

**Wednesday 28 November 2018**

The President, **Mr Wilkinson**, took the Chair at 2.30 p.m. and read Prayers.

### **QUESTION UPON NOTICE**

The following answer was given to a question upon notice:

#### **9. STRATHDEVON HYDROTHERAPY POOL**

**Mr GAFFNEY** asked the Leader of the Government in the Legislative Council -

Will the Leader advise -

- (1) What is the relationship between the Strathdevon Hydrotherapy Pool - SHP - in Latrobe and the state Government and the Department of Health and Human Services - DHHS?
- (2) Are there any arrangements or a service relationship between the SHP and the DHHS, including funding and referral guidelines to health professionals?
- (3) What are the Government's plans for the hydrotherapy service in Latrobe utilising the Strathdevon Hydrotherapy Pool?
- (4) How does the Strathdevon Hydrotherapy Pool report back to the DHHS? Are there any reporting requirements between SHP and the Government?
- (5) How many clients have used the pool since its reopening and what are the age groups, needs and attributes of the client groups?
- (6) How many times (on average) do clients access the hydrotherapy pool?
- (7) What is the process for clients to obtain access to the Strathdevon Hydrotherapy Pool?
- (8) Why have DHHS and private clients who previously utilised the Strathdevon Hydrotherapy Pool been advised that they should go to 'Splash' (Devonport Aquatic Centre, run by private company Belgravia Leisure) for their therapy?
- (9) Has there been a change in guidelines or a directive from DHHS regarding the referral to, and utilisation of, hydrotherapy pools at Strathdevon and across the state?

**Mrs HISCUTT** replied -

Mr President, as the answer to this question is lengthy, I seek leave to table the answer and have it incorporated into *Hansard*.

**Leave granted.**

- (1) The Tasmanian Health Service has a licence with Uniting AgeWell - UAW - as the owner of the Strathdevon Hydrotherapy Pool. The licence provides THS with access to SHP for its hydrotherapy service.
- (2) The relationship is between UAW and THS. There is no direct relationship with the Department of Health, previously known as the Department of Health and Human Services.

As part of the licence arrangement, THS provides all staffing at SHP and therefore currently has exclusive access to use of the pool on Mondays to Fridays. THS runs part of its hydrotherapy service at SHP with the other component provided at the North West Regional Hospital Hydrotherapy Pool.

Access to the hydrotherapy service is via the physiotherapy department.

- (3) THS has a current licence to use SHP with UAW to provide its hydrotherapy service. THS will continue to provide a hydrotherapy service overseen by physiotherapy in the north-west.
- (4) SHP and UAW do not report directly to the Department of Health. THS has a working relationship with UAW and the staff at the Strathdevon site. Staff within SHP are THS staff.
- (5) There were approximately 1012 attendances at SHP for approximately 126 clients from 5 February 2018 to 31 October 2018 for hydrotherapy supervised by a physiotherapist. I note that many clients attend for a block of six to 10 sessions.

In addition, approximately 128 clients are not currently overseen by a physiotherapist but are accessing SHP in a maintenance phase. Attendances are not captured for this cohort because they are not under the direct care of physiotherapy at this time.

People of all ages, from babies upward, have been using SHP.

Clients accessing the pool have a variety of acute and chronic conditions deemed to be appropriate for treatment using hydrotherapy as a modality by a physiotherapist. Clients have been seen in a mixture of groups or individual appointments. Some require short bursts of hydrotherapy while others can require longer periods of intervention based on their clinical needs.

- (6) The amount of time a client needs to access a hydrotherapy pool is based on their clinical need. For clients who attend group sessions, the average is six sessions, after which a review is undertaken to determine if further treatment is necessary.
- (7) Clients must initially be referred to the THS physiotherapy service by a health professional such as a general practitioner. A physiotherapist may discuss the use of hydrotherapy as a treatment tool as part of an overall treatment plan with the client. As part of this assessment, the physiotherapist will screen the client to ensure they are appropriate for access to the pool. This is a safety requirement to protect all pool users, to prevent infections and also to ensure no other medical reason would prohibit the client from accessing the pool.
- (8) Once a patient's course of therapy treatment is completed, the client may be discharged from the service.

Some clients would like to continue to do hydrotherapy exercises as part of maintenance rather than a physiotherapy-led therapy program and are encouraged to do so at an appropriate equivalent commercial venue, such as Splash, Devonport.

By this stage they have the appropriate program and tools to self-manage and do the exercises independently, and do not require THS physiotherapy oversight for maintenance. This frees up the physiotherapist to see new clients deemed to require hydrotherapy treatment. If clinically appropriate, a client can be re-referred to physiotherapy if their condition changes or for a new clinical condition.

- (9) There has been no change in the guidelines for utilisation of hydrotherapy pools at SHP or across the state.

## **TABLED PAPER**

### **Joint Standing Committee on Integrity - Annual Report 2018**

**Mr Valentine** presented the Joint Standing Committee on Integrity Annual Report 2018.

**Report received.**

## **QUESTIONS**

### **Supplies and Consumables from Disability Enterprises**

[2.34 p.m.]

**Ms SIEJKA question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT**

- (3) What percentage of the supplies and consumables budget is spent at Australian Disability Enterprises?
- (4) Will you adopt the Labor Party policy to spend 2 per cent of the supplies and consumables budget with Tasmanian ADEs during this term of government?

## **ANSWER**

Mr President, I thank the member for Pembroke her question.

For members, there were four questions and we had to divide them between ministers. This is the second tranche of answers, so this is up to question (3). The answer is -

- (3) It is not possible to provide a percentage of the supplies and consumables budget spent with Australian Disability Enterprises. This is because agencies are not required to specifically identify contracts awarded to ADEs on the Tasmanian Government tenders website. Furthermore, agencies are not required to report on contracts valued at less than \$50 000.

- (4) The Tasmanian Government is committed to supporting ADEs and has demonstrated this by streamlining procurement processes for businesses that provide employment to people with disabilities.

Treasurer's Instruction 1127, Procurement from businesses that provide employment to persons with disabilities: goods and services, and 1231, Procurement from businesses that provide employment to persons with disabilities: building and construction/roads and bridges, provide agencies with the option to directly engage businesses that employ people with disabilities. In February 2018 Treasury established a head deed with National Disability Services Limited, which provides agencies with an additional mechanism to procure goods and services from ADEs.

These initiatives display a genuine and sustained commitment from the Government to support ADEs. Over time it is expected that ADEs will benefit significantly from both the Treasurer's instructions and the head deed, noting the deed's recent introduction.

### **Out-of-Home Care - Education Incentive Payments**

[2.36 p.m.]

**Ms SIEJKA question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL, Mrs HISCUTT**

As part of your election commitment, you allocated \$1.2 million for incentive payments to foster carers and young people on the completion of a Tasmanian Certificate of Education or equivalent to encourage them to continue their studies.

On 16 November you changed your position, now saying 'complete year 12 or equivalent'. Have you made any other changes to this incentive? Can you explain what happens when a care placement changes just before the education attainment is achievement? Who gets paid? Is it the foster carer who previously worked with the young person or the new foster carer?

### **ANSWER**

Mr President, I thank the member for Pembroke for her question. Before I launch into the answer, honourable member, I ask that next time you ask a question, please put 'As part of the Government's election commitment'. I had a little heart attack when I heard 'your'. I thought, 'I have not spent that much'.

The Government's election commitment was to provide incentive payments to children in out-of-home care and their foster carers, to encourage them to remain engaged in education. The Government believes outcomes for children and young people in out-of-home care should be the same as for any child in the community. They have the right to the same expectations and hopes for their lives and future.

Following consultation with a range of key stakeholders, the incentive program will encourage young people in out-of-home care to stay engaged in education beyond year 10. When Tasmanians stay in education and training longer, they get better qualifications and have the best chance at getting a job and having a brighter future.

By recognising the challenges faced by some of these young people and acknowledging that engagement in ongoing learning is critical for their future, incentive payments of \$2500 will be provided to young people and carers of young people who complete year 12 or its equivalent. The policy will recognise both Office of Tasmanian Assessment, Standards and Certification and Vocational Education and Training pathways.

Changes in placement from one foster home to another are very uncommon in year 12. Generally young people turn 18 during year 12 and are either in stable carer arrangements or elect to transition to independent living. If they have already turned 18, they are no longer on orders and therefore it would be unlikely they would move to another foster placement.

On the rare occasion a young person may move from one foster placement to another during year 12, the payment will be made to the carer who was the carer for most of the time across the school year.

### **Rural School Bus Contracts**

**Mr DEAN question to LEADER of the GOVERNMENT in the LEGISLATIVE COUNCIL,  
Mrs HISCUTT**

[2.39 P.M.]

The question relates to rural school bus contracts and specifically contract 1362, under the name of DG and PK Scott, and contracts 1367 and 1690 under the name of Brendan Manion Coaches Proprietary Limited, will the Leader please advise -

- (1) Why is the department now proceeding in the direction of closed tenders for the three routes referred to rather than going to open tender?
- (2) How many transition payments are currently being considered?
- (3) How many transition payments have been offered?
- (4) What is the total monetary value of the transition payments that have been, or will be, offered?
- (5) How many transition payments have been accepted?
- (6) What time frames have been provided to the contractors offered these transaction payments?
- (7) In correspondence provided to DG and PK Scott, reference is made to an existing service being matched against a new service. The existing service has been in operation for 30 to 40 years - probably longer - so why is it being referred to as a new service?

### **ANSWER**

Mr President, I thank the member for Windermere for his question.

- (1) The Department of State Growth has advised it is not proceeding with a closed tender for these services. In line with Project 2018 Bus Service Re-contracting Process guidelines, the

new service contracted will run from Launceston to Exeter via Rosevears Drive, and this service has, subject to appeal, been directly matched to Brendan Manion Coaches Proprietary Limited.

A closed tender is held under the guidelines only where two or more incumbent operators are matched at the same time. The reason for holding closed tenders is to support the Government's election commitment to contract services with incumbent operators, so where two incumbent operators are matched to a service, only those two operators are placed into the tender. Open tenders are only held where a completely new service is identified that an operator cannot be matched to.

- (2) Currently 21 service designs or contract closures are under active consideration by State Growth, which may result in a transition deed offer, or offers, being made
- (3) Fifteen transition deeds have been offered to date, and some of these offers are mutually exclusive. However, in some instances where two operators are matched to a route, they may both request to be sent transition deeds so they can assess the offer and decide whether to take it. Only one operator will be able to take an offer, because at least one operator must remain to provide the service.
- (4) The value of the 15 offers to date is \$392 952; it is not possible to exactly determine the value of offers that will be made.
- (5) Ten transition deeds have so far been signed by operators. The value of these deeds is \$264 791.
- (6) The minimum time frame provided is seven days from receipt of the official letter, noting most operators have had significant discussions with the Project 2018 team prior to this formal offer being made and have already made the decision to take an offer. However, in practice, an operator that has requested an extension to date has been provided with one, and no operator has yet had their offer rescinded for not responding. Two operators have so far requested an extension.
- (7) Mr Scott's contract from Rosevears to Exeter ends on 31 December 2018 and is not being referred to as a new service. Mr Scott was informed that his current service was not matched against any of the new services contracted to service the Exeter School from 2019 onwards and therefore he was not going to receive a contract offer for this service.

## **ROADS AND JETTIES AMENDMENT (MANAGEMENT OF STATE HIGHWAYS IN CITIES) BILL 2018 (No. 54)**

## **LOCAL GOVERNMENT AMENDMENT (MISCELLANEOUS) BILL 2018 (No. 49)**

### **Third Reading**

Bills read the third time.

## **SUSPENSION OF SITTING**

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the sitting be suspended until the ringing of the division bells.

This is for the continuation of the briefing on the Justice and Related Legislation (Marriage Amendments) Bill 2018 (No. 47).

**Sitting suspended from 2.45 p.m. to 6.09 p.m.**

## **BURIAL AND CREMATION AMENDMENT BILL 2018 (No. 56)**

### **Second Reading**

**Resumed from 27 November 2018 (page 95)**

[6.09 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I had finished the second reading speech.

I look forward to contributions from other members on this bill.

[6.09 p.m.]

**Ms RATTRAY** (McIntyre) - Mr President, this bill, as most members would know, has emanated from the serious concerns of communities around the state that have cemeteries, particularly those adjacent to churches, about the future of their loved ones' graves. The Government has introduced the Burial and Cremation Amendment Bill to address those concerns.

I am pleased there has been a reasonable level of consultation. We heard this morning that there was widespread consultation with various church communities and community peak bodies - the Anglican Church, the Catholic Church, the Presbyterian Church and so on. There is considerable church faith-based support around the communities.

I am pleased this has occurred. Listening to the Director of Local Government in the briefing process - again, much appreciated - the Government took on board a number of the issues raised. The original draft of the bill was amended to consider concerns put forward during the consultation process. That is what we like to hear. We have been critical in this place on many occasions that key stakeholders have not necessarily been consulted in a satisfactory manner.

The bill provides clarity by setting out a person becoming a cemetery manager must be a body corporate, with a perpetual succession. There was some enthusiasm at one stage, as instanced by a fantastic group of people at Springfield who have purchased their church, St Paul's Church, from the Anglican Diocese. The church is significant to all those families and has an adjacent cemetery. I commented in this place that had that church sold, the clothesline would effectively have sat in the middle of the headstones. That is where the breeze comes to dry your clothes. But no, we had a very proactive group that purchased the church. They now care for it, and are incorporated and

will be able to apply to become the cemetery manager. They will certainly be able to comply and meet all the conditions.

