
- 24 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.

Table 10.1 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 (eg, 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.

10.5.1 Publishing prices for a subset of common services would be helpful for consumers

While many stakeholders agreed with our interim recommendation,¹⁰⁹ 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.¹¹⁰ 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 10.2).

We agree that a requirement to publish all services offered by a cemetery may be excessive and therefore not helpful for consumers. Instead, 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.

¹⁰⁹ See Northern Metropolitan Cemeteries Land Manager and Anglican Church Property Trust submissions to IPART Interim report.

¹¹⁰ 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.

In our Interim Report we found that the market for cremation and ashes interment is workably competitive, because:

- ▼ Cremation can occur outside a cemetery and access to cremation is not restricted by geographical distance as interment.
- ▼ Consumers who have ashes to inter have the choice of interring them at a cemetery, interring or scattering them elsewhere, or keeping them.

These choices give consumers some protection from high prices and place competitive pressures on cemeteries offering cremation and ashes interment. Our views on these choices have not changed, and so we maintain our finding that cremation and ashes interment is workably competitive. However, because we understand that consumers may want more transparency over cremation products, 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.

10.5.2 How should cemeteries be required to structure their prices?

We consider that a requirement to publish prices 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, our draft recommendation is 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 10.1).

This approach to pricing aligns well with information standards for the funeral industry which were introduced as part of the Fair Trading Regulation NSW in 2019 (see Box 10.1).

Box 10.1 Fair Trading information standards for the funeral industry in NSW

In 2019 Fair Trading NSW introduced new regulations for funeral directors providing funeral information to consumers. We consider that similar information standards should be applied to cemetery operators, and that the sections outlined below would be of particular benefit to consumers purchasing body interment services.

8. Display and provision of funeral information to prospective consumers

A funeral director must prominently display the funeral information in relation to the goods and services supplied by the funeral director:

- ▼ at each place of business of the funeral director, and
- ▼ on any public website maintained by the funeral director

9. Provision of information to consumers

Before entering into an agreement with a person for the supply of goods and services in relation to the burial or cremation of a body, a funeral director must provide the following information to the person:

- ▼ the price of each of the particular goods and services that will be supplied to the person under the agreement
- ▼ the cost of any disbursements that will be payable by the person under the agreement,
- ▼ the total amount payable under the agreement

Source: Fair Trading Regulation 2019 [NSW] under the Fair Trading Act 1987.

10.5.3 Stakeholders had mixed views on the appropriate service components

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.¹¹¹ 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). 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.

While we understand that many of the components we have identified in Table 10.1 are not optional for consumers, we understand 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. As a consequence, we maintain the service components outlined in our Interim

¹¹¹ Catholic Metropolitan Cemeteries Trust, Submission to Interim Report, February 2020, pp 3-5; Mills Oakley, Submission to Interim Report, February 2020, p 1.

report. However, in response to stakeholder suggestions, we have consulted further on terminology, discussed below.

10.5.4 We have consulted on the appropriate terminology for the pricing table

Stakeholders broadly agreed with our interim approach to pricing transparency, but proposed changes to some of the terminology. We presented our interim pricing recommendations to the Community and Consumer Consultative Group (CCCG), and invited further feedback on the pricing terminology 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. The comments that we received from the CCCG are outlined in Box 10.2).

In particular, use of the word ‘interment’ was not favoured and so we have modified our terminology accordingly. In our Interim Report, we noted that language such as ‘interment’ may not be used in the wider community, but ultimately decided that it was important to recommend pricing terminology that was consistent with other consumer reference documents (such as contracts with cemetery operators and CCNSW’s Consumer Guide). We also recommended that these terms be accompanied by an explanation in lay terms. However, after consulting further with the CCCG, we have decided that using consumer-friendly terminology is likely to be the best way of engaging with consumers.

Box 10.2 Feedback from CCCG on pricing terminology

Cemeteries and Crematoria NSW formed a Community and Consumer Consultative Group in 2019 to provide public input on interment issues and policy. Among the members are the founder of a natural burial organisation, a funerary architect and cemetery designer, a death doula, the founder of an end-of-life information ‘start-up’, an Indigenous Australian, and representatives of faith and cultural groups. Comments from the CCCG on IPART’s interim 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.

