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Shoalhaven City Council Submission on IPART's Draft Report on Interment Costs and Pricing in NSW

Shoalhaven City Council, through the Shoalhaven Bereavement Services Unit, manages a total of 17 cemeteries across the Shoalhaven local government area. Of these, 7 are active cemeteries where full body and/or cremated remains interments are ongoing and the remaining 10 being historic, closed cemeteries.

Shoalhaven City Council supports IPART's stated aim, to recommend changes to the interment industry that should 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.

Local Governments in NSW play a significant and essential role in the management of interments services. They provide approximately 50% of interments across NSW including most of the interments in regional and rural areas. Of the more than 1000 cemeteries that Councils manage in NSW, more than 80% are closed or conduct less than 10 interments per annum.

Local Governments already operate in an environment of comprehensive regulation under the Local Government Act 1993. Their fees and charges, including for council-operated cemeteries are gazetted and widely promulgated on an annual basis.

Council acknowledges the importance of bringing the interment sector into positions and practices that enable equitable access, clear comparisons for the bereaved, a primary level of comparative interment service, establishment of a maintenance standard and provision for perpetual care of cemeteries as they close.

In that context Council makes the following comments on the Draft Recommendations:

1. *That CCNSW develop an interment industry scheme under the Cemeteries and Crematoria Act 2013.*
2. *That the industry scheme introduce an operating licence for cemetery operators which meet an activity level threshold.*

Response: Whilst the principle is supported, sufficient flexibility in application is essential to acknowledge existing regulatory controls under which Local Governments operate. Duplication of regulation and reporting will lead to higher costs which cannot be absorbed and will be passed on to the consumer, in conflict with the aims of the review.

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.*

Response: Supported in principle with requirement that the specific minimum standards of maintenance are developed in close consultation with cemetery operators.

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.*

Response: Supported.

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.*

Response: Supported.

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.*

Response: Supported.

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.*

Response: Supported

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.*

Response: Regulation should occur across the whole industry including Funeral Directors. The recommended levy should be applied to all cemetery and crematoria operators as a dollar amount per bodily interment, per cremation and per interment of cremated remains.

9. *That the NSW Government be responsible for identifying, funding and acquiring land for new cemeteries in Metropolitan Sydney as part of an integrated and coordinated whole of government land use planning process. This would require a coordinated approach with a mix of skill across several units in DPIE (e.g. CCNSW, Office of Strategic Lands, and Planning) and the Greater Sydney Commission. Classifying cemeteries as State Significant Developments would be an important step in facilitating this.*

Response: Supported.

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.*

Response: Supported.

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.*

Response: Supported in principle however the danger of further monopolisation of the funeral industry is also raised. The aims of the Review will not be met if further consolidation is allowed to occur, particularly in regional and rural NSW.

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.*

Response: Supported.

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

Response: Supported.

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.*

Response: Supported where limited land resources for interment are an issue.

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.*

Response: Supported for those Crown Cemeteries not managed by Local Government.

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.*

Response: Conditional support. Most of this data is already collected by CCNSW or reported under requirements of the Local Government Act 1993. Duplication in regulation and reporting will create additional costs which will not be absorbed but passed on to the consumer therefore not meeting the aims of the Review.

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.*

Response: Supported.

18. *That CCNSW refer the metropolitan Crown cemetery operators to IPART for a price determination in relation to basic adult lawn burials.*

Response: Supported.

19. *That CCNSW work with IPART and cemetery operators to develop an Annual Information Return to collect data to support price regulation and monitoring.*

Response: Conditional support. Most of this data is already collected by CCNSW or reported under requirements of the Local Government Act 1993. Duplication in regulation and reporting will create additional costs which will not be absorbed but passed on to the consumer therefore not meeting the aims of the Review.

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.*

Response: Supported.

21. *That IPART provide pricing advisory services to cemetery operators on request, with costs to be recovered by charging for the service.*

Response: Not supported – this should form part of the service provided via the levy.

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.

Response: Supported.

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.*

Response: Partial support – i.e. the element of the total price which are able to be pre paid in Council's system is the Interment Right. The interment, plaque and any other services are charged at the price at time of need. Long experience indicated that once people have a written price for anything they adhere to that in their thinking and therefore when the at need component is charged – which will necessarily reflect the current day costs and be greater than the initial quotation – an opportunity for dispute arises at a time of clouded thinking due to bereavement.

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*

Response: Publishing of prices in a consistent way is supported however this should be for all operators.

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

Response: Supported.

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.*

Response: Given the complexity of this matter, the timeline is unrealistic to attain a real alignment of products and services that is not just window dressing.

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.*

Response: This concept is admirable in principle however a majority of Local Government cemetery operators have unfunded, historic cemeteries that have been passed into their care or have been attributed to them under amalgamations. Council believes that most of these Local Governments would have no Perpetual

Maintenance Funds. The imposition of a legal obligation in these instances would be inequitable.

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.*
- *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.*

Response: The principle of development of perpetual maintenance funds is supported. Substantial support will be required for Local Governments to undertake this work.

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.*

Response: Supported.

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.*

Response: Not supported as the proposed timeline is not achievable.

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.*

Response: Supported.

32. *That all licensed cemetery operators should be required by a condition on their operating licence to develop renewable tenure products.*

Response: Not supported. For those cemeteries in metropolitan areas this may be a necessary step to enable continued bodily interment near to population centres. In regional and rural areas this option is not supported.

33. *That the Code of Practice on Pricing (Draft Recommendation 20) include guidance on relative prices of renewable tenure compared to perpetual tenure.*

Response: Supported.

Thank you for the opportunity to provide comment on the IPART Draft Report on Interment Costs and Pricing in NSW.

For further information please contact the Manager, Bereavement Services Unit, Pamela Green on [REDACTED] or by email pamela.green@shoalhaven.nsw.gov.au. Please quote Council's reference 62691E (D20/439817).

Yours faithfully

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