



ICRC

independent competition and regulatory commission

Draft Report

Public Crematorium Services: Competitive Neutrality

Report 3 of 2020, March 2020

The Independent Competition and Regulatory Commission is a Territory Authority established under the *Independent Competition and Regulatory Commission Act 1997* (the ICRC Act). The Commission is constituted under the ICRC Act by one or more standing commissioners and any associated commissioners appointed for particular purposes. Commissioners are statutory appointments. Joe Dimasi is the current Senior Commissioner who constitutes the Commission and takes direct responsibility for delivery of the outcomes of the Commission.

The Commission has responsibilities for a broad range of regulatory and utility administrative matters. The Commission has responsibility under the ICRC Act for regulating and advising government about pricing and other matters for monopoly, near-monopoly and ministerially declared regulated industries, and providing advice on competitive neutrality complaints and government-regulated activities. The Commission also has responsibility for arbitrating infrastructure access disputes under the ICRC Act. In discharging its objectives and functions, the Commission provides independent robust analysis and advice.

The Commission's objectives are set out in section 7 of the ICRC Act and section 3 of the *Utilities Act 2000*.

Correspondence or other inquiries may be directed to the Commission at the following address:

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The Commission may be contacted at the above addresses, by telephone on (02) 6205 0799, or by fax on (02) 6207 5887. The Commission's website is at www.icrc.act.gov.au and its email address is icrc@act.gov.au.

How to make a submission

This draft report provides an opportunity for stakeholders to provide feedback and evidence to inform the development of the final report. It will also ensure that relevant information and views are made public and brought to the Commission's attention.

Submissions on this draft report close at **5.00 pm Thursday 16 April 2020** and can be emailed to the Commission at icrc@act.gov.au.

Alternatively, submissions may be made online through the form on the Commission's website: www.icrc.act.gov.au or mailed to the Commission's address below.

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The Commission encourages interested parties to make submissions in either Microsoft Word format or PDF.

The Commission is guided by and believes strongly in the principles of openness, transparency, consistency, and accountability. Public consultation is a crucial element of the Commission's processes. It is the Commission's preference that all submissions it receives be treated as public and be published on the Commission's website unless the author of the submission indicates clearly that all or part of the submission is confidential and not to be made available publicly. Where confidential material is submitted, the Commission prefers that this be under a separate cover and clearly marked 'In Confidence'. The Commission will assess the author's confidentiality claim and discuss appropriate steps to ensure that confidential material is protected while maintaining the principles of openness, transparency, consistency and accountability.

The Commission secretariat may be contacted at the above addresses, by telephone on (02) 6205 0799 or by fax on (02) 6207 5887. The Commission's website is at www.icrc.act.gov.au.

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Executive Summary

On 20 December 2020, the Independent Competition and Regulatory Commission (the Commission) received a request from the Treasurer to provide advice to help ensure that the new crematorium facility, to be built and operated by the ACT Public Cemeteries Authority (Canberra Cemeteries), operates in a manner consistent with competitive neutrality.

Australian governments, including the ACT Government, have agreed to implement competitive neutrality policies so that there will be fair and effective competition in the marketplace between government-owned businesses and private businesses. An added benefit of competitive neutrality is that it gives government business enterprises an incentive to operate efficiently in meeting their customers' needs.

Competitive neutrality will result in Canberra Cemeteries not having any net competitive advantages over a competing private crematorium operator simply because it is publicly owned.

This is the first stage in the Treasurer's request for advice from the Commission. In the first stage, the Commission has been asked to use its expertise to develop detailed pricing principles to guide the setting of prices for the products and services to be supplied by the new crematorium facility. The detailed pricing principles must ensure that these prices are consistent with the ACT Competitive Neutrality Policy.

The Commission released an issues paper on 31 January 2020 as the first step in the consultation process for stage one of developing its advice. The publication of the draft report is the second milestone in the Commission's consultation process.

To inform the draft report, the Commission has undertaken targeted consultation with Canberra Cemeteries, private operators in the industry, funeral directors, the Transport Canberra and City Services Directorate, other government agencies, relevant cemetery and crematorium authorities in other jurisdictions, and industry bodies.

This draft report sets out detailed pricing principles for comment and feedback from stakeholders. In developing the draft pricing principles, the Commission has examined the activities undertaken in, and costs of, providing cremation and associated services to ensure the detailed pricing principles are appropriately tailored for achieving competitive neutrality in relation to the operations of the public crematorium facility.

In stage two of the Treasurer's request for advice, the Commission will assess Canberra Cemeteries' pricing proposal, including its proposed costing methodology and prices, for compliance with the detailed pricing principles and more broadly with the ACT Competitive Neutrality Policy. The draft report includes proposed guidance to help Canberra Cemeteries develop its pricing proposal and demonstrate compliance with the pricing principles.

The Commission encourages stakeholders and other interested parties to submit feedback and information in response to the draft report by 16 April 2020. Submissions to the draft report will assist the Commission in developing its final advice to the ACT Government.

Draft pricing principles

Draft pricing principle 1: Prices should recover the full costs of providing crematorium services. This includes direct costs associated with the crematorium and a portion of relevant costs that are shared between the crematorium and cemetery.

Draft pricing principle 1.1: The costing methodology to be developed by Canberra Cemeteries and used to set prices should accurately identify and quantify all the costs of supplying services by the public crematorium facility.

Draft pricing principle 1.2: Canberra Cemeteries should demonstrate that inputs are sourced (a) through a competitive tender process or open marketplace, or (b) at prices comparable to market rates that would be paid by a similar private crematorium operator.

Draft pricing principle 1.3: The prices charged by the public crematorium should recover the costs of land, including land holding costs.

Draft pricing principle 1.4: The price of memorialisation goods and services should at least recover their costs of supply and any other directly attributable costs. These prices may also include a contribution to shared costs and a commercial profit margin.

Draft pricing principle 1.5: The price of interring cremated remains should recover the associated perpetuity maintenance costs.

Draft pricing principle 2: Shared costs and overheads should be appropriately attributed.

Draft pricing principle 2.1: Canberra Cemeteries should employ an appropriate allocation methodology to assign shared costs to the crematorium facility. An activity-based allocation method or method based on appropriate cost drivers is likely to be a pragmatic and appropriate cost allocation method.

Draft pricing principle 2.2: The crematorium facility's accounts should be ring fenced from the accounts of the cemetery operations.

Draft pricing principle 3: The prices charged by the public crematorium should recover the costs of financing its investments in capital assets, including both an appropriate commercial rate of return that includes an appropriate risk allowance and an appropriate allowance for depreciation.

Draft pricing principle 3.1: The prices charged by the public crematorium should generate an appropriate rate of return on retained earnings used to fund the construction of the crematorium.

Draft pricing principle 3.2: The prices charged by the public crematorium should recover a commercial rate of interest on any borrowings. If the public crematorium operator receives any interest rate concessions as a result of its public ownership, prices must include an allowance to offset the financial savings from any such concessions.

Draft pricing principle 3.3: The prices charged by the public crematorium should allow for an appropriate rate of return on any equity provided by the ACT Government as its shareholder.

Draft pricing principle 3.4: Prices charged by the public crematorium should, over time, recover depreciation of capital assets. Depreciation allowances should be consistent with generally accepted accounting principles and based on appropriate asset lives.

Draft pricing principle 4: The prices charged by the public crematorium operator must recover all Commonwealth and Territory taxes that a private operator, in the same position, would face.

Draft pricing principle 4.1: The prices charged by the public crematorium should include an allowance that is equivalent to the company tax that would be paid by a private operator in the same position.

Draft pricing principle 5: The public crematorium operator must comply with the same regulations that apply to its private sector counterparts.

1. Introduction

On 20 December 2019, the Independent Competition and Regulatory Commission (the Commission) received a request from the Treasurer to provide advice under Section 12 of the *Independent Competition and Regulatory Commission Act 1997* (ICRC Act).

The Australian Capital Territory (ACT) Government has asked the Commission to develop advice to help ensure that the new crematorium facility, to be built and operated by the ACT Public Cemeteries Authority (Canberra Cemeteries), operates in a manner consistent with competitive neutrality. In particular, the Government has asked the Commission to use its expertise to develop detailed pricing principles to guide the setting of prices for the products and services to be supplied by the new crematorium facility, and to ensure that these prices are consistent with the ACT Competitive Neutrality Policy.

The scope of work for the advice specifies a two-stage process. Stage one requires the Commission to develop detailed pricing principles to guide Canberra Cemeteries in developing a costing methodology and prices for the public crematorium services and products that will be consistent with the ACT Competitive Neutrality Policy. Stage two requires the Commission to assess Canberra Cemeteries' pricing proposal, including its proposed costing methodology and prices, for compliance with the detailed pricing principles and more broadly with the ACT Competitive Neutrality Policy.

The Commission released an issues paper for public comment on 31 January 2020 on stage one of the scope of works. The Commission received five public submissions to the issues paper which are available on the Commission's website. A summary of the public submissions is provided in Appendix 3. The Commission has considered the issues raised in these submissions in developing this draft report. The publication of this draft report is the second step in the Commission's consultation process for this advice. Stakeholder submissions on the draft report will inform the Commission's development of the final report and advice to the ACT Government by 31 May 2020.

1.1 Background to this investigation

The ACT Government announced on 4 October 2019 that a publicly operated crematorium would be built at the Gungahlin Cemetery and operated by Canberra Cemeteries. The Government has stated that the new public facility will contribute to better meeting the cultural needs of the ACT's diverse cultural communities.¹ Currently, Canberra's public cemeteries only offer interment services (burial of a body or cremated remains or 'ashes') and a range of related products and services (such as

¹ ACT Government 2019a

memorialisation products and services). The ACT currently has one crematorium, Norwood Park, which is privately-owned and operated.

Competitive neutrality is a key element of the Competition Principles Agreement (CPA),² which all Australian governments, including the ACT Government, agreed to in 1995 for implementing the National Competition Policy. The main purpose of the CPA is to support higher and sustainable economic and employment growth by improving economic productivity and efficiency, with a particular focus on the efficiency of government functions and business enterprises. The National Competition Principles impose important constraints on the way governments undertake commercial activities.

One of these constraints is that governments must ensure competitive neutrality in the operations of their business enterprises. Competitive neutrality requirements aim to remove any advantages or disadvantages that a government business enterprise may have purely as a result of its government ownership. This ensures that there is fair competition in the marketplace with private businesses. In addition, it gives government business enterprises an incentive to operate efficiently in meeting their customers' needs.

The policy framework in the ACT is set by the ACT Competitive Neutrality Policy.

1.2 The Commission's role and powers

The Commission is an independent commission within the ACT Government and is governed by the ICRC Act. The Commission has responsibilities for a broad range of competition, regulation and consumer protection matters.

Under the ICRC Act, the Commission is responsible for regulating and advising government about pricing, access and other matters for relevant industries. Its functions under the ICRC Act also include providing advice on competitive neutrality complaints and government-regulated activities, and on other industry-related matters referred to it. The Commission has functions under the *Utilities Act 2000* in relation to the licensing of electricity, natural gas, water and sewerage utility services.

This request for advice, to ensure the public crematorium facility is operating consistent with competitive neutrality, has been made under section 12 of the ICRC Act. Sub-section 12(1) provides for the Commission to assist any government agency (or other body or person) 'by providing services within the commission's field of expertise and relevant to its functions'.

The Commission's competitive neutrality functions are set out under Division 3.2 of the ICRC Act and Schedule 1 of the ICRC Act contains extracts from the CPA. The provisions in Division 3.2 provide for the Commission to investigate a competitive

² COAG 1995

neutrality complaint and set out in section 19B the processes and the Commission's considerations for investigating complaints.

While this request for advice relates to competitive neutrality and related issues, the Treasurer has not sought the Commission's advice in response to a complaint. Instead, the Government has decided to engage the Commission to help ensure that the new public crematorium facility operates in a manner consistent with competitive neutrality. The Commission has previously undertaken work under its competitive neutrality functions; details are available in the issues paper.

In undertaking its functions under the ICRC Act, the Commission may seek information from persons if there is reason to believe that such information will assist it in exercising its functions. Section 41 of the ICRC Act provides for the Commission to require by written notice, persons to give information or documents that may assist it in exercising its functions.

1.3 What has the Commission been asked to do?

Under the scope of works provided by the Treasurer (reproduced in full in Appendix 1), the Commission has been asked to undertake a two-stage process to ensure the public crematorium facility is operated in line with competitive neutrality principles. The detailed requirements in each stage are set out below.

Stage one

The first stage requires the Commission to develop detailed pricing principles for the ACT public crematorium, to guide the setting of prices for the goods and services in a manner consistent with the ACT Competitive Neutrality Policy.³

The scope of work identifies the following issues as relevant to the development of the pricing principles for the crematorium:

- Identification of core activities and resources required to deliver crematorium services at an ACT public crematorium
- Detailed analysis of the estimated full costs of supplying crematorium services to ensure all costs are identified and accounted for
- Identification of shared activities and resources that will be used by Canberra Cemeteries to deliver burial and cremation related services, and the development of a methodology for appropriate allocation of these costs between the two areas
- Identification of services related to the operation of the crematorium that are provided by, or could be provided, by the ACT Government
- Identification of any unique circumstances/requirements arising because the facility will be publicly owned and operated that would not apply to a private sector provider

³ ACT Government 2010

- Consideration of the most appropriate approach to ensuring prices for goods and services provided at the crematorium that could alternatively be provided by private entities, but are not necessarily directly related to core crematorium services (for example, memorialisation goods and services), are consistent with the competitive neutrality policy.

The Commission considers that broader funeral industry issues or specific issues that are not related to competitive neutrality are outside of the scope of works. The Commission will not consider broader issues unless they are directly related to competitive neutrality.

Stage two

In the second stage, the Commission will analyse the pricing proposal submitted by Canberra Cemeteries for consistency with the detailed pricing principles developed in stage one. Stage two will require Canberra Cemeteries to submit a proposed costing methodology and pricing schedule (its pricing proposal) to the Commission and demonstrate that they are consistent with the pricing principles and the ACT Competitive Neutrality Policy.

The Commission will review the cost methodology and pricing schedule to ensure they are consistent with the principles and provide a report to the ACT Government and Canberra Cemeteries on its findings along with any recommendations.

1.4 Purpose of this draft report

This draft report provides for a second round of consultation to assist the Commission in developing detailed pricing principles, as required under stage one of the scope of works provided by the Treasurer. The first opportunity for stakeholders to provide views and information was the release of an issues paper on 31 January 2020. This draft report considers the issues raised in submissions to the issues paper, outlines the Commission's draft pricing principles and seeks feedback from stakeholders.

Submissions to the draft report will assist the Commission in developing its final advice to the ACT Government. The Commission is seeking stakeholder comments on the detailed pricing principles proposed in this draft report, and the Commission's draft guidance on how these principles can be implemented, that will help Canberra Cemeteries in developing its costing methodology and prices that are competitively neutral.

To inform the draft report, the Commission has undertaken targeted consultation with Canberra Cemeteries, private operators in the industry, funeral directors, the Transport Canberra and City Services Directorate, other government agencies, relevant cemetery and crematorium authorities in other jurisdictions, and industry bodies.

1.5 Process and indicative timeline for stage one

The scope of work requires the Commission to develop detailed pricing principles according to the following process:

- consultation with Canberra Cemeteries
- where appropriate, consultation with private crematorium operators within and outside of the ACT
- consultation with relevant cemetery/crematorium authorities in other jurisdictions
- the release of a public issues paper to explain the process and key issues, and to seek input from stakeholders
- the release of a draft report including the proposed pricing principles for consultation with stakeholders
- the provision of a final report incorporating the pricing principles to the Treasurer, the Minister for City Services and Canberra Cemeteries.

The Commission's indicative timeline for stage one is set out in Table 1.1.

Table 1.1 Indicative timeline for stage one

Task	Date
Release of issues paper	31 January 2020
Submissions on issues paper close	14 February 2020
Draft report	27 March 2020
Submissions on draft report close	16 April 2020
Final report	29 May 2020

The Commission is seeking comments on this draft report, particularly on the draft pricing principles and the Commission's draft guidance on how Canberra Cemeteries can apply the principles to develop a costing methodology and set prices. The Commission will continue to seek further information and evidence from stakeholders in finalising the pricing principles.

