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**From:** Malcolm and Wendy MacDougall <[REDACTED]>  
**Sent:** Thursday, 11 October 2018 9:07 PM  
**To:** [REDACTED]  
**Subject:** RE: Burial and Cremation Act Review

Dear Linda,

Further to your recent email, we wish to thank you for your assistance and to clarify some points which we make as a genuine concern for the whole of the State, not just our friends relatives and ourselves:

1. When we purchased 3 double depth cemetery plots at St Mark's, Pontville, 30 years ago at a cost of \$700 we were told by Reverend Rick Cartledge that we had exclusive right of burial (copy enclosed) which meant no disturbance for 100 years after the last burial in that cemetery. Our youngest child was only 8 at this time and is now 38. This 100-year time period has ever since been our belief.

Archdeacon Stephen Savage met with us on Thursday 20 September to discuss the proposed sale of churches and cemeteries. He didn't hesitate in reassuring us that his understanding was that Anglican cemeteries remain undisturbed for 99 years after the last burial. Stephen was rector of the Parish of Brighton approximately 18 years ago. Whilst we acknowledge that St Mark's, Pontville, and its graveyard are not currently flagged for sale, we are concerned for other graveyards where family and friends are buried.

2. Discussing this topic with a dear friend recently, he asked us to raise the question in our submission as to why burial protection is proposed to be limited to only 100 years of non-disturbance when Aboriginal artefacts, bones, etc. are perpetually protected by such powerful legislation. In asking this, his issue is, why will we have two such different timeframes – is this discrimination?
3. We note with disappointment that the new Cemeteries Act proposal is suggesting that certain graves (such as those of war veterans or persons of historical or cultural interest to the community) are not disturbed. Again this is discriminatory and upsetting. Who determines whether a person is deemed to be of historical or cultural interest to the community? Sometimes the good works and community contributions of a person are not formally acknowledged until sometime after their deaths. Sometimes people are recognised and then unfortunately later dishonoured. Surely we all deserve to be left in our final resting places undisturbed.
4. We understand that the new Cemeteries Act proposal will require each cemetery to be under the control of a corporate body rather than an individual. Our question is, how reputable do these people have to be? Can all members of the body be from the same family? How can we be sure that all members have a genuine interest in the care and maintenance of the graveyard (not just dollar driven), and also of course in the family and friends of those interred? Do they have to be of good character and have the appropriate management skills and checks?
5. Under new church/cemetery ownership, will the corporate body be required to take out insurance on the graveyard? Surely public liability insurance would need to be compulsory.

6. We are querying whether the up to \$16,300 fine for non-compliance with management of a cemetery is a cumulative amount or will it apply to every non-compliant act? We also query the amount of \$16,300 and find it to be quite paltry. The recent case of wilful destruction of a heritage property in Mt Stuart resulted in convictions for nine separate offences and a fine of \$225,000, which is significantly less than the maximum penalty of \$353,000. To unlawfully disturb the remains of one's loved ones we believe should be a very serious crime. Surely a person is worth more than a building. We also note with interest the Aboriginal Relics Bill 2017 increased from \$1570 to a maximum fine of \$1.57 million! Surely all the deceased, regardless of race, should receive the same respect and deterrent against disturbance. I quote from Shakespeare's headstone at the Church of the Holy Trinity, Stratford Upon Avon:

"Good friend for Jesus sake forbear,  
To dig the dust enclosed here.  
Blessed be the man that spares these stones,  
And cursed be he that moves my bones."

7. Further to the sale and potential mismanagement of cemeteries, what happens when a purchaser has blatant disregard of law and process like the recent case at Mt Stuart in which a heritage property was partly demolished and trees cut down. That action offended the local residents, National Heritage and the Hobart City Council. What if headstones and grave markers are pushed into a heap? This could affect numerous people across generations in the most hurtful way. We need to protect the heritage graves as well as the recent ones.

