

Christ Church Cathedral, Newcastle, Cemetery Act 1966 No 20

[1966-20]



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**
[Statute Law \(Miscellaneous Provisions\) Act 2012 No 42](#) (not commenced — to commence on 6.7.2012)

Authorisation

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Contents

Long title	3
1 Name of Act	3
2 Definitions	3
3 Divesting of estate or interest held in lands in First and Second Schedules before commencement of Act	3
4 Dedication of land in First Schedule as a public park	4
5 Vesting of land in Second Schedule in Corporate Trustees	4
6 Removal of human remains, headstones etc	4
7 Responsibility of Council for relocation of power lines, stormwater drainage and damage to Cathedral lands	6
8 Access to be granted by Corporate Trustees	6
9 By-laws	6
10 No compensation payable	7
11 Disputes between the Council and Corporate Trustees	7
First Schedule	7
Second Schedule	7
Third Schedule	8

Christ Church Cathedral, Newcastle, Cemetery Act 1966 No 20



New South Wales

An Act to provide for the use of certain land at Newcastle otherwise than as a cemetery; to dedicate part of that land as a public park and to make provision for the appointment of the Council of the City of Newcastle as trustees thereof; to vest the remaining part of that land in the Trustees of Church Property for the Diocese of Newcastle; to confer and impose certain powers, authorities, duties and functions on that Council and those Trustees; and for purposes connected therewith.

1 Name of Act

This Act may be cited as the *Christ Church Cathedral, Newcastle, Cemetery Act 1966*.

2 Definitions

In this Act, unless the context or subject-matter otherwise indicates or requires:

Council means Council of the City of Newcastle.

the Cathedral lands means the lands described in the Third Schedule to this Act.

the Corporate Trustees means the Trustees of Church Property for the Diocese of Newcastle.

3 Divesting of estate or interest held in lands in First and Second Schedules before commencement of Act

- (1) Any estate or interest in the lands described in the First and Second Schedules to this Act 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 said lands.
- (3) Any trusts, conditions, encumbrances, appropriations, dedications or reservations, affecting the said lands immediately before the commencement of this Act, are hereby revoked and annulled.

- (4) 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 lands.

4 Dedication of land in First Schedule as a public park

- (1) The land described in the First Schedule to this Act is hereby dedicated as a public park, under the name of the "Cathedral Park", and shall be deemed to be a public park within the meaning of the *Public Parks Act 1912*, as amended by subsequent Acts.
- (2) Subject to this Act, the Council shall be the trustees of the said land for all purposes of the *Public Parks Act 1912*, as amended by subsequent Acts, and shall be deemed to have been appointed pursuant to that Act, as so amended, to be the trustees of the said land.
- (3) The said land shall be maintained by the Council as a rest park and garden area and, notwithstanding anything in any other Act, but subject to the provisions of this Act, the Council shall not use the said land or permit it to be used for any other purpose.

5 Vesting of land in Second Schedule in Corporate Trustees

- (1) The land described in the Second Schedule to this Act is hereby vested in the Corporate Trustees for an estate in fee simple exclusive of all minerals and shall be deemed to be church trust property within the meaning of the *Church of England Trust Property Act 1917*, as amended by subsequent Acts.
- (2) The Corporate Trustees shall hold the said land for such use, benefit, or purposes of the Church of England as the Synod of the Diocese of Newcastle shall from time to time declare, direct or appoint.
- (3) In this section, the expression **minerals** has the meaning ascribed thereto in section five of the *Crown Lands Consolidation Act 1913*, as amended by subsequent Acts.

