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## NEW SOUTH WALES JEWISH BOARD OF DEPUTIES LTD

The Representative Voice of NSW Jewry

ועד הקהילה היהודית בנג' ס.ו.ו.

President: Lesli Berger

Chief Executive Officer: Darren Bark



29 July 2022

Cemeteries & Crematoria NSW,  
Department of Planning & Environment  
Locked Bag 5022  
Parramatta NSW 2124

Dear Sirs and Madams

### **Consultation draft dated June 2022 of the Licence Conditions for Operators of Cemetery & Crematoria**

The NSW Jewish Board of Deputies is the official elected representative roof-body of the Jewish Community in New South Wales, with 56 major communal organisations as its constituents. It is recognised by the NSW State Government, its agencies, the media and other ethnic and religious groups as the representative body of the Jewish Community and speaks on its behalf on all matters affecting the status, welfare and interests of New South Wales Jewry.

We thank you for the opportunity to comment on the consultation draft dated June 2022 of the Licence Conditions for Operators of Cemetery & Crematoria and the Fact Sheet accompanying the Licence Conditions. Our comments below include input from the Sydney Chevra Kadisha and our consultant rabbis.

We commend Cemeteries & Crematoria NSW for the excellent draft that has now been circulated, and for the enormous effort that has clearly gone into preparing it. We have, accordingly, kept our comments to only those matters truly necessary.

1. In respect of **Condition A.1**, we recommend that:

- 1.1 the third paragraph, which begins with the words "Before offering, ..." have added to it a second sentence as follows: "Where religious or cultural principles provide for a particular type of burial, that type of adult burial should be offered to a person of that religion or culture rather than the basic adult burial;"
- 1.2 CCNSW should publish on the CCNSW website all prices for all cemetery managers so that easy comparison by consumers becomes possible;
- 1.3 copies of all licenses and contracts should be made available on or through the CCNSW website; and
- 1.4 translations (undertaken by Multicultural NSW) into those community languages which the ABS records as commonly spoken at home should also be made available on or through the CCNSW website.

2. In respect of **Condition A.2**, we recommend that contracts spell out the terms for maintenance of an internment site and the monument/memorial erected there, and that the cemetery manager will comply with cultural and religious requirements relating thereto. That provision must override any inconsistent provision in the contract. We do not wish to

see the current problems of cemetery managers not honouring perpetual maintenance for Jewish graves (in many cases paid for when the Jewish Cemetery Trust was still in existence). Perpetual care must mean perpetual care.

3. In section In **Section B.5**:

3.1 in both of subsection 2 in relation to "Cemetery Grounds" and subsection 3 relating to "Memorials" it is important to insert a further requirement that any applicable religious or cultural requirements are to be observed. For example, tree branches are not permitted to overhang a Jewish burial site. That is different to basic landscape servicing; and

3.2 also, consideration should be given to proper signage identifying the location and facilitating means of access to areas consecrated to particular faith communities.

4. Attention now turns to **Section C**, which is all about Pricing Transparency. In addition to 1.2 above, the entire section needs an important adjustment. For many faith communities, but in particular the Jewish and Muslim communities, a basic adult burial is simply not applicable. There is a particular and standard type of burial required to meet the needs of that faith community, and it is required pursuant to Section 46 of the Cemeteries and Crematoria Act 2013. Operators whose cemeteries include sections consecrated to any such faith community, including without limitation the Jewish and Muslim communities, should be required to publish the price breakdown for the standard burials for each of those communities and provide them to customers from those faith communities.

5. Attention next turns to **Section D** which is about Customer Service.

5.1 In **Section D.2**, we recommend the inclusion of a requirement that persons interacting with particular faith communities should familiarise themselves with the requirements applicable to those faith communities, and interact with persons from those faith communities in a manner respectful of that faith. It is our view that the present conditions do not adequately address this rather important issue. How that is done must accord with the relevant faith community's requirements. For example, in the case of the Jewish community contact should be made with the Sydney Chevra Kadisha.

5.2 We observe that **Sections D.3, D.4 and D.5** do not explicitly incorporate the Australian Standard on Complaints Handling (AS4269). We recommend that its incorporation be required.

6. Attention now turns to **Section E**, which is about Religious, Cultural & Spiritual Principles.

6.1 Firstly, we note that cemeteries in the caretaker category are stated as not being required to comply. That is unacceptable. For the Jewish faith, perpetual care means perpetual care even when a cemetery is in caretaker mode. All Jewish graves within them must be the subject of perpetual care.

6.2 Secondly, a cemetery in caretaker mode still must comply with, for example, subsection 66 of the Cemeteries and Crematoria Act 2013, which requires any



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exhumation to be carried out in accordance with religious practice applicable to the dead person whose remains are to be exhumed.

- 6.3 In **Section E.1**, subparagraph 5 refers to resolution of grievances. There is no requirement to do so promptly once the grievances are raised. That should be added. It is essential that consumer complaints about contract breaches or misleading or unconscionable conduct fall within the jurisdiction of the NSW Civil and Administrative Tribunal. One can provide that its jurisdiction commences only once Fair Trading mediation has been exhausted.

### 7. Attention is now turned to the Fact Sheet.

- 7.1 The commentary on **Religious & Cultural Principle 2** requires some very necessary refinement. The idea that a cemetery manager can do a Jewish burial in a section consecrated for Jewish burials other than as advised and permitted by the Sydney Chevra Kadisha is simply not acceptable. Recently, OneCrown at Botany Cemetery (Eastern Suburbs Memorial Park) permitted a Jewish burial without it being conducted by the Sydney Chevra Kadisha, contrary to longstanding convention and our community's requirements. We understand that this was a one-off, and it should not occur again.

- 7.2 Further, **Principle 2** is not about asking individuals what they would like, but rather ensuring conformity with any applicable faith and cultural requirements. These are not governed by individual preference. Some redrafting is required.

Please feel free to contact the NSW Jewish Board of Deputies to discuss these matters further by contacting Darren Bark, CEO 

Yours faithfully

**Lesli Berger**

President