Source: <https://www.industry.nsw.gov.au/media/releases/2019/diverse-community-group-to-help-steer-nsw-burial-and-cremation-policy>

CCNSW has recently released a suite of consumer-facing information to encourage more people in NSW to plan for burial, cremation and funeral arrangements.¹¹² As part of this, CCNSW investigated how prepared people are for death and how they’d like to be

¹¹² Cemeteries & Crematoria NSW, *Planning for burial, cremation and ways to remember life*, at <https://www.industry.nsw.gov.au/cemeteries-crematoria/planning-for-burial-cremation-and-ways-to-remember-life> accessed on 21 August 2020.

remembered. Box 10.3 lists some of CCNSW's findings. This research looked at consumer attitudes towards interment and end of life options, and found that consumer engagement in end of life planning is low, and that there is confusion about the costs of burial and cremation. People also indicated that they would like an independent source to compare information about burial and cremation options. Based on these findings, we have maintained use of the term 'interment' in all industry-facing communications, but have used the term 'burial' in consumer-facing communications. Our draft recommendation is that CCNSW changes its consumer-facing terminology to reflect this.

Draft recommendation

25 That CCNSW use consumer-facing language that reflects the terminology in Table 10.1.

Box 10.3 Way to go – Peoples views on burials, cremation, funerals and ways to commemorate life

Planning for after-death

- ▼ Many people in NSW make their death arrangements when they are ill or close to death. This can put enormous additional strain on a person and their loved ones and result in people making important decisions when under pressure
- ▼ Normalising the conversation on planning for after-death arrangements, as well as providing people with clear and transparent information on burial, cremation and funeral options, may greatly reduce this pressure.

Availability of information

- ▼ There is concern and confusion regarding the cost of a funeral and burial or cremation.
- ▼ People are keen to have an independent source to compare prices and choices relating to burial or cremation.

Source: Cemeteries & Crematoria NSW, *Way to go – People's views on burials, cremation, funerals and ways to commemorate life*, August 2020, at <https://www.industry.nsw.gov.au/cemeteries-crematoria/planning-for-burial-cremation-and-ways-to-remember-life> accessed 21 August 2020.

To demonstrate how cemetery operators should publish prices for interment services in accordance with our draft recommendations, we have provided illustrative examples, for both perpetual and renewable interment rights (see Appendix D). 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 (ie, the interment right and the burial). As a consequence, our draft recommendation is that cemetery operators publish **both** at-need prices and pre-need prices if they choose to offer both (shown in Table D.1 and Table C.2).

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- ▼ **Renewable and perpetual tenure** - While very few cemeteries currently advertise prices for renewable tenure in NSW (because most are not yet offering it), our draft recommendation is that cemetery operators be required to publish information on type of right (ie, perpetual or renewable). In addition, we consider that 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.

10.5.5 Cemeteries that have limited operations should not be required to publish prices

Our Interim Report envisaged that all cemeteries be required to publish prices on a consistent basis. However, 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).¹¹³ We agree that our draft 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.¹¹⁴ 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 Draft Recommendation 23.

10.5.6 CCNSW should develop a cemeteries price comparator website within 12 months

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.¹¹⁵ In our interim report we recommended that within 12 months CCNSW should develop a central website to enable

¹¹³ Anglican Church Property Trust, Submission to IPART Interim report, February 2020, p 1.

¹¹⁴ LGNSW, submission to IPART Interim report, February 2020, p 7.

¹¹⁵ Department of Health and Human Services, Cemetery Search, <https://www2.health.vic.gov.au/public-health/cemeteries-and-crematoria>, accessed 16 December 2019.

consumers to compare prices for interment services in one place. This recommendation was generally supported by stakeholders such as Northern Metropolitan Cemeteries Land Manager and Wollongong City Council.¹¹⁶ LGNSW supported our interim recommendation in principle but argued that the website should not unreasonably increase reporting and compliance burdens on council.¹¹⁷ 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.¹¹⁸

While we have not explicitly identified these factors as service components in Table 10.1, 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.¹¹⁹ However, we consider that 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.¹²⁰

Draft recommendation

- 26 That CCNSW develop, within 12 months of the release of IPART’s report, a central website to enable consumers to compare prices for interment services in one place.

¹¹⁶ 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.

¹¹⁷ LGNSW, submission to IPART Interim report, February 2020, p 8.

¹¹⁸ LGNSW, submission to IPART Interim report, February 2020, p 8.

¹¹⁹ NSW Government, Navigating end of life journeys, <https://www.digital.nsw.gov.au/article/navigating-end-life-journeys>, accessed 17 August 2020.

¹²⁰ NSW Government, After a death, <https://www.nsw.gov.au/life-events/end-of-life/after-a-death>, accessed 25 June 2020.

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 made some recommendations in our Interim Report regarding a framework for reserving funds for perpetual maintenance including imposing a legal obligation on all cemetery operators to make adequate financial provision for perpetual maintenance of interment sites and the cemetery.¹²¹ We received feedback from submissions, and have since sought advice from Deloitte on appropriate prudential requirements for perpetual maintenance funding. Through this process, we have modified some of our initial findings around the governance arrangements for cemeteries.

The sections below provide an overview of our draft recommendations regarding perpetual maintenance of cemeteries, and then discuss them in more detail.

