

# Wollongong Sportsground Act 1986 No 174

[1986-174]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Wollongong Sportsground and Old Roman Catholic Cemetery Legislation Amendment \(Transfer of Land\) Act 2001 No 103](#), Sch 1 [5] to the extent that it inserts sec 12B (not commenced)
- **See also**  
[Public Sector Employment Legislation Amendment Bill 2006](#)

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Wollongong Sportsground Act 1986 No 174



New South Wales

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# Wollongong Sportsground Act 1986 No 174



New South Wales

An Act to constitute the Wollongong Sportsground Trust; to place Wollongong Showground and Brandon Park under the care, control and management of the Trust; to dedicate Wollongong Showground partly for public recreation and partly for tourist purposes; to dedicate Brandon Park for public recreation; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Wollongong Sportsground Act 1986*.

### 2 Commencement

- (1) Sections 1, 2 and 34 (2) shall commence on the date of assent to this Act.
- (2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor and notified by proclamation published in the Gazette.

### 3 Definitions

- (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

**additional trust lands** means lands (other than the original trust lands and the supplementary trust lands) acquired by the Trust.

**by-law** means a by-law made under this Act.

**member** means a member of the Trust.

**original trust lands** means:

- (a) the land described in Part 1 of Schedule 1 (Wollongong Showground), and
- (b) the land described in Part 2 of Schedule 1 (Brandon Park),

but does not include any land withdrawn under section 9.

**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.

**tourist site** means that part of the land described in Part 1 of Schedule 1 (Wollongong Showground) that was zoned 6 (c)—Open Space (Tourism) by *Wollongong Local Environmental Plan No 75*, as defined or varied under section 7 (2).

**Trust** means the Wollongong Sportsground Trust constituted by this Act.

**trust lands** means the original trust lands, the supplementary trust lands and the additional trust lands.

(2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty, and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

## **Part 2 The Wollongong Sportsground Trust**

### **4 Constitution of the Trust**

(1) There is constituted by this Act a corporation under the corporate name of the “Wollongong Sportsground Trust”.

(2) The Trust:

- (a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act, and
- (b) shall, in the exercise of its functions, be subject to the control and direction of the Minister.

### **5 Members of the Trust**

(1) The Trust shall consist of 7 members who shall be appointed by the Governor.

(2) Of the members:

- (a) 3 shall be persons nominated by the Minister,
- (b) 2 shall be persons nominated by the Minister for Sport and Recreation, and
- (c) 2 shall be persons chosen by the Minister from a panel of 4 persons nominated by the Council of the City of Wollongong.

(3) Schedule 2 has effect with respect to the members.

## 6 Provisions relating to procedure of the Trust

Schedule 3 has effect.

## Part 3 Wollongong Showground and Brandon Park

### 7 Dedication of Wollongong Showground

(1) The land described in Part 1 of Schedule 1 (Wollongong Showground) shall be deemed to be Crown land dedicated under the [Crown Lands Consolidation Act 1913](#):

- (a) except in respect of the tourist site—for public recreation, and
- (b) in respect of the tourist site—for tourist purposes,

and that Act, with the exception of Divisions 2 and 4 of Part 3B of that Act, shall apply to and in respect of that land.

(2) The Minister may from time to time, by notification published in the Gazette, define or vary the boundary between the tourist site and the remainder of the land described in Part 1 of Schedule 1 (Wollongong Showground), but any such variation shall not increase the original area of the tourist site by more than 10 per cent.

(3) In this section:

**tourist purposes** includes any purpose for which development may be carried out on the tourist site under the [Environmental Planning and Assessment Act 1979](#).

### 8 Vesting and dedication of Brandon Park

(1) The land described in Part 2 of Schedule 1 (Brandon Park):

- (a) is by this Act vested in Her Majesty freed and discharged from any trusts, estates, interests, dedications, conditions, restrictions, covenants and provisions affecting that land or any part of that land (other than an easement or other restriction referred to in that Part of that Schedule), and
- (b) shall be deemed to be Crown land dedicated under the [Crown Lands Consolidation Act 1913](#) for public recreation, and that Act, with the exception of Divisions 2 and 4 of Part 3B of that Act, shall apply to and in respect of that land.

