**Final Report**

**Review of the**

**Governance and Management of**

**Class A Cemetery Trusts, Victoria**

**May 2013**



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FOREWORD

# The Purpose of the Review

The purpose of the review was to evaluate the impact of the implementation of the 2009 amendments to the Cemeteries and Crematoria Act 2009, No.61 of 2009 (‘C&C 2009’) on Class A Cemetery Trusts and make detailed and practical recommendations, supported with evidence, that will improve the governance of the trusts.

# Class A Cemetery Trusts

Five Trusts, two large metropolitan trusts and three regional Class A trusts, created following a review in 2009, have operated from 1 March 2010.

# The Review

The scope of the review is restricted to the governance and management of these five Class A Trusts.

The Review addressed four major issues (Appendix 1. Terms of Reference): governance, financial sustainability and management, and community relations and customer service.

# The quality of governance

Governance issues include a review of governance structures, meeting procedures, Board performance, risk management, the extent of implementation of the changes required by the 2009 Act, a review of the appropriateness of the requirements and, recommendations of any changes that might be made to improve performance.

In particular, the review addresses the role and mode of evaluation of the performance of the CEO, Board, and audit committee, and audit committee monitoring and related responsibilities and procedures.

# Management issues: Financial sustainability

Management issues include the management of trust assets, land and oversight of investments. Of particular importance is an assessment of record keeping, compliance with the Financial Management Act 1996, Accounting Standards and policies issued through the Cemeteries and Financial Policy Committee, The Cemeteries and Crematoria Act 2003 and the Public Records Act 1993.

# Customer service and community relations

This includes reviewing the effectiveness of community advisory committees, the complaint systems and response, monitoring of complaints and whether current structures facilitate community engagement.

The collection of evidence included reviews of the relevant Acts, interviews, reviews of documentation and written submissions.

The findings presented in the Review draw on material and views presented by the Chairs, CEOs and Members of the Trusts and staff. Written submissions were received from The Southern Metropolitan Cemeteries Trust and the Bendigo Cemeteries Trust.

Recommendations

**Recommendation 2.1:**

Commission a study of the governance of state-owned enterprises and the potential conflicts, between (a) commercial responsibilities and community service obligations, and (b) the division of responsibilities of Government (as regulator and owner) and the duties and responsibilities of Trust Members, and how they have best been managed in Australia and other developed countries.

**Recommendation 2.2:**

Appointment of the Chair of the Board prior to the other Board members and, add to their role and function, in particular, by way of participation in the selection process.

**Recommendation 2.3:**

Rollover the appointments of Members on a staggered basis: to avoid potential 100% turnover of the Board at one time, introduce rotational appointments and ends of term of the members.

**Recommendation 2.4:**

That a skills matrix be developed for appointees in 2012-13 to reflect a diversity of skills, gender and ethnic background and emphasise financial expertise.

**Recommendation 2.5:**

That the Department of Health continues sector wide training in the governance and management of Trusts.

**Recommendation 2.6:**

A payment structure should be introduced that reflects the duties and responsibilities of both Class A and B Trust Members.

**Recommendation 2.7:**

Meetings for Class A Chairs and CEOs to be facilitated by the Department to enable them to address their common interests.

**Recommendation 4.1:**

Consideration be given to establishing State wide preservation and maintenance standards.

**Recommendation 4.2:**

That research be commissioned to develop a model of long term projections of costs and revenues to determine sustainability. It should provide:

* an in depth review and analysis of the cost structures across the sector;
* pricing, costs and efficiency ratios with other Class A Trusts.
* a system of base price-setting for Trusts with the flexibility for an individual Trusts to ‘meet the market’ in terms of its particular clientele (current and potential) and catchment or market area, on a case by case basis, and
* new business flexibility in the range and scope of allowable business that enable a Trust to grow new lines of revenue.

**Recommendation 4.3:**

The Department develops Guidelines for a standard and coordinated approach to tendering

for and managing investments.

**Recommendation 4.4:**

Sector wide planning for long-run land requirements.

**Recommendation 4.5:**

Review the legislative requirements for in-perpetuity rights.

**Recommendation 4.6:**

Review cash needs and appropriate level of reserves for in-perpetuity requirements.

**Recommendation 4.7:**

A review of the functions of staff across the Trusts and development of training and career paths for staff.

**Recommendation 5.1:**

Trusts continue to use CACs and explore best practice in Australia and overseas.

**Recommendation 5.2:**

Trusts explore how they can engage with funeral directors.