11.1 Overview of draft recommendations

In our Interim Report, 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 maintain this as a draft finding.

In our Interim Report, we further stated that there should be a consistent approach for cemetery operators in providing adequate funds for cemetery maintenance after the cemetery is closed to new burials.¹²² We maintain this view. Our draft 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 operators¹²³ 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.

¹²¹ IPART, Review of interment costs and pricing - Interim Report, December 2019, p. 43.

¹²² IPART, Review of interment costs and pricing - Interim Report, December 2019, p. 48.

¹²³ Licensed under the recommended interment industry scheme set out in Chapter 8.

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- Prepare a transition plan to deal with the management of “legacy” perpetual maintenance obligations owed at the time a new governance framework is implemented.
 - ▼ As part of the transition to the new licensing arrangements, cemetery operators which will be licensed must estimate and report on their perpetual maintenance assets and liabilities as at 30 June 2021.
 - ▼ 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.
 - ▼ We are releasing 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.
 - ▼ 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

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 for interment rights and general services*¹²⁴ 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.¹²⁵

In our Interim Report, we noted that the current arrangements (ie, 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 collapse or 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. One option for this to be

¹²⁴ Cemeteries and Crematoria NSW, *Cemeteries and crematorium operator code of practice 2018 – Interment rights and general services*, November 2018, https://www.industry.nsw.gov.au/_data/assets/pdf_file/0020/204095/CCNSW-Cemetery-and-crematoria-operator-code-of-practice-2018.pdf, accessed on 20 November 2019.

¹²⁵ Cemeteries and Crematoria NSW, *Cemetery and crematorium operator code of practice 2018 – Interment rights and general services*, November 2018, see section 8.5.

implemented is for a regulation to establish an interment industry scheme under section 31 of the CC Act. As the regulator, CCNSW would be responsible for regulating an interment industry scheme¹²⁶ and ensuring compliance with any requirements.¹²⁷

There were a diversity of views among submissions to our Interim Report 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. Similar views were expressed in submissions to our Issues Paper.¹²⁸

Metropolitan Crown cemetery operators generally support a legal obligation on all operators to make a financial provision for perpetual maintenance.¹²⁹ 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.¹³⁰

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*.¹³¹ This position is supported in a submission from Wollongong City Council¹³² and Brewarrina Shire Council.¹³³ Kempsey Shire Council recommends that a minimum performance-based standard of maintenance should be applied incorporating standards for safety and amenity.¹³⁴

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.¹³⁵

NSW Jewish Board of Deputies and Lebanese Muslim Association argues that government needs to contribute to and manage the perpetual care funding gap so that consumers are not burdened by it.¹³⁶

Notwithstanding the range of views expressed in response to our Issues Paper and Interim Report, we maintain our view that a legal obligation is needed to provide for the perpetual

¹²⁶ CC Act, s 12(1)(f).

¹²⁷ CC Act, s 31(3).

¹²⁸ IPART, *Review of interment costs and pricing - Interim Report*, December 2019, p. 45.

¹²⁹ 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.

¹³⁰ Rookwood General Cemetery, Submission to Interim Report, February 2020, p 4.

¹³¹ Local Government NSW, Submission to Interim Report, February 2020, p. 6.

¹³² Wollongong City Council, Submission to Interim Report, February 2020, p 1.

¹³³ Brewarrina Shire Council, Submission to Interim Report, February 2020, p 1.

¹³⁴ Kempsey Shire Council, Submission to Interim Report, February 2020, p 1.

¹³⁵ Anglican Church Property Trust, Submission to Interim Report, February 2020, p 2.

¹³⁶ NSW Jewish Board of Deputies and Lebanese Muslim Association, Submission to Interim Report, February 2020, p 5.

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*. It would also clarify their application in relation to cemeteries.

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.¹³⁷

Based on Deloitte's report, we consider that establishing a legal obligation for perpetual maintenance reflect best practice governance arrangements for cemeteries.

Draft recommendation

- 27 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 an appropriate governance and prudential framework for perpetual maintenance funding

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.¹³⁸

We received feedback from submissions, which mostly disagreed with these recommendations. For example, LGNSW's submission noted that councils are already heavily regulated in terms of financial administration and service delivery to their communities (see s8B of the *Local Government Act 1993*, which sets out the principles of sound financial management applicable to all councils). LGNSW commented that there have not been any instances of NSW council cemeteries finding themselves unable to provide for perpetual maintenance as a result of inappropriate planning for costs.¹³⁹

¹³⁷ Deloitte Access Economics, *Governance framework – cemeteries*, July 2020, p. 17.

¹³⁸ IPART, *Review of interment costs and pricing - Interim Report*, December 2019, pp. 48 -53.

