

## IPART REVIEW OF THE COSTS AND PRICING OF INTERMENT IN NSW

### Waverley Council Submission

#### BACKGROUND

The Independent Pricing and Regulatory Tribunal (IPART) is investigating interment costs and the pricing of interment rights in New South Wales (NSW). The review has been conducted over the last 2 years, its aim is to provide guidance and advice for Cemetery/Crematoria operators in NSW and in particular:

- 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.

And 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.

#### General Comments

- In summary, a number of the key recommendations are very timely and well supported by Waverley Council, in particular the requirements for Cemeteries to establish:
  - perpetual maintenance funds
  - standardised contracts
  - maintenance standards (although further detail is required to understand the coverage)
  - transparent pricing.
- Unlike other operators, Council-run cemeteries are already well covered by the existing regulatory and financial oversight of local government in NSW (particularly through the Local Government Act) and through the public process of setting Fees and Charges annually. From a Council perspective, therefore, the proposed regulatory framework is likely to add a further layer of complexity and may prove costly to administer, particularly when applied to small crown Land Cemeteries managed by Local Councils in Regional and Rural NSW. This also applies to the very low use Crown owned South Head Cemetery and moderately used Waverley Council owned Waverley Cemetery.
- A lighter touch regulatory approach would be preferred, which could involve setting pricing principles, establishing benchmarks and only investigating outliers (i.e. intervention by exception).
- The costs of compliance and a blanket industry regulatory scheme will ultimately be passed on to consumers which would seem to conflict with the objective of reducing costs.
- More generally a number of terms are used in the report which require a more detailed or clearer definition, e.g. “standard or basic adult lawn burial”.

## **1.1 Overview of draft findings and draft recommendations**

### **1.1.1 The Crown cemetery operators are reasonably efficient in delivering burials but have scope to increase efficiency in delivering interment rights**

IPART 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.

### **1.1.2 There is a wide variation in prices for interment services and they are difficult for consumers to compare**

IPART 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.

IPART also found that current prices for the Crown cemetery operators are materially higher than efficient cost-reflective prices.

IPART previously found that price was not a key determinant in choice of burial site. "Price plays a relatively smaller role in consumer decisions about cremation or burial, and about which cemetery to choose for interment".

### **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.

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

#### **Waverley Cemeteries Comment**

Supported in principle, however more detail is required on the criteria, (e.g. proportion of turnover, proportion of licence fee, proportion of current maintenance expenditure) that will be used as a guide for how such a fund should be established.

Consideration could also be given to recommending that the maintenance of Council run Cemeteries with a significant public open space community usage, such as Waverley Cemetery, should have this public component recognised and funded through Council open space budgets.

### **1.1.4 Regulatory reform is needed to drive efficiency, affordability, transparency, financial sustainability and choice**

The 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, the 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.

### **Waverley Cemeteries Comment**

While Waverley Cemeteries supports in principle standards and industry advisory codes particularly around a number of these issues, the proposed regulatory framework seems to add a further layer of complexity and could prove costly to administer, particularly when applied to small crown Land Cemeteries managed by Local Councils in Regional and Rural NSW.

The case for the inclusion of Council-run cemeteries to this regulatory and proposed mandatory industry scheme has not been fully articulated, from both a value improvement and cost burden perspective. The costs of compliance and a blanket industry regulatory scheme will ultimately be passed on to consumers which would seem to conflict with the objective of reducing costs.

The additional purpose of a “licensing scheme” in addition to a Mandatory Code of Conduct is somewhat unclear in the report. An assessment of the impact of the subsequent compliance regime on the overheads and administrative costs of managing Cemeteries is required as it is not clear the impact this would have on the opportunity for greater efficiency for basic service pricing identified by the review.

Unlike other operators, Council-run cemeteries are already well covered by existing regulatory and financial oversight of local government in NSW (particularly through the Local Government Act).

The recommendation to extend the service levy industry wide as a mechanism for funding the regulatory body in its enhanced role assumes that the regulator will be efficient and effective. A further review of the responsibilities and related resourcing requirements required by the Regulator would be appropriate prior to the implementation of the levy, noting that the cost itself will be passed directly onto consumers.

### **1.1.5 Land for new cemeteries should be acquired by the NSW Government, with rent paid by cemetery operators**

The 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.

### **Waverley Cemeteries Comment**

Waverley Cemeteries supports this recommendation.

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

Given the findings about costs and prices at Crown cemeteries, the draft recommendation is that price regulation apply in the first instance to a basic adult lawn burial at the Crown cemeteries. IPART have not made findings on the efficiency of Council or private operators’ costs or prices, due to a lack of data, but

IPART 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, the 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.

### **Waverley Cemeteries Comment**

The definition of a “basic adult lawn burial” which is proposed to be price regulated, at least for the Crown Cemeteries is unclear in the Draft report. The service component for interment products, (page 82) while recognising some share of purchase and maintenance costs for a land value component of an interment right, does not take into consideration market demand components of pricing, e.g. location, historic significance, reputation.

Waverley and South Head Cemeteries do not provide a basic lawn burial service, largely as there is no basic lawn land available. All new interment sales at Waverley and South Head Cemeteries are from existing interment sites that have been reclaimed. The opportunity to secure an interment site at Waverley, even an ash one is highly sought after, and our pricing reflects that. There are currently some 28 people on a wait list for interment sites which was only established in July 2020.

The maintenance costs of a heritage cemetery such as Waverley and South Head are significant, particularly as the number of monuments become unsafe and Rights Holders have long since passed. The regulation of our pricing therefore will have a significant impact on the long-term sustainability of Waverley Cemeteries and will potentially transfer that liability onto Waverley LGA ratepayers.

### **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%) reflecting the fact that very few cemeteries in NSW are offering renewable tenure interment rights.

The 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.

### **Waverley Cemeteries Comment**

In general, we agree with this recommendation, however some consideration needs to be given to recognising heritage restrictions, as is the case at Waverley and South Head Cemeteries that limit the capacity for re-use of exercised interment rights in renewable tenure interment sites.