

## 1. Do you agree with our proposed pricing principles? Are there additional principles we should consider?

- CMCT agrees with the 3 pricing principles set out on page 15 of the IPART Issues Paper, with the following amendment to the first principle. The word “Basic” should be added so this principle reads “**Basic** Interment prices should be affordable and equitable for all”.
- Establishing such a category of “basic interment” will require precise analysis to identify its constituent “basic” elements so that consumers make an informed comparison of like-for-like.
- Several factors differentiate “basic” services and this difference means that not all interment prices can be set at the same level. For example, some religious and cultural needs require additional services or products to deliver the interment service satisfactorily, e.g. additional shoring of Muslim graves. These additional services and products increase the cost and price of these interment services compared to a Basic interment service.
- In addition, the following new 4<sup>th</sup> principle should be considered as part of the pricing principles:
- “Interment prices should allow for financially sustainable operation of cemeteries so that operators deliver an agreed minimum standard of Customer Service and a defined minimum park maintenance standard during the operation phase of the cemetery.”
- A further issue needs to be factored in, namely the impact of different types of cross-subsidisation. For example, Councils that manage cemeteries provide low cost Graves and Interments given this is not their primary business and all their equipment and services etc are cross utilised to deliver burial services. Many often charge additional costs for deceased non-ratepayers who were resident outside the council’s area (LGA). This level of cross subsidisation impacts pricing when compared against other operators. A different example of this cross subsidisation is the Rookwood Necropolis Trust Levy in which additional costs are incurred by the operator over and above the CCNSW levy (which are currently only paid for by Crown Trusts) resulting in a further distortion to pricing.

## 2. Are any principles more important than others? How can we manage trade-offs between conflicting principles?

All the 4 principles CMCT has identified are important.

In our view the two most important are:

- Principle 1 - **Basic** Interment prices: this provides a safety net of affordability.
- Principle 2 - Financial sustainability: this ensures proper maintenance and hence the longevity of these culturally significant places.

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

In brief, it is extremely difficult to find suitably zoned and physically capable land due to competing urban development pressures.

Based on the experience of CMCT, the most suitable land is land without any competing potential for urban development. This invariably places the focus onto either rural lands or environmental management land. This then raises issues around the physical capacity and accessibility of these lands to cater for market needs and can give rise to perceived issues, real or otherwise, related to the protection of environmental values.

It is unlikely that the burgeoning growth corridors of the Hunter and Central Coast are a likely area for increased Sydney metro cemetery capacity. Most consumers will prefer a location in their district or not more than 30-40 minutes drive away.

## 4. Are there other costs involved in developing land for use as a cemetery

Developing burial sites and providing interment services to meet various cultural and religious requirements needs landscaping design and development beyond the basic or standard landscaping. These designs and unique development costs can be significant and can vary from a few thousand dollars to hundreds of thousands. Catering for particular faith groups can also involve substantial capital outlays, e.g. Jewish viewing rooms and chapels.

### 5. Who should be responsible for developing new cemeteries?

- The Issues Paper identifies that the cost of the land is incurred immediately while the revenue from selling burial plots is received over the life of the cemetery. We have identified the following issues:
  - The Crown land manager needs to be sufficiently profitable to cover the cost of purchasing and developing a new cemetery.
  - The new cemetery may not be operational for a long period of time, which means the Crown land manager/Crown cemetery operator is receiving no income from the cemetery.
  - Poor planning or poor management of new cemeteries by CCNSW could result in cemeteries being purchased or developed in the wrong geographical location or at the wrong time.

This statutory and regulatory emphasis on Crown operators ignores the significance of the private cemetery market and its operators. There needs to be co-ordination amongst all operators in any identification processes so that an optimal geographical spread of new cemeteries is achieved.

