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CEMETERIES AND CREMATORIA BILL 2013

Second Reading

The Hon. DUNCAN GAY (Minister for Roads and Ports) [4.20 p.m.]: I move:

That this bill be now read a second time.

Projections indicate that available burial sites across the Sydney greater metropolitan area will reach capacity within 30 to 40 years. That is the most important issue driving these reforms. Land acquisition is an essential part of avoiding this predicament. This must be accompanied by more sustainable burial practices to extend the life of our existing cemeteries. The bill puts in place a new industry-wide framework to encourage cemetery operators to act proactively and cooperatively to ensure that the State's burial needs are met now and into the future. Today I will speak about three key elements of the bill. They are reform of the Crown cemetery sector, strategic oversight and regulation of the interment industry by the Cemeteries Agency, and sustainable burial practices.

Let us first consider the New South Wales Government's reforms to the Crown cemetery sector. The first stage of these historic reforms commenced well over a year ago and involved the wholesale restructure of Crown cemetery trusts in New South Wales. We now have four major metropolitan trusts of sufficient size and financial capacity with skilled professional boards. The bill re-enacts many provisions from the Crown lands legislation framework and makes clear that cemeteries and crematoria on Crown land will continue to be managed in accordance with the principles of Crown land management.

The bill includes a number of new governance and business protocols that put the Crown sector on a more efficient and effective commercial footing. These are increasing transparency and accountability, and ensuring that cemeteries on public land are managed in accordance with best practice and in a way that ensures their long-term sustainability. I now draw the attention of members to the features of the bill that provide for strategic oversight and regulation of the interment industry in New South Wales for the first time. The Cemeteries Agency will sit across all three cemetery sectors—Crown, local government and private—and have the power to require managers and operators to act in the best interests of the people of New South Wales.

Importantly, the agency's functions and powers will be scalable to enable its remit to evolve over time to address potential emerging issues. As a matter of priority, the Cemeteries Agency will develop and implement effective measures to ensure that all cemetery operators make adequate provision for the care and maintenance of their cemeteries. Of paramount importance, the Cemeteries Agency will ensure that no faith is disadvantaged, and that equitable access to cemeteries and crematoria is provided to all religious and cultural groups in a way that respects and upholds their various beliefs and practices. The Cemeteries Agency will maintain an accurate and up-to-date register of all cemeteries and crematoria to ensure that the agency can keep track of interment industry participants and develop sensible and effective regulation.

The Cemeteries Agency will collect necessary data on cemetery and crematorium operations, including interment rates and available burial space, to inform the development of comprehensive industry-wide strategies to address the diminishing cemetery capacity. The Cemeteries Agency will also develop strong linkages with the New South Wales planning system to ensure that the critical nature of cemetery and crematorium needs is taken into account at all levels of future strategic land use planning. Where this fails to deliver sufficient cemetery space, the Cemeteries Agency can exercise last-resort powers either to purchase the land itself or, with the approval of the Crown land Minister, to direct a Crown cemetery operator to purchase land for cemetery purposes.

The Cemeteries Agency will be led by an independent board appointed by the Minister. The board's four voting members will include a person with knowledge and expertise in consumer and customer advocacy. The bill establishes a scalable regulatory framework with the necessary flexibility to respond to new interment industry practices, and emerging and evolving challenges. The Cemeteries Agency will have the power to develop, approve and promote codes of practice for the interment industry. Codes of practice will initially be voluntary, but they may be made mandatory by regulation, where appropriate. In certain circumstances, the bill confers on the Cemeteries Agency the power to make binding short-term orders. Short-term orders remain in force for a maximum of 12 months, and the Cemeteries Agency will be required to commence the development of a regulation with the corresponding mandatory code of practice as soon as practicable.

The integrity of the regulatory framework set out in the bill will be underpinned by the investigation and enforcement powers of the Cemeteries Agency, which will be exercised by authorised officers. The work of the Cemeteries Agency will be funded initially by a levy identical to the current Crown Cemetery Levy. In due course a proposal for a more broadly based levy will be developed, enabling appropriate contributions from all three cemetery sectors. The bill includes a regime of civil penalty provisions for contraventions of obligations imposed by the legislation or directions issued by the agency. The New South Wales Liberal-Nationals Government shares the significant concern expressed by the community, and religious and cultural groups in relation to acts of desecration and harassment in cemeteries.

The bill includes amendments to the Summary Offences Act 1988 that align desecration offences in cemeteries with those relating to war memorials and other protected places. It also establishes an additional offence for disturbing or interrupting a service in a cemetery, or interring remains without lawful authority. Finally, I will outline the New South Wales Liberal-Nationals Government's approach to sustainable burial practices. Unsurprisingly, research shows that people wish to bury family and friends within a reasonable distance from their homes to enable regular visits. Better land use planning and land acquisition for cemeteries and crematoria is essential to achieving this. However, better use of existing cemetery space is crucial to meeting the Government's objectives.

To achieve this, the bill enables renewable interment rights to be offered on a consistent basis across all three cemetery sectors in New South Wales. This will be based on the important principles of choice and non-retrospectivity. I note that there was some confusion in the other place about the renewable rights scheme proposed in this bill. I would like to avoid similar confusion in this House by making a few points about the Government's approach to renewable rights. The bill does not introduce renewable tenure burial in New South Wales. It seeks to regulate it for the first time. Renewable tenure burial is already available to the cemetery operators that service almost 75 per cent of the market, but there are no legislative rules governing how renewable rights operate or appropriate safeguards to protect customers.

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Under the bill a renewable interment right may be held for up to 99 years. Right holders will be able to renew their right for additional periods of at least five years up to the maximum total of 99 years. Because right holders can choose the renewal period, there is no need for them to renew their right every five years, or at any other frequency, unless they choose to do so. When a renewable interment right expires and is not renewed, the cemetery operator may re-use the interment site. This can only be done after a two-year grace period has expired, reasonable efforts have been made to contact persons listed in the register, and the intention to re-use the site has been published. Importantly, a site cannot be re-used until all bodily remains interred at the site have been interred for a minimum of 10 years.

One of the first codes of practice developed by the Cemeteries Agency will provide guidance to cemetery operators on implementing renewable interment rights, including steps that must be taken to give right holders appropriate notice throughout the cycle of their right. I am sure all members recognise that each culture has its traditions and practices that ought to be respected. Some of these practices would be better supported by a renewable rights scheme. These practices should be respected just as the practices of religious and cultural groups that require perpetual interment or cremation should be respected. Space in metropolitan cemeteries is becoming scarce and interment sites more expensive. The renewable rights scheme in this bill will extend the life of existing cemeteries, giving local communities the option of a traditional burial in a cemetery close to their home. In addition to renewable interment rights, the Government is promoting other sustainable options, such as natural or green burial, family graves and private burials. With respect to private burials, the Government will review the current private burial guidelines to ensure they are no more restrictive than needed to meet public health and environmental concerns.

Communities across New South Wales understand the need to act now on a long-term sustainable approach to burial space for current and future generations. The Government received letters of support for these reforms from the Catholic, Jewish and Muslim communities, and supportive submissions were also received during consultation from the Anglican Church Diocese of Sydney and the Greek Orthodox Archdiocese of Australia. This bill is the result of broad and extensive consultation with the community, industry and all levels of government. The participation of key stakeholders at each stage in the reform process has ensured the development of collaborative approaches to the challenges confronting the interment industry and the community of New South Wales. I commend the bill to the House.