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Department of Premier and Cabinet
Executive Building, 15 Murray St
Hobart, TAS, 7000

14th October 2018

REVIEW OF TASMANIAN CEMETERIES LEGISLATION

Attention: Mr Alex Tay

Dear Mr Tay,

I wish to provide feedback on the Draft Burial and Cremation Amendment Bill 2018.

From the outset, I emphatically make the point that the public consultation time period provided for this draft bill is woefully inadequate. I did request an extension of time to make a submission but received no response from your department.

I write as a concerned citizen who is part of a community group called Groundbreakers - Natural Burial Tasmania. We are based on the North-West Coast and have a focus on natural burial, sustainable cemetery land-use models and autonomy around funeral and burial choices. We are an informal group but have a strong following and have generated considerable public interest in this topic since forming in early 2016.

That said, I am not writing this submission on behalf of Groundbreakers. I am, effectively, unable to. Given the short consultation period, the key members of our group have been unable to convene with the purpose of thoroughly interrogating the proposed legislation. I am therefore writing as a individual with an (albeit laypersons) informed perspective on some of the issues addressed in the amendments.

If this submission errs toward generalities it is because I have not have sufficient time to cross-refer and research the details and implications of the material provided.

My overall impression is that the draft legislation involves overreach of the new regulatory body. Significant powers are given to the regulator, yet their scope is not clearly defined. The proposals will impose onerous logistical and financial burdens on cemetery owners which would almost seem impossible to meet, given the limited ability of cemeteries to generate income. The extension of the time period beyond closure of a cemetery to 100 years seems completely unwarranted.

I am aware that the context for making these legislative changes is in response to public concerns about the sale of churches and therefore cemeteries by the Anglican Church. If there are deficiencies within the current legislation regarding these community concerns, then it is beholden upon the authors of the new legislation to adequately address these matters and implement appropriate safeguards. The paucity of detail and numerous examples of vague and open-ended phrases does little to inspire confidence in the measures proposed.

Examples:

The Regulator's power to obtain information, set fees and impose conditions is great, yet the specific parameters of the Regulator are not clearly stated. The legislation contains vague phrases such as "any other matter that the Regulator considers relevant." How will operators be sure there is a level playing field in relation to compliance?

Regarding gaining approval for a new cemetery, a completely new process will be required. What are the criteria for this process? Again, phrases such as "any other matter relevant" raise concerns about the potential for arbitrary decisions to be made, depending on the vagaries of whomsoever is the Regulator at the time.

Pertaining to matters of my personal interest, I feel this is a missed opportunity. Other jurisdictions in Australia have made amendments to their legislation in recent times to assist in facilitating environmentally preferable options around burial. South Australia, for example, has introduced a simple definition of natural burial: '*...a cemetery, or portion of a cemetery, in which human remains are buried in the ground - a) without preparation of the remains using chemical preservatives; and b) by containment of the remains only in a shroud or biodegradable coffin or container*'. The phrase 'natural burial ground' is used alongside the word 'cemetery' throughout the South Australian legislation. The ACT has removed all legislative impediment to the use of cardboard coffins. Reference to burial in a 'shroud' and the re-use of a coffin for transportation (provided it can be sanitised) are present in legislation in other states in Australia. Shrouded cremation is now available across Victoria.

Natural burial is a fast growing world-wide trend, spurred on by public concerns about environmental sustainability in all aspects of life - including death. Baby boomers are reaching an age where they want to consider the options available to them. A key characterisation of the baby-boomer generation is the preference to pursue autonomous paths in relation to crucial life decisions.

This fits with the trends we are seeing in the types of natural burial practices becoming common in the UK and the USA. Family-led funerals. Co-operatively and not-for-profit run green cemeteries. Land conservation and protection initiatives via the establishment of natural burial grounds.

My reading of the new legislation puts it somewhat at odds with these emerging trends. It brings in a whole new layer of bureaucracy. I do not feel this is justified, given the protections already provided by the *Burial and Cremation Act 2002*, combined with the *Land Use Planning and Approvals Act 1993*.

The requirement for a new owner to be an Incorporated Body does not guarantee financial security for the life of a cemetery - especially if the management responsibilities extend for a period of 100

years beyond the cemeteries closure. Is it possible, under the proposed legislation, for a group of suitably qualified individuals, for example, to lease an appropriate piece of land for a stand alone natural burial ground? Given the heavy carbon footprint of municipal cemeteries, the extended time frame stipulated before a cemetery can be sustainably rehabilitated and regenerated is a poor environmental outcome. The antithesis of what we should be aiming to achieve.

My final point relates to cost. There will be an onerous and costly burden imposed on cemetery managers if this legislation passes in its current draft state. Public opinion already considers the costs of burial plots to be exorbitant, and the entire 'conventional' funeral industry is coming under increasing scrutiny as consumers demand greater transparency around the fees charged. We are at a point in time where people want to simplify and make choices in accordance with their values - free from the formality and weight of outdated traditions. I can only envisage costs related to burial spiralling upwards as a consequence of these proposals. My preference, based on discussions with hundreds of people about this topic, is that new legislation should ease and ameliorate the financial shock which grieving families are faced with at one of the most stressful times of their life.

To conclude, I feel this legislation is framed in reaction to a particularly vexing problem a portion of the Tasmanian community have legitimate concerns about at the present time. It is not well drafted, however, and has some consequences which will be problematic to the operation of cemeteries in the future. When the Burial and Cremation Regulations 2015 come up for review please, please provide a longer time for consultation.

Kind Regards,

Lyndal Thorne