I flag I have asked for an amendment to be drawn up in regard to the closure of cemeteries. There is a significant list of steps to go through.

Clause 17, proposed new section 29(2)(c)(i)(C), talks about a person making a statement to make a submission to a cemetery manager if they have 'the intention of having his or her human remains interred at the cemetery'.

If you have that intention, it is not too much to expect an exclusive right to be entered into. In other words, you pay your money for your plot. I have asked for my amendment to be circulated to members for their consideration while they deliberate on this bill.

It would be easy for anyone to say, 'Yes, that is where I want to be buried', but then, for some unknown reason, that does not occur. However, they could have stopped the closure of a cemetery after the appropriate time. We will discuss what members believe is an appropriate time. I do not have a firm view on that.

There is a proposal for an application 50 years after the last burial. There is a reference in the bill to 100 years, and the member for Windermere has an amendment to reduce that to 50 years. His amendment will make very clear to cemetery managers that the application can be made 50 years after the last burial. It does not necessarily have to be extenuating circumstances.

I believe removing proposed new section 29(2)(c)(i)(C) will make it clear that a person providing a statement about the closure of a cemetery must have a real commitment to being laid to rest in that particular cemetery. It is not too much to ask them to apply or undertake the process to gain an exclusive right to burial. I expect that is buying their plot. I am happy to have that clarified.

Is buying your plot an exclusive right? I did not ask that question in the briefing. I feel sure that will dictate whether members are prepared to support that amendment. It is too much to require a cemetery to stay open with just an intention to be buried there when for whatever reason that does not happen.

There was talk about the increased price of a burial plot. In most communities, the cost of a plot is in the order of \$400 or \$500. I purchased my plot a while ago. It is not in a cemetery belonging to a religious institution; it is outside that.

I am pleased that the powers in this bill will allow the regulator to ensure that the graves of war veterans are protected and treated with due respect. I said by interjection during the briefing that most families have the utmost respect for their loved ones regardless of whether they are war veterans or otherwise. It is certainly not only our war veterans. They are key in history, but any person is key to their family's history.

Under the compliance framework the regulator will ensure cemeteries are maintained to an acceptable standard, which is something most communities already do in various ways. I do not know that many churches actually organise the maintenance of cemeteries, certainly not in the areas I represent. They are cared for by the families or by church community volunteers. They make sure they take their turn on the mowing or the clean-up rosters, or they have general clean-up days.



Particularly around Mother's Day, Father's Day and Christmas, you will often see a little notice in a community newsletter that there will be a working bee, as we call them in some of our communities, because they know that more people might head to the cemetery to pay their respects and think about their loved one at those significant times. I acknowledge this will make sure that the cemeteries are maintained to an acceptable standard but I also acknowledge that many volunteers and family members already help keep their loved ones' graves clean.

Sometimes it is difficult to read some of the headstones. Some of the lettering does not weather very well at all. It can be very difficult, but that is a family choice, or it is one of those things depending on whatever materials are available at any given time. I can hardly read my grandfather's headstone and yet my grandmother's, which is a bit later than my grandfather's, is very clear. It depends a bit on the quality of the material and what is used. Most families know the vicinity of where their loved ones lie, so that will not change, and undertake their obligations.

In closing, I acknowledge we had some representation from Bishop Condie this morning. I felt the Bishop generally accepted there would be some toing and froing around what members felt about this. I appreciated the opportunity to hear directly from him because I was not able to take his call when he rang, and I apologise for that. I told him I was otherwise engaged and we would catch up but we did not, so it was a good opportunity to hear directly from him.

I note we did not receive representation from any other peak church bodies around the state. Again, I hark back to the fact that it is well known in this place that if there are some concerns, most people in our community know how to contact a member, who will then facilitate them being part of a briefing process. That is always well facilitated by the Leader and her support team.

With the quality of the consultation process with stakeholders, what we have learnt from the briefing and second reading debate, and knowing that funeral homes are reasonably comfortable with what has been put in place, I support the fact that this will provide greater certainty for families. I believe the sale of some Anglican church facilities is going ahead. I think the announcement will be made sometime in early December. I have not heard back from my Pyengana and Mathinna communities and a number of others that expressed concern about the possible sale of their churches. I know the member for Derwent has a strong connection with the Pyengana church because he was married there.

**Mr Farrell** - First time.

**Ms RATTRAY** - First and only. He certainly has a strong connection with that church. Other members will have the same interest in what is being put forward. I trust the Anglican Church will take on board the representations made by many communities and the offers put forward by communities to purchase their churches to hold them in those communities. I encourage Bishop Condie and his learned people to make sure that is taken on board and the sale prices of those properties are not prohibitive for communities to raise the money, undertake insurances and whatever else needs to be done for a community to have ownership.

I certainly support the bill. My amendment has been circulated and I trust members will look favourably upon it and recognise they are -

**Ms Forrest** - Which amendment was that? I'm sorry; I was outside the Chamber.

**Ms RATTRAY** - I have proposed an amendment to the closure of cemeteries, which appears in clause 17, proposed new section 29(2)(c)(i)(C), because you can make a statement in opposition to a closure of the cemetery just with 'the intention of having his or her remains interred at the cemetery'. I believe that if this is the intention, it should go as far as holding an exclusive right. I believe that is just purchasing a plot, but I have asked for that to be clarified. . It may well be in the order of \$300 or \$400, perhaps even \$500, but just think of it as a down payment on something that is inevitable and one less cost your family will have when you are gone.

[6.27 p.m.]

**Ms FORREST** (Murchison) - Mr President, this bill created a bit of consternation early on and some might suggest that was to try to stop a certain church selling churches and graveyards. People will make their own assessment about that, but I think there is a bit more to it than that - I think that is probably a part of it, but there is a bit more to it as well.

Overall we need to maintain and respect the people buried in our graveyards. They are relatives - yours, mine and everybody else's, as Bishop Condie said in the briefing today. I have had a couple of meetings with him about this bill, about the fact that the sad thing is when you die and are buried or cremated, people forget. That is life and death.

Many graves are never visited by anybody, particularly after a passage of time. Many cemeteries around the state have fallen into significant disrepair and, as I said half-jokingly, it looks like some of the people have tried to get out. Not headstones crumbling, but the concrete slab on the top is cracked and elevated and looks anything but tidy - that is when you can find them. That is the passage of time. You cannot read many of the headstones and you do not know who they belong to. In many cases, the guide for the cemetery is not very clear if you are trying to find relatives.

When I did the Frank MacDonald Memorial Prize trip, I visited a number of cemeteries looking for my relatives. They were the ancestors of my forebears who were World War I veterans. One particularly was very hard to find because the Stanley Cemetery has, in many parts, fallen into a state of disrepair because these people died a long time ago.

People visit cemeteries for a variety of reasons. They could be doing historical research, they could be paying their respects to their forebears or for other reasons.

**Ms Rattray** - Some people are just really interested.

**Ms FORREST** - They are interested in looking at the history of the names.

**Ms Rattray** - There is quite often someone at the Moorina Cemetery. There is no-one there they know but they like it. It has a Chinese section, which is of interest to a lot of people.

**Ms FORREST** - The sale of graveyards and churches, but graveyards in this case, has been a contentious issue. People feel strongly about being able to access and maintain access to these sites. It is amazing how emotional people can get when things are not quite as they thought they should have been.

**Mr Valentine** - They think they are going to lose touch with some of their relatives.

**Ms FORREST** - That is right. The husband of a constituent of mine died. He was probably one of those avoidable mortalities we talked about on Tuesday in the North West Regional Hospital. He was cremated and his ashes were put into the wall in the Wynyard Cemetery. His wife paid for the hole in the wall beside him. Her daughter went to pay her respects four or five years later and someone else was in that spot. She was beside herself. I had a phone call from her mother to try to sort it out. People take it very seriously. She was ready to approach the council directly. I stopped her doing that and told her we could probably sort it out, and we did. It was unfortunate.

During today's briefing we had a discussion about a regulatory impact statement not being done. It was raised by a number of parties, not just the churches. The Anglican Church has had its head on the chopping block because it is selling the churches and graveyards. I understand the Catholic Church has also raised concerns, although it is more in line now, as has the Uniting Church. LGAT put in a submission expressing its concern about the costs imposed on it under the current framework of the bill. The member for Windemere has put forward amendments to reduce the time for closure from 100 years, which is way more than anywhere else around the country, to 50 years. I do not appear to have that amendment in front of me but I am sure the member for Windermere will speak about that. It is a real issue. A number of churches are struggling with their revenue streams for a number of reasons, mostly falling congregations, and with older buildings, the maintenance costs do not diminish. There was great concern about closing a cemetery earlier than 100 years.

The Government in the briefing and second reading speech said that you can apply at 50 years, but a number of hoops still have to be jumped through. I will look closely at the member for Windermere's amendment. I think that time should be reduced to bring it in line with other states. It is currently unrealistic. How many graves will be visited 100 years after the last burial and the closure of the cemetery?

**Mr Valentine** - There is the point that people do live quite a bit after 100 years.

**Ms FORREST** - After they are 100 years old?

**Mr Valentine** - Up to 100 years old so they do go back and visit their relatives.

**Ms FORREST** - I am not saying they do not, but this is 100 years after the last burial. If you want to argue the point the other way, go your hardest.

**Mr Valentine** - I hope I'm around.

**Ms FORREST** - I probably will not be the way I am going. A concern was raised about the maintenance of headstones and what that actually meant. I believe that has been dealt with in the bill before us. It remains the same: it is the responsibility of the family to manage maintenance, which is reasonable because some families may put up very elaborate tombstones or vaults or whatever and then expect the cemetery manager to manage all of that - which is fine if you set a high enough price at the beginning, but if you do not, it can become a real drain.

The other issue Bishop Condie raised today was about the sale process. An amendment has been drafted in the Government's name to deal with that. I think it does. I have only had a quick look at it because I was having a brief discussion with the Leader's advisers and then came back here while the member for McIntyre was wrapping up her comments. I will look at that amendment, but it seems like a bit of a Mexican stand-off: you could not put the property up for sale as the

cemetery manager under the definition without being in breach of the bill as it was drafted. I think this probably deals with it because it amends clause 27H(1), which says -

A person must not offer for sale all, or any portion, of the cemetery unless a certificate of compliance has been issued in respect of the proposed sale.

Then clause 16, proposed new section 27H(2) says -

A person must not sell a cemetery to another person, unless -

- (a) a certificate of compliance has been issued in respect of the proposed sale; and
- (b) he or she is satisfied that the proposed purchaser has been approved under section 11A as the cemetery manager for the cemetery.

When you look at what a sale is, it is very broad, including putting it up as an offer for sale. I will review that, but it is a very important inclusion which makes it clear that you can put a graveyard or a cemetery up for sale. You might already have your certificate of compliance as the cemetery manager, but why would a person go to the bother of meeting the fit and proper person or organisation test? You cannot be a person - you have to be a body corporate, and get that approval from the regulator - not the regulator, what is his name?

**Mr Valentine** - Registrar, is it?

**Ms Rattray** - No, it's the director.

**Ms FORREST** - The person who signs off on these things, regulator - it is a regulator. I thought it was, but it just did not sound right.

**Mr Valentine** - We have been dealing with too much other stuff.

**Ms FORREST** - That is right, there are too many other regulations, registrars and regulators. If it is the case that this deals with that and allows a cemetery to be put up for sale and the process proceeded with up to the point of sale, at the point of sale you have to have the certificate of compliance and the purchaser has to be approved under section 11A, that is okay. I believe the Anglican Church was right that this drafting meant you could not actually even put it up for sale. Somebody would have to go through the process on the assumption that a particular cemetery may be put up for sale and then it could not be put for sale until all of those ducks were in a row. That is the way it read.

Mr President, the Government has worked with various parties to correct some of these real concerns. There is still genuine concern about the length of time before a cemetery closure will occur. I will consider those amendments and the member for McIntyre's comments about her amendment as well. I support the principle of the bill.

[6.39 p.m.]

**Mr FARRELL** (Derwent) - Mr President, I was initially quite reluctant to become involved in this because, as someone who is not classed as a regular attender of church services, my commenting on the business of the church might have been a bit rich.

**Mr Finch** - And not dying anytime soon.

**Mr FARRELL** - Not planning to. There have been times today that I thought I might.

It had become apparent that this bill had created a great deal of tension in communities, particularly smaller communities in, as the member for McIntyre mentioned, the north-east and the Derwent Valley where churches have been established for almost hundreds of years. Many church buildings have stood the test of time, but are in need of repair.

I understand the reason behind the Anglican Church's decision. It was partly to raise funds to finance the redress scheme, which is an honourable thing. Communication about the church sales could have been done better in the early stages. Church sales are one thing, but many families have strong connections with many of the cemeteries around the state.

In cemeteries, particularly in rural areas, you will see the floral line where older parts of the cemetery are overgrown and the stones are falling to pieces. When you get to the section where people are buried and family members are still living in the town, there are flowers on graves that are still being maintained.