(2) The Governor may from time to time, by proclamation published in the Gazette, amend Schedule 1 by inserting a description of land into Part 2 of that Schedule, being land which:

- (a) comprises or adjoins land known as Brandon Park at Fairy Meadow, and
- (b) is vested in the Council of the City of Wollongong or is Crown land.

- (3) A description of land vested in the Council of the City of Wollongong shall not be inserted in Part 2 of Schedule 1 without the consent of that Council.
- (4) A description of land inserted in Part 2 of Schedule 1 may include a description of any easement or restriction to which the land is subject.

#### **9 Withdrawal of land from Wollongong Showground (except tourist site) for use as a public reserve**

- (1) The Minister may, by notification published in the Gazette, withdraw from the original trust lands referred to in Part 1 of Schedule 1 (Wollongong Showground) any part of those lands other than the tourist site.
- (2) Any such land may be withdrawn by the Minister on the application of the Trust or after notice to the Trust.
- (3) On a notification under this section taking effect:
  - (a) the land is vested in Her Majesty freed and discharged from any trusts, estates, interests, dedications, conditions, restrictions, covenants and provisions affecting the land or any part of the land (whether under this Act or otherwise), and
  - (b) the land shall be deemed to be Crown land dedicated under the *Crown Lands Consolidation Act 1913* for a public reserve, and that Act shall apply to and in respect of the land.

#### **10 Revocation of dedication**

Notwithstanding anything in this Act or the *Crown Lands Consolidation Act 1913*, but subject to section 37QQ of that Act, a dedication referred to in section 7, 8, 9, 12A or 12B shall not be revoked except by an Act of Parliament.

#### **11 Appointment of Trust as trustee**

The Trust shall be the sole trustee of the original trust lands and the supplementary trust lands and shall be deemed to have been appointed as such under section 37P of the *Crown Lands Consolidation Act 1913*.

#### **12 Estate of Trust in, and dealing with, trust lands**

- (1) Except to the extent that the Trust has an estate in fee simple in the original trust lands and the supplementary trust lands apart from this section, the Trust shall, for the purposes only of this Act, and of any by-law, and of Division 3 of Part 3B of the *Crown Lands Consolidation Act 1913*, be deemed to have an estate in fee simple in the original trust lands and the supplementary trust lands.
- (2) The Trust is not capable of alienating, charging, granting leases of, or licences in respect of, or in any way disposing of, the original trust lands or the supplementary



trust lands or any part of the original trust lands or the supplementary trust lands except in accordance with Division 3 of Part 3B of the *Crown Lands Consolidation Act 1913*.

- (3) Nothing in this Act or the *Crown Lands Consolidation Act 1913* authorises the Trust to sell any part of the land described in Part 1 of Schedule 1 (Wollongong Showground).
- (4) A reference in Division 3 of Part 3B of the *Crown Lands Consolidation Act 1913* to the Minister (being the Minister administering that Division) shall, in relation to land described in Part 2 of Schedule 1 (Brandon Park), be construed as a reference to the Minister for Sport and Recreation.
- (5) Except as provided by subsection (4), the Trust shall, in the exercise of its functions in relation to the grant of licences under section 37RR (1) (a) of the *Crown Lands Consolidation Act 1913*, be subject to the control and direction of the Minister.

## **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.

### **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.

## **Part 4 Objects, functions, powers etc of Trust**

### **Division 1 Objects of the Trust**

#### **13 Objects of the Trust**

The objects of the Trust are:

- (a) to develop a sporting complex at Brandon Park,
- (b) to develop for tourist purposes a part of Wollongong Showground that has been zoned for those purposes,
- (c) to develop Wollongong Showground (other than the tourist site) for recreation purposes,
- (d) to encourage, promote and facilitate the use and enjoyment of the trust lands by members of the public, and
- (e) such other objects, consistent with the use and enjoyment by the public of the trust lands, as the Trust considers appropriate.

