

**MERRIWA ROMAN CATHOLIC CEMETERY
ACT.**

An Act to dedicate certain land at Merriwa as a public ^{Elizabeth II} reserve; to vest the said land in the Council of the Shire of Merriwa for the purposes of public recreation; to confer and impose certain powers authorities duties and functions on the said Council; and for purposes connected therewith. [Assented to, 24th November, 1966.]

WHEREAS by Crown Grant dated the twenty-fourth day ^{Preamble.} of July one thousand eight hundred and sixty Series 312 Page 1192 Her Majesty Queen Victoria did thereby grant unto the Most Reverend John Bede Polding the Roman Catholic Archbishop for the Archdiocese of Sydney his heirs and assigns land situated at Merriwa in the Parish of Merriwa County of Brisbane containing an area of 1 acre being the land more particularly described in the First Schedule to this Act which said land is more accurately described by recent survey as more particularly set forth in the Second Schedule to this Act AND WHEREAS by Certificate and Declaration made the fourth day of July one thousand nine hundred and sixty-six Registered Number 258 Book 2801 under the seal of the Trustees of the Roman Catholic Church for the Diocese of Maitland the said Trustees did thereby certify and declare that the land described in the Second Schedule to this Act was at the date of commencement of the Roman Catholic Church Trust Property Act, 1936, Church Trust Property as defined by the said Act within the Diocese of Maitland and that the Trustees have not in relation to the said land during the six months after the commencement of the said Act or in fact at any time received any notice from any person claiming any charge or lien on the said land or the possibility of there arising any charge or lien in favour of the person or persons from whom the said lands were divested AND WHEREAS the said land has in the past been used as a Roman Catholic Cemetery but it is believed that no human remains have been interred therein since the year one thousand nine hundred and eight
AND

Merriwa Roman Catholic Cemetery Act.

Elizabeth II AND WHEREAS certain headstones grave-enclosures and other surface structures of a like nature remain upon the said land but no other nor is the said land used for any other purpose AND WHEREAS the Trustees of the Roman Catholic Church for the Diocese of Maitland are desirous of disposing of the said land to the Council of the Shire of Merriwa AND WHEREAS the Council of the Shire of Merriwa is desirous of acquiring the said land together with certain other lands adjoining for the purposes of public recreation within the Village of Merriwa AND WHEREAS it is expedient to dedicate the said land as a public reserve and to vest the same in the said Council for the purposes aforesaid: Be it therefore 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 "Merriwa Roman Catholic Cemetery Act, 1966".

Dedication of land in Second Schedule as a reserve for public recreation. 2. (1) The land described in the Second Schedule to this Act (hereinafter referred to as "the said land") is hereby dedicated as a public reserve for the purposes of public recreation within the meaning of the Local Government Act, 1919, as amended by subsequent Acts, and the said land is hereby by the operation of this Act vested in the Council of the Shire of Merriwa (hereinafter referred to as "the Council") for an estate in fee simple freed and discharged from all estates, trusts and interests affecting the same.

(2) The said land shall be used and maintained by the Council for the purposes of public recreation and a memorial for those buried therein and, notwithstanding anything in any other Act, the Council shall not use the said land or permit it to be used for any other purpose.

(3)

(3) (a) Any estate or interest in the said land which, immediately before the commencement of this Act, was vested in or held by any person or body of persons is hereby divested.

Elizabeth II
Divesting of
estate or
interest
held in
land in
Second
Schedule
before
commence-
ment of
Act.

(b) Any person or body referred to in subsection 3 (a) of this section is 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, dedications or reservations, affecting the said land immediately before the commencement of this Act, are hereby revoked and annulled.

(d) Any Crown grant issued in respect of any part of or including any part of the said lands and subsisting immediately before the commencement of this Act is hereby cancelled in so far as it relates to the said land.

3. (1) Subject to subsections (4) and (5) of this section the Council may cause the remains of any person buried in the said land, so far as such remains can by reasonable diligence be discovered or identified, to be collected with due care and removed from their present situation and shall cause any such remains so removed to be reverently re-interred in such other part of the said land in such manner as the Council shall in its absolute discretion determine.

Removal of
human
remains,
headstones,
etc.

(2) The Council shall remove all headstones, grave-enclosures and other surface structures on the said land and re-arrange or dispose of the same at the discretion of the Council.

(3) The cost of such removal and re-interment of human remains and of such removal, re-arrangement and disposal of headstones, grave-enclosures and other surface structures shall be borne by the Council.