CMCT suggests an entirely different approach is worthy of consideration:

1. an acquisition's location should be determined by either the regulator or say the Greater Sydney Commission relying on evidence-based statistics.
2. the Office of Strategic Lands could assist in its acquisition.
3. if rather than the Crown **appointing** a Crown land Manager or Crown Land operator, the Crown held an open tender process where Crown cemeteries, private cemeteries as well as councils could bid for management or purchase of the land, healthy competition would be encouraged.
4. such a tender would need to be weighted to promote the affordable basic interment service referred to in Question 1 above.
5. given the difficulty and amount of time involved in having a parcel of land approved for cemetery use, the Crown should offer the site with DA consent.

### 6. Who should have responsibility for maintaining closed cemeteries in perpetuity?

- It is logical to impose the obligation of perpetual maintenance on the operator of the cemetery. There should be a legal obligation to preserve sufficient funds to maintain the cemetery and such discipline of provisioning should be a required inclusion in audited accounts and annual reports.
- The CLM Act & C&C Act should articulate clearly whose responsibility it is to maintain the cemetery.
- If all operators had to make provision for perpetual care and carried this provisioning as a contingent liability, consumers could have greater confidence in exercising any competitive choice of provider.
- Crown or CCNSW should provide guidance to all cemetery operators on how to determine the amounts needed in perpetual care funds.
- The cemetery could consider alternate forms of income to maintain the cemetery, e.g. funeral homes, function hospitality, or 'cremated remains memorialization' etc. Another type of alternate income is "Cremation Fees" to cover cemeteries which also deliver cremation operations.

**7. Should there be a legal obligation on all cemetery operators to make financial provision for the perpetual maintenance of their cemeteries? What form should this financial provision take?**

The regulator should impose a legal obligation on all cemetery operators to make financial provision for Perpetual maintenance. The financial provision can take 3 or more forms – please see question 18 for more details on these forms.

Regardless of which forms are selected there should be an agreed minimum perpetual care standard set by CCNSW. This minimum standard should then be used to determine the level of funds required or ongoing revenue required to meet perpetual maintenance obligations.

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

Crown land managers should have the complete management and control of their perpetual care funds. This should not be centrally directed or managed.

Disclosure to CCNSW on investment policy, investment returns, new funds allocation, drawdowns for maintenance, land acquisitions, etc is important. Guidance from NSW Treasury by way of benchmarking or advice on the minimum investment returns and risk objectives may assist some operators.

**9. What are the costs of interment, and what factors cause these costs to vary?**

The following is a list of inclusion of interments

**Materials**

1. Timber boards
2. Matting
3. Door
4. Turf and Soil
5. Fuel Costs
6. Burial shelves / shoring (see answer 1)

**Labour**

1. Deliver equipment
2. Service Attendant
3. Office Booking
4. Operators
5. Driver
6. Back fill
7. Tidy area
8. Supervision
9. Compact Turf

**Plant & Equipment**

1. Lowering device
2. Canopy
3. Chairs
4. Truck
5. Utility
6. Back Hoe

**Standard Overhead rates**

**Monumentation**

**Rookwood Necropolis Trust Levy (Rookwood only)**

They will vary due to:

## CATHOLIC METROPOLITAN CEMETERIES TRUST - RESPONSES

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- a. Definition and scope of the inclusions
- b. Direct labour hours (e.g. standard overheads)
- c. Religious and Cultural requirements (e.g. One interment per grave for the Jewish Community)
- d. Monumentation (e.g. Plaque, inscription, headstone, Landscaping)
- e. Economies of scale of the cemetery operations
- f. RNT levy is a state government discriminatory levy on Catholic Cemetery operations that make our product offering, particularly “No Service, No Attend”, uncompetitive. This does not apply to any other cemetery operator in NSW.
- g. Besides the labour costs and type of soil which are mentioned in the paper, the level of service can influence interment costs. For example, a cemetery may provide burial concierge service, may lay down matts and provide lowering devices and another may not. Some cemeteries may provide golf buggy transfer service for coffins. These additional services can add to cost.
- h. Other factors influencing interment fees include;
  - Accessibility to the site
  - Type of burial site – Lawn sites vs full monument
  - Religious and cultural requirements

### **10. Can the variation in interment prices be explained by cost differences (such as higher labour costs for weekend interments)?**

Yes but it is not the defining factor.

