

OLD LIVERPOOL CEMETERY ACT.

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 49, 1970.

An Act to dedicate certain land at Liverpool as a public park; to make provision for the appointment of trustees thereof; to confer and impose certain powers, authorities, duties and functions on those trustees; and for purposes connected therewith. [Assented to, 14th October, 1970.]

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No. 49, 1970 **B**E 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 Liverpool Cemetery Act, 1970".

Interpretation. **2.** In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

"Council" means the Council of the City of Liverpool;

"the scheduled land" means the land described in the Schedule to this Act.

Divesting of estate or interest in scheduled land held before commencement of Act. **3.** (1) Any estate or interest in the scheduled land which, immediately before the commencement of this Act, was vested in or held by any person or body of persons is hereby divested.

(2) Any person or body referred to in subsection one 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 scheduled land.

(3) Any trusts, conditions, encumbrances, dedications or reservations affecting the scheduled land immediately before the commencement of this Act are hereby revoked and annulled.

(4) Any Crown grants issued in respect of any part of or including any part of the scheduled land and subsisting immediately before the commencement of this Act are hereby cancelled in so far as they relate to the scheduled land.

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4. (1) The scheduled land is hereby dedicated as a public park and shall be deemed to be a public park within the meaning of the Public Parks Act, 1912.

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Dedication
of the
scheduled
land.

(2) Subject to this Act, the Council shall be the trustees of the scheduled land for all purposes of the Public Parks Act, 1912, and shall be deemed to have been appointed pursuant to that Act to be the trustees of that land.

(3) The scheduled land shall be maintained by the Council as a rest park and garden and, notwithstanding anything in any other Act, but subject to the provisions of this Act, the Council shall not use the scheduled land or permit it to be used for any other purpose.

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

Powers and
duties of
the Council
in relation
to the
scheduled
land.

- (a) compile a register of the names of and other relevant information in respect of persons who are buried in or whose ashes have been placed in or on the scheduled land, so far as those names and that information can by reasonable diligence be obtained, and deposit and maintain the register at the offices of the Council at Liverpool, so as to be available for inspection by any interested person from time to time;
- (b) furnish a certified copy of the register to the Minister;
- (c) furnish a certified copy of the 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) plant the scheduled land with trees, lawns, shrubs and plants and otherwise improve it as a rest park and garden; and

(e)

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- (e) erect a memorial in a suitable position on the scheduled land indicating the sacred nature of the area and where the register referred to in paragraph (a) of this subsection may be inspected and stating that a copy of the register may be inspected at the Mitchell Library, Sydney.

(2) Subject to this Act, the Council may do all such other things as it may consider necessary to effect the conversion of the scheduled land into a rest park and garden.

Preservation
of certain
monuments,
etc.

6. (1) The Council shall, subject to the provisions of section seven of this Act, preserve in its existing position or remove and preserve in a new position on the scheduled land any monument or other surface structure which—

- (a) is erected over any grave which, in the opinion of the Council, is of historical importance; and
(b) is, in the opinion of the Council, reasonably capable of being preserved.

(2) Subject to the provisions of section seven of this Act, the Council may remove such other monuments and other surface structures erected on the scheduled land as it thinks fit, and dispose of them at the discretion of the Council.

(3) If any monument or other surface structure preserved in accordance with the provisions of subsection one of this section ceases at any time after the expiration of the period of three months referred to in subsection two of section seven of this Act by reason of its condition to be, in the opinion of the Council, reasonably capable of being preserved, the Council may dispose of it at the discretion of the Council.

(4) Before determining which of the monuments or other surface structures the Council will preserve, or remove and preserve, pursuant to subsection one of this section, or remove pursuant to subsection two of this section, the

Council

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Council shall take into consideration any views of the Royal Australian Historical Society, furnished to the Council within three months after the commencement of this Act, relating to the historical importance of each or any monument or other surface structure. No. 49, 1970

7. (1) At least three months before any monuments or other surface structures erected over graves are removed by the Council pursuant to subsection one or two of section six of this Act, an advertisement of the intention to remove them and drawing attention to the right conferred by subsection two of this section on the representatives or persons claiming to be representatives referred to in the said subsection two 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. Advertisement to be published before removal of monuments, etc.

(2) At any time after the publication of the first advertisement referred to in subsection one of this section and before the expiration of three months after the publication of the last of those advertisements the representatives or any persons claiming to be representatives of any person who is buried in or whose ashes have been placed in or on the scheduled land may, at their own expense, and with the permission of the Council, remove the monument or other surface structure erected over the grave of or in respect of that person, whether or not the monument or other surface structure is one which is referred to in subsection one of section six of this Act, and may, at their own expense, and with the permission of the Director-General of Public Health, remove the remains of that person to another cemetery for burial or to a crematorium for cremation.

8. (1) The Council or any person or body of persons shall take due care not to unearth or disturb the remains of any person who is buried in, or the ashes of any person which have been placed in or on, the scheduled land. Remains not to be disturbed.

(2)

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No. 49, 1970 (2) If any such remains or ashes are unearthened or disturbed, the Council shall cause the remains or ashes to be reverently interred anywhere in the scheduled land.

(3) Nothing in this section prevents the removing of any remains pursuant to subsection two of section seven of this Act.

No compensation payable. 9. No compensation 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 act authorised by this Act.

SCHEDULE.

Sec. 2.

ALL that piece or parcel of land containing by admeasurement 5 acres 29 perches be the same more or less situate in the City of Liverpool, Parish of St. Luke, County of Cumberland and being section 34 (inclusive also of the lane separating allotments 1 and 2 of that section) COMMENCING at the intersection of the southern side of Lachlan Street and the eastern side of Northumberland Street and bounded thence on the north by part of the southern side of Lachlan Street end of lane and again the southern side of Lachlan Street aforesaid bearing in all 89 degrees 30 minutes distant 434 links thence on the east by part of the western side of Macquarie Street bearing 179 degrees 30 minutes distant 1195 links thence on the south by part of the northern side of Campbell Street bearing 269 degrees 30 minutes distant 434 links and thence on the west by part of the eastern side of Northumberland Street aforesaid bearing 359 degrees 30 minutes distant 1195 links to the point of commencement. And also ALL that piece or parcel of land containing by admeasurement 1 acre 3 roods 32 $\frac{1}{4}$ perches be the same more or less situate in the City of Liverpool, Parish of St. Luke, County of Cumberland and being section 24 COMMENCING at the intersection of the northern side of Lachlan Street and the eastern side of Northumberland Street and bounded thence on the west by part of the eastern side of Northumberland Street aforesaid bearing 359 degrees 30 minutes distant 393 $\frac{2}{10}$ links thence on the north-west

by

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by a line bearing 38 degrees 25 minutes 45 seconds distant $18 \frac{9}{10}$ No. 49, 1970 links thence again on the north-west by part of the south-eastern side of Sydney Road bearing 77 degrees 3 minutes distant $417 \frac{2}{10}$ links thence on the north-east by a line bearing 128 degrees 11 minutes 5 seconds distant $15 \frac{2}{10}$ links thence on the east by part of the western side of Macquarie Street bearing 179 degrees 18 minutes distant $487 \frac{9}{10}$ links and thence on the south by part of the northern side of Lachlan Street bearing 269 degrees 30 minutes distant 435 links to the point of commencement.

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