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From: Michael Purves <[REDACTED]>
Sent: Wednesday, 10 October 2018 3:06 PM
To: Local Government Division (DPaC)
Subject: FW: Burials and Cremations Act

Thank you for the opportunity to comment.

General comments:

The transfer of responsibility to cemetery managers establishes an unfair imposition on existing managers and pre-purchased lots. All responsibility transfers immediately under this act and will require potentially substantive fees to cover ongoing maintenance costs. Managers are still obligated to attempt contact family to remedy maintenance problems but become responsible for it. This arrangement seems absurd.

A more nuanced response would transfer maintenance liabilities from family to manager after 30 years, which is most likely after most immediate family have themselves gone. This might be subject to familial consent. It would formalise the current practice once immediate familial connections have gone and the transition to the manager is a practical one. Perhaps also provide for transfer on application prior to that time / following notice to regulator where family not responsive or contactable.

The 100 year timeframe also seems absurdly long. We suggest that any increase be 50 years (if required). Too much can change within the 50-100 year horizon the Bill proposes for it to be a practicable term. We note the proposal from Bishop Condie for review at 30 years with an option to extend for another 30 years, but suggest that the limitation on the decision of the regulator seems strange and would perhaps be better left to the discretion of the regulator based on set criteria.

Experience from mainland cemeteries suggests that a substantive maintenance fee would require upfront payment upon interment (thousands of dollars over the life of the liability/responsibility). If such an approach taken then cost imposts should be neutral but we would need to establish trusts for financial management of contributed funds. The proposed bill makes no mention of how to deal with existing liabilities once transferred to the managers, but this requires consideration. We have no historical figures at present which makes calculation of ongoing and inherited costs difficult.

Appeal provisions throughout the act relies on the Administrative Appeals process, which does not necessarily provide for an alternative decision to be made. Not sure if this is the right process to rely upon, this is effectively similar to a LUPAA decision and appeals perhaps ought to be considered on a similar basis.

Detailed comments:

New section 3A appears to be in the wrong section and should be a 6A under part 2.

11A(1) – not clear whether this applies to a new manager of an existing cemetery who may predate revised act. Appears to imply that an approved manager can manage any cemeteries. Definition in Act is clearly cemetery specific where new sections are not.

26 – repeal of ability to remove ‘cemetery adornments’ covers all existing cemeteries and is therefore retrospective. This is not appropriate and is likely to add significant costs to ongoing management of existing sites. It is suggest that the existing provision should be retained in full or if no, a commencement date established for the application of the new controls so that management of existing facilities is not unduly hampered.

30 – this section appears to conflict with the removal of 26, but its not clear how this intent could be achieved.

If you have any questions , please contact me to discuss them.

Regards

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Subject: Burials and Cremations Act

Dear All,

The Tasmanian Government has today released for consultation the Burial and Cremation Amendment Bill 2018.

As indicated at the July General Meeting LGAT will support a sector response to the Bill.

While I am sure that the SOCS collective, which includes representatives from a number of councils, will also be considering this matter, it is important from a sector point of view we review the legislation through two lenses

- 1) The lens of community concerns regarding proposed Anglican Church sales
- 2) The lens of councils as cemetery managers

The DPAC website

http://www.dpac.tas.gov.au/divisions/local_government/review_of_tasmanian_cemeteries_legislation

Provides a copy of the Bill, Fact Sheet, an FAQ for Cemetery Managers and Generally.

Amendments proposed include:

- Establishment of a Regulator role (to be the Director of Local Government at this time)
- Requirement for new cemetery managers to be a body corporate with perpetual succession approved by the Regulator. This means management of cemeteries will not be reliant on a single private individual.
- Sellers will be required to notify the public of intentions and obtain a certificate of compliance from the Regulator before proceeding. Purchasers also need to apply for approval to become a cemetery manager and have public notification requirements as well.
- The regulator will have the ability to issue directives and infringement notices to cemetery managers around maintenance, record keeping, allowing access and honouring exclusive rights of burial. A penalty of up to 100 units (\$16,300) will apply for failing to comply with a directive.
- Cemetery Managers will have to undertake a compliance audit every 5 years.
- The Bill proposes that the length of time from last burial to closure be increased from 30 years to 100 years and the Regulator will need to approve closure and can apply conditions (eg protection of certain graves).
- The new arrangements will not apply to past sales or transfers of cemetery management but existing cemetery managers will need to continue to allow access and exclusive rights of burial, comply with sale requirements, undertake the 5 yearly audit and follow the new process re closure.
- The changes mean that if a cemetery is attached to a Church the sale can only proceed if the purchaser is a body corporate with perpetual succession. Private individuals would not be eligible to buy churches in those circumstances.

Submissions are due on Sunday 14th October. LGAT requires council comments by 10am on Wednesday 10th October for incorporation in our submission.

Comment can be in email/dot point form or a copy of an individual council's submission.

This timeframe is necessarily short, providing a window of just one sitting day before both the end of the year and progression of the Anglican Church process.

Kind regards

Katrena

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