Who is responsible for your grave when you pass over? Families take responsibility for their loved ones. In the past churches maintained cemeteries and generations of families were buried in their graveyards.

There are other churches where towns have disappeared and their cemeteries are maintained by local councils because someone has to do it.

I can see the reason for this legislation. It was a bit unregulated before this came in. There were many questions and much discussion about whose responsibility it was. I went to several rallies around the state. There was one at Campbell Town and a couple in the Derwent Valley.

**Ms Rattray** - I went to the Campbell Town one. It was very well supported on a Sunday afternoon.

**Mr FARRELL** - It certainly was. Following that, there was much action from local mayors and LGAT. The department has worked to overcome as many of the concerns raised as it can.

It is not an easy issue. Maintaining these older properties and cemeteries in areas that are a distance from services is a challenge for small church communities and small council areas. This legislation is a solid start to working towards solutions. From the briefing this morning, the Anglican Church still has some issues.

Many other groups that were initially concerned have settled down. Some family members were initially concerned; some were livid. Even though the church organisation owns the title to the buildings and the cemeteries, many of those churches were built by the people of the community, so some thought they were paying money to buy back what they already owned. At least this legislation will sort through that.

In some cases, church communities in rural areas are stronger than those in city areas. It was raised a few times that maybe St David's Cathedral, Hobart should be sold off because they would

get a good dollar for that, but that suggestion did not seem to meet with a lot of favour within the church.

**Ms Rattray** - I think that suggestion might have come from some of the smaller communities saying, 'Why pick on us?'

**Mr FARRELL** - Yes. There are still some questions, and members have proposed a few amendments, about the sensible time frame that should be allowed for interment. That is never an easy question. We were all reminded this morning about St David's Park being a burial ground and that the stones were moved aside and that it is now a park.

**Ms Rattray** - The stones are around the outside or the perimeter of St David's Park, is that correct?

**Mr FARRELL** - Yes, there is a wall and then there -

**Ms Rattray** - I need to travel there.

**Mr FARRELL** - It is only a short walk, in your lunch hour you can have a look there. Other members have mentioned that many of these cemeteries are used for tracing family history, so people walk through and search for names. There are a couple of really good ones -

**Ms Rattray** - In Bothwell?

**Mr FARRELL** - Certainly in Bothwell, but Jericho is worth a visit. There are some interesting old family names there. You can see that age is starting to weary them.

**Mr Valentine** - Do you spend long at these places?

**Mr FARRELL** - No, it is only when I stop to have a pie on the way.

**Ms Rattray** - After you have a pie from the Ross Bakery.

**Mr FARRELL** - From the fruit bat shop, yes. A lot of work has been put in by Alex Tay and the crew to work up a document that starts to satisfy some of those issues. Other small items that may be of concern could be sorted out through amendments if they are supported in this Chamber.

**Ms Rattray** - The Director of Local Government has been very busy in the last while with a few bills this week.

**Mr FARRELL** - There have been a few things on, but I will not get into any discussion about local government and the benefits or otherwise thereof.

[6.47 p.m.]

**Mr VALENTINE** (Hobart) - Mr President, I think the reason for this bill has been quite clearly outlined. There was some disquiet in some communities. I heard some disquiet from my own hometown of Dunalley, where it is the only church and the only old stone building of note that still exists in the town after the fires. A lot of the town's touchstones have gone. The issue of that church being sold off was something very significant to that community. I guess we just have to wait and see what the Synod decides.

That said, the Dunalley church does not have a cemetery attached to it, as far as I am aware, and this bill is about cemeteries and maintaining them over significant periods. I understand some of the problems and issues that cemeteries can cause, but during today's briefing I talked about a particular situation - the cemeteries that exist on farms where family members are buried. Sometimes the graves might belong to neighbours if the farm owner thought that could happen, or people who had worked on the farm for many years. These circumstances exist, so what does this mean for cemeteries on private land? Would they have to have an incorporated body?

The answer came back that this was not necessarily the case. Perhaps the Leader could put on the record what happens in circumstances where the land is owned by a private individual or they are running their farm as a company, and it is entirely within their land, not public or church land. What happens to those cemeteries? How are they controlled? Are they to be considered as a cemetery under these amendments?

I also drew attention to a cemetery near Marion Bay. I sent an email to the Leader about this saying it was 2 kilometres south of the Marion Bay turn-off on the way to Dunalley and, as far as I am aware, on crown land reserve. It is fenced and has graves in it. It may well be privately owned; I do not know the detail. As far as I am aware, no body corporate is looking after this. It has the graves of survivors from the *Zephyr*, wrecked in 1857, and until recently it had not been used but somebody mowed it and kept it looking reasonable. A few months back there was another interment there, that of a local farmer who may have had some connection to that land. I am interested to know what happens to those sorts of cemeteries that are used over time with no apparent owners. It may be that there is none? You might be able to give some information, Leader.

**Mrs Hiscutt** - I do have some information.

**Mr VALENTINE** - Thank you. If you could provide that in your summing up, it would be appreciated.

I understand how the length of time might be a concern and cost for churches in the future. They were estimating for 100 years, and it could be upwards of \$30 000, which is a significant amount of money. It is possible that incorporated bodies could be formed to look after cemeteries in local district areas. They might have a number of volunteers to help maintain those cemeteries and the cost might be far less. Looking at it from a commercial perspective, \$30 000 is certainly a lot of money for anyone to have to pay out simply for the plot, because it will have to be looked after for 100 years.

This bill significantly reduces this to 50 years, rather than 100, and that should bring the cost down significantly. Apart from that, I support the principle of the bill. I will be happy to support the member for Windermere's amendment providing access is able to be maintained. Many people, for genealogical and sentimental reasons, want to visit gravesites.

Earlier I commented that many people live to be over 100, and by that I was referring to people still having access to those sites, not so much that the cemetery would have to keep operating for the time people want to visit it. That would be unreasonable.

**Mr Dean** - They have to still retain the headstones?

**Mr VALENTINE** - That raises another question, which the Leader might be able to enlighten us on. It used to be the case that after a certain time older gravestones were not able to be restored..

They had to naturally age. I have not looked at this closely. The Leader may be able to provide a simple answer to that. It might be that you can apply to have them restored. I seem to remember reading that somewhere, but perhaps that could be clarified. It is like an old building - in effect, it is a heritage item and to re-carve statements into a headstone would take away from its heritage nature. I would be interested in knowing the strictures around that after a cemetery is closed. That would be a pertinent point. You might be able to provide the answer to those questions - prior to a cemetery being closed and after it is closed, and whether headstones are allowed to be refurbished.

Mr President, I move -

That the debate stand adjourned.

**Debate adjourned.**

### **LOCAL GOVERNMENT (MISCELLANEOUS AMENDMENTS) BILL 2018 (No. 49)** **Answer to Question Tabled**

[6.56 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) (by leave) - Mr President, during debate on the Local Government Amendment (Miscellaneous Amendments) Bill 2018, I undertook to provide an answer to a question asked by the member for Huon. I now table that answer.

**Answer tabled.**

### **SUSPENSION OF SITTING**

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the sitting be suspended until the ringing of division bells.

This is for the purpose of a dinner break.

**Motion agreed to.**

**Sitting suspended from 6.57 p.m. to 8.14 p.m.**

### **BURIAL AND CREMATION AMENDMENT BILL 2018 (No. 56)**

#### **Second Reading**

**Resumed from above.**

[8.14 p.m.]

**Mr VALENTINE** (Hobart) - Mr President, I have concluded my offering.



[8.14 p.m.]

**Ms ARMITAGE** (Launceston) - Mr President, I accept that the aim of this bill is to protect cemeteries and to allow people access to them.

I do not really know whether I have any of these churches within my electorate, but there is one I recall from when I was an alderman - St Peter's church at St Leonards. I am sure the member for Windermere has been there on a couple of occasions. I have been there on several occasions. This little church was first opened in 1847. A number of very old graves and headstones are in the cemetery there.

**Mr Dean** - Where was that?

**Ms ARMITAGE** - The little Anglican church on St Leonards Road, St Peter's church. It is very sad it is being sold. I think it is listed for sale. I recall on some occasions when we went out with the council just looking at the area, many of the headstones had fallen off or had broken off and were just sitting along the fence. Some were in a terrible state of disrepair and some were very old as well. Many local people and historians used to go and - I do not know how you say it - put the paper over the headstones and they do those -

**Ms Rattray** - It is called stencilling, isn't it?

**Ms ARMITAGE** - I do not know whether it is stencilling; they go over with lead -

**Mr Finch** - Rubbing.

**Ms ARMITAGE** - Yes, rubbing, and they get a copy of the very old headstones and details of who the people were. There were some very old headstones there.

Interestingly, when we look at some of the issues and people talk about upkeep, I always thought people have looked after their own graves. I certainly would not expect anyone else to look after the graves of any of my family members; you always look after your own family's gravesites. One of the things mentioned is that people do not visit graves that often.

You can understand that people do not visit the dead, but people do not visit the living very often either. If you go to some of the nursing homes, you find an awful lot of people there do not get visitors, so you can understand people do not have time to go to graves.

My father has been dead over 20 years and when I think of how many times I have been to his grave - I am of the opinion that you visit the living, not so much the dead. It is a personal view, but it is important we honour and respect our dead. I have been particularly to St Peter's church on many occasions and seen the old headstones and the graves there.

I note the member for Windermere's proposed amendment. At this stage I am not sure I will support it. I looked at it and thought of moving an amendment. I sent an email to the Attorney-General to ask about the consequences of such an amendment. The response I received from Hon. Elise Archer was -

The Government arrived at that default closure period as a consequence of the public consultation on our initial draft bill (which had 100 years with no 50 year application to close process).

Given some members of the community wanted perpetuity (because that's what they always thought had been the position) the Government determined 100 years struck the right balance, but we have now allowed for an application to close a cemetery at 50 years with any conditions the Regulator may make.

Therefore, we've already changed our original position in the draft Bill as a result of the public and stakeholder consultation. It's a balance between the significant community concern on the period of closure and allowing cemetery managers to apply to close at 50 years.

I believe some of the media coverage I had that mentioned the issues, particularly with LGAT, was before the change to allow the regulator to make the closure at 50 years. I also understand that the figure provided by the Anglican Church - and the member for Windermere might have some information on this - was multiplied by 100 years. Normally, if an actuary were looking at perhaps a settlement of an amount of damages for a period, they would look at the money invested over that period and deduct the investment, or the money coming back through investment, against the multiplication of 100 years by the amount. I am not sure the amount they have come up with is accurate if they have simply multiplied that amount by 100 years without looking at the investment over that time as well.

Most areas have been covered by other members. I am pleased to see that even after that period, the cemetery will always be maintained and open to the public. That is an issue for many people. I know it is 50 or 100 years, but if you have someone buried there, even if you do not visit, it is nice to know they are still there and it is somewhere where you can go.

Leader, can you confirm - we have had so many briefings today - that no-one would be dug up? Does it simply mean the headstones are laid out and the records go to the government department?

**Mrs Hiscutt** - The records go to the archives.

**Ms ARMITAGE** - So the records will still be kept somewhere.

**Mrs Hiscutt** - They will be archived.

**Ms ARMITAGE** - It will be almost like a park. The bodies are still there, they are still interred and no-one is dug up.

**Mrs Hiscutt** - I think the member is talking about two different things. You are talking about the physical remains and the records.

**Ms ARMITAGE** - I am talking about both. The bodies remain. When the headstones are laid out after a certain period of time, the records then go to the archives.

Could you clarify that so that it is really clear? I agree with the principle of the bill. I will consider the amendments before us. I am not sure about the member for Windermere's amendment. Consultation had occurred and many in the community were quite comfortable with 100 years. I am concerned about the amount of money that has come to us from the Anglican Church. Is that correct or does it take into account the investment over that period and not just the multiplication of the 100-year term?

I support the principle of the bill and I look forward to other members' contributions. I will decide then on the amendments.

[8.22 p.m.]

**Ms HOWLETT** (Prosser) - Mr President, like the member for Derwent, the members for Hobart and McIntyre, I too have been inundated by constituents concerned about the decision of the Anglican Church to sell these properties.

I have been to many meetings. It is very sad for our communities; however, I support the bill. I acknowledge the efforts of the Attorney-General, Hon. Elise Archer, and her team, the office of the Local Government Division, and particularly all those who have participated and shared their views through the consultation process.

Mr President, this bill has struck the right balance for all Tasmanians and, in particular, for my constituents of Prosser.

[8.23 p.m.]

**Mr DEAN** (Windermere) - Mr President, I hope to be able to convince members to support the amendment I will move later, but I have not been too convincing in the past few months.

This is an important bill and I will be supporting it. We can make it better with two or three of the proposed amendments mentioned. They will tidy it up. It is sad that this bill has been overshadowed by some of the other activities we have been involved in this week.

It has been a torrid day, but this is an important bill. As mentioned, the Anglican Church's desire to sell off many of its properties, including properties with cemeteries attached them, has been the cause of this bill. The public has suffered much heartache as a result of the potential sale of properties where their family members are interred. I have attended a number of public activities in relation to 'Save Our Churches'. The one I mentioned previously is Saint Matthias' church at Windermere, which is a heritage-listed church. It is an iconic building in an iconic area. Tours of the Tamar River take in the church as an iconic building, an area for these people to be involved with and view. That is the importance of this church. Windermere is a small country area and at the meeting I attended, there would have been 150-plus people, with extremely high emotions. People were concerned they were going to lose access to their church. That is another concern, having continued access.