### **Division 2 General functions, powers etc**

#### **14 Trust charged with care, control and management**

The Trust is charged with the care, control and management of the original trust lands and the supplementary trust lands.

#### **15 Trust may authorise use of original and supplementary trust lands**

The Trust may allow the original trust lands and the supplementary trust lands, or any part of them, to be used by such persons, clubs, associations or other bodies at such times and on such terms and conditions as the Trust thinks fit for or in connection with:

- (a) any purpose for which the land is dedicated under this Act, or
- (b) any other purpose approved by the Minister.

#### **16 Additional trust lands**

- (1) The Trust may, but only with the approval of the Minister, acquire any land (whether or not adjoining the original trust lands or the supplementary trust lands) required by it in connection with the original trust lands or the supplementary trust lands.
- (2) The Trust may, but only with the approval of the Minister, exchange, dispose of or otherwise deal with any of the additional trust lands.

- (3) The Trust may expend trust money in using or improving any of its additional trust lands.
- (4) The additional trust lands may be used for purposes that are the same as or connected with any of the purposes for which the original trust lands or the supplementary trust lands may be used.

#### **17 Carrying out of works on trust lands**

- (1) The Trust may carry out any work in connection with the improvement, development and maintenance of the trust lands or for making the trust lands suitable for the purposes referred to in sections 15 and 16.
- (2) Any such work may include:
  - (a) the redesigning of the areas used for any of those purposes,
  - (b) the construction, reconstruction or demolition of any building or structure on the trust lands, and
  - (c) the provision of stands and other accommodation for spectators or other persons visiting the trust lands.

#### **18 Carrying out of works outside trust lands**

The Trust may, with the approval of the Minister and the consent of the owner, expend trust money in connection with the improvement of any land if, in its opinion, that expenditure is desirable to provide or improve:

- (a) access to any of the trust lands, or
- (b) facilities or amenities for persons visiting any of the trust lands.

#### **19 Power to accept gifts etc of property**

- (1) The Trust may acquire by gift, bequest or devise any property for any of the purposes of this Act and may agree to carry out the conditions of the gift, bequest or devise.
- (2) The rule of law relating to remoteness of vesting does not apply to any condition of a gift, bequest or devise to which the Trust has agreed.

#### **20 Power to establish committees**

- (1) The Trust has power to establish such committees as it thinks necessary for the purpose of enabling the objects and functions of the Trust to be carried out.
- (2) A person is not prevented from being appointed to a committee merely because the person is not a member.
- (3) The procedure for calling meetings of a committee shall, subject to the by-laws, be as

determined by the Trust or, to the extent that any matter is not provided for by the by-laws or by a determination of the Trust, shall be as determined by the committee.

## **21 Power to employ staff**

The Trust may employ an executive officer and such other staff as the Trust considers necessary to enable it to exercise its functions.

## **Division 3 Plan of management**

### **22 Preparation of plan of management**

- (1) The Trust shall, in accordance with any directions of the Minister, cause a plan of management to be prepared with respect to the trust lands.
- (2) The plan of management shall contain a detailed written scheme of the operations proposed to be undertaken in or in relation to the trust lands.

### **23 Adoption etc of plan of management**

- (1) When the plan of management has been prepared, the Trust:
  - (a) shall refer the plan to the Minister, and
  - (b) may, with the approval of the Minister, refer a copy of the plan to any other person or make it available for public comment.
- (2) The Minister shall, before adopting the plan of management, consider any representations received by the Minister with respect to the plan.
- (3) The Minister may:
  - (a) adopt the plan of management, without alteration or with such alterations as the Minister may think fit, or
  - (b) refer it back to the Trust for further consideration.