**Recommendation 5.3:**

Trusts be commended for this outreach work and continue to use CACs.

**Recommendation 6.1:**

A comprehensive review of the best sector wide technology platform suitable for the 21st century is recommended.

**Recommendation 6.2:**

The Department of Health develop a strategic framework for the sector, which could include planning, a pricing framework for the sector and strategy for future investment.

Introduction

The Minister for Health (the Minister) requested that a review be undertaken of the governance and management of Class A Cemetery Trusts. The purpose of the project (Refer to Appendix 1: Terms of Reference) was to evaluate the impact of the implementation of the 2009 amendments to the Cemeteries and Crematoria Act 2003, No.61 of 2009 on Class A Cemetery Trusts and make detailed and practical recommendations, supported with evidence, that will improve the governance of the trusts.

1.1 Class A Cemetery Trusts

The Cemeteries and Crematoria Regulation Unit of the Department of Health (DH) is responsible for the regulation of Cemeteries and Crematoria in Victoria and the regulation of their Trusts. The sector includes approximately 500 cemetery trusts.

Following a review of cemetery trust entities in 2009, amendments to the Cemeteries and Crematoria Act 2003 (the Act) resulted in the creation of two large metropolitan and three regional Class A Cemetery Trusts. Many smaller Trusts remained as Class B Trusts. It was anticipated that the changes applying to Class A Trusts would result in the creation of professional bodies being better equipped to put in place the necessary governance and organisational arrangements to manage the complex business environment in which large cemeteries operate.

The five Class A trusts have been operating for nearly two years (21 months). During this time a number of implementation, performance and sustainability issues have been raised by both the sector and the community: maintenance standards, long term land availability, community relations and customer service issues, operational management issues and financial management and sustainability issues. The Minister requested a review to address these issues.

# 1.2 The Terms of Reference

The scope of the review was the governance, management and community relations of these five Class A Trusts.

The Review was required to address four major issues (Appendix 1. Terms of Reference): The Quality of Governance, Financial Sustainability including the management of Trust assets, Record Keeping, and Customer Service and Community relations. The issues addressed are listed below.

1. The quality of governance.

 Board oversight of cemetery management

* Board performance and evaluation processes
* Board management of risk and the quality of internal controls
* The scope and quality of policies for compliance with regulatory requirements
* Operation of the audit committee
* Internal audit

2. Financial sustainability

* Management of trust assets
* Oversight of investments
* Viability and sustainability of the trusts
* Barriers to the delivery of relevant services to the community

3. Record keeping

Financial reporting compliance with the requirements of the Financial Management Act 1996 and standing directions and accounting standards and policies issued through the Cemeteries and Financial Policy Committee, the record keeping requirements of the Cemeteries and Crematoria Act 2003, and the requirements of the Public Records Act 1973.

4. Customer service and community relations:

* The effectiveness of community advisory committees
* The quality of the trust complaint management system
* The process for the escalation of complaints within the organisations
* How effectively Board monitors complaint management
* Whether the current structure facilitates community engagement

Having regard to these matters, the reviewer will present the Minister with a report, advice and recommendations for the Minister’s consideration.

# 1.3 The Review Process

The review used the following methods to collect evidence to support the conclusions:

* Review of relevant Acts
* Interviews
* Review of documents
* Submissions received
* Consideration of best practice

The review process included 14 interviews, examination of submissions received, and relevant Acts and Reports (Appendix 2). The findings presented in the Review drew on material and views presented by the Chairs, CEOs and Members of the Trusts and staff. Among written submissions received were those from The Southern Metropolitan Cemeteries Trust and the Bendigo Cemeteries Trust.

This Final Report summarises the findings from the Review.

2. Governance and Management of Trusts

The Trusts report that they have effective Boards working cooperatively and, generally have the appropriate skill sets. There appears to be a tension however, between the usual governance practice that the Chair will guide the Board, but is not involved in the selection of the other Board members. Issues relating to the appointment of new Board members, rollover of Board membership to ensure sufficient continuity and appropriate Chair input into the process were identified, as was the extent of and role played by the Board sub-committees. In particular, the Community Advisory Committee referred to in Section 4 of this Report. The sector has also raised the need for improved timing in the appointment process so that Boards have the requisite ability to plan ahead. These items were seen as being at the apex of a recommended comprehensive strategic plan for the sector within an embedded management and governance framework.

# 2.1 Implementation of the Act

In general, the amalgamations appear to have successfully brought the new organisations into existence.

