



New South Wales

Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment (Transfer of Land) Act 2001 No 103

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Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment (Transfer of Land) Act 2001 No 103

Act No 103, 2001

An Act to amend the *Wollongong Sportsground Act 1986* and the *Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969* with respect to the transfer and dedication of certain land; and for other purposes. [Assented to 11 December 2001]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment (Transfer of Land) Act 2001*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Wollongong Sportsground Act 1986 No 174

The *Wollongong Sportsground Act 1986* is amended as set out in Schedule 1.

4 Amendment of Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969 No 56

The *Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969* is amended as set out in Schedule 2.

5 Transitional provision closing part of road and classifying as community land

- (1) This section applies to the areas of land shown edged black and marked "Lot 4" and "Lot 5" on the redefinition plan.
- (2) On the commencement of this section, the land to which this section applies:
 - (a) ceases to be a public road, and
 - (b) remains vested in the Council of the City of Wollongong, and
 - (c) is taken to be classified as community land under the *Local Government Act 1993*.
- (3) The rights of passage and access that existed immediately before the commencement of this section in relation to the parts of the former road to which this section applies are extinguished.
- (4) In this section, *the redefinition plan* means the plan identified as Drawing No 3117, Sheet No RES 1, Issue E, approved by the Senior Registered Surveyor for the Council of the City of Wollongong on 27 August 2001, deposited in the office of that Council.

Schedule 1 Amendment of Wollongong Sportsground Act 1986

(Section 3)

[1] Section 3 Definitions

Insert in alphabetical order in section 3 (1):

supplementary trust lands means the land described in sections 12A (1) and 12B (1).

the redefinition plan means the plan identified as Drawing No 3117, Sheet No RES 1, Issue E, approved by the Senior Registered Surveyor for the Council of the City of Wollongong on 27 August 2001, deposited in the office of that Council.

[2] Section 3 (1), definition of “trust lands”

Insert “, the supplementary trust lands” after “original trust lands”.

[3] Sections 3 (1) definition of “additional trust lands”, 11, 12 (1) and 14

Insert “and the supplementary trust lands” after “the original trust lands” wherever occurring.

[4] Section 10 Revocation of dedication

Omit “or 9”. Insert instead “, 9, 12A or 12B”.

[5] Part 3A

Insert after section 12:

Part 3A Vesting and dedication of certain other land

12A Vesting and dedication of land excised from Andrew Lysaght Park

- (1) This section applies to the land comprising:
 - (a) part lots 93 and 94, DP 751299, City of Wollongong, as shown edged black and marked “Lot 1” on the redefinition plan, and
 - (b) part lot 94, DP 751299, City of Wollongong, as shown edged black and marked “Lot 7” on the redefinition plan.
- (2) On the commencement of this section, the land to which this section applies:
 - (a) is by this Act vested in the Crown, freed and discharged from any trusts, estates, interests, dedications, conditions, restrictions, covenants and provisions affecting the land or any part of that land, and
 - (b) is taken to be dedicated under the *Crown Lands Act 1989*:
 - (i) in respect of the land described in subsection (1) (a)—for tourist purposes, and
 - (ii) in respect of the land described in subsection (1) (b)—for public recreation.

12B Closing of part of road and vesting and dedication of that land

- (1) This section applies to the land shown edged black and marked “Lot 6” on the redefinition plan.
- (2) On the commencement of this section, the land to which this section applies:
 - (a) ceases to be a public road, and

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- (b) is by this Act vested in the Crown, freed and discharged from any trusts, estates, interests, dedications, conditions, restrictions, covenants and provisions affecting the land or any part of the land, and
 - (c) is taken to be dedicated under the *Crown Lands Act 1989* for public recreation.
- (3) The rights of passage and access that existed immediately before the commencement of this section in relation to the part of the former road to which this section applies are extinguished.

12C Application of Crown Lands Act 1989

The *Crown Lands Act 1989* applies to and in respect of:

- (a) the land to which section 12A applies, on and from the commencement of that section, and
- (b) the land to which section 12B applies, on and from the commencement of that section,

except as provided by this Act or the regulations.

[6] Sections 12 (2) and 16 (1) and (4)

Insert “or the supplementary trust lands” after “the original trust lands” wherever occurring.

[7] Section 15 Trust may authorise use of original and supplementary trust lands

Insert “and the supplementary trust lands” after “the original trust lands”.

[8] Schedule 4 Savings and transitional provisions

Insert after clause 4:

4A Survey of Portion 95

- (1) This clause applies to all that piece or parcel of land situated in the County of Camden Parish of Wollongong at Wollongong being Portion 95, as referred to in paragraph (b) of Part 1 of Schedule 1.

- (2) The Trust must cause the land to which this clause applies to be surveyed as soon as practicable after the commencement of this clause to determine the correct position of the boundaries of the land.