6 Removal of human remains, headstones etc

- (1) Subject to subsections two and three of this section 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 or whose ashes have been placed in or on the lands described in the First and Second Schedules to this Act, so far as those names and that information can by reasonable diligence be obtained, and deposit and maintain the plan and register at the Newcastle City Hall 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 and to the Dean of Christ Church Cathedral, Newcastle,

- (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) remove all headstones without legible inscriptions thereon and other surface structures from the said lands and dispose of them in a manner agreed upon by the Council and the Corporate Trustees,
 - (e) in a manner agreed upon by the Council and the Corporate Trustees:
 - (i) preserve in their existing positions, or remove and preserve in new positions, on the land described in the First Schedule to this Act, all headstones on that land, other than those referred to in paragraph (d) of this subsection, and
 - (ii) remove all headstones, other than those referred to in paragraph (d) of this subsection, from the land described in the Second Schedule to this Act and preserve them on the land described in the First Schedule to this Act,
 - (f) plant the land described in the First Schedule to this Act with trees, shrubs, lawns and flowers and otherwise improve it for a rest park and garden area,
 - (g) erect a series of dwarf walls forming a terraced bank north-easterly from the south-western boundary of the land described in the First Schedule to this Act of a design to be agreed upon by the Council and the Corporate Trustees,
 - (h) erect a fence on the eastern and western boundaries of the land described in the First Schedule to this Act of a design to be agreed upon by the Council and the Corporate Trustees,
 - (i) provide pedestrian access from the land described in the First Schedule to this Act through the south-western boundary of that land, across the land described in the Second Schedule to this Act, to the Cathedral lands, and
 - (j) erect a memorial of a design to be approved of by the Minister and in a position on the land described in the First Schedule to this Act as agreed upon by the Council and the Corporate Trustees to indicate 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 Newcastle City Hall and a copy of the plan and register at the Mitchell Library, Sydney.
- (2) At least three months before any headstones or other surface structures in respect of any person who is buried in or whose ashes have been placed in or on the land described in the First or Second Schedule to this Act are removed by the Council pursuant to paragraph (d) or (e) of subsection one of this section, an advertisement of the intention to remove them and drawing attention to the right conferred by subsection three of this section on the representatives or persons claiming to be representatives referred to in the said subsection shall be inserted twice at an interval

of not less than two weeks in a newspaper or newspapers published and circulating in the City of Newcastle, 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.

- (3) At any time after the publication of the first advertisement referred to in subsection two 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 the representatives of any person who is buried in or whose ashes have been placed in or on those lands may, at their own expense, and with the permission of the Council and the Corporate Trustees, remove the headstone or other surface structure erected over the grave of or in respect 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.
- (4) Subject to this Act, the Council may do all such other things as it may consider necessary to effect the conversion of the land described in the First Schedule to this Act into a rest park and garden area.

7 Responsibility of Council for relocation of power lines, stormwater drainage and damage to Cathedral lands

The Council shall be responsible for:

- (a) the cost of relocating any power lines in or on the Cathedral lands or other church trust property if their relocation is required in connection with the carrying out of any work, act or thing authorised by this Act,
- (b) making adequate provision for the discharge of roof and storm water from the Cathedral lands and the land described in the Second Schedule to this Act across or through the land described in the First Schedule to this Act,
- (c) repairing any damage that may be caused by the carrying out of any work, act or thing authorised by this Act, to the Cathedral lands or other church trust property, or any building structure or other property thereon.

8 Access to be granted by Corporate Trustees

The Corporate Trustees shall grant the Council access through the Cathedral lands and other church trust property for the purpose of carrying out any work, act or thing authorised by this Act.

9 By-laws

The Council's authority to make by-laws under the [Public Parks Act 1912](#), as amended by subsequent Acts, for the land described in the First Schedule to this Act shall not extend to any of the matters or things contained in paragraphs (c), (h) and (m) of subsection one of

section nine of that Act, as so amended.

10 No compensation payable

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 work, act or thing authorised by this Act.

11 Disputes between the Council and Corporate Trustees

If any difference arises between the Council and the Corporate Trustees with respect to the carrying out of any provision of this Act under which it is required that any act shall be performed or thing shall be done in a manner agreed upon by the Council and the Corporate Trustees, the Council or the Corporate Trustees may submit such difference to the Minister and the act shall be performed or the thing shall be done in such manner as the Minister may direct.