All the Trusts have undergone major cultural changes; changes to the organisation structures, introduced planning and budgetary frameworks, are identifying and exploiting commercial and alternative revenue generating opportunities, and adopting contemporary governance and reporting arrangements.

A Class A Trust must establish a Finance Committee and an Audit and Risk committee (Section 18B(1) of the Act) and may establish any other governance Committee as it determines from time to time. All Trusts have appointed the required Board Committees. The Audit and Risk Management and Community Advisory Committees are discussed below.

The Trusts have plans that include budget, strategic, environmental and sustainability, community engagement and marketing plans. In some cases, these are paralleled by staff operational committees. All Trusts have submitted Annual Reports and have been approved by the Auditor General for the year 2011-12.

All are in various stages of ‘transition’ to adopting the new structures and processes. The changes are more pronounced in the larger metropolitan Trusts but are also evident in the Regional Trusts.

Despite these changes, there appears to be some confusion about the distribution of responsibilities between the Trust and the Department of Health’s Cemeteries and Crematoria Regulation Unit. Under the Cemeteries and Crematoria Regulations 2005 (the Regulations), Class A Trusts share many of the same features of public companies: a Board, Chair, CEO, Board members and a senior management team. The legal requirements are such that Board is expected to demonstrate expertise and carry out its duty in good faith and competently. This entails efficient systems and processes, and the ability to measure performance in a timely manner. It involves strategic and business plans and audited accounts. Operational costs are largely proscribed so that the degree of operational independence is limited.

While there is some research into partnerships between government and the private sector, there is very little about the responsibilities of government owned enterprises such as Trusts, in which assets must be retained, and which traditionally had community ties, but are now moving to operate as commercial entities. The potential conflicts between community and commercial interests and the distribution of legal responsibilities between government and the entity in this context, and how these should best be managed, has received little attention.

Recommendation 2.1: Commission a study of the governance of state-owned enterprises and the potential conflicts, between (a) commercial responsibilities and community service obligations, and (b) the division of responsibilities of Government (as regulator an owner) and the duties and responsibilities of Trust Members, and how they have best been managed in Australia and other developed countries.

# 2.2 Size of the Trust Boards

New Members were appointed to all 5 Class A Trusts following implementation of the Act which requires 6 to 9 Members.

# 2.3 Appointments

Four of the Trusts have new Chairpersons and new CEOs and advertisements have called for applications for Membership of the Trusts for all Trust Board positions from 2013.

Some concern has been expressed about the loss of continuity and expertise when a whole Board is replaced. In particular, the Chairperson, who must work with the Trust Board, could contribute to the selection of the Members.

Recommendation 2.2: Appointment of the Chair prior to the other Board members, and add to their role and function, in particular by way of participation in the selection process.

A common expiry date for the appointments is unsatisfactory because of the lack of continuity on the Board. This is creating a good deal of anxiety and operational uncertainty between the Board and senior employers. A Board with three year appointments might usefully incorporate a rollover of Members on a staggered basis. Members could initially be appointed for terms of one, two or three years, and subsequently the appointment of three members renewed each year.

Recommendation 2.3: Rollover the appointments of Members on a staggered basis: to avoid potential 100% turnover of the Board at one time, introduce rotational appointments and ends of term of the members.

# 2.4 Skills and Expertise required

Research (Boyle 2012) shows that best Board Performance (performance rather than conformance), depends on Board culture (defining behaviour/vision, power balance, respect, trust and constructive debate) and Board characteristics (distinctive qualities, engagement/relations, communication and stakeholder management). Future self-assessments need to also assess these attributes.

Recommendation 2.4: That a skills matrix be developed for appointees in 2012/13 to reflect a diversity of skills, gender and ethnic background and emphasise financial expertise.

# 2.5 Induction and Training

The interviewees confirmed that all members had attended induction training; most had attended the training offered by the Department of Health.

Recommendation 2.5: That the Department of Health continues sector wide training in the governance and management of Trusts.

# 2.6 Remuneration of Trust Members

Generally Class A Trust Members are paid.

Class B Trusts have an unfair competitive advantage when they do not have to meet commercial costs and budgets. The options available are to: (a) increase the size of a Trust by amalgamations, (b) have it revert to a Class B Trust or, (c) require Class B Trusts to meet the same conditions, if not the same costs, as Class A Trusts.

Recommendation 2.6: A payment structure should be introduced that reflects the duties and responsibilities of both Class A and B Trust Members.

# 2.7 Board performance and evaluation processes

All of the Trusts report that they conduct performance self-assessments. The results are aggregated, and then reported to and discussed by Trust members at Trust Meetings.