We propose that before the transfer of title deed for any churchyards/graveyards, videos and/or photographic documentation be recorded with the national archives for future reference as one would with a rental condition report. The cemetery/graveyard needs a perpetual caveat on the title deed requiring an inspection take place to ensure that no disturbances have occurred. We suggest the heritage council (or similar) then signs the property report off (as per the prior condition report) before transfer of title.

8. To ensure that the multinational funeral directors/cemetery operators don't exploit grieving families across Tasmania, can we suggest there be a provision to cap costs in line with CPI. This is particularly pertinent in rural and regional areas where there are lengthy and significant familial ties to graveyards. We certainly don't want to see outrageous price hikes for burial plots across the state, especially in current low cost rural burial areas.
9. Many church and graveyards are on land which has been donated by families to the Anglican diocese of Tasmania. This land has been given in trust/donated under the expectation that it be used for ongoing family and community requirements, generally in rural areas, not to be just sold off for cash. The closest example to mind is at St. Thomas Anglican Church, Tea Tree. The graveyard was reaching capacity and as such Mr Maurice Barwick, an adjoining land owner and farmer, donated land to extend the life of the cemetery. His parents are buried there. He was also buried there 5 years ago, just a short time after his donation. Maurice was a friend of ours and we believe it certainly would not have been his intention what the Diocese are proposing (you can check with his family).
10. What safeguards will there be to ensure existing access to cemeteries and burial sites? Many people spend time at graves on significant dates and anniversaries. These do not only fall on weekends, and must ensure access to those who travel and work (eg: during daylight hours). Visitation often forms part of the grieving process and for many people they have been doing so for many years. We notice the proposal states 'reasonable hours' and that these will depend on the cemetery. We suggest 'reasonable hours' be defined to ensure consistency across the state so there are no misunderstandings.
11. In 2006, we stumbled across our great great grandparents, convicts William and Mary McDougall's, grave and broken headstone in a paddock overgrown by scrub and blackberries at Maxfield's Road, North Franklin. We repaired and cleaned the broken white granite headstone that had been knocked over and broken into 3 parts by cattle. This action inspired Mr Des Hays of North Franklin whose ancestors are also buried in this cemetery to apply for a government grant and restore, landscape and fence what is now known as the

Pioneers Cemetery, Maxfield's Road, North Franklin. It seems as though it is in rural and outlying areas where the most hurt is going to be.

Although a lot of cemeteries are in disrepair, while there's life there's hope others like Des Hay will also be motivated. We understand the Friends of St John's Church Franklin are keen to purchase the Church and Cemetery there and restore them. Wendy's grandmother is buried there. Under private ownership, what steps can be taken to ensure that no stock are permitted to desecrate monuments, graves and flowers?

12. We note with interest that a Regulator will be appointed to deal with the upcoming issues of cemetery management and agree that this is appropriate and correct process. We are also pleased that exclusive rights of burial will be honoured under the new proposal – being buried alongside loved ones as planned is very important to many people.
13. Although not part of this submission, what is the proposed action in regards to Honour Rolls, Memorials and the like which are currently displayed in churches? Because these are a very strong link with the local communities we suggest that the Diocese be encouraged to donate these to the local council chambers, RSL clubs or community centres providing no family members remain contactable.
14. Whilst we very much appreciate the opportunity to make submissions to the legislative review, we feel the process is somewhat flawed. Being able to see the submissions of others on the Department of Premier and Cabinet website provides interested members of the public with the opportunity to consider the opinions of others and think about issues that they had perhaps previously not thought of. The chance to publically comment on submissions over a brief period of time (say 2 months) could assist in the formation of some good ideas based on the very real concerns and needs of the community. We suggest members of the community may be very well placed to make recommendations and work through these in an online forum.

Linda, we thank you for taking the time to read our concerns and suggestions. We realise that this is possibly the last opportunity in the foreseeable future for the living and the dead's needs to be genuinely cared for. As suggested we will make a submission to the legislation review which will be much the same as this letter.

Kind regards,

Malcolm and Wendy MacDougall