The draft report is open for comment until 5.00 pm, Thursday 16 April 2020. Interested parties are invited to submit comments in writing (via the Commission's website, email or post) as shown in the 'How to Make a Submission' section on page iii.

1.6 Related inquiries

The New South Wales economic regulator, the Independent Pricing and Regulatory Tribunal (IPART), is currently undertaking an investigation into interment costs and pricing in New South Wales.⁴ The Commission has drawn on relevant information published as part of the IPART investigation.

⁴ IPART 2019a

1.7 Structure of this draft report

The remainder of this issues paper is structured as follows:

- Chapter 2 – Competitive neutrality
- Chapter 3 – Cemeteries and crematoria industry structure
- Chapter 4 – Draft pricing principles
- Chapter 5 – Costs

2. Competitive neutrality

This chapter provides a detailed explanation of competitive neutrality and the policy framework in the ACT. It also describes the services provided by cemeteries and crematoria in the ACT and important features of the industry operating environment.

2.1 What is competitive neutrality?

Competitive neutrality requires that government business activities should not enjoy net competitive advantages over their private sector competitors simply by virtue of their public sector ownership. As stated in Chapter 1, competitive neutrality requirements aim to remove any advantages or disadvantages that a government business enterprise may have purely as a result of its government ownership. The purpose of competitive neutrality is to ensure that there is fair competition in the marketplace with private businesses. In addition, it gives government business enterprises an incentive to operate efficiently in meeting their customers' needs.

The OECD has defined competitive neutrality as follows:⁵

Competitive neutrality means that state-owned and private businesses compete on a level playing field. This is essential to use resources effectively within the economy and thus achieve growth and development.

Australian governments and regulators have adopted similar definitions of competitive neutrality.

As noted in Chapter 1, all Australian Governments, including the ACT Government, signed the CPA in 1995 and committed to apply competition principles to government activities. The CPA states that:⁶

The objective of competitive neutrality policy is the elimination of resource allocation distortions arising from the public ownership of entities engaged in significant business activities: Government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership.

Government owned businesses compete with the private sector in a variety of markets. If government-owned businesses were to enjoy undue advantages relative to their private sector competitors, there would not be fair competition because the prices charged by the government business would not fully reflect the costs of supplying the products or services in question. Conversely, if government ownership were to impose disadvantages on government-owned businesses, their higher costs and prices would

⁵ OECD 2012

⁶ Clause 3(1)

prevent them from competing fairly with their private competitors. In either case, a lack of competitive neutrality could reduce choice for consumers and distort decisions on production and consumption; for example, where to purchase goods and services, and the mix of goods and services provided by the government sector. It could also distort investment and other decisions of private sector competitors.

Examples of potential advantages and disadvantages resulting from government ownership are outlined in Table 2.1.

Table 2.1 – Potential advantages and disadvantages of government ownership⁷

Potential advantages	Potential disadvantages
<ul style="list-style-type: none"> - Exemptions from Commonwealth, State and local taxes - No requirement to return a profit, a return on investments or interest on borrowings - Tied clients and the opportunity/ability to cross-subsidise commercial operations from Government funded departmental activities - Exemptions from various Commonwealth and State legislation applicable to private sector equivalent entities - Access to various corporate overheads free of charge or at reduced rates, including office accommodation, payroll services, human resource services, and marketing and information technology services - Cash flow advantages through budget arrangements which give Agencies access to funds at the start of the financial year - Cost of borrowing advantages through being able to secure loans with government guarantees. 	<ul style="list-style-type: none"> - Difficulty in accessing taxation benefits of depreciation, investment allowances and other deductions (e.g. through the transfer of taxation losses) - Public sector award conditions and higher public sector superannuation contributions - Lower degree of managerial autonomy, due to the requirement to comply with Ministerial directives - Higher accountability costs given the public sector's reporting and regulatory requirements - Lack of flexibility in reducing or restructuring corporate overheads - Constitutional and legal constraints (e.g. being subject to Freedom of Information, Ombudsman legislation and Treasurer's Instructions) - Requirement to undertake non-commercial activities.

2.2 ACT competitive neutrality policy framework

In developing this draft report, the Commission has considered the ACT Government policy framework for implementing competitive neutrality principles, which is established by:

- the Competition Principles Agreement 1995 (as amended on 13 April 2007)
- the ACT Competitive Neutrality Policy 2010, and
- the Commission's Competitive Neutrality Complaints: Guidelines.

⁷ Tasmanian Government 1997, p. 4

Competition Principles Agreement

As a signatory to the CPA, the ACT Government has committed to applying competitive neutrality policy and principles to government business activities (see Appendix 2 for an extract from the CPA).

Consistent with the competitive neutrality requirements, government activities and government business enterprises should charge prices that fully reflect costs and should compete on the same footing as private sector businesses in terms of taxation, debt, regulation and earning a commercial rate of return.

The CPA does not require that all businesses competing in a market should be equal or that there should be regulatory intervention to ensure that competitors are equal. On the contrary, markets benefit consumers because there are numerous competitors each offering a choice of products and services with differing characteristics, allowing consumers to choose the products and services that will best meet their individual needs and preferences. Further, competing businesses will typically have different costs and offer products or services with different characteristics due to variations in workforce skills, equipment, managerial competence and innovation. These differences will contribute to differing levels of efficiency across organisations, and differing strengths in offering certain types of products and services and meeting the needs of different types of consumers. It is not an objective of competitive neutrality policy to remove these differences between competing businesses, regardless of their ownership.

ACT Competitive Neutrality Policy

Consistent with its commitments as a signatory to the CPA, the ACT Government has published a policy statement on competitive neutrality in the ACT.⁸ The policy states that government business enterprises will be required to fully attribute costs on the same basis as private businesses. In addition, subject to a cost/benefit test, significant business enterprises and activities will also be required to:

- pay all Commonwealth and Territory tax or tax equivalent payments;
- pay debt guarantee fees if in receipt of concessional interest rates that reflect their government ownership rather than their commercial status; and
- comply with the same regulations that apply to their private sector counterparts.⁹

The Commission's Competitive Neutrality Complaints: Guidelines

As outlined in Chapter 1, the Commission has functions in relation to competitive neutrality under the ICRC Act. These functions include investigating competitive neutrality complaints and providing advice to the ACT Government as requested in relation to competitive neutrality and broader competition issues.

⁸ ACT Government 2010

⁹ ACT Government 2010, p. 10

To inform stakeholders and provide transparency about the Commission's approach to competitive neutrality issues, the Commission has published a Guideline on how it assesses competitive neutrality complaints.¹⁰ This Guideline has informed the Commission's approach to developing this draft report.

¹⁰ ICRC 2015

3. Cemeteries and crematoria industry

This chapter describes the services provided by cemeteries and crematoria, the market structure in the ACT, and relevant legislation to provide context and useful background information for the Commission's development of detailed pricing principles.

3.1 Submissions

In submissions received in response to the Commission's issues paper, stakeholders agreed that the Commission's general description of cemeteries and crematoria in the ACT was accurate.

Canberra Cemeteries and the Cemeteries and Crematoria Association of NSW noted that in New South Wales, there are an increasing number of standalone cremation facilities. These facilities provide cremations at a different location to where memorial halls and interment services are located.¹¹

Canberra Cemeteries' submission noted the development of 'no service no attendance' cremation arrangements, where a bereaved family chooses to have the deceased cremated without a memorial service.¹² The Commission received similar feedback in discussions with several stakeholders.

3.2 Cemetery and crematoria providers in the ACT

Currently, the ACT cemetery and crematoria industry consists of two main providers: Canberra Cemeteries as a government owned provider of burial and ashes interment at three sites, and a private operator, Norwood Park, operating a crematorium and ashes interment site. A second private operator is currently working on a development application to build another private crematorium in the ACT.

Canberra Cemeteries

The ACT Public Cemeteries Authority (trading as Canberra Cemeteries) is a public authority whose functions are to develop, build and manage public cemeteries and crematoria for which the authority has been appointed operator by the Minister under the *Cemeteries and Crematoria Act 2003* (CC Act).¹³ The key purpose of Canberra Cemeteries is to ensure the equitable availability of interment options and maintain burial capacity in the medium to long term for the ACT.¹⁴ Canberra Cemeteries was appointed to operate the Gungahlin, Hall and Woden cemeteries offering burial and

¹¹ Canberra Cemeteries, p. 2 and Cemeteries and Crematoria Association of NSW, p. 2

¹² Canberra Cemeteries, p. 2

¹³ Section 28A(1)

¹⁴ ACT Government 2019 b, p. 10

interment of ashes on 31 January 2006. Canberra Cemeteries also operates a memorial hall for memorial and wake services at the Gungahlin Cemetery.

As a public authority, Canberra Cemeteries is governed by the *Financial Management Act 1996*, with a governing board of between 4 and 12 persons appointed by the Minister for Transport and City Services. Employees of Canberra Cemeteries are employed as public servants under the *Public Sector Management Act 1994*. The board and executive of Canberra Cemeteries are required to ensure that the authority operates in a proper, effective and efficient way.¹⁵

Canberra Cemeteries is fully self-funded, with income received from fees, the perpetuity maintenance trust investment earnings, and drawdowns from fee income put aside for the long-term maintenance of cemeteries. Fees charged by Canberra Cemeteries are approved by the responsible Minister annually and published in an annual determination.¹⁶ As part of this process, fees are benchmarked biennially against similar cemeteries across jurisdictions to assess equity in fees across different services and offerings.¹⁷

On 4 October 2019, the ACT Government announced that it would build a publicly operated crematorium at the Gungahlin Cemetery to be operated by Canberra Cemeteries to meet the cultural needs of the ACT's diverse cultural communities.¹⁸

Norwood Park Crematorium

Norwood Park Crematorium is currently the only crematorium operator in the ACT.¹⁹ It operates the cremator, chapel facilities, and a burial park for ashes in Mitchell. Norwood Park also offers a range of memorialisation products and services. Norwood Park was founded in 1966 as a privately-owned business and since 2018 has been owned by the Australian Securities Exchange listed Propel Funeral Partners Limited. It has recently been granted a lease on unused land situated adjacent to its Mitchell crematorium.²⁰

New developments

In addition to the existing cemetery and crematorium operators in the ACT, several new developments are expected to expand the industry.

¹⁵ *Financial Management Act 1996* section 77(1)(c)

¹⁶ Cemeteries and Crematoria (Public Cemetery Fees) Determination 2019 (No 1)

¹⁷ ACT Government 2019b, p. 18

¹⁸ ACT Government 2019a

¹⁹ <https://www.norwoodpark.com.au/>

²⁰ Norwood Park, p. 1

The ACT Government has commenced design and costing work for stage one of the new Southern Memorial Park burial and ashes interment cemetery at Long Gully Road in south Canberra.²¹ The new facility is expected to provide interment capacity for the next 100 years for the greater Canberra community.

The Whitby Group in conjunction with the Australian Securities Exchange listed InvoCare is undertaking a development application to develop a crematorium, memorial park and associated facilities in Symonston.²²

Box 3.1: Industry structure in metropolitan Sydney and Victoria

The structure of crematorium and cemetery industries in other states differs from the industry structure in the ACT.

In metropolitan Sydney, for example, a variety of providers, including crown land trusts, private operators, local governments, churches and community groups, provide a range of different service options.²³

Private operators provide around 70 per cent of cremations in Sydney and 21 per cent of burials, with a market share of 55 per cent of total burials and cremations across metropolitan Sydney.²⁴

There are also different operating models in Sydney. For example, some providers of death services offer cemetery services only, others offer crematorium services only, while some offer both cemetery and crematorium services. Further, some crematoriums offer services such as ashes interment while others offer cremation only.²⁵

In Victoria, every crematorium is located within a public cemetery and managed by a cemetery trust. There are no private crematoria in Victoria.²⁶

3.3 Overview of cemetery and crematorium services

Cemeteries and crematoria offer a range of services and products to bereaved families and friends of the deceased person (the bereaved).

²¹ ACT Government 2019c

²² <https://www.purdon.com.au/home/consultation/block-1-section-3-symonston-crematorium-and-memorial-park/>; ACT Government 2020

²³ NSW Government 2017, p. 1

²⁴ NSW Government 2017, p. 3

²⁵ NSW Government 2020

²⁶ Victorian Government 2020

Crematorium services include the actual cremation process, which requires a cremator and a building to house the cremator and associated equipment. Crematoria generally offer a range (or combination) of additional services and products for the bereaved, including:

- a range of interment plots for cremated remains (ashes)
- memorial halls or chapels for funeral or remembrance services
- rooms in which functions can be held immediately after the service as well as facilities for visiting clergymen and funeral directors, and lounges for the bereaved
- viewing facilities for religious and cultural observances²⁷
- memorialisation products, such as headstones, plaques, urns, and other products
- maintenance in perpetuity (forever) of the memorial grounds.

In the ACT, cemeteries offer interment services, which comprise the burial of bodies and interment of ashes, the sale and preparation of burial and interment plots, and a range of associated products and services. Many of the services offered by crematoria are also offered by cemeteries. For example:

- interment plots for ashes
- memorial halls or chapels for funeral or remembrance services, rooms for functions, facilities for visiting clergymen and funeral directors, and lounges for the bereaved
- memorialisation products.

3.4 Overview of the death care industry

Cemeteries and crematoria are part of the broader ‘death care’ industry. The industry includes businesses that provide a range of related goods and services, such as funeral ceremonies, funeral homes, wakes, memorials and memorialisation, and coffins.

Typically, most interactions between the bereaved and cemetery and crematorium operators occur through funeral directors. Funeral directors help the bereaved plan and organise funeral services, including by coordinating with the cemetery or crematorium and performing services like preparation of the deceased.²⁸ There is no legal requirement to use a funeral director. However, many bereaved find it easier to engage an experienced professional to undertake at least some of the tasks involved.

²⁷ Canberra Cemeteries, p. 2

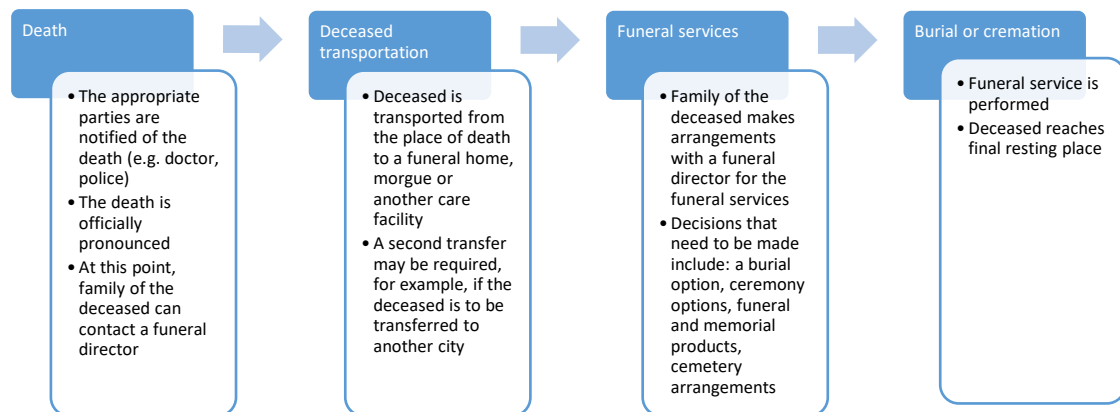
²⁸ Laan and Moerman, p. 15

Funeral directors also provide advice to their clients and act as an agent to acquire services for the bereaved, such as grief counselling and memorial hall hire (e.g. chapel, public hall or sports club) or clergy and celebrants.

Competitive neutrality in the pricing of the services that will be provided by the new public crematorium is important to funeral directors, as well as to the current and potential future private crematorium operators. Ensuring that the private and government-owned crematorium operators are competing on a level playing field will avoid any distortions that could influence the choices made by the bereaved or by the funeral director in advising the bereaved. Competitive neutrality will allow funeral directors and the bereaved to compare the available options on their merits and choose the services that best meet the needs and preferences of the bereaved, regardless of whether the services are provided by the private operator or the government-owned facility.

The typical process required following a bereavement is shown in figure 3.1.