I was involved with the fundraising; we have raised the money and hopefully will save this church. We raised the amount the Anglican Church wanted as a contribution, in the circumstance they find themselves. All of us understand why it was necessary for the Anglican Church to raise sufficient money to pay the victims of some horrendous crimes. That is what it is all about.

I had a long talk on that day with the priest who said those involved in these horrendous crimes were terrible people, but even worse were those who tried to cover them up. He referred to this in some detail - that people who tried to cover up those crimes were even worse than those who committed them. It is a sad situation. I think we saved that church.

I raised a couple of issues, and one issue in particular, during the briefing. I thank the Government for the briefings. I thank Bishop Condie for his briefing and the way in which the questions were answered.

St Matthias church has a columbarium, a wall where the ashes are placed into receptacles in the wall; it is part of the cemetery.

**Mr Valentine** - They have one in Hobart at Selfs Point.

**Mr DEAN** - A question was asked on what will happen to those when a cemetery is closed. I think I have the answer now and will talk about it in a moment.

If you look around the country, South Australia was told 50 years for the closing of a cemetery. In this bill we have 100 years and questions were asked as to why that is the case. The bishop referred to financial modelling they have completed in relation to this and what that could cause the church to have to do, that is, increase burials and the price substantially.

**Ms Armitage** - Have you checked with the bishop whether they consider the investment over that time?

**Mr DEAN** - No, I have not, but the media statement made by the Anglican Diocese of Tasmania on Thursday, 22 November reads -

It is deeply concerning that the Government appears to not fully understand the financial burden these changes will impose on everyday Tasmanians and their families ...

The Attorney-General conceded that the Treasury advice was that the Bill would require 'additional effort' by Cemetery Managers, but was unable to quantify this.

Under this legislation, all cemetery managers will need to plan for 100 years of expenditure on a cemetery at the end of its active life, during which time there will be no further income. It follows that there will need be a significant increase in the fees charged for a plot to manage a cemetery responsibly.

That speaks for itself. If you have to keep a cemetery open for a long time, costs have to be recovered and somebody has to pay for them. It would seem it has to be the people, unfortunately, the relatives and the friends of people interred there.

The Government is not able to say with any certainty that those costs will not have to rise. As I understand it, financial modelling has not been completed by them. That is the position we find ourselves in.

I believe that 50 years would be a reasonable time for the closing of these cemeteries. You pick up bits and pieces as you go through and as you talk to people. This is where there is fear among a lot of people - where a cemetery is closed, their access will probably be cut off. They will no longer have access to that cemetery. That will not be the case. As I am reliably informed, access will be retained. Family members will still be able to access those sites. It will not be cut off. It is not as though they close the cemetery, put a big wall up around it and nobody gets access. That is not what the position will be. I understand they will still be maintained as well in that situation, even where they are closed.

I thought that we might have a similar situation in a lot of these cemeteries to what has occurred here in St David's Park, where the headstones have all been moved and placed on a nice wall at the back of the Supreme Court building, but that will not always happen either. A lot of these headstones will be left in situ. They will not be moved at all. They will still be there and still be available for people to see.

There is another issue. I will ask the question and the Leader might be able to answer it: are any of these cemeteries heritage listed? I suspect we have heritage-listed cemeteries. What is the position for any that are heritage listed? I know some of the buildings are, so I will be interested to know what the position is with the cemeteries if that is the case.

I hope I will be able to convince members to support the amendment when we reach that stage. I will be supporting the bill.

[8.32 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I thank members who have made a contribution. I have some quite lengthy answers here, so I will work my way through them. First, there are some answers to questions raised during the briefings and I will go through those.

In particular there was clause 16, new section 27H(2), which introduces an offence to sell a cemetery unless the vendor is satisfied that the proposed purchaser has been approved as a cemetery manager. The definition of 'sell' in the bill includes 'deal in or agree to sell' and 'offer for sale'. That is clause 4, section 3 of the act. An unintentional consequence of this is that a vendor would be in breach of entering into a contract to sell a cemetery with a person who had not yet been approved. As this is not the intent, an amendment has been prepared by the Government to address this anomaly - proposed new part 2B, Division 1, section 27H(3) would be inserted. 'For the purposes of subsection (2), sell does not include to offer for sale or to agree to sell', so I will move that during the Committee stage if, honourable members, we happen to get that far.

Also on that, changing the definition of 'sell' is not the preferred approach, as this definition is required for the start of the sale process where the current cemetery manager must first seek certification of compliance before proceeding to sell. In other words, the current cemetery manager cannot offer the cemetery for sale unless they have the certificate of compliance. Once they do that, the amendment will allow them to offer for sale but not complete the sale until the prospective purchaser has been approved to be a cemetery manager. I will go through that again when we move the amendment.

We talked about the issue of a certificate of compliance, which is the practical compliance for record keeping. Clause 16, section 27L, sets out the process for application for a certificate of compliance in respect of a proposed sale. Subsection (3)(b) provides that a regulator may consider whether at the time of the application for the certificate, the cemetery, the records of the cemetery and the maintenance of the cemetery comply with the requirements of the act. The regulator can still issue the certificate of compliance if there is a compliance issue. For example, if it is not possible to bring historical records into compliance.

In practice, if it is not reasonable for cemetery managers to provide complete records for historical burials, the regulator would issue the certificate of compliance, noting that the historical records are compliant to the extent that is possible or practicable.

The regulator will need to be convinced that there are genuine intentions by the persons wishing to be buried in a cemetery and why they have not purchased an exclusive right of burial. For example, a cemetery manager may not be aware that a parent in their 70s whose child died in infancy and was buried more than 50 years ago may wish to be buried in the cemetery.

This is not to say this would mean that closure of the cemetery would not occur, but it may be a relevant consideration for both the cemetery manager and the regulator.

Then we talk about notice of intention to close a cemetery.

The closure process includes a requirement for cemetery managers to publish a notice stating that people with intention to have their remains interred in a cemetery may provide the information to the cemetery manager.

Clause 17, proposed new section 29(2)(c)(i)(C) - this requirement does not necessarily mean that the closure would not be approved if a person intends to be buried in the cemetery. The intent of this section is to provide a way for the cemetery manager and the regulator to determine if there could be future demand for interments at that cemetery, which may be a relevant consideration in deciding not to approve the closure of a cemetery.

We talked about the burial at Bay Road, Marion Bay, member for Hobart.

**Mr Valentine** - Yes.

**Mrs HISCUTT** - The cemetery in question has been confirmed as a cemetery. It is owned by Crown Land Services and its title number is 15026-1. Its land use is common services, cemetery. The department is attempting to make inquiries with Crown Land Services to understand the circumstances of the recent burial the member has advised us of. Not knowing the circumstances of that burial, it is clear that it is a cemetery.

**Mr Valentine** - Mr Jim Dunbabin.

**Mrs HISCUTT** - Thank you. The member for McIntyre asked: what does an exclusive right of burial provide for? This is clarified in the Burial and Cremation Regulation, Part 3, Cemeteries Division 1, regulation 27(2) and (3) -

- (2) A certificate of exclusive right of burial is to -
  - (a) identify the holder of the exclusive right of burial; and
  - (b) identify the person, persons, or class of persons, entitled to be buried under that exclusive right of burial; and
  - (c) either -
    - (i) identify, by number or other identifier, the plot, or the portion of the cemetery, where the human remains are to be interred under the exclusive right of burial; or

- (ii) specify how the plot, or the portion of the cemetery, where the human remains are to be interred under the exclusive right of burial is to be determined; and
  - (d) specify whether the exclusive right of burial has been granted in fee or for a term of 25 years; and
  - (e) specify whether the exclusive right of burial may be renewed, cancelled or transferred; and
  - (f) specify the conditions to which the renewal, cancellation or transfer of the exclusive right of burial, if allowed, is subject.
- (3) A certificate of exclusive right of burial may include other terms as agreed between the cemetery manager and the holder of the exclusive right of burial.

For the member for Murchison - the regulatory impact statement: has the legislative impact statement been prepared on the amendments?

A legislative impact statement is not required. The Economic Reform Unit of the Department of Treasury and Finance has assessed the legislation in accordance with the Government's Legislation Impact Assessment Guidelines and determined that the proposed legislation will not restrict competition in any way and will not have a significant negative impact on business.

The matter cemetery managers raised during public consultation in relation to the changes that could increase management costs have been addressed through the changes to the closure period, maintenance provisions and audit requirements. The act currently requires cemetery managers make adequate provision out of any revenue for the purposes of the maintenance, management and improvement of the cemetery. This is therefore an existing expectation cemetery managers should take into account the cost of managing a cemetery.

Outside of the sale and closure processes - the changes outlined in the bill do not change day-to-day cemetery management obligations in relation to maintenance, access, record keeping and honouring exclusive rights of burials. For cemeteries that are managed well under the existing legislation, there will be little change, unless the cemetery manager wishes to sell or close the cemetery. While the new sale and closure processes may require additional effort on the part of cemetery managers, introducing new safeguards in relation to these activities is strongly supported by the community and necessary to ensure the appropriate preservation and protection of cemeteries.

The member for Hobart talked about burials that occur on private land that are not cemeteries.

**Mr Valentine** - Whether they were at one time.

**Mrs HISCUTT** - Burials that are not in cemeteries, but possibly on farms. Yes - this comes from section 41 of the act which says -

Internment otherwise than in cemetery -

- (1) A person may inter any human remains otherwise than in a cemetery only with the written permission of the landholder and the general manager of the council.
- (2) A person who proposes to conduct any such interment must provide the general manager with -
  - (a) the written permission of the landholder; and
  - (b) a statement whether there are any other graves on the land; and
  - (c) a plan depicting the exact location of the proposed grave and any other graves.

**Mr Valentine** - That is for any burial on land owned by family or someone else?

**Mrs HISCUTT** - They have to be in accordance with this act. I will finish reading it -

- (3) The general manager must not give permission for the purposes of this section unless the Director of Public Health has given written permission for the proposed internment.

What you are talking about probably happened way before this.

- (4) The general manager must, on giving permission, ensure that a record of the proposed grave -
  - (a) is kept by the council; and
  - (b) is shown on any certificate issued by the council under section 337 of the Local Government Act 1993.
- (5) Permission given by the Director of Public Health or the general manager for the purposes of this section may be subject to any conditions necessary to ensure that the proposed grave will not be prejudicial to public health or public safety.

The member for Hobart also asked whether headstones can be refurbished. Unless there is an agreement in place with the cemetery manager under section 20(3) of the act, it is the responsibility of the senior next of kin to maintain the grave or monument. In this respect the bill maintains the status quo.

The bill requires that if the monument becomes unsafe, the cemetery manager must contact the person responsible for the monument and require them to render the monument safe or remove it. Under the definition the cemetery manager may do this without notice, if the monument appears to be a danger to persons or property.

The definition of 'senior next of kin' provides details on the notification process. If, after going through the list, a responsible person cannot be identified, the cemetery manager would be responsible for the repair or removal of the monument.



The member for Launceston: What does closure mean? What does it mean if the cemetery is closed? A closed cemetery is still a cemetery under the act and therefore most requirements of a cemetery manager including those for maintenance of the cemetery and providing reasonable access must still be met.

Cemetery closure means the cemetery manager is no longer accepting new interments, can negotiate with holders of the exclusive right of burial to be buried in another cemetery and must hand over cemetery records to the state archivist.

Cemetery closure in and of itself does not allow for alternative uses. The legislation imposes a default period of a 100 years since the last interment before a cemetery manager can apply to remove the monuments, apply to lay the cemetery out as a park or garden or apply to exhume the and reverently reinter the remains.

In exceptional circumstances, the regulator can reduce the 100-year period to no less than 50 years, but in doing so it would consider matters such as objection from lineal descendants, the cultural and historical significance of the cemetery, whether the action could be prejudicial to public health or public safety and any other matter the regulator considers relevant.

Under the amendments the regulator has the power to impose any conditions on the closure of the cemetery he or she thinks fit. The protection of war veterans' graves would be one good example. These conditions may be placed for a specific time frame or for perpetuity.

Members, I hope this covers most of your questions. I am sure if you care to move it into Committee, we will probably have more to discuss.

**Bill read the second time.**

## **BURIAL AND CREMATION AMENDMENT BILL 2018 (No. 56)**

### **In Committee**

**Madam CHAIR** - Honourable members, before we start, clause 16 has a number of sections and I understand that is where some of our amendments sit. The Deputy Clerk will call this by part - for example, by 27A to 27F - so we can address those matters in the relevant section.

**Clauses 1 to 15 agreed to.**

**Clause 16 Part 2A subclauses 27A to 27F agreed to.**

**Clause 16 Part 2B Division 1 subclause 27H -**  
Person must not sell cemetery without approval

**Mrs HISCUTT** - Madam Chair, I move -

#### **First amendment**

That clause 16, proposed new Part 2B, Division 1, section 27H  
be amended by inserting the following subsection:

- (3) For the purposes of subsection (2), sell does not include to offer for sale or to agree to sell.

