

RESPONSE TO THE DRAFT BURIAL AND CREMATION BILL 2019

PRIVATE PROPERTY OWNER CONCERNS

No 'Body Corporate' for Closed Cemeteries

Thank you for taking the time to read this. I urge the Government to use the opportunity when this bill is reviewed to simplify the buy and sell process for properties with cemeteries. This issue has not had enough attention and I feel that it is more significant than has been acknowledged. It not only affects private property owners but communities trying to secure the care of their cemeteries. The process *can* be simplified and the headstones still protected under the act.

Private owners of closed cemeteries which are on the same title as a residential building (converted church or hall, for example) should be exempt from part 4, section 33 (4) (b) providing there are a minimum of two adults responsible for ongoing maintenance of the cemetery grounds. This could also be applied to standalone cemeteries. In a closed cemetery there are no burials occurring and no paperwork to manage. Groundskeeping, general caretaking such as repair and maintenance of grave fences, pathways, gates and signage (if required) to allow public access are the main requirements for a closed cemetery.

I am not convinced that a body corporate would be better than a private owner at caretaking a closed cemetery when this area is on the property where they live. For communities looking to care for standalone cemeteries, the reduction in red tape would be such a relief as I have spoken to many who have struggled to meet the legislative requirements. A commitment to upholding the relevant parts of the Burial and Cremation Act is essential. This could be simply in the form of a signed agreement acknowledging their role as caretakers and awareness of fines for breaches of the legislation. There could easily be a standard set of cemetery management guidelines to follow for properties such as these so that each individual owner doesn't have to make their own. Of course, with an area for additional requirements particular to each cemetery.

Perpetual succession for the purposes of ensuring that someone is present to continue cemetery maintenance does not need to be done through a body corporate unless that cemetery is open and burials are occurring. For closed cemeteries it could be as easy as having either a minimum of two persons purchasing the new property or one individual who then designates a support person. This paperwork could be done legally and legitimately through the Department of Premier and Cabinet and approved by the regulator. The situation at each property could be reviewed annually (for example) and it would reduce the needless creation of a multitude of small associations to meet the body corporate requirement. It could also improve consistency in management of all closed cemeteries.

The draft review includes a section in which the regulator can issue exemptions. This is an excellent change and should be used to help private property owners and potential new owners. There are other areas of the buy and sell process such as the audit, public notice and certificate of compliance which are arguably only necessary the first time a closed cemetery property is released from the church and sold privately.

Overcomplicating the process in purchasing, owning and selling private properties with closed cemeteries will only cause the following:

- Huge reduction in the number of interested and eligible buyers due to time consuming 'red tape' and the presence of a cemetery could be considered a burden rather than an asset
- Potentially lower property value
- In turn, the Anglican Church may struggle to make decent profits from the sale of their properties for abuse victims who are waiting to be compensated
- Higher likelihood of churches and attached cemeteries falling in to disrepair when new owners cannot be found, and they are being sold privately for the first time. Parts of our home were in danger of collapse had we not restored and converted our beautiful church
- Only dedicated communities with the means to meet the legislative requirements will step up to take care of closed standalone cemeteries which are no longer being maintained by churches. Who will take them on otherwise when they, as pieces of property, can hardly have a monetary value placed on them and are so difficult to acquire?
- Owners being forced by law to remain on their properties or resort to renting them out due to their inability to sell at a time they need to move on and/or are unable to continue maintaining a complex property.

I speak from experience as an owner of a converted church and closed cemetery for 14 years. We have loved our home for all of this time but are desperately in need of a new owner for genuine reasons. We have had buyers interested in our property turn away due to the current act and concerns with not only the unnecessary complexities of proceeding with a sale, but their ability to sell the property again in the future. To put things in perspective, in order to sell we have had to:

- Advertise in a local newspaper our intentions to sell the cemetery
- Prepare detailed plans and records of every headstone including supportive photography
- Pay a fee and apply for a certificate of compliance
- Form and register an association with perpetual succession
- Prepare a cemetery management program

A prospective buyer has to:

- Read a disclosure document
- Pay a fee and apply to be a cemetery manager (and be approved)
- Pass a 'fit and proper' person test
- Be a body corporate (which I have created)
- Present a cemetery management program (which I have prepared)

This is without a doubt an unnecessarily complicated process for someone to buy a property with an old, closed cemetery which needs basic groundskeeping, clear public access and common sense in regard to protecting the headstones in line with the laws. I cannot express to you how much time, stress and effort has been put in to those two seemingly small lists.

Owners of closed cemeteries should be assisted, not restricted, and praised for the role that they are taking in maintaining the final resting places of the loved ones of others.

Yours sincerely,



Lucy Poulton