¹³⁹ Local Government NSW, Submission to Interim Report, February 2020, p 6.

Similarly, the Catholic Metropolitan Cemeteries Trust disagreed that perpetual care reserve funds should be independently managed. The operator may achieve a sub-optimal performance on their perpetual care fund if the fund manager is not subject to regular market competitive investment performance criteria.¹⁴⁰ Further, Catholic Metropolitan Cemeteries Trust considered that CCNSW does not possess the skills or capability to make an informed market assessment on who is best positioned to manage the perpetual care funds of a cemetery operator. This is a highly specialist function that should be left to the judgement of the operating Board and be supported by a rigorous approved Investment Policy and selection process.¹⁴¹

Acknowledging these submissions, we have since sought advice from Deloitte on how to develop an appropriate governance and prudential framework for perpetual maintenance funding, drawing on an assessment of comparable frameworks.

Deloitte looked at current cemetery operator practices, and comparable frameworks for defined benefit superannuation, long tailed insurance liabilities and perpetual maintenance funding in Ontario and Illinois, and made recommendations for a suitable framework for NSW. Deloitte recommended the following:

- ▼ 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.
- ▼ 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.¹⁴²

We agree with Deloitte’s recommendations. We consider these should form part of the interment industry scheme.

Draft recommendation

- 28 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.

¹⁴⁰ Catholic Metropolitan Cemeteries Trust, Submission to Interim Report, February 2020, p 2.

¹⁴¹ Catholic Metropolitan Cemeteries Trust, Submission to Interim Report, February 2020, p 3.

¹⁴² Deloitte Access Economics, *Governance framework – cemeteries*, July 2020, p. vi.

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- 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.

11.4 CCNSW should provide guidance to cemetery operators to help them estimate their perpetual maintenance liabilities

We recognise that 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.¹⁴³ In the interim, we consider that CCNSW should provide guidance to cemetery operators to help them estimate their perpetual maintenance liabilities.

In the submissions received on our Interim Report, there was some support for the development of guidelines on when and how a cemetery operator can use perpetual maintenance funds for a cemetery. For instance, the Northern Metropolitan Cemeteries Land Manager argue that the guidelines need to consider the maturity of the cemetery, the effectiveness of its investment strategy, acquisition of land and funding source.¹⁴⁴ Similarly, LGNSW considers that guidance may be beneficial for cemetery operators. For example, guidance on when and how councils may use perpetual maintenance funds raised from operational cemeteries to help fund closed or partially closed cemeteries in perpetuity may be useful. LGNSW would support CCNSW-developed 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.¹⁴⁵

We are making a draft recommendation that a code of practice be developed to provide guidance to cemetery operators on estimating their perpetual maintenance liabilities. In addition, for those large cemetery operators that meet the threshold for establishing a perpetual maintenance fund as part of the industry scheme, our draft recommendation is that they report to CCNSW on their estimate of perpetual maintenance liabilities and the value of perpetual maintenance funds. As discussed above, there are likely to be a number of large cemetery operators that have not estimated these liabilities nor have they set aside funds to manage these liabilities. We note that 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.¹⁴⁶

¹⁴³ CC Act, s.31 and s.32.

¹⁴⁴ Northern Metropolitan Cemeteries Land Manager, Submission to Interim Report, February 2020, p 4.

¹⁴⁵ Local Government NSW, Submission to Interim Report, February 2020, p 7.

¹⁴⁶ CC Act, s.41(1).

Draft recommendations

- 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, and
 - Reporting these liabilities in the notes to financial account.
- 30 That CCNSW require cemetery operators which will be licensed in future under Draft Recommendation 2 to report their estimated perpetual maintenance liabilities as at 30 June 2021 in the notes to financial accounts in their 2020-2021 annual report.

11.5 Cemetery Operators can use the Estimated Perpetual Care Liability Model to estimate their perpetual maintenance liability from past interments

We are releasing an Estimated Perpetual Care Liability Model at the same time as our Draft Report. This model is a practical tool for cemetery operators to use to assist them in estimating their perpetual maintenance liability from past interments and also to calculate any funding shortfall. An overview of the model is provided in Box 11.1 below.

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.¹⁴⁷ 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.¹⁴⁸

¹⁴⁷ Deloitte Access Economics, *Efficient costs of interment services*, 2020, pp 72-78.

¹⁴⁸ 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 ie, 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.

11.6 Cemetery operators should be responsible for managing their legacy costs and larger operators should develop transition plans

In Chapter 4 we considered 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 2019.¹⁴⁹

While funds have been set aside by some cemeteries against these 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 legacy costs are appropriately managed by cemetery operators.

¹⁴⁹ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 84.