First Schedule

(Section 3)

All that piece or parcel of land containing by admeasurement 1 acre 1 rood 13 perches be the same more or less situate at Newcastle in the Parish of Newcastle County of Northumberland being part of the land described in Grant dated 27 April 1859, No 2 Folio 59/1 commencing at a point on the south-western side of King Street bearing 96 degrees 24 minutes 30 seconds 20 feet from the north-eastern corner of allotment 126 thence bounded on the north-east by that said side of King Street bearing 96 degrees 24 minutes 30 seconds 258 feet 8 inches thence bounded on the south-east by a line bearing 186 degrees 29 minutes 225 feet 11 inches thence bounded on the south-west by a line bearing 276 degrees 30 minutes 255 feet 8½ inches thence bounded on the north-west by a line bearing 5 degrees 43 minutes 50 seconds 225 feet 6¼ inches to the point of commencement.

Second Schedule

(Section 3)

All that piece or parcel of land containing by admeasurement 1 rood 32¼ perches be the same more or less situate at Newcastle in the Parish of Newcastle County of Northumberland being part of the land described in Grant dated 27 April 1859, No 2 Folio 59/1 commencing at a point on the south-western side of King Street being the north-eastern corner of allotment 126 thence bounded on the north-east by that said side of King Street bearing 96 degrees 24 minutes 30 seconds 20 feet thence bounded on the south-east by a line bearing 185 degrees 43 minutes 50 seconds 225 feet 6¼ inches thence bounded again on the north-east by a line bearing 96 degrees 30 minutes 255 feet 8½ inches thence bounded on the north-west by a line bearing 6 degrees 29 minutes 225 feet 11 inches to the south-western side of King Street aforesaid thence bounded again on the north-east by that said side of King Street bearing 96 degrees 24 minutes 30 seconds 50 feet thence bounded again on the south-east by the north-western boundaries of allotments 95, 93, 92 and Part 91 by lines bearing 186 degrees 23 minutes 30 seconds 75 feet 9 inches 186 degrees 36 minutes 18 feet 11½ inches 186 degrees 7 minutes 37 feet ¾ inches 187 degrees 0 minutes 9 feet 1½ inches 186 degrees 38 minutes 89 feet 10¾ inches thence bounded on the south-west by the north-eastern side of the Church of England Cathedral land bearing 274 degrees 5 minutes 15 seconds 325 feet 9 inches to the south-eastern side

of allotment 123 thence bounded again on the north-west by part of the said south-eastern side of allotment 123 and the south-eastern sides of allotments 124, 125 and 126 bearing 5 degrees 43 minutes 50 seconds 244 feet 2½ inches to the point of commencement.

Third Schedule

(Section 2)

All that piece or parcel of land containing by admeasurement 1 acre 2 roods 27 perches be the same more or less situate at Newcastle in the Parish of Newcastle County of Northumberland being the land described in Grant dated 27 April 1859, No 1 Folio 59/1 commencing at a point on the north-eastern side of Church Street bearing 276 degrees 30 minutes 129 feet 8 inches from the intersection of the said north-eastern side of Church Street with the north-western side of Newcomen Street thence bounded on the south-west by that said side of Church Street bearing 276 degrees 30 minutes 325 feet 1¾ inches thence bounded on the north-west by the south-eastern boundaries of allotments 119, 121, 122 and part 123 by lines bearing 6 degrees 25 minutes 134 feet 1¾ inches and 6 degrees 30 minutes 30 seconds 82 feet 8¾ inches thence bounded on north-east by a line bearing 94 degrees 5 minutes 15 seconds 325 feet 9 inches to the north-western side of allotment 91 thence bounded on the south-east by part of the said north-western side of allotment 91 and the north-western sides of allotments 90, 89 and 88 by lines bearing 186 degrees 38 minutes 63 feet 10¼ inches 185 degrees 8 minutes 10 feet 11½ inches 276 degrees 36 minutes 11½ inches 186 degrees 36 minutes 27 feet ½ inch 186 degrees 4 minutes 20 seconds 37 feet ¼ inch 186 degrees 18 minutes 24 feet 11½ inches and 186 degrees 11 minutes 66 feet 8½ inches to the point of commencement.