Figure 3.1: Typical process following bereavement



3.5 Relevant legislation and regulation

Cemeteries and crematoria, both public and privately owned, operating in the ACT are currently governed by the *Cemeteries and Crematoria Act 2003* (CC Act). The CC Act sets out a framework for the operation of cemeteries and crematoria in the ACT, including: the functions of a cemetery authority; private cemetery and crematoria operations; acceptance of human remains for burial, cremation and interment; obligations to put aside revenues for the perpetual maintenance of cemeteries and crematoria; powers of the Minister to issue regulations and codes of practice and guidelines; and offences.

Under the CC Act, where a cemetery or crematorium gives a person the right of burial, or the right of interment of ashes, the right lasts in perpetuity.²⁹

The ACT Cemeteries and Crematoria Code of Practice 2007 sets out the maintenance responsibilities of a cemetery or crematorium operator and the holder of a right of burial or right of interment. Cemetery and crematoria operators are generally responsible for maintaining the grounds of a cemetery in a safe, clean and orderly condition, while the holder of the right of burial or right of interment is responsible for maintenance of a grave, monument or memorial.³⁰ Holders of a right of burial or right of interment may pay additional fees for the ongoing maintenance of a grave, monument or memorial. Generally, a bundled one-off fee is charged by the cemetery or crematorium for the purchase of a burial/interment spot, the burial/cremation and interment, and contribution to the long-term maintenance of the cemetery or crematorium.

In addition, cemetery and crematorium operators are subject to a range of legislation, regulations, standards and responsibilities associated with the normal operation of a business; such as those relating to employment, occupational health and safety, and environmental protection.

The ACT Legislative Assembly passed on 20 February 2020³¹ a new *Cemeteries and Crematoria Act 2020* (the CC 2020 Act), however is yet to take effect. The CC 2020 Act introduces a range of contemporary updates to legislation and a licencing framework for cemetery and crematoria operators in the ACT.³² The CC 2020 Act also seeks to ensure that cemetery and crematorium operators demonstrate respect for the diversity of religious and cultural beliefs and practices.

3.6 Use of crematorium services in the ACT

Currently, the ACT experiences around 2,200 deaths each year.³³ As the ACT population grows and ages, the annual number of deaths is expected to increase to around 2,700 deaths by 2040.³⁴ Information published by Canberra Cemeteries indicates that around 75 per cent of deceased in the ACT are cremated, with the remainder being buried.³⁵ This rate is higher than the rate of cremation reported in New South Wales of around 68 per cent for 2017-18.³⁶

²⁹ Section 8(1)

³⁰ Section 5 and 6 of the *ACT Cemeteries and Crematoria Code of Practice 2007*

³¹ ACT Legislative Assembly 2020, Hansard 20 February 2020, p. 664

³² ACT Legislative Assembly 2019

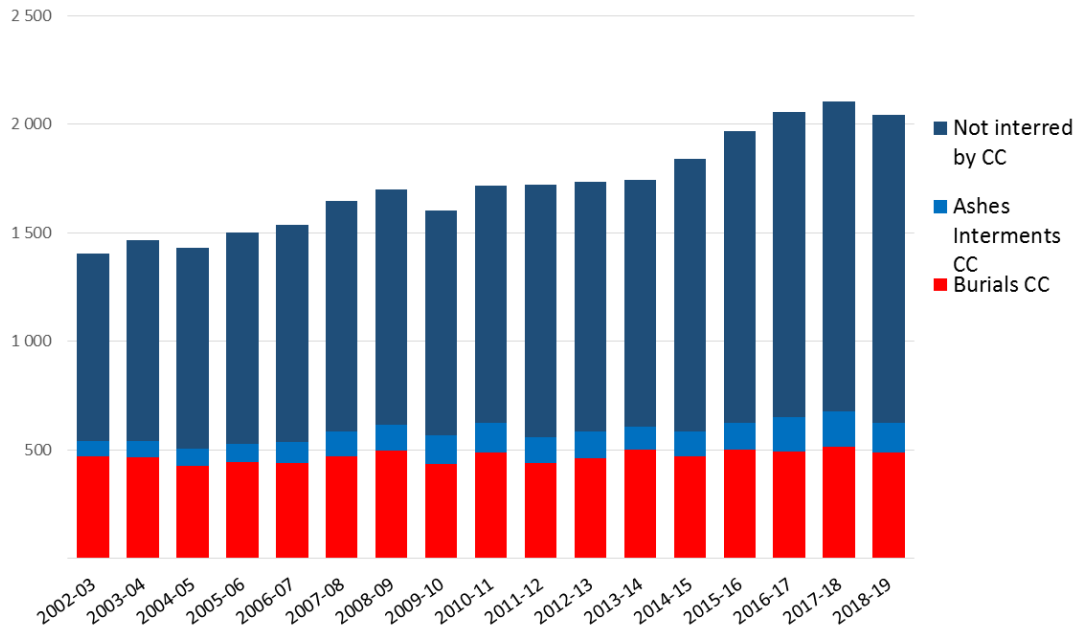
³³ Australian Bureau of Statistics

³⁴ ACT Government 2019d

³⁵ ACT Government 2019b, p. 18

³⁶ IPART 2019b, p. 5

Figure 3.1 Deaths in the ACT and interment at Canberra Cemeteries³⁷



Services for residents of the greater Canberra region are provided by the cemeteries and crematorium operating in Canberra. Residents of the ACT may also choose to obtain cemetery or crematorium services from cemeteries and crematoria in towns and cities outside Canberra.

³⁷ ACT Government 2019b, p. 18

4. Draft pricing principles

As explained in Chapter 1, the first stage of the Commission's advice involves developing detailed pricing principles to guide the setting of prices for the goods and services supplied by the public crematorium facility that will be consistent with the ACT Competitive Neutrality Policy. This chapter sets out the Commission's draft pricing principles.

As described in Chapter 2, competitive neutrality requires that government businesses should not enjoy net competitive advantages over their private sector competitors simply by virtue of their public sector ownership. This means that a public business must set prices to recover the same costs that a private operator would face if the government-owned business was in the same position as the private operator.

4.1 Commission's approach to developing detailed pricing principles

In developing detailed pricing principles, the Commission has combined a 'top down' approach and a 'bottom up' approach. The 'top down approach' uses economic concepts about competition and efficiency to ensure that its pricing principles will promote the effective operation of a competitive market and result in a level playing field. The 'top down' approach is described further in this section.

The 'bottom up' approach involves developing a good understanding of the activities involved in supplying crematorium services and related goods and services (particularly memorialisation products and services), the inputs to these activities, and of the costs of these inputs and how they are sourced. The Commission considers this understanding will ensure that the pricing principles recognise the operating conditions for public and private crematorium operators and are consequently practical and tailored for the industry. Chapter 5 describes the information used for the 'bottom up' approach.

As outlined in Chapter 2, the main aim of competitive neutrality is to promote fair and effective competition in markets where government-owned and private businesses are competing so that there is a level playing field. There are two main benefits to consumers from fair and effective competition:

- Consumers will benefit from a greater choice of products and services because the businesses operating in the market will have an incentive to meet the diverse needs and preferences of consumers. Businesses will typically offer a range of services with different features that cater to different market segments. Individual businesses may choose to specialise in certain services or offer different types of services to differentiate themselves from their competitors.

- Effective competition promotes efficiency, which reduces costs and results in lower prices for consumers (for a given level of quality and service features).

As noted in Chapter 2, competitive neutrality does not require that all businesses competing in a market should be the same—that they should have the same business structure or operating practices or offer the same types of products and services. On the contrary, consumers benefit from having a choice of products and services with differing characteristics so they can choose what will best meet their needs.

Differences between businesses in their business structures or operating practices encourage competing businesses to look for efficiencies that will help to reduce costs. Chapter 2 has described some differences in business structures and operating practices within the cemeteries and crematoria industries in the ACT, NSW and Victoria.

The operations and costs of the public crematorium may be affected by factors that are specific to the facility, such as: (a) its location within the existing cemetery site, which may have efficiency implications, and (b) the public crematorium may offer services designed to meet the needs of particular segments of the ACT community, such as bariatric cremations and a specially designed viewing room. (Chapter 5 discusses these factors in more detail.)

Similarly, private crematorium operators may have competitive advantages or disadvantages compared to the public operator because of the way those businesses operate. For example, private crematoria that are vertically integrated with other businesses in the funeral supply chain may gain cost advantages and a higher volume of business which in turn allows it to benefit from economies of scale. These competitive advantages may allow a private operator to offer relatively lower prices than the public crematorium.

It is important to note that unlike the Commission’s regulatory price decisions, the purpose of developing the detailed pricing principles is to ensure competitive neutrality, not to ensure that prices are based on efficient costs. However, as noted above, competition promotes efficiency and competitive neutrality promotes effective competition. Therefore, the Commission expects that competitive neutrality is likely to promote efficiency, both for the government-owned crematorium facility and within the ACT industry. In addition, the Commission considers that prices that recover efficient costs are likely to also achieve competitive neutrality.

For example, prices that are below efficient costs would be unable to sustain a private operator in the same position and would therefore not be competitively neutral. The Commission considers that prices below efficient costs could only be sustained by a government-owned business if it was receiving some type of competitive advantage as a result of its government ownership—this would not meet the competitive neutrality requirements.

In developing the detailed pricing principles set out in this draft report, the Commission has also considered the objectives of the ACT Government’s Competitive

Neutrality Policy. In its issues paper, the Commission suggested that these objectives could be viewed as like broad pricing principles. The objectives are consistent with the Commission's 'top down' approach as they are based on economic principles:

- Prices should recover the full costs of providing crematorium services.
- Shared costs and overheads should be appropriately attributed.
- Prices should allow for an appropriate commercial rate of return to be achieved.
- The government-owned business must pay debt guarantee fees if in receipt of concessional interest rates that reflect its government ownership rather than its commercial status.
- The government-owned business must pay all Commonwealth and Territory tax or tax equivalent payments.
- The government-owned business must comply with the same regulations that apply to its private sector counterparts.

4.2 Submissions

Canberra Cemeteries stated in its submission that the Commission's proposed approach to developing detailed pricing principles is sound, while InvoCare 'sees no issues with the Commission developing detailed pricing principles for the ACT public crematorium'.³⁸

The Cemeteries and Crematorium Association of NSW stated that it:

[...] endorses the principle outlined on Page 12 "To ensure competitive neutrality, the prices charged by Canberra Cemeteries for crematorium and related services must recover the full costs incurred in providing those services."

In that context, a critical element is what is included in "full costs". Canberra Cemeteries, like other cemeteries nationally, already provides for cremation memorialisation. Consequently, the related memorialisation costs are distinct from the actual costs of establishing and operating a crematorium.

For consistency, the act of cremation should be treated as a distinct business activity. It is separate from the use of related services e.g. chapels and refreshment facilities and also from memorialisation

³⁸ Canberra Cemeteries, p. 2 and InvoCare, p. 1

services. Bundling fees together makes it more difficult for client families to compare prices and diminishes transparency.³⁹

Norwood Park stated that: ‘We agree with the broad pricing principles identified by the Commission’.⁴⁰

4.3 Commission’s draft pricing principles

Draft pricing principle 1: Prices should recover the full costs of providing crematorium services. This includes direct costs associated with the crematorium and a portion of relevant costs that are shared between the crematorium and cemetery.

Draft pricing principle 1.1: The costing methodology to be developed by Canberra Cemeteries and used to set prices should accurately identify and quantify all the costs of supplying services by the public crematorium facility.

To ensure competitive neutrality, the prices charged by Canberra Cemeteries for cremation and related services must recover the full costs incurred in providing those services. Importantly, these costs include those directly attributable to the crematorium and those that are expected to be shared between the cemetery and crematorium (such as corporate overheads or administration buildings).

Canberra Cemeteries will need to demonstrate that its costing methodology will accurately identify and quantify all these costs.

As outlined in Chapter 5, these costs include operating costs and capital costs. Operating costs are expenses associated with running the business on a day-to-day basis, while capital costs relate to equipment and buildings and other infrastructure assets that are used over a number of years.

Draft pricing principle 1.2: Canberra Cemeteries should demonstrate that inputs are sourced (a) through a competitive tender process or open marketplace, or (b) at prices comparable to market rates that would be paid by a similar private crematorium operator.

A key factor that affects competitive neutrality is how goods and services used by the crematorium are sourced. Goods and services that are sourced via a competitive tender process or via an open marketplace would reflect commercial costs and therefore meet the conditions for competitive neutrality. If goods and services are not sourced in this way (for example, if they are provided by the ACT Government), then Canberra

³⁹ Cemeteries and Crematorium Association of NSW, p. 3

⁴⁰ Norwood Park p. 2

Cemeteries will need to demonstrate that the costs reflect market rates and are competitively neutral.

In its pricing proposal, Canberra Cemeteries should provide evidence where inputs used in providing crematorium services were bought on the market or procured via a competitive tender process. For goods and services sourced in other ways, Canberra Cemeteries will need to provide evidence that prices reflect commercial rates. Such evidence could, for example, be obtained by using a benchmarking approach.

Draft pricing principle 1.3: The prices charged by the public crematorium should recover the costs of land, including land holding costs.

The Commission understands that the public crematorium will be built on existing land at the Gungahlin Cemetery. To satisfy competitive neutrality, the prices charged by the public crematorium should recover the cost of the land, as this is what a private operator in the same position would be required to do. In estimating land costs, Canberra Cemeteries could consider what a private operator would be required to pay for equivalent land.

In addition, there is a cost of holding land that is used for memorialisation before it is used to provide services, for example, garden space that will be used for ashes interment in the future. The holding cost is the cost of financing the purchase of the land until it is used to provide services by the crematorium operator (see Chapter 5 for details).

Draft pricing principle 1.4: The price of memorialisation goods and services should at least recover their costs of supply and any other directly attributable costs. These prices may also include a contribution to shared costs and a commercial profit margin.

Economic efficiency requires that the price of a product or service should at least recover the direct costs of supplying it; the direct costs are the costs that would be avoided if the product or service was not supplied. Put simply, if consumers are not willing to pay the direct costs of supplying the product or service, it would be better to use the resources to produce a different product or service that consumers value enough to pay its costs of supply.

For memorialisation products, this means that prices should at least cover the costs of the products themselves (where they are purchased from an external supplier, such as urns and plaques) and any other direct costs that can be identified as incurred in supplying the product to the bereaved. For memorialisation services, the prices should at least recover costs that Cemeteries Canberra would not incur if it did not supply the services. For example, for ashes interment in a garden area, the direct costs of supplying these memorialisation services are the direct costs involved in interring the ashes, the revenue that would be earned if the garden area was used for a different purpose, and the maintenance costs of maintaining the garden (usually in perpetuity).

It may also be appropriate for the prices of memorialisation products and services to contribute to the profit margin earned by Canberra Cemeteries and to pay a portion of relevant shared costs, such as corporate overheads. Economic efficiency requires that businesses should recover their full costs and earn an appropriate commercial rate of return across their products and services overall. It is a commercial decision as to how much of these costs, if any, are allocated to individual products and services.

Canberra Cemeteries' pricing proposal will need to demonstrate that its prices for memorialisation products and services will recover at least the direct costs of providing these products and services. It will also need to explain whether the prices make a contribution to Canberra Cemeteries' profit margin and to relevant shared costs, and how Canberra Cemeteries reached its decision on the magnitude of the contribution (if any).

Draft pricing principle 1.5: The price of interring cremated remains should recover the associated perpetuity maintenance costs.

When ashes are interred at a cemetery or crematorium in the ACT, this interment is in perpetuity (forever).⁴¹ Canberra Cemeteries currently offers interment of ashes at its Gungahlin Cemetery (as well as its Woden and Hall sites).

At the time of interment, fees are usually paid to: (a) recover the costs of the interment of ashes at the cemetery or crematorium, and (b) contribute to the perpetual care trust and perpetual care trust reserve, which are trusts used to fund the short-term and long-term maintenance of the cemetery or crematorium site (such as the grounds, roads and paths). To ensure the full direct costs of memorialisation services are recovered in prices for these services (draft pricing principle 1.4), it is important that an appropriate share (that can be attributed to the service) of the perpetuity maintenance costs is included in calculating the price of the service.

