

SUBMISSION REGARDING BURIAL AND CREMATION AMENDMENT BILL 2018

1. Support for Amendments

We support the current proposed amendments, plead that the force of those amendments not be diluted in any way, and make further suggestions as below.

2. Cremation, interment and “human remains”

It is obvious that the proportion of cremations as a total of burials will continue to increase. The structure of the current Act overtly differentiates between burials and cremations; the draft Amendments continue this. It is suggested that, in the minds of friends and relatives of the deceased, there is no difference as to the method of disposal, and there is no real justification for the continuation of this discrimination. It is the location and situation of the final resting place which is important, not the method of disposal.

For these reasons, it is suggested that the definition of “human remains” be amended to **include** any human remains that have been reduced to ash. This approach would require consequent changes to the draft amendments to ensure that cremations and columbaria are treated in the same manner as interments and cemeteries.

3. Retention of public access to cemeteries and control of burial fees

Reasonable access to cemeteries and crematoria and fees payable for burials and cremations are likely to become a major issue where cemeteries and columbaria are purchased in association with church buildings. To prevent a future body corporate from physically constraining public access or demanding excessive burial fees, it is suggested that s.27L(3) be amended to require the Regulator to impose conditions regarding these matters upon approval of the sale of cemeteries. This will require related amendments of those parts of the Bill dealing with cremations and columbaria.

4. Public notification and regard for representations in respect of cemetery sales, purchases and closures.

Given the certainty that potential sales, purchases and closures of cemeteries will generate significant public reaction, it is suggested that a clear and formal system of notification and the invitation of representations be established, and that it be a mandatory requirement for such representations to be “taken into account” in the determination of such proposed actions. This will enable a Regulator to take advantage of public opinion as well as local knowledge and information essential to the carrying out of duties under the Act, and which may

not otherwise be discovered or made known. Provisions such as those in the Land Use Planning and Approvals Act relating to new planning schemes have been proved to be effective and are suggested as a model.

5. Consideration of matters arising from audits under s27L(3)(iv)

It is suggested that any relevant matters arising from a s49A(1) audit be specified as mandatory heads of consideration under s27L(3).

6. Continuation of interments in sold cemeteries

To put the matter beyond doubt, it is suggested that a specific provision be added to the Bill to ensure that interments are to continue to capacity in any cemetery sold under the Act. This would ensure full and free access to cemeteries where burial plots remain available.

7. Conflicts of interest in the ownership of church buildings and associated cemeteries

It is virtually inevitable that new private owners will seek to downgrade access and the extent of use of the curtilage of privatised church buildings for apprehended reasons of privacy, etc. This would conflict with the desire and right of the public to access and appropriately utilise cemeteries adjacent or attached to privatised church buildings. (In most instances, regional churches are attached to or surrounded by gravesites (cemeteries) and access to such buildings can only be gained through and between gravesites.)

This inevitable conflict of interest demands that there be a clear and distinct separation between the influence of new owners of the church building and the need to continue the proper operation of the cemetery.

For these reasons, it is suggested that:

- (a) the new owner(s) of any church property (and any person married or related to, or closely associated with same) be prohibited from being any part of a body corporate set up under the new Act to purchase and operate a cemetery, and
- (b) new body corporates be comprised of at least three persons, and
- (c) at least one person in a body corporate be a person independent of the owner(s) and who has resided in the community associated with the church property for at least ten years.

8. S29(5)(c) – closure of portions of a cemetery not to destroy unity of whole

If the closure of entire cemetery areas proves difficult or impossible, it can be expected that new owners of regional church buildings with attached cemeteries will desire to close portions of cemeteries closest to church buildings, or where they have the apparent effect of constraining access to, and

the secular use of, church buildings. This would, in most instances, be detrimental to the ambience and experience of the cemetery as a whole. Accordingly, it is suggested that a clear and distinct head of consideration be inserted into s29(5)(c) to ensure that the unity and ambience of the cemetery as a whole not be adversely affected by the closure of a portion.

Submitted by GTC Chapman and Nichola Ball - descendants of WA Bethune who contributed the land upon which St John the Baptist Church, Ouse stands, and where generations of our family are buried.