### **24 Amendment or cancellation of plan of management**

- (1) The Trust may, in accordance with any directions of the Minister:
  - (a) amend the plan of management from time to time, or
  - (b) cancel the plan of management and substitute a new plan.
- (2) Sections 22 and 23 apply in respect of an amendment of the plan of management or the substitution of the plan of management in the same way as they apply in respect of the preparation of the plan of management.

## 25 Carrying out of plan of management

- (1) A plan of management adopted by the Minister shall be carried out and given effect to by the Trust.
- (2) Nothing in this Division or in any other provision of this Act affects the operation of the *Local Government Act 1993* or the *Environmental Planning and Assessment Act 1979*.

## Division 4 Finance

### 26 Financial year of the Trust

The financial year of the Trust shall be the year commencing on 1 July.

### 27 Funds of the Trust

- (1) The Trust shall establish at a bank, building society or credit union in New South Wales an account to be known as the "Wollongong Sportsground Trust" (in this section referred to as **the Trust Account**).
- (2) The funds of the Trust shall be paid to the credit of the Trust Account and shall consist of:
  - (a) any money appropriated by Parliament for the purposes of the Trust,
  - (b) any money received by the Trust under the Steel Regions Assistance Programme or from the Minister for Sport and Recreation, the Council of the City of Wollongong or any other person or body,
  - (c) any money derived by the Trust from fees and other charges imposed for the use of the trust lands,
  - (d) any money received by the Trust from the development of the tourist site, and
  - (e) all other money received from any source by the Trust.
- (3) A payment of money out of the Trust Account shall not be made if the payment would be in breach of a condition affecting the money.
- (4) The funds of the Trust shall be applied only:
  - (a) in payment or discharge of the expenses, charges and obligations incurred or undertaken by the Trust in the exercise of its functions, and
  - (b) for any other purpose authorised by or under this Act.

### 28 Investment

The Trust may invest any money held by it:

- (a) on call or on fixed deposit, or partly on call or on fixed deposit, with the Treasurer or with any bank, building society or credit union,
- (b) in:
  - (i) Government securities of the Commonwealth or of the State, or
  - (ii) securities guaranteed by the Government of the State, or
- (c) in any other securities or in any other manner approved by the Minister.

## **Part 5 Miscellaneous**

### **29 Power of Minister to enter trust lands**

- (1) The Minister, or any person authorised by the Minister for the purpose, may enter the trust lands at any time and may inspect those lands.
- (2) A person who obstructs the Minister, or a person authorised by the Minister, in the exercise of a power under this section is guilty of an offence and liable to a penalty not exceeding 5 penalty units.

### **30 Aid of police may be called in**

The Trust, or any ranger or other officer appointed by the Trust, may call in the aid of the police for the removal, by force if necessary, of any person who is found committing an offence against any by-law, or who by disorderly or insulting conduct on the trust lands or on any public place causes annoyance or inconvenience to persons on the trust lands or going to or coming from the trust lands.

### **31 Proof of certain matters not required**

In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of the Trust,
- (b) any resolution of the Trust,
- (c) the appointment of, or the holding of office by, any member, or
- (d) the presence of a quorum at any meeting of the Trust.

### **32 Proceedings for offences**

Proceedings for an offence against this Act or the by-laws shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

### **33 By-laws**

- (1) The Governor may make by-laws, not inconsistent with this Act, for or with respect to

any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to any matter in relation to the Trust or trust lands for or with respect to which by-laws may be made in relation to trustees or reserves under section 37II (1) of the *Crown Lands Consolidation Act 1913*.

- (2) A provision of a by-law may:
  - (a) apply generally or be limited in its application by reference to specified exceptions or factors,
  - (b) apply differently according to different factors of a specified kind, or
  - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,or may do any combination of those things.
- (3) A by-law may create an offence punishable by a penalty not exceeding 5 penalty units.
- (4) Any penalty imposed for an offence against a by-law shall be paid to the Trust to be used by it for the purposes of this Act.
- (5) The Trust shall cause a copy of any by-law applicable to any of the trust lands to be posted in some conspicuous place on the land to which it relates.