In the ACT, the Minister, under section 11 of the *Cemeteries and Crematoria Act*, determines on a regular basis (usually every five years) the percentage of revenue that interment providers must put aside in the perpetual care trust and perpetual care trust reserve. This requirement is competitively neutral as it applies equally to both public and private operators.

Draft pricing principle 2: Shared costs and overheads should be appropriately attributed.

As discussed in Chapter 2, the public crematorium facility is likely to share some of the services that are provided at the Gungahlin Cemetery. For example, some activities, such as corporate overheads, the provision of shared physical assets (such as roads), and potentially the purchase and sale of memorialisation products, are likely to be undertaken by Canberra Cemeteries for both its cemeteries operations and its public crematorium operations. In developing its costing methodology, Canberra Cemeteries

⁴¹ *Cemeteries and Crematoria Act* 2003, section 8 (1)

will need to demonstrate that it has allocated its shared costs and overheads in a competitively neutral manner.

Draft pricing principle 2.1: Canberra Cemeteries should employ an appropriate allocation methodology to assign shared costs to the crematorium facility. An activity-based allocation method or method based on appropriate cost drivers is likely to be a pragmatic and appropriate cost allocation method.

There are several approaches that can be used to allocate shared costs and overheads. As explained in Chapter 5, the Commission considers that an allocation based on a measure of use is likely to satisfy competitive neutrality and be economically efficient. The pricing proposal and costing methodology developed by Canberra Cemeteries should explain how it has determined its allocation methodology and the evidence used to apply the methodology.

Draft pricing principle 2.2: The crematorium facility's accounts should be ring fenced from the accounts of the cemetery operations.

Ring-fencing means that Canberra Cemeteries would maintain separate financial accounts for the crematorium facility and for its cemetery operations. Ring-fencing is important to give transparency about how costs are attributed between the crematorium facility and Canberra Cemeteries' other business activities and to allow for verification of how the allocation methodology is applied.

In addition, ring-fencing will simplify the process of checking that Canberra Cemeteries has correctly applied the pricing principles. Ring-fencing will help ensure that crematorium activities do not enjoy a competitive advantage as a result of cross-subsidisation of its costs by Canberra Cemeteries' cemetery operations.

Draft pricing principle 3: The prices charged by the public crematorium should recover the costs of financing its investments in capital assets, including both an appropriate commercial rate of return that includes an appropriate risk allowance and an appropriate allowance for depreciation.

The costs of financing a business' investments in capital assets typically include interest payments on loans, an allowance for the depreciation of assets over time which generates a return of the initial capital investment, and a commercial profit margin that provides a return on the investments required to run the business. Competitive neutrality requires that the prices charged by the public crematorium recover equivalent capital financing costs that a private operator in the same position would face.

As explained in Chapter 5, several approaches are available to determine an appropriate commercial rate of return. In its pricing proposal, Canberra Cemeteries will need to explain the method it has applied for determining the rate of return and the reasons for why its method is appropriate. The pricing proposal should include evidence and reasons for supporting the inputs used in estimating the rate of return.

The Commission considers that a pragmatic method would be to estimate an appropriate weighted average cost of capital (WACC). A possible option is to use the WACC developed by IPART during its review of interment services in NSW (discussed in Chapter 5).

Draft pricing principle 3.1: The prices charged by the public crematorium should generate an appropriate rate of return on retained earnings used to fund the construction of the crematorium.

The Commission has been advised that Canberra Cemeteries intends to fund the construction of the crematorium from existing retained earnings.⁴² These retained earnings were accumulated from profits on its cemeteries business operations.

Economic efficiency requires that the price of a product or service should generate an appropriate rate of return on the funds used to finance the capital investments used in supplying the products or services, such funds include retained earnings. Put simply, if consumers are not willing to pay prices that recover these costs, the funds would be better used to invest in assets that produce products or services that consumers value enough to pay prices that recover its financing costs (and other relevant costs).

A private business would not be able to continue in operation on a sustained basis if it was unable to earn a commercial return on its investments, including an appropriate risk premium. Private businesses typically use an appropriate risk-adjusted commercial rate of return as a ‘hurdle rate’ in deciding whether to proceed with proposed investments; investments that are not expected to earn at least the ‘hurdle rate’ do not proceed.

Canberra Cemeteries’ costing methodology will need to ensure that its prices generate an appropriate risk-adjusted commercial return on retained earnings used to finance crematorium facility investments in order to satisfy competitive neutrality.

Draft pricing principle 3.2: The prices charged by the public crematorium should recover a commercial rate of interest on any borrowings. If the public crematorium operator receives any interest rate concessions as a result of its government ownership, prices must include an allowance to offset the financial savings from any such concessions.

As for retained earnings, the price of a product or service should generate an appropriate rate of return on any borrowings used to finance the capital investments used in supplying the products or services.

Debt neutrality is important because government businesses may be able to borrow through a government treasury and take advantage of a lower risk premium that reflects the (better) risk rating of the government as a whole compared to the business if it were to borrow in its own right. A lower risk premium would reduce the costs to

⁴² Based on discussions with Canberra Cemeteries.

the government business and confer a competitive advantage as a result of its government ownership.

If Canberra Cemeteries were to borrow through the ACT Government, it would need to demonstrate that it has not received any interest rate concession as a result of its government ownership. Many government treasuries charge government businesses a debt guarantee fee to offset the interest rate discount received as a result of borrowing through whole-of-government arrangements to ensure the borrowing is at commercial rates and competitive neutrality requirements are satisfied.

Draft pricing principle 3.3: The prices charged by the public crematorium should allow for an appropriate rate of return on any equity provided by the ACT Government as its shareholder.

The shareholders of private businesses expect to receive an appropriate risk-adjusted return on the equity they have provided to the business to finance its investments and operations. Without such a return on their equity, the shareholders would sell their shares and transfer their funds to investments that do provide an appropriate rate of return.

For competitive neutrality, the prices charged by the public crematorium should recover a commercial rate of return on any equity invested by its shareholder, the ACT Government.

Draft pricing principle 3.4: The prices charged by the public crematorium should, over time, recover depreciation of capital assets. Depreciation allowances should be consistent with generally accepted accounting principles and based on appropriate asset lives.

Depreciation allowances recover the capital invested in an asset over the life of that asset. Together, the rate of return earned on the funds used to finance the investment in an asset, and depreciation of the cost of constructing or purchasing the asset, ensure that the full costs of capital assets are recovered.

There are four main ways to recover depreciation which are consistent with generally accepted accounting principles. Three of these methods are based on time and the fourth is based on usage of the asset. The most commonly used, and most straightforward method, is straight-line depreciation. Canberra Cemeteries' costing methodology will need to explain which method it has chosen and why, and ensure the chosen method is applied consistently over the life of the asset.

Canberra Cemeteries' costing methodology will also need to explain how it has estimated the asset life for each of its capital assets and the evidence it has based its estimate on. An appropriate asset life is important as an excessively long asset life will artificially reduce the annual depreciation allowance and reduce the costs used in calculating prices. This would confer a competitive advantage.

Some of the assets used in supplying crematorium services by the public crematorium facility will be shared across Canberra Cemeteries' cemetery businesses. For example, shared capital assets will include some internal roads and administration buildings. Draft pricing principle 2 will apply to allocating depreciation for such shared assets.

The Commission considers that the costing methodology and prices to be developed by Canberra Cemeteries should include depreciation that reflects generally accepted accounting standards and appropriate asset lives. A similar approach should also apply to the amortisation of non-tangible assets.

Draft pricing principle 4: The prices charged by the public crematorium operator must recover all Commonwealth and Territory taxes that a private operator, in the same position, would face.

An important element of competitive neutrality is that the public crematorium facility should face the same tax obligations as private crematorium operators. A government-owned business would obtain a competitive advantage if it was not subject to the same tax obligations as its private competitors.

Draft pricing principle 4.1: The prices charged by the public crematorium should include an allowance that is equivalent to the company tax that would be paid by a private operator in the same position.

For consistency with the ACT Competitive Neutrality Policy, the prices charged by the crematorium facility should include tax allowances that are equivalent to the taxes as comparable private crematorium operator would pay.

The Commission has found that Canberra Cemeteries is subject to the same taxation requirements as a private operator, with the exception that it is not required to pay company tax or make an equivalent payment under the National Tax Equivalent Regime to the ACT Government (discussed further in Chapter 5).⁴³ This is due to Canberra Cemeteries' exemption from the NTER under Section 6 of the *Taxation Act*.⁴⁴

Ring-fencing (required by pricing principle 2.2) will facilitate the inclusion of equivalent tax allowances in the prices charged by the public crematorium facility, by allowing for the benefit from the NTER exemption to be restricted to cemetery operations only. This would ensure that the crematorium does not enjoy a competitive advantage from Canberra Cemeteries' NTER exemptions for its cemetery operations.

⁴³ The NTER requires that ACT Government businesses that are exempt from taxes make payments to the ACT Government that are equivalent to the taxes for which they are exempt.

⁴⁴ Section 3 *Taxation (Government Business Enterprises) Regulation 2003*

Draft pricing principle 5: The public crematorium operator must be subject to, and comply with, the same or equivalent regulations that apply to its private sector counterparts.

Regulations require businesses to undertake certain activities or restrict businesses from doing certain activities. Complying with regulations and reporting on compliance (if required), imposes costs on businesses subject to those regulations. Canberra Cemeteries would gain a competitive advantage if it was not subject to the same, or equivalent, regulations as private crematorium operators. Conversely, if Canberra Cemeteries was subject to more regulation, or more stringent regulations than private operators, it would have a competitive disadvantage.

Sometimes, different regulatory obligations apply to private unlisted companies, private companies that are listed on a stock exchange, and government-owned businesses. Some of these are discussed in Chapter 5.

In some cases, the regulations may impose equivalent obligations, despite being framed differently for businesses with different ownership structures. For example, financial reporting and annual report regulations applied to ACT Government agencies have similarities with requirements in the private sector imposed by the Australian Securities and Investment Commission, and the Australian Securities Exchange (in the case of Australian Securities Exchange listed companies).

Canberra Cemeteries' pricing proposal and costing methodology should demonstrate that, in respect of its crematorium facility, it has complied with the same or equivalent regulations as its private sector counterparts.

5. Costs

As explained in Chapter 4, the Commission has combined a ‘top down’ approach and a ‘bottom up’ approach in developing the draft detailed pricing principles. The ‘top down approach’ is described in Chapter 4.

The ‘bottom up’ approach involves developing a good understanding of the activities involved in supplying crematorium services and associated goods and services, the inputs to these activities, and of the costs of these inputs and how they are sourced. The Commission’s findings from its examination of the activities undertaken in, and costs of, providing cremation and associated services are set out in this chapter.

Using a ‘bottom up’ approach ensures the detailed pricing principles are tailored to the provision and pricing of crematorium services and the specific operating environment for a public crematorium facility in the ACT.

In considering the costs of activities, resources and goods and services that may be used by the public crematorium facility, the Commission has considered:

- the activities and resources required to deliver crematorium services at an ACT public crematorium, including related services and products such as memorialisation, and how they are sourced
- any goods or services directly provided by, or potentially provided, by the ACT Government to Canberra Cemeteries that may affect the costs of operating the crematorium
- activities undertaken by Canberra Cemeteries in relation to its provision of cemetery and ashes interment services, such as corporate functions, that may be shared in operating the public crematorium facility and affect the costs of operating the facility
- any differences in regulatory obligations resulting from the facility being publicly owned and operated.

The public crematorium facility has not yet been built and details of what services it will provide, what activities it will undertake, and what assets it will use, are not yet known precisely. This chapter has therefore taken a broad approach to identifying costs that may be incurred.

5.1 Operating costs

Operating costs are expenses associated with running the business on a day-to-day basis. To ensure competitive neutrality, the prices charged by Canberra Cemeteries for crematorium and related services must recover the full operating costs incurred in providing those services.

As the crematorium will be operated by Canberra Cemeteries and located within an existing cemetery, some of the crematorium's operating costs will be shared with the cemetery (for example, corporate overhead costs).

In its issues paper, the Commission identified a range of crematorium operating costs and sought feedback on these costs from stakeholders.

Submissions

Canberra Cemeteries and InvoCare agreed that the Commission had identified the main cost categories associated with crematorium operations.⁴⁵

Canberra Cemeteries questioned whether the costs of memorialisation products and consumables associated with memorial services (such as flowers and refreshments) should be included, given they are not specific to the crematorium.⁴⁶ Canberra Cemeteries submitted that cremation memorialisation is an existing service available at Canberra Cemeteries' three locations. It also stated that:

Canberra Cemeteries is of the view that the market currently self regulates effectively regarding cremation and cremation memorialisation products. It is noted that in the recent Interim Report into Costs and Pricing of Interment in NSW, the IPART observes that: "The market for cremation and ashes interment is workably competitive." (IPART Interim Report, p. 8.)

Therefore, these products and services are considered to be effectively competitively neutral and, as part of the existing suite of products and services, notably separate to the Crematorium operations and should not form part of the hybrid model for the Crematorium, nor be subject to the pricing principles to be developed by the Commission.

Cremation memorialisation is subject to a perpetual maintenance fee, as the memorial gardens must be maintained in perpetuity. Current cremation memorialisation revenue therefore contributes to meeting perpetual maintenance obligations.⁴⁷

Similarly, the Cemeteries and Crematoria Association of NSW stated:

Canberra Cemeteries, like other cemeteries nationally, already provides for cremation memorialisation. Consequently, the related memorialisation costs are distinct from the actual costs of establishing

⁴⁵ Canberra Cemeteries, pp. 2-3 and InvoCare, p. 3

⁴⁶ Canberra Cemeteries, pp. 2-3

⁴⁷ Canberra Cemeteries, p. 4

and operating a crematorium. For consistency, the act of cremation should be treated as a distinct business activity. It is separate from the use of related services e.g. chapels and refreshment facilities and also from memorialisation services.⁴⁸

In relation to the broader costs of operating a crematorium facility, the Cemeteries and Crematoria Association of NSW submitted that:

Whilst a public crematorium facility may be able to source some inputs at a lower price than the private sector, there are inputs where the bulk purchasing power of a private operator may generate a competitive advantage. Similarly, the public facility is likely to have reporting requirements and responsibilities to service the broader community, not just direct clients.

Where the competing private crematorium is part of a larger entity (e.g. Propel or InvoCare), arguably those organisations already have the in-house legal, accounting and marketing expertise on tap, or have established consultants to efficiently service their needs. In those circumstances they have a competitive advantage compared to the overarching public sector, which may lack the industry technical expertise to cost effectively service their requirements.⁴⁹

Norwood Park submitted that, in addition to the operating costs identified by the Commission in its issues paper, the following costs are likely to form part of Canberra Cemeteries' operating costs:

- fuel costs
- staff amenities and staff training
- uniforms
- cleaning expenses
- bank and merchant fees (finance costs)
- legal and professional charges (consultancy/audit fees)⁵⁰

InvoCare submitted that 'the Commission has adequately identified operational and capital costs associated with a crematorium facility. InvoCare agrees with the view of the Commission that prices should recover the full costs of providing crematorium services. In addition, InvoCare propose that prices should cover value-add memorial services.'⁵¹

⁴⁸ Cemeteries and Crematoria Association of NSW, p. 3

⁴⁹ Cemeteries and Crematoria Association of NSW, p. 4

⁵⁰ Norwood Park, p. 2

⁵¹ InvoCare, p. 2

Commission's draft findings

Based on the submissions received, discussions with Canberra Cemeteries and research by the Commission, the Commission has identified relevant operating costs (Table 5.1). The Commission has separated these costs into direct costs to operate the crematorium (such as energy to operate the crematorium) and costs that are likely to be shared between the crematorium and cemetery (such as administration costs and road maintenance). Some costs may fall into either category depending on their nature; for example, lawn and garden maintenance costs would be direct costs for the crematorium for memorial gardens while the costs of maintaining the lawns and gardens surrounding the chapel and administration buildings would be shared between the crematorium facility and the cemetery.