In regard to large cemetery operators that are licensed, we consider that the legacy costs should be managed via a transition plan which is developed by a cemetery operator and approved by CCNSW. As discussed above, we are making a draft recommendation that licensed cemetery operators prepare a transition plan to deal with the management of “legacy” perpetual maintenance obligations accrued at the time a new governance framework is implemented.

Deloitte advised that 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. Some options could include incorporation into 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 terms of cemetery operators that are not licensed, we are also making a draft recommendation that CCNSW provide guidance on best practice financial provision for perpetual maintenance via a Code of Practice. This code should include estimating perpetual maintenance liabilities and reporting these liabilities in the notes to financial accounts. As discussed above, we consider that as a first step cemetery operators can get a better understanding of their perpetual maintenance liabilities and any funding shortfall by using the Estimated Perpetual Care Liability model.

11.7 CCNSW should engage with the Australian Accounting Standards Board around the appropriate accounting treatment of perpetual maintenance expenses

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.¹⁵⁰

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 in the absence of regulatory requirements to fund perpetual maintenance liabilities.

¹⁵⁰ Deloitte Access Economics, *Governance framework – cemeteries*, July 2020, p. 6.

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.¹⁵¹

Based on Deloitte's advice we are making a draft recommendation that CCNSW should engage with the Australian Accounting Standards Board (AASB) to consider whether perpetual maintenance care obligations for past sold interments can be reliably estimated such that they can be treated as a provision under AASB 137, rather than as a contingent liability which is unquantifiable.

Draft 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.

¹⁵¹ Deloitte Access Economics, *Governance framework – cemeteries*, July 2020, p. iv.

12 Renewable tenure – the way forward

This chapter discusses renewable tenure.

In our Interim Report, we discussed how NSW introduced renewable tenure as part of the *Cemeteries and Crematoria Act 2013* (CC Act) reforms.¹⁵² It has been available as an option in Crown cemeteries since June 2018.¹⁵³ However, we understand that no Crown cemetery has yet introduced it.

This chapter provides an overview of our draft findings and recommendations regarding renewable tenure, and then discusses these in more detail. We received very few submissions on our Interim Report commenting on renewable tenure in NSW.¹⁵⁴

12.1 Overview of draft findings and recommendations

In our Interim Report, we discussed renewable tenure in NSW and some of the differences in costs between perpetual and renewable tenure. We indicated that we would undertake additional 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.¹⁵⁵ These are discussed in Chapter 3.

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 the low community awareness and acceptance of renewable tenure, and the reluctance of cemetery operators to offer it. We also discuss our draft 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 (Draft Recommendation 20) include guidance on relative prices of renewable tenure compared to perpetual tenure.

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

¹⁵² IPART, *Review of interment costs and pricing - Interim Report*, December 2019, p. 10.

¹⁵³ CC Act, Part 4, commenced June 2018; see <https://www.industry.nsw.gov.au/lands/what-we-do/crown-land/cemeteries-crematoria/amendment-regulation-2017>, accessed 18 April 2019.

¹⁵⁴ The only explicit comment we received was from the Metropolitan Cemeteries Board, which agreed with the advantages of renewable tenure in terms of future land acquisition for cemeteries. Metropolitan Cemeteries Board, Submission to Interim Report, 7 April 2020, p. 1.

¹⁵⁵ IPART, *Review of interment costs and pricing - Interim Report*, December 2019, pp. 41-42.

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 monumentation.

Renewable tenure is common in other jurisdictions, whether compulsory or as an option, including in South Australia and Western Australia, and in European countries including Denmark, France, Germany, Greece, Italy and Sweden.¹⁵⁶

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%).¹⁵⁷ 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.¹⁵⁸ Deloitte made a similar finding in their review of the efficient costs of the Crown cemetery operators.¹⁵⁹

Draft 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 Cemetery operators should be required to develop renewable interment products with guidance on their pricing

The above section discusses the reasons why we think that it is unlikely that renewable tenure numbers will increase in NSW. In other parts of Australia, however, renewable tenure has predominated. For example, South Australia allowed only limited tenure for graves and memorial sites for more than 60 years. 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).¹⁶⁰

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 jurisdiction where renewable tenure is optional.

We are not recommending that renewable tenure be mandatory, particularly given the requirement that certain faith groups have (such as Islamic and Jewish communities) for 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. To this end,

¹⁵⁶ Parliament of NSW Legislative Council Regulation Committee, *Report 2: Cemeteries and Crematoria Amendment Regulation 2018*, November 2018, p 5.

¹⁵⁷ CCNSW Annual Activity Survey, 2018-19

¹⁵⁸ 69 of the 72 renewable tenure burials were at Waverley Cemetery, a local government cemetery

¹⁵⁹ Deloitte Access Economics, *Efficient costs of interment services*, 2020, p 34.