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

See CMCT’s accompanying industry outline paper where this is addressed.

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

Between Crown operators there is little evidence that competition has driven prices downwards. At the time consumers make choices, other factors such as geography / location / reputation rather than price comparison may play the dominant role.

However the issue is not just about competition between Crown cemeteries. In this regard, there is very strong evidence that competition among cemeteries has driven price down. When Crown cemeteries started competing with private operators in the crematorium market (around 2005) the price of cremations fell dramatically.

As an example, the price of a “No Service - No Attend” cremation fee back in 2005 ( before the first Crown cemetery installed a cremator) was approximately \$700. After Crown cemeteries (including CMCT) entered the cremation market in Sydney, the price fell to around \$500. Today it is around \$650 – \$700 – back to where prices were 14 years ago.

Competition not only puts downward pressure on prices but it also improves service levels. One of the reasons most Large cemetery operators in Sydney have a concierge service is because of competition.

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

Tax treatment does increase operational cost for private operators. The following taxes and rates paid by private companies may or may not be paid by Trusts or NFP operators:

- a. Payroll costs

- b. Land Tax
- c. Council rates
- d. GST

This question overlooks the significance of obtaining charitable status, which is now denied to Crown land managers under the amended *Crown Land Management Act 2016* because the 'controlled entity' status precludes charitable registration.

- A registered charity is entitled to the following federal tax concessions: income tax, capital gains tax, franking credits, goods and services tax concession, and fringe benefits tax rebate.
- A charity/NFP may also have access to a number of state tax concessions (e.g. payroll tax, land tax, council rates, stamp duty etc.).
- These tax concessions significantly lower the costs of a charity/NFP.

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

Absolutely. The current legislation states that CCNSW may impose a general levy on any person who is an operator of a cemetery as a contribution towards the cost of the administration of the Act.

Currently only the four Sydney based Crown Cemetery operators (representing only 11% of operational cemeteries in NSW) are required to make such levy contributions, yet the legislation is applicable to 270 operators.

In addition, 77% of crematoriums in NSW are privately owned and operated, making no contribution to the Act's administration or the regulator.

#### **15. What form should the recommendations from this review take? How prescriptive should they be?**

This is a difficult matter when a range of factors is involved in creating and evaluating a customer-focussed quality service. It is not clear how IPART could establish a price entitlement related to a dignified interment.

- Pricing Guidelines – The paper describes this approach as possibly consisting “of pricing principles to follow, or methodology guidelines that details the calculation of prices. A methodology would include instructions on how to update prices as conditions change over time and would specify the contribution of prices to perpetual maintenance reserves.” This approach may be helpful for operators who would understand details of the calculations etc, but from a consumer view point it has the potential to confuse the consumer even further. The consumer will not be aware of the methodology employed and the principles utilised in calculating prices. This will mean the consumer will not be able to understand the price differences between different cemeteries. This approach will put pricing principle number 3 in jeopardy:

*“Interment prices should be simple and transparent so that people can make informed decisions about interment choices at a difficult time.”*

- Maximum prices – This approach has a number of shortcomings:
  - The Maximum price approach will not account for the range of factors which make up the cost of an interment product or service such as quality of material, level of park maintenance or level of customer service being offered by different cemeteries
  - This approach also has the potential to create a substandard offering to clients. In an attempt to offer a particular product which has a maximum price forced on it, the operators may be forced to sacrifice quality of product or level of service to ensure they can provide a particular product or service at that maximum price to maintain their margins.

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

One of the pricing principles is to provide transparency and simplicity around cemetery pricing so that the consumer can make an informed decision. One improvement would be to oblige all operators to publish a pricing schedule. Many consumers (especially in Sydney metropolitan area or major regional centres such as Newcastle or Wollongong) will be living within close proximity to a Trust and a private cemetery or a private and a local council cemetery or all 3.

If a different form of pricing review is applied to cemeteries based on ownership, this will make it difficult for the consumer to make a meaningful price comparison.