Table 5.1: Operating costs relating to the supply of crematorium services

Category (a): direct operating costs	Category (b): operating costs that are shared between the crematorium and cemetery	Costs that are in both category (a) and category (b)
<ul style="list-style-type: none"> - staff salaries (specific to the operation of the crematorium facility) - purchase of chemicals - cost of energy used in the cremation process - maintenance costs for cremators and associated equipment - ICRC fees 	<ul style="list-style-type: none"> - administrative costs (e.g. payroll, human resources, marketing, bookings, purchasing, support) - information and communications technology costs - maintenance of shared assets - utilities (e.g. telecommunications, water, electricity, gas for heating of admin building) - salaries of administrative staff - uniforms - memorialisation products (non-interment specific such as plaques, flowers, service-related items) - insurance costs - regulatory and compliance costs - security costs - fuel costs 	<ul style="list-style-type: none"> - financing costs - lawn and garden maintenance - landscaping costs - staff training - cleaning - legal and professional charges

The Commission's draft pricing principle 1 requires that the prices charged by Canberra Cemeteries for crematorium and associated products and services should recover the full costs of providing these products and services. Draft pricing principle 2 required an appropriate attribution of costs that are shared between the cemetery and crematorium facility.

The Commission has noted the Cemeteries and Crematoria Association of NSW's comment that Canberra Cemeteries may not benefit from the same economies of scale as a large private business. However, as noted in Chapter 4, differences in structure

between private and government-owned businesses do not, in themselves, create competitive neutrality concerns. Such differences may allow different businesses to offer different types of products and services that better meet the needs and preferences of their clients. The implications of differences in business structure are a matter for shareholders.

As noted in Chapter 4, the way in which the inputs to Canberra Cemeteries' operations are sourced can have implications for competitive neutrality. Those sourced via competitive tender processes or in open marketplaces are likely to have costs that reflect market rates and will therefore be compliant with competitive neutrality. In contrast, goods or services provided by the ACT Government may not be charged at market rates. The Commission has identified particular inputs where Canberra Cemeteries will need to demonstrate that its costing methodology and pricing approach are consistent with draft pricing principle 1.2.

Staff costs

Based on discussions with Canberra Cemeteries, the Commission understands that the development of the crematorium is expected to result in the employment of 1.7 additional full-time equivalent staff to operate the crematorium, perform sales and customer support functions, and management.⁵² The Commission further understands that some Canberra Cemeteries staff will be trained in functions used for both the cemetery and crematorium operations.

In developing its costing methodology and prices, Canberra Cemeteries will need to account for staff costs, including the full costs of staff employed directly by the crematorium facility (such as staff to operate the cremator) (draft pricing principle 1.1), and determine an appropriate allocation of shared staff costs (such as staff employed on grounds maintenance and administration) (draft pricing principle 2.1).

The Commission has found that the pay and conditions for employees of private crematorium operators may be set by the relevant industry award, in this case the Cemetery Industry Award 2020, and the Clerk Private Sector Award 2010. Some large private operators, such as InvoCare, have negotiated their own enterprise agreements with their employees. As a government-owned business, the pay and conditions for Canberra Cemeteries' employees are determined by the relevant enterprise agreements for ACT public service employees. Staff costs for Canberra Cemeteries may therefore differ from staff costs for a private operator as a result of its public ownership.

⁵² Discussions with Canberra Cemeteries

ACT Government shared services

Canberra Cemeteries receives certain corporate services from the ACT Government which are known as ‘Shared Services’.⁵³ Canberra Cemeteries obtains ‘Shared Services’ from two agencies: Transport Canberra and City Services Directorate (TCCS) provides services through a Memorandum of Understanding with Canberra Cemeteries,⁵⁴ TCCS also provides shareholder services for Canberra Cemeteries and policy advice to the ACT Government in relation to the cemetery and crematorium sector; and The Chief Minister, Treasury and Economic Development Directorate (CMTEDD) provides corporate services as part of whole of government arrangements. The ‘Shared Services’ provided by TCCS and CMTEDD include:

- Information Communication Technology, including infrastructure and IT support (CMTEDD)
- Human Resources, including payroll, recruitment, reporting, HR systems and support, enterprise bargaining agreement negotiations, workforce reporting and salary packaging (CMTEDD)
- Accounting and financial services, including accounts payable, accounts receivable, government budget management systems, financial reporting and taxation (CMTEDD and TCCS)
- Learning and development (CMTEDD and TCCS)
- Work health and safety (TCCS)
- Board appointments and corporate governance (TCCS), and
- Record and Mail Services (CMTEDD).

For competitive neutrality, the prices charged by Canberra Cemeteries for crematorium services will need to include costs for these ‘Shared Services’ that reflect a commercial price, which would be similar to the price a private operator could obtain such services from the market.

The Commission has been advised that ‘Shared Services’, including those provided by TCCS and CMTEDD, are provided on a cost recovery basis. The Commission has found that these costs may differ from commercial rates for two reasons: the bulk purchasing power of the Government’s Shared Services providers; and the absence of a profit margin on charges for these services.

The Commission understands that CMTEDD Shared Services area engages consultants every two years to benchmark the costs of the services it provides to ACT Government agencies, and to assess the overall operational efficiency of the Shared Services area. Deloitte undertook the most recent benchmarking exercise using the American Productivity and Quality Centre’s global public sector peer database, which includes data on Shared Services organisations in Australia and Canada. As the benchmarking

⁵³ ACT Government 2019b, p. 14

⁵⁴ The Commission understands that this Memorandum of Understanding is currently being updated.

exercise was undertaken against other public agencies, it is not possible to determine from Deloitte's report whether the costs are consistent with commercial rates.

To ensure competitive neutrality, Canberra Cemeteries will need to demonstrate that it has made an adjustment to the cost of 'shared services' to reflect commercial rates for such services, consistent with draft pricing principle 1.2.

Electricity charges

In 2018-19, Canberra Cemeteries received an interest free loan from the ACT Government Carbon Neutral Government Loan Fund⁵⁵ for installation of an on-site renewable electricity solar photo-voltaic system at the Gungahlin Cemetery. The system was installed in the first half of 2018-19 and is expected to meet a proportion of the electricity consumption needs at the Gungahlin Cemetery.⁵⁶

The Commission understands that the Carbon Neutral Government Loan Fund is only available to ACT Government entities. As the loan is interest free and available only to government agencies, access to this loan gives Canberra Cemeteries a financial benefit. If this financial benefit is shared by the crematorium facility, it will have a competitive advantage that is obtained as a result of its government ownership.

To ensure competitive neutrality, Canberra Cemeteries will need to demonstrate that it has appropriately allocated electricity costs to the crematorium facility and to the cemetery, consistent with draft pricing principle 2.1. In setting prices for crematorium services, Canberra Cemeteries will need to make an adjustment to its electricity costs that results in a commercial rate of interest on the solar panels.

Audit and insurance fees

Canberra Cemeteries undertakes a range of audits as part of operating in a proper, effective and efficient way.⁵⁷ Generally these audits fall into two main categories: internal performance and compliance audits (for example, of legal obligations, licence requirements or internal policies), and external financial audits (such as, financial statements). Many private businesses conduct similar audits to meet regulatory requirements.

Canberra Cemeteries engages KPMG as an independent provider to undertake its program of internal audits.⁵⁸ The Commission understands that KPMG (and any subject matter expert auditors) has been engaged through competitive tender processes

⁵⁵ ACT Government 2019d

⁵⁶ ACT Government 2019b, p. 20 and discussion with Canberra Cemeteries

⁵⁷ *Financial Management Act* 1996, section 77 (1) (c)

⁵⁸ ACT Government 2019b, p. 21

or through market procurement. Sourcing internal auditors in this way is likely to be compliant with draft pricing principle 2.1.

In addition, under section 65 of the *Financial Management Act 1996*, Canberra Cemeteries must have its annual financial statements audited by the ACT Auditor-General. The Commission understands that the ACT Auditor-General's audit fees are based on cost recovery.⁵⁹

For competitive neutrality, Canberra Cemeteries will need to demonstrate that the ACT Auditor-General's audit fees are comparable to market rates or that an appropriate adjustment has been made to the audit fees, consistent with draft pricing principle 2.1.

The Commission understands that Canberra Cemeteries obtains insurance from the Australian Capital Territory Insurance Agency (ACTIA), which provides insurance cover (for public liability, property and physical assets, directors and officers liability, and so on) for all ACT Government agencies.⁶⁰ ACTIA operates on a cost recovery basis to meet the costs of anticipated claims (including maintaining adequate reserves).⁶¹ As no profit margin is applied by ACTIA, the costs of insurance faced by Canberra Cemeteries may differ from commercial rates.

For competitive neutrality, Canberra Cemeteries will need to demonstrate that ACTIA insurance premiums are comparable to market rates for the same coverage (and conditions) or that an appropriate adjustment has been made to insurance costs, consistent with draft pricing principle 2.1.

Memorialisation products and services

Canberra Cemeteries currently sells a range of memorialisation products, such as plaques and raised blocks, that can be placed where ashes (or a body) is interred at a cemetery or crematorium. The prices charged by Canberra Cemeteries for memorialisation products are approved by the responsible Minister and published in an annual determination.⁶² As part of the price determination process, Canberra Cemeteries proposes prices to the Minister for approval. The Commission understands that the proposed prices reflect the direct cost of the goods plus a mark-up for staff time (for ordering, managing and selling memorialisation products).⁶³ The proposed prices do not recover overhead costs (such as the costs associated with the building in which goods are stored prior to sale) or a profit margin.

The Commission considers that, for competitive neutrality, Canberra Cemeteries will need to demonstrate that the prices charged for memorialisation goods and services

⁵⁹ ACT Government 2019d, p. 127

⁶⁰ ACT Government 2020d

⁶¹ ACT Government 2019e, p. 129

⁶² Cemeteries and Crematoria (Public Cemetery Fees) Determination 2019 (No 1)

⁶³ Discussions with Canberra Cemeteries.

should at least recover their costs of supply and any other directly attributable costs, consistent with draft pricing principle 1.4. The prices may also include a contribution to shared costs and a commercial profit margin.

Perpetuity maintenance costs

As noted in Chapter 3, when ashes (or a body) are interred at a cemetery or crematorium in the ACT, this interment is in perpetuity (forever).⁶⁴ Canberra Cemeteries currently offers interment of ashes at its Gungahlin Cemetery (as well as its Woden and Hall sites).

At the time of interment, a fee is usually paid by the bereaved to: (a) fund the actual interment of ashes at the cemetery or crematorium, and (b) contribute to the perpetual care trust and perpetual care trust reserve, which are trusts used to fund the short-term and long-term maintenance of the cemetery or crematorium site (e.g. grounds, roads and paths). Under section 11 of the *Cemeteries and Crematoria Act 2003*, the Minister determines on a regular basis (usually every five yearly) the percentage of revenue that interment providers must put aside in the perpetual care trust and perpetual care trust reserve. This applies equally to both public and private operators. As the perpetuity maintenance requirements are the same for both private and public operators, the Commission considers the requirements satisfy competitively neutrality.

In setting prices for memorialisation services, Canberra Cemeteries will need to demonstrate that the prices charged for memorialisation services are consistent with draft pricing principle 1.5.

ICRC fees

As outlined in Chapter 1, the ACT Government has asked the Commission to provide advice on ensuring that Canberra Cemeteries crematorium facility operates in a manner consistent with competitive neutrality. The ACT Government has agreed that Canberra Cemeteries will be billed for the cost for this advice. This represents an establishment cost for the crematorium.

In setting prices for memorialisation services, Canberra Cemeteries will need to include these fees, consistent with draft pricing principle 1.1.

5.2 Capital costs

Capital costs relate to equipment, buildings, vehicles, infrastructure (such as internal roads and paths), and other assets that are used to operate a crematorium facility. Such assets are used over a number of years; this is the asset's 'life'. While operating costs (discussed in section 5.1) are typically recovered in the year in which they are incurred,

⁶⁴ *Cemeteries and Crematoria Act 2003*, section 8 (1)

capital costs are recovered over time through depreciation and a return on investment (which allows for the recovery of financing costs for those capital assets).

In the issues paper, the Commission identified relevant capital costs and sought feedback from stakeholders. As with operating costs, some capital costs may be shared between the crematorium and the cemetery, such as the cost of roads and administration buildings.

Submissions

Canberra Cemeteries and InvoCare agreed that the Commission had identified the relevant capital costs associated with crematorium operations.⁶⁵

Canberra Cemeteries noted that roads, buildings, paths and fences may warrant inclusion in capital costs insofar as they relate to the crematorium.⁶⁶

Norwood Park submitted that, in addition to the capital costs identified by the Commission, the capital costs associated with refurbishment and maintenance of cremation equipment, buildings, grounds and equipment should also be considered.⁶⁷

Commission's draft findings

Based on the submissions received, discussions with Canberra Cemeteries and research by the Commission, the Commission has identified relevant capital costs (Table 5.2). The Commission has separated these costs into direct capital costs for assets that are only used by the crematorium facility (such as the cremator and the building housing the cremator) and capital costs for assets that are likely to be shared between the crematorium and cemetery (such as a memorial hall, chapel and information technology system). Some costs may fall into either category depending on their nature. For example, the costs of roads, car parks and paths that are only used by visitors to (and staff of) the crematorium facility are direct costs for the crematorium facility, while the costs of roads, car parks and paths used by visitors to the chapel and administration buildings would be shared between the crematorium facility and the cemetery.

⁶⁵ Canberra Cemeteries, pp. 2-3 and InvoCare, p. 3

⁶⁶ Canberra Cemeteries, p. 3

⁶⁷ Norwood Park, p. 2

Table 5.2: Capital costs relating to the supply of crematorium facilities

Category (a): capital directly related to the crematorium	Category (b): capital that is shared between the crematorium and cemetery	Capital that falls into categories (a) and (b)
<ul style="list-style-type: none"> - cremator unit(s) (or furnaces) - a processor (for reducing remains into ash) - scissor trollies for moving coffins between the chapel and crematorium - pans for collection - cool room for storage of corpses - drying machine (e.g. for ashes that have been placed for display purposes in a temporary memorial) - crematorium building, including viewing room, administration space, covered delivery space - the capitalised value of one-off project management, contract management and procurement costs associated with the construction of the crematorium facility - refurbishment costs. 	<ul style="list-style-type: none"> - memorial halls, chapels, rooms for functions following the services, facilities for clergy and funeral directors, lounges for the bereaved, and rooms for reflection - vehicles - trolley hoists and gantries associated with memorialisation - audio-visual equipment for use during the service - information communications and technology assets 	<ul style="list-style-type: none"> - lawn and garden maintenance equipment - land costs - refurbishment costs - roads, car parks, paths, and fences

The Commission's draft pricing principle 1 requires that the prices charged by Canberra Cemeteries for crematorium and associated products and services should recover the full costs of providing these products and services. Draft pricing principle 2 required an appropriate attribution of costs that are shared between the cemetery and crematorium facility.

The Commission understands that the public crematorium facility may offer a different range of services than the existing private operator. The Commission has been advised that Canberra Cemeteries intends to install a bariatric cremator that allows for the cremation of large bodies. These cremators are generally more expensive than standard cremators. Canberra Cemeteries also intends to install a purpose-built viewing room to cater for the needs of certain segments of the ACT community.⁶⁸ Providing additional

⁶⁸ Discussions with Canberra Cemeteries

services may increase costs and the prices of some services offered by the public crematorium. Canberra Cemeteries will need to demonstrate in its pricing proposal that its prices recover the full costs of supplying crematorium services, consistent with draft pricing principle 1. As discussed in Chapter 4, differences in the services offered by competing crematorium operators will give the bereaved more choices to meet their needs and preferences.

How Canberra Cemeteries sources infrastructure assets and equipment can have implications for competitive neutrality. Those sourced via competitive tender processes or in open marketplaces are likely to have costs that reflect market rates and will therefore be compliant with competitive neutrality. In contrast, goods or services provided by or through the ACT Government may not be charged at market rates.

Canberra Cemeteries' pricing proposal should describe how it sourced its capital assets and ensured that the asset costs used in setting prices for crematorium services reflect market rates, consistent with draft pricing principle 1.2. In particular, the Commission has identified particular capital assets where Canberra Cemeteries will need to demonstrate that its costing methodology and pricing approach are consistent with draft pricing principle 1.2.