#### **34 Savings and transitional provisions**

- (1) Schedule 4 has effect.
- (2) For the purpose only of enabling the Trust to be constituted on or after (but not before) the commencement of this Act in accordance with this Act, appointments may be made, and any other act, matter or thing done, before that commencement as if the whole of this Act commenced on the date of assent to this Act.

### **Schedule 1 Description of original trust lands**

(Section 3 (1))

#### **Part 1 Wollongong Showground**

All that piece or parcel of land situated in the County of Camden Parish of Wollongong at Wollongong being:

- (a) all of the land comprised in Certificate of Title Volume 7715 Folio 133 excluding Portion 96, and
- (b) Portion 95, as shown on plan catalogued C 3777.2041 in the Crown Lands Office, Sydney.

## **Part 2 Brandon Park**

All that piece or parcel of land situated in the County of Camden, Parishes of Woonona and Wollongong at Fairy Meadow, being the whole of the land comprising lot 304 in Deposited Plan 746634, being land that is subject to:

- (a) the easement to drain water shown on Deposited Plan 746634 and more particularly described in Deposited Plan 719865,
- (b) the easement for drainage shown on Deposited Plan 746634 and more particularly described in dealing number Q419162 deposited in the office of the Registrar General,
- (c) the easement for sewerage purposes shown on Deposited Plan 746634 and more particularly described in dealing number K568198 deposited in the office of the Registrar General, and
- (d) the easement for electrical purposes described in Deposited Plan 746634.

## **Schedule 2 Provisions relating to the members of the Trust**

(Section 5 (3))

### **1 (Repealed)**

### **2 Chairperson of the Trust**

- (1) Of the members, one shall, in and by the relevant instrument of appointment as a member or by another instrument executed by the Governor, be appointed as Chairperson of the Trust.
- (2) The Governor may remove a member from the office of Chairperson.
- (3) The Chairperson shall be deemed to have vacated the office of Chairperson if the Chairperson:
  - (a) is removed from that office by the Governor under subclause (2),
  - (b) resigns that office by instrument in writing addressed to the Minister, or
  - (c) ceases to be a member.
- (4) The Chairperson may be referred to as the Chairman or Chairwoman, as the case requires.

### **3 Term of office**

Subject to this Schedule, a member shall hold office for such period, not exceeding 5 years, as may be specified in the instrument of appointment of the member, but is eligible (if otherwise qualified) for re-appointment.



#### **4 Filling of vacancy in office of member**

If the office of any member becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

#### **5 Casual vacancies**

(1) A member shall be deemed to have vacated office if the member:

- (a) dies,
- (b) absents himself or herself from 4 consecutive meetings of the Trust of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Trust or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Trust for being absent from those meetings,
- (c) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit,
- (d) becomes a temporary patient or a continued treatment patient within the meaning of the *Mental Health Act 1958*, a forensic patient within the meaning of the *Mental Health Act 1983* or a protected person within the meaning of the *Protected Estates Act 1983*,
- (e) is convicted in New South Wales of an offence which is punishable by imprisonment for 12 months or upwards or is convicted elsewhere than in New South Wales of an offence which if committed in New South Wales would be an offence so punishable,
- (f) resigns the office by instrument in writing addressed to the Minister, or
- (g) (Repealed)
- (h) is removed from office by the Governor under subclause (2) or (3).

(2) The Governor may remove a member from office.

(3) Without limiting the generality of subclause (2), the Governor may remove from office a member who contravenes the provisions of clause 6.

#### **6 Disclosure of pecuniary interests**

(1) A member who has a direct or indirect pecuniary interest:

- (a) in a matter that is being considered, or is about to be considered, at a meeting of the Trust, or

(b) in a thing being done or about to be done by the Trust,

shall, as soon as possible after the relevant facts have come to the member's knowledge disclose the nature of the interest at a meeting of the Trust.

