

**From:**  
**Sent:**  
**To:**  
**Subject:**

[REDACTED]  
Sunday, 14 October 2018 7:55 PM  
Local Government Division (DPaC)  
Proposed Changes to the Burials Act - [REDACTED]  
confidential

Dear Sir or Madam,

Thank you for the opportunity to comment: I apologise if this seems short and a bit choppy, but I am having to draft this on a mobile phone, not having access to a computer with a keyboard at present.

Firstly, I regard this as important. Although I am not myself religious, I acknowledge the important role that the rites of the Church(es) have played in our history and the lives of many people. Occasions like baptisms, weddings and funerals may be the only remaining occasions which draw extended families together, and are very important to social cohesion. I also value history, which shows us where we fit.

It is also very important for tourism: whilst living in London I volunteered on weekends at Highgate Cemetery, a wonderful example of preserving architecturally important monuments, being environmentally responsible and drawing in tourist dollars all at the same time.

It must not be forgotten that the churches have - because of their role - benefitted from centuries of support and donations from the community. To expect to have the benefit of that without responsibility for the results of it is wildly unreasonable.

And this is needed. One Launceston cemetery I know of is now a carpark.

I therefore wholeheartedly support the amendment of the Act to ensure that cemeteries are cared for as communities would expect, and in a manner which preserves their value.

Some changes should apply to current owners/managers of cemeteries: those which deal with length of preservation, investigation and the consequences of destroying or damaging the monuments, or denying public access. It's not as if the person or business did not know that the site was a burial ground. I am aware of the rule that legislation should not apply retrospectively, but to fail to hold someone to account for actions (or inaction) which occurs after the Bill is passed is a bit like saying only new restaurants have to comply with new food safety laws.

In no particular order, I make the following comments:

- \* if you only protect cemeteries for 100 years, many historically significant graves may be lost. For example WW1 soldiers as of this year! But not only returned soldiers' graves are significant.
- \* a monument or group of monuments may be significant for their own characteristics, not just for who lies beneath. How is that covered by the current draft?
- \* there is a need to penalise individuals with roles in the body corporate, as well as the entity. Time and again we have seen that individual risk of imprisonment is vital for ensuring compliance: look at the difference in the conduct of executives when running a bank (low personal risk of personal penalty - cavalier, potentially criminal, conduct) and when giving evidence at the Royal Commission (high personal risk if improper conduct in front of the Commission - great care to give accurate evidence, even if it involves admissions).
- \* minimum, as well as maximum, penalties should apply, absent exceptional circumstances, to prevent penalties failing to meet community standards.
- \* the regulator must be adequately funded to conduct investigations and ensure prosecution.
- \* facilitation of proof provisions should be considered.

\* the power to order a cemetery owner/ manager to carry out restitution is vital. The analogy is with people who find it advantageous to intentionally fail to comply with council planning and building regs, or destroy heritage premises, and just pay a fine for retrospective approval.

\* Fit and proper person considerations must include non-compliance with any council rules or planning requirements, including having paid a fine to secure retrospective approval.

\* it seems prudent to provide that if a manager fails to honour an exclusive right of burial, they must repay the current equivalent of the cost of that right and pay the costs of burial elsewhere.

\* careful consideration must be given to how historical importance is decided, and how refusal to recognise as well as recognition is reviewed.

Thanks again for the opportunity to comment.

Yours sincerely,