Contract and procurement management fees

Contract and procurement management for the construction of the crematorium facility will be provided by Major Projects Canberra on behalf of Canberra Cemeteries. Major Projects Canberra is the central capital works manager for the ACT Government. Government agencies are required to use Major Projects Canberra to assist in the procurement and contract management of construction related projects.⁶⁹

Major Projects Canberra is funded through a four per cent levy that is applied to the total project capital costs for ACT Government Directorates. Based on discussions with Major Projects Canberra, the Commission understands that this levy has been in place for some time.⁷⁰

To ensure competitive neutrality in setting prices for crematorium services, Canberra Cemeteries will need to demonstrate either that the levy represents a market rate for the services provided by Major Projects Canberra, or that in setting prices, it has made an adjustment to the fees paid to Major Projects Canberra to reflect commercial rates for such services, consistent with draft pricing principle 1.2.

Land

The ACT Government has announced that the public crematorium facility will be built on vacant land at the Gungahlin Cemetery. For compliance with draft pricing principle 1.1, Canberra Cemeteries will need to estimate the costs of the land used for

⁶⁹ ACT Government 2020e

⁷⁰Discussions with Major Projects Canberra

the crematorium facility and address these costs in its costing methodology. In estimating land costs, Canberra Cemeteries could consider what a private operator would be required to pay for equivalent land, for example, by considering sales of nearby vacant land with a similar zoning.

In addition, as discussed in Chapter 4, there is cost of holding land until it is used.⁷¹ The holding cost is the cost of financing the purchase of the land until it is used to provide services by the crematorium operator. These costs might include the costs holding land that has been allocated for the crematorium facility before the facility has been built, such as during the design and construction phase. In addition, there is a cost of holding land that is used for memorialisation before it is used to provide services, for example, garden space that will be used for ashes interment in the future.

In setting prices for crematorium services, Canberra Cemeteries will need to demonstrate that the prices include appropriate allowances for land costs, consistent with draft pricing principle 1.3. The draft pricing principle for calculating an appropriate holding cost is discussed in section 5.3 below.

Depreciation costs

As explained in Chapter 4, depreciation allowances recover the capital invested in an asset over the life of that asset. Together, the rate of return earned on the funds used to finance the investment in an asset (discussed below in section 5.3) and depreciation of the cost of constructing or purchasing the asset, ensure that the full costs of capital assets are recovered. This ensures consistency with draft pricing principle 1.

Depreciation allowances for assets that are used only for the crematorium should be recovered in prices charged for crematorium and related services. For assets that are shared by the crematorium and the cemetery, an appropriate share of depreciation should be allocated to the crematorium facility.

The Commission has considered the accounting standards and taxation rules for depreciation and found that it is unlikely that Canberra Cemeteries will have a competitive advantage as a result of its government ownership. For example, depreciation reported in financial statements must be developed in accordance with accounting and taxation standards that limit the type of depreciation methodologies that can be used. Further, auditors have a legal obligation to ensure that asset values used in financial statements are accurate, including using appropriate asset lives.

In setting prices for crematorium services, Canberra Cemeteries will need to demonstrate that its prices include appropriate allowances for depreciation, consistent with draft pricing principle 3.4.

⁷¹ IPART 2019

5.3 Appropriate commercial rate of return

As noted in Chapter 4, competitive neutrality requires that a government-owned business should earn a commercial rate of return that is equivalent to the rate of return earned by a private business in the same position. The commercial rate of return should include an appropriate risk allowance.

If Canberra Cemeteries was not required to earn a commercial rate of return on its investments, this would give it an advantage in competing with private businesses. Similarly, if the rate of return included a lower risk allowance due to the government ownership of the business, Canberra Cemeteries would gain a competitive advantage compared to private crematorium operators.

A further consideration is whether the government business is required to pay a commercial return on any equity contributed by government. Since shareholders in a private business expect an appropriate risk-adjusted return on their investment, a government business would have a competitive advantage if it was not required to make equivalent returns on any equity investment from government.

In the issues paper, the Commission outlined several options for determining an appropriate commercial rate of return in the issues paper, including:

- developing a weighted average cost of capital (WACC)—this approach will estimate an appropriate risk-adjusted commercial return on debt (interest payments) and an appropriate risk-adjusted return on equity (return to shareholders), and weight these by a standard debt-equity ratio that reflects a typical business operating in the industry
- benchmarking against the commercial rate of return earned by comparable businesses operating in the industry—this requires good information on the rate of return for the provision of crematorium services (not the rate of return for a diversified business that provides crematorium services as well as other services)
- implied rate of return calculated using information on assets and acquisition prices for companies in the industry—this would require good information on the rate of return for the provision of crematorium services (not the rate of return for a diversified business) and would need to adjust for any acquisition premium paid above the prevailing commercial rate of return for the industry.

Submissions

Stakeholder submissions supported the Commission's approach that Canberra Cemeteries should achieve an appropriate commercial rate of return for its crematorium services as a principle of competitive neutrality. However, the Commission notes that stakeholders had different views on the preferred way to develop an appropriate rate of return.

Canberra Cemeteries agreed that the three options put forward in the Commission's issues paper for determining a rate of return were appropriate and each approach had limitations.⁷² Canberra Cemeteries noted the development of a WACC may be problematic given the thinness of markets and lack of publicly traded crematorium businesses.⁷³ It also stated that a benchmarking approach may be difficult to implement because:

there are not many for-profit crematoriums, and they may not disclose their profits in a transparent way, and/or may have varying operating models which would make it difficult to determine their revenue and profit based on operating a crematorium facility alone; and
the legislative and regulatory environment varies nationally. In some jurisdictions, crematoria are publicly operated with a strong not-for-profit ethos.⁷⁴

Canberra Cemeteries suggested an alternative approach to estimating a rate of return, using:

a whole of ACT Government approach—take the rate of return figures for other government owned businesses that have competitive neutrality arrangements in place, average these, then discount the average rate calculated to take account of the lower risk associated with a crematorium business compared with other government businesses.⁷⁵

Norwood Park submitted that 'given the start-up nature of the project, it is doubted that debt would be available and therefore would have to be entirely equity funded'.⁷⁶

Commission's draft findings

The Commission accepts Canberra Cemeteries' view that the implied rate of return and benchmarking approaches are likely to be difficult to implement, due to the thin market in publicly traded crematorium businesses⁷⁷ and because crematorium operators have vertically integrated operations in the broader funeral sector.⁷⁸

The Commission considers that an implied rate of return or benchmarking approach based on newly acquired crematoria may not be appropriate for estimating a

⁷² Canberra Cemeteries, p. 3

⁷³ Canberra Cemeteries, p. 3

⁷⁴ Canberra Cemeteries, p. 3

⁷⁵ Canberra Cemeteries, p. 3

⁷⁶ Norwood Park, p. 4

⁷⁷ Canberra Cemeteries, p. 3

⁷⁸ Cemeteries and Crematoria Association of NSW, p. 4

commercial rate of return. This is because the implied rates of return based on acquisition of companies typically reflect a buyer's premium and are therefore higher than a normal commercial rate of return.⁷⁹

The Commission notes that Canberra Cemeteries has proposed to use a benchmarking approach based on other public agencies with competitive neutrality arrangements in place. The Commission considers that this approach may be difficult to implement given that the crematorium industry has a different risk profile to other government owned businesses.

A potential approach to calculating an appropriate commercial rate of return is to develop a WACC. As part of its review of interment prices in New South Wales, IPART developed a WACC for cemetery businesses.⁸⁰ The Commission considers that crematorium facilities are likely to have a similar risk profile to cemeteries, reflecting similar industry and demand characteristics. Demand for the services provided by both crematoria and cemeteries is relatively stable due to the certainty of death, a stable death rate that changes only slowly over time and a shift over time to a preference for cremation over burial.⁸¹ This approach is consistent with IPART's assessment of industry risk in its current interment costs and pricing review.⁸²

The WACC recently estimated by IPART, including the relevant parameters, is shown in Table 5.3. The key parameters include:

- the market risk premium—this refers to the difference between the expected return of the business and the risk-free rate. It is likely to be similar between cemeteries and crematoria given the similar levels of risk
- equity beta—this refers to the volatility of returns compared to stock market returns. This is likely to be similar between cemeteries and crematoria given that they both have stable demand
- nominal risk-free rate—this is the rate of return on a low risk asset, usually a government bond, and is common across all industries
- debt and equity ratios—these are the relative shares of debt and equity; these were estimated by IPART after examining cemetery businesses (including cemeteries with on-site crematoria)
- gamma—this refers to tax imputation credits (i.e. tax offsets related to equity).

⁷⁹ Black 1989

⁸⁰ IPART 2019c, p. 73

⁸¹ Canberra Cemeteries, p. 3

⁸² IPART 2019c, p. 73

Table 5.3 IPART WACC calculation⁸³

	Current market data
Nominal risk free rate	2.5%
Inflation	2.4%
Implied Debt Margin	2.2%
Market Risk premium	8.8%
Debt funding	45%
Equity funding	55%
Total funding (debt + equity)	100%
Gamma	0.25
Corporate tax rate	30%
Effective tax rate for equity	30%
Effective tax rate for debt	30%
Equity beta	0.45
Cost of equity (nominal post-tax)	6.5%
Cost of equity (real-post tax)	4.0%
Cost of debt (nominal pre-tax)	4.7%
Cost of debt (real pre-tax)	2.2%
Nominal Vanilla (post-tax nominal) WACC	5.7%
Post-tax real WACC	3.2%
Pre-tax nominal WACC	6.7%
pre-tax real WACC point estimate	4.2%

In setting prices for crematorium services, Canberra Cemeteries will need to demonstrate that its prices include an appropriate commercial rate of return that includes an appropriate risk allowance, consistent with draft pricing principle 3. The pricing proposal should include an explanation of how Canberra Cemeteries decided on its methodology for estimating an appropriate risk-adjusted rate of return. The proposal should also include evidence supporting the inputs used in applying the methodology.

5.4 Borrowing rates

Private businesses can borrow to fund their capital investments and will pay a commercial borrowing rate that reflects the risk rating of the business, the expected return on the particular investment and any specific risk associated with the investment.

The issues paper noted that a government-owned business may be able to borrow through a government Treasury and take advantage of a lower risk premium that reflects the (better) risk rating of the government as a whole compared to the business if it were to borrow in its own right. A lower risk premium would reduce the costs to

⁸³ IPART 2019c, p. 74

the government business and confer a competitive advantage as a result of its government ownership.

Typically, to ensure competitive neutrality, government businesses are required to pay debt guarantee fees to the government treasury to offset the competitive advantage that it would otherwise gain when they borrow through the government Treasury.

Submissions

The Commission received one submission on borrowing costs. Norwood Park submitted that a financier would usually have regard to the borrower's credit risk profile (track record, management capability, etc) and security (directors' guarantees, cash-based collateral, etc). It stated that: 'In this instance, if Canberra Cemeteries were to be a private enterprise, then it is questionable that a financier would get comfort on many of these factors, and therefore the cost of debt, to the extent it was accessible at all, would be high'.⁸⁴

Commission's draft findings

The Commission understands that Canberra Cemeteries currently holds no outstanding loans and intends to fund the crematorium investment from existing retained earnings.⁸⁵ In setting prices for crematorium services, Canberra Cemeteries will need to demonstrate that its prices will generate an appropriate rate of return on these retained earnings, consistent with draft pricing principle 3.1.

Should Canberra Cemeteries decide in the future to borrow to fund investments in capital assets used in supplying crematorium services, it will need to set prices to recover a commercial rate of interest on any borrowings, consistent with draft pricing principle 3.2.

There are two ways Canberra Cemeteries can borrow. First, it could borrow through the ACT Treasury. In this case, Canberra Cemeteries would need to demonstrate that its prices include an adjustment to offset any interest rate concession or debt guarantee. Typically, government-owned businesses pay a debt guarantee fee that ensures the borrowing is at a commercial rate. The debt guarantee fee is calculated by the ACT Treasury and is designed to ensure that the borrowing satisfies the Government's Competitive Neutrality Policy.⁸⁶

Second, it could borrow (if approved by the Treasurer under section 42 of the *Financial Management Act 1996*) through its commercial banking arrangements. In this case, Canberra Cemeteries would face market rates for borrowing.

⁸⁴ Norwood Park, p. 4

⁸⁵ Based on discussions with Canberra Cemeteries.

⁸⁶ ACT Government 2010, p.10

The Commission notes that the ACT Government can provide a guarantee for a commercial loan under section 60 of the *Financial Management Act 1996*. As this arrangement is not available for private businesses, it could provide Canberra Cemeteries with a competitive advantage purely because of its public ownership. If the ACT Government were to provide a guarantee for a commercial loan by Canberra Cemeteries, Canberra Cemeteries would need to develop a costing methodology for calculating the value of the guarantee. In developing its prices, Canberra Cemeteries would need to use the calculated value to make an adjustment to its borrowing rate, consistent with draft pricing principle 3.2.

If a commercial lender were to provide a loan at a rate that included an implicit government guarantee, the same process as described above would need to be followed. That is, Canberra Cemeteries would need to develop a costing methodology for calculating the value of the guarantee and use the calculated value to make an adjustment to its borrowing rate, consistent with draft pricing principle 3.2, in developing its prices.

Similarly, if the ACT Government were, at some time in the future, to give Canberra Cemeteries an equity injection to fund its crematorium facility investments, Canberra Cemeteries would have to demonstrate that its prices allowed for an appropriate rate of return on the equity provided, consistent with draft pricing principle 3.3. Where an equity injection was given to Canberra Cemeteries, the costing methodology would have to identify whether the equity was used to fund cemetery or crematorium investments and ensure that an appropriate rate of return could be earned on that part of the equity used for crematorium investments.

5.5 Allocating shared costs

The public crematorium facility will be built at the Gungahlin Cemetery and operated by Canberra Cemeteries, which already operates three cemeteries and provides associated services and products, some of which are also supplied by crematoria (see Chapter 3). The Commission expects that some activities, such as corporate functions and potentially the purchase and sale of memorialisation products, are likely to be undertaken by Canberra Cemeteries for both its cemeteries operations and its public crematorium operations.

In addition, some assets, such as roads and fences, are likely to be shared due to the location of the public crematorium facility within the grounds of the Gungahlin Cemetery. The costs relating to shared assets are called shared costs.

In the issues paper, the Commission considered that the costing methodology to be developed by Canberra Cemeteries should ensure that shared costs and overheads that are jointly provided across cemetery and crematorium operations should be allocated in a manner that ensures competitive neutrality.

It is important to note that this does not mean that any efficiencies that arise from operating both a cemetery and a crematorium facility, such as from economies of scale or scope, should not be passed onto consumers by being reflected in prices charged by the public crematorium facility. Allowing consumers to benefit from lower prices resulting from such efficiencies is not a breach of competitive neutrality principles.

Economic theory states that the efficient costs of operating a crematorium will fall between the costs of stand-alone operation and the marginal (or incremental) costs incurred in operating a crematorium as part of a joint operation (that is, in conjunction with a cemetery). Any allocation methodology that results in prices that fall within this range will be economically efficient and will, in the Commission's view, meet the competitive neutrality requirements.

In its issues paper, the Commission identified several costing methodologies for attributing shared costs and overheads that are both economically efficient and satisfy the competitive neutrality requirements.

The Commission stated that the choice of an appropriate costing methodology for allocating shared costs and overheads is a commercial decision for Canberra Cemeteries, provided it satisfies competitive neutrality requirements. The Commission considered that a practical and pragmatic allocation methodology that recognises commercial realities and is based on measurable data would assist Canberra Cemeteries in demonstrating that its approach is competitively neutral.

Submissions

The Commission received four submissions that discussed allocation of shared costs. Each supported the principle that shared costs and overheads should be appropriately attributed to the crematorium to achieve competitive neutrality.