# 2.8 Board oversight of cemetery management

Among the functions of the Trust is Section 2A (g), ‘to monitor the performance of the Chief Executive Officer’. Not all Trusts have completed CEO performance reviews. In some cases, because the CEO appointment is less than twelve months, the review is planned for 2013.

# 2.9 Relationships

Board relationships between Chairs and CEOs and between Trust Members were reported as good in all cases. Chairs and CEOs met and communicated frequently. There was clear separation between the Trust Board and CEO responsibilities. Since better information, especially financial information, had become available, there was less intrusion by the Boards into operational matters.

Relationships with customers is addressed in the Community Advisory Committees section.

Relationships with the industry association were generally good. Members of the staff were well represented on the industry body but Chairs and CEOs were invited as ‘observers’ and not as participants. ‘Members’ wanted an opportunity to share experiences and discuss the interpretation of the Act with the Members of other Class A Trusts.

Recommendation 2.7: Meetings for Class A Chairs and CEOs to be facilitated by the Department to enable them to address their common interests.

# 2.10 Meeting procedures

Comments from the interviewees suggest that more formal procedures have been introduced into meetings and that they are supported by significantly improved information provided by management.

However, financial information and record management systems are still under review (Refer to Section 6).

3. Trust Audit Committees

The Review investigated: A Class A Trust must establish a Finance Committee, an Audit and Risk Committee (Section 18B (1) p.24) and a Community Advisory Committee (Section 18D) and, may establish any other governance committee as it determines from time to time. All five Trusts have established sub-committees of their Boards that include Audit and Risk, Community Advisory Committees and Finance Committees.

# 3.1 Audit and Risk Management Committees

The Audit Committees usually meet quarterly and are functioning appropriately. All respondents report that risk-based internal audit plans comply with the Australian and New Zealand Risk Management Standard, and reports are endorsed by the Committee.

A major potential risk is the loss of cemetery and operating records. Another is the continuing relationships with local communities. These continue to be addressed (Refer to Section 5 Information systems, and Section 3 Community relationships).

Overall, the Trusts are “in transition” to becoming the commercial entities prescribed by the Act but have complied with the governance requirements. Where there was not a remuneration committee, the Audit Committee performed that function.

Membership should be chaired by an independent Trust Member and include at least three non-executive members and one with financial expertise. Codes of Practice relate to competitive neutrality and disclosure of contracts and potential conflicts of interest. Trusts have taken steps to comply with these requirements.

Among Audit Committee responsibilities are the Annual Reports and monitoring complaints. All Trusts have complied with the requirements for the current period.

4. Strategic Planning and Sustainability

The Trusts report that they do have the ability to meet their long term financial, community and environmental commitments. There appears to be tension between the expectation that the sector will operate on a commercial basis, while being restricted in opportunities for responding to commercial threats and balance community expectations. Issues relating to controlling costs, flexibility in pricing, future demand and asset management were identified, as was the sustainability of perpetual tenure, particularly in metropolitan Melbourne. The sector has also raised the need for transparency in the allocation of funding from the 3% levy currently paid to Government by Class A Trusts. A comprehensive strategic plan for the sector with accompanying management framework incorporating performance and financial factors is recommended.

# 4.1 Costs

The Trusts are struggling to control costs, many of which are set by the market. For example, the price of utilities has risen significantly more than CPI in the short term.

Unfunded superannuation liability

Superannuation in the Defined Benefits Scheme has incurred shortfalls. Based on current requirements, the shortfall needs to be topped-up from the capital reserves affecting the balance sheet.

Government levy

The interviewees mentioned that there are challenges in the ongoing funding of perpetual cemeteries – noting the difficulty of the 3% levy in particular. Currently this levy is applied to all operating revenue, regardless of the profit or loss made by the cemetery. Although this can be amended year on year by the Secretary or Minister for Health, it currently stands to exacerbate the problems of a cemetery trust which makes a loss for a given operating period.

Cost pressures and the predictability of cost are both long term issues. In order to maintain cemeteries perpetually, there is a need to have a net bank balance associated with each perpetual cemetery.

Costs vary greatly because of the diversity of the cemeteries and the cemetery clients. Benchmarking with other cemeteries would provide comparative information about efficiency and effectiveness of performance. Many of the following recommendations would best be addressed by sector wide planning.