From a consumer view point it would be better if price comparisons are based on the same form of pricing methodology.

### **17. To which services and product offerings should the recommendations from this review apply?**

Recommendations from this review should relate to all cemetery related products and services.

The best outcomes from this review will be achieved if the price comparisons across different cemeteries are based on like-for-like products. The difficulty in trying to compare prices for private health funds is a good example of an industry where price comparisons are not 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. Even these products can have small variations but the following products are the closest Like-for-Like products for the industry:

- Plaque Lawn sites – Although there can be differences in this offering the differences are minor and in the main this product is the basic burial site offered at most cemeteries. This product consists of a burial site with or without a concrete beam. The quality of the grass and maintenance can vary; however, it is still the most common and the most Like-for-Like product on offer. This product should be seen as the common denominator among all cemeteries and should be one of the basic interment offerings.
- Headstone Lawn sites – The same comments apply to this product as to plaque lawn sites. It is important to note that the head stone should not be included as part of this product – only the site.
- All other interment spaces (crypts, mausolea, cremation niches, monument graves) will vary in design, quality and therefore will have a different cost base. The differences in these products are too varied to provide a meaningful price comparison.
- Interment fees for plaque lawn sites and headstone lawn sites – the interment fees for these 2 products can also be seen as like-for-like services and can also be part of this review. Although, as pointed out in the IPART paper, there can be cost differences depending on soil types. The price comparison for these services can be based on clay or shale-type soil with operators being able to justify higher prices for more difficult soil conditions.
- Cremation Fee – “No Service No Attend” - this service is common to all crematoria. The service is basically the same across all service providers so the cost should be the same across all crematorium operators. The emphasis here is

on *crematorium operators*. The industrial cremators (known as hot houses in the industry) do not have the same overhead costs or maintenance cost associated with the operation of a traditional crematorium. The cost for these operators will be substantially lower compared to a crematorium operator. Although these industrial cremators are only a small part of the market, they can however drive down prices to a level where it would be financially unsustainable for a traditional crematorium operator to survive without cross subsidisation.

- Cremation Fee – “Full service” – the cost base for an operator can differ for this service depending the quality of chapels, provision of concierge service, quality of AV system etc. Given that this service is not exactly a like-for-like product, it will be more difficult to have a Benchmark form of approach for this product. A price range methodology can be an alternative for this service.

Other products which can possibly be compared across cemeteries are bronze burial and bronze cremation plaques. These products are produced by manufactures who supply to the cemeteries and crematoria industry. The quality of these products are similar across NSW. From a quality and design view point these can be classified as like-for-like product. The most commonly used Bronze plaque sizes should be considered among products to be included in this pricing review

However, the cost base for cemetery operators can differ substantially. Like most other industries, the larger operators will have a lower purchase cost compared to the smaller operators based on volume.

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

- a. External actuarial review every four years in addition to the year the cemetery closes. Internal review every year in the interim.
- b. If there is a shortfall of funds against the PC obligation, a plan approved by CCNSW to rectify the shortfall.
- c. Separate contingent liability disclosure on the Annual Financial Statements
- d. Funds are separately disclosed in the Balance sheet
- e. The operator is responsible for any shortfall of PC funds when the cemetery is closed.
- f. The operator (or whoever is responsible) to seek CCNSW approval of a business plan (or plan of management) to maintain a closed cemetery and be subject to annual reporting requirements (e.g. financial sustainability, maintenance performance, complaints register)

It should be noted that the recommendations above apply only to those cemeteries which are in a position to build sufficient reserve funds. In broad terms, we will encounter cemeteries which will fall into one of the following three categories with regard to Perpetual Care funds:

Group 1: Cemeteries which currently have an adequate reserve fund level which reflects the cemetery’s current life cycle stage and can continue to build on this.

Group 2: Cemeteries with inadequate reserves but, however they are at a stage of their life cycle where these funds can be built up to an adequate level.