Canberra Cemeteries stated that the crematorium will operate as a separate business unit⁸⁷ and that it intends to use a measure of full time equivalent staffing for the crematorium to identify and allocate overheads accordingly.⁸⁸ Canberra Cemeteries also noted that 'roads, buildings, paths and fences may warrant inclusion in operational costs calculations, however only insofar as they relate to the crematorium, with caution as to not spread the net over the whole'.⁸⁹ Canberra Cemeteries stated that it 'has taken an activities-based approach to inform our business and operational model for the crematorium.'⁹⁰

⁸⁷ Canberra Cemeteries, p. 3

⁸⁸ Canberra Cemeteries, p. 3

⁸⁹ Canberra Cemeteries, p. 3

⁹⁰ Canberra Cemeteries, p. 2

Norwood Park submitted that it supports an appropriate allocation of shared costs but disagreed with the Commission's statement that: 'Any allocation methodology that falls within this range will be economically efficient and will ... meet the competitive neutrality requirements.' Norwood Park considered that: 'Multiple methods may fall within this range, providing different values; they cannot all be efficient. Any methodology needs to be practically and appropriately applied to simulate an efficient outcome and be a competitively neutral outcome.'⁹¹

Norwood Park stated that it may not be practical to use Ramsey pricing or marginal cost pricing methods to allocate common costs. It stated that:

[Ramsey Pricing would] be problematic to apply transparently and consistently. This approach would require the Commission to identify crematorium services (or baskets of services) that have similar elasticities, setting prices above marginal cost according to each service's (or baskets of services') price elasticity of demand. We do not consider this a practical approach, particularly given the relevant market is already competitive (i.e. across the ACT and into NSW).⁹²

and

[Marginal cost pricing would] be inefficient to compensate the operator because of the existence of scale economies and fixed costs associated with running a crematorium. Canberra Cemeteries pricing crematorium services on a marginal cost basis would unfairly disadvantage the incumbents by allowing Canberra Cemeteries to price in a manner that would not adequately cover the fixed costs of its operations, a luxury not afforded to the incumbents.⁹³

Norwood Park supported the use of activity-based costing (ABC), which is a method of allocating overheads based on a measure of use. It stated that: 'If the Commission considers that an ABC exercise is practical, then this should be employed'.⁹⁴ However, Norwood Park also submitted that a simplified version of activity-based costing, known as 'fully distributed costs' (FDC), would be a pragmatic compromise.⁹⁵

Norwood Park stated that there were a range of cost drivers that could be used when employing an FDC approach. This included:

⁹¹ Norwood Park, p. 2

⁹² Norwood Park, p. 4

⁹³ Norwood Park, p. 4

⁹⁴ Norwood Park, p. 3

⁹⁵ Norwood Park, p. 3

- staff involved in the activity as a percentage of total staff;
- the direct resource use of the activity as a percentage of total resource use; and
- the budget for the activity as a percentage of the total business budget.⁹⁶

Commission's draft findings

The Commission identified a range of shared costs in section 5.1 (operational costs) and section 5.2 (capital costs). In terms of the allocation methodology, the Commission considers that it may be difficult to use Ramsey pricing or marginal cost pricing to allocate overheads. For example, as highlighted by Norwood Park, there would be difficulties in estimating the price elasticities required to implement Ramsey pricing. Similarly, it may be difficult to implement marginal cost pricing in a competitively neutral way because it may not allow for relevant fixed costs to be recovered.

The Commission considers that the ABC and FDC approaches proposed by Norwood Park are two practical and pragmatic methods for allocating shared costs.

The ABC approach involves allocating overheads according to relevant cost drivers. As such, it allows shared cost allocation to vary with relevant activities that drive overhead costs. ABC is often regarded as a sophisticated method of allocating costs because it requires that all overhead cost drivers be identified and taken into account.⁹⁷

A simplified form of ABC is FDC. Under the FDC method, each shared cost is allocated based on one cost driver. For example, corporate overhead costs may be allocated as a proportion of staff hours or in proportion to the relative budget for a particular activity.

The Commission notes that the decision on the allocation methodology is a commercial matter for Canberra Cemeteries. The Commission notes that Canberra Cemeteries has proposed to allocate overheads using an FDC approach based on full time equivalent staff for the crematorium.⁹⁸

In setting prices for crematorium services, Canberra Cemeteries will need to demonstrate that its costing methodology allocates shared costs and overheads appropriately across its cemeteries and crematorium operations, consistent with draft pricing principle 2.1.

Ring-fencing the financial accounts of the crematorium facility from the financial accounts for Canberra Cemeteries' cemetery operations would promote transparency about how costs are attributed between the crematorium facility and Canberra

⁹⁶ Norwood Park, p. 3

⁹⁷ The Chartered Institute of Management Accountants, p. 3

⁹⁸ Canberra Cemeteries, p. 3

Cemeteries' other business activities and facilitate verification that the allocation methodology has been applied correctly. Draft pricing principle 2.2 requires that Canberra Cemeteries should ring-fence the crematorium facility's accounts from the accounts for its cemetery operations.

5.6 Tax and tax equivalent payments

As noted in the issues paper, an important element of competitive neutrality is that competing businesses, whether public or private, face the same tax obligations. If a government business was subject to lower tax obligations than competing private businesses, as a result of government ownership, it would gain a competitive advantage.

The ACT Government agreed in 1995 to a tax equivalent regime (known as the national tax equivalent regime, or NTER) by which it sought to establish a tax burden for its wholly owned businesses that would be equivalent to the tax regime imposed on privately owned businesses. The tax equivalent regime aims to ensure that even if an ACT government business is not required to pay certain taxes due to its government ownership, an equivalent payment must be made to the ACT Government for the taxes that would be paid by a comparable private business.

Submissions

Canberra Cemeteries and InvoCare's submissions supported the Commission's proposed view that the crematorium should be subject to all equivalent taxes and charges faced by private sector competitors.⁹⁹ InvoCare stated it 'does not believe private operators should pay a tax/levy and or other financial imposition to which a government enterprise is not subject'¹⁰⁰ while Norwood Park submitted that it expects that Canberra Cemeteries faces all the same direct and indirect tax obligations as a private enterprise.¹⁰¹

Commission's draft findings

The Commission has found that private crematorium operators pay the following taxes and charges: GST, company tax, capital gains tax, fringe benefits tax, payroll tax, workcover premiums and ACT Government rates.

Canberra Cemeteries is subject to the same ACT Government taxes, fees and charges as private businesses. This is because Canberra Cemeteries is a 'prescribed entity'¹⁰² under section 9 of the *Taxation (Government Business Enterprises) Act 2003* (ACT)

⁹⁹ Canberra Cemeteries, p. 4 and InvoCare, p. 3

¹⁰⁰ InvoCare, p. 3

¹⁰¹ Norwood Park, p. 4

¹⁰² Section 4 *Taxation (Government Business Enterprises) Regulation 2003*

(the *Taxation Act*). The *Taxation Act* requires that prescribed ACT Government entities are not exempted from any ACT Government tax, fee or charge.

In respect of federal taxes and charges, the Commission has been advised that Canberra Cemeteries is subject to the GST regime (that is, it pays GST on goods and services purchased and collects GST on fees and charges) and is subject to the fringe benefits tax regime.

However, Canberra Cemeteries is not subject to the same Commonwealth Government taxes as a private sector competitor, due to an exemption from the NTER by regulation under Section 6 of the *Taxation Act*.¹⁰³ This exemption means that Canberra Cemeteries is not required to pay the equivalent company tax under the Commonwealth *Income Tax Assessment Act 1936*¹⁰⁴ to the ACT Government.

The ACT Competitive Neutrality Policy requires that all Territory owned corporations are liable to pay all taxes and charges that their competitors are required to pay. For consistency with this Policy, the ACT Government may decide that Canberra Cemeteries' NTER exemption will not apply to its crematorium facility. If this was the Government's decision, the public crematorium facility would be required to make a tax equivalent payment that is equal to the income tax that it would be liable to pay under the Commonwealth *Income Tax Assessment Act 1936*.

Ring-fencing consistent with draft pricing principle 2.2 would facilitate any ACT Government decision on limiting the application of Canberra Cemeteries' NTER exemption to the cemetery.

If Canberra Cemeteries' NTER exemption applies to its crematorium facility, Canberra Cemeteries would, in setting prices for crematorium services, have to make an adjustment to its tax payments, consistent with draft pricing principle 4.1.

5.7 Regulatory equivalence

Any differences in regulations applying to public and private operators would have implications for competitive neutrality. The Commission has assessed whether there is regulatory equivalence between public and private crematorium operators in the ACT.

The Commission has also considered broader obligations imposed by legislation or regulation on government-owned businesses. As noted in Chapter 3, Cemeteries Canberra is, as a result of its government ownership, subject to the *Financial Management Act 1996* and the *Public Sector Management Act 1994*. It is also subject to other obligations imposed on ACT Government agencies, which may confer either an advantage or a disadvantage compared to comparable private businesses (refer to

¹⁰³ Section 3 *Taxation (Government Business Enterprises) Regulation 2003*

¹⁰⁴ Part III, Division 1AB

Table 5.3). For example, there may be differences in the reporting obligations for government businesses and private businesses.

Submissions

Canberra Cemeteries supported the Commission's proposal that competitive neutrality should be applied to regulatory obligations and did not identify any particular regulatory obligations that were specific to Canberra Cemeteries.¹⁰⁵

Norwood Park's submission sought to clarify that a public operator would face the same regulations as a private operator in relation to environmental risks, traffic, fire risk and compliance with all relevant laws (including industrial relation laws).¹⁰⁶

Harris McDonald stated that the ACT Government planning regulations have prevented the development of a new private crematorium in the ACT.¹⁰⁷

Commission's draft findings

Based on submissions and further research, the Commission has found that many regulatory obligations apply equally to a private company, a private company that is listed on a stock exchange and a government owned company. For example, common regulatory obligations include Australian Accounting Standards, *Cemeteries and Crematoria Act 2003* (ACT), *Fairwork Act 2009* (Cwth), and the *Information Privacy Act 2014* (ACT). However, there are also regulatory obligations that apply differently or apply only to private businesses or only to Government-owned businesses.

Table 5.4 lists legislation and regulations that apply only to government-owned businesses and only to private businesses. Different regulations aim to achieve similar objectives in many instances. For example, financial reporting and annual report regulations applying to ACT Government agencies are similar to reporting and disclosure requirements for private sector listed companies imposed by the Australian Securities and Investment Commission and the ASX (in the case of ASX listed companies).

With respect to ACT Government planning regulation restrictions raised by the Harris McDonald submission, the Commission can find no evidence preventing the development of a private crematorium under the *Planning and Development Act 2007* (ACT) and subordinate instruments made under the *Planning and Development Act 2007* in appropriately zoned land in the ACT.

Differences in regulatory obligations may result in different costs and operating conditions between government-owned and private crematorium operators. The

¹⁰⁵ Canberra Cemeteries, p. 4

¹⁰⁶ Norwood Park, p. 4

¹⁰⁷ Harris McDonald, p. 2

Commission recognises that it may be difficult to quantify the costs associated with the various regulations.

For competitive neutrality, Canberra Cemeteries must demonstrate that it has complied with the same regulations that apply to its private sector counterparts, consistent with draft pricing principle 5.

Table 5.4: Identified regulatory obligations

ACT Government specific regulatory obligations		Private company specific regulatory obligations
- Whole of Government and General Government Sector Financial Reporting	- <i>Auditor-General Act 1996</i> (ACT) and subordinate instruments	- <i>Corporations Act 2001</i> (Cwth)
- <i>Financial Management Act 1996</i> (ACT) and subordinate instruments	- <i>Territory Records Act 2002</i> (ACT) and subordinate instruments	- Australian Securities Exchange reporting obligations (e.g. half year reporting and continuous disclosure)
- <i>Public Sector Management Act 1994</i> (ACT) and subordinate instruments	- <i>Public Interest Disclosure Act 2012</i> (ACT) and subordinate instruments	- Australian Securities and Investment Commission reporting obligations
- Aboriginal and Torres Strait Islander Procurement Policy	- <i>Ombudsman Act 1989</i> (ACT) and subordinate instruments	
- Secure Local Jobs Code	- <i>Integrity Commission Act 2018</i> (ACT) and subordinate instruments	
- Labour Relations, Training and Workplace Equity Plan	- <i>Legislation Act 2011</i> (ACT) and subordinate instruments	
- <i>Government Procurement Act 2001</i> (ACT) and subordinate instruments	- <i>Annual Reports (Government Agencies) Act 2004</i> (ACT)	
- Canberra Region Local Industry Participation Policy	- <i>Cemeteries and Crematoria Act 2003</i> (ACT) and subordinate instruments	
- Technical and Other Professional Enterprise Agreement 2018-2021	- Administrative and Related Classifications Enterprise Agreement 2018-2021	

5.8 Community service obligations

Government owned businesses may be directed to provide services that in the usual course of commercial activity would not be provided, or would be provided at a higher price, usually to meet government social objectives. These services are referred to as community service obligations (CSOs). If a government business (but not a private

business in the same industry) was required to meet CSOs without an offsetting CSO payment, this could increase the government business' costs and prices, resulting in a competitive disadvantage.

The Commission's current understanding is that the only CSOs related to death services are obligations on, and payments to, funeral directors to assist low-income households.¹⁰⁸

Submissions

The Commission received no submissions indicating that Canberra Cemeteries or a private crematorium operator had any CSO obligations imposed on them by the ACT Government.

Commission's draft findings

Based on submissions and investigations undertaken by the Commission, there are no current CSOs imposed on Canberra Cemeteries or private crematorium operators. On this basis, there would be competitive neutrality between Canberra Cemeteries and a private operator in relation to CSO obligations.

¹⁰⁸ ACT Government 2020b

Appendix 1

Scope of Work



Andrew Barr MLA

Chief Minister

Treasurer

Minister for Social Inclusion and Equality

Minister for Tertiary Education

Minister for Tourism and Special Events

Minister for Trade, Industry and Investment

Member for Rurijung

Mr Joe Dimasi
Senior Commissioner
Independent Competition and Regulatory Commission
PO Box 161
CIVIC SQUARE ACT 2608

Dear Mr Dimasi

I am writing to you about the recently announced public crematorium facility at Gungahlin, which will be built and operated by the ACT Cemeteries Authority (the Authority).

In approving the proposal, the Government decided to engage the Commission to help ensure that the new facility operates in a manner consistent with competitive neutrality. In particular, the Government wishes to use the Commission's expertise to develop an appropriate costing methodology and prices to apply to goods and services at the facility, which will be provided in direct competition with private sector operators already present in the market.

Please find enclosed a scope of works for the project, which I provide under section 12 of the *Independent Competition and Regulatory Act 1997*. The Commission will be required to undertake two main tasks, an initial process to develop pricing principles to guide the development of the costing methodology and prices for the facility, and a subsequent process to review and assess the Authority's pricing proposal for its compliance with the pricing principles and competitive neutrality policy more broadly.

I thank the Commission in advance for providing assistance to the Government on this matter, and I look forward to the outcomes of your work in due course.

Yours sincerely

Andrew Barr MLA
Treasurer

20 DEC 2019

ACT Legislative Assembly

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actchiefminister



Scope of Work: ICRC process to assist the determination of prices for the ACT Public Crematorium

In September 2019, the Government agreed to proceed with a proposal by the ACT Public Cemeteries Authority (the Authority) to build and operate a public crematorium facility at the Gungahlin Cemetery. As part of that approval, to ensure the facility is operated in line with competitive neutrality principles, the Government agreed to engage the Independent Competition and Regulatory Commission (ICRC) to:

- develop a set of pricing principles to guide the development of a costing methodology and prices for the public crematorium facility; and
- formally review the Authority's proposed costing methodology and prices to ensure compliance with the pricing principles and the ACT Competitive Neutrality Policy.

This work is to be undertaken under section 12 of the *Independent Competition and Regulation Commission Act 1997*, which allows the ICRC to assist any agency, body or person by “providing services within the Commission’s field of expertise and relevant to its functions.”

The following documents provide the policy framework for the work to be undertaken:

- the *Competition Principles Agreement 1995* (as amended 13 April 2007);
- the *ACT Competitive Neutrality Policy*; and
- the ICRC's *Competitive Neutrality Complaints: Guidelines*.

Stage 1: Development of pricing principles

The first stage of this work will require the ICRC to develop detailed pricing principles for the ACT public crematorium, to guide the setting of prices for the goods and services, in a manner consistent with ACT Competitive Neutrality Policy. The issues identified below are considered to be relevant to the development of the pricing principles for the facility.