# 4.2 Maintenance standards

Under the present system, a major cost is maintenance of cemeteries. Different standards apply in different cemeteries even when they are managed by the same Trust. This allows flexibility in the cost and provision of services but there is no recognised minimum standard. Some cemeteries are also very old, even if not having reached perpetual status in their life cycle.

There are no recognised minimum standards and no incentives regarding proper maintenance of a cemetery. The Government’s only option is to appoint an administrator if the cemetery is not being maintained properly.

Recommendation

4.1: Consideration be given to establishing State wide preservation and maintenance standards.

# 4.3 Revenue

Demand for Services

Currently, there is a trend away from burials towards cremations. Although this will allow more interments within the cemetery, the revenue generated is much less than what is generated from a burial. In isolation, this does not present a large problem, as the rate of those being cremated is increasing while those purchasing memorials are decreasing. This may be an ongoing concern.

Pricing

At present fees must be fixed by Trusts and approved by the Department. The pricing regulations create difficulties for the Trusts. The directive says there is no waiver or reduction of fees - the default position only allows a waiver of fees in special circumstances.

This directive, as it stands, creates a tension between a commercial approach combined with light touch regulation, and a heavily regulated, government-led industry. The highly regulated model is out of alignment with the Government’s aim of smaller regulation.

Trusts suggest that there be a maximum price but that the Trusts should be able to set different prices in response to competitive or commercial demands and the needs of different client groups, set top prices for basic service but allow for pricing flexibility to allow Trusts to meet their market.

Recommendation 4.2: That research be commissioned to develop a model of long term projections of costs and revenues to determine sustainability. It should provide:

* an in depth review and analysis of the cost structures across the sector;
* pricing, costs and efficiency ratios with other Class A Trusts.
* a system of base price-setting for Trusts with the flexibility for an individual Trusts to ‘meet the market’ in terms of its particular clientele (current and potential) and catchment or market area, on a case by case basis, and
* for new business flexibility in the range and scope of allowable business that allow a Trust to grow new lines of revenue.

# 4.4 Asset management

Assets include land and equipment, cash reserves and investments.

Land held in a Trust cannot be sold and therefore is not a source of revenue.

Economic conditions can adversely affect a cemetery trust. Trusts currently are advised by external advisors. They hold a large proportion of assets in term deposits and equivalents.

There are no guidelines to investment, other than it is necessary to have it approved by the Minister. If another catastrophic financial event occurs, such as the Global Financial Crisis, there is the potential for cash reserves to no longer be able to support the operation and maintenance of the cemetery.

Investments

The present policy contains objectives to generate a return equal to CPI plus 5% over a rolling 10 year period as well as outperforming relevant asset categories.

Two issues arise:

The losses need to be paid for from invested funds and this in turn adversely affects future earnings.

In order to secure the best investment advice, a more flexible and coordinated strategy of going to tender, in terms of the choice of financial advisor and scrutiny of their performance, may need to be developed.

The return from investments is an important component of revenue.

Recommendation 4.3: The Department develops Guidelines for a standard and coordinated approach to tendering for and managing investments.

# 4.5 Land issues

Cemetery Trusts hold a large proportion of assets in land value. However, these assets cannot be sold and therefore cannot provide income for the cemetery. Currently, the vast majority of land owned by cemetery Trusts is used for the burial of bodies, with smaller proportions being used for cremation memorials and mausoleums.

If the current model is not changed, the Trusts will run out of space.

They need to be able to purchase new sites for the purpose of long-run planning, and they need to be able to do so at current acquisition prices. Such purchases currently involve managing balance sheets and capital accruals. At the same time, they need to be able to maintain their in-perpetuity operational obligations. There is considerable pressure on the capital base and the quantum of retained funds of Trusts as a result of this set of operational versus statutory obligations.

Recommendation 4.4: Sector wide planning for long-run land requirements.

# 4.6 In perpetuity requirements

Perpetual ownership is a major impost on sustainability. People who purchase a grave in Victoria hold a right of internment and a responsibility to maintain its upkeep. This right does not include the land, only the right to be buried within it. In SA and WA the right ceases after 25 years.

Victorian Trusts are obliged by the in-perpetuity requirements to have more funds on account reserves than other states such as WA and SA which have a 25 year commitment which entails prudent financial management and stewardship of funds.

Recommendation 4.5: Review the legislative requirements for in-perpetuity rights.

Recommendation 4.6: Review cash needs and appropriate level of reserves for in-perpetuity requirements.

# 4.7 Environmental Sustainability

The Trusts monitor water, electricity and gas consumption and have put in place various recycling initiatives to reduce waste, adopt renewable energy options and ensure energy efficiency.

