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NSW Government's proposal for Interment Services Levy on burials, cremations and ash interments

Thank you for the opportunity for Local Government NSW (LGNSW) to provide feedback in response to the NSW Government's proposal to introduce a new levy on burials, cremations and ash interments.

The most recently available Cemeteries and Crematoria NSW (CCNSW) annual activity report (2021-22) shows that 109 of the 128 local government authorities in NSW operate cemeteries or crematoria. 14 of those councils are based in metropolitan Sydney and 95 are based in rural and regional NSW. Councils in NSW were responsible for 671 active cemeteries in NSW accounting for 66% of the total. Councils are the largest provider of bodily interment in NSW, responsible for 42.8% of burials in 2021-22. Councils also undertake 27.1% of ash interments of cremated remains.

LGNSW understands from consultation materials from CCNSW that the NSW Government is now proposing to introduce a new tax that will impact all communities across our state.

The levy is proposed to be set at \$41 per cremation, \$63 per ash interment and \$156 per burial.

LGNSW fundamentally opposes this levy and any moves that seek to unnecessarily increase costs for grieving families.

As set out below, LGNSW asks that the NSW Government reconsider this proposal and cease any plans to expand the interment levy.



Opposition to the NSW Government's proposed levy on burials and cremations

LGNSW has consistently opposed the expansion of an interment services levy onto councils.

Local government faces significant financial sustainability challenges as a result of cost shifting, rate pegging and state and federal funding arrangements that are no longer fit for purpose.

Councils cannot absorb this levy into current operational budgets and will therefore have to pass on the levy to their residents and community members. This then makes interment services more expensive for individuals and families who are grieving through what will be for many people the most challenging circumstances of their lives. LGNSW is opposed to this levy in principle, but is particularly disappointed that this levy is being imposed during a cost of living crisis.

It is particularly noteworthy that CCNSW's latest annual report indicates that it received only 97 complaints in 2021/22 out of almost 80,000 interment and cremation services right across NSW. Just 19 of these were for council cemeteries.

It is questionable whether an estimated \$5.6 million impost on grieving consumers is warranted by such a low volume of complaints from an entire industry. (The levy effectively amounts to more than \$57,000 per complaint.)

Councils have commented that it will be difficult to justify the need for this levy to their communities, as the services from council cemetery operators will likely remain the same yet the cost will have increased and administrative burden of handling this levy will increase, warranting even further price increases. (Any levy funds held by councils would have to be audited annually and reported on accordingly. This extra administrative burden will have to be absorbed by councils, which takes away from critical services they can provide to their communities).

Councils have also reported to LGNSW that increased costs of interment via a NSW Government tax on burials and cremations will likely increase complaints about interment services due to expense. One council has advised LGNSW that the levy on cremation would represent a 6.25% increase on their 2023/2024 pricing for cremation, which is greater than the current headline inflation rate.

LGNSW reiterates its position that a NSW Government levy on burials and cremations represents a wholly inappropriate policy decision.

Timing and implementation if the levy were to be expanded to councils

Council staff have spent significant time working with CCNSW and providing expert operational advice on implementing the Industry Interment Scheme, particularly through CCNSW's council working group meetings. In general, CCNSW engagement with councils has been open and consultative.

However, the NSW Government's announcement of a proposed interment levy immediately before the Easter long weekend came as a surprise to the local government sector.

It is disappointing that the expansion of the levy onto councils was not raised or discussed at CCNSW meetings with councils, and this lack of consultation means that there are significant operational and implementation challenges that have not been appropriately considered as part of the design for a levy that had been hoped to commence on 1 July 2024.

In accordance with the *Local Government Act 1993*, community consultation is a central requirement for councils as they develop their community strategic plans, operational plans and annual fees and charges.

Councils are required to publicly exhibit their fees and charges prior to finalisation of annual budgets. The late timing of the announcement of the NSW Government's proposed interment levy demonstrates a lack of understanding of councils' legislative requirement for community consultation and is reflective of a lack of understanding of the local government sector that CCNSW purports to regulate.