Key issues to be considered by the ICRC

- Identification of core activities and resources required to deliver crematorium services at an ACT public crematorium;
- Detailed analysis of the estimated costs of supplying crematorium services, to ensure all costs are identified and accounted for;
- Identification of shared activities and resources that will be used by the Authority to deliver burial and cremation related services, and the development of a methodology for appropriate allocation of these costs between the two areas;
- Identification of services related to the operation of the crematorium that are provided by, or could be provided, by the ACT Government;

- Identification of any unique circumstances/requirements arising because the facility will be publicly owned and operated that would not apply to a private sector provider; and
- Consideration of the most appropriate approach to ensuring prices for goods and services provided at the crematorium that could alternatively be provided by private entities, but are not necessarily directly related to core crematorium services (for example memorialisation goods and services), are consistent with competitive neutrality policy.

Process

To understand the activities, resources and costs of delivering public crematorium goods and services, and to identify any synergies and/or shared costs in supplying goods and services resulting from the Authority providing both crematorium and burial services, the process to develop the pricing principles should include:

- consultation with the Authority;
- where appropriate, consultation with private crematorium operators within and outside of the ACT;
- consultation with relevant cemetery/crematorium authorities in other jurisdictions;
- the release of a public Issues Paper to explain the process and key issues, and to seek input from stakeholders;
- the release of a draft report including the proposed pricing principles for consultation with stakeholders; and
- the provision of a final report incorporating the pricing principles to the Treasurer, the Minister for City Services and the Authority.

Deadline for provision of final report for Stage 1: 31 May 2020

Stage 2: Competitive neutrality analysis of pricing schedule developed by ACT Public Cemeteries Authority

The second stage will require the Authority to submit a proposed costing methodology and pricing schedule to the ICRC and demonstrate that these are consistent with the pricing principles developed in Stage 1, and ACT Competitive Neutrality Policy more generally. The ICRC will review the cost methodology and pricing schedule to ensure they are consistent with the principles.

In its submission, the Authority may include explanatory material and describe any issues, or unexpected outcomes identified by the Authority in developing its proposed cost methodology and prices.

The key outcome of this work will be to ensure that prices have been appropriately developed, that all relevant costs have been accounted for and the crematorium does not receive a net competitive advantage solely arising from its public ownership.

Process

The process to review the proposed costing methodology and prices should be undertaken in consultation with the Authority, and should include:

- the verification of the validity of proposed costs, and their allocation between the cemetery and crematorium operations;
- a review of the proposed prices and costing methodology for compliance with the pricing principles determined in Stage 1 and ACT competitive neutrality policy;
- development of draft findings from the initial analysis;
- an opportunity for the Authority to respond to the draft findings, and to provide detail of any proposed revisions to address any identified issues; and
- the provision of the final report, including any findings and recommendations, to the Treasurer, the Minister for City Services and the Authority on a confidential basis, with a summary of the final report suitable for public release also prepared.

Appendix 2

Competition principles agreement

[competition principles agreement cl 3 (1) & (4)-(7)]

3 (1) The objective of competitive neutrality policy is the elimination of resource allocation distortions arising out of the public ownership of entities engaged in significant business activities: Government businesses should not enjoy any net competitive advantage simply as a result of their public sector ownership. These principles only apply to the business activities of publicly owned entities, not to the non-business, non-profit activities of these entities.

(4) Subject to subclause (6), for significant Government business enterprises which are classified as “Public Trading Enterprises” and “Public Financial Enterprises” under the Government Financial Statistics Classification:

(a) the Parties[†] will, where appropriate, adopt a corporatisation model for these Government business enterprises (noting that a possible approach to corporatisation is the model developed by the intergovernmental committee responsible for GTE National Performance Monitoring); and

(b) the Parties[†] will impose on the Government business enterprise:

(i) full Commonwealth, State and Territory taxes or tax equivalent systems;

(ii) debt guarantee fees directed towards offsetting the competitive advantages provided by government guarantees; and

(iii) those regulations to which private sector businesses are normally subject, such as those relating to the protection of the environment, and planning and approval processes, on an equivalent basis to private sector competitors.

(5) Subject to subclause (6), where an agency (other than an agency covered by subclause (4)) undertakes significant business activities as part of a broader range of functions, the Parties[†] will, in respect of the business activities:

(a) where appropriate, implement the principles outlined in subclause (4); or

(b) ensure that the prices charged for goods and services will take account, where appropriate, of the items listed in subclause (4)(b) and reflect full cost attribution for these activities.

(6) Subclauses (4) and (5) only require the Parties[†] to implement the principles specified in those subclauses to the extent that the benefits to be realised from implementation outweigh the costs.

(7) Subclause (4) (b) (iii) shall not be interpreted to require the removal of regulation which applies to a Government business enterprise or agency (but which does not apply to the private sector) where the Party[†] responsible for the regulation considers the regulation to be appropriate.

Note [not included in the agreement]:

[†] Party is defined in the agreement (cl 1 (1)) to mean the Commonwealth, a State, the Australian Capital Territory or the Northern Territory of Australia, if the jurisdiction concerned has signed the agreement and has not withdrawn. The Australian Capital Territory has signed the agreement and has not withdrawn from it; thus it is a party.

Legislation review [competition principles agreement cl 5 (1) & (9)]

5 (1) The guiding principle is that legislation (including Acts, enactments, ordinances or regulations) should not restrict competition unless it can be demonstrated that:

(a) the benefits of the restriction to the community as a whole outweigh the costs; and

(b) the objectives of the legislation can only be achieved by restricting competition.

(9) Without limiting the terms of reference of a review, a review should:

(a) clarify the objectives of the legislation;

(b) identify the nature of the restriction on competition;

(c) analyse the likely effect of the restriction on competition and on the economy generally;

(d) assess and balance the costs and benefits of the restriction; and

(e) consider alternative means for achieving the same result including non-legislative approaches.

Appendix 3

Summary of submissions to the issues paper

	Date received	Submitter	Key issues raised/information:
1	14 February 2020	Canberra Cemeteries	<p>Industry structure</p> <p>Stated that there were operating models of various types in the sector including, standalone crematoriums having a chapel and/or memorialisation service, and vertical integration with funeral director services.</p> <p>Stated that crematoria and cemeteries are not always co-located.</p> <p>Stated that transport is not provided by all crematoria.</p> <p>Stated that in contrast to the Commission's view, mausoleum is not included within a crematorium and a perpetual maintenance fund is not needed for cremation or the crematorium but is needed for memorialisation.</p> <p>Stated that schedules of fees for various operators varied, including combined chapel and cremation fees, no service no attendance fees, same day cremation fees, differing fees between weekend and weekend events. However, there is a general move towards increasing transparency and simplicity in fee structures.</p> <p>Pricing principles</p> <p>Supported the Commission's approach to developing pricing principles.</p> <p>Suggested the Commission should not include memorialisation as part of the pricing principles as they consider these products and services to be priced as competitively neutral. Stated that they view the cremation and cremation memorialisation currently self-regulate effectively. And that Canberra Cemeteries currently provides cremation memorialisation across its three existing cemeteries and these prices are benchmarked and determined by the Minister.</p> <p>Suggested the Commission consider whether memorialisation revenue should be included in operations since this would decrease perpetual maintenance fund contributions.</p> <p>Supported the principle that equivalent tax payments, regulations and borrowing neutrality should be applied to the crematorium as is applied to others.</p> <p>Costings</p> <p>Supported the Commission's broad identification costs associated with the crematorium, however questioned whether the costs associated with memorialisation and consumables such as flowers and refreshments were appropriate given they are not specific to the crematoriums operations.</p> <p>Cautioned against spreading the net too far in relation to roads, buildings, paths, gardens and fences as the majority of these activities relate to core burial and memorialisation activities at the crematorium site.</p> <p>Stated that private operators may have competitive advantage of various through the vertical integration of funeral director services with crematorium operations.</p> <p>Stated that the new crematorium will operate under a hybrid model as a separate business unit.</p>

Date received	Submitter	Key issues raised/information:
		<p>Suggested the Commission should not have the crematorium charge additional fees for using the viewing room.</p> <p>Suggested that the fees for the usage of chapel and function facilities should not be packaged with cremation fees.</p> <p>Stated that their financial model is based on FTE staffing to allow appropriate allocation of overheads.</p> <p>Supported the Commission's view that WACC can be difficult to determine given the thinness of the crematorium market and lack of publicly trade crematorium businesses.</p> <p>Stated that comparable benchmarking for a rate of return is difficult to obtain because of the lack of profits and lack of disclosure as well as variation in legislative and regulatory requirements in different jurisdictions.</p> <p>Suggested the Commission use return on debt as a proxy for return on equity since crematoriums are low risk and high volume for a rate of return.</p> <p>Suggested the Commission apply a discounted average rate of return figures from other government owned businesses that have competitive neutrality arrangements in place. The discounted average rate of return reflects the lower risk associated with a crematorium compared to other government businesses.</p>
2	14 February 2020 Cemeteries and Crematoria Association of NSW	<p>Industry structure</p> <p>Stated that the Commission's description of the cemetery market is broadly accurate, however not all crematorium operators provide transport facilities or additional products and services.</p> <p>Stated that a crematoria site (usually referred to just the furnace area) does not need perpetual maintenance.</p> <p>Stated that Canberra Cemeteries provides interment for both buried and cremated remains, incurring a perpetual maintenance liability.</p> <p>Stated that the existing crematorium in the ACT is different to the proposed Canberra Cemeteries crematorium, in that it also provides and has additional facilities compared to those in NSW.</p> <p>Suggested the Commission identify whether there are any barriers that would make the cremation and ashes interment market in the ACT less competitive than NSW.</p> <p>Suggested the Commission should not give the impression that the perpetual maintenance of monuments is the cemetery's responsibility, since it is the interment right holder's responsibility.</p> <p>Pricing principles</p> <p>Supported the Commission's approach to having competitive neutrality principles and being transparent with pricing.</p> <p>Suggested that the act of cremation should be treated as a distinct business activity for the purpose of consistency, transparency and comparability.</p> <p>Supported the Commission's requirement to identify any competitive advantage that Canberra Cemetery may have.</p> <p>Stated that Canberra Cemeteries may also have a competitive disadvantage compared to private operators (e.g. reporting obligations or broader service to the community).</p> <p>Stated that private operators can have competitive advantage due to bulk purchasing power and vertically integrated operations.</p> <p>Stated that private crematorium's that are part of larger businesses already have industry technical expertise which gives them a competitive advantage.</p>

	Date received	Submitter	Key issues raised/information:
			<p>Costings</p> <p>Suggested that fees for the actual cremation should be separate from the fee of related facilities and memorialisation and not packaged together, to allow for transparency and consistency.</p> <p>Suggested that interment offerings should include a fee that covers both direct costs of memorialisation as well as contributes to perpetual maintenance obligation of cemeteries/crematoriums grounds.</p> <p>Suggested that the Commission should exclude the costs of associated facilities such as chapels, flowers, refreshments and memorialisation services, these should be costed and charged in their own right.</p> <p>Other comments</p> <p>Stated that transparency of prices and separation of prices between different aspects of the interment process (e.g. act of cremation, use of chapel/function facilities, actual interment location, memorialisation) is important.</p> <p>Stated they were unaware of any differences between the ACT and New South Wales market that would make the ACT market for cremation and ashes interment any less competitive.</p>
3	14 February 2020	Harris McDonald Pty Ltd	<p>Industry structure</p> <p>Suggested that the funeral director industry would be concerned if government crematorium's provided services similar to those provided by the industry.</p> <p>Pricing principles</p> <p>Stated that the Commission did not consult with industry stakeholders who can be impacted by pricing considerations.</p> <p>Questioned whether the new crematorium will be creating public value or providing customers with a price advantage and whether the government has the productive capability to run it.</p> <p>Questioned whether the new crematorium would be in line with competitive neutrality since private operators have to face planning constraints if they want to provide alternative cremation locations.</p> <p>Suggested the Commission should consider when setting pricing principles that if there was an increase in burial space and prices were adjusted, the rate of cremation could decrease.</p>
4	21 February 2020	InvoCare	<p>Industry structure</p> <p>Supported the Commission's understanding of the cemetery and crematorium services market characteristics and operation.</p> <p>Pricing principles</p> <p>Saw that there were no issues with the Commission developing detailed pricing principles for a public ACT crematorium.</p> <p>Considered that setting pricing principles for private operators will prevent the provision of a wide range of products and interment rights at cost effective prices appropriate for target customers.</p> <p>Supported the Commission's view that prices should recover the full costs of providing crematorium services.</p> <p>Stated that competitive neutrality is a key factor in attracting private operators into the industry.</p> <p>Suggested the Commission should ensure the cemetery is operating efficiently whilst providing essential and innovative services and is also financially strong as a stand-alone business.</p>

Date received	Submitter	Key issues raised/information:
		<p>Suggested that private operators should not have to pay levy, tax or any financial obligation that a government enterprise is not subject to for the purpose of funding cemetery operations.</p> <p>Costings</p> <p>Suggested the Commission should aim to have prices cover value-add memorial services and not just operational and capital costs since a modern cemetery needs additional profit margins.</p> <p>Suggested the Commission should consider if the new cemetery will be a source of income for Canberra Cemeteries to fund perpetual maintenance.</p> <p>Other comments</p> <p>Suggested making ancillary goods and services such as memorialisation more affordable by reducing government regulated barriers to entry.</p>
5	24 February 2020 Norwood Park	<p>Industry structure</p> <p>Stated that other local government operators were moving away from owning and operating cemeteries and crematoriums.</p> <p>Questioned whether it is logical to open a new crematorium 200 meters away from an existing one with plenty of capacity.</p> <p>Pricing principles</p> <p>Supported the Commission's broad pricing principles.</p> <p>Suggested the Commission should not assume that any shared cost allocation methodology that falls within a range of a stand-alone operation and a joint operation as economically efficient.</p> <p>Noted the Commission's indication that government enterprises are subject to the same taxes as private enterprises (assumed both direct and indirect taxes).</p> <p>Noted the Commission's indication that government enterprises are subject to the same regulatory requirements as private enterprises and sought clarity that this extended to environment, traffic or industrial relations regulations.</p> <p>Costings</p> <p>Supported the Commission's analysis regarding types of costs and suggested various other operating and capital costs that should be included.</p> <p>Identified a simplified approach to allocating shared costs using a fully distributed approach, where indirect (shared) costs are allocated to active on a pro-rate basis. Apportionment approaches could include, staff time, budget or resource share.</p> <p>Suggested the Commission apply either a fully distributed cost approach or activity-based costing approach to allocating shared costs.</p> <p>Considered the Ramsey Pricing approach to be difficult to apply consistently and transparently given that the market is competitive.</p> <p>Considered the marginal costs pricing approach to unfairly disadvantage other operators.</p> <p>Considered that it is unlikely that debt will be available to the new crematorium and they will have to be funded entirely by equity.</p> <p>Suggested the Commission should take into consideration that if Canberra Cemeteries was a private entity, they would have a high cost of debt given their credit risk profile.</p> <p>Other comments</p> <p>Suggested the Commission specify whether a competitive analysis will be conducted on an on-going basis or just done once.</p>

Date received	Submitter	Key issues raised/information:
		<p>Suggested the Commission should consider the current and future capacity of Norwood Park.</p> <p>Suggested the Commission consider the possible negative economic and employment impacts of the crematorium on Norwood Park.</p> <p>Suggested the Commission provide research or evidence to show that the new crematorium will be commercially viable and will not disadvantage the private sector.</p>

Abbreviations and acronyms

ACT	Australian Capital Territory
ACTIA	Australian Capital Territory Insurance Agency
CC Act	<i>Cemeteries and Crematoria Act 2003 (ACT)</i>
CC Act 2020	<i>Cemeteries and Crematoria Act 2020 (ACT)</i>
CMTEDD	Chief Minister, Treasury and Economic Development Directorate
COAG	Council of Australian Governments
Commission	Independent Competition and Regulatory Commission (ACT)
CPA	Competition Policy Agreement
CSO	Community service obligations
ICRC	Independent Competition and Regulatory Commission (ACT)
ICRC Act	<i>Independent Competition and Regulatory Commission Act 1997 (ACT)</i>
IPART	Independent Pricing and Regulatory Tribunal
OECD	Organisation for Economic Co-operation and Development
TCCS	Transport Canberra and City Services Directorate
WACC	Weighted average cost of capital

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