I did go through it with our answers originally, but I will reiterate and put them in context for *Hansard*. The reason for this is that clause 16, proposed new section 27H(2), introduces that it is an offence to sell a cemetery unless the vendor is satisfied the proposed purchaser has been approved as a cemetery manager. The definition of 'sell' in the bill includes deal in or agree to sell, and offer for sale.

An unintentional consequence of clause 4, section 3 of the act, is that a vendor would be in breach of entering into a contract to sell a cemetery to a person who has not yet been approved. As this is not the intent, an amendment has been prepared to address this anomaly by inserting new Part 2B, Division 1, section 27H(3).

Changing the definition of 'sell' is not the preferred approach as its definition is required for the start of the sale process where the current cemetery manager must first seek a certificate of compliance before proceeding to sell. In other words, the current cemetery manager cannot offer the cemetery for sale unless they have a certificate of compliance. Once they do that, the amendment will allow them to offer for sale but not complete the sale until the prospective purchaser has been approved to be a cemetery manager.

**Clause 16 Part 2B Division 1 subclause 27H agreed to.**

**Clause 16, as amended, agreed to.**

**Clause 17 -**

Sections 29 and 30 substituted

**Ms RATTRAY** - Madam Chair, I move -

**Second amendment**

That clause 17, proposed new section 29(2)(c)(1)(C) be amended by leaving out the sub-subparagraph.

I have flagged in my contribution to the second reading speech, under the closure of cemeteries, that in regard to the holder of an exclusive right, if a person with intention of having his or her human remains interred at the cemetery only had to make a statement and not necessarily follow that up, there should be some commitment.

The Leader gave a very lengthy response to my question on exclusive rights of burial and closed cemeteries. I wanted to know what an exclusive right was and it is certainly there on proposed new sub-subparagraph (C). I noted that you do not have to pay money according to this, but I should imagine the cemetery manager would want some sort of deposit to hold an exclusive right. That may be something each individual cemetery manager would do, so it would be up to them.

I feel there needs to be a full intention and something more concrete than, 'Yes, I think I will be buried at the Pyengana Cemetery, but I do not know when and I am not sure if my family will follow my wishes', type of thing. If there is something more concrete, such as an exclusive right,

this gives some more certainty for everyone involved, if you are looking at closure of cemeteries - not only for the cemetery managers, but also for the people who are holding the exclusive right and their families.

I ask members to consider favourably the amendment, because it strengthens the process.

**Mrs HISCUTT** - The Government will not be supporting this amendment. These are reasons why the notice of intention is to close the cemetery. The closure process includes a requirement for cemetery managers to publish a notice stating people with intention to have their remains interred in the cemetery may provide that information to the cemetery manager. That is under clause 17, proposed new section 29(2)(c)(i)(C).

This requirement does not necessarily mean the closure would not be approved if a person intends to be buried in a cemetery. The intent of this section is to provide a way for the cemetery manager and the regulator to determine if there could be a future demand for interment at the cemetery, which may be a relevant consideration in deciding not to approve the closure of a cemetery.

The regulator will need to be convinced there are genuine intentions for the persons wishing to be buried in a cemetery and why they have not purchased an exclusive right of burial. For example, a cemetery manager may not be aware a parent in their 70s whose infant child was buried more than 50 years ago, may wish to be buried in the same cemetery. This is not to say this would mean closure of the cemetery could not occur, but it may be a relevant consideration for both the cemetery manager and the regulator.

**Ms RATTRAY** - I am surprised at to the Government's response because this actually strengthens it. It means if someone has an intention, they have also arranged an exclusive right of burial. This actually firms it up and means there is a commitment and makes that clear, and does not affect the publishing of seeking information. A notice must be published, can still be done and is no issue. It means other than simply making the statement yes, I have an intention, it actually makes a firm commitment. I am surprised as I had the intention to actually strengthen it. Other members might see my way and support the amendment, because I still think it is useful. Otherwise, you can just say yes, I have some intention. Obviously, you do not necessarily know when the intention might come to fruition, thankfully - but you are a holder of an exclusive right and it is a real intention. It is not simply no, I might be in the future.

It is actually a useful amendment and the Leader might have some more compelling advice for members, but I would invite members to consider carefully the amendment. I still think it works.

**Mrs HISCUTT** - I will seek some more advice on clarity. All this clause is doing is ensuring that as much information as possible on a cemetery by an interested person is provided. That is all it is trying to do. It does not mean the regulator will act on it. It may bring to the cemetery manager's attention the intent and the cemetery manager may decide not to proceed with the closure.

**Amendment negatived.**

**Mr DEAN** - Madam Chair, I move -

**Third amendment**

Proposed new section 29B(5), leave out '100', insert instead '50'.

Moving this amendment requires two other amendments to this bill. This same amendment to reduce 100 years to 50 years. My supporting information and evidence is identical in each instance.

This is about striking a reasonable balance. We have heard from the Anglican Church that it will have to increase costs significantly if it has to charge for 100 years. It is reasonable to assume that costs must rise. If the church is required to keep it open for that long somebody has to do all the work that is required. It comes down to the property owners, whether it be the church, the undertakers or whoever the owners of the cemetery are.

The Government disputes this but has admitted it has no modelling to contradict the church claims. If the Government does not support an issue, one would think it could come up with its own position to identify where the church might be wrong. It is all very well for the Government to say it does not accept that but it must be able to convince people, us in this instance, that is the case. The Government has not done that.

A period of 100 years could result in Tasmanians being priced out of their local cemeteries, which is contradictory to the intent of the bill. The bishop spoke about that this morning. Cremations outnumber burials, but some people still want to be buried. They will probably occur forever. The church is conscious of that and does want to turn people away because of a cost increase. It is not what churches are about. They are about supporting people, helping people, doing what they can for people. That is what churches are about.

The current minimum period for closing a cemetery is 30 years. An increase to 100 years is double the next nearest state, South Australia, and does seem excessive. When we are looking at amendments and acts of parliament we often look at other states, territories and countries to see the legislation they have in place. That is normally a good guide.

I must admit I am confused as to why the Government says the minimum period for closure should be 100 years after the last burial but on the other hand, the Director of Local Government, Mr Tay, said this morning that it would have to be exceptional circumstances for an application for closure at 50 years to be rejected.

I think they are really saying in that statement that 100 years may never be reached before a cemetery might be closed if the proper application is put in and the regulator accepts it and so on. Why have the 100 years in these circumstances? It seems to me that if that is the Government's intent and view, the minimum period for closure, still subject to the regulator's approval, should be amended to 50 years and not 100 years.

This would mean that cemetery managers would only then need to charge out for 50 years, not 100, thus significantly reducing the cost. That is to the benefit of people who have an intention of being buried in these cemeteries. It is all about cost and we need to be very conscious of that.

It should be also held in mind in this context that when we talk of closure, we are saying that no more burials will be accepted. If necessary, the site can be made safe for the moving of headstones and can then be used for quiet contemplation. It does not mean to redevelop on site.

As I said in my second reading contribution, it does not necessarily mean that all the headstones will be moved and placed in another nice area for retention forever. In a lot of these cemeteries, the headstones would remain in situ, be considered and looked after.

I would suspect - though I did not confirm this with Bishop Condie or anybody else - if this amendment is accepted, if there has been no interment there for 50 years but if that cemetery is active -

**Mr Gaffney** - They call it an 'alive cemetery'. It means it is open for business.

**Mr DEAN** - If it is attracting visitors, lots of relatives visiting that cemetery, maintaining the graves and doing all of that work, which a lot of people do on the gravesites of their loved ones, I suspect an owner in that situation, the church in particular, probably would not even close the cemetery perhaps after 50 years. They may well keep it open and active, and probably at their expense. I would be very surprised if they did not do that. As I said, I did not take advice on that, but it might well be the case.

Members, I ask you to consider this: the briefing this morning was fairly strong on this point. I cannot see at all how this will weaken the bill. If it were to cause problems or concerns, or if it were to weaken the bill, I would have considered it at greater length and may not have moved the amendment.

It is a good bill. We need this bill and I congratulate the Government and the department on bringing it forward in the way in which they have done it.

We need to be reasonable here. We can accept the church's and the bishop's position. I urge honourable members to support the amendment, in this instance from 100 years to 50 years. It is consistent with the legislation in South Australia, the state with the highest number of years; in the others it is 30 years, from memory. Fifty years is reasonable in the circumstances.

Members, I urge you to support the amendment.

**Mrs HISCUTT** - The member has covered quite a few subjects. I will work my way through what we consider to be a considered answer.

To start with, the Government does not support your amendments. The closure period proposed by the amendment bill is 50 years, which is consistent with South Australia. The time frame in Victoria is 25 years while the Australian Capital Territory, Queensland and Western Australia do not define the closure period in their legislation.

In these jurisdictions, cemeteries can only be closed by the responsible minister or, in Western Australia, by the Governor. Although a cemetery may be closed earlier, some of these jurisdictions required interred remains to remain in place in perpetuity. In New South Wales, there is no closure process. A cemetery may reach capacity for burials, but still accept cremated remains. The closest thing to closure in New South Wales is a process that allows local government to convert a cemetery, following a fairly exhaustive process.

It is therefore inaccurate to assert the proposed 50-year period is triple that of most states and territories, as it may be a shorter period, depending on the decision of the minister or the governor of the day in those jurisdictions.

In the context of the perpetuity rights of burials, the bill provides certainty of the process to be followed for cemeteries to be closed.

The amendment bill clearly provides a cemetery manager is not responsible for the maintenance of individual vaults, graves or monuments, maintaining the status quo. Given that, it is not clear why the Anglican Church has based its cost projections on a per grave basis. Overall maintenance costs will be mostly fixed costs, with the ability to recover the cost, improved by accepting a greater number of interments. Most of the ongoing maintenance costs the Anglican Church has attributed to the extended closure period, with water rates, mowing, spraying and insurance, would already currently apply for a closed cemetery and therefore are not attributable to the changes included in this amendment bill.

The church has stated existing burial fees are \$500 to \$1000 under the current 30-year closure period. In practice, the extension of the closure period to 50 years and the conditions of removal of headstones and bodies to 100 years should make little difference to most cemeteries.

Many cemeteries in the state that have not been formally closed have had few, if any, burials in recent decades. As the obligations on cemetery managers with record keeping and cemetery maintenance are not changing, then unless a cemetery manager intends to lay a closed cemetery out as a park or garden or exhume all the bodies, so the land is no longer a cemetery and could be developed, then there should be no cost impact relative to the status quo.

It is understood the church and other churches have historically charged burial fees at non-commercial rates that do not reflect full cost of recovery and make provision for ongoing cemetery maintenance. Presumably, it has done this for reasons connected with the overall mission and service provided to its parishioners and community over time. The church has historically relied on high levels of volunteerism to support some of its services, including tasks associated with cemetery management, which presumably also assist in keeping costs lower.

It appears the Anglican Church is now suggesting a different methodology to calculate its charges, rather than relying on its current cost structure. That is a decision for it to make and to be accountable for.

There is significant variation in prices across cemeteries, making it impractical to model the impact and assert it would be the impact on cemetery managers. The matters cemetery managers raised during public consultation in relation to the amendment that could increase management costs have been addressed through the changes to the closure period, the maintenance provision and audit requirements.

The Government consulted with a number of cemetery managers in making these changes with the majority indicating the changes largely addressed their issues. In the consultation process, it was acknowledged by some cemetery managers that it is not current practice to lay cemeteries out as parks or gardens by removing the graves or exhuming the remains, even though it is allowed under the current legislation 30 years from the last interment.

Therefore, the extension in the time frame to 100 years until the action can be taken is not expected to have a significant impact on most cemetery managers. Additionally, the proposed changes allow for the 100-year period to be shortened by the regulator in exceptional circumstances. The Economic Reform Unit of the Department of Treasury and Finance has assessed the legislation in accordance with the Government's Legislation Impact Assessment Guidelines and determined that the proposed legislation will not restrict competition in any way and will not have a significant negative impact on business.

During the public consultation period, the Government met with the Uniting Church, the Catholic Church, the Australian Funeral Directors Association, councils and other cemetery managers to discuss their concerns with the draft amendment bill. Stakeholders who met with the Department of Premier and Cabinet provided some constructive comments and the draft bill was updated to address the significant issues raised by cemetery managers.

These changes in the final bill include clarifying that the requirement for cemetery managers to maintain the cemetery does not apply to vaults, graves or monuments unless there is agreement in place to do so, introduction of a staged closure process where closure may occur at 50 years since the last interment, but a default period of 100 years since the last interment applies before the cemetery manager can take other action such as removing the headstones.

However, it will be possible for cemetery managers to apply to have the 100-year period shortened on an exceptional basis. Changes also include removing the five-yearly audit requirement by retaining the power for the regulator to request an audit at any time.

The majority of cemetery managers advised that their material concerns had been addressed. The Uniting Church holds similar concerns to the Anglican Church and faces similar issues with declining parishes in smaller communities. This is an issue the churches face regardless of this bill.

The Catholic Church, while facing similar issues, indicated it is comfortable with the amendments following the issue of responsibility for individual graves and monuments having been addressed. Since this final bill was released with its changes that responded to most cemetery managers concerns, no other cemetery managers have come forth to express the same concerns.

**Mr DEAN** - Leader, that speech was almost longer than your second reading speech.

**Mrs Hiscutt** - That sets it all down.

**Mr DEAN** - It would be great to take that to the bishop to get explanation but I do not have the luxury of time, so I must proceed in the best way I can.