Group 3: Cemeteries where the current level of funds are not at an adequate level AND are at a stage of their life cycle (ie, nearing end of life) where they cannot generate enough revenue to build the reserve funds to an adequate level.

Although most of the above recommendations (a) – (f) can apply to groups 1 & 2 they cannot apply to the group 3. The perpetual maintenance solutions for the group 3 are not part of this IPART review but it should be noted that a solution will need to be developed.

### **19. Are there cross-subsidies or inefficiencies in pricing for interment services?**

Refer to 9 (f) above: Rookwood Necropolis Trust Levy

There is an enormous difference between the scale of operation of the cemetery operators that have responsibility for the largest cemeteries (which include crematoria) and the cemetery operators that have responsibility for smaller cemeteries. Whilst some of the larger cemeteries have significant turnovers and revenues, some of the smaller cemeteries have limited or no income.

The size, state of repair, scale of operation, profitability and perpetual liabilities of the cemetery significantly impacts the pricing methodology. The characteristics of the cemetery operator may influence cross subsidies, e.g. council cemetery operations are a small part of council business and these services are generally priced at a lower cost and may not contain provisions for perpetual maintenance. Their services are generally cross supported by various other council departments i.e. maintenance, waste disposal etc.

### **20. If there are cross-subsidies, are there compelling reasons why they should continue?**

In principle, cross subsidisation is not good. It covers the absence of perpetual care investments.

Cross subsidies can reduce incentives for individual cemeteries to become more efficient; allowing prices to be set which do not promote full cost recovery; and accumulating ongoing liabilities rather than finding solutions to them.

Historically, many cemetery operators have not made provision for the cost of the perpetual care. Financial reserves have not been built up to provide for the long-term maintenance of cemeteries, resulting in some operators use significant pricing increases to bridge the gap.

### **21. To what extent does the range of prices for interment rights within and between cemeteries reflect different efficient costs, product differentiation, or price discrimination?**

**It is the view of CMCT that a range of key challenges and improvement pre-requisites need to be addressed in the Crown Trusts and broader cemeteries and crematoria environment.**

**In short, the industry is operating within a broken model that requires immediate attention from Government to ensure that NSW citizens have confidence that the performance and outcomes of the sector are best practice.**



**In this regard, the Government would do well to fix the business model first before fixing costs and pricing. Please refer to our ancillary paper pp 2 - 4.**

### **22. Are there other areas of concern in current cemetery interment pricing approaches?**

The infrequent nature of a cemetery-related transaction leaves consumers with typically little knowledge about choices and prices; combined with the fact that decisions are often made at a time of emotional stress, the primary concern is in relation to the lack of transparency of cemetery related products, services and pricing for the consumer and the inability in making an informed choice on comparable products across operators.

### **23. Should fees for interment rights vary with available cemetery capacity?**

The most recent cemetery capacity report released by CCNSW identified the urgent need to find a viable solution to the shortage of burial space. Land acquisition for cemeteries within populated metropolitan areas is becoming increasingly difficult to locate and for some operators the cost of acquiring more land is prohibitive.

It may be the case that costs will be higher in older cemeteries as there may be very little available land and, therefore, limited opportunities to purchase. In these instances, it is important that fees are set at an appropriate level to contribute to the ongoing maintenance of the cemetery.

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

Ethnic and cultural difference will often favour particular types of service options (ie, Cremation / Burial - Above & Below Ground) each with its own varying cost structures. Often the varying prices represent the various costs associated with the varying site, usage and service requirements.

Current financial modelling for most cemeteries is based on an historic "user pays" model where a large tract of land was designated for cemetery usage by the local authorities.

This tends to work well for the more Anglo-Celtic tradition, but not across other cultural groups that have additional requirements. It should be noted that while some of these requirements are uncompromising within a single faith, other requirements are regarded as desirable by different segments within that same faith.

However, in almost all cases the additional requirements are cost-additive. For example, the Muslim burial service in particular will require services for the deceased outside normal operating hours on Saturday / Sunday which will attract additional labour costs, plus the grave shoring referred to previously.