Put simply, there is insufficient time for councils to plan for, exhibit, and budget for any additional levies intended to commence from 1 July 2024, and there is certainly insufficient time for communication of changes to this levy to communities.

LGNSW firmly advises the NSW Government that its announcement of this proposed levy has come too late in the budgetary cycle to be introduced on 1 July 2024.

Pre-need purchased interments

Councils have expressed uncertainty as to how the NSW Government proposes the levy to apply for pre-need purchased interment right holders. Tens of thousands of NSW residents have already purchased their pre-need interments, and it is unclear if councils will be required to now issue a new bill to these residents to recover the costs of the NSW Government's proposed levy.

A sample of councils in NSW provided data to LGNSW on their pre-purchased interments. With this small sample of just five councils (out of the 109 councils overall in NSW who operate cemeteries or crematoria), the proposed levy would seemingly require payment of a more than \$600,000 to the NSW Government which would have to be paid by either the council or the customer. This sum would further increase costs for the community, once GST and administrative costs are added to each service.

Council	Number of pre-purchased burials	Cost of levy (@\$156 per burial)	Pre purchased cremations	Cost of levy (@\$41 per cremation)
Metropolitan council	1,125	\$175,500	570	\$23,370
Regional council	181	\$28,236	N/A	
Rural council	904	\$141,024	N/A	
Regional council	97	\$15,132	N/A	
Regional council	1,465	\$228,540	N/A	
Overall total in levy fees for pre-purchased interments	\$611,802			

Goods and Services Tax (GST) implications of the levy

LGNSW understands that the proposed levy is intended to be applied on the cemetery operator. As a state government levy, we understand that GST would not apply to the levy.

However, if councils seek to pass the cost of the levy on to consumers, then LGNSW's preliminary accounting advice is that the levy loses its status as a levy and instead represents an ordinary cost of business for the cemetery operator, similar to wages and other running expenses.

As such, we understand that GST may then apply, and councils would need to charge GST on the portion of the levy passed to customers.

This need not be the case if the proposed levy were designed differently.

If the NSW Government insists on expanding its levy on burials and cremations, then CCNSW should collect the levy and administer the levy directly, to avoid the additional GST charged to the community, which will increase interment costs even further.

LGNSW encourages CCNSW to consider the implications of ATO Interpretative Decision 2013/38 on the Waste Levy imposed on councils by the NSW Government, which when passed onto community members attracts a GST liability.¹

Return of the proposed levy to cemetery operators

The proposed levy would raise a substantial amount of money for the NSW Government. Based on interment numbers from the CCNSW annual activity report 2021-22, the levy would raise an estimated \$5.6 million.

CCNSW's total expenses for 2022-23 were less than \$3 million. Beyond fundamental objections to the levy, this disparity between proposed revenue and expected expenses suggests that the proposed interment levy has been set at an excessive level.

Further, the funds collected will not go towards improving cemeteries. The funds will not be used for improved customer service or for better maintenance of cemeteries. Instead, the increased tax on grieving families will be used to fund the NSW Government's cemeteries agency and improve the NSW Government's bottom line.

If the NSW Government intends to increase regulation of cemetery operators, it needs to justify this decision to the community and fund the costs of this regulation from its own core budget.

If the NSW Government insists on imposing an interment levy, the funds collected should be directly returned to the interment sector through a grant program for planning, operational and infrastructure improvements that will benefit the community.

Conclusion

LGNSW fundamentally opposes the NSW Government's proposal for an interment services levy to fund CCNSW's operating costs.

The announcement of this levy is premature and ill-considered, with key design and implementation features remaining unresolved, and the announcement has certainly come far too late to be implemented from 1 July 2024, as proposed.

Respectful and affordable interment services are a critical public good provided by local government cemetery operators. LGNSW respectfully calls on the NSW

¹ ATO Interpretive Decision 203/38: GST and the recovery of waste levies and carbon pricing mechanism costs by waste disposal facility operators. Available online at <https://www.ato.gov.au/law/view/document?docid=%22AID%2FAID201338%2F00001%22>



Government to reconsider its decision to impose a burial and cremation tax on the community, particularly during a cost of living crisis.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'David Reynolds'.

David Reynolds
Chief Executive