

Independent Pricing and Regulatory Tribunal

Review of the Costs and Pricing of Interment in NSW

Interim Report December 2019

Rookwood General Cemetery
10 February, 2020

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Executive Summary

We would like to thank the Independent Pricing and Regulatory Tribunal (IPART) for the opportunity to provide feedback on their December 2019 Interim Report (Interim Report). It should also be noted that the content of the Interim Report displays a strong understanding of the subtleties inherent and often unique to cemetery operations which is meritorious given IPART's relative short exposure to the industry.

In its own right, Rookwood General Cemetery (RGC) is one of the largest cemeteries in the world and the most significant multicultural cemetery in Australia with over 150 years of history. RGC has strong relationships with our faith communities, understanding the nuances and sensitivity around faith-based burial requirements. Our knowledge bank and industry experience gained over time can, as and when required, assist IPART with this important project.

Whilst, overall, the interim report has captured most of the nuances around pricing in the cemetery industry there are a few areas that warrant further discussion to better inform IPART's proposed pricing models and guidelines.

Land

Acquisition

We acknowledge that the Cemetery and Crematoria Act NSW makes provision for the regulator (CCNSW) to acquire new cemetery land but as indicated in the Interim Report the most active participants in this space since 2012 has been the Cemetery operators.

There is obviously shared concern that Cemetery operators could inadvertently be competing with themselves for the same piece of land and as such unnecessarily inflate the price.

The acquisition of land will be one of the most significant decisions both strategically and financially that any Board or Cemetery operator will make and it is critically important that CCNSW provide independent oversight on these transactions. Failing to do the aforementioned will be a major breach of governance as the role of the regulator will expand to become an operational role as well. Instead of auditing and rectifying the operators business as usual to ensure stakeholders best interest will be auditing their own actions. If CCNSW acquires land for and on behalf of either an operator or the Crown their independence would be compromised. CCNSW must maintain it's independence from land acquisitions so that it can deliver on a primary regulatory role of ensuring that the acquisition is in the public interest.

Would a better approach be to allow the Cemetery operators to continue leveraging their unique knowledge and experience in selecting land suitable for a cemetery whilst CCNSW maintain their regulatory oversight function to identify and review thus avoid any cemetery operators competing with each other and ensuring that it is in the publics interest.

Value

The Interim Report proposes that land be valued at either of initial purchase cost or zero in the case of gifted land.

Whilst it is agreed that the industry needs to move towards a more transparent and competitive market place we are unsure about this approach over concerns that setting the value of gifted land at zero could lead to a run on these land resources before any alternate innovation can be deployed such as "Renewable Tenure".

Greater Sydney Commission

Sections of the Interim Report references the Greater Sydney Commission (GSC) reporting to the Premier on strategic planning's considerations for cemeteries and advice on criteria for identifying sites. It was initially envisaged that this report would be completed in the latter part of 2019.

RGC together with some other Crown operators have already conducted significant research into potential sites and as part of this research and analysis have identified and documented key criteria to be considered for new cemetery land.

If GSC have not yet completed this Report we would be happy to work with them on our learnings to date.

Perpetual Maintenance Funds

Legacy Costs (Crown Cemeteries)

In the past, Rookwood Cemetery was an integral part of family life for the great majority of Sydney residents. A train provided transport for the funeral cortege and later family visitations. These subsequent visitations were very frequent and often took the form of weekend outings for families. As part of these regular visitations, families would monitor and maintain each interment site to a very high standard.

As a consequence, the maintenance costs being incurred by operators (managers) of the day were quite low relative to modern times. It was in this cost environment that governments of the day gazetted prices for both the interment right and the interment. What wasn't readily identified was that visitation post the interment diminished with the passing of time and along with it the family subsidized maintenance.

Price setting was slow to respond to this evolving and growing maintenance cost.

By the 1980's a significant number of Crown operators were moving towards a tipping point with their finances which is when we saw the introduction of a similar model to one referenced in the Interim Report.

"Base price to satisfy equity and affordability with cemetery operators having the latitude to set prices for product that varied from the base"

Most operators at the time were still coming to terms with the concept of full cost recovery pricing models choosing instead to adopt a pricing regimen that whilst acknowledging the base price relied on market sensitivity for products that deviated from the base.

RGC is now well into the last 5% of undeveloped land so almost at the end of its lifecycle for perpetual interment rights. Fortunately, we are well on our way to realising our perpetual targets as identified by external actuarial as we have achieved 98% of the required funds with our portfolio now valued at 163.5M out of 167M required, but this achievement would not have been possible without control of pricing and perpetual fund growth.

Legacy Monuments

Most Cemetery operators would require the license holder to sign a permit which embodies the concept of the future structural integrity of the monument. The challenge with this document is that it represents a contract between the Cemetery and the current license holder. This liability is not transferable and so when the license holder passes away and the Cemetery loses touch with the family they by default assume responsibility for the monument. If the monument fails and impacts someone or something it would potentially impact the Cemetery both morally, socially and financially.

RGC has had in place a robust monument safety programme for well over 5 years now but this comes at a cost and should be recognized and recovered.

Current Legislation

The Cemeteries and Crematoria Act 2013 in section 107 requires cemetery operators to have regard to the following when setting prices:

- Contractual arrangements
- Number of intended interments or cremations
- Costs of developing the land to be used for interment sites
- Future maintenance
- Infrastructure costs

The language “have regard” could be strengthened to mandate that these costs be recovered.

Governance

The current governance structure for crown cemeteries has Boards appointed to deal with strategic issues, and CEO together with Executive and staff to implement the Boards strategic decision at an operational level.

CCNSW has regulatory oversight over the activities of crown cemeteries. A key resource or lever for Boards is the perpetual reserve fund.

Our concern is that removing the strategic involvement of Boards from their respective perpetual funds and transferring control to CCNSW (the regulator) could give rise to significant governance issues as a consequence of their regulatory role changing from post operational to pre-operational. A pre-operational regulator will likely become a setter of operating procedures without the practical knowledge and experience in operational matters and will most likely lose the integrity of independently monitoring the best practice for stakeholders for the sake of not contravening their own decisions.

We agree with the Interim Report in that as controlled entities the crown operators should all invest with NSW Treasury Corporation and in so doing mitigate potential investment risks but suggest that each Board retains a measure of control over their funds. The regulator could then provide guidance on the use of perpetual funds.

Pricing Model

Interment Right

The proposed model will definitely assist operators in identifying, capturing and recognising key cost inputs for the interment rights price of a non-denominational adult lawn license.

Can consideration be given to introducing more versatility to enable operators to apply a broader range of variables such as:

- Site size, set out and orientation
- Additional land set aside for access or pedestrian thoroughfare
- Exclusive use by one particular community or group
- Lawn or Monumental (This impacts cost of maintenance)