¹⁶⁰ See Deloitte Access Economics, *Efficient costs of interment services*, 2020, sections 3.4 and 5.1.

our draft recommendation is that cemeteries develop renewable tenure products with guidance on their pricing.

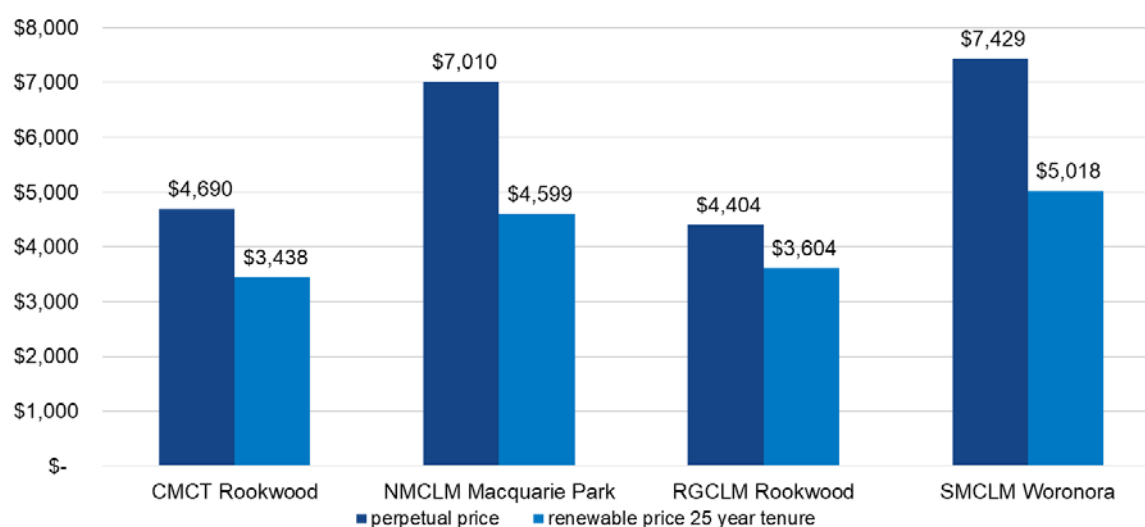
Draft recommendations

- 32 That all licensed cemetery operators should be required by a condition on their operating licence to develop renewable tenure products.
- 33 That the Code of Practice on Pricing (Draft Recommendation 20) include guidance on relative prices of renewable tenure compared to perpetual tenure.

12.4 Pricing for renewable tenure

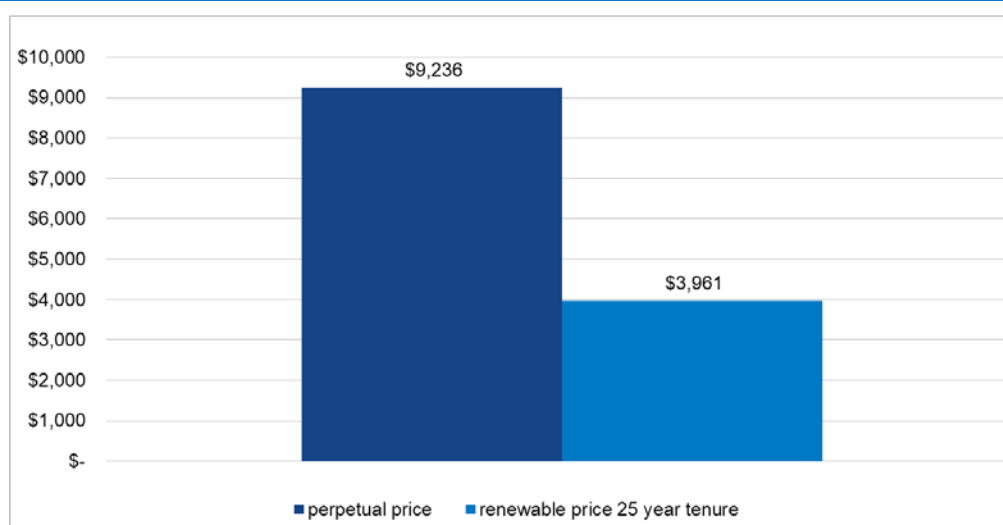
We have modelled efficient cost-reflective prices for renewable tenure and compared them to prices for perpetual tenure at the Crown cemeteries (see Figure 12.1). We have also compared illustrative prices for renewable and perpetual tenure at a new cemetery using benchmark efficient cost estimates (see Figure 12.2). We consider that these illustrative prices will help cemeteries to understand the relative prices for renewable tenure.

Figure 12.1 Modelled Crown cemetery prices for renewable tenure (ex GST) \$2019-20 compared to perpetual tenure



Data source: IPART, Deloitte analysis.

