

# Anzac Memorial (Building) Act 1923 No 27

[1923-27]



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.

### Authorisation

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# Anzac Memorial (Building) Act 1923 No 27



New South Wales

An Act to incorporate persons holding certain official positions as the Trustees of the Anzac Memorial Building; to vest certain moneys collected from the public in, and to confer certain powers upon, the said corporation; and for purposes connected therewith.

## Preamble

WHEREAS on the second day of August, one thousand nine hundred and eighteen, an appeal for funds was made to the public for the purpose of raising a memorial building which would not only serve as a memorial of the achievement of the Australian Imperial Forces, but would also provide returned sailors and soldiers with a place for rest and recreation, and as the result of such an appeal the sum of forty-five thousand three hundred pounds is now held on behalf of such memorial building: And whereas other sums of money are also held for the same purpose, which sums include moneys collected on the twenty-fifth day of April, one thousand nine hundred and sixteen, now amounting to eleven thousand eight hundred pounds or thereabouts, and certain other moneys collected in the year one thousand nine hundred and nineteen, amounting to about five thousand seven hundred and fifty pounds: And whereas it is expedient in order to erect the memorial building that the said sums of money should be transferred to and vested in trustees, and that such trustees should be constituted a body corporate and invested with the powers and authorities hereinafter contained—

Be it therefore enacted by the King'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—

## 1 Name of Act

This Act may be cited as the *Anzac Memorial (Building) Act 1923*.

## 2 Definitions

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

**exercise** a function includes perform a duty.

**function** includes a power, authority or duty.

**fund** means the sums of money mentioned in the preamble to this Act.

**memorial building** means the memorial building erected on the land described in Schedule 1.

**trustees** means the trustees by this Act incorporated under the name of “The Trustees of the Anzac Memorial Building”.

(2) Notes included in this Act do not form part of this Act.

### 3 Trustees

(1) The following persons are the trustees for the purposes of this Act—

- (a) the Premier,
- (b) the Leader of the Opposition,
- (c) the Lord Mayor of Sydney,
- (d) the President of the Returned and Services League of Australia (New South Wales Branch),
- (e) the Director-General of the Department of Education and Training,
- (f) the New South Wales Government Architect,
- (g) the State Librarian,
- (h) the Australian Defence Force representative—see section 3C,
- (i) the veterans’ representative—see section 3A,
- (j) the community representative—see section 3B.

(1A) The Premier is the Chairperson of the trustees.

(1B) The President of the Returned and Services League of Australia (New South Wales Branch) is the Deputy Chairperson of the trustees.

(2) A trustee may appoint a person in writing as the trustee’s proxy to attend and vote at any specified meeting, or all meetings, of the trustees.

(3) A proxy appointed to attend and vote instead of a trustee has the same right as the trustee to speak at the meeting.

(4) A proxy appointed by the Premier may, with the written authority of the Premier, also exercise the functions of the Premier as Chairperson of the trustees.

(5) (Repealed)

### **3A Veterans' representative**

- (1) The veterans' representative is a person for the time being appointed by the Minister, by instrument in writing, as the veterans' representative for the purposes of this Act.
- (2) The person appointed as the veterans' representative must be a person nominated by the President of the Returned and Services League of Australia (New South Wales Branch).
- (3) The veterans' representative holds office as a trustee for the period, not exceeding 3 years, that is specified in his or her instrument of appointment, but is eligible for re-appointment.
- (4) The Minister may at any time revoke the appointment of a person as the veterans' representative.

### **3B Community representative**

- (1) The community representative is a person for the time being appointed by the Minister, by instrument in writing, as the community representative for the purposes of this Act.
- (2) The person appointed as the community representative must be a person who, in the opinion of the Minister, has financial or business qualifications or experience that will assist the trustees in the exercise of their functions under this Act.
- (3) The community representative holds office as a trustee for the period, not exceeding 3 years, that is specified in his or her instrument of appointment, but is eligible for re-appointment.
- (4) The Minister may at any time revoke the appointment of a person as the community representative.

### **3C Australian Defence Force representative**

- (1) The Australian Defence Force representative is a person for the time being appointed by the Minister, by instrument in writing, as the Australian Defence Force representative for the purposes of this Act.
- (2) The Minister is, on the nomination of the Chief of the Australian Defence Force, to appoint, by rotation, one of the following as the Australian Defence Force representative—
  - (a) the Commander Forces Command, Australian Army,
  - (b) the Commander Australian Fleet, Royal Australian Navy,
  - (c) the Air Commander Australia, Royal Australian Air Force.