(2) A disclosure by a member at a meeting of the Trust that the member:

(a) is a member, or is in the employment, of a specified company or other body,

(b) is a partner, or is in the employment, of a specified person, or

(c) has some other specified interest relating to a specified company or other body or a specified person,

shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Trust shall cause particulars of any disclosure made under subclause (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection of any person on payment of such fee as may be determined by the Trust from time to time.

(4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing pursuant to subclause (1) or (2), the member shall not, unless the Minister otherwise determines:

(a) be present during any deliberation of the Trust, or take part in any decision of the Trust, with respect to that matter, or

(b) exercise any functions under this Act with respect to that thing,

as the case requires.

(5) Notwithstanding that a member contravenes the provisions of this clause, that contravention does not invalidate any decision of the Trust or the exercise of any function under this Act.

(6) A reference in this clause to a meeting of the Trust includes a reference to a meeting of a committee of the Trust.

## **7 Effect of certain other Acts**

(1) The *Public Service Act 1979* does not apply to or in respect of the appointment of a member and a member is not, as a member, subject to that Act.

(2) Where by or under any other Act provision is made requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office, or prohibiting the person from engaging in employment outside the duties of

that office, that provision shall not operate to disqualify the person from holding that office and also the office of a member.

- (3) The office of a member shall for the purposes of any Act be deemed not to be an office or place of profit under the Crown.

## **8 Liability of members etc**

No matter or thing done by the Trust, any member or any person acting under the direction of the Trust shall, if the matter or thing was done in good faith for the purposes of executing this or any other Act, subject a member or a person so acting personally to any action, liability, claim or demand.

## **Schedule 3 Provisions relating to the procedure of the Trust**

(Section 6)

### **1 General procedure**

The procedure for the calling of meetings of the Trust and for the conduct of business at those meetings shall, subject to this Act, be as determined by the Trust.

### **2 Quorum**

The quorum for a meeting of the Trust is 4 members.

### **3 Presiding member**

- (1) The Chairperson of the Trust or, in the absence of the Chairperson, another member elected as chairperson for the meeting by the members present shall preside at a meeting of the Trust.
- (2) The person presiding at any meeting of the Trust has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

### **4 Voting**

A decision supported by a majority of the votes cast at a meeting of the Trust at which a quorum is present shall be the decision of the Trust.

### **5 Minutes**

The Trust shall cause full and accurate minutes to be kept of the proceedings of each meeting of the Trust.

### **6 First meeting of the Trust**

The Minister shall call the first meeting of the Trust in such manner as the Minister thinks fit.

## Schedule 4 Savings and transitional provisions

(Section 34)

### 1 Definitions

In this Schedule:

**former trustees** means the persons who, immediately before the commencement of this Act, held office as trustees of the trust lands, and includes the Wollongong Public Recreation and Showground Trust.

**trust lands** means the lands described in Part 1 of Schedule 1 (Wollongong Showground).

**Wollongong Public Recreation and Showground Trust** means the corporation notified in the Gazette on 30 May 1986 at p 2507.

### 2 Former trustees

- (1) The former trustees cease, on the commencement of this Act, to be trustees of the trust lands or any part of them, but any trustee is, if otherwise qualified, eligible to be appointed as a member of the Trust.
- (2) The Wollongong Public Recreation and Showground Trust is, on the commencement of this Act, dissolved.

