

OLD WALLSEND CEMETERY ACT.

Act. No. 5, 1953.

Elizabeth II,
No. 5, 1953.

An Act to dedicate certain land at Wallsend as a public park; to make provision for the appointment of trustees thereof; to confer and impose certain powers, authorities, duties and functions on such trustees; and for purposes connected therewith. [Assented to, 25th September, 1953.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. **1.** This Act may be cited as the "Old Wallsend Cemetery Act, 1953."

Dedication. **2.** (1) The land described in the Schedule to this Act is hereby dedicated as a public park and the said land shall be deemed to be a public park within the meaning of the Public Parks Act, 1912, as amended by subsequent Acts, and the Council of the City of Newcastle (hereinafter referred to as the Council) shall be trustees of the said land for all purposes of that Act, as so amended, and shall be deemed to have been appointed pursuant to that Act to be the trustees of the said land.

(2) The said park shall be maintained by the Council as a rest park and garden area and, notwithstanding anything in any other Act, the Council shall not use the said park or permit the same to be used for any other purpose.

(3)

(3) Subject to section three of this Act—

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- (a) any estate or interest in the land described in the Schedule to this Act which, immediately before the commencement of this Act, was vested in or held by any persons other than the Council is hereby divested;
- (b) the Council and all such persons are hereby discharged from any duties, liabilities or obligations existing immediately before the commencement of this Act in respect of or in relation to the said land;
- (c) any trusts, conditions, encumbrances, or dedications affecting the said land immediately before the commencement of this Act are hereby revoked and annulled.

(4) The Council shall, as soon as practicable after the commencement of this Act,—

- (a) compile an index plan and register of the names of and other relevant information in respect of persons buried in the said land, so far as such names and information can be obtained, and deposit and maintain such plan and register at the Newcastle Town Hall so as to be available for inspection by any interested person from time to time;
- (b) furnish a certified copy of such plan and register to the Minister;
- (c) remove all headstones, grave enclosures, and other surface structures on the said land and dispose of the same at the discretion of the Council;
- (d) plant the said land with trees, lawns and flowers and otherwise improve it for a rest park and garden area;
- (e) erect a substantial memorial, of a design to be approved by the Minister, in a suitable position on the said land indicating the sacred nature of the area and that particulars of the interments therein may be inspected at the Newcastle Town Hall.

(5)

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(5) At least three months before any headstones, grave enclosures, or other surface structures are removed by the Council an advertisement of the intention to remove the same shall be inserted four times at intervals of not less than two weeks in newspapers circulating in the locality.

(6) At any time after the appearance of the first advertisement referred to in subsection five of this section and before the expiration of three months from the appearance of the last of such advertisements, the representatives or any persons claiming to be the representatives of any person buried in the said land may, at their own expense, remove the headstone, grave enclosure or other surface structure erected over the grave of such person or may, at their own expense, and with the permission of the Director-General of Public Health, remove to such cemetery as they desire, the remains of such person:

Provided that such representatives or persons claiming to be such representatives shall give to the Council not less than fourteen days notice of their intention.

(7) The Council may do such other things as it considers necessary to effect the conversion of the said land into a rest park and garden area.

(8) No compensation shall be payable to any person in respect of the divesting of any estate or interest by this Act or in respect of the performance of any act authorised by this Act.

Reservations etc.
in favour
of The
Newcastle
Wallsend
Coal
Company.

3. (1) Nothing in this Act contained shall affect any right title or interest which immediately before the commencement of this Act was reserved to The Newcastle Wallsend Coal Company and its sequels in title and assigns in respect of all coal and other minerals, not including any minerals reserved to the Crown, lying in and under the land described in the Schedule to this Act, nor any necessary and proper rights powers and easements reserved as aforesaid to enable it or them to get win work and convey all coal, minerals and other materials belonging to it or them from and to the workings of its or their mines.

(2)

(2) The Newcastle Wallsend Coal Company its sequels in title or assigns or other the registered proprietor for the time being of the land adjoining the land described in the Schedule to this Act shall not be liable to the Council its sequels in title or assigns or other the registered proprietor or proprietors for the time being of the land described in the Schedule to this Act for any pit fall or subsidences which may have already or which may hereafter take place on or under such lastmentioned land or on any other land adjacent thereto or for any damage or nuisance occasioned thereby. No. 5, 1953.

(3) The Council its sequels in title and assigns or other the registered proprietor or proprietors for the time being of the land described in the Schedule to this Act shall for the benefit of the adjoining land of The Newcastle Wallsend Coal Company abstain from erecting any fence dividing the land described in the Schedule to this Act from such adjoining land without first obtaining the consent of The Newcastle Wallsend Coal Company in writing: Provided that such consent shall not be necessary whenever any such fence shall be erected without expense to the said Company.

SCHEDULE.

ALL THAT piece or parcel of land containing by admeasurement 3 acres 21 $\frac{1}{4}$ perches be the same more or less situate in the Parish of Kalibah County of Northumberland City of Newcastle being part of portion 48 of Parish and being also the whole of the land in Certificate of Title Volume 3106 Folio 99; Commencing on the southern side of Newcastle Road at the north-eastern corner of lot 4 of section B in Deposited Plan No. 2029 and bounded thence on the north by part of the southern side of that Road bearing 93 degrees 27 minutes 5 chains 66 links thence on the east by part of the western boundary of the reserve for foot traffic 10 feet wide and variable in Deposited Plan No. 11683 bearing 179 degrees 38 minutes 98 $\frac{7}{10}$ links and thence 182 degrees 29 minutes 4 chains 49 $\frac{9}{10}$ links thence on the south by the northern boundaries of lots 8, 7, 3 and 2 of section D in Deposited Plan No. 2029 bearing in all 273 degrees 24 minutes 5 chains 72 $\frac{8}{10}$ links and thence on the west by part of the eastern boundary of lot 1 of section D in Deposited Plan No. 2029 the eastern end of Binney Street and the eastern boundaries of lots 5 and 4 of section B in Deposited Plan No. 2029 aforesaid in all bearing 2 degrees 42 minutes 5 chains 48 $\frac{6}{10}$ links to the point of commencement.

Sec. 2 (1).

NEWCASTLE