- (3) The Australian Defence Force representative holds office as a trustee for the period (not exceeding 3 years but not less than 2 years) that is specified in the instrument of appointment, but is eligible for re-appointment.
- (3A) If, during the Australian Defence Force representative's term of office as a trustee, the person appointed as the representative ceases to hold a position mentioned in subsection (2) but continues to hold a position in the Australian Defence Force of the same or equivalent, or higher, rank—
  - (a) the person's appointment as Australian Defence Force representative and as a trustee continues in effect, but
  - (b) the person is not eligible for re-appointment unless the person returns to a position mentioned in subsection (2).
- (4) The Minister may at any time revoke the appointment of a person as the Australian Defence Force representative.

#### **4 Incorporation of trustees**

The trustees are hereby constituted a body corporate by the name of "The Trustees of the Anzac Memorial Building", and by that name shall have perpetual succession and a common seal, sue and be sued in all courts, and may acquire, take, purchase, and hold to them and their successors, and may sell, exchange, grant, demise, or otherwise deal with any real or personal property.

#### **5 General administration**

Subject to this Act and to the by-laws the trustees shall have the control and management of all property vested in the said body corporate.

#### **6 Capital moneys to be paid to trustees**

The fund shall be paid by the persons who at the commencement of this Act hold the moneys comprising the same to the account of the body corporate at a bank or banks at Sydney, to be nominated in writing by the trustees, and the receipt of the bank shall be a good discharge for the amount expressed therein to be received.

#### **7 Application of money**

- (1) The trustees shall hold the fund and any further sums which may be acquired by them as trustees upon trust to apply the same in or towards the equipment, upkeep, maintenance and management of the memorial building or otherwise, for the purposes provided for in this Act.
- (2) The site of the memorial building is in the City of Sydney on the land described in Schedule 1.

**Note—**

Schedule 1 contains land dedicated for a war memorial under section 25 of the *Crown Lands Consolidation Act 1913* on 9 January 1931 and land that was added when the memorial building site was expanded in 2018.

## **8 Use of memorial building**

- (1) No person shall engage in any party, political or religious propaganda within the memorial building, and the by-laws shall so provide.
- (2) (Repealed)
- (3) The trustees shall permit The Returned Services League of Australia (New South Wales Branch), the T.B. Sailors, Soldiers and Airmen's Association of NSW (Inc.) and such other kindred organisations as they may approve to occupy for office purposes separate portions of the memorial building. Such portions shall be set apart by the trustees for this purpose. No rent shall be charged in respect of such occupation.

### **8A Further powers of trustees**

- (1) The trustees—
  - (a) shall be responsible for the completion, care, management, maintenance and preservation of the memorial building, and for the care, management, maintenance and improvement of the land dedicated as a site for such building,
  - (b) may to the exclusion of all other persons—
    - (i) provide and sell,
    - (ii) authorise the manufacture, printing, publishing, and sale of, replicas, photographs, booklets, pamphlets and other like matter relating to the memorial building,
  - (c) may receive moneys by way of—
    - (i) collections or donations for the completion of the memorial building and for the care, management, maintenance, preservation or improvement of the memorial building or of the site thereof,
    - (ii) proceeds of sales by the trustees of replicas, photographs, booklets, pamphlets and other like matter relating to the memorial building,
    - (iii) fees for authorities granted by the trustees for the manufacture, printing, publishing and sale of such replicas, photographs, booklets, pamphlets, and other like matter,for the funds of the trustees,
  - (d) may establish and maintain a war museum as part of the memorial building,

(e) may promote the understanding of, and conduct community education about, Australia's military history and heritage, and

(f) have the functions conferred on them by the *Returned and Services League of Australia (New South Wales Branch) Incorporation Act 1935* and any other Act.

(2) Any moneys received by the trustees pursuant to subsection (1) (c) shall be available only for the purposes of carrying into effect the powers and duties of the trustees under this Act.

#### **8B Publication of representations etc of memorial without permission an offence**

Any person who, except with the authority in writing of the trustees, manufactures, prints, publishes or sells, or authorises the manufacture, printing, publishing or sale of any replicas, photographs, booklets, pamphlets or other like matter relating to the memorial building shall be liable to a penalty not exceeding \$100—

Provided that this section shall not render liable—

(a) any person who prints or publishes any such photograph unless he knows that such photograph is to be used for the purposes of advertisement or to be sold, or

(b) any proprietor, printer or publisher of a newspaper for the printing, publishing or sale of a newspaper containing photographs or other matter relating to the memorial building.

