

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

[1969-56]



New South Wales

Status Information

Currency of version

Repealed version for 1 November 2009 to 5 July 2012 (accessed 6 October 2024 at 20:17)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

Provisions in force

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

Notes—

- **Repeal**

The Act was repealed by Sch 5 to the [Statute Law \(Miscellaneous Provisions\) Act 2012 No 42](#) with effect from 6.7.2012.

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](#).

File last modified 6 July 2012

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New South Wales

An Act to provide for the use of certain land at Wollongong otherwise than as a cemetery; to dedicate part of that land as a public park; to add part of that land to an area dedicated for public recreation and showground; to declare part of that land to be a public road; to confer and impose certain powers, authorities, duties and functions on the Council of the City of Greater Wollongong and certain other persons; and for purposes connected therewith.

1 Name of Act

This Act may be cited as the *Old Roman Catholic Cemetery, Crown Street, Wollongong, Act 1969*.

2 Definitions

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 Greater Wollongong.

showground means the area in the Parish and Town of Wollongong, County of Camden, City of Greater Wollongong, Land District of Kiama, dedicated under the provisions of the *Crown Lands Consolidation Act 1913* for public recreation and showground by notification published in Gazette number one hundred and six of the twenty-ninth day of June, one thousand nine hundred and fifty-one.

showground trustees means the trustees for the time being of the showground.

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.

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

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

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 and shall be deemed to be a public park within the meaning of the *Public Parks Act 1912*.
- (2) Subject to this Act, the Council shall be the trustees of that 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) That land shall be maintained by the Council as a rest park and, notwithstanding anything in any other Act, but subject to the provisions of this Act, the Council shall not use that land or permit it to be used for any other purpose.
- (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.

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.

5 Addition of land in Second Schedule to showground

The land described in the Second Schedule to this Act shall be deemed to be land added to the showground under the provisions of subsection two of section twenty-four of the *Crown Lands Consolidation Act 1913* and the provisions of that subsection shall apply and have effect in respect of that land as if the Minister had, on the date of commencement of this Act, declared it to be added to the showground.

6 Declaration of land in Third Schedule as public road

- (1) The land described in the Third Schedule to this Act shall be deemed to be a public road, as if that land were a road and as if the Minister had, on the date of commencement of this Act, declared it to be a public road by notification under section eighteen of the *Public Roads Act 1902*.
- (2) Subsection one of this section has effect in respect of that land only as regards the surface thereof and to a depth of fifty feet below the surface thereof.

7 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 a register of the names of and other relevant information in respect of persons buried in the lands described in the First, Second and Third Schedules to this Act, so far as those names and that information can by reasonable diligence be obtained, and deposit and maintain the register at the Town Hall, Wollongong, 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) remove from the lands described in the First, Second and Third Schedules to this Act all headstones, grave enclosures and similar surface structures that are, in the opinion of the Council, not reasonably capable of being preserved and dispose of them at the discretion of the Council,
 - (e) remove and re-erect in new positions on the land described in the First Schedule to this Act, such of the headstones, grave enclosures and similar surface structures (other than those referred to in paragraph (d) of this subsection) on that land as the Council may deem necessary,
 - (f) remove from the lands described in the Second and Third Schedules to this Act all headstones, grave enclosures and similar surface structures (other than those referred to in paragraph (d) of this subsection) and re-erect them on the land described in the First Schedule to this Act,
 - (g) convert the land described in the First Schedule to this Act into a rest park, and
 - (h) erect a memorial of a design and in a position to be approved of by the Minister on the land described in the First Schedule to this Act to indicate the sacred nature of the area and that the register referred to in paragraph (a) of this subsection may be inspected at the Town Hall, Wollongong, and a copy of the register at the Mitchell Library, Sydney.
- (2) At least three months before any headstones, grave enclosures or similar surface structures are removed by the Council pursuant to 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 three 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.
- (3) At any time after the appearance of the first advertisement referred to in subsection two of this section and before the expiration of three months after the appearance of the last of those advertisements the representatives or any persons claiming to be representatives of any person who is buried in those lands may, at their own expense, and with the permission of the Council, remove the headstone, grave enclosure or similar surface structure erected over or in respect of the grave of that person, 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 Access to land in Second Schedule

The showground trustees shall grant to the Council or any persons access to the land described in the Second Schedule to this Act for the purpose of enabling the Council or those persons to carry out any work or to do any act or thing authorised by this Act to be carried out or done on that land by the Council or those persons, as the case may be.

9 Works not to be undertaken until after removal of headstones etc

Notwithstanding anything in this or any other Act, regulation, ordinance or by-law:

- (a) the Council shall not carry out any works, or do any acts or things other than works, acts or things authorised by subsection one of section seven of this Act, on the land described in the Third Schedule to this Act, and
- (b) the showground trustees shall not carry out any works or do any acts or things on the land described in the Second Schedule to this Act,

until the provisions of that subsection, except paragraphs (e), (g) and (h) thereof, have been complied with.

10 Remains not to be disturbed

- (1) The Council or the showground trustees 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 the lands described in the First, Second and Third Schedules to this Act.
- (2) If any such remains:
 - (a) are unearthed or disturbed in the lands described in the First and Third Schedules to this Act—the Council, or
 - (b) are unearthed or disturbed in the land described in the Second Schedule to this Act:
 - (i) by the Council or any persons (other than the showground trustees) in the course of carrying out any work or doing any act or thing authorised by this Act to be carried out or done on that land by the Council or those persons—the Council, or
 - (ii) in any other circumstances—the showground trustees,

shall cause the remains to be reverently interred in a position considered by the Council to be suitable in the land described in the First Schedule to this Act.

- (3) The Council shall grant the showground trustees access to the land described in the

First Schedule to this Act for the purpose of interring any remains required under subsection two of this section to be interred by the showground trustees in that land.

- (4) Nothing in this section prevents the removing of any remains pursuant to subsection three of section seven of this Act.

11 No compensation payable

No compensation shall be payable to any person in respect of the carrying out of any work or the doing of any act or thing authorised by this Act.

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.
- (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.

First Schedule

All that piece or parcel of land containing by admeasurement 2 roods 36¾ perches be the same more or less situated in the County of Camden Parish of Wollongong at Wollongong being portions 93 and 94

as shown on plan catalogued C 3776-2041 in the Department of Lands, 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.

Second Schedule

All that piece or parcel of land containing by admeasurement $39\frac{1}{2}$ perches be the same more or less situated in the County of Camden Parish of Wollongong at Wollongong being portion 95 as shown on plan catalogued C 3777-2041 in the Department of Lands, Sydney.

Third Schedule

All that piece or parcel of land containing by admeasurement 1 rood $16\frac{1}{2}$ perches be the same more or less situated in the County of Camden Parish of Wollongong at Wollongong being portion 113 as shown on plan catalogued C 3873-2041 in the Department of Lands, Sydney.