[9] Schedule 4, clause 4B

Insert before clause 5:

4B Removal and reburial of remains in Portion 95

- (1) This clause applies to all that piece or parcel of land situated in the County of Camden Parish of Wollongong at Wollongong being Portion 95, as referred to in paragraph (b) of Part 1 of Schedule 1, other than any part of that land on which is situated (as on the day this clause commences) a road, building or other permanent structure.
- (2) The Catholic Cemeteries Board (*the Board*) may locate, exhume, and remove the remains of any person buried in the land to which this clause applies.
- (3) Any such remains located by the Board must be reburied in a suitable position in Andrew Lysaght Park determined by the Board following consultation with the Council of the City of Wollongong (as trustees of the land comprising the Park).
- (4) The Trust must reimburse the Board for such reasonable costs as the Board incurs in the exercise of its functions under subclause (2) as the Trust has approved of in writing.
- (5) The Trust must grant the Board access to trust lands to enable the Board to exercise its functions under subclause (2).
- (6) The Trust must not commence any construction work on the land to which this clause applies unless the Board has first been given a reasonable opportunity to exercise its functions under subclause (2). The Board must not unreasonably delay in exercising those functions.
- (7) This clause has effect despite the provisions of any other Act or law.

[10] Schedule 4 Savings and transitional provisions

Omit “of this Act.” from clause 5 (1). Insert instead:

of this Act and the following Acts:

*Wollongong Sportsground and Old Roman Catholic Cemetery
Legislation Amendment (Transfer of Land) Act 2001* (but only
to the extent that it amends this Act)

Schedule 2 Amendment of Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969

(Section 4)

[1] Section 2 Interpretation

Insert in alphabetical order:

the redefinition plan means the plan identified as Drawing No 3117, Sheet No RES 1, Issue E, approved by the Senior Registered Surveyor for the Council of the City of Wollongong on 27 August 2001, deposited in the office of that Council.

[2] Section 4 Dedication of land in First Schedule as a public park

Insert after section 4 (3):

- (4) In exercising or performing its powers, authority, duties and functions under this section, the Council must ensure that any use of the land:
 - (a) is limited to passive recreational activities that in the Council's opinion provide community benefit, and
 - (b) does not unduly intrude on the recognition of and respect for the land as an old cemetery, and
 - (c) does not involve any commercial activities, and
 - (d) subject to the preceding paragraphs, is consistent with any applicable plan of management adopted under the *Crown Lands Act 1989*.
- (5) Nothing in subsection (3) or (4) prevents the granting of, or affects the power to grant, easements through, on, in or above the public park to permit the overhang of any structure or the roof of any building erected on the trust lands of the Wollongong Sportsground Trust.

[3] Section 4A

Insert after section 4:

4A Closing of part of road and dedication as a public park

- (1) This section applies to the land shown edged black and marked “Lot 3” on the redefinition plan.
- (2) On the commencement of this section, the land to which this section applies:
 - (a) ceases to be a public road, and
 - (b) is vested in the Crown, freed and discharged from any trusts, estates, interests, dedications, conditions, restrictions, covenants and provisions affecting the land or any part of that land, and
 - (c) is taken to be dedicated under the *Crown Lands Act 1989* for public recreation, and
 - (d) is taken to form part of the public park referred to in section 4 (1).
- (3) The rights of passage and access that existed immediately before the commencement of this section in relation to the part of the former road to which this section applies are extinguished.
- (4) Despite subsection (2) (c), the provisions of section 4 (2)–(5) apply to the land to which this section applies in the same way as they apply to the land described in the First Schedule.

[4] Section 12

Insert after section 11:

12 Council must prepare draft plan of management

- (1) The Council must prepare a draft plan of management for the land described in the First Schedule as soon as practicable after the commencement of this section.

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Schedule 2 Amendment of Old Roman Catholic Cemetery, Crown Street, Wollongong,
Act 1969

- (2) Division 6 of Part 5 of the *Crown Lands Act 1989* applies to and in respect of a draft plan of management prepared under this section in the same way as it applies to and in respect of a draft plan of management prepared by a reserve trust under that Act.
- (3) Without limiting section 112 (4) of the *Crown Lands Act 1989*, the draft plan of management must include a provision for the delineation of the boundaries of the land (whether by means of a fence or otherwise).

13 Savings and transitional provisions

- (1) The Governor may make regulations containing provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment (Transfer of Land) Act 2001 (but only to the extent it amends this Act)

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

[5] First Schedule

Insert after “Sydney”:

, other than the land comprising:

- (a) part lots 93 and 94, DP 751299, City of Wollongong, as shown edged black and marked “Lot 1” on the redefinition plan, and
- (b) part lot 94, DP 751299, City of Wollongong, as shown edged black and marked “Lot 7” on the redefinition plan.

[Minister's second reading speech made in—
Legislative Assembly on 23 October 2001
Legislative Council on 4 December 2001]