You talked about a number of issues and I will capture some of them. You talked about the remains in place in perpetuity. That will be the case if a cemetery closed after 50 years. We were told in the second reading speech that in most instances those remains will always be there. I think we have that at St David's Park, those remains are in situ.

You raise the costs and you challenge the church's position on this. I would have thought, with the greatest respect to the Government, that the church would know best. They are the ones that are carrying out these functions. They are the ones that have burials within their cemeteries and within their sites. They know what the costs are to maintain these sites, because they are doing it.

In this case they are projecting that cost over that time. Somebody has to pay for it. As the church has said, it would be the estate or the relatives or friends.

**Mrs HISCUTT** - Can I clarify with the honourable member? You are saying 'churches' but you are only referring to the Anglican Church, because the other churches were happy.

**Mr DEAN** - Yes, I am referring to the Anglican Church here; you said this morning the others were reasonably content with it and I am not sure how they addressed this. Maybe I should have

talked to them, which I have not done. Needless to say, the Anglican Church has put forward this position. I am not challenging its statement because I am not involved in that work. I do not know what the cost to maintain a gravesite or a cemetery is, and I am accepting what they have told me. The fact is there are additional costs and it is all very well for the Government to say many of these organisations and churches rely on volunteers - of course they do, as the Government does. It is very seldom considered when one looks at the costings of things and so on. Volunteers, yes, would help in some instances, but they would not be available in every situation to assist the Anglican Church. When I say church, I mean the Anglican Church.

**Mrs Hiscutt** - We will take that for granted from now.

**Mr DEAN** - Yes. We have volunteers, but not in every situation, and they cannot be used in projecting costs, that they will have volunteers that might step in and do all of this work for them. They would be very careful in apportioning costs against any person or any estate, in identifying costs. Leader, you made some comment about it will not have a significant negative impact. I take it you mean on the churches? I was not able to take it all down. You made some comment about it not having a significant negative impact, and I take it you are talking about the 100 years? If you could explain what you meant. I do have another stand so I can jump back up again.

**Mrs Hiscutt** - I will address that.

**Mr DEAN** - You mentioned how you can have the time shortened, by application to the regulator at the end of 50 years. Now there is a process we have to go through there for that to occur. So perhaps, Leader, you might be able to go through and explain the process. It was explained this morning in the briefing, but maybe you would be able to go through every step of the process that must be complied with for the regulator to step in and close the cemetery at the end of 50 years. Perhaps, you can go through the closure process at that period of time. No doubt the Anglican Church will be taking advantage of that, or to the best of their ability for cemeteries where no interments have occurred for a long period of time. That period is necessary and those cemeteries are not active. I expect they will do that, but if you could step me through the processes I would appreciate that.

I do not resile from the position I have put and I ask members to seriously look at this. It will not weaken the bill at all, other than it will provide the Anglican Church with a position it is saying will assist it in keeping costs at a minimum for people who want burials in their cemeteries. It has said it does not want to price people out. That is what its intention is. I ask the Leader to answer some of the questions I have raised in relation to this.

**Mrs HISCUTT** - We have a quite a few answers to seek for the member for Windermere so we will work our way through them, starting with the final question. What is the process for a cemetery manager to close a cemetery? The process to close a cemetery is that a cemetery manager must publish a notice of intention the cemetery is to be closed and apply to the regulator to close all, or any portion of, the cemetery, and provide the necessary information to support the application including cemetery records and submissions in response to the public notice.

The regulator will then assess the application and, in doing so, may consider these three points -

- cultural and historical value of the cemetery, including whether the cemetery contains graves of persons of historical or cultural significance to the community



- whether the proposed closure may be prejudicial to public health or public safety
- any other matter the regulator considers relevant.

The regulator may refuse to approve the application or approve it on any condition he or she thinks fit.

The rest might answer your question. Once a cemetery is closed, under the existing act it is a trigger for cemetery managers to potentially exhume bodies and eventually clear the land so that it is no longer a cemetery.

Ownership of human remains - under the existing legislation, with 12 months of closure, this rests with the cemetery manager. Therefore, it is not accurate that even after closure, perpetuity for burials exists.

The entire bill and all the provisions, including the 100-year provisions, were assessed by Treasury, as is the case for all legislation.

Treasury determined that the legislation will not restrict competition in any way and will not have a significant negative impact on business. This includes cemetery businesses.

**Ms RATTRAY** - I pose a couple of questions in regard to this. I have been sitting here thinking about this proposed amendment. If somebody loses an infant child, potentially in their 20s, if there has not been a burial within 50 years, they are still only in their 70s, which is quite young now.

That means that you could be closing the door on opportunity for family members to be buried with a loved one. I acknowledge that there is that exclusive right to burial process and you would hope that they go through that process or at least give intention because that is still there now.

I am interested in understanding what negative impact it may have on a family who might still need to use a cemetery. It does not matter whether somebody is using something or not, even if it is only at an odd time. Unfortunately, sometimes our churches are earmarked for closure so that might happen to a cemetery in a much shorter time. I am inclined to support the Government in this area. That 100 years gives a family more surety for the longer term.

I acknowledge the cost factor here that the member is putting forward on behalf of the church. I know that costs come into most things we do in our lives now, but when it comes to the burial and the resting place of your loved one, particularly with the strong sense of family through those people who served and who came home and passed away, that has become stronger in the community.

The member for Murchison talked about going to find graves. It will serve the community better in the longer term to keep the 100 years. I acknowledge the member has raised some valid points. I am leaning towards holding with the Government. Other members may like to make their contribution. I think the member for Hobart is ready to get to his feet.

**Mrs HISCUTT** - The reason we did not support your amendment was because we support your intent. This is what is achieved here, your intent.

**Mr VALENTINE** - My questions on the amendment cross over with the 50 years versus 100 years and the closure of cemeteries. This is about the closure of cemeteries.

How does the Tasmanian Heritage Council's approval for works on heritage items in the Tasmanian Heritage Register, which may include headstones, affect this? If you are closing a cemetery at 50 years, I would be concerned that the headstones could be taken off the register because the cemetery is now closed. The Heritage Tasmania website provides advice on managing the heritage value of cemeteries. The advice supports the Tasmanian Heritage Council's works guidelines, which provide guidance on seeking approval from the Heritage Council for works to a place entered in the Tasmanian Heritage Register. It says you have to move kerbs, railings, monuments and things around it. I want to make sure that the approval of the Heritage Council is incorporated in what you do with cemeteries, bearing in mind we are talking about 50 years rather than 100 years.

If you can help me there, I would really appreciate that.

**Mrs HISCUTT** - I am sure we can help the member. The owner of a cemetery where there are conditions under the heritage act would still need to comply with those conditions. Closure of a cemetery would not impact on heritage listing. A cemetery manager does not have to remove kerbs and railings and so on after 100 years. It is only that a cemetery manager may. If there are heritage conditions, they should still apply.

**Ms ARMITAGE** - Madam Chair, I was probably inclined to go along the lines of the member for Windermere initially in the briefings to support this amendment until I looked further into it. I looked at the media we had from the Local Government Association and when I sought further advice, I was advised that things were changed in the lower House to satisfy the Local Government Association, after community consultation. It is important that the public and the stakeholders were very happy with the 100 years. They felt they had struck the right balance now that churches can apply to close a cemetery after 50 years, with any conditions the regulator may make. That tends to balance the ledger a little so that it can be closed.

I listened to the member for McIntyre. I had not really thought about that situation, but in that case, 50 years is not that long, though I appreciate -

**Ms Rattray** - My 50 has gone quickly.

**Ms ARMITAGE** - I am a fair bit past 50. I note from the briefing we had today that we have twice as long as the other states. We have it twice as long as the jurisdiction with the longest in Australia. That was something I looked at and I thought, 'Maybe it is worthwhile, having sought further advice and looking into it and the fact there has been community consultation'.

I have a question for the member for Windermere; I am not sure whether he can answer it. I am looking at the briefing note we received from the Anglican Diocese of Tasmania. The Anglican Church has 81 cemeteries spread across Tasmania. They estimate the cost of maintenance to be \$100 to \$150 per year for each burial plot. Does the member know how many burial plots there are across the 81 cemeteries? The cost includes paying insurance, water rates, mowing and spraying. Depending on how many burial plots there are for each of those 81 cemeteries, that would make a difference to the amount.

**Mrs HISCUTT** - I note the question is for the member for Windermere, but I will add a bit. The Director of Local Government spoke with the CEO of LGAT after the article was published. She confirmed that the media had taken the submission from LGAT's website, which was in response to the original consultation bill. The CEO confirmed to the director that the position of

councils, following the changes of the bill, was that they were generally comfortable with the changes to be included in the final bill.

Since the final bill was released with its changes that responded to most cemetery managers' concerns, no other cemetery manager has come forth to express these same concerns.

**Mr VALENTINE** - In relation to the closure of cemeteries and the period we are talking about, for somebody who wants to close a cemetery, 50 years is significantly less time than 100 years and they may well not wish to take over a cemetery they cannot close for 100 years. Can it be guaranteed that they know, before they take over that cemetery, that there are listed items on it that may be impacted by the strictures the Heritage Council place on them? It makes a difference to whether I vote for this or not, so I am interested in that response.

**Mrs HISCUTT** - A new cemetery manager, taking on an existing cemetery from a current cemetery manager, is to be provided with details of the obligations that would apply to the proposed purchaser under this act. As part of their due diligence, a new cemetery manager should be aware of the closure provisions if they intend to close the cemetery in the future. One of those obligations is to provide details of graves of historical and cultural significance in the application for closure. This information would assist the regulator to determine if any conditions on closure should be put in place for those graves.

**Mr VALENTINE** - Am I to assume that it will be in regulations associated with this act? There are significant strictures. This legislation talks about whether there is a tombstone showing the name of a person and what you could do with it. The Historic Cultural Heritage Act says that it is any development, any physical intervention, excavation or action which may result in a change to the nature or appearance of a fabric or a place. I want surety on that.

**Mrs HISCUTT** - We are talking about closure to cemeteries. It is clause 17, proposed new section 29(5) -

Before determining an application under subsection (1)(b), the regulator may consider any one or more of the following matters in respect of the application:

- (a) The cultural and historical value of the cemetery, including whether the cemetery contains graves of persons of historical or cultural significance to the community;

If there are any concerns about heritage and its operations with this act, the Government will examine them in the second stage. We do not think there is a problem, but we will examine it and look at it.

**Mr DEAN** - Madam Chair, we are at a distinct disadvantage. The Leader has all the advisers, we fly on our own. I have to work with the protocols and how this place operates.

**Madam CHAIR** - I hope it is on the amendment?

**Mr DEAN** - At least I changed it when I had the advisers sit at this Table.

The amendment bill removes clause 15, which repeals section 26 from the principal act. Clause 26 allowed a cemetery manager to close a cemetery if they had insufficient funds to operate it. That

is a very significant repeal when talking about the current amendment. It means that with this provision gone, costs for the Anglican Church will rise. I refer the Leader to the repeal of that section of the principal act. It is a while now since you answered my previous position.

**Mrs Hiscutt** - On that point, member, that is the opinion of the Anglican Church, it is not the opinion of Treasury.

**Mr DEAN** - I said before that when I say 'church', I mean the Anglican Church in this instance.

**Mrs Hiscutt** - Sorry, their opinion as to costs.

**Mr DEAN** - Their position, but it is a real position and I ask you to address that. You said the community consultation indicated they were happy with 100 years. Some comment was made along those lines. I might have that wrong, but I thought that is what you or somebody else said.

**Ms Rattray** - The member for Launceston.

**Mr DEAN** - It might have been the member for Launceston who made the statement that the community was reasonably happy with the consultation process for the 100 years. Well, of course they would be. The community gets annoyed with any cemetery closing and that is justifiable. Tasmania is such a small place that there are not too many cemeteries around where I do not have a relative or a good friend buried. We all get passionate about the need to protect and look after cemeteries. There are people who will tell you a cemetery is there forever. The graves are never altered, never changed, they will be there forever. That is not right - we know that - and St David's Park and examples like that show us that is not right, but that is what some people will tell you - they believe cemeteries are there forever. It is not surprising people generally would never want their cemeteries to close. I do not find that amazing. To answer the member for Launceston's question the average age is 75.

**Ms Armitage** - The average age you die is 75?

**Mr DEAN** - The average is 75.

**Madam CHAIR** - I assume that includes all the babies. You are talking about an average overall.

**Mr DEAN** - Yes, it probably does. I do not know. A member mentioned 50 years is not too long. Well, 50 years is a long time, let us make no mistake. We have many people dying in their 40s, 30s, 50s. You know, 50 years is a long period.

**Ms Rattray** - My comment was in regard to a family member losing someone at a very young age and then still being around. That was my context.

**Mr DEAN** - That is probably true in that context. To my mother-in-law, in fact, 50 is not old. She is about to turn 100, bless her soul - lovely lady. She may well live to 110 or 120 the way she is going. They raise 50 years as not being a long period. I cannot take it any further, but I would ask members again - and I do not want to repeat it all, other than to say the amendment is very reasonable. It is a reasonable requirement or request of the Anglican Church, and Bishop Condie spoke to us about it at length this morning. It is a reasonable request. It does not weaken the bill at all; in fact, it simply identifies with a position churches can opt to undertake - that at the end of a

50-year period after the last internment, they can make application. That was another point I was going to make.