(4) At least three months before the remains of any person or any headstones, grave-enclosures or other surface structures in or on the said land are collected and removed by the Council pursuant to subsections (1) and (2) of this section,

Merriwa Roman Catholic Cemetery Act.

Elizabeth II section, an advertisement of the intention to remove them shall be inserted twice at an interval of not less than two weeks in a newspaper or newspapers published and circulating in the locality, and twice at an interval of not less than two weeks in a newspaper or newspapers published in Sydney and circulating widely throughout New South Wales.

(5) At any time after the publication of the first advertisement referred to in subsection (4) of this section and before the expiration of three months after the publication 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, and with the permission of the Council, remove the headstone, grave-enclosure or other surface structure erected over the grave of that person, and 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 that person.

**Register
to be
compiled,
etc.**

4. (1) 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 who are buried in the said land so far as those names and that information can by reasonable diligence be obtained, and deposit and maintain the plan and register at the offices of the Council at Merriwa so as to be available for inspection by any interested person from time to time;
- (b) furnish a certified copy of the plan and register to the Minister for Lands;
- (c) furnish a certified copy of the plan and register to the Mitchell Library, Sydney, where it shall be maintained so as to be available for inspection by any interested person from time to time;
- (d) set aside and develop such part of the said land as the Council shall in its absolute discretion determine as a cemetery memorial area and erect a memorial structure thereon in accordance with plans and specifications to be approved by the Trustees of the
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Roman Catholic Church for the Diocese of Maitland and shall on such memorial structure cause to be indicated the sacred nature of the area and that the plan and register referred to in paragraph (a) of this subsection may be inspected at the offices of the Council at Merriwa and a copy of the plan and register at the Mitchell Library, Sydney.

Elizabeth II
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(2) The Council shall provide facilities for public recreation on the said land and plant trees, lawns and flowers thereon and otherwise improve, develop and use the said land for the purposes of public recreation.

5. The Council may do all such other things as it may consider necessary to effect the conversion of the said land into a public reserve for the purposes of public recreation and to carry into effect the provisions of this Act.

6. (1) The Council shall pay to the Trustees of the Roman Catholic Church for the Diocese of Maitland the sum of one hundred dollars by way of compensation in respect of the divesting of the estate or interest of the Trustees of and in the said land and in respect of the performance of any act authorised by this Act to be performed by the Council.

Compensation payable.

(2) Except as provided by subsection (1) of this section, no compensation or damages shall be payable to any person or body of persons in respect of the divesting of any estate or interest by this Act or in respect of the performance of any work, act or thing authorised by this Act.

SCHEDULES.

FIRST SCHEDULE.

ALL that Allotment or parcel of land containing by admeasurement One acre be the same more or less situated in the County of Brisbane Parish of Merriwa and Village of Merriwa being Allotment No. 10 of Section No. 2 commencing on the south side of Bettington Street

at

Elizabeth II at the north-west corner of Allotment No. 9 and bounded on the east by the west boundary of that Allotment being a line southerly at right angles to Bettington Street five chains, on the south by the north boundary of Allotment No. 3 being a line westerly parallel to Bettington Street two chains, on the west by the east boundary of Allotment No. 1 being a line northerly at right angles to the south boundary five chains to Bettington Street and on the north by two chains of the south side of Bettington Street easterly to the north-west corner of Allotment No. 9 aforesaid being the Allotment sold as Lot 33 in pursuance of the proclamation of 7th December, 1858.

Sec. 2.**SECOND SCHEDULE.**

ALL that piece or parcel of land containing by admeasurement 3 roods 38 $\frac{1}{2}$ perches being part of Allotment 10 of Section 2 in the Village of Merriwa Parish of Merriwa and County of Brisbane and State of New South Wales commencing at a point on the southern side of Bettington Street being the north-eastern corner of Lot 2 of Deposited Plan Number 7108 and bounded thence on the north by the southern side of Bettington Street bearing 90 degrees 4 minutes 129 feet 8 $\frac{1}{2}$ inches thence on the east by a fenced line bearing 179 degrees 47 minutes 320 feet 4 inches thence on the south by a line bearing 269 degrees 55 minutes 131 feet 2 $\frac{1}{2}$ inches thence on the west by the eastern boundaries of Lots 5, 4, 3, and 2 of Deposited Plan Number 7108 being a fenced line bearing 360 degrees 3 minutes 330 feet 7 $\frac{1}{2}$ inches to the point of commencement.