Figure 12.2 Illustrative prices for renewable and perpetual interment rights at a new cemetery (\$2019-20, ex GST)



Note: Efficient costs are estimated to be \$20 per annum for maintenance costs and a share of overheads, and \$2168 for site development and costs of selling the plot in the year it is sold.

Data source: IPART, Deloitte efficient cost analysis.

12.4.1 We have updated our approach to modelling prices for renewable tenure

In our interim report we proposed two methods for pricing renewable tenure:

1. For the **first tenure** we applied the *formula approach*. The formula expresses the relationship between perpetual and renewable tenure, which depends on the following:
 - Planned life of the new cemetery
 - Number of years after an interment that the first re-use can occur
 - Discount rate
 - End of tenure costs of one interment right so that a plot can be re-used
 - The pattern of the number of people who must be interred in the plot.
2. For **second and subsequent renewals of that tenure** we applied the *indifference principle*. That is, we calculated a price for the renewable tenure right that would make the cemetery indifferent between the price paid for a perpetual tenure right, and the price paid a series of renewals. To achieve this principle, the renewable tenure price would be a function of the:
 - Perpetual price
 - Discount rate
 - Length of the tenure.

After further analysis, we have revised our formula approach for calculating a renewable tenure price (shown below). For a plot where its perpetual price is already established, our revised formula quantifies the effect of each of the following three factors:

- ▼ Land saving benefit (LSB) - Renewable tenure requires less land for 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.

$$\text{Renewable price } (L, T) = \text{Perpetual price } (L) \frac{LSB}{PIE} + EOT$$

We can provide more information on the algebraic derivation of the formula to stakeholders on request.

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.

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.”¹⁶¹

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.

A.2 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.

¹⁶¹ Cemeteries and Crematoria NSW, *Strategic Plan 2015-20*, October 2015, p 12.

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 will investigate competition, cost and pricing factors in the funeral industry later in 2020.

A.3 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 Operator Activity Survey, 2018-19*.

Commercial cremation commenced in NSW in 1925 and there has been an increasing trend towards cremation over burial ever since.¹⁶² 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.¹⁶³

¹⁶² Murray, Lisa, *Death and Dying in twentieth century Sydney*, 2013, https://dictionaryofsydney.org/entry/death_and_dying_in_twentieth_century_sydney, accessed 17 April 2019.

¹⁶³ Cemeteries and Crematoria NSW, *Metropolitan Sydney Cemetery Capacity Report*, 2017, p 9.

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.¹⁶⁴

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.¹⁶⁵

A.4 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'.¹⁶⁶ 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.

A.5 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 2018-19.¹⁶⁷

164 Cemeteries and Crematoria NSW, Annual Activity Survey 2018-19 at https://www.industry.nsw.gov.au/__data/assets/pdf_file/0020/309530/CCNSW-Annual-Activity-Report-2018-19.pdf accessed on 24 August 2020.

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

166 '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.

167 Cemeteries and Crematoria NSW, Annual Activity Survey 2018-19.

Renewable tenure of between 25 and 99 years has been available as an option in Crown cemeteries since June 2018,¹⁶⁸ although we understand that no Crown cemetery has yet introduced it.

A.6 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.¹⁶⁹ 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.7 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.

A.7.1 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.

¹⁶⁸ CC Act, Part 4, commenced June 2018; see <https://www.industry.nsw.gov.au/lands/what-we-do/crown-land/cemeteries-crematoria/amendment-regulation-2017>, accessed 21 August 2020.

¹⁶⁹ CC Act, s107.

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.¹⁷⁰

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.¹⁷¹

A.7.2 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).

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.7.3 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:

170 See <https://www.industry.nsw.gov.au/cemeteries-crematoria/locations/find-a-cemetery> for a register of NSW cemeteries by operator.

171 See, for example, PWC, Rookwood Cemetery: future governance arrangements, February 2018.

- ▼ 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.¹⁷²

A.8 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,¹⁷³ and local government performs the majority of burial services throughout the rest of NSW (Table A.2).

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 at https://www.industry.nsw.gov.au/__data/assets/pdf_file/0020/309530/CCNSW-Annual-Activity-Report-2018-19.pdf

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.¹⁷⁴ One submission on our Issues Paper noted that “the Sydney market ...is likely to be considered the most competitive of the markets in Australia”.¹⁷⁵

¹⁷² CCNSW, *Strategic Plan 2015-20*, October 2015, p 12.

¹⁷³ 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

¹⁷⁴ Cemeteries and Crematoria NSW, Annual Activity Survey 2018-19 at https://www.industry.nsw.gov.au/__data/assets/pdf_file/0020/309530/CCNSW-Annual-Activity-Report-2018-19.pdf

¹⁷⁵ Southern Metropolitan Cemeteries NSW, Submission to Issues Paper, June 2019, p 22.