#### **8C Dedication of memorial building as principal State war memorial**

(1) The trustees are, or some person (whether or not a trustee) with the concurrence of the trustees is, hereby authorised to conduct a ceremony to dedicate the memorial building as the principal New South Wales State memorial to Australians who have served, or who serve, in wars in which Australian service personnel have been, or may be, engaged.

(2) In any dedication ceremony authorised by subsection (1) the precise words of that subsection need not be used so long as the general effect of the subsection is accomplished.

(3) Upon the completion of the dedication ceremony authorised by subsection (1), the memorial building is, by this Act, dedicated for the purpose specified in that subsection.

#### **9 By-laws**

(1) The trustees may make by-laws not inconsistent with this Act, for the general control and management of the memorial building, and the land described in Schedule 1, for the protection of any structure thereupon, for the removal of trespassers and other persons loitering upon or causing annoyance or inconvenience upon the said land, and



for regulating the conduct of their own proceedings, including the times, places, conduct and quorum of their meetings.

- (2) A by-law made under subsection (1) shall be approved by the Governor.
- (2A) (Repealed)
- (3) A by-law may create an offence punishable by a penalty not exceeding 40 penalty units.
- (3A) Proceedings for an offence against this Act or the by-laws may be taken before the Local Court.
- (4) The whole amount of all penalties imposed under this Act or the by-laws shall be paid to the trustees to be applied by them for the purposes of this Act.
- (4A) Instead of imposing a fine on a person for an offence under a by-law that results in damage to, or the defacing of, the Memorial Building or any part of the land described in Schedule 1, the court—
- (a) may make a community correction order under section 8 of the *Crimes (Sentencing Procedure) Act 1999* that is subject to the standard conditions of a community correction order and to a community service work condition (despite the offence not being punishable by imprisonment), or
  - (b) may make an order under section 5 (1) of the *Children (Community Service Orders) Act 1987* requiring the person to perform community service work, as the case requires.
- (5) The trustees or an officer appointed by them may call in the aid of the police for the removal by force if necessary of any person who is found committing a breach of any by-law or who is loitering upon the land described in Schedule 1 or who by disorderly or insulting conduct upon or in the immediate neighbourhood of such land causes annoyance or inconvenience to persons being on the said land or going to or coming from the same.

## **9A Delegation by trustees**

The trustees may, by written instrument, delegate to any trustee or officer of the Department of Communities and Justice any of their functions, other than this power of delegation.

## **10 Prosecution under other Acts etc**

Nothing in this Act shall prevent any prosecution or proceeding under any other Act, by-law or regulation, but no person shall be twice punished or proceeded against in respect of the same offence.

## 11 Compensation

- (1) A court that convicts a person of an offence under the by-laws (being an offence committed after the commencement of this section) may, in addition to any penalty imposed for the offence, order the person to pay an amount not exceeding 40 penalty units as the cost of, or as a contribution to the cost of, the repair or restoration of any damage caused by the action that resulted in the conviction.
- (2) An amount ordered to be paid under subsection (1) is to be paid to the trustees unless the court orders otherwise.
- (3) An order for the payment of money under subsection (1) is taken to be a fine for the purposes of the *Fines Act 1996*.
- (4) An order by a court under section 10 of the *Crimes (Sentencing Procedure) Act 1999* in any proceedings for an offence referred to in subsection (1) operates for the purposes of that subsection as a conviction for the offence.

## 12 Personal liability of trustees

- (1) Anything done or omitted to be done by a trustee does not subject the trustee personally to any action, liability, claim or demand if the thing was done, or omitted to be done, in good faith for the purpose of exercising the functions of the trustee under this Act.
- (2) However, any such liability attaches instead to the Crown.

## Schedule 1 Land dedicated for memorial building

### Original memorial building site

Lot 1915, DP 906666, being the land dedicated for a war memorial under section 25 of the *Crown Lands Consolidation Act 1913*, by notification in the Gazette on 9 January 1931 with dedication number D1000124.

### Additional land for memorial building site

Part of Lot 200, DP 1230973, as shown marked "Pt 1" in proposed Plan of Subdivision of Lot 200, DP 1230973 (being unregistered DP 1246361) approved by the Secretary of the Department of Industry on or before the date of assent to the *Justice Legislation Amendment Act (No 3) 2018* and held in the office of the Department of Industry at Parramatta.