### 3 Transfer of assets, debts and liabilities

As from the commencement of this Act:

- (a) the property of the former trustees relating to the care, control and management of the trust lands, including all money, books of account, registers, records and all documents and things relating to, or connected with, the operation of the trust lands, shall become the property of the Trust,
- (b) all money and liquidated and unliquidated claims that, immediately before that commencement, were payable to or recoverable by the former trustees in connection with the care, control and management of the trust lands shall be money and liquidated and unliquidated claims payable to or recoverable by the Trust,
- (c) all proceedings pending immediately before that commencement at the suit of the former trustees, in connection with the care, control and management of the trust lands, shall be deemed to be proceedings pending at the suit of the Trust and all proceedings so pending at the suit of any person against the former trustees shall be deemed to be proceedings pending at the suit of that person against the Trust,
- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, the former trustees, in connection with the care, control and management of the trust lands, and in force immediately before that

commencement, shall be deemed to be contracts, agreements, arrangements and undertakings entered into with, and securities given to or by, the Trust,

- (e) the Trust may, in connection with the care, control and management of the trust lands, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this clause, and for the prosecution of proceedings so referred to, as the former trustees might have done but for this Act,
- (f) the Trust may enforce and realise any security or charge existing immediately before that commencement in favour of the former trustees in connection with the care, control and management of the trust lands, and may exercise any powers thereby conferred on the former trustees as if the security or charge were a security or charge in favour of the Trust,
- (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that commencement, were due or payable by, or recoverable against, the former trustees in connection with the care, control and management of the trust lands shall be debts due, money payable by and claims recoverable against the Trust,
- (h) all liquidated and unliquidated claims in connection with the care, control and management of the trust lands for which the former trustees would, but for this Act, have been liable shall be liquidated and unliquidated claims for which the Trust shall be liable, and
- (i) all acts, matters and things done or omitted by, or done or suffered in relation to, the former trustees, being acts, matters and things not referred to in the foregoing provisions of this clause, shall have the same force and effect as if they had been done or omitted by, or done or suffered in relation to, the Trust.

#### **4 Officers and employees**

- (1) Any person who, immediately before the commencement of this Act, was an employee of the former trustees shall, on that commencement, become an employee of the Trust and:
  - (a) where the wages payable to that person were, immediately before that commencement, regulated by an award or industrial agreement, that person shall be paid wages at a rate not less than the rate which was payable to that person immediately before that commencement as an employee of the former trustees, until those wages are varied by an award by which the Trust is bound made by a competent tribunal or by an industrial agreement to which the Trust is a party,
  - (b) where any condition of employment of that person was, immediately before that commencement, regulated by an award or industrial agreement, that condition shall continue to be so regulated until it is varied by an award by which the Trust is

bound made by a competent tribunal, or that condition is regulated by an industrial agreement to which the Trust is a party,

- (c) annual, sick and long service leave shall continue to accrue to that person on the same basis as they accrued to that person as an employee of the former trustees immediately before that commencement, until that basis is varied or altered in accordance with any Act or law,
  - (d) for the purpose of calculating the entitlement to long service leave of that person under this subclause:
    - (i) any service of the person which by the terms of any Act or of any staff agreement or of any award or industrial agreement was, immediately before that commencement, required to be taken into account for the purpose of determining that person's entitlement to that leave as an employee of the former trustees shall be deemed to be service with the Trust, and
    - (ii) there shall be deducted from any long service leave to which that employee of the Trust becomes entitled, as such an employee, any long service leave taken by that person in respect of any period of service referred to in subparagraph (i), and
  - (e) that person shall be entitled to receive as an employee of the Trust any annual leave or sick leave accrued to that person as an employee of the former trustees immediately before that commencement.
- (2) Nothing in subclause (1) affects the operation of clause 3 (d) in relation to any contracts, agreements or arrangements entered into by the former trustees with respect to any staff superannuation scheme.
  - (3) A person referred to in subclause (1) shall not be entitled to receive benefits under this Act as well as any other Act in respect of the same period of service.
  - (4) Nothing in this clause affects the operation of the *Industrial Arbitration Act 1940*.

#### **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.

#### **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.

## **5 Savings and transitional provisions**

- (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment 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)
- (2) A provision referred to in subclause (1) may, if the regulations so provide, take effect as from the date of assent to this Act or a later day.
- (3) To the extent to which a provision referred to in subclause (1) 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.

- (4) A provision referred to in subclause (1) shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule except clause 4.