The tree and plant population is an important asset.

# 4.8 Human sustainability

Major contributors to sustainable organisation performance and for community well-being are human capabilities and skills.

Recommendation 4.7: A review of the functions of staff across the Trusts and development of training and career paths for staff.

5. Customer services and community relations

The Trusts report that Community Advisory Committees (CACs) have been set up and are operating as sub-committees of the Boards. There appears to be tension and some further work required on the scope and nature of the work of the CACs in a rapidly evolving market, where they work with and inform the Board and also represent the local community. This is a complex task in a changing environment. For example, a clear preference of many customers is cremation as opposed to burials. Further, communities are rapidly evolving within the boundaries of cemetery locations, and the ageing demographic means that issues such as demand for pet burials are distinct challenges in several regions of the state.

Issues relating to the size, skill set and base-line role of CACs were identified. The sector has recognised the need for CACs and is keen to develop protocols around best practice. A comprehensive study of CACs for the sector with data from Australia and elsewhere is recommended.

# 5.1 Community Advisory Committees (CACs)

All Trusts have established a CAC. Where a CAC was implemented as intended they have been generally successful. There is some confusion between perceptions of their roles as representatives of their communities and the traditional role of local committees as historical societies. They work well being chaired by a Trust Board member, so there are clear links between the Board and the local community. In some cases, staff were recruited and trained to work in specific areas and with specific client groups.They provide a good means of raising cultural awareness for the Board, and allow a Board to be cognizant of particular issues for different national, religious and cultural groups within the Trust area.

CACs are a useful vehicle for community engagement, and for making cultural awareness a centerpiece of the work of the Trust. This work is particularly important in city-based Trusts covering diverse populations and rapidly changing ethnic, religious and cultural backgrounds, and where the business of cemetery operations is increasingly competitive.

The CAC influences the operations of the business of the Trust, including planning, horticulture, and marketing. Its insights provide a ‘broader palette’ for decision making and strategic decisions by the Board and by the senior management team.

Recommendations 5.1: Trusts continue to uses CACs and explore best practice in Australia and overseas.

# 5.2 Funeral directors and customer service

A submission to the Review received from InvoCare, the largest of Australia’s Funeral Directors, reported that staff did not know of the existence of CACs or their purpose and previous attempts to engage with Class A Trusts to discuss performance issues was unsuccessful.

The submission identified the needs of funeral directors, the first of which was to be recognised as the major ‘client’ or ‘customer’ of the Trusts. InvoCare believes that Trusts should acknowledge Funeral Directors as a customer group in their own right with their own specific set of requirements over and above their role as a family’s representative.

Another request was to apprise InvoCare of the Trusts’ future plans and intentions and seek input from the Funeral Directors. InvoCare is currently in partnership with NSW Government cemeteries and indicated its interest in forming similar partnerships with the Victorian Government.

Recommendations 5.2: Trusts explore how they can engage with funeral directors.

# 5.3 Complaints

A whistleblowing policy is in place in all Trusts.

All Trusts maintain a complaints register.

# 5.4 Stakeholder engagement

Most Trust CACs engage in special events, tourism activities, and heritage activities.

Recommendations 5.3: Trusts be commended for this outreach work and continue to use CACs.

6. Operational constraints

Two operational issues raised in the Terms of Reference were compliance with the financial reporting requirements of the Financial Management Act 1996, the record keeping requirements of the Cemeteries and Crematoria Act 2003, and the requirements of the Public Records Act 1973.

Compliance with the legal requirements is generally good, but inadequate information systems and out-dated record systems are hindering planning and service operations. One way of addressing these may be through shared services.

# 6.1 Information Systems and records management

Financial management information to every Trust Board has improved significantly. However, although financial management records are electronic, systems are generally out-dated. Client and historical record systems are still mainly paper based. Decisions are yet to be made across the sector about the most suitable IT systems.

There appears to be tension between the expectation that the sector will have up to date historical records, and the ability to cover the future as regards in perpetuity tenure. Issues were identified relating to updating paper based historical records, associated staff costs, especially for smaller cemeteries and Class B cemeteries, use of the best technology available and effective asset management.

The sector has also raised the need for reviewing the possibility of information systems becoming a shared service across the sector.

Recommendation 6.1: A comprehensive review of the best sector wide technology platform suitable for the 21st century is recommended.

# 6.2 Shared Services

The lack of sector wide strategies is a concern of every Trust. Trusts, particularly regional Trusts, do not have the resources to develop the plans and strategies that would place them within a wider strategic framework.