A.9 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.¹⁷⁶

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.

A.10 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.¹⁷⁷ 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.¹⁷⁸

¹⁷⁶ Cemeteries and Crematoria NSW, *Metropolitan Sydney Cemetery Capacity Report*, November 2017, p 9.

¹⁷⁷ Review of NSW Cemeteries and Crematoria Act, <https://www.industry.nsw.gov.au/cemeteries-crematoria/review-of-nsw-cemeteries-and-crematoria-act>, accessed on 10 December 2019.

¹⁷⁸ Terms of Reference for the Statutory Review, https://www.industry.nsw.gov.au/__data/assets/pdf_file/0004/280939/review-of-ccnsw-act-terms-of-reference.pdf, accessed on 11 December 2019.

B Weighted average cost of capital (WACC)

As discussed in Chapter 6, estimating prices for cemetery operators requires an estimate of the discount rate. For all costs excluding perpetual maintenance, we have based the discount rate on the pre-tax real WACC for an efficient cemetery operator.

B.1 Calculating 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.¹⁷⁹ We adopted the following firm-specific parameters:

- ▼ Gearing ratio of 40%
- ▼ Equity beta of 0.6

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.1.1 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.

¹⁷⁹ This result uses IPART's August 2020 bi-annual update market observations, using 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.1.2 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 per year 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 (eg, 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 List of submissions

Table D.1 Submissions to the Interim Report

Date 2020	Submitter
4 Feb	Catholic Metropolitan Cemeteries Trust – P. O'Meara
11 Feb	Rookwood General Cemetery – J. Brazel
14 Feb	Organisation – Anonymous and Confidential
18 Feb	Brewarrina Shire Council – J. Sowiak
18 Feb	NSW Jewish Board of Deputies and Lebanese Muslim Association – V. Alhadeff
18 Feb	The Hills Shire Council – D. Sales
18 Feb	Kempsey Shire Council – G. Burley
25 Feb	Wentworth Shire Council – A. Fraser
26 Feb	Local Government NSW – E. Brunsdon
27 Feb	Individual – Anonymous and Confidential
28 Feb	Wollongong City Council – J. Towers
28 Feb	Organisation – Anonymous and Confidential
28 Feb	Anglican Church Property Trust Diocese of Sydney – P. Barletta
28 Feb	Northern Metropolitan Cemeteries Land Manager – P. Tritton
28 Feb	Organisation – Anonymous and Confidential
28 Feb	Southern Metropolitan Cemeteries NSW – J. Muller - Confidential
28 Feb	Mills Oakley – V. Visevic
7 Apr	Metropolitan Cemeteries Board – P. Deague

Table D.2 Submission to the Issues Paper

Date 2019	Submitter
20-May	Organisation - Anonymous
22-May	The Hills Shire Council – D. Sales - Confidential
4-Jun	Individual - Anonymous
5-Jun	Wollongong City Council – J. Towers
5-Jun	Organisation – Anonymous - Confidential
6-Jun	Organisation - Anonymous
6-Jun	Cessnock City Council – N. Benson
6-Jun	Hornsby Council – S. Evans
6-Jun	Blacktown City Council – J. Mahendra
6-Jun	Organisation – Anonymous and Confidential
6-Jun	Australian Funeral Directors Association – D. Maroney
6-Jun	Local Government NSW – E. Brunsdon
6-Jun	Cemeteries & Crematoria Association of NSW – M. Reid
7-Jun	Central Coast Council and Lake Macquarie Council – C Flippence
7-Jun	Organisation – Anonymous - Confidential
7-Jun	Sydney Diocesan Secretariat – D. Marr
7-Jun	Organisation – Anonymous and Confidential
7-Jun	Individual – J. Masters - Confidential
7-Jun	Southern Metropolitan Cemeteries Land Manager – J. Masters
7-Jun	Moree Plains Shire Council – F. McClymont
7-Jun	The Hills Shire Council – D. Sales - Confidential
7-Jun	Rookwood General Cemetery – G. Simpson
7-Jun	Combined Pensioners & Superannuants Association (CPSA) – P. Versteegen
13-Jun	Tenterfield Shire Council – K. Smith
14-Jun	Catholic Cemeteries & Crematoria – D. Furlong
14-Jun	Albury City Council – M. Forrester-Reid
14-Jun	Northern Beaches Council – K. Debney
18-Jun	City of Newcastle – K. Liddell
28-Jun	NSW Jewish Board of Deputies and Lebanese Muslim Association – V. Alhadeff
5-Jul	Organisation – Anonymous and Confidential

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
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, reintering 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 (ie, 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.