

Our ref: R SUB-516
Further contact: Margaret Kay (02) 9242 4082

14 December 2017

Mr Stepan Kerkyasharian AO
Chair
Cemeteries and Crematoria NSW
PO Box 6682
SILVERWATER NSW 1811

Dear Mr Kerkyasharian

Cemeteries and Crematoria Amendment Regulation 2017

Thank you for the opportunity to provide comment on the Cemeteries and Crematoria Amendment Regulation 2017 and Better Regulation Statement for Part 4 of the *Cemeteries and Crematoria Act 2013*. Local Government NSW (LGNSW) is the peak body for local government in NSW, representing all NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community based system of local government in the State.

Overall, LGNSW supports the intention of the reforms and recognises the need to address increased demand for burial sites, particularly in metropolitan areas. LGNSW agrees that each cemetery operator should be able to make the decision on whether to offer renewable interment rights (RIRs) based on their own administrative and operational resource requirements.

I would like to take the opportunity to raise some key issues for local government regarding the Regulation. Broadly these issues relate to the importance of clear communication to the community on any changes, recognition of the administrative and operational implications of the new system and the need for clarification of terms and definitions.

Communication

Councils are often the first point of contact for the community when there are regulatory changes. Already councils are receiving inquiries from distressed community members who have been misled by media reports that their perpetual interment rights are to be removed. The community needs to be reassured that the changes are optional and not retrospective.

A comprehensive media campaign, with accompanying fact sheets would help address these concerns and would ensure that all councils are able to provide a consistent message to concerned community members. LGNSW recommends that this communication program be undertaken as a matter of urgency.

Administrative and operational issues

NSW councils usually operate their cemeteries on a cost-recovery basis in order to offer a reasonably priced service to the community. Councils have advised LGNSW that an RIR option is likely to incur increased administration costs in order to cover additional record keeping, the removal or reinterment of remains and the storage of ossuary boxes and monuments. These additional costs would need to be amortised over the life of the RIR and passed on to the community. Many councils have indicated that it would be difficult to justify these additional costs to the community.

There are also some operational issues around where ossuary boxes would be housed, and whether councils will be required to provide a building for this purpose. Similarly, the storage and security of monuments associated with existing graves will place a cost and liability on councils if they are required to securely store them.

Given the pressures on cemeteries located in metropolitan areas, some councils have suggested that an RIR could be offered on individual plots if they come up for sale or if a family wants the option of adding burials to an existing plot. This would relieve some of the overcrowding in cemeteries rather than requiring an entire section of a cemetery to be allocated for RIR purposes. Few metropolitan councils have indicated that they would be able to earmark a large portion of an existing cemetery for RIR due to religious or other constraints covering existing areas of the cemetery.

Remains need to be handled differently from ashes and cannot be cremated unless permitted by the person's religion. This means that the retrieval and lift of remains requires particular expertise which many councils, particularly in rural areas, would not have in-house. The costs of these services would need to be added to the fees charged by council cemetery operators.

Also it is important to note that RIRs may not be feasible in some soil types which may mean that remains may not have decomposed after 25 years. In these cases, removal would mean exhumation, an expensive process involving the coordination of a number of agencies. This process will greatly add to the cost of a burial site.

LGNSW supports the inclusion of a cooling-off period within the Regulations, as it provides a safety net for consumers. It would be useful if the Regulation specifically allowed for operators to charge a fee when cooling-off occurs. It is recommended that councils be allowed to develop a fee schedule for this situation to cover the costs of managing the inquiry, inspection, processing the application and payments. Councils could use their powers under Section 608 of the *Local Government Act 1993* for this purpose.

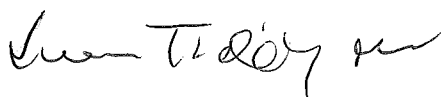
Clarification and definitions

In the case of plots where there may be multiple interments, the Regulation needs to clearly specify the date from when the interment right commences and within how many years before the end of the RIR the last interment can be made. The Regulation is also unclear on how a "monument" is defined. Is it only the part that memorialises the person (such as the plaque or headstone) or all the ornaments as well? This will have major implications for the cost of monument storage.

These are the key concerns raised by NSW councils. LGNSW appreciates the opportunity to comment on the Cemeteries and Crematoria Amendment Regulation 2017. This submission is in draft form until it is considered by the LGNSW Board. Any revisions made by the Board will be forwarded.

If you would like to discuss this matter further please ask your staff to contact Margaret Kay, Strategy Manager Social and Community, on 9242 4082 or at Margaret.kay@lgnsw.org.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Donna Rygate', with a stylized flourish at the end.

Donna Rygate
Chief Executive