The respondents were in favour of investigating opportunities for shared services. At present, there is informal cooperation such as using similar documents for tendering for services, and investigating cemetery management systems.

The recommendation here endorses previous recommendations (SSA and AG Reports) to develop a strategic framework for the sector that would investigate; the potential for shared services, pricing, benchmarking including the efficiency and effectiveness of operations, policy, planning, systems, processes and resourcing, financial planning, budgeting and reporting, IT, supply/procurement, records management, risk management, human resources, infrastructure, planning and maintenance, and sales and marketing.

A shared services model could be developed, especially if there was a state wide Board in place, as there is in NSW.

The advantages would be to better deploy state wide expertise, to develop, share and adopt best practice models, to take advantages of economies of scale and provide for the most efficient use of limited resources.

Recommendation 6.2: The Department of Health develop a strategic framework for the sector that could include planning, a pricing framework for the sector and an investment strategy for future investment.

7. Conclusion

The review revealed a sector in transition. The response to the new governance requirements has been positive. The Trusts, in most respects, comply with the new Act.

The new Act provides the rules as they apply in theory. How they are applied in practice in the business sense is more of a cultural exercise, in most cases influenced by the location of a cemetery and the characteristics of the community serviced. A broad, principles-based approach to regulation, rather than a detailed and highly regulated statutory scheme, is therefore appropriate. This could occur by reference to a responsive regulation model. Details of this approach can be provided. In essence, responsive regulation provides a differential and flexible approach to the regulated market place, so that not all firms/trusts are necessarily regulated in the same way.

New roles for Boards, Audit Committees and relationships with CEOs are in evidence. As a result the Trust Boards are demonstrating greater leadership and oversight of management. Audit Committees have been formed and internal audit procedures are in place. Meeting procedures and information to Trust Members have improved in quality although information systems remain an issue.

As noted in Section 4, the Trusts report that they have concerns about their ability to meet their long term financial, community and environmental commitments. There appears to be tension embedded within the legislative framework: that the Trusts are both commercial enterprises and community entities. Cemeteries are businesses (subject to corporate governance and legal requirements) and community organizations (subject to corporate social responsibility). This in stark terms pits profiting from the business of death whilst at the same time providing a community benefit.

Issues identified related to developing new business areas, superannuation arrangements, appropriate provision for historic and important monuments and features, responding nimbly to competitor issues including competitors based across state borders, and flexible property and assets management structures. The sector has also raised the need for a more commercial and flexible framework to be the keystone of the legislation. This identifies responsive regulation as appropriate to the sector (whether classes A and B, or more nuanced categories) within an appropriate risk management environment. Size, scale and capacity issues allow for participation by Trusts in the system in different ways. However, support is evident for some shared services such as common information systems and a coordinating body such as an overarching Board.

CACs are a good innovation. There is a need to ensure they are properly set up, functional and active.

The review noted a generally strong relationship between the Department and the sector. This is due to good communication and relationships. This could be further improved by the holding of annual symposia where the CEOs and Chairs could sit down with government on a collective basis to identify issues and to unlock the innovation and creativity inherent in the sector.

There is recognition of the value of developing a framework for identifying best state to state competitive practice. This recognizes that the 21st century business model will be very mobile and challenging, and subject to rapid change. We see this, for example, with the growing use of cremations and memorialisation, the increased impact of cultural diversity, and the rising interest in tourism and related activities.

# Appendix 1. Terms of Reference

Review of the governance and management of Class A Cemetery Trusts to assess the implementation of 2009 amendments of the Cemeteries and Crematoria Act 2003.

The Minister for Health (the Minister) requires that a review be undertaken of the governance and management of Class A Cemetery Trusts to assess the implementation of 2009 amendments to the Cemeteries and Crematoria Act 2003.

Objectives

The review will:

Audit and evaluate the impact of recent legislative changes of the cemeteries sector on the performance, governance and viability of Class A cemetery Trusts.

Background

Following a review of cemetery Trust entities in 2009, changes resulted in the creation of two large metropolitan cemetery Trusts and the appointment of professional Boards to the two new metropolitan Trusts and three regional Trusts.

It was anticipated that these changes would result in the creation of professional bodies, better equipped to put in place the necessary governance and organisational arrangements to manage the complex business environment in which large cemeteries operate.

The five Class A Trusts have been operating for nearly two years (21 months). During this time there have been a number of implementation, performance and sustainability issues raised by both the sector and the community: maintenance standards, long term land availability, community relations and customer service issues, operational management issues and financial management and sustainability issues.

The review will look into the following matters:

The quality of governance:

* Board oversight of cemetery management
* Board performance and evaluation processes
* Board management of risk and the quality of internal controls
* The scope and quality of policies for compliance with regulatory requirements
* Operation of the audit committee
* Internal audit

Financial sustainability and Management of Trust assets

* Oversight of investments
* Viability and sustainability of the Trusts
* Barriers to the delivery of relevant services to the community

Record keeping and financial reporting compliance.

The requirements of the Financial Management Act 1996 and standing directions.

With Accounting Standards and policies issued through the Cemeteries and financial Policy committee.

The record keeping requirements of the Cemeteries and Crematoria Act 2003.

The requirements of the Public Records Act 1973.

Customer service and community relations:

* The effectiveness of community advisory committees.
* The quality of the Trust complaint management system.
* The process for the escalation of complaints within the organisations.
* How effectively board monitors complaint management.
* Whether the current structure facilitates community engagement.

Having regard to these matters, the reviewer will present the Minister with a report, advice and recommendations for the Minister’s consideration.

# Appendix 2. The Review Process

The review used the following methods to collect evidence to support the conclusions:

* Review of relevant Acts
* Interviews
* Review of documents
* Submissions received
* Consideration of best practice

### Review of relevant Acts and Legislation

Cemeteries and Crematoria Amendment Act 2009 incorporated into the Cemeteries and Crematoria Act 2003, No. 80 of 2003.

Victorian Government Risk Management Framework 2007

The Funerals Act 2006

Victorian Public Entity Director’s Code of Conduct 2006

Financial Management Act 2004

Public Administration Act 2004

Standing Directions of the Minister for Finance under the Financial Management Act 1994

### Interviews

A standard interview schedule was developed. Face to Face interviews were held with the Chair, CEO and other Trust Members.

**Ballaarat Cemeteries Trust**

Mr Graeme Hewitt Chairperson

Mr David Beames CEO

**Bendigo Cemeteries Trust**

Mr Rod Fife Chair

Mr. Ken Pata Former Chair and now Deputy chair

Mr. Graham Fountain CEO

**Geelong Cemeteries Trust**

Mr Lynden Smith Chairperson

Mr Darryl Thomas CEO

**Greater Metropolitan Cemeteries Trust**

Ms Catherine Brown Chairperson

Ms Jacquai Briggs-Weatherill, CEO

**Southern Metropolitan Cemeteries Trust**

Ms Sue Renkin Chairperson

Mr Jonathan Tribe CEO

Ms Jane Glover COO

Ms Fiona Bennett Chair Audit and Risk Committee

### Review of documents

BCT Documents consulted included:

* Bendigo Trust Position paper: Bendigo Cemeteries Trust : Class A Review
* Cemetery & Crematoria Sector Reform Proposal , Graham Fountain, CEO Bendigo Cemeteries Trust
* Bendigo Cemeteries Trust – Independent Price Review: O’Shea, J. Observations on the Regulatory System.
* USB: Bendigo Trust Strategic Plan
* USB: Bendigo Trust Policies, Meeting Agenda and Minutes, and Committee Charters

### Submissions to the Review

Submissions were received from:

The Southern Metropolitan Cemetery Trust

The Bendigo Cemetery Trust

InvoCare: Submission to the Victorian Government’s Review of the Governance and Management of Class A Cemetery Trusts.

### Previous reviews

State Services Authority 2007, Review of Cemetery Trusts. Melbourne, State Services Authority.

Auditor General Victoria 2006, Review of major public cemeteries. Victorian Government Printer July 2006.

Auditor General of Victoria: Special Reviews and Other Investigations. Cheltenham and Regional Cemeteries Trust – Review of Expenditure and Related Matters. May 2005

### Guidelines for Governance and Management

CCAV Guidelines

Cemeteries and Crematoria Unit Department of Health. 20.8.2012 Background Documentation.

Department of Health. Manual for Victorian Class A Cemetery Trusts

Documents prepared by the Cemetery and Crematoria Regulation Unit for the Cemeteries Web site.

Public Sector Standards Commissioner. The Directors’ Code of Conduct and Guidance Notes. Standards Australia International 2003 Corporate Governance Standards AS8000-AS8004. Sydney, Standards Australia.

Standards Australia International 1999 Risk Management Standard AS/ANZ 4360-1999. Sydney, Standards Australia.

State Services Authority Good practice Guide on Governance for Victorian Public Sector Entities.