**Ms Rattray** - They can actually still make that.

**Mr DEAN** - That is right, they can, but one of the things they have to satisfy is cultural significance. There would not be too many cemeteries around this state that would not have significant cultural issues of significance relating to person interred there. I would be very surprised. I am not quite sure how far and how deep one will have to look to satisfy the cultural significance. I suspect we would be looking at individuals who might be interred there when we talk about the cultural significance or the significance of that cemetery to a certain area.

**Mrs Hiscutt** - The regulator would look at everything that is there.

**Mr DEAN** - Maybe you can explain, Leader, what you mean by 'cultural significance'. Is it the cultural significance of the cemetery to the people in the area, or does it relate to persons interred in that cemetery and their backgrounds and their -

**Mrs Hiscutt** - While you are on your feet, it has to be evidence-based.

**Mr DEAN** - I want to know what you mean by 'cultural significance'. Does it relate to individuals, a certain person interred in that cemetery, or does it relate to the cemetery itself?

**Mr Valentine** - I could read you what Heritage Tasmania says.

**Mr DEAN** - I just want the Leader to tell me what is meant by 'cultural significance', which is a very important matter.

I urge members to support the amendment. It is not an amendment that will weaken this bill. In fact, it will make it a better bill for the Anglican Church and perhaps for others, too. Even if they do not go down this path, I suspect they would like the amendment.

**Mrs HISCUTT** - It could be individuals or it could an architect. It depends on the circumstances, but it is up to the regulator to determine on an evidence-based application.

I will not labour this, Madam Chair, we have been through a lot of it. I will finish by saying that since the final bill was released with changes that responded to most cemetery concerns, no other cemetery managers have come forth to express these same concerns.

**Mr Dean** - Would a cultural significance be, for instance, if an Indigenous person is buried in a cemetery?

**Mrs HISCUTT** - Aboriginal burials are dealt with under different legislation.

**Mr Dean** - How does that impact on this act though if it is in a cemetery where the church bishop is to close it after 50 years of no further -

**Mrs HISCUTT** - If there is an Aboriginal section there?

**Mr Dean** - Yes.

**Mrs HISCUTT** - In this particular circumstance, the evidence would come from an Aboriginal community to say as such and then the regulator would take it into account when making their determination. If it can be proven that there is Aboriginal cultural significance within this particular cemetery, if it is evidence-based, it will need to be taken into account by the regulator when they make the decision.

**The Committee divided -**

**AYES 4**

Mr Armstrong (Teller)  
Mr Dean  
Mr Finch  
Ms Forrest

**NOES 10**

Ms Armitage  
Mr Farrell  
Mr Gaffney  
Mrs Hiscutt  
Ms Howlett (Teller)  
Ms Lovell  
Ms Rattray  
Ms Siejka  
Mr Valentine  
Mr Willie

**Amendment negatived.**

**Clause 17 agreed to.**

**Clauses 18 to 22 agreed to.**

**Clause 23 -**

Section 36 amended

**Mr DEAN** - I stand to withdraw my amendment. I will not proceed with my proposed amendment to clause 30 either because it depended on the first amendment.

**Clause 23 agreed to.**

**Clauses 24 to 26 agreed to.**

**Clause 27 -**

Sections 49A, 49B and 49C inserted.

**Mr VALENTINE** - Madam Chair, clause 27, section 49C(3). I would like it explained as to how this conviction happens, when dealing with a body corporate. It is about contravention of provisions in the act and (3) says -

a person may be convicted of a contravention of a provision of this Act whether or not the body corporate has been convicted of its contravention.

I would like to have this placed on the record to make it clear if there is a president and a secretary and a treasurer and all those members of a body corporate and in some way they breach the act, who takes the rap? It says 'may', I understand, but perhaps that can be explained.

**Mrs HISCUTT** - I will seek some advice. This is a standard provision and is important as there are circumstances where it will be appropriate to apply penalties to individuals, particularly as individuals are also responsible for managing some cemeteries. OPC advice is to have penalties for individuals, where there is a body corporate.

**Clauses 28 to 33 agreed to and bill taken through the remainder of the Committee stage.**

## **BRAND TASMANIA BILL 2018 (No. 46)**

### **Second Reading**

[10.16 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council - 2R) -  
Mr President, I move -

That the bill be now read the second time.

Our brand is one of our state's greatest assets, and ensuring we have a contemporary, best practice approach to managing, developing, promoting and protecting our brand - our reputation, our unique competitive identity - is an important commitment of this Government.

The profile of Tasmania's Brand has been built through the hard work of the Brand Tasmania Council and Tourism Tasmania, supported by a network of organisations that promote Tasmania internally and externally, together with Tasmanians and Tasmanian businesses.

On behalf of the Government, I would like to extend my thanks to the Brand Tasmania Council, and all past and present councillors. The Brand Council's efforts and energy have driven the local, national and international appreciation and recognition of our brand for over two decades. Importantly, the work of the Brand Council will continue in the new statutory authority, but with an increased effort and more resources to support brand promotion, collaboration and management in Tasmania.

Tasmania's brand has served us well in the past and transitioning the Brand Council to a statutory authority provides us with an opportunity to strengthen our brand even further.

The bill before the House today is the culmination of a significant amount of work that has been progressed by the Department of Premier and Cabinet since late 2016. The Government's commitment to transitioning the Brand Council to a statutory authority structure, responsible for managing and developing the Tasmanian brand, came about through a review of the Tasmanian brand undertaken by DPAC in late 2016 and early 2017. This review found that the Tasmanian place brand is strong, but that we also have an immense opportunity before us for improvement, and to more clearly differentiate ourselves from our competitors.

A key recommendation was to formalise governance arrangements to ensure Tasmania's place branding efforts are properly resourced and sustainable over time.

In today's globalised world, place branding has emerged as a means through which countries, cities, states, nations and regions competitively differentiate themselves. Place branding aims to

enhance and promote the competitive identity of a place, through a combination of brand management, public diplomacy, trade, investment, tourism and export promotion.

Place branding experts argue that governments have a responsibility, on behalf of their people, their institutions and their companies, to understand the image and reputation of their place, and to develop a strategy to manage it so that their place remains competitive. In Tasmania, this work will be led by the new authority, through the enabling legislation, which clearly specifies the objectives and functions of the authority.

We know that places with strong, positive brands attract more tourists, greater foreign direct investment, increase exports and attract and retain talent. This means that having a strong, recognised, and admired brand and reputation can have an impact on economic indicators.

The purpose of this bill is to transition the Brand Council into a statutory authority. As is the case with Tourism Tasmania, this authority will be a state authority under the State Service Act 2000, with the chief executive officer the head of agency for the purposes of the State Service Act 2000. The authority will be required to comply with all applicable legislation for government bodies, including the provisions of the Financial Management and Audit Act 1990, and from 1 July 2019, the Financial Management Act 2016.

I will now turn to the specific provisions of the bill before us that give effect to the Government's policy intent.

With regard to the objectives of the authority, which are set out in clause 7, there are three broad, but important, objectives specified. Firstly, the authority is to ensure that a Tasmanian brand which differentiates and enhances Tasmania's appeal and national and international competitiveness is developed, maintained, protected and promoted.

The new authority will be responsible for communicating and promoting a deeper explanation of our unique Tasmanian attributes in a way that more clearly differentiates us from our competitors.

The second objective of the authority is to ensure that Tasmania's image and reputation locally, nationally and internationally, is strengthened.

And thirdly, the authority is to ensure the Tasmanian place brand is nurtured, enhanced and promoted as a key asset of the Tasmanian community. In this regard, the authority is the custodian of the Tasmanian place brand, on behalf of the Tasmanian community.

The authority's functions are listed in clause 8. The authority will promote the Tasmanian brand by creating, coordinating, managing, developing and supporting promotional and marketing activities that are designed to

- strengthen Tasmania's image and reputation; and
- enhance the attractiveness of Tasmania as a place in which to live, work, study, visit, invest or trade; and
- maximise the profile, and the competitive position, of Tasmanian goods, services, experiences and products in local, national and international markets.



While it will be up to the new authority to decide the exact form those promotional and marketing activities take, there are numerous examples from other place branding organisations around the world that demonstrate the types of toolkits that can be developed to support place branding strategy and engagement.

What is important is that this authority develops its own toolkit, in partnership with its stakeholders, which will be an establishment task the authority will undertake in early 2019.

In line with the objective of the authority to strengthen and protect Tasmania's image and reputation locally, the authority will be required to identify any risk to the reputation of the Tasmanian place brand, and develop mitigation or contingency plans in relation to that risk.

An amendment accepted in the House of Assembly has added an additional function to the list in clause 8: to advocate for the protection of the attributes on which the Tasmanian brand relies.

We know from the research and from our own experience that place branding is most successful when it is a collaborative effort across government, non-government, business and community sectors. That is why an important function of this authority will be to drive collaboration, engage both the public and private sectors, ensure coordination across government agencies, and, most importantly, engagement with the Tasmanian community.

To inform the authority's strategic direction, the authority has the responsibility to undertake, support and interpret any research, or any other insights, into matters relevant to the authority's functions.

The powers of the authority are listed in clause 9. The authority has the powers to enable it to undertake its legislative functions. This includes the power to acquire, hold, dispose of and otherwise deal with property; enter into contracts; and to control access to the uses to be made of any material or any assets developed by the authority.

In terms of structure, the governance of this authority is to be led by the board. The board of the authority will consist of between nine and 11 members, and will include two senior public servants, including the Secretary of the Department of Premier and Cabinet and another State Service officer. Tourism Tasmania will nominate one person to sit on the board, with the other members to be appointed on the basis of the skills mix listed in clause 10. Members will be appointed by the Governor on the recommendation of the minister and members' terms will not exceed three years. Board members may be eligible for reappointment, although not for more than three terms.

The board is responsible to the minister for the performance and exercise of the authority's functions and powers, with the minister ultimately accountable to the Parliament. However, it is not the intent that the board will manage the day-to-day operations of the authority. That responsibility will rest with the chief executive officer who will have a number of responsibilities both under this bill, as well as other important legislation such as the State Service Act 2000, the Financial Management and Audit Act 1990, and from 1 July 2019, the Financial Management Act 2016.

Other responsibilities and powers that relate to the board under this bill include powers relating to delegation, and the responsibility to notify the minister of developments that may significantly impact the authority. The board also has the power to establish any committees that it requires.

The strategic oversight and direction requirements are set out in Division 2 of Part 3 of the bill and include provisions for a ministerial statement of expectations, ministerial directions, a strategic plan and a corporate plan. The Government may issue a statement of expectations to the authority in the context of the authority's objectives, functions and powers, similar to the type of ministerial statement of expectations that might be issued for a government business enterprise. The intent of this instrument is to allow the Government to provide more detail on its expectations for the authority.

The inclusion of provisions around ministerial statements of expectations and ministerial directions are not about giving the minister power to engage or interfere in the day-to-day operations of the authority. These instruments are included to allow the minister, when needed, to specifically direct the board to undertake some action to achieve a strategic objective, or in relation to some administrative or managerial function of the board.

However, there are limits and checks on the use of this ministerial power. Recognising the important role the authority will have to nurture, enhance and promote the Tasmanian brand as an asset of the community, the minister cannot issue a direction to the board that seeks to exert control or influence over the content of events or activities conducted, promoted or supported by the board.

The board is responsible for preparing the strategic plan of the authority, which is to be for a planning period of not less than three years. The strategic plan is to give effect to the Government's expectations communicated through the ministerial statement of expectations and is to also articulate the authority's goals for the general management, operational, financial sustainability and development of the authority, as well as the strategies to be implemented to achieve those goals.

The strategic plan is to also detail the strategies for managing risk, measuring success and monitoring progress towards the attainment of the goals detailed in the strategic plan.

To support the implementation of the strategic plan, and the achievement of the goals and strategies detailed in the strategic plan, the authority is to also prepare a corporate plan to cover each financial year period. To complete the planning cycle and to report on the achievement of governance objectives the board is to prepare an annual report, which is to be combined with the annual report the chief executive officer is required to prepare under section 36 of the State Service Act 2000.

The authority will be led by a chief executive officer, who will be a head of agency for the purposes of the State Service Act 2000. The chief executive officer is responsible to the board for the general administration and management of the authority, and is to act as secretary to the board. Staff will be appointed or employed subject to, and in accordance with, the State Service Act 2000.

As I have touched on, Brand Tasmania will operate in accordance with legislation that applies to government agencies and authorities such as the Financial Management and Audit Act 1990, and from 1 July 2019, the Financial Management Act 2016. The budget for this authority will be determined through the standard budget development processes.

This bill transitions the important work of managing and coordinating Tasmania's place branding activities from the Brand Tasmania Council into a new statutory authority model. The bill provides clear lines of responsibility and accountability for the management and operation of the Tasmanian place brand and the authority which will be tasked with protecting and promoting our brand. In doing so, the bill establishes contemporary governance structures and processes for

strategic decision-making, and importantly for the review and evaluation of our place branding efforts to ensure our work in this area remains contemporary and reflective of best practice.

Places, be they cities, regions, countries or states - just like Tasmania - need to be able to clearly differentiate and communicate their unique competitive identity - their brand, their story - in order to be successful and stay competitive in the global marketplace.

We know that there are huge opportunities awaiting our state, in terms of our economy, attracting visitors and students, and selling our products and services. Of course, we could keep doing more of the same. While our brand is strong, we also acknowledge that we can do better. We can do more.

Through the establishment of the statutory authority we will build an overarching Tasmanian place brand that embodies the spirit of this place and its people. This will help us to best stand out from the crowd as we compete in the global marketplace for tourists, investment, trade, students and talent.

Through this legislation we will provide an enduring governance structure and longevity to our brand efforts; and importantly, we will invite the community to be part of this effort, and to share their stories for the benefits of other Tasmanians.

Our brand efforts will be monitored and evaluated, in line with best practice approaches, to ensure we know how our brand is performing and to allow us to adapt and evolve our brand over time.

Through this new approach we will together work to inspire collaboration across government, brand leaders, the private sector and the community to leverage our unique place brand and truly capture what is Tasmania.

Mr President, I commend the bill to the House.

Before I commend the bill to the House, I offer a briefing to honourable members if they are interested. Do members require a briefing?

**Ms Forrest** - A briefing is scheduled for tomorrow. There are a couple of amendments - one was drafted a little while ago and one has had to be redrafted on the basis of what happened downstairs. Our members have not had a chance to see them because the second one has not been redrafted. I would be concerned about proceeding at this point because members have not had a chance to have a look at them.

**Mrs HISCUTT** - Mr President, before I commend the bill to the House, I move -

That the debate stand adjourned.

This is for the purpose of a briefing.

[10.33 p.m.]

**Ms FORREST** (Murchison) - Mr President, the member for Launceston has indicated some concerns with the bill. I have indicated I have a couple of amendments I wish to proceed with. It is now 10.30 p.m.

A briefing would probably take us to at least until 11 p.m. I am not sure why we need to proceed when we are scheduled for a briefing tomorrow anyway.

I know the Government wants to get this bill done, I understand and accept that, but I cannot understand why it wants to press on with this one when it was not one of the bills that was listed for today. Clearly, the information was sent last week, or whenever it was. We do not normally deal with bills until after we have had a briefing. It is a bit pointless having the briefing after it is dealt with.

I am not sure I want to support this adjournment. If we do, I do not think we need to go on with it beyond that time.

The Leader can have a briefing if she likes, to save doing it in the morning, but to proceed when members have not had time to really look at it - it is up to other members what we do, but I want to put those matters out there.

**Mrs Hiscutt** - In answer, the list is subject to change. There were a few bills the Government needed to get through by the end of this sitting week. Members, if it is not late tonight, it will be late tomorrow night, because we need to get a few bills done. It is, of course, the will of the House. So we either sit later tonight or we sit late on Thursday night.

[10.35 p.m.]

**Mr VALENTINE** (Hobart) - Mr President, the only advantage is if we do another briefing now, it frees up tomorrow morning for other briefings.

**Ms Forrest** - The point I was making is they would want to proceed with the bill right through.

**Mr DEAN** (Windermere) - Mr President, I am inclined to agree with what the member for Murchison has said. It now is 10.30 p.m.; a briefing will take us through until after 11 p.m. We would then come back here and I would be very surprised if we can go through this bill in an hour.

**Mr Valentine** - If we do not come back.

**Mr DEAN** - We could be here until 1.00 a.m. and I suspect others might be thinking this way - we may be dealing with a very important matter tomorrow. We need to be realistic and reasonable in our time management. I do not have a problem with going to a briefing. In fact, I was going to support going to a briefing because of the things I want to know, but that is where it ought to stop at this time. We need to be realistic with time frames. I understand where the Government is and the reason, but if at the end of the time we need to sit for another day, so be it. The parliament takes priority and it is the Leader's call. That is the Government's call. My position is we ought to conclude our duties tonight and with going to a briefing, I do not have a problem with that, but we should finish at a reasonable time.

[10.37 p.m.]

**Mr FARRELL** (Derwent) - Mr President, I agree with both the previous speakers, particularly in light of proposed amendments. If we have amendments proposed tonight, it would be unwise to proceed through the bill without knowing what implications those amendments may or may not have. Considering the late hour and the business we have tomorrow, I could not support moving through with the bill this evening.

**Mrs Hiscutt** - While the member is on his feet, can I clarify: the member for Hobart said it will free up tomorrow. It will not free up tomorrow, because the briefing we had for Brand Tasmania tomorrow we have allocated to the Labor Party to brief members.

**Mr FARRELL** - That is what I meant.

**Mrs Hiscutt** - Okay. I would be happy to deal with the briefing and then knock off tomorrow.

**Mr FARRELL** - That is fine and if we need to sit late tomorrow night, so be it.

[10.38 p.m.]

**Ms RATTRAY** (McIntyre) - Mr President, I support going to the briefing and sitting late. In fairness to the staff, if we are not coming back, we should adjourn for the night. That is probably what the Leader was planning to do. It would not be fair to suspend and have people waiting around.

**Debate adjourned.**

## **ADJOURNMENT**

[10.39 p.m.]

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That at its rising the Council adjourn until 11.00 a.m. Thursday 29 November 2018.

**Motion agreed to.**

**Mrs HISCUTT** (Montgomery - Leader of the Government in the Legislative Council) - Mr President, I move -

That the Council do now adjourn.

## **Film about the Tarkine - Vilification of Tasmania's Forest Industry**

[10.40 p.m.]

**Ms FORREST** (Murchison) - Mr President, I know it is not convenient to do an adjournment speech at this time, but this is a matter that is important. I hope that the member for Huon might listen to this one because it is something he would be quite interested in.

I got an email recently. It says -

As the member for Murchison which encompasses the Tarkine, I thought you would be interested in the following.

You may or may not be aware but earlier this year international outdoor clothing company Patagonia partnered with the Bob Brown Foundation to make a film about the Tarkine. The film, which has been viewed by over 200 000 people

nationally and internationally, spends a significant amount of time vilifying Tasmania's Forest Industry and making many false and misleading claims.

Probably one of the worst examples of vilification in the film was at 16:20, where a protestor in a tree in the Tarkine states that friendly and unfriendly locals have visited her. The film then cuts to a scene of a forest contractor attacking a group of protestors in a car with a sledgehammer. This footage sequence is very misleading as the attack shown happened in 2008 in the Florentine, nowhere near the Tarkine, and in any event, the contractor in question had been previously charged and convicted of the offence.

While many in Tasmania would realise that this incident happened nowhere near the Tarkine some years ago, the tens of thousands of people worldwide who have seen the film to date would be unaware of this fact and would likely believe that Tarkine forest protestors had recently been attacked as the film infers.

Following the film's release, Patagonia was forced to admit on Facebook that the incident did not occur in the Tarkine and was from 10 years ago. However, they have claimed the footage was included as 'we believe it is still relevant because there are still reports of altercations between timber industry backers and environmentalists in Tasmania to this day'. I can't remember the last time a forest activist was assaulted. Can you?

The contractor in question, Rodney Howells, had a complete breakdown at the time of the incident following over \$3 million worth of damage to his machinery and his daughter, sadly, taking her own life. He was tried and convicted and did his time. In now what seems to be a case of double jeopardy, Howells has unwittingly become the face of the 'violent' forestry industry in Tasmania and his actions have been broadcast worldwide.

The person who wrote me this email has done a lot of work on this, and I believe what he has provided me with is accurate as far as his knowledge goes.

To continue what he said -

I spoke at length with Patagonia's Sydney-based Australian Environmental and Social Initiatives Manager, Shannon Bourke, about the film and some disturbing revelations were highlighted in this conversation, namely:

Rodney Howells was not contacted prior to the film's release, nor were Patagonia aware of his prior mental health issues surrounding his daughter. Patagonia also did not consider this history or the impact on Rodney's current mental health prior to the release. This was despite the footage being supplied to Patagonia by the Bob Brown Foundation, who were fully aware of such matters.

- Patagonia had no idea that a Tarkine reservation, as proposed by the film, would destroy the culturally significant special species timber industry overnight. In fact, they have never even heard of the special timbers sector.

- Patagonia was unaware that some indigenous groups and leaders were vehemently opposed to World Heritage listing of the Tarkine.

Patagonia claimed that STT refused to be interviewed, yet they did not reveal that STT had in fact provided a lengthy briefing to them on Tasmanian forestry.

Patagonia has subsequently refused several requests from me to provide the locations of the coupes shown in the film so that the claims could be fact-checked. I was aware that the film in the State's reserve system that a commercial filming application had to be approved by Parks and Wildlife. In May this year, I submitted an RTI application to DPIPWE seeking commercial filming applications for the area concerned.

It took well over 100 days to have this finalised, which is another story, as a review of the RTI is on an 881-day waiting list with the Ombudsman. The RTI decision included two applications from Patagonia, which are attached for your reference. I was somewhat gobsmacked that the government had approved such a film to be made, but a review of clause 4 of both applications shows that Patagonia was manifestly misleading in their applications.

I also have had it confirmed from the Premier that STT had issued a permit to Patagonia for filming it on PTPZ land but again, STT was deliberately misinformed regarding the purpose of filming.

According to Patagonia's annual reports on their enviro campaigning, this billion dollar company has spent over \$89 million on enviro-activism through supporting activists worldwide that align with Patagonia objectives. In Australia, Patagonia supports 16 activist groups including the Bob Brown Foundation, the Wilderness Society and Environment Victoria.

In 2017, Patagonia provided \$50 000 for the Bob Brown Foundation to challenge the Tasmanian protestor legislation. Despite their generosity to NGOs and activist groups, Patagonia admits they do not pay their workers a living wage.

According to both the Bob Brown Foundation and Patagonia, they will be holding an event on Parliament House lawns on 27 November this year -

I do not know whether you saw it last night, Mr President. I walked past late at night and it was happening. Back to the letter -

Their social media indicates that they would be looking to screen the film and then project 200,000 plus signatures of people claiming to support the Tarkine push on to the parliament building. My understanding, from speaking with some members of the Joint House Committee who approve applications to use the lawns is that the projection onto parliament was not in the application and both organisations have since been advised that it is not allowed. My bet, following their past performance of honesty on applications, is that they will try to conduct this activity anyway.

Patagonia's and the Bob Brown Foundation's claims being made about the Tarkine in this film and other media are in many cases false and misleading. To make such claims publicly breaches Australian Consumer law and in the case of the Bob Brown Foundation also breach Collections for Charities Act 2001 which prohibit charities from making false and misleading claims.

While I am a strident supporter of free speech, the right the protest and the continued use of Parliament lawns in exercising such rights, I find it difficult to understand how the Parliament has approved the screening of this film, as in doing so it is essentially condoning unlawful activities. I'm not sure how many members in the Legco have seen this film, but I can assure you that no-one came away from that film believing that the truth has been told.

Social licence is a funny thing in Tasmania and in the case of the Tarkine push by these two organisations, they would not appear to have any social licence in the Braddon electorate.

Following a significant campaign by the BBF in the March election on the issue, BBF employee and perennial Greens candidate, Scott Jordan, recorded one of the worst showings in recent history with around 97 per cent of voters dismissing the campaign for the Tarkine.

At the upcoming event on the 27th, both organisations will claim significant support for the proposal but as you would be aware, this mostly came from inner-city supporters in Sydney, Melbourne, Brisbane and other similar areas internationally.

The wishes of the needs of the locals don't rate a mention and are considered irrelevant, almost collateral damage in the bid to save the Tarkine. To these organisations the end always justified the means.

Following the work completed last year on the Special Species Timber Management Plan it very clear that the only remaining sources of special timbers outside the TWWHA are in the NW of the state. The Tarkine area is essential to the ongoing viability of our sector and the World Heritage lockup would be the end of it.

I hope, as the member for Murchison, that you can see the importance of the Tarkine for all stakeholders, not just for a conflict-based activist organisation and billion-dollar multinational who seek to profit from their campaign, Regards.

I was not aware of this film being made. I saw some screenshots of the Bob Brown Foundation's Facebook page and Patagonia's Facebook page today sent to me showing footage being projected onto Parliament House. They had a big, blow-up screen out there. I did not go to watch; I walked around the outside and out. They could have been doctored images on the Facebook page, I fully accept that. It did not look like it and it looked like the screen was still up. If they were projecting onto the building, I think some action needs to be taken.



I sit on the Joint House Committee with you, Mr President, and the Leader and I am not aware of a decision being made to allow them - I do not have a problem with people making a point in the gardens -

**Mr PRESIDENT** - It is not the Joint House Committee that makes those decisions. Presiding Officers make those decisions and the Presiding Officers stated they could have the protest and they could have the film in the gardens because of freedom of speech and the right to protest, but permission did not go to allowing them to film anything on the building itself. That was clearly made known to them.

**Ms FORREST** - Mr President, if that decision was transmitted to them, I appreciate your insight and that those Facebook images are not doctored, but actual. I hope the Presiding Officers will act for a breach of the requirements. I have no problem with people making their views known on the parliamentary lawns. Everyone is entitled to do that. Where you completely misrepresent a situation such as this, you show no regard for a man who has had serious mental issues and has dealt with the death at her own hand of his own daughter, and some questions need to be asked and answered.

**The Council